



OPEN DIALOG

Summary of Legislative Work
on Lustration Act No. 4359a
“On Purification of Government”



The report summarises the problems of Ukrainian lustration in the context of current political circumstances, and describes in detail the work on the act “On Purification of Government” adopted by Ukraine’s Verkhovna Rada on 16th September 2014.

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1. LUSTRATION: HISTORICAL AND POLITICAL BACKGROUND

The term “lustration” comes from the Latin *lustratio* (purification by sacrifice). In ancient Greece and Rome, it meant a special purification ritual for an individual or a community to ward away bad influences and bad luck or redress collective guilt¹. As a legal tool used in settlements in the past, in a fragmentary form, it was present in American settlements after the American Civil War in the mid-19th century and the processes of de-nazification and de-fascization following World War II. In the most common and modern understanding, as a systemic solution used to verify persons performing public functions, lustration appeared in Czechoslovakia – the first post-communist state to introduce the process. In various forms and to various effects, lustration was thereafter introduced in most post-communist countries of Central Europe and in the Baltic States. After the victory of the Rose Revolution in Georgia (2003) and after Mikheil Saakashvili had become President (2004), lustration was adopted by Parliament, yet it was later blocked by a court ruling.

Lustration is often understood as verification of politicians and state officials but, despite significant similarities, there is a certain fundamental difference between the two. Verification is (and should be) carried out in every country to check the candidates for public service. Lustration, on the other hand, is a special form of verification, the essential aim of which is to restrict the possibility of people who might pose a threat to a transforming state following the end of the rule of the previous (non-sovereign, non-democratic, law-violating) regime competing for posts.

Lustration is often performed to secure so-called transitional justice. The scope of its application and methods may be significantly different. In some cases, people associated with the previous regime were simply banned from working within public administration. In other cases, the intention was, rather, to reach national consensus, an example of which is the solution based on the setting up a so-called Truth and Reconciliation Commission modelled on the commission of Bishop Desmond Tutu in South Africa after the fall of the apartheid. The solutions applied usually depend on how aggressive the previous regime had been towards its own citizens and to what extent society is consolidated and determined to prevent its former representatives from influencing the new realities. Strong social polarisation is usually reflected through political divisions thus rendering it considerably more difficult to implement appropriate legislative solutions.

In order to regulate lustration issues, the Council of Europe adopted Resolution 1096 (1996)² which sets out guidelines for dealing with the past in post-communist countries. Even though the Resolution sets a time limit for the introduction of lustration measures of no more than 10 years from the start of the systemic transformation, it has, in practice, also become a signpost for states which are now undergoing a revolutionary change of rule. The Resolution too provides the primary basis for judgments to be passed in lustration cases pending before the European Court of Human Rights in Strasbourg.

In the case of Ukraine, after the collapse of communism in Central and Eastern Europe, lustration was not carried out (not even symbolically, as regards the presence of relics of communism in the historical memory and public space), and the political conditions made any compromise in this matter impossible. Systemic transformation relating to the collapse of the USSR and Ukraine gaining independence was superficial, as we have observed in events over recent months. As a result, governmental structures have continued to sustain many people associated in a variety of ways with the old communist regime, who have never broken their formal and informal ties with

¹ <http://www.britannica.com/EBchecked/topic/351853/lustration>

² Full text: <http://assembly.coe.int/Main.asp?link=http%3A//assembly.coe.int/Documents/AdoptedText/ta96/ERES1096.htm>

the structures of the former USSR, including those in the sphere of security and intelligence (KGB, GRU) who are now operating for the Russian Federation.

The theme of lustration became noticeable during the Orange Revolution in 2004 which was initiated by mass-scale social protests against the falsification of the presidential elections in favour of the candidate of the Party of the Regions Viktor Yanukovich, supported by the President in office Leonid Kuchma. It was also then that the first initiatives were undertaken to address the totalitarian past. The well-known anti-communist dissident and deputy of the Ukrainian Parliament Levko Lukyanenko put forward a lustration initiative to verify whether the candidates for managerial positions on the legislative, executive and judicial bodies at the central, regional and local levels had been involved in rigging the presidential elections in 2004 and to establish whether they had been secret and conscious collaborators of the former Soviet security services. Alongside lustration, Lukyanenko proposed, however, amnesty and national reconciliation in the name of the creation of a common future based on the recognition of these acts. This, however, did not resonate more widely and his concepts did not ultimately take the form of a legislative initiative. Soon afterwards, upon an initiative by Yulia Tymoshenko's Bloc, bill #7028³ was drafted which was subsequently rejected, however, during work in the commissions of Ukraine's Verkhovna Rada. The same fate befell another draft act on lustration submitted upon the initiative of the leader of the Svoboda party, Oleh Tyahnybok, who renewed his initiative in 2012 – also to no avail.

After the end of the rule of Viktor Yanukovich in February 2014, as one of the chief social postulations (along with European integration and the fight against corruption), lustration returned to the mainstream of political life in a modified form. This time around, it was to serve, primarily, as a tool to fight the old corrupted politicians and public servants, perceived as the chief obstacles to modernisation of the country.

The other factor which led to a rise in the temperature of public debate was the quality of command in the so-called ATO zone (zone of operations of the Ukrainian anti-terrorist military personnel in eastern areas of the country, aimed at illegal armed groups supported by Russia) which has resulted in major losses amongst Ukrainian forces. The anti-terrorist operation was announced on 15th April 2014 and has continued to this day. Society, justifiably in essence, put the blame for that on the Ministry of Defence and the chief of staff, as well as the commanders of the operation. The suspicions were that oftentimes, the commanders were intentionally clumsy in carrying out their operations which, in turn, was caused by widespread infiltration of the Ukrainian armed structures by Russian intelligence services. This was also affected by corruption leading to cases of black market sales of supplies to troops involved in the fighting, and even attempts to sell to their own soldiers (including ammunition) ⁴. For these reasons, the head of the Social Lustration Committee, Yehor Sobolev, labelled the planned lustration legislation “a law written with the blood of our soldiers”⁵.

2. LUSTRATION INITIATIVES AFTER THE END OF THE PROTESTS AT MAIDAN IN FEBRUARY 2014

As a result of the growing social pressure concerning lustration (often illustrated by a drastic motto in its essence: ‘lustration or castration’), many parliamentarians and social activists started to work, in parallel, on draft acts on lustration, form social lustration committees and prepare bills,

³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=22947

⁴ <http://www.tvn24.pl/wiadomosci-ze-swiata,2/mongol-szachuje-ukraincow-w-wojsku-oskarzenia-o-zdrade-i-przecieki,456991.html>

⁵ <http://ua.odfoundation.eu/a/4422,propoziciji-shchodo-zmin-i-planu-podalshoyi-roboti-nad-zakonom-pro-ochishchennya-vladi-priynvatogo-v-pershomu-chitanni-14-serpnya-2014-roku-verhovnoyu-radoyu-ukrayini>

many of which were ultimately received by Ukraine's Verkhovna Rada. It is to be noted that society and numerous working groups understood the term lustration in a variety of ways (from the identification of collaborators of third country special services, through property lustration to fighting corruption and hybrid solutions).

During that period, which was until 9th April 2014, the Verkhovna Rada registered four different draft lustration laws:

- #4570⁶ submitted by Oleh Tyahnybok from the Svoboda party;
- #4570-1⁷ submitted by Volodymyr Arieu (Batkivshchyna, formerly Our Ukraine bloc);
- #4570-2⁸ submitted by Valeriy Patzkan (UDAR);
- #4570-3⁹ submitted by Roman Chernehy (UDAR too).

The draft act proposed by Svoboda was the most radical. It envisaged the removal of all judges and prosecutors who performed their functions during the rule of Viktor Yanukovich (2011-2014), as well as all senior public officials who had been involved in corruption or participated in any actions taken against the protesters at Maidan. The act did not provide, in their case, for the right to file an appeal against a lustration decision with a court or any other body. All public positions, from the President of Ukraine and the management of his administration, the Prime Minister and members of the Cabinet of Ministers (the government), as well as heads of departments, sections and their deputies at all central, regional and local state administrative offices were to be subjected to lustration. Lustration was processed by a special Lustration Commission subjected to the Supreme Council of Ukraine with a special status. Each case was to be prepared individually and each of the sides could appeal to the court from the Commission's verdict.

In addition to the points mentioned in Svoboda's proposal, the draft law put forward by Batkivshchyna referred to officials of the Autonomous Republic of Crimea and the Central Electoral Commission and all legal circles, including the bar. The following persons, lustrated, were to be mandatorily dismissed from their positions if they:

- had been members of any central and regional units of the Communist Party of Ukraine;
- had been KGB functionaries or collaborators;
- had been students of the Higher School of State Security (KGB) at the F. Dzerzhynsky Council of Ministers of the USSR in Moscow and attended courses for KGB officers;
- during Viktor Yanukovich's rule, had passed judgments against protesters (judges), initiated or permitted actions against EuroMaidan participants;
- had committed corruption.

The act provided for the establishment of an independent State Lustration Commission of Ukraine responsible for conducting verification in a decentralised manner – the Commission was to have its headquarters and regional offices performing their duties in a synchronised manner. Its composition, supervision procedure and powers were described in great detail and its budget was to be guaranteed, offering it a chance of effective operation. The act did not envisage the possibility of filing appeals against a negative outcome of the verification process with a court.

⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50422

⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50566

⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50567

⁹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50579

The drafts submitted by the UDAR were the closest to the Polish lustration solutions and the most liberal. They provided for the verification of the three top categories of state officials, including people's deputies (members of Parliament) of Ukraine, ministers and deputy ministers, members of the Central Electoral Commission, members of the Higher Judiciary Council and judges of supreme central courts. Dismissal was to be ordered for people who:

- had occupied managerial positions within the governing bodies of Ukraine's Communist Party, Communist Party of the Soviet Union;
- were involved in any decision-making or supported the persecutions of the parliamentary opposition and citizens for their political or social activities during the period between 15th December 2000 and 23rd January 2005 (the second term of office of President Leonid Kuchma), and between 1st April 2010 and 1st April 2014 (the rule of Viktor Yanukovich);
- were involved in any falsifications of election results.

