



Ukrainian Institute for Policy  
Analysis and Management

## PRICE OF REFORMS

Goals, course, and results of systemic changes  
in Ukraine (2014 - 2019)

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This publication was prepared based on the results of the cycle of studies “The Price of Reforms” conducted by the Ukrainian Institute for Policy Analysis and Management, published in the period 2015-2019. The authors of the studies tried to impartially and reasonably analyze the goals, course, and consequences of key reforms carried out in Ukraine after the change of power in 2014, using examples of systemic changes in the spheres of police, education, health care, deregulation, decentralization, anti-corruption and reformatting the judicial system. The consequences of the implemented reforms, their reasons, and course were investigated; forecasts were made, practical recommendations were given to optimize the processes and achieve the best results of the ongoing reforms.

All statistical information used in the publication was obtained from official or other open sources, and the research itself was tested publicly in the format of round tables and press conferences.

Each of the studies in this edition is presented in the form of a graphic presentation and text (except for material on judicial reform). The Ukrainian Institute for Policy Analysis and Management invites you to a professional dialogue on research topics:

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The authors of the study attempted an impartial and reasoned analysis of the goals, course, and consequences of the key reforms carried out in Ukraine after the change of power in 2014 with special reference to police reform, education reform, health care, deregulation, decentralization, anti-corruption and judicial reforms. They investigated the consequences of the introduced reforms, their causes, and the course; forecasts were made and practical recommendations were given to optimize processes and to achieve the best results of the ongoing reforms.

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## **Introduction**

At the time of the change of power in 2014, Ukraine required cardinal reforms in most areas of public administration and social protection, which traditionally demonstrated low efficiency, archaism, and a high level of corruption. Together with other acute political problems, this gave rise to social alienation and a crisis of the legitimacy of the authorities. Realizing these problems, the new ruling group initiated a series of reforms: police, education, health care, deregulation, decentralization, judicial system, and also declared a new stage in the fight against corruption.

Public and analytical structures supported by Western donors took an active part in the development of the reforms. In many cases, the key initiator of the reforms was the International Monetary Fund, and the reforms themselves were Ukraine's obligations to external creditors. To a large extent, because of this and weak control over the reform process, the points of view on the results of the reforms were polarized: those involved spoke of unprecedented successes, and representatives of the public and expert community unconnected with the authorities -- about the lack of positive results. The ellipsis in this issue was set by the presidential elections in Ukraine in 2019, in which the "reformist" command of the authorities lost with a devastating score to a non-systemic politician who promised, if not to give up part of the "Achievements", then at least revise them.

Since 2015, the Ukrainian Institute for Policy Analysis and Management has tried to scrupulously, comprehensively, and objectively deal with the goals and consequences of reforms, working with a wide range of expert opinions and statistical data, to predict the results of reforms and to offer their recommendations.

While conducting the study, we considered both the negative and positive aspects of the changes, however, we were forced to conclude that there were no socially positive results for most reforms, mostly either purely declarative or entailing a number of unforeseen consequences by their creators.

At the same time, we came to the conclusion that all areas affected by the changes require further, but better quality, study, and significant transformation taking into account the mistakes made in previous periods, and the corresponding successful experience of introducing similar changes in other countries.

We continue our work and invite you to the discussion and cooperation.

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05/27/2019

*Study No. 1  
from the cycle "The Price of Reforms"*

**Police reform<sup>1</sup>**

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Among the many systemic problems of Ukraine that faced it throughout the history of its independence, the problem of the law enforcement system was one of the most important. For a new “pro-European” government, reforming the law enforcement system has become a kind of internal political imperative. However, the impartial figures speak of its failure as a whole.

In late 2013 - early 2014 The Ukrainian police suffered from a whole range of problems: corruption, low work efficiency, violence against citizens, connections with criminals, etc. All this gave rise to the distrust of the majority of Ukrainian citizens to the authorities in general and to the police as one of the components of its power apparatus in particular. The issue of reforming the law enforcement system was repeatedly discussed in public discussions by politicians and representatives of the expert community even during the presidency of Viktor Yanukovich. In the spring of 2014, they returned to this problem again. After the strengthening of the power that came on the wave of the Euromaidan, the holding of the presidential and parliamentary elections in 2014, real preparations began for the implementation of the reform of the law enforcement system.

From the fall of 2014 to the spring of 2015, active development of its provisions was in progress. With a difference of a month, July 4 and August 4, 2015, the patrol and the national police are created, respectively. After the creation of the National Police, all employees of the old departments were transferred to the position of acting and for approval in positions had to pass certification according to physical, moral, and intellectual criteria. This rule did not apply to the newly formed patrol police, whose officers were automatically assigned to the staff of the new structure.

