



Executive summary

May 2016

Maksym Popovych

The 2013–14 Euromaidan revolution in Ukraine created much admiration and hope among Ukrainians and the international audience. Both Ukrainian civil society and international partners have voiced their high expectations of the meaningful changes in the economy, the political system, and public institutions. This paper argues that positive changes depend on a clear escape from the Soviet legacy, which provokes political populism and stalls reforms.

Despite the immense challenges of the Russian military intervention and the declining economy, Ukraine has made progress with its ambitious reform agenda. This paper discusses the achievements and setbacks in four policy areas: decentralisation, energy, the civil service and anti-corruption. It includes firm evidence that proves that the results of many of the reforms are already helping the Ukrainian economy to recover from the crisis.

In the long run, the success of a new prosperous and democratic Ukraine will depend on several components of the reform process: vision, leadership, communication, political consolidation and Ukrainian ownership. The EU can and should help in this endeavour, but the national government must maintain the critical share of responsibility.

Introduction

The reform process in Ukraine should not be overly romanticised. As with any transition, there are success stories and failures, steps forward and setbacks, quick achievements and severe bottlenecks. The story is at least as old as 1989, when Central European countries began their road to democracy and market reforms.¹

The bottom line is that Ukraine is not the same country as it was two years ago, before the Euromaidan revolution. The present situation stands in great contrast to the spring of 2014, when Russian military aggression had thrown into question the very existence of Ukrainian statehood. Now Ukrainian civil society can afford to refer humorously to the failures and successes of the reform process using the clichés ‘victory’ and ‘betrayal’.² This is a way of pointing out that the complicated transformation process should not be dramatised. Market reforms remain the best recipe for de-Communisation, and Ukraine has already achieved critical victories in the fight against its Soviet legacy.

¹ See A. Aslund and S. Djankov (eds.), *The Great Rebirth. Lessons from the Victory of Capitalism over Communism* (Washington, DC: Peterson Institute for International Economics, 2014).

² This phenomenon is commonly known in Ukraine as the ‘zrada-peremoga’ (зрада-перемога) dichotomy.



Our critics will say that Crimea is still occupied, the ceasefire in the east is relative and fragile, and the pace of reforms is too slow. A patient, fact-based evaluation of Ukrainian progress is the best answer to such criticism. In different areas, tangible results of the reforms are already in evidence, and they should receive proper acknowledgment. In the field of starting a business, Ukraine has moved up 40 spots in the global *Doing Business* ranking in less than a year. As of the beginning of 2016, it took fewer days to open a business in Ukraine than the average time required in a high-income OECD country.³ Ukrainian trade prospects look good as well, with the EU–Ukraine Deep and Comprehensive Free Trade Area Agreement now fully in force despite Russia’s pressure on the EU and Ukraine. In the vital area of energy, Ukraine has successfully diversified its gas supply: Russia’s share decreased from 92% in 2013 to 37% in 2015, and continues to fall.⁴ These efforts and other achievements have already translated into the World Bank’s prediction of a modest 1%–2% GDP growth starting from 2016.⁵

Many other promising figures can be mentioned here. But it is a much more meaningful exercise to try to understand why some reforms have worked quickly and others have stagnated. As the case studies below suggest, the most successful reforms are those that have bright leaders, clear Ukrainian ownership of the change at stake and a transparent vision for their long-term meaning.

The paper’s scope is deliberately limited to four reform areas: decentralisation, energy, the civil service and anti-corruption. The choice of these categories has been motivated by very promising achievements and no less worrying challenges in these areas. The chosen reforms paint a well-balanced picture of the political and economic dynamics in Ukraine over the last two years.

Decentralisation: great hesitations

Of everything that Ukraine has recently undertaken, decentralisation is probably the greatest geopolitical structural challenge. Under the Minsk II Agreement, Ukraine is obliged to grant special treatment to those parts of Donbas that are currently under Russian control. Despite the pressing importance of reintegrating Donbas into Ukraine, the focus of decentralisation is, in fact, much broader. The reform should not be tied to finding solutions to the conflict with Russia: nationwide decentralisation has to happen regardless of a particular consensus on the Donbas issue.