The act provided for the establishment of an independent Lustration Committee in the form of an office qualified to conduct lustration, and detailed its powers and tied its term of office to the term of office of the Verkhovna Rada.

On 9th April 2014, the Chair of Ukraine's Verkhovna Rada and the temporary head of state (until the presidential elections) Oleksandr Turchynov (who was, at the same time, one of the leaders of the Batkivshchyna party) suggested withdrawing all draft lustration acts and made a request to the chair of the Social Lustration Committee Yehor Sobolev to attempt to unify the proposed solutions. This, however, did not prevent the deputies Roman Chernehy (Udar) and Serhiy Kaplin (Udar) from registering more proposals, numbered #4678¹⁰ and #4678-1¹¹. Thus, during the period between the end of February and beginning of April 2014, a total of 6 draft lustration acts were composed which were officially registered with the Verkhovna Rada. In addition, there were concepts by social activists from various local social committees (amongst which, only the bills drafted by the Kharkiv Human Rights Group represented by Yevhen Zakharov became considered drafts).

There was common understanding that Ukraine should commence the process of purification of government with a general review and verification of the administration of justice, deemed to be one of the chief hotbeds of corruption in the country. Hence, on 8th April 2014, the Verkhovna Rada adopted the act "Restoration of Trust in the Judiciary"¹², under which the Temporary Commission for the Verification of Judges was appointed.

The Commission was to consist of 15 members (appointed in equal numbers by the Supreme Court, the Verkhovna Rada and the Plenipotentiary of the Government for Combatting Corruption) and function for one year only, from the date of its appointment. The verification conducted by the Commission was to concern cases of breaking the judicial oath as regards, amongst others, the violation of the principles of objectivism and impartiality of judgments. For this purpose, the verification was to apply, in particular, to their conduct as regards procedural and substantive laws.

A report on individual verification was to be sent to the Higher Judiciary Council in order for it to make a decision on the career of the judge concerned. The Council would have the authority to decide whether to permit the judge to maintain his position, persuade him to retire or – where applicable – initiate prosecution proceedings. In practice, however, the Higher Judiciary Council

¹⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50613

¹¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50659

¹² <http://zakon2.rada.gov.ua/laws/show/1188-18>

was never constituted as the bodies responsible for appointing its members did not undertake the formalities (decision-making blockade of the Parliament and of the President).

3. SOCIAL LUSTRATION COMMITTEE AND ITS ACTIVITY

On 26th February 2014, Arseniy Yatsenyuk who was entrusted, by the Verkhovna Rada, with the mission of forming a government after the fleeing of President Yanukovych and the collapse of the governing coalition of the Party of the Regions and the communists, nominated Yehor Sobolev, the well-known investigative journalist and one of the leaders of the social protests on the Maidan, as chair of the Ukrainian Lustration Committee¹³. Sobolev was presented in public on that same day¹⁴ together with the other members of the new government (Cabinet of Ministers) during a gathering at the Kiev Maidan. At the same time, the Lustration Committee was never granted any official capacity (its functioning was not regulated by any legislation), and never received a budget allocation, and hence, no formal means by which to operate. This would indicate that the actual purification of government was not particularly high on the agenda of the new Ukrainian authorities.

Despite the lack of funds and legal grounding for its operation (having only the status of a non-formal social organisation), relying on the commitment of social activists, the Lustration Committee continued to work on promotional and informational campaigns on lustration in society and to exert pressure on politicians (often in the form of loud manifestations at the Verkhovna Rada and other bodies) to develop its mechanisms, implement them, and – from the beginning of April 2014 – on the formulation of one compromise-based proposal of the lustration act to follow up on the request made by the Chair of the Verkhovna Rada, Turchynov.

The Lustration Committee consists of lawyers working voluntarily, civil activists and journalists. Over time, it has also won the support of a group of Ukrainian deputies led by the non-associated deputy Yuriy Derevyanko (elected to Parliament in a one-mandate region as the representative of the niche party, the Change Front). The pro-lustration campaign was actively supported by various civil initiatives, often originating from the social movement of EuroMaidan (such as AutoMaidan led by Serhiy Koba) and non-governmental organisations (including the Open Dialog Foundation). In addition to the widespread support and personal popularity of its head, Sobolev, the advantage of the Committee was also in regular and intensive communication with society through social media and press briefings organised at the Ukrainian Crisis Media Centre.

The Committee conducted pro-lustration campaigns under the slogan “Pure Government”, having its regional representatives in the individual districts of the country.

The Committee’s members and activists encountered attempts aimed at exerting pressure on them as well as attempts to torpedo or limit their activities more than once, usually in the form of threats. On 13th June 2014, so-called ‘unknown perpetrators’ broke into the Kiev apartment of the parents of the wife of Yehor Sobolev, head of the Social Lustration Committee. The perpetrators – apart from leaving clear traces of their presence in the form of general mess and damage to the property – did not take anything, even leaving a laptop behind. An intensive and extremely brutal defamation campaign was conducted against lustration and Sobolev, with claims that he was of Russian origin, spied for Russia and was intentionally devising ineffective lustration solutions in

¹³ <http://www.kyivpost.com/content/politics/on-kyivs-independence-square-tonight-arseniy-yatseniuk-nominated-as-prime-minister-to-lead-new-government-337700.html>

¹⁴ <http://www.telegraph.co.uk/news/worldnews/europe/ukraine/10665800/Ukraines-new-government-Whos-who.html>

order to provoke internal conflicts and weaken the state at a time when it is striving to stave off Russian aggression¹⁵.

4. ACT ON “PURIFICATION OF GOVERNMENT”

On 12th June 2014, the first draft of the lustration act prepared by the Social Lustration Committee was presented publicly for the first time.

The first unifying draft law¹⁶ stipulated, amongst other things, that each state official or a candidate for a public post should undergo a polygraph test. As with the parliamentary drafts, the decision of the verification commission was automatic and did not offer any opportunity to appeal through a court.

As a consequence of discussions on the draft and critical opinions received from experts from both Ukraine and abroad, the draft was amended with the most controversial provision, regarding lie detector testing, having been deleted.

The second draft act proposed by the Lustration Committee and registered¹⁷ on 24th July 2014¹⁸ was a political compromise between the proposals of Svoboda, Batkivshchyna and UDAR, whilst the suggestions made by the Kharkiv Human Rights Group (postulating a reduction in the group of officials to be lustrated and creation of an independent lustration body) were not taken into account at that stage¹⁹. The idea of appointing an institution, independent of the government, to take charge of lustration upon an initiative of the parliamentarians supporting the lustration was abandoned amidst arguments that amendments needed to be made to the Constitution and significant costs would need to be incurred by the country struggling in the face of a severe crisis.

The key concepts of this draft act, adopted by the Verkhovna Rada at its first reading on 14th August 2014, envisaged:

- verification carried out by the National Civil Service Agency which, since 2011, has been an independent institution having a special status. Appointed in 1994, the Agency supports the state’s personnel policy and continued improvement of the competences of public officials; its chair is appointed by, and reports to, the Prime Minister;
- each unit of the state administration, including bodies of territorial administration, had the task of setting up its own verification commission with the head of each office concerned responsible for supervising the process; information about the verifications was to be posted on the website of the National Civil Service Agency;
- verification along three paths: 1) for corrupt practices during the regime of Viktor Yanukovich, 2) for actions against the participants of EuroMaidan at the turn of 2013/2014, and 3) widely understood collaboration with the KGB;
- in financial (anti-corruption) terms – lustration comprising overall verifications of the income of the subjects, and all financial assets of their first and second-degree family members;
- potential for appeals to be filed with the administrative court against the lustration decision.

¹⁵ http://t-weekly.org.ua/index.php?option=com_content&view=article&id=12065

¹⁶ <http://en.odfoundation.eu/i/fmfiles/pdf/yd1306144-proekt-12-06-14-eng-done.pdf>

¹⁷ Full text of the draft: <http://odfoundation.eu/i/fmfiles/pdf/draft-law-purification-government-4359a-eng.pdf>

¹⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51795

¹⁹ From a conversation with Borys Zakharov of 28th August 2014 and based on a comparison of both drafts.

In accordance with the regulations of the Verkhovna Rada, during the two weeks between the votes in the first and the second readings, amendments to the draft could be proposed. An amendment could be submitted by one of the deputies – initiators of the draft – one or more deputies in general, or by social committees involved in the work on the law.

Social consultations intended to garner the opinions of activists and experts were carried out twice: on 26th August and 2nd September 2014.

The proposed postulations included, above all, calls to simplify the verification procedure, enhance its transparency, reduce the time period of prohibition to perform public functions and, most importantly, appoint an independent institution responsible for verification. A detailed discussion of the recommendations intended to set the direction for modifications of the lustration act, developed by international experts engaged by the Open Dialog Foundation, can be found in Annex No. 1 “Proposals of Amendments to the Ukrainian Act ‘On Purification of Government’ adopted at the first reading on 14th August 2014 and the remarks on the act, adopted in whole” to this report. The remarks made by Ukrainian experts are discussed in the section entitled “Controversies”.