***The first consequences of the reform***

First, about 40% of former police officers did not pass the first stage of recertification<sup>2</sup>. In 2015 alone, 47 thousand employees (out of 170 thousand people)<sup>3</sup> were dismissed from the internal affairs bodies. The loss of such a number of experienced staff members inevitably affected the

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<sup>1</sup> The original version of the presentation: <https://uiamp.org.ua/cref/cikl-cena-reform-reforma-policii>

<sup>2</sup> Ministry of Internal Affairs: about 40% of ex-policemen did not pass the first stage of recertification. 12/13/2015. RIA Novosti Ukraine. <https://rian.com.ua/politics/20151213/1001960786.html>

<sup>3</sup> Vajra A. Reform of the Ministry of Internal Affairs of Ukraine: there is an instruction to take off and become eagles. 12/23/2015. RIA Novosti Ukraine. <https://rian.com.ua/columnist/20151223/1002506288.html>

crime situation in the country (more on this below). It is also worth noting that the recertification was not duly formalized legally, which led to the return of old personnel to the system<sup>4</sup> by being reinstated in their previous positions by a court decision.

### ***The arrival of new personnel to the police***

The arrival of new people in the police could not compensate for the loss of old personnel. Although the new cadres were loyal to the new government, they did not have professional experience, were bound by instructions, did not undergo proper training, and so on. Since 2016, every seventh employee has already left the ranks of the new police<sup>5</sup>, the reason for which is disappointment in the new-old system, overload at work, etc.

The new police did not get rid of the vices of the old system. Outrageous high-profile incidents of corruption, murder of citizens, drug and arms trafficking, and even civil strife continue to take place. The most famous of these cases was a shootout in the village of Knyazhichi in December 2016, during which officers of the State Security Service (subordinate to the Ministry of Internal Affairs) and one of the special police units clashed. As a result, 5 law enforcement officers were killed<sup>6</sup>. In total, in 9 months of 2016, according to Khatia Dekanoidze, at that time the head of the National Police, 900 criminal cases were opened against police<sup>7</sup>. We are talking about corruption, bribes, abuse of office. According to the official statistics of the Prosecutor General's Office, in 2016, 1,140 criminal cases were initiated under the article "Excessive power or official powers by law enforcement officers". However, out of all this array of cases, only 58 cases were served with a notice of suspicion, only 46 cases were sent to the court with an indictment.

At the same time, no decisions were made on 1,094 criminal offenses by the end of 2016. Proceedings were closed for 2,459 criminal offenses<sup>8</sup>.

### ***592,604 criminal offenses registered.***

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<sup>4</sup> Rzheutskaya L. *Police reform in Ukraine fails*. 06/07/2016. DW. <https://www.dw.com/ru/police-reform-in-ukraine-failure/a-19312304>

<sup>5</sup> *For three years of work of the National Police, every seventh policeman quit it - auditors*. 28.06.2018. Glavred. <https://glavred.info/ukraine/513517-za-tri-goda-raboty-nacpolicii-iz-nee-uvolilsya-kazhdyy-sedmoy-policevskiy-auditory.html>

<sup>6</sup> *Shooting in Knyazhichi: GPU named suspects*. 05/17/2018. Correspondent. <https://korrespondent.net/ukraine/3971847-strelba-v-knyazhychakh-hpu-nazvala-podozrevaemykh>

<sup>7</sup> Dekanoidze: *They got 900 records from dishonest policemen*. 03.11.2016. Ukrinform. <https://www.ukrinform.ua/rubric-society/2113619-dekanoidze-cogo-roku-zaveli-900-sprav-proti-necesnih-policejskih.html>

<sup>8</sup> *In 2016, the number of crimes in Ukraine increased, including second-degree felonies by 20%. Detailed statistics*, 01/19/2017. ASN. <http://asn.in.ua/ru/news/publishing/82847-za-2016-god-v-ukraine-vozroslo-kolichestvo-prestup.html>

Since 2013, there has been a permanent increase in crime in Ukraine. The 2015 police reform failed to stop the increase in the number of crimes, which continued against the background of its activities.

In 2016, 592,604 criminal offenses were registered in Ukraine, which is 27,422 more than in 2015. The number of second-degree felonies has significantly increased: from 177 855 recorded in 2015 to 213,521 in 2016, which is 35,666 (or 20%) more<sup>9</sup>. Characteristically, crime statistics have especially worsened in key cities and regions. In 2016, 73 thousand criminal cases were registered in Kyiv, which is 16% more than in 2015 (then there were 63 thousand)<sup>10</sup>. In the Kharkiv region in 2015, 40.9 thousand criminal cases were registered, and in 2016 - 50.5 thousand (an increase of 23.5%)<sup>11</sup>. In the Odessa region in 2016, 34 thousand crimes were registered<sup>12</sup>. This is 18% more than in 2015 (29 thousand crimes).

The situation with the registration of murders in Ukraine casts doubt on the credibility of the official statistics on this matter. So, in 2013<sup>13</sup>, 5861 murders were recorded, in 2015 - 8,224<sup>14</sup>, and since 2016 the situation is difficult. According to the official statistics of the Prosecutor General's Office, in the period from January to October 2016, 7,059 murders were committed<sup>15</sup>, and from January to December 2016 - only 5,992 murders<sup>16</sup>. The data for a similar (and even more extensive) period do not coincide, and those that were published later give smaller numbers. This may indicate a falsification of statistics, which is generally characteristic of the Ukrainian law enforcement system.

### ***The number of crimes against property has increased***

So, in 2013, 334 thousand were recorded, in 2015 - 362 thousand, and in 2016 - 405 thousand criminal offenses against property, which is almost 20% more than in 2013.