The Soviet legacy lingers in the current distribution of power between central, regional and local governments. Sadly, this legacy of unjustified centralisation has made the country extremely prone to institutionalised corruption, which is best showcased by the story of the infamous ex-President Yanukovich. It would be naïve to assume that decentralisation alone will resolve Ukrainian governance issues, but it does increase the positive impact of ongoing and future reforms.

³ World Bank Group, *Doing Business 2016, Measuring Regulatory Quality and Efficiency, Economy Profile 2016 Ukraine* (Washington, DC, 2016), 16–22, accessed at <http://www.doingbusiness.org/data/exploreeconomies/~media/giawb/doing%20business/documents/profiles/country/UKR.pdf?ver=3> on 8 April 2016.

⁴ T. Iwański, *Ukraine: Successful Diversification of Gas Supply*, Ośrodek Studiów Wschodnich im. Marka Karpia [The Centre for Eastern Studies] (Warsaw, 2016), accessed at <http://www.osw.waw.pl/en/publikacje/analyses/2016-02-03/ukraine-successful-diversification-gas-supply> on 8 April 2016.

⁵ World Bank, *Global Economic Prospects Report. Europe and Central Asia* (Washington, DC, 2016), 91–2, accessed at <http://www.worldbank.org/content/dam/Worldbank/GEP/GEP2016a/Global-Economic-Prospects-January-2016-Europe-and-Central-Asia-analysis.pdf> on 8 April 2016.



Ukraine should be praised for starting the process of decentralising governance structures in the face of external challenges and the Russian rhetoric of federalising Ukraine.⁶ The parliament has already amended the Tax Code⁷ to the benefit of fiscal decentralisation, allowing local government to keep larger shares of revenues. Another law⁸ has shifted the power to register property and legal entities to the local level. Moreover, the reform goes beyond economic policies to include decentralisation in education and social policy, and the streamlining of the administrative structure on different levels.⁹ For instance, the Ministry of Education and Science is working on bringing primary schools geographically closer to children in rural areas. Simultaneously, a new education policy is transferring more competences to schools rather than maintaining the decision-making process at the level of out-of-touch regional and central bureaucrats.¹⁰

The success of decentralising Ukraine goes well beyond choosing a more optimal model of governance. It would not be an overstatement to conclude that achieving a well-balanced distribution of authority within the country would signify a real escape from the Soviet-inherited principles of governance. These principles were designed so that the central government shoulders all the responsibility and makes all meaningful decisions. Therefore, the long-sought return of accountability and managerial initiative to the local level will be the best demonstration of the new Ukraine.

The steps mentioned above represent a noteworthy push in the direction of decentralising the country. Budgetary empowerment, as well as broader administrative decentralisation, will shift the ownership of reform to local leaders, who, by definition, are more numerous and much more receptive to local needs. Most importantly, decentralisation makes people outside of the political establishment feel like they are part of the transformation process. In turn, this brings accountability and better communication, and gives citizens a more favourable perception of the reforms.

⁶ See M. Snegovaya, *Putin's Information Warfare in Ukraine. Soviet Origins of Russia's Hybrid Warfare*. Institute for the Study of War, Russia Report I (September 2015), accessed at <http://understandingwar.org/sites/default/files/Russian%20Report%201%20Putin's%20Information%20Warfare%20in%20Ukraine-%20Soviet%20Origins%20of%20Russias%20Hybrid%20Warfare.pdf> on 8 April 2016.

⁷ Закон України № 909-VIII "Про внесення змін до Податкового кодексу України та деяких законодавчих актів України щодо забезпечення збалансованості бюджетних надходжень у 2016 році" [The Law of Ukraine on Amendments to the Tax Code of Ukraine (Law # 909-VIII)], accessed at <http://zakon0.rada.gov.ua/laws/show/909-19/paran5#n5> on 8 April 2016.