On 16th September 2014, under great pressure from society, the Verkhovna Rada finally voted in favour of the act on “Purification of Government” in its third draft (following numerous amendments). Attempts were being made throughout the day to put the act to a vote – each time the quorum was not present. It was only the fifth attempt that proved successful when, late in the afternoon, the act was included in the agenda of the Parliamentary session and voted on within ten minutes²⁰. At the same time, mass protests went on throughout the day in front of the building of the Verkhovna Rada with protesters demanding that the law be adopted. From the morning, tyres were being stacked and Hrushevskiego Street was blocked. The protests reached fever pitch in the latter half of the day when tyres were set alight and the deputy representing the Party of the Regions, who had become infamous for initiating the January acts on criminal sanctions against the Maidan protesters ²¹ (so-called ‘law on dictatorship’), was thrown into a rubbish bin as he was leaving the Rada building. Despite its adoption by the Rada, the provisions of the act remained secret to the public until as late as 25th September 2014 when it was published on the Parliamentary website²².

On 25th September 2014, Oleksandr Turchynov, Chair of the Verkhovna Rada, signed the act and submitted it for the President to sign.

According to the final wording of the act, lustration in Ukraine is to be based upon the following principles:

- the process of verification will be supervised by the Ministry of Justice;
- the head of each unit of public administration will be accountable for the verification of their institution;
- each candidate vying for a position in public administration covered by the act will be obliged to make a lustration declaration in which they will provide information about the sources of their income and other matters required by the law, such as active involvement in actions against EuroMaidan participants;

²⁰ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51795

²¹ http://lb.ua/news/2014/09/16/279581_verhovnaya_rada_smogla_chetireh.html

²² <http://portal.rada.gov.ua/news/Novyny/Povidomlennya/98032.html>

- the Social Lustration Council will be set up at the Ministry of Justice to support and control the Ministry's work on lustration; at the same time, the act does not precisely specify the body responsible for the appointment, the procedure for its appointment or the scope of the Council's responsibilities;
- the positions to be subject to lustration have been limited to three top levels of public officials throughout state administration, notwithstanding elected positions. According to the report of the Council of Europe, which supplements Resolution 1096²³ and the case law of the European Court of Human Rights, elected positions should not be subject to lustration because the procedure of election by society is considered to constitute a sufficient safeguard²⁴. However, in the Ukrainian political context, where the non-transparent electoral law enables the voting for party lists only (without voting for a specific candidate for election to the Parliament), such a solution raises major concerns.

5. DEVELOPMENTS AFTER THE ADOPTION OF THE ACT BY THE VERKHOVNA RADA

After its adoption and signing on 25th September 2014 by the Chair of the Verkhovna Rada, in accordance with the procedure, the act was sent to be signed by President Petro Poroshenko, who, according to the law, has 10 business days to do so.

Despite his initial objections (the President claimed that lustration was an unsuitable solution for Ukraine in view of the military conflict, and instead of lustration, it was better to introduce comprehensive anti-corruption mechanisms), on 9th October 2014, Petro Poroshenko signed the act²⁵. On Wednesday, 15th October 2014, it was officially published in the official journal and came into force on the same day²⁶. The absence of even a minimum *vacatio legis* period to enable the preparation of state institutions to implement its provisions was one of the reasons for criticism voiced by experts.

On 3rd October 2014, it was confirmed that Yulia Levochkina, deputy from the Party of the Regions (and a sister of the influential head of administration of President Yanukovich, Sergey Levochkin) performing, on behalf of the Verkhovna Rada, the function of deputy chair of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, sent the act "On Purification of Government" for an expert opinion by the Venice Commission (European Commission for Democracy through Law which is an advisory body of the Council of Europe). Even though the Commission's opinion has no effect on national law²⁷, this move stirred great emotions in Ukraine where the opponents of lustration gathered around the politicians removed from power (from the Party of Regions, the Communist Party and some of the independent deputies) used it to form a basis for asserting that the act was not in conformity with international law and would be annulled^{28,29}.

In actual fact, the Venice Commission will set up a group of experts consisting of specialists in constitutional and international law, to examine the act for conformity with the guidelines of

²³ Full text: <http://assembly.coe.int/Main.asp?link=http%3A//assembly.coe.int/Documents/AdoptedText/ta96/ERES1096.htm>

²⁴ Severin's Report: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=7506&lang=EN>

²⁵ <http://www.pravda.com.ua/news/2014/10/9/7040274/?attempt=1>

²⁶ <http://www.golos.com.ua/Article.aspx?id=357366>

²⁷ <http://www.euointegration.com.ua/news/2014/10/1/7026437/>

²⁸ <http://www.euointegration.com.ua/rus/news/2014/10/3/7026524/>

²⁹ <http://politrada.com/news/material/id/38731>

European law, with particular emphasis to be placed on Resolution 1096 (1996)³⁰, and its logical consistency and overall legislative quality.

Signing the act, President Poroshenko assured that amendments, if any, would be introduced following the receipt of recommendations provided by the Venice Commission³¹.

6. CONTROVERSIES AND SOURCES OF CRITICISM

After the act on “Restoration of Trust in the Judiciary”, the act “On Purification of Government” is the second most frequently attacked by the opposition and the circles associated with the former Party of the Regions. Politicians and activists associated with the Opposition Bloc which originates from this party (and which won 9.43 % of the votes in the parliamentary elections on 26th October 2014; its leader is currently Yuriy Boyko, who in the past, was Deputy Prime Minister and Minister of Energy, considered to be a close associate of the deposed President Yanukovich), are actively working on paralysing both acts; announcing an appeal against them with the Constitutional Court, and lobbying actively in international institutions, in the European Union in particular, to prove that the very idea of lustration, including the Ukrainian lustration mechanisms, are bad³².

Meanwhile, the law is already producing its first effects. There is a provision on the absence of drawing negative consequences against people who resign from their position upon their own initiative. On 8th October 2014, this right was exercised by the acting Minister of Economy Anatoliy Maksuta. On 16th October 2014, on the first day after the lustration act came into effect, Prime Minister Arseniy Yatsenyuk, signed his consent to the termination of employment relationships of 39 people from his administration³³.

There are also important persons critical of the adopted act, criticisms which are based on substantive premises. They originate mainly from a group of experts and initiators of the lustration process in Ukraine, initially engaged in the work of the Sobolev’s Lustration Committee, who subsequently submitted their resignations as an act of dissent against the direction which had been chosen.

Some of the most critical analyses were published by Leonid Antonenko, a prominent Ukrainian lawyer, actively engaged with the working group at the Ministry of Justice for the implementation of anti-corruption reforms. Antonenko’s primary line of criticism is based on the assertion that the act – contrary to the intentions declared by politicians and social expectations – does not target the most prolific criminals of the former regime in any way³⁴.

Other significant remarks made by Leonid Antonenko were about the absence of the appointment of a central, independent body which would be comprehensively in charge of lustration, its decentralised nature and particularly the fact that it is the head of each public institution who is to be responsible for conducting lustration “within their own organisation”, may lead to widespread arbitrariness and create opportunities for manipulation. This is confirmed, in a way, by the open statement of Tetyana Chechetov, head of Kharkiv City Hall who asserted that she could not identify persons in her office who would qualify to be covered by the act³⁵. Antonenko also points

³⁰ Full text: <http://assembly.coe.int/Main.asp?link=http%3A//assembly.coe.int/Documents/AdoptedText/ta96/ERES1096.htm>

³¹ http://ipress.ua/news/poroshenko_ne_vidkydaie_shcho_v_zakon_pro_lyustratsiyu_budut_vneseni_zminy_88165.html.

³²

http://tvi.ua/new/2014/10/09/opozyciynvy_blok_stvoryuye_hromadskyy_rukh_zakhystu_lyudey_postrazhdalyykh_vid_zakonu_pro_lyustratsiyu

³³ <http://www.radiosvoboda.org/content/article/26640364.html>

³⁴ http://www.liga.net/opinion/203839_desyat-voprosov-o-lyustratsii-po-zakonu-ob-ochishchenii-vlasti.htm

³⁵ <http://www.khpg.org/en/index.php?id=1414505064>

to the necessity to lustrate parliamentarians and the ideological nature of the list of former positions. The holding of said positions prompts a negative lustration decision; she notes that such a decision should be made according to specific instances of guilt and not the fact of membership itself in a specific managerial category.

Critical opinions were also formulated by Maksym Cherkasenko, another former member of the Lustration Committee, who points to the fact that the act in its current form does not meet the standards of international law. Like Antonenko, Cherkasenko postulates the establishment of an independent institution to conduct lustration in an organised and centralised manner, which would fulfil, to a greater degree, the guidelines of the Council of Europe. The expert also calls for particular attention with regard to the matter of providing due protection of privacy and the avoidance of so-called 'wild lustration'³⁶.

The act is also criticised publicly by Yevhen Zakharov³⁷, head of the Kharkiv Human Rights Group and a well-known activist engaged in supporting the protests on the Maidan. Zakharov's main argument relates to the violation of the regulations of the Verkhovna Rada which took place during the vote on the act. Besides, he points to, as do other experts, the absence of an independent body to deal with the lustration and breaches of privacy of third parties by reviewing the financial situations of too broad a group of people (however, the rationale behind the draft was to eradicate situations, typical of Ukraine, whereby a public official transfers their property to more distant family members). Zakharov is also asking a pragmatic question about new candidates for positions at state offices (lustration implies an urgent need to organise a new, effective process of educating highly-qualified public officials).

Circles of Ukrainian economists have adopted a cautious attitude towards the process of implementation of the act. Economists (often in articles in Forbes Ukraine) ask the question: what rules will be followed when selecting candidates for positions vacated over a short period of time, pointing, at the same time, to the need to carry out a wide reform of the civil service³⁸.

In the opinion of the Prosecutor General of Ukraine, Vitaliy Yarema, the act violates the Constitution and will result in a huge number of complaints filed with the European Court of Human Rights in Strasbourg due to a breach of the rule of individual legal liability³⁹. It is worth noting that in light of the declarations made in public, the Public Prosecutor does not support lustration in general, and in societal perception, the prosecutor's office and other investigation bodies are amongst the most corrupted structures in the country and consequently, they oppose the introduction of any verification mechanisms.