In particular, special attention is drawn to the growth of the facts of thefts, of which 242 thousand were recorded in 2013, 273 thousand in 2015, and 312 thousand in 2016, which is 30% more than in previous years. The number of more socially dangerous crimes, namely robberies, is also significantly increasing. In 2013, 22 thousand robberies were recorded (as in 2015), and in

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<sup>9</sup> *Ibid.*

<sup>10</sup> In 2016, the number of criminal offenses in Kyiv increased by 16%. 10.02.2017. *Voice.ua*. <https://golos.ua/i/476663>

<sup>11</sup> The most criminal area was identified in Kharkiv. 31.01.2017. *CityX*. <http://gx.net.ua/chp/v-harkove-obnaruzhili-samyj-prestupnyj-rajon.html>

<sup>12</sup> In the Odessa region, the number of serious crimes has increased significantly. 19.01.2017. *Odessa.ua*.

<https://odessitua.com/news/55480-v-odesskoy-oblasti-znachitelno-vyroslo-chislo-tyazhkih-prestupleniy.html>

<sup>13</sup> Single call about criminal law-enforcers, chest 2013 p. General Prosecutor's Office of Ukraine, Kyiv, 2014.

<sup>14</sup> Single call about criminal law-enforcers, chest 2015 p. General Prosecutor's Office of Ukraine, Kyiv, 2016.

<sup>15</sup> *Vedomosti about criminal law-enforcers of past fate, January 2016, General Prosecutor's Office of Ukraine, Kyiv, 2016.*

<sup>16</sup> *Information on material damage, their compensation and seizure of objects of criminal activity, December 2016, General Prosecutor's Office of Ukraine, Kyiv, 2017*

2016 - 27 thousand robberies. The number of robberies increased from 2,856 in 2013, 3,558 in 2015 to 3,904 in 2016<sup>17</sup>.

### ***The number of road accidents has slightly decreased***

As for car thefts, if in 2013 there were 6,531 hijackings (of which 3461 were disclosed), in 2015 11137 cars were stolen (3584 hijackings were disclosed), then in 2016 (without December) 11353 cars were stolen. and solved 3068 crimes<sup>18</sup>.

Compared to 2013, the number of road accidents and their victims has slightly decreased. In 2013, 190 thousand road accidents were recorded (of which 10.5 thousand were in the Crimea and Sevastopol). They killed 4833 people, 37521 were injured. In 2015, there were 134 thousand road accidents, 3,970 people died in them, 31,467 were injured. Crimea and Sevastopol were not included in the statistics. In 2016, there were already 154 thousand road accidents (an increase of 11.6%), in which 3187 people died and 32,079 were injured<sup>19</sup>.

### ***Change in the number of prisoners***

The number of prisoners has also decreased in Ukraine<sup>20</sup>. If in 2013 there were 127 thousand of them, then in 2016, after the adoption of the new Criminal Procedure Code<sup>21</sup> and the so-called Savchenko Law<sup>22</sup>, there were 60 thousand of them or 167 prisoners per 100 thousand people. For comparison, in the United States, this figure is 666 prisoners per 100 thousand people, in Russia - 436, in Poland - 189.

### ***The situation in the field of drug trafficking***

Officially, the drug trafficking situation has improved tremendously. In 2013, 33,982 crimes in this area were recorded, in 2015 - 25,908, and in 2016 - 23,029<sup>23</sup>. However, a decrease by more than one-third in the number of crimes in the sphere of drug trafficking raises obvious doubts about the reality of these figures. Especially in the conditions of war and socio-economic crisis. Even the lack of statistics from Crimea and part of Donbas cannot compensate for this. One

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<sup>17</sup> *Ibid.*

<sup>18</sup> *Hold me tight: Ukraine is covered by a wave of car thefts. 12/18/2016. Observer.*

<https://www.obozrevatel.com/auto/news/78104-ugon-avto-kyiv-ukraina-statistika-kak-izbezhat.htm>

<sup>19</sup> *Statistics of accidents in Ukraine, Management of road safety. <http://www.sai.gov.ua/ua/ua/static/21.htm>*

<sup>20</sup> *The number of prisoners in Ukraine last year decreased at a record level. 01/17/2014. 112.ua.*

<https://112.ua/obshchestvo/kolichestvo-zaklyuchennyh-v-ukraine-v-proshlom-godu-rekordno-umenshilos-11304.html>

<sup>21</sup> *Criminal Procedure Code of Ukraine. Edition from 11.01.2019. <https://zakon.rada.gov.ua/laws/show/4651-17>*

<sup>22</sup> *Law of Ukraine "On the introduction of amendments to the Crimean Code of Ukraine, which stipulates the order for the court to secure a line before the forefront of the line of punishment."*

[http://search.ligazakon.ua/l\\_doc2.nsf/link1/T150838.html](http://search.ligazakon.ua/l_doc2.nsf/link1/T150838.html)

<sup>23</sup> *Statistical information. General Prosecutor's Office of Ukraine.*

[https://www.gp.gov.ua/ua/stst2011.html?dir\\_id=112661&libid=100820](https://www.gp.gov.ua/ua/stst2011.html?dir_id=112661&libid=100820)

can make an assumption either about the falsification of statistics by the Prosecutor General or about the strengthening of the coverage of the drug mafia by law enforcement officers.