⁸ Закон України № 835-VIII "Про внесення змін до Закону України «Про державну реєстрацію юридичних осіб та фізичних осіб - підприємців» та деяких інших законодавчих актів України щодо децентралізації повноважень з державної реєстрації юридичних осіб, фізичних осіб - підприємців та громадських формувань" [The Law of Ukraine on Amendments to Legislation Regarding the Decentralisation of Powers to Register Legal Entities (Law # 835-VIII)], accessed at <http://zakon3.rada.gov.ua/laws/show/835-19> on 8 April 2016.

⁹ This government website gives a comprehensive overview: Ukraine, 'Decentralization of Power', accessed at <http://decentralization.gov.ua/en> on 8 April 2016.

¹⁰ П. Хобзей, Децентралізація середньої освіти: об'єднання та скорочення [P. Khobzei, 'Decentralisation of Secondary Education: Consolidation and Optimization'], *Decentralization of Power*, 5 February 2016, accessed at <http://decentralization.gov.ua/news/item/id/1501> on 8 April 2016.



How to make decentralisation beneficial for all communities across Ukraine

- Decentralisation reform has to achieve a clear division of tasks between local, regional and central authorities. To ensure that the decision-making process is brought as close to the citizen as possible, the division has to be subject to the subsidiarity principle.
- The ownership of reforms and governance responsibilities has to be transferred back to the local level. The budgetary empowerment needs to move forward to expand the tax base for locally collected taxes and further redistribute revenue collection in favour of communities.
- Local authorities have to engage with communities through feedback mechanisms. The goal has to be to facilitate the direct involvement of citizens in the decision-making process, to make people a part of the reform process.
- The numerous political controversies related to decentralisation reform call for a carefully planned public awareness campaign on the benefits of decentralisation. This educational programme would have to appeal to the wider public, especially on the local level; to clarify the distinction between federalisation and decentralisation; and to debunk controversial myths about the future of the Donbas region.

Energy reforms: the way to independence

Energy reforms are vital for Ukraine's security and stability. The government has already achieved some impressive deliverables, including diversifying the gas supply, implementing the natural gas part of the EU's Third Energy Package,¹¹ and liberalising household prices for gas, electricity and some related utilities.

The bottom line is that Ukraine's energy independence is not just about pipeline (geo-) politics. Good governance, liberalisation of markets, deregulation and transparency in the extractive industries are just as important. The reduction of the Russian Gazprom's influence on Ukraine lies through market reforms and clearly not through the Ukraine–Russia gas wars of the past. In other words, the country has to end both the Communist tradition of central planning in heavy industries and the post-Soviet practice of treating energy as a tool in political bargaining rather than as a good and an opportunity to develop fully functioning markets.

It comes as no surprise that from the outset of its cooperation with post-Maidan Ukraine, the International Monetary Fund (IMF) has prioritised energy reforms. The requirements for receiving considerable loans included the comprehensive audit of national oil and gas company Naftogaz, the reduction of its enormous deficit, the implementation of a new gas market

¹¹ The EU's Third Energy Package of Legislation consists of two directives and three regulations. These documents can be found in OJ L 211 (14 August 2009), accessed at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2009:211:TOC> on 8 April 2016.



law and the elimination of cross-subsidisation in retail energy prices.¹² Ukraine has delivered on many of these structural benchmarks: it has raised energy prices for households by aborting cross-subsidies, and it has also improved the financial performance of Naftogaz.

Even after the socially sensitive increase of household gas prices, they are among lowest in the region (see Figure 1).

Figure 1 Natural gas prices in Ukraine and European economies (\$/thousand cubic metres)



Source: Eurostat, *Natural Gas Price Statistics*, November 2015, accessed at http://ec.europa.eu/eurostat/statistics-explained/index.php/Natural_gas_price_statistics on 10 May 2016; Naftogaz, *Динаміка цін на природний газ для споживачів України [Natural gas price dynamics for Ukrainian consumers]*, accessed at <http://www.naftogaz.com/files/Dostup/Dynamika-ciny-2010-2016-Naselennya.pdf> on 10 May 2016.