7. CURRENT SITUATION AND PROSPECTS

Currently (as of 17th November 2014), the Ministry of Justice is preparing for the implementation of the law which requires the elaboration and adoption of an implementation regulation, detailing the procedures and competences of the particular internal structures, created intentionally for the purposes of lustration within the Ministry. The implementation regulation aims to set down the rules for the operation of the Social Lustration Council at the Ministry⁴⁰.

³⁶ <http://www.unn.com.ua/uk/news/1378976-v-zakoni-pro-lyustratsiyu-deputati-ignoruyut-rekomendatsiyi-parye-ekspert>

³⁷ http://www.pravda.com.ua/columns/2014/10/6/7039842/view_print/

³⁸ <http://forbes.ua/ua/nation/1381145-zmina-varti-abo-lyustraciya-po-ukrayinski>

³⁹ <http://ord-ua.com/2014/10/27/lyustrirovannyi-prokuror-sumshiny-podal-v-sud/?lpage=1>

⁴⁰ <http://imi.org.ua/news/45828-minyust-zaproshue-jurnalistiv-i-gromadskih-aktivistiv-dopomogti-v-lyustratsiji-chinovnikiv.html>

The lustration law has already started to function in practical terms due to the provision on automatic dismissal from work of people in managerial positions at public administration offices and the administration of justice, if they occupied positions during the time when President Viktor Yanukovich was in power for at least a year and did not resign on their own initiative. The register of these people is available from the official website of the Ministry of Justice⁴¹. The overall number of people dismissed as of 12th November 2014 was 350⁴².

Moreover, the media incessantly reports on the most extensive cases of lustration of high-ranking officials⁴³.

The first appeals have already been filed too. A prosecutor from the city of Sumy has filed a suit with the administrative court challenging his own lustration and asserting that he “has not violated human rights, has nothing on his conscience and does not understand why he is losing his job”⁴⁴.

Other persons dismissed include the first deputy to the Prosecutor General Nikolay Holomsh, who also immediately turned to the court⁴⁵ and Deputy Minister of Economy Anatoliy Suchomlin⁴⁶.

Due to uncertainties in terms of interpretation concerning the application of certain provisions of the act, Ukraine’s Foreign Intelligence Service was the first state institution to request an interpretation from the Constitutional Court⁴⁷. The Prosecutor General, on the other hand, stated that the act should be challenged in its entirety as it is contrary to the Constitution (which, however, he has not done to date). Similar declarations were also heard from those within judicial circles (Ukrainian law provides the highest-ranking judges with such an opportunity).

Currently, what will be of key importance for the further course of the lustration process in Ukraine will be the regulation of the Minister of Justice, now being drafted, which details the functioning of the verification procedures, an assessment by, and recommendations from, the Venice Commission and their reception domestically, as well as the position of the President, the new government and the parliamentary majority in the face of potential amendments to the act. Also, the decisions of the Constitutional Court (especially after the receipt of the announced complaints, if any) will also have a considerable effect.

In the more distant future, also the case law of the European Court of Human Rights in Strasbourg will be important if Ukraine is sued by persons claiming to be victims of the lustration process.

From the viewpoint of international support, the international community should become an active observer of the lustration process in Ukraine. One of the postulations even envisaged the participation of international observers in the lustration process at the institutions conducting and supervising the verification, modelled on the concept of observers – members of observation missions during elections. This was intended to enhance their transparency and trustworthiness – through the minimisation of the use of allegations of abuse of verification as a weapon for fighting political opponents.

A similar controlling role is performed effectively by civil society whose further development requires support in financial terms and in the field of development of leaders’ competences. A critical area will be the preparation of new personnel to suit the needs of public service, in the

⁴¹ <http://lustration.minjust.gov.ua/register>

⁴² The calculation was based on <http://lustration.minjust.gov.ua/register>

⁴³ http://ru.tvi.ua/new/2014/10/30/avakov_uvolil_glav_mv_d_v_rovenskoj_poltavskoj_i_khmelnickoj_oblastyakh

⁴⁴ <http://ord-ua.com/2014/10/27/lyustrirovannyi-prokuror-sumshiny-podal-v-sud/?lpage=1>

⁴⁵ http://censor.net.ua/news/308770/zamestitel_genprokurora_golomsha_osporit_v_sude_svoe_uvolnenie

⁴⁶ http://www.ukrudprom.ua/news/CHerez_nedelyu_posle_naznacheniya_Kabmin_uvolil_zamministra_ekon.html

⁴⁷ <http://www.radiosvoboda.org/content/article/26646893.html>

form of training, seminars, grants, study visits, etc., but, primarily – a modern institutionalised system of education, at the centre of which should be a reformed Higher School of Public Administration⁴⁸. In this regard, it seems advisable to learn from the experiences of countries such as France (École nationale d'administration) and Poland (National School of Public Administration).

8. ACTIVITIES OF THE OPEN DIALOG FOUNDATION

Since March 2014, the Open Dialog Foundation has been actively supporting the Lustration Committee with expert opinions and information activities concerning lustration, undertaken outside of Ukraine. We have organised or co-organised several thematic conferences and study visits to institutions which deal with lustration, historical memory, combatting corruption, organised crime and state security in EU countries which underwent systemic transformation post 1989. The Foundation has also organised several informational meetings for local communities of western and southern Ukraine on the theme of lustration and the Polish lustration experience.

On 1st April 2014, the Kozatskiy Hotel in Kiev hosted the first international conference on lustration “Lustration: Solutions for Ukraine”, which gathered Ukrainian politicians, lawyers, journalists and civil activists. Discussions on internal Ukrainian affairs were accompanied by speeches by foreign experts (many of whom are professionally engaged with widely understood problems of lustration) from Poland, Czech Republic, Georgia, Estonia and Lithuania, who gave presentations on lustration mechanisms in their respective countries⁴⁹. An expert from Slovenia was also present who, referring to the country’s experience, pointed to the serious threats Ukraine shall face in the event that lustration is not carried out

Between May and June 2014, a series of study visits were organised with the participation of the Chair of the Social Lustration Committee Yehor Sobolev who, upon an invitation from the Foundation, visited Paris where the concept of lustration in Ukraine was presented to, amongst others, French parliamentarians, as well as the European Parliament in Brussels, the Council of Europe in Strasbourg, and Prague where, inter alia, a meeting was held with Dr Pavel Žáček, the founder and first president of the Czech Institute for the Study of Totalitarian Regimes, and Petruska Sustrova, Czechoslovak dissident and co-author of the Czech lustration law, then responsible on behalf of the Ministry of Internal Affairs for the Settlement of the activities of security services during the communist period.

In June 2014, upon an invitation from the President of the Polish Institute of National Remembrance (IPN), in cooperation with the Foundation, a series of meetings were held in Warsaw, with the management of the IPN and IPN’s Lustration Bureau, the Prosecution General, the Central Anti-Corruption Bureau and independent experts amongst others.

The result of the study visits were some of the verification solutions and mechanisms contained in the first draft act prepared by the Lustration Committee on the basis of foreign experience. The Foundation has translated it into eight European languages⁵⁰.

Furthermore, the opinions and expert opinions by foreign experts were gathered on an on-going basis by the Foundation’s coordinators and, after elaboration, passed on to the Lustration Committee, deputies to the Verkhovna Rada and other interested parties. This contributed significantly to improving the transparency of the legislative drafts.

⁴⁸ <http://hspa.edu.ua>

⁴⁹ <http://en.odfoundation.eu/a/4451,results-of-the-conference-lustration-solutions-for-ukraine>

⁵⁰ <http://odfoundation.eu/a/3968,ukrainska-sciezka-lustration-projekt-ustawy-o-oczyszczeniu-wladzy>

The results of the work of the team of experts were presented at a press conference on 22nd August 2014 in the form of a list of guidelines⁵¹ to be followed by further work on the act in order for it to fully meet the requirements of international law and the guidelines of the Council of Europe (in light of the many experts, in its current form the act may be challenged)⁵².

On 11th September 2014, together with the USAID FAIR Justice Project, another conference was organised on “Lustration: International Experience and Perspectives in Ukraine” to increase the exchange of knowledge between the circles involved in the legislative process and foreign experts, and summarise the Ukrainian work to date on lustration.

9. CONCLUSIONS

The result of the activities of the Social Lustration Committee carried out between March and September 2014 can be deemed a huge political success. Lustration in Ukraine has gone all the way from a social postulation through the legislative path down to its implementation; it has also started to yield its first effects in the form of numerous resignations of, in all likelihood, strongly corrupt public officials. Effective influence on the political elites reluctant to actually adopt the act was possible through, *inter alia*, the exertion of strong political pressure through the organisation of manifestations at the Verkhovna Rada. The mobilisation of society was also used as an instrument to press for dismissals and the initiation of disciplinary and prosecutor proceedings in respect to the most compromised officials associated with the former regime, also on a local level.

It is worth noting that at the outset, in the Verkhovna Rada, there co-existed six different mutually exclusive legislative drafts developed by several conflicting circles, and the divisions ran across not only political parties but existed amongst experts too. Neither President Poroshenko (being of the opinion that elections are the optimum form of lustration) nor Prime Minister Yatsenyuk were amongst the supporters of lustration initially. Today, however, lustration is one of the chief items on the agendas of most political parties represented in the Parliament after the parliamentary elections (October 2014).

The most serious weakness of lustration in Ukraine is the act itself. Regrettably, many of the recommendations made by international experts have not been taken into account, and the act “On Purification of Government” should, in our view, be significantly modified, especially in the area of enforcement of individual accountability in the verification process and the creation of a dedicated independent institution (with the need to amend the Constitution as the necessary prerequisite remaining to be discussed; this, however, restricts considerably the opportunities for that).