### ***Crime statistics***

Ex-Minister of Justice Olena Lukash in an interview with RIA Novosti said that the current Ukrainian government falsified police statistics and the real increase in crime is much more official data. So, according to the ex-minister, from 2013 to 2016. kidnapping increased by 264%, vehicle thefts - by 100%, murders - by 67%, robberies - by 46%. In 2016, 187 thousand second-degree and first-degree felonies were committed in Ukraine. 444 thousand people suffered from the actions of criminals. 6,988 people were killed<sup>24</sup>.

On the one hand, a representative of the previous government can be suspected of wanting to denigrate the current government as much as possible, which could explain such high declared figures for statistics of criminal offenses. On the other hand, the “post-revolutionary” Ukrainian government can really underestimate statistical indicators to maintain its rating and make attempts to reduce social tension.

When considering any figures (official or expert) regarding statistics on crimes in Ukraine, it should be borne in mind that if in 2013 police statistics covered 46 million people, then as of 2017 the population of Ukraine has decreased: 2.5 million people stayed in Crimea, 4 million live in territories controlled by the DPR and LPR, at least 1 million people emigrated from Ukraine. Now the real population of Ukraine, i.e. in its legal field, is no more than 40 million people. At the same time, official statistics take into account all 46 million: both the population living in Crimea and in certain areas of the Donetsk and Luhansk regions. Thus, the actual number of crimes per capita has grown even more than indicated in the statistics.

It may be tempting to attribute the explosive growth in crime to war. Indeed, the increase in the number of crimes began in 2014. However, hostilities in 2015 and 2016 did not even remotely resemble the large-scale battles of 2014 (with the exception of Debaltsevo at the beginning of 2015). The front line stabilized, both sides began to form new authorities in the controlled territories. But, despite the actual freeze of the conflict, the growth of crimes did not stop.

### ***International experience: the example of Israel***

When analyzing the effectiveness of the updated law enforcement system, it will be interesting to consider the experience of Israel. In a country that is permanently in a state of conflict, throughout the 2000s there was a decrease in crime. In 2007, in terms of the crime rate, Israel ranked in the international rankings between Finland and Luxembourg (61 crimes per 1000

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<sup>24</sup> Vinogradov Z. Elena Lukash: I admit my responsibility for the coup in Ukraine. 02/01/2017. RIA News. <https://ria.ru/20170201/1486936273.html>

people)<sup>25</sup> 25. A certain increase in crime occurred in 2006 during the Second Lebanon War - by 4.2%. However, already in the next year, there was a drop in the crime rate by more than 6%<sup>26</sup> 26. Thus, there are good reasons to doubt the statements of Ukrainian officials that the increase in the level of crime is associated exclusively with the ongoing armed conflict. Of course, the outbreak of war often activates criminals, but the end of active hostilities is followed by a rollback. In Ukraine, due to the inability of the "post-Maidan" authorities to strengthen the law enforcement system, this rollback did not occur and the growth of crime continued.

As for the crime detection rate, according to General Prosecutor Yuriy Lutsenko, it has dropped significantly. In 2013 45% of all crimes were solved, in 2015 - 39%, then in 2016 - less than 30% of crimes. Tellingly, the worst disclosure is observed in cities and key regions (in terms of maintaining stability in the state). In Kiev, the disclosure rate is 16%, in Odessa - 20%, in the Kharkov region - 22%<sup>27</sup>.

In March 2016, First Deputy Prosecutor General Yuriy Sevruk announced other figures: 10% of disclosure in Kiev and 20% - on average in Ukraine. It is unlikely that the disclosure rate could have grown by one and a half times in a year<sup>28</sup>. The figures cited by Yu. Sevruk seems to be more objective than those given by Y. Lutsenko, who is personally interested in presenting to society a picture of what is happening that is "correct" for the authorities.

As for the confidence of Ukrainian citizens in the police, since the moment Ukraine gained independence, it has been consistently low. 13% of Ukrainians fully or predominantly trusted the police in 1994, 12% in 2005 and 9% in 2012. Immediately after the new police began to work, the leadership of the Ministry of Internal Affairs began to issue victorious and somewhat fantastic reports about the explosive growth of trust Ukrainians to the new police. In particular, the Minister of Internal Affairs A. Avakov in October 2015 declared that 85% of citizens had confidence in the police<sup>29</sup>. Tellingly, in May 2016 he already spoke about 44% trust<sup>30</sup>.

However, sociological research data show only a slight increase in Ukrainians' trust in the police. Thus, according to the data of the Kiev International Institute of Sociology, published in January 2016, 14.9% trusted the National Police (the successor to the police), and 20.7% trusted the patrol police<sup>31</sup>.