The most strategic reform, and the one that has the potential to revolutionise the entire industry, is the creation of fully functioning energy markets in Ukraine. To this end, the implementation of the EU's Third Energy Package is an important step forward. The package requires Ukraine to reach three major goals: to establish a natural gas market, to create an electricity market, and to ensure the functional and political independence of the regulatory body. With regard to natural gas, Ukraine adopted the new law last year and is in the process of implementing the necessary secondary legislation. It is believed that the law will help demonopolise the market and bring the regulatory framework into line with European policies.

¹² For detailed explanations of the structural benchmarks in the area of energy policy, see Memoranda of Economic and Financial Policies between the IMF and Ukraine (all accessed on 8 April 2016): IMF, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding* (Kyiv, 18 August 2014), 14–17, 44–5, accessed at <https://www.imf.org/external/np/loi/2014/ukr/081814.pdf>; IMF, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding* (Kyiv, 27 February 2015), 20–5, 33–4, 47–8, 59–60, accessed at <https://www.imf.org/external/np/loi/2015/ukr/022715.pdf>; IMF, *Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding* (Kyiv, 21 July 2015), 14–16, 22, 24, 36–8, 50–1, accessed at <https://www.imf.org/external/np/loi/2015/ukr/072115.pdf>.



Energy Community has stated that although substantial progress has been made, the establishment of the electricity market and reform of the national energy and utilities regulator are at different stages of the legislative process.¹³ On the bright side, Ukraine has also made an effort to boost transparency in its energy industry by adhering to the international Extractive Industries Transparency Initiative. This organisation maintains a global standard for the accountable management of natural resources.¹⁴ Streamlining the legislative framework on electricity production to stimulate the use of renewable sources is yet another progressive step.¹⁵

As for the weaknesses, certain other critical energy issues have yet to be tackled. Two vivid examples are the stagnating and money-losing coal industry, and the appalling state of energy efficiency.

How to capitalise on Ukraine's energy capabilities

- All stakeholders have to work together to accelerate the implementation of the EU's Third Energy Package for the gas and electricity markets and for establishing an independent regulator. This is indispensable for establishing fully operational, transparent and de-politicised gas and electricity markets.
- The government has to eliminate damaging subsidies in the coal sector. In contrast to the gas and electricity sectors, the coal industry has not been reformed at all. The government has to liberalise the coal market by privatising mines and shutting down those that are economically unviable. There is no place for socialist populism here. Society needs to become aware of the damage to the state budget and industry modernisation caused by the enormous subsidies.
- An independent regulator for the energy and utility markets is vital to minimising political populism in energy reforms. Progress in this area is currently too slow, which is compromising previous efforts to liberalise prices. The regulator has to be politically and functionally independent, and the staff needs to receive competitive remuneration.
- Both the legislative and the executive branches need to dedicate more attention to boosting energy efficiency. In the process of liberalising household energy and utility prices, energy efficiency has the potential to become a powerful deterrent against populist reversals of reforms.

¹³ Energy Community is an international organisation whose task it is to extend the EU's energy legislation further to the east and south. An excellent overview of Ukraine's implementation of EU energy policies can be found in Energy Community, *Energy Community Country Brief Spotlight on Ukraine*, Issue 3 (9 March 2016), accessed at https://www.energy-community.org/portal/page/portal/ENC_HOME/DOCS/4058387/2DA01F3623B07BC3E053C92FA8C0CFDA.pdf on 8 April 2016.

¹⁴ See more on the implementation of the standard in Extractive Industries Transparency Initiative, 'Ukraine EITI Implementation Profile', accessed at <https://eiti.org/ukraine/implementation> on 8 April 2016.

¹⁵ Закон України № 5485-VI "Про внесення змін до Закону України «Про електроенергетику» щодо стимулювання виробництва електроенергії з альтернативних джерел енергії" [The Law of Ukraine on Stimulating the Production of Electricity from Renewable Sources (Law # 5485-VI)], accessed at <http://zakon3.rada.gov.ua/laws/show/5485-17> on 8 April 2016.



Civil service reform: the end of apparatchiks

Ukraine's civil service is overworked and underpaid, and is infected to its very core by the Soviet legacy of apparatchiks. Understanding seems to be growing among the political leadership that the country cannot afford to maintain this situation. There is an awareness that the success of virtually any progressive legislation largely depends on its executors making reform of the civil service a vital priority.

