



Kiev, 29 September, 2015

**DELAY IN THE IMPLEMENTATION OF REFORM IN UKRAINE: THE AUTHORITIES SHOULD MORE ATTENTIVELY HEED THE VOICE OF CIVIL SOCIETY**

The Ukrainian authorities did not manage to take advantage of a window of opportunity which appeared after the overthrow of the Yanukovich regime. To date, no concerted efforts have been undertaken to implement deep systemic reforms by the President, the parliament and the government. The new authorities do not find common ground regarding the future of the country. Reform is carried out with a significant lag. In the context of the military conflict and the economic crisis, this situation can lead to serious risks.

After the Revolution of Dignity, representatives of civil society were allowed more opportunities to directly and more effectively communicate their needs to the authorities. The government cannot ignore the voice of society anymore, as was the case in the days of Yanukovych. However, the civil sector is still faced with a wall of rejection and the inaccessibility of the state bodies.

It is clear that the implementation of reform will take much longer than expected. Without the active participation of civil society, the current authorities are incapable of carrying out systemic changes across various fields efficiently and in a timely manner.

Reform is not limited to structural changes in the work of the state bodies. A new country requires the building of institutions which are free from corrupt practices. The extent of corruption undermines public confidence in the State and jeopardises the continued support of the EU and the United States. None of the established bodies set up to combat corruption have commenced full operation, partly due to delays on the part of the prosecutor's office. According to Transparency International, Ukraine is included amongst the most corrupt countries in the world.

The vote on constitutional reform ended in tragedy near the walls of parliament. The lack of consensus and a broad public discussion regarding the changes to the Constitution has resulted in an opportunity for manipulation and provocation. In addition, the President and the Prime Minister are not interested in devolving their powers. For example, the constitutional amendments regarding decentralisation serve to uphold the wide-ranging powers of the President to influence local government.

One of the most "painful" amongst these is the reform of law enforcement agencies, without which it is impossible to build a state of law. Authorities are striving to reform the Prosecutor's Office through changes in the structure of the department and re-certification of employees. However, it is still difficult to bring about an investigation into the corruption of law enforcement bodies. We support the statement of the US Ambassador to Ukraine Jeffrey Payette who enunciated that the refusal of the General Prosecutor's Office to fight internal corruption poses a threat to political and economic reforms: "Rather than supporting Ukraine's reforms and working to root out corruption, corrupt actors within the Prosecutor General's office are making things worse by openly and aggressively undermining reform".<sup>1</sup>

<sup>1</sup> <http://ukraine.usembassy.gov/statements/ambpyatt-odesa-finforum-09242015.html>

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In particular, the Open Dialog Foundation is engaged in the cases of the Kazakh opposition politician Mukhtar Ablyazov, whom Kazakhstan is trying to extradite with the help of Ukraine<sup>2</sup> and Polish citizen Aleksander Orlov, who has been held in custody in the Odessa detention facility for 4 years without trial.<sup>3</sup> The prosecutor's office responds to numerous inquiries with standardised formal replies, regardless of the content of the questions raised. Criminal cases as regards charges of abuse of office were initiated against two investigators involved in Ablyazov's case.<sup>4</sup> This was only possible due to public pressure.

The UN and the Council of Europe sharply criticised Ukraine in relation to the impunity of perpetrators of crimes against activists of Maidan. Also, many associates of Yanukovich, who, according to investigative journalism, had been involved in large-scale corruption, have managed to evade justice. Former General Prosecutor Vitaliy Yarema sabotaged the investigation into the crimes of Yanukovich's regime and ignored the law on lustration.<sup>5</sup> The Open Dialog Foundation sought the ousting of Yarema. Currently, representatives of civil society and more than 100 MPs are, thus far unsuccessfully, calling for the resignation of the current General Prosecutor Viktor Shokin.

The president, the prosecutor's office and the Interior Ministry continue to sabotage the law on lustration. Contrary to the demands of civil society, many of the leaders of law enforcement agencies manage to avoid lustration.<sup>6</sup> In some cases, the state leadership demonstrates disregard for the requirements of the law on lustration. For example, the Interior Minister appointed the vetted (and dismissed) Vitaliy Sakala as his adviser, and the President reinstated the ousted head of the Interior Ministry in Kiev, Aleksander Tereshchuk. It is hard to achieve transparency in the appointment to the Public Prosecutor's Office and the Interior Ministry. Political loyalty to the President or a Minister continues to be the main prerequisite for securing a post.

According to opinion polls, 81% of Ukrainians do not trust the courts.<sup>7</sup> Judges themselves desperately resist judicial reform. The only effective means of introducing reform is to replace judicial personnel entirely.

Education reform and the establishment of a patrol police division can be considered successful. It was in education reform that civil society was most involved. This example confirms that effective reform is carried out by new employees which are not part of the corrupt system and enjoy the widespread support of civil society.

Due to the intensity of the events, Ukraine's problems are lost in an array of information. It is sometimes difficult for foreign partners to understand where real reform is being implemented, and where it is only being simulated in order to satisfy the political interests of certain officials. Therefore, support for NGO initiatives will allow the EU and the United States to better understand the nature and characteristics of the reform process in Ukraine.

It is important for funders to promote not only NGOs' expert evaluations on reform, but also the process of advocacy of the evaluations. The support for advocacy campaigns will enable civil society to better convey proposals to the authorities.

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<sup>2</sup> <http://ru.odfoundation.eu/a/6845,otchet-analiz-dokumentov-po-delu-muhtara-ablyazova>

<sup>3</sup> <http://ru.odfoundation.eu/a/6819,otchet-delo-aleksandra-orlova-grazhdanin-polshi-stoknulsya-s-ugolovnym-presledovaniem-v-ukraine>

<sup>4</sup> <http://ru.odfoundation.eu/a/6592,sud-obyazal-rassledovat-deystviya-sledovatelya-kotoryy-mog-umalchivat-o-korrupcii-v-mvd-v-ramkakh-dela-muhtara-ablyazova>

<sup>5</sup> <http://ru.odfoundation.eu/a/5957,dostizheniya-vitaliya-yaremy-itogi-deyatelnosti-generalnoy-prokuratury-ukrainy-god-posle-evromaydana>

<sup>6</sup> <http://ua.odfoundation.eu/a/6520,visokopostavlenim-chinovnikam-prokuraturi-i-dali-vdaietsya-unikati-lyustraciyi>

<sup>7</sup> [http://www.uceps.org/ukr/poll.php?poll\\_id=1030](http://www.uceps.org/ukr/poll.php?poll_id=1030)

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NGOs point to significant problems with the implementation of anti-corruption reforms, lustration, as well as the reform of law enforcement and judicial authorities. The EU and the US should give a clear signal to the Ukrainian authorities that ignoring the position of NGOs is inadmissible.

International donors should strengthen their mutual cooperation in order to coordinate projects. The effective exchange of information will help to avoid the duplication of requirements in terms of projects and when it comes to addressing new problems and issues. This will positively affect the productivity and diversity of projects and will facilitate the evaluation and implementation of which by the authorities. It is important that the requirements for applications be sufficiently specific and reporting - unburdened with unnecessary bureaucratic conditions.

The creation of a common information platform for Ukrainian NGOs to share experiences, ideas, expert evaluations, expectations and proposals for cooperation and so on may also be effective. This platform will positively affect the quality of the implemented projects and their levels of compliance with the immediate needs of society.

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