Nevertheless, the provisions of the act have been the subject of uncountable negotiations between political groups and numerous factions within them, not only in order to win the support of the parliamentary majority but even to ensure the quorum during the vote (which is common practice in the Ukrainian Parliament). Since in its essence, lustration imposes additional regimes and aims against the interests of a large portion of the political class, its adoption by the Parliament at the time was only possible owing to a far-reaching compromise. A consequence thereof was, amongst others, the exemption of the deputies from its applicability.

Ukraine is facing the urgent need of implementing systemic reforms. At the same time, the post-revolution period, the early presidential and parliamentary elections and, above all, the challenging of the territorial integrity and the sovereignty of the state in itself by Russia, are not

⁵¹ See Annex No. 1

⁵² More: <http://en.odfoundation.eu/a/4508,foreign-expertise-on-draft-law-on-purification-of-government>

favourable factors. Despite these negative circumstances, lustration has become a fact. The act also performs an important preventive and deterring role. The verification mechanisms are far from perfection, but can become a good starting point for further work. For comparison, announced as one of the keys to improving the functioning of the state, the decentralisation reform (the responsibility for the implementation of which was assumed by Deputy Prime Minister Volodymyr Groysman) has not gone so far beyond the stage of study and analysis.

APPENDIX № 1

Proposed amendments to the Ukrainian Law on “Purification of Government” adopted at the first reading on 14th August 2014 and remarks on the adopted law as a whole

Recommendations for and analyses of the first draft of the law and for the version as currently adopted at the first reading have been provided by, amongst others, Radosław Peterman, Polish Institute of National Remembrance; Petruška Šustrová, co-author of the Czech lustration law; Dr Pavel Žáček, founder and first President of the Czech Institute for the Study of Totalitarian Regimes in Prague; Giorgi Gotsiridze, member of the Georgian Young Lawyers Association; Ms Anne Souleliac, legal adviser and human rights coordinator at the French Bar Association; Professor Roman David, specialist in transitional justice from the Lingnan University of Hong Kong; Artur Bilski, lawyer from the Faculty of Law, University of Warsaw, and Filip Cyuńczyk, PhD candidate of the University in Białystok.

The recommendations were passed on to the members of the Lustration Committee and the deputies working on the law, on an on-going basis.

Presented here is a summary of the guidelines and proposed amendments:

It should be considered whether or not Article 6 sub-clause 4 violates the right of privacy of third parties. The proposed scope of verification of the financial status of the family of the person to be verified is seemingly too broad. The European legal tradition has not noted cases of verification encompassing the family members of a verified person to such an extent, except for special verification applied to members of the intelligence agencies and other special services of the state concerned to consist of the checking of the fact of cooperation with the services of third countries, undertaken in a confidential manner. This is not the same as verification of candidates for positions in ordinary bodies of state administration.

It is to be considered whether Article 7 *Deadlines for verification* is realistic. The drafter proposes 30 working days. In the opinion of experts, such a deadline is not realistic. The verification experience of other states suggests that the gathering of information and organising of archives is a meticulous process and one that requires patience – a reasonable and realistic deadline would be at least 4 – 6 months.

Wishing to meet the requirements of Resolution 1096 (1996)⁵³ of the Council of Europe, concerning, inter alia, the guarantee of the possibility for a person who has been negatively

⁵³ <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta96/eres1096.htm>

verified to appeal in court, the drafter proposes, in Article 15, the administrative court as the competent court to hear such matters. It is to be considered whether in an extraordinary situation in which the state is undergoing a period of transformation, it would be advisable to set up a Lustration Court consisting of judges appointed to pass such judgments who have been specially trained in such matters.

In Article 4 *Basis for negative verification*, the drafter lists the positions which, whether occupied now or previously, become the cause for automatic disqualification. What raises concerns is the absence of a mention of persons employed at the GRU and other military special services of the USSR, as only the KGB is referred to. What also raises concerns is the proposal of dismissal solely for occupying a particular position without establishing whether the person concerned actually committed a specific act while in office.

What raises concerns is the unclear provision on the establishment of the National Agency for State Service, responsible for verification. Firstly, Article 5, which discusses the procedure for verification, provides very unclear and imprecise information on how the persons conducting verification will be verified themselves. Secondly, it does not detail the procedure for the appointment of the verification commissions or the procedure for their work, which would appear to be one of the principal requirements for such a project. The minimum recommendation from the consultants is to precisely describe the verification procedure, in coordination with other legal regulations, including the civil code and the administrative code and the applicable implementing codes.

In the consultants' opinion, the establishment of a special independent body should be considered in order to verify candidates for employment within bodies of the state administration. The verification of such candidates may be a task of the National Agency for State Service, on condition that it is equipped with the procedural and financial instruments and set reasonable deadlines, whilst also ensuring that the verifiers who will be verifying others have themselves been verified.

Hence, historical matters should be separated from current affairs. Facts of collaboration, if any, with the special services of the USSR, of being a conscious, intentional and secret collaborator, might perhaps require an amendment to the law on the Institute of National Remembrance of Ukraine (Instytut Pamyati Naroda) which would be provided with the applicable archives from the SBU and equipped with prosecutorial powers as regards violations of human rights, crimes and collaboration with the intelligence and security services of USSR. The fact itself of doing work for such a structure as the basis for dismissal and prohibition of work raises the consultants' concerns. The basis for negative verification may be concealment of the fact of collaboration or reasonable doubts concerning a suspicion of their perpetration of crimes against citizens of the Ukrainian Socialist Soviet Republic.

On a positive note, the consultants appreciate the provision for public control of the verification – this is a very important issue and not dealt with in any of the countries undergoing systemic transformation, except the Truth and Reconciliation Commissions functioning in African states, including South Africa.

The body of the law adopted at its first reading can be found here: <http://odfoundation.eu/i/fmfiles/pdf/draft-law-purification-government-4359a-eng.pdf>

Preliminary remarks on the law adopted in its entirety on 16th September 2014:

- A decentralised mechanism for the lustration and absence of an independent institution responsible for its conduct involves a risk of chaos and lack of actual control by the Ministry of Justice over the process and also favours corruption. In accordance with the guidelines in Resolution 1096 of the Council of Europe, such an independent body should be established⁵⁴.
- There is still a concern relating to access to archival materials of the former communist services. The law does not indicate how such access will be ensured and who will be responsible for it.
- The right of appeal through a court against a negative verification decision is not formulated sufficiently clearly. This is a right which follows from the Ukrainian Constitution.
- The part of the law providing for automatic termination of employment of a category of people for merely occupying certain positions raises concerns in the context of the application of individual accountability to the law as a universal principle.

The provisions of the law, adopted in its entirety on 16th September 2014, form a separate section of this report.

The experts' work on a detailed analysis of the full content of the law and the accompanying documents as regards conformity with the guidelines of the Council of Europe and the Constitution is in progress.

⁵⁴ <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=7506&lang=EN>

APPENDIX № 2

**The contents of the law, published in the official journal of the government of Ukraine
on 15th October, 2014 (unofficial translation)**

On Purification of Government⁵⁵

This Law sets out the legal and organisational framework for the purification of government (lustration) aimed to protect and affirm democratic values, rule of law and human rights in Ukraine.

⁵⁵ See original <http://www.golos.com.ua/Article.aspx?id=357366>

Article 1. Main principles of government purification

1. Purification of government (lustration) shall be the prohibition set by the Law or by court decision for some individuals to hold certain positions (be in service) (hereinafter referred to as the positions) (but for elective positions) in state authorities and local self-government bodies.

2. Purification of government (lustration) shall be carried out for the sake of preventing people who, with their decisions, commission or omission, implemented measures (and/or contributed to their implementation) aimed at power usurpation by the President of Ukraine Viktor Yanukovych, undermining of the fundamentals of national security and defense of Ukraine or illegal infringement of human rights and freedoms in state affairs administration, and it shall be based on the following principles:

- rule of law and lawfulness;
- openness, transparency and publicity;
- presumption of innocence;
- individual responsibility;
- ensuring the right to protection.

3. During ten years after the Law comes into effect the positions to which purification of government (lustration) refers cannot be held by the people mentioned in part one, two, four and eight of article 3 of the Law as well as individuals who did not submit statements envisaged by part one of article 4 of the Law within the period set by the Law.

4. Individuals mentioned in part three, five and seven of article 3 of the Law cannot hold the positions to which purification of government (lustration) refers during five years from the date the corresponding court decision comes into effect.

5. The prohibition envisaged by part three or four of the article can be applied to an individual only once.

6. Application of the prohibition envisaged in part three of the article to an individual shall not constitute the grounds for refusing to apply the prohibition envisaged in part four of the article, in case there are grounds for that and following the procedure determined by the Law.

7. The prohibition envisaged by part three or four of this article shall not apply to individuals indicated in parts two and four of article 3 of the Law who are recognized to be the persons engaged in warfare during the anti-terrorist operation in the east of Ukraine following the procedure set by the legislation.