### ***"The cost of crime"***

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<sup>25</sup> Central Bureau of Statistics of Israel: <https://www.cbs.gov.il/EN/pages/default.aspx>  
<https://www.gov.il/he/Departments/>

<sup>26</sup> מידע תנגהל תושרה לש תיליעה תדיחיל חטש ישנא מישורד *ministry\_of\_public\_security*  
<sup>27</sup> The crime detection rate in Ukraine has fallen sharply. 02/15/2017. Correspondent:  
<https://korrespondent.net/ukraine/3815247-raskryvaemost-prestupleniy-v-ukrayne-rezko-upala>

<sup>28</sup> The crime detection rate in Kiev fell to 10%, in Ukraine - to 20%,  
- Sevruk. 03/19/2016. 112.ua: <https://112.ua/avarii-chp/uroven-raskryvaemosti-prestupleniy-v-kieve-snizilsya-do-10-po-ukraine-do-20-sevruk-299280.html>

<sup>29</sup> The level of trust of Ukrainians in the patrol police was 85% - Avakov. 04.10.2015. RIA Novosti Ukraine.  
<https://rian.com.ua/video/20151004/374695067.html>

<sup>30</sup> Avakov: The level of trust in the police is 44%. <https://sharij.net/54749>

<sup>31</sup> Trust in social institutions and groups. KMIC: <http://kiis.com.ua/?lang=ukr&cat=reports&id=579&page=1>

We tried to calculate the “cost of crime” for the economy; damage from criminal activity and the fight against it for the country's economy. Such studies are typical primarily for the United States, where the average “cost” of the main types of crime for the economy is calculated. According to RAND Corp., which is based on statistics from the Los Angeles Police Department and the FBI, in 2010 the average “cost of crime” for the economy was as follows: murder cost \$ 8.6 million, rape \$ 217 thousand, robbery - \$ 67 thousand, robbery - \$ 13 thousand, theft - \$ 2.1 thousand<sup>32</sup>.

Unfortunately, we could not find similar calculations from the Ukrainian law enforcement agencies. Therefore, we made an extrapolation of American indicators to Ukrainian realities, taking into account the difference in Gross Domestic Product (GDP) in terms of purchasing power parity<sup>33</sup>. In 2013, the US GDP at PPP was \$ 16.9 trillion, in 2015 - \$ 18 trillion. In 2013, Ukraine's GDP in terms of PPP was equal to \$ 390 billion, in 2015 - \$ 340 billion. Thus, the difference in GDP in terms of PPP of the two countries in 2013 was 43 times, in 2015 - 53 times. At the time of the study (end of 2016), there was no data on GDP at PPP for 2016. The average US dollar exchange rate in 2013 was UAH 8, in 2015 the dollar fluctuated and at the end of the year was equal to UAH 23.5.

Based on the above indicators, the “cost” of the corresponding crimes for the Ukrainian economy is as follows: in 2013, murder “cost” the economy \$ 200,000, rape - \$ 5046, robbery - \$ 1558, robbery - \$ 302, theft - \$ 48; in 2015 murder cost \$ 162 thousand, rape - \$ 4094, robbery - \$ 1264, robbery - \$ 245, theft - \$ 39.

Thus, based on the official number of crimes, in 2013 murders “cost” the economy \$ 1.172 billion, rape - \$ 2.5 million, robberies - \$ 4.4 million, robberies - \$ 6.8 million, theft - \$ 11.6 million. Total \$ 1.195 billion.

In 2015, the murders “cost” the economy \$ 1.332 billion, forces - \$ 1.3 million, robberies - \$ 4.3 million, robberies - \$ 5.4 million, thefts - \$ 10 million. Total \$ 1.353 billion.

## ***Conclusion***

We are aware that the method we have chosen is somewhat crude and incapable of covering the economic consequences of all crimes (both due to the falsification of official statistics, and due to the fact that a significant part of the Ukrainian economy is in the shadows). At the same time, our data provide a certain understanding of the economic consequences of the increase in crime in Ukraine in recent years.

It can be concluded that the results of the reform of the law enforcement system are disappointing. The new police did not get rid of the vices of the old system, but, on the contrary, adopted them. The new police are unable to curb the rise in crime in the country. The crime

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<sup>32</sup> *Cost of Crime Calculator. RAND. <https://www.rand.org/well-being/justice-policy/centers/quality-policing/cost-of-crime.html>*

<sup>33</sup> *World Economic and Financial Surveys, World Economic Outlook Database. <https://www.imf.org/external/pubs/ft/weo/2016/02/weodata/index.aspx>*

detection rate is steadily declining. All this gives rise to citizens' distrust of the Ukrainian law enforcement system and disappointment in reforms.

### *Afterword*

Since the conduct and publication of the above study at the end of 2016, the crime situation in Ukraine has somewhat improved. For two years in a row (in 2017 and 2018), the Ministry of Internal Affairs and the General Prosecutor's Office of Ukraine have reported a decrease in the number of registered crimes.

In 2017, in Ukraine, according to the Ministry of Internal Affairs, almost 496 thousand crimes were registered. At the same time, the Prosecutor General's Office revealed 523.9 thousand crimes for the same period<sup>34</sup>. Compared to 2016, the crime rate in Ukraine then fell by 13.6%. Most of all thefts were committed - almost 260 thousand, but this is 16.8% less than a year earlier. The least among all crimes was premeditated murders - just over 1.5 thousand. In 2017, the number of crimes related to illegal handling of weapons increased significantly, by 29% - almost 7.9 thousand cases were recorded. The number of crimes related to drug trafficking increased by 25.1% - up to 27.8 thousand. In addition, official crimes and forging documents have become more frequent<sup>35</sup>.