At the time of writing, civil service reform is only starting to unfold in Ukraine. A structural change of this scale can easily take decades to reveal its long-lasting benefits. In this context, Ukraine needs de-Communistation, not in the form of launching a war on Soviet symbols or 'socialist' street names, but by means of a transformational fight with the USSR legacy that translates into political populism. Moreover, in its most recent report, Transparency International stated that a key component of a successful fight against corruption in Ukraine is the establishment of a 'professional civil service free of political interference'.¹⁶

Recognising the fundamental importance of revitalising the civil service in Ukraine, the governing coalition gave preference to this reform in their coalition agreement, setting the aim of adopting a new law on the civil service by the end of 2014.¹⁷ Sadly, the old post-Soviet guard fought hard against this, and the legislative process took much longer. The law was only passed a year later.

While it will, in fact, take even longer to implement structural changes, the new legislation has established revolutionary principles. First, transparent and competitive procedures will be required for all civil service appointments, thus eliminating the risk of corruption and nepotism in the selection process. Second, senior officials will have to give up any political affiliation, that is, membership of any political parties. This provision will have manifold positive effects, because under Yanukovich's rule inducing apparatchiks to become members of the presidential party was one form of electoral fraud and embezzlement. Finally, the reform establishes a different approach to the remuneration of civil servants. It takes away the power of supervisors to significantly 'adjust' the salaries of their subordinates by offering or refusing to give 'bonuses', which could come to 70% of their current salary.¹⁸

The law is enthusiastically reformist, but legislation alone is not sufficient: the old guard will continue to create every possible obstacle to its implementation. Single-minded dedication to the reform at the highest political level will be necessary to combat possible reversals.

¹⁶ A. McDevitt, *The State of Corruption: Armenia, Azerbaijan, Georgia, Moldova and Ukraine*, Transparency International (Berlin, 2015), 27, accessed at http://www.transparency.org/whatwedo/publication/the_state_of_corruption_armenia_azerbaijan_georgia_moldova_and_ukraine on 19 May 2016.

¹⁷ Угода про коаліцію депутатських фракцій «Європейська Україна» [Coalition Agreement 'European Ukraine'], Chapter VII, Item 2.1.1, accessed at <http://zakon2.rada.gov.ua/laws/file/text/33/f439014n8.pdf> on 8 April 2016.

¹⁸ A brief overview of the civil service reform law is offered by J. Cohen, 'Civil Service Reform May Revolutionize Ukraine', *Atlantic Council*, 22 December 2015, accessed at <http://www.atlanticcouncil.org/blogs/new-atlanticist/civil-service-reform-may-revolutionize-ukraine> on 8 April 2016.



How to ensure the final escape from the Soviet legacy in the civil service

- Ukraine needs to raise benefits in the public sector significantly. Although the new law on the civil service has prepared the ground for remuneration to be set out in a more transparent and objective manner, the bottom line is that salaries remain unsustainably low if the aim is to reduce the risk of corruption. A systematic increase can be achieved through a combination of measures. These include reducing the number of civil servant positions (which would involve consolidating their functions in newly created vacancies) and obtaining financing from international development programmes and twinning projects.
- The immediate and systematic merit-based renewal of staff in key ministries and agencies is critical. To put it bluntly, this renewal will also require that the number of personnel is reduced. This would be achieved by laying off staff in poorly performing departments, in a way similar to the micro-reform undertaken at the Ministry of Trade and Economic Development.¹⁹
- The government programme to shrink the entire civil service must be more ambitious. At the start of 2015, Ukraine had 335,000 civil servants. The current goal of a 10% decrease would not even return the figure to the size of the service in 2012 (275,000).²⁰ An excellent example of where cuts can be made is provided by the recently created Ministry of Information Politics, the very existence of which has very little support in Ukrainian society.

Combating corruption: an essential ingredient

Talking about the massive corruption is just as popular inside the country as it is at the international level. The ‘anti-corruption’ focus of Ukrainian reforms has repeatedly been brought up: in every policy plan, research paper or official statement on the topic.