8. Decisions, commission or omission by subjects of authorities in fulfillment of the Law shall be appealed in court.

Article 2. Positions in relation to which government purification (lustration) measures shall be taken

1. Government purification (lustration) measures shall be taken in relation to the following:

1) Prime Minister of Ukraine, First Vice Prime Minister of Ukraine, Vice Prime Minister of Ukraine as well as minister, heads of central bodies of executive authorities who are not the members of the Cabinet of Ministers of Ukraine, Governor of the National Bank of Ukraine, Chair

of the Antimonopoly Committee of Ukraine, Chair of the State Property Fund of Ukraine, Chair of the State TV and Radio Broadcasting Committee, their first deputies, deputies;

2) Prosecutor General of Ukraine, Head of the Security Service of Ukraine, Head of the External Intelligence Service of Ukraine, Head of the State Guard Administration of Ukraine, head of the central body of executive authority ensuring development of and implementing state tax and/or customs policy, Head of Tax Militia, head of the central body of executive authority ensuring development of and implementing state policy in the sphere of civil protection, their first deputies, deputies;

3) military officers of the Armed Forces of Ukraine and other military formations set up in accordance with the law, except for military personnel undertaking regular military service and military personnel drafted for military service;

4) members of the High Council of Justice, members of the High Qualifications Commission of Judges of Ukraine, professional judges, Head of the State Judicial Administration of Ukraine, his first deputy, deputy;

5) Head of the Presidential Administration of Ukraine, Head of the State Affairs Directorate, Head of the Secretariat of the Cabinet of Ministers of Ukraine, Government Commissioner for Anti-Corruption Policy, their first deputies, deputies;

6) management staff of the bodies of internal affairs, central bodies of executive authority implementing state policy in the sphere of criminal sentence execution, State Service of Ukraine for Special Communication and Information Protection, central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia, central body of executive authority ensuring development of and implementing state policy in the sphere of civil protection;

7) officials and officers of the public prosecution office of Ukraine, Security Service of Ukraine, External Intelligence Service of Ukraine, State Guard Administration of Ukraine, National Bank of Ukraine;

8) members of the Central Election Commission, National TV and Radio Broadcasting Board of Ukraine, heads and members of the national commissions in charge of state regulation of natural monopolies, state regulation in the sphere of communication and informatization, securities markets and markets of financial services;

9) heads of state, including state-run companies of defense-industrial sector as well as state companies within the administrative services provision entity's management domain;

10) other officials and officers (but for elective positions) of state authorities, local self-government authorities;

11) people who apply for the positions listed in paragraphs 1-10 of this part.

Article 3. Criteria of government purification (lustration)

1. The prohibition envisaged by part three of article 1 of the Law shall be applied to people who occupied the following position(s) during the period from February 25, 2010 to February 22, 2014 in total for no less than one year:

1) President of Ukraine, Prime Minister of Ukraine, First Vice Prime Minister of Ukraine, Vice Prime Minister of Ukraine;

2) minister, head of central bodies of executive authority who is not a member of the

Cabinet of Ministers of Ukraine, Governor of the National Bank of Ukraine, Chair of the Antimonopoly Committee of Ukraine, Chair of the State Property Fund of Ukraine, Chair of the State TV and Radio Broadcasting Committee, their first deputy, head or member of the national commission in charge of state regulation of natural monopolies, state regulation in the sphere of communication and informatization, securities markets and markets of financial services;

3) Prosecutor General of Ukraine, Head of the Security Service of Ukraine, Head of the External Intelligence Service of Ukraine, Head of the State Guard Administration of Ukraine, head of the central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia, their first deputy or deputy, Deputy Minister of Internal Affairs of Ukraine;

4) Secretary of the National Security and Defense Council of Ukraine, his first deputy, deputy;

5) Head of the Presidential Administration of Ukraine, Head of the State Affairs Directorate, Head of the Secretariat of the Cabinet of Ministers of Ukraine, Government Commissioner for Anti-Corruption Policy, their first deputy, deputy;

6) member of the High Council of Justice (but for the Chief Justice of the Supreme Court of Ukraine), member of the High Qualifications Commission of Judges of Ukraine, Head of the State Judicial Administration of Ukraine, his first deputy, deputy;

7) head, deputy head of the independent structural unit of the central body (administration) of the Office of the Prosecutor General of Ukraine, Security Service of Ukraine, External Intelligence Service of Ukraine, Ministry of Internal Affairs of Ukraine, central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia;

8) head, deputy head of the territorial (regional) body of the Office of the Prosecutor General of Ukraine, Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia in the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol;

9) Head of the Council of Ministers of the Autonomous Republic of Crimea, heads of regional, Kyiv or Sevastopol City State Administrations, their first deputies, deputies, heads of district state administrations, city district state administration in the city of Kyiv;

10) Head of the General Headquarters - Commander-in-Chief of the Armed Forces of Ukraine, Commander of the Ground Forces of the Armed Forces of Ukraine, Commander of the Air Forces of the Armed Forces of Ukraine, Commander of the Navy of the Armed Forces of Ukraine, their first deputy.

2. The prohibition envisaged by part three of article 1 of the Law shall be applied to people who occupied the following position(s) during the period from November 21, 2013 to February 22, 2014 and were not dismissed in that period from the corresponding position(s) on their own initiative:

1) Secretary of the National Security and Defense Council of Ukraine, Prime Minister of Ukraine, First Vice Prime Minister of Ukraine, Vice Prime Minister of Ukraine, minister, head of the central body of executive authority who is not member of the Cabinet of Ministers of Ukraine, Governor of the National Bank of Ukraine, Chair of the Antimonopoly Committee of Ukraine, Chair of the State Property Fund of Ukraine, Chair of the State TV and Radio Broadcasting Committee, Prosecutor General of Ukraine, Head of the Security Service of Ukraine, Head of the External Intelligence Service of Ukraine, Head of the State Guard Administration of Ukraine, head of the

central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia, central body of executive authority ensuring development of and implementing state policy in the sphere of civil protection, Head of the Presidential Administration of Ukraine, Head of the State Affairs Directorate, Head of the Secretariat of the Cabinet of Ministers of Ukraine, Government Commissioner for Anti-Corruption Policy, their first deputy, deputy;

2) member of the High Council of Justice (but for the Chief Justice of the Supreme Court of Ukraine), member of the High Qualifications Commission of Judges of Ukraine, Head of the State Judicial Administration of Ukraine, his first deputy, deputy;

3) head, deputy head of the independent structural unit of the central body (administration) of the Office of the Prosecutor General of Ukraine, Security Service of Ukraine, External Intelligence Service of Ukraine, Ministry of Internal Affairs of Ukraine, central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia;

4) head, deputy head of the territorial (regional) body of the Office of the Prosecutor General of Ukraine, Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, central body of executive authority ensuring development of and implementing state tax and/or customs policy, tax militia in the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol, districts in the city of Kyiv;

5) Head of the Council of Ministers of the Autonomous Republic of Crimea, heads of regional, Kyiv or Sevastopol City State Administrations, their first deputies, deputies, heads of district state administrations, city district state administration in the city of Kyiv;

6) Head of the General Headquarters – Commander-in-Chief of the Armed Forces of Ukraine, Commander of the Ground Forces of the Armed Forces of Ukraine, Commander of the Air Forces of the Armed Forces of Ukraine, Commander of the Navy of the Armed Forces of Ukraine, their first deputy, deputy;

7) head or member of the national commission in charge of state regulation of natural monopolies, state regulation in the sphere of communication and informatization, securities markets and markets of financial services;

8) head of the state company within the administrative services provision entity's management domain which takes actions necessary to provide administrative services in accordance with the legislation;

9) officer of law enforcement agencies who took part in detaining persons released under the Law of Ukraine "On Elimination of Negative Effects and Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies" of January 29, 2014 No.737-VII, Law of Ukraine "On Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies, and Abrogation of Certain Laws of Ukraine" of February 21, 2014 No.743-VII;

10) officer of law enforcement agencies who executed and/or, by commission or omission, helped in execution of statements, administrative offence reports, suspicious criminal activity reports, crime bills, etc. concerning persons released under the Law of Ukraine "On Elimination of Negative Effects and Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies" of January 29, 2014 No.737-VII, Law of Ukraine "On Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies, and Abrogation of Certain Laws of Ukraine" of February 21, 2014 No.743-VII;

11) investigation officer of pre-trial investigative bodies, interrogating officer, operative, inspector, who conducted investigation and took operative actions against persons released under the Law of Ukraine "On Elimination of Negative Effects and Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies" of January 29, 2014 No.737-VII, Law of Ukraine "On Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies, and Abrogation of Certain Laws of Ukraine" of February 21, 2014 No.743-VII;

12) officer of public prosecutor's office who supervised proceedings, submitted reports, approvals, supported motions for application of preventive measures, supported public prosecution in court, made an omission against persons released under the Law of Ukraine "On Elimination of Negative Effects and Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies" of January 29, 2014 No.737-VII, Law of Ukraine "On Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies, and Abrogation of Certain Laws of Ukraine" of February 21, 2014 No.743-VII;

13) judge who made a resolution to permit detention for the sake of attachment, to apply a preventive measure in the form of detention, passed a decision to bring to administrative or criminal account persons released under the Law of Ukraine "On Elimination of Negative Effects and Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies" of January 29, 2014 No.737-VII, Law of Ukraine "On Prevention of Persecution and Punishment of Persons with Regard to the Events During Peaceful Assemblies, and Abrogation of Certain Laws of Ukraine" of February 21, 2014 No.743-VII.

3. The prohibition envisaged by part four of article 1 of the Law shall be applied to judges who made a resolution to permit detention for the sake of attachment, to apply preventive measures in the form of detention, passed guilty verdicts, left them unchanged in relation to persons to whom complete individual amnesty has been applied under the Law of Ukraine "On Amendments to the Law of Ukraine 'On Amnesty in Ukraine' Concerning Full Rehabilitation of Political Prisoners" of February 27, 2014 No.792-VII, officers of internal affairs bodies, public prosecution bodies and other law-enforcement bodies who, by their decisions, commission or omission, implemented measures (and/or contributed to their implementation) aimed at criminal prosecution and bringing to criminal account of persons to whom complete individual amnesty has been applied under the Law of Ukraine "On Amendments to the Law of Ukraine 'On Amnesty in Ukraine' Concerning Full Rehabilitation of Political Prisoners" of February 27, 2014 No.792-VII.

4. The prohibition envisaged by part three of article 1 of the Law shall be applied to the persons who:

1) were elected and worked in supervising positions in the Communist Party of the USSR (CPSU), Communist Party of Ukraine and other Union republics of the former USSR from the level of district committee secretary and above;

2) were elected and worked in supervisory positions from the level of secretary of the Central Committee of the All-Union Leninist Young Communist League (AULYCL) and above;

3) were in the capacity of staff members or secret agents of the KGB of the USSR, KGB of the Ukrainian SSR, KGB of other Union republics of the former USSR; Main Intelligence Department of the Ministry of Defence of the USSR; graduated from higher educational institutions of the KGB of the USSR (except in technical specializations).