For nine months of 2018, according to the Ministry of Internal Affairs, the crime rate in Ukraine compared to the same period in 2017 decreased by 8%<sup>36</sup>. At the same time, the number of second-degree and first-degree felonies from this number decreased by 11%

– From 155 thousand to 138 thousand. The largest number of crimes committed is theft (191 thousand) and fraud (27 thousand). In addition, the number of premeditated murders decreased.

- from 1185 to 1168. The number of robberies decreased by more than a quarter - from 2224 to 1622. There were 25% fewer robberies: in 2017 there were 14.2 thousand, in 2018 - 10, 6 thousand thefts were registered by 12% less (216.6 thousand compared to 191.5 thousand)<sup>37</sup>.

At the same time, according to statistics published by the General Prosecutor's Office in July 2018, the overall crime rate in Ukraine decreased, but the number of especially serious crimes increased.

- committed with extreme cruelty, cynicism, or on an especially large scale, for which punishment is from 10 years in prison to life<sup>38</sup>. At the same time, according to the GPU at the end of the year, there were 412 more criminal proceedings under the article "premeditated murder"

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<sup>34</sup> *Crime in Ukraine: statistics for the last year. Word and deed.* <https://ru.slovoidilo.ua/2018/02/16/infografika/obshhestvo/prestupnost-ukraine-statistika-proshlyj-god>

<sup>35</sup> *Ibid.*

<sup>36</sup> *In 2018, the rotsi zalnyy rivnosti in Ukraine went down in the most recent times. Ministry of Internal Reference* [http://mvs.gov.ua/ua/news/16243\\_U\\_2018\\_](http://mvs.gov.ua/ua/news/16243_U_2018_)

*roci\_zagalnyy\_riven\_zlochinnosti\_v\_Ukraini\_znizivsya\_na\_visim\_vidsotkiv\_FOTO. htm*

<sup>37</sup> *Ibid.*

<sup>38</sup> *The bandits in Ukraine have become more cynical. Today.* <https://www.segodnya.ua/ukraine/bandity-v-ukraine-stali-cinichnee-1153685.html>

than in 2017, cases of kidnapping people - by 49, and one hundred more bribe-takers were identified among officials<sup>39</sup>.

As can be seen from the latest statistics, despite the general decrease in the number of registered crimes, there is an increase in some categories of serious offenses. Over several years of reforming the law enforcement system, the “new” police officers have gained the necessary experience to disclose and prevent the simplest crimes (such as domestic crimes or theft), but effectively counter illegal trafficking they have not learned from drugs and weapons, as well as to prevent an increase in the number of crimes committed with special cynicism.

In this regard, it seems that for the reformed National Police, the problem of the lack of professionals and employees in the investigative and operational units remains urgent, while the problem of the formation of a new patrol police has been largely resolved.

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<sup>39</sup> *Crime statistics of 2018: more murders and attacks by hackers. Today.*  
<https://www.segodnya.ua/ukraine/kriminalnaya-statistika-2018-goda-stalo-bolshe-ubiystv-i-atak-hakerov-1205078.html>



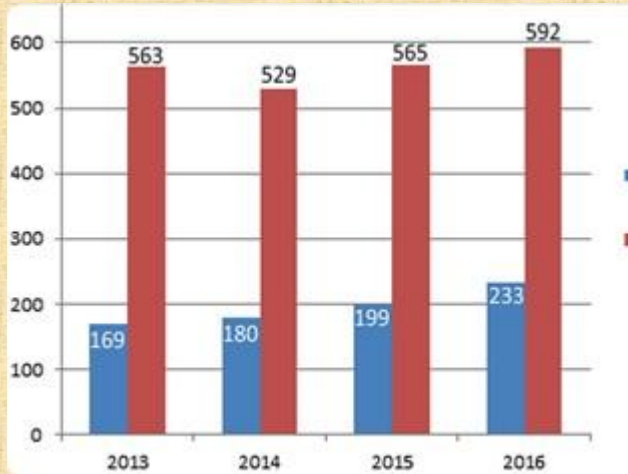
**The cost of reforms. Police.**

**September 2017  
Kiev**

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### Number of Crimes



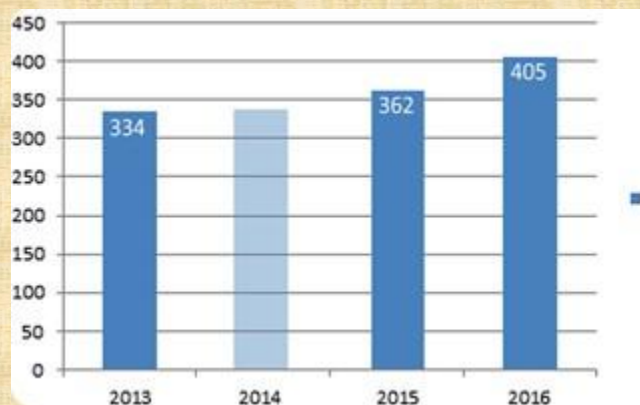
- Number of serious and particularly serious crimes, thousands of cases
- General number of crimes, thousands