The problem is that ‘anti-corruption’ is not a single reform. It is a series of steps that include building more effective institutions, often from scratch; passing legislation that reduces the risk of political corruption; and enforcing laws that are already in place. Hence, at the very least, the fight against corruption requires the reform of the judiciary, that is, the courts and the prosecution system; and the renewal of staff in law enforcement agencies, such as the police, and also in the administrative civil service. It calls for the institution of effective barriers to the oligarchs’ influence on politics and politicians for rent-seeking purposes. Finally, success is not possible without a comprehensive set of transparency and accountability requirements in the public sector.

Before the Euromaidan revolution—at the peak of embezzlement, nepotism and rent seeking under Yanukovich—the public perception of the pervasiveness of corruption in

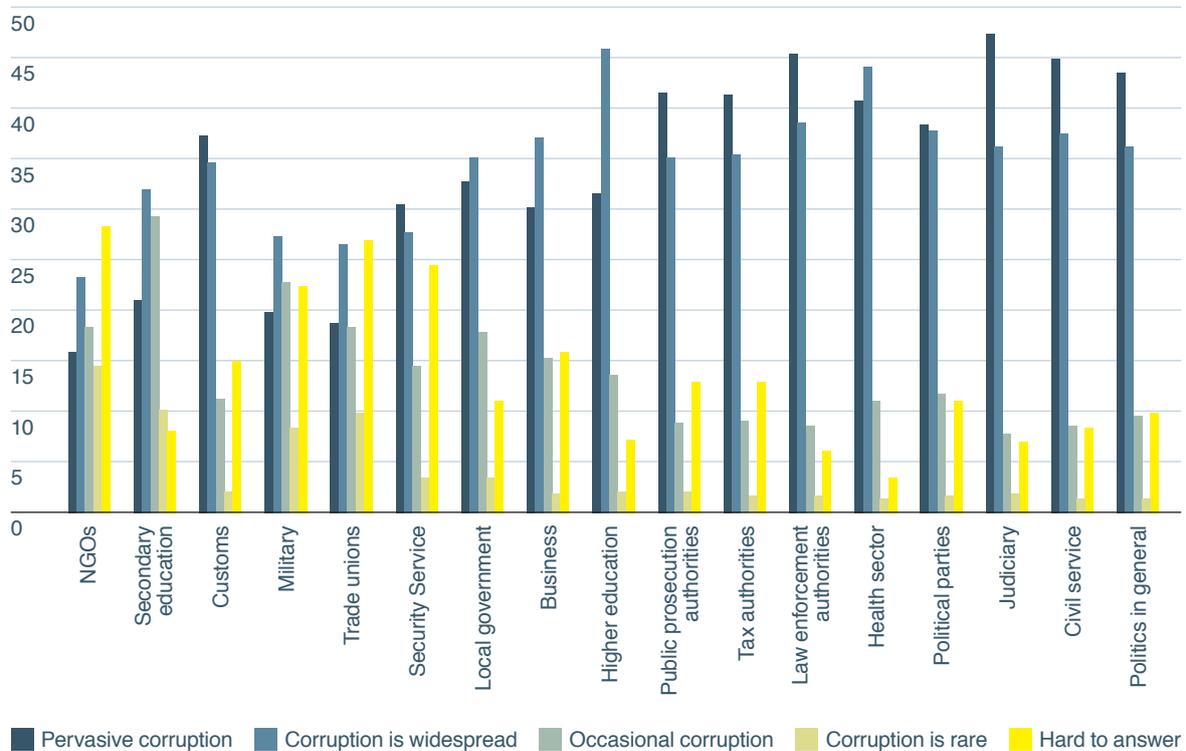
¹⁹ Out of 1,200 staff members in total, 400 employees were laid off. The ministry hired 88 new employees to fill the vacant positions following merit-based reviews. See J. J. Chromiec and N. Koeing, *Supporting Ukraine’s Difficult Path Towards Reforms*, Jacques Delors Institute, Policy Paper (October 2015), 5, accessed at <http://www.delorsinstitut.de/2015/wp-content/uploads/2015/10/ukrainekoenigchromiecdienoct2015.pdf> on 8 April 2016.