5. The prohibition envisaged by part four of article 1 of the Law shall be applied to the officials and officers of the state authorities and local self-government bodies (but for persons

indicated in parts one and four of the article), who, while holding the corresponding position in the period from February 25, 2010 to February 22, 2014, by their decision, commission or omission, which fact has been established by a court decision on them which has come into effect, implemented measures aimed at power usurpation by the President of Ukraine Viktor Yanukovich, undermining of the fundamentals of national security, defense and territorial integrity of Ukraine, that fact leading to the infringement of human rights and freedoms.

6. The prohibition envisaged by part four of article 1 of the Law shall be applied to the officials and officers of the state authorities and local self-government bodies, including judges, officers of internal affairs bodies, public prosecution bodies of Ukraine and other law-enforcement bodies who, by their decision, commission or omission, which fact has been established by a court decision on them which has come into effect, implemented measures aimed at preventing exercising of the constitutional right of Ukrainian citizens of peaceful assembly and to holding meetings, manifestations and demonstrations or aimed at doing harm to the life, property of individuals in the period from November 21, 2013 to February 22, 2014.

7. The prohibition envisaged by part four of article 1 of the Law shall be applied officials and officers of the state authorities and local self-government bodies including judges, officers of internal affairs bodies, public prosecution bodies and other law-enforcement bodies concerning whom it has been established by court in its decision that has taken effect that they:

1) collaborated with secret services of other countries as secret agents for the sake of operative information obtaining;

2) by their decisions, commission or omission implemented measures (and/or contributed to their implementation) aimed at undermining the foundations of national security, defense or territorial integrity of Ukraine;

3) called for violation of territorial integrity and sovereignty of Ukraine in public;

4) fomented hostility between nations;

5) by their illegal decisions, commission or omission, led to infringement of human rights and fundamental freedoms determined by the decision of the European Court of Human Rights.

8. The prohibition envisaged by part three of article 1 of the Law shall be applied to persons the vetting of whom established unreliability of data on the availability of property (property rights) indicated in the declarations on assets, income, costs and financial liabilities submitted by them for the previous year, compiled by the form set by the Law of Ukraine "On the Principles of Preventing and Counteracting Corruption", and/or non-correspondence of the value of the property (property rights) indicated in their declarations, acquired while in office as determined in paragraphs 1 and 10 of part one of article 2 of the Law to income obtained from legal sources.

9. Trial courts, while making decisions in cases and in relation to persons envisaged by parts five-seven of the article, shall apply the provisions of the law and impose a prohibition envisaged by part four of article 1 of the Law as well as submit the corresponding decision to the State Judicial Administration of Ukraine for sending it to the Ministry of Justice of Ukraine and for introducing the data to the Unified State Register of Persons in relation to whom provisions of the Law of Ukraine "On Purification of Government" have been applied.

10. While making verdicts in cases and in relation to persons envisaged by parts five-seven of this article, courts impose the prohibition envisaged by part four of article 1 of the Law as the main or additional punishment in compliance with the provisions of the Criminal Code of Ukraine. In case the prohibition is imposed as envisaged by part four of article 1 of the Law as an additional

punishment the period of validity of such prohibition makes up five years.

Article 4. Statements of officials or officers

1. Persons holding positions envisaged in paragraphs 1-10 of part one of article 2 of the Law shall submit to their head or the body indicated in part four of article 5 of the Law a personally written statement in which they inform that prohibitions determined by part three or four of article 1 of the Law shall apply to them, or inform that the corresponding prohibitions shall not apply to them, as well as about their consent to undergoing vetting, consent to making the data on them public in line with the Law (hereinafter referred to as the statement).

2. The statement shall be submitted not later than on the tenth day from the beginning of the vetting in the corresponding body, at the company under the vetting schedule, approval of which is determined by paragraph 3 of part two of article 5 of the Law.

3. Non-submission of the statement within the period set by part two of the article shall constitute the grounds for dismissing the person from the position held not later than on the third day after the expiry of the period of statement submission and application of the prohibition envisaged by part three of article 1 of the Law to him/her.

Submission of the statement in which the person informs that a prohibition applies to him/her as indicated in part three or four of article 1 of the Law shall constitute the grounds for dismissing the person from the position held not later than on the third day after submission of such statement and application of the corresponding prohibition to him/her.

Article 5. Vetting

1. The Ministry of Justice of Ukraine shall be the body authorized to hold the vetting procedure envisaged by the present Law.

The Ministry of Justice of Ukraine shall within a month from the date the present Law comes into effect set an advisory public body for lustration issues affiliated with the Ministry of Justice of Ukraine for the sake of ensuring public control over government purification (lustration) process, and it should include representatives of mass media and the public.

2. The Ministry of Justice of Ukraine shall within a month from the date the present Law comes into effect elaborate and submit for the approval of the Cabinet of Ministers of Ukraine:

1) the list of bodies conducting vetting of the reliability of the corresponding data on prohibition application envisaged by part three and four of article 1 of the Law, within their terms of reference;

2) the procedure of conducting vetting envisaged by the Law;

3) vetting plan for each state authority and local self-government body, company where people indicated in paragraphs 1-10 of part one of article 2 of the Law work, following the sequence determined by part six of the article.

3. Draft documents submitted by the Ministry of Justice of Ukraine as determined in part two of the article shall be approved by the Cabinet of Ministers of Ukraine on the tenth day after their submission by the Ministry of Justice of Ukraine at the latest, and within ten days from the date of their approval they shall be made public on the official web-site of the Ministry of Justice of Ukraine.

The Ministry of Justice of Ukraine shall on the tenth day from the of approval of the list of bodies envisaged by paragraph 1 of part two of this article by the Cabinet of Ministers of Ukraine at the latest place on its official web-site information about mail and electronic addresses, contact phone number of each of state authorities the terms of reference of which include conducting the vetting as well as the advisory public body for lustration issues affiliated with the Ministry of Justice of Ukraine to which individuals and legal entity may, within one month from the date the vetting starts, submit information about the person subject to vetting as far as application of prohibitions envisaged by the Law to this person is concerned. Such information submitted by individuals and legal entities shall be subject to consideration by the state authorities the terms of reference of which include conducting of the vetting.

4. Organization of the vetting of persons (for but professional judges and persons indicated in subparagraph three of this part) shall be the duty of the head of the corresponding body the terms of reference of which include dismissal of the person subject to vetting from the position.

Organization of the vetting of professional judges shall be the duty of the chief judge of the court in which the judge works.

Organization of the vetting of members of the High Council of Justice, High Qualifications Commission of Judges of Ukraine, Central Election Commission, National TV and Radio Broadcasting Council of Ukraine shall be the duty of the head of the body in which the person works.

5. The following shall be subject to vetting:

1) reliability of the data indicated in the statement relating to non-application of prohibitions envisaged by part three and four of article 1 of the Law;

2) reliability of the data on availability of property (property rights) and correspondence of the value of property (property rights) indicated in the declaration of assets, income, costs and financial liabilities submitted by the persons for the previous year by the form set by the Law of Ukraine "On the Principles of Preventing and Counteracting Corruption" (hereinafter referred to as the declaration), acquired while in the positions determined in paragraphs 1-10 of part one of article 2 of the Law, to income obtained from legal sources.

6. The vetting shall be done in the following order:

1) the Minister of Justice of Ukraine, officials and officers of the Ministry of Justice of Ukraine, heads, officials and officers of the bodies determined in paragraph 1 of part two of the article;

2) heads of the bodies determined in paragraphs 1-10 of part one of article 2 of the Law;

3) deputy heads of the bodies determined in paragraphs 1-10 of part one of article 2 of the Law, heads of their structural units, heads of their territorial (regional) bodies and persons listed in paragraph 9 of part one of article 2 of the Law;

4) other persons listed in paragraphs 1-10 of part one of article 2 of the Law.

7. The head of the body envisaged in part four of this article shall on the third day after statement is received at the latest send to the corresponding district, city (city of oblast subordination), city district territorial state authorities at the place of residence of the person the terms of reference of whom include vetting of the corresponding data determined in paragraph 1 of part five of this article, inquiries for vetting the data relating to the person subject to vetting, with attached copies of the statement.

The head of the body envisaged by part four of the article shall, on the third day after the statement is received at the latest, send a inquiry for vetting the corresponding data in relation to the person subject to vetting, with attached copy of the person's declaration, to the corresponding district, city (city of oblast subordination), city district territorial state authorities at the place of residence of the person the terms of reference of whom include vetting of the corresponding data determined in paragraph 2 of part five of this article,.

The inquiries envisaged by subparagraph one and two of the present part shall be sent simultaneously.

On that very day the head of the body envisaged by part four of the this article shall send a notice to the Ministry of Justice of Ukraine notifying about the commencement of vetting of the person, and it shall be placed on the official web-site of the Ministry of Justice of Ukraine with indication of the date of commencement of the vetting on the fifth day after it is received at the latest.

8. The day when the corresponding inquiries and attached documents as well as notice are sent to the Ministry of Justice of Ukraine are sent shall be considered to be the date of vetting commencement.

9. Information about the commencement of the vetting of a person and copies of his/her statement and declaration (but for data included by the law to limited-access information) shall be placed on the official web-site of the body the terms of reference of which include dismissal of the person subject to vetting from his/her position within three days after the statement is received at the latest.

10. In case the results of the vetting trace unreliability of the data determined by paragraph 2 of part five of this article, the body conducting the vetting shall, within three days after all unreliabilities and/or miscorrespondences are traced, but on the thirtieth day from the date the inquiry and copy of the person's declaration is obtained at the latest, notify the person subject to vetting of them. The person subject to vetting shall within fifteen workdays from the date (s)he receives the corresponding notice provide a written explanation of such facts and supporting documents that are obligatory for the corresponding body to consider and take into account while preparing the vetting opinion.