### Crime Statistics

	2013	2014	2015	2016
Share of second-degree and first-degree felonies among the total number of crimes, %	30	34	35	39
Growth in the total number of crimes by 2013, %	-	-7	0	+5
Growth in the number of second-degree and first-degree felonies, %	-	+6.5	+17	+37
Cases of delivery of notification of suspicion to persons, %	39	37	33	26

### Crimes against Property:

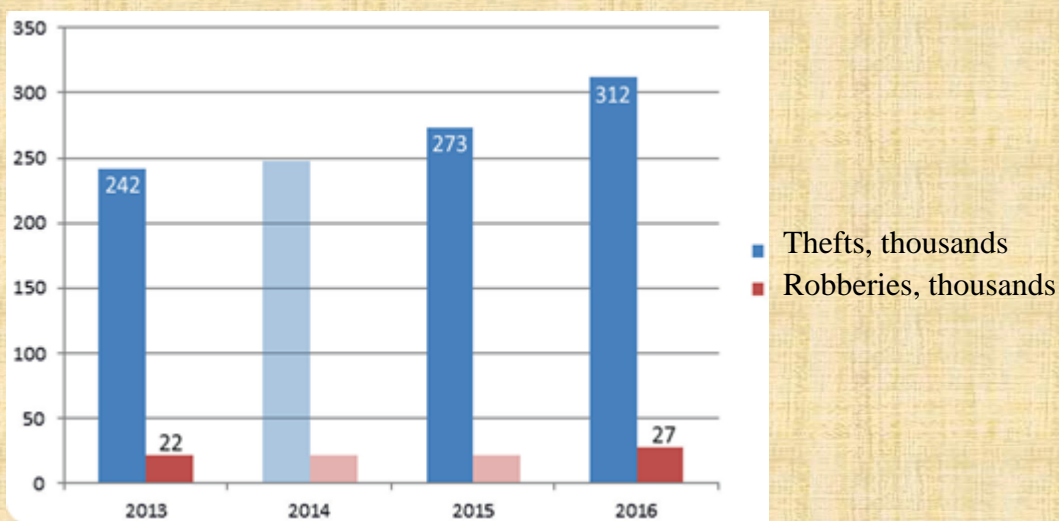
- total



- Number of crimes against property, thousands

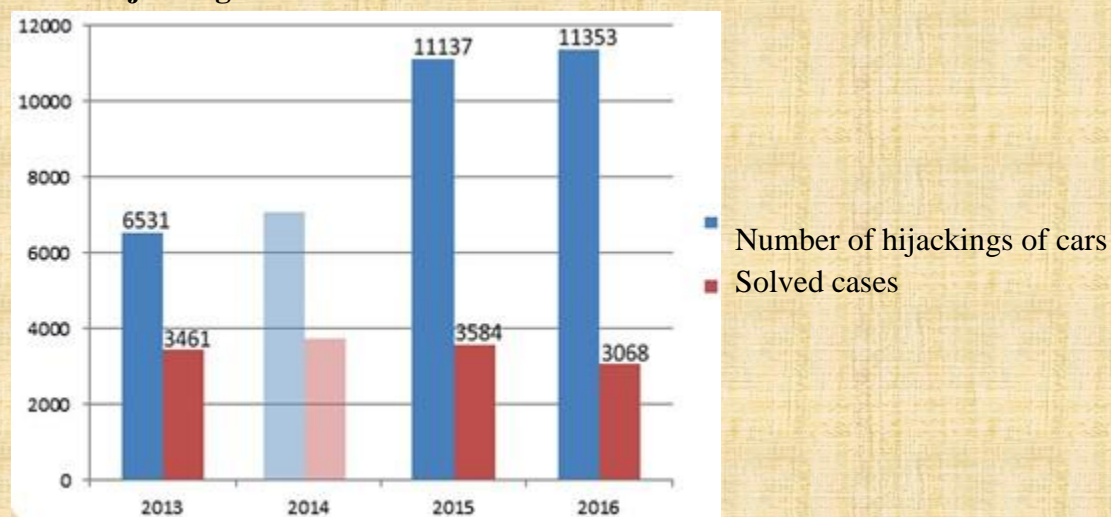
### Crimes against Property:

- **Thefts and Robberies**



### Crimes against Property:

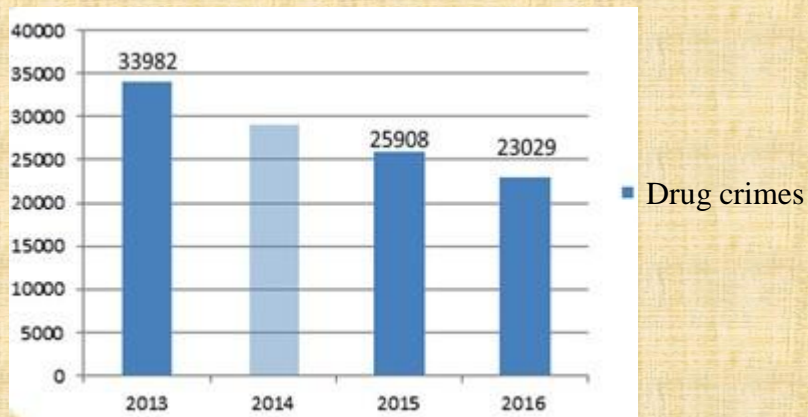
- **hijackings**



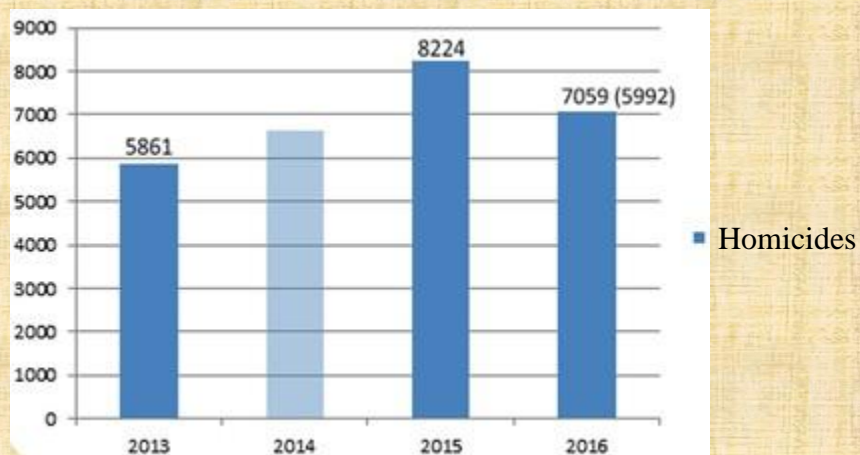
### Road traffic accidents

- 2013: 190 thousand road accidents (of which 10.5 thousand in the Crimea and Sevastopol). They killed 4833 people, 37521 were injured.
- 2014: 153 thousand road accidents, in which 4,464 people died, 32,352 people were injured.
- 2015: 134 thousand road accidents, in which 3,970 people died, 31,467 people were injured.
- 2016: 154 thousand road accidents (an increase of 11.6%), in which 3187 people died and 32,079 were injured.
- In total, over the past 3 years, 12.4 thousand people died on the roads of Ukraine, more than 100 thousand were injured

## Drug Crimes

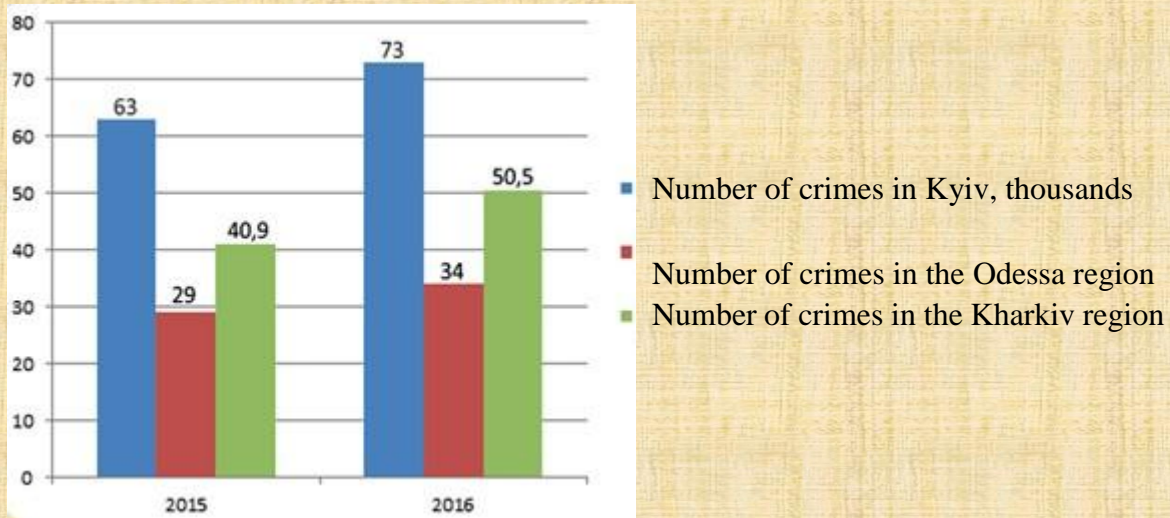


## Homicides



- According to the official statistics of the Prosecutor General's Office, in the period from January to October 2016, 7,059 murders were committed, and from January to December 2016 - only 5,992 murders.

### Crime Rate Growth by Region



### Police crime

- During the 9 months of work of the new police, 900 criminal cases were opened against policemen.
- In 2016, 1140 cases were initiated under the article “Abuse of power or official powers by law enforcement officials”.
- In 58 cases, a notice of suspicion was served.
- 46 cases were sent to court with indictment.
- No decision was made on 1,094 criminal offenses by the end of the year.
- For 2,459 criminal offenses, proceedings were closed.

### Number of prisoners in Ukraine

In 2013, there were 127 thousand prisoners.