²⁰ A. Ianitskyi, ‘The High Price of Democracy in Ukraine’, *Open Democracy*, 5 January 2015, accessed at <https://www.open-democracy.net/od-russia/andrii-ianitskyi/high-price-of-democracy-in-ukraine> on 19 May 2016.



Ukraine was appalling. The results of a comprehensive survey on the perception of corruption are summarised in Figure 2.

Figure 2 Pre-Maidan perceptions of corruption in different areas in Ukraine



Source: Razumkov Centre, Survey “Якою мірою поширена корупція в кожній з наведених сфер?” [How widespread is corruption in different areas?], September-October 2013, accessed at www.razumkov.org.ua/ukr/poll.php?poll_id=903 on 8 April 2016.

At the beginning of the reform process, those who were closely watching Ukraine's transformation were especially concerned about the country's ability to achieve rapid *institutional* changes. Ironically, in the field of anti-corruption measures, building new institutions has been more successful than making meaningful use of already existing instruments.

The legislation coming out of the parliament and the establishment of new oversight bodies seemingly exceed the real determination to fight corruption. Ukraine has already created the National Anti-Corruption Bureau. At the time of writing, a different body called the National Agency for the Prevention of Corruption was being set up. The former agency has the task of investigating corruption cases among the highest-ranking Ukrainian officials, including members of parliament, ministers and former presidents. The latter agency will focus on monitoring the financial declarations of those civil servants who are obliged to report their income and expenses. Even though there have been some interim achievements, both agencies have yet to produce success stories of completed investigations and convictions of civil servants on large-scale corruption charges.

The most visible *institutional* and *structural* step in the fight against corruption has been the reform of the police. In 2015, new traffic police officers began working in the main cities, including quite a few cities in the east of the country, close to the conflict area. The new police department has the trust of the public, higher salaries, proper operational financing and

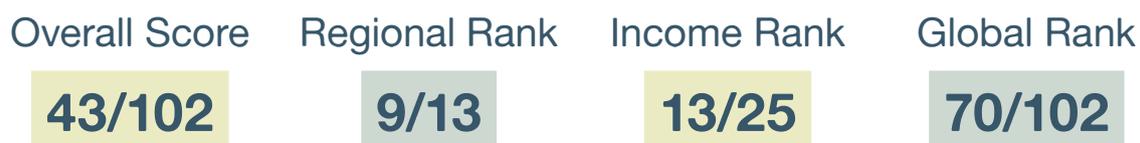


rigorous training programmes. Most importantly, its communication strategy and the move towards more accountable community policing has made this reform the most popular in the country. Finally, the dismissal of corrupt police officers has not stopped with the traffic police; the reform leaders are continuing to implement the ambitious goal to hire 130,000 new officers for the entire police force.

The institution of public financing for political parties was one of the most noteworthy achievements of the legislature in 2015. Having passed a law that ensures the disbursement of public money for political parties on the condition of the disclosure of other funding sources,²¹ the parliament made a long-term investment in freeing Ukrainian politics from nepotism and the influence of oligarchs. The legislation will not produce quick results, but it will eventually contribute to changing the way that politics is done in the country.

Sadly, the bottlenecks in the anti-corruption endeavour are especially pronounced in the field of the rule of law. The general perception of the court system remains highly unfavourable. According to a 2015 Transparency International report, only 46% of Ukrainians would agree that the judiciary operates in an independent and impartial manner.²² The World Justice Project, which composes the rule of law rankings for over 100 countries, does not paint a positive picture of Ukraine's judiciary, to put it mildly (see Figure 3).