11. The body conducting the vetting sends the vetting opinion signed by the head of such body (or the person performing his/her duties) to the head of the body envisaged in part four of this article, on the sixtieth day from the vetting commencement at the latest.

Such opinion can be appealed by the person in court.

12. In case unreliability of the data determined in paragraphs 1 and/or 2 of part five of this article is traced during the vetting, the vetting body sends a copy of the vetting opinion to the Ministry of Justice of Ukraine for official publication of the information about such opinion provision on the official web-site of the Ministry of Justice of Ukraine and recording of the persons in relation to whom provisions of the Law of Ukraine "On Purification of Government" have been applied in the Unified State Register within three days from the date such opinion is received.

13. In case during the professional judge vetting unreliability of the data determined by paragraphs 1 and/or 2 of part five of this article is established, the body conducting the vetting sends a copy of the vetting opinion to the Ministry of Justice of Ukraine which, within three days from the date the opinion arrives, shall send it to the High Council of Justice and/or High Qualifications Commission of Judges of Ukraine and shall put forward the proposal to accept application for dismissal of the judge from office.

The Ministry of Justice of Ukraine shall be the entity which can submit judicial dismissal applications for the purposes of the Law.

14. The head of the body envisaged by part four of this article shall, under the vetting opinion which points to unreliability of data determined by paragraphs 1 and/or 2 of part five of this article, on the third day after the opinion is received at the latest, being guided by provisions of part three or four of article 1 of the Law, dismiss the person from the position held, or, on the third day after it is received at the latest, shall send this opinion to the head of the body (body) the terms of reference of which include dismissal and initiation of dismissal from office of the person subject to vetting aimed at his/her dismissal from the position following the procedure set by the law on the tenth day from the day of opinion receipt at the latest.

15. All the materials of the vetting supplied to the head of the body as envisaged by part four of this article, shall be attached to the personal file of the vetted person.

Article 6. Applications of persons applying for positions

1. The persons applying for the position determined in paragraphs 1-10 of part one of article 2 of the Law (but for citizens called in under the conscription of officers and drafted for military service, for a special period, or involved in performing the duties by virtue of their positions envisaged by the list of members of staff of the wartime, in the territory of anti-terrorist operation), shall submit a personally written statement in which (s)he informs that the prohibitions determined in part three or four of article 1 of the Law shall not apply to him/her as well as informs about the consent for vetting, consent for making the data relating to him/her public in line with the Law.

2. The data indicated in the application envisaged by part one of this article shall be vetted during the special vetting procedure under article 11 of the Law of Ukraine "On the Principles of Preventing and Counteracting Corruption" following the procedure and within the periods determined by the Law.

3. The fact that the vetting establishes belonging of the person to the list of persons in relation to whom prohibitions determined by part three or four of article 1 of the Law apply shall constitute the grounds for refusing to appoint such person to the position which (s)he aspires to hold.

Article 7. Unified State Register of Persons in Relation to Whom Provisions of the Law of Ukraine "On Purification of Government" Have Been Applied

1. The data about the persons on whom a prohibition has been imposed as envisaged by part three or four of article 1 of the Law shall be included to the Unified State Register of Persons in Relation to Whom Provisions of the Law of Ukraine "On Purification of Government" Have Been Applied (hereinafter referred to as the Register) formed and maintained by the Ministry of Justice of Ukraine.

The Regulation on the Register, the procedure of its formation and maintenance shall be approved by the Ministry of Justice of Ukraine.

The data about the persons in relation to whom the prohibition has been applied as envisaged by part four of article 1 of the Law shall be made public on the official web-site of the Ministry of Justice of Ukraine and included to the Register within three workdays after the electronic copy of court decision that came into effect provided from the Unified State Register of

Court Decisions arrives from the State Judicial Administration of Ukraine to the Ministry of Justice of Ukraine. The State Judicial Administration of Ukraine shall send to the Ministry of Justice of Ukraine such electronic copy of court decision on the tenth day after it comes into legal effect at the latest.

2. Information from the Register about introduction of the person's data to the Register or absence of the person's data in the Register shall be provided:

at the request of state authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies for the sake of holding the vetting envisaged by the present Law or a special vetting envisaged by the Law of Ukraine "On the Principles of Preventing and Counteracting Corruption" of the data about the persons applying for the positions relating to fulfillment of state or local self-government functions;

at the request of law-enforcement agencies in case it is necessary to obtain such information within a criminal or administrative procedure, or at the prosecutor's request within supervision of compliance with the requirements and law enforcement;

during reconciliation of the list of persons dismissed from offices due to purification of government (lustration) with the data available in the Register;

in case of an address of an individual (his/her proxy) for obtaining the data about himself/herself.

3. The Ministry of Justice of Ukraine shall within three days following obtaining of the data subject to being included to the Register ensure making them public on its official web-site and introducing them to the Register. The following data about the person in relation to whom provisions of the Law have been applied shall be open for a free-of-charge round-the-clock access:

- 1) surname, name and patronymic;
- 2) place of employment, position at the moment provisions of the present Law are applied;
- 3) data about the vetting of the person as well as information about submission of the vetting opinion confirming availability of the grounds for applying prohibitions determined by article 1 of the Law to the vetted person;
- 4) period over which the prohibition envisaged by part three of four of article 1 of the Law shall be valid for the person.

The above data shall not constitute confidential information about the person and cannot be limited in terms of access to them.

Article 8. Control over enforcement of the Law

1. The Verkhovna Rada of Ukraine shall exercise parliamentary control over the enforcement of the Law within the limits established by the Constitution of Ukraine.

Other public authority bodies shall exercise control over the implementation of this Law within their powers and in a manner provided for by the Constitution and the laws of Ukraine.

FINAL AND TRANSITIONAL PROVISIONS

1. The Law shall come in force on the date following the date of its publication.
2. It is established that during ten days from the day the present Law comes into effect, the

head of the body (body) the terms of reference of which include dismissal and/or initiation of dismissal of persons to whom the prohibition indicated in part three of article 1 of the Law applies from their positions on the basis of the criteria determined by part one of article 3 of the Law, on the basis of the data available in personal files of those persons shall:

1) dismiss those persons from office or send to the head of the body (body) the terms of reference of which include dismissal of such persons from office the corresponding documents for their dismissal within 10 workdays after such documents are received;

2) inform the Ministry of Justice of Ukraine about their dismissal from office and provide the corresponding data about application of the prohibition envisaged by part three of article 1 of the Law to such persons, for the sake of making them public on the official web-site of the Ministry of Justice of Ukraine and introducing the persons in relation to which provisions of the Law of Ukraine "On Purification of Government" have been applied to the Unified State Register of Persons in Relation to Whom Provisions of the Law of Ukraine "On Purification of Government" Have Been Applied, following the procedure and within the periods determined by the Law.

3. Laws and other by-laws shall apply to the extent they do not run counter to the present Law.

4. The following legislative acts of Ukraine shall be amended:

1) Article 36 of the Labour Code of Ukraine (*Bulletin of the Verkhovna Rada of the Ukrainian SSR, 1971, Appendix to No.50, p. 375*) shall be edited in the following manner:

Part One shall be supplemented with paragraph 72 in the following edition:

"72) for the grounds envisaged by the Law of Ukraine "On Purification of Government";

Part two shall be supplemented with the words "and in case envisaged by paragraph 72 the person shall be subject to dismissal from office following the procedure determined by the Law of Ukraine "On Purification of Government";

2) part one of article 55 of the Criminal Code of Ukraine (*Bulletin of the Verkhovna Rada of Ukraine, 2001, No. 25-26, p. 131*) shall be supplemented by subparagraph two in the following edition:

"Disqualification from certain offices as additional punishment in cases envisaged by the Law of Ukraine "On Purification of Government" shall be valid for the period of five years";

3) part one of article 53 of the Law of Ukraine "On the Judiciary and Status of Judges" (*Bulletin of the Verkhovna Rada of Ukraine, 2010, Nos. 41-45, p. 529*) shall be edited in the following manner:

"1. Holding of the judicial office is incompatible with holding an office in any other state authority, local self-government body and with the representation mandate, as well as if the judge is a person to whom there apply prohibitions envisaged by article 1 of the Law of Ukraine "On Purification of Government";

4) part two of article 11 of the Law of Ukraine "On the Principles of Preventing and Counteracting Corruption" (*Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 40, p. 404*) shall be supplemented with paragraph 6 in the following edition:

"6) validity of the prohibition for the person to hold the corresponding position envisaged by the provisions of the Law of Ukraine "On Purification of Government".

Chair of the Verkhovna Rada of Ukraine

O. TURCHYNOV

The city of Kyiv

September 16, 2014

No. 1682-VII

The Open Dialog Foundation was established in Poland in 2009 upon the initiative of Lyudmyla Kozlovska, who is now President of the Foundation's Board. The Foundation's statutory aims include defence of human rights, democracy and the rule of law in the post-Soviet area, with particular emphasis on the largest CIS countries: Russia, Kazakhstan and Ukraine.

The Foundation pursues its aims through the organisation of observation missions, including the observation of elections and the monitoring of the observance of human rights in CIS countries. They serve as the basis for reports and accounts to be distributed amongst the institutions of the EU, OSCE and other international organisations, foreign ministries and parliaments of EU countries, research centres and the media.

In addition to its observation and research activities, in cooperation with parliamentarians engaging in foreign affairs, human rights and relations with CIS countries, the Foundation is actively involved in supporting the processes of democratisation and liberalisation of internal policies in the post-Soviet area. Major areas of the Foundation's activities also include programmes for the support of prisoners and political refugees.



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