Figure 3 Selected data on Ukraine's Rule of Law Index



		Factor Trend	Factor Score	Regional Rank	Income Rank	Global Rank
	Constraints on Government Powers	—	0.45	7/13	17/25	77/102
	Absence of Corruption	▲	0.34	11/13	18/25	84/102
	Open Government	—	0.56	4/13	5/25	43/102
	Fundamental Rights	▼	0.61	3/13	5/25	44/102
	Order and Security	—	0.60	13/13	18/25	87/102
	Regulatory Enforcement	—	0.42	12/13	16/25	80/102
	Civil Justice	—	0.49	9/13	9/25	65/102
	Criminal Justice	—	0.36	9/13	13/25	71/102

▲ Trending up ▼ Trending down Low Medium High

²¹ Carnegie Europe, 'Ukraine Reform Monitor December 2015', 7 December 2015, accessed at <http://carnegieendowment.org/2015/12/07/ukraine-reform-monitor-december-2015/impq> on 8 April 2016.

²² McDevitt, *The State of Corruption*, 27.



Source: World Justice Project, *Rule of Law Index 2015*, accessed at <http://data.worldjusticeproject.org/#/groups/UKR> on 8 April 2016. Used with permission.

The data presented in Figure 3 provides solid support of Anders Aslund's conclusion that 'Ukraine's judicial system, including the prosecutor's office, is in dire need of reform'.²³ Once again, the problem is rooted in the country's Soviet legacy: the judiciary was corrupt and ineffective, and would receive orders from the executive branch on how to decide individual cases. Escaping from decades of pretending that the judicial branch was independent will not be easy. But for Ukraine there is no other alternative than to keep moving forward.

How to contain and reduce cronyism, rent seeking and bribery

- To deliver meaningful results, all anti-corruption bodies and agencies have to enjoy functional and political autonomy.
- The government must create a transparent, preferably electronic, system for managing privatisation transactions. This should be similar to the system already in place for public procurement.
- Reform of the entire prosecution system is vital for putting an end to the impunity of top policymakers who are guilty of corruption. In the case of allegations against senior political figures, only the prosecutor general has the authority to move the investigation forward. Therefore, the political and functional independence of the prosecutor is indispensable for the success of the fight against corruption. All political influence over the selection of the special anti-corruption prosecutor's office has to be eliminated. The new unit has to enjoy autonomy from the prosecutor's general office.
- The reform of the court system needs to move forward quickly to reconcile the judiciary with the reformed law enforcement agencies.
- The government must continue setting up centres for administrative services based on the single-window principle. The use of electronic services for administrative procedures has to become a priority because it reduces the risk of bribery.

Policy recommendations

Reforms need an encompassing vision. To reconcile the legislative process, civil society campaigns and the political discourse of the reforms, a primary set of priorities must be underpinned by one ultimate strategy, not a series of policy documents from different branches of government.

Reforms need clear leadership. The reform of the police and the establishment of the e-procurement system are success stories which show that clear leadership can streamline structural changes to a considerable extent.

²³ A. Aslund, 'How to Reform Prosecution and Judicial System', *Kyiv Post*, 26 June 2015, accessed at <http://www.kyivpost.com/opinion/op-ed/anders-aslund-how-to-reform-prosecution-and-judicial-system-392106.html> on 8 April 2016.



Reforms need Ukrainian ownership. Ukraine should not overestimate the value of the IMF's structural benchmarks or the EU's visa liberalisation terms. Reforms have to be carried out for the benefit of Ukrainians themselves. They should clearly understand the need to undertake reforms for long-term changes within the country. To put it simply, Ukrainians need to undertake reforms for themselves, not for the EU or other international partners.

Reforms need political consolidation. The dedication to reforms needs to go beyond political campaigning, approval ratings and elections. All political actors need to be committed to bringing meaningful change to Ukraine

Structural changes require effective communication. Proper resources need to be employed, not just for communicating reforms to the people, but for liaising between reform-oriented policymakers and government structures.

The EU can help but should not be too paternalistic. The EU can and should employ carrot-and-stick methods to encourage reforms. However, European institutions need to avoid becoming the owners of the reforms in Ukraine. The government needs to maintain its accountability to the people.

About the author

Maksym Popovych focuses on policy research in the areas of energy, the Euro-Atlantic integration of Ukraine and the European Neighbourhood Policy. He has worked in both Brussels and Kyiv.

Credits

Wilfried Martens Centre for European Studies
Rue du Commerce 20
Brussels, BE 1000

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External editing: Communicative English bvba

This publication receives funding from the European Parliament.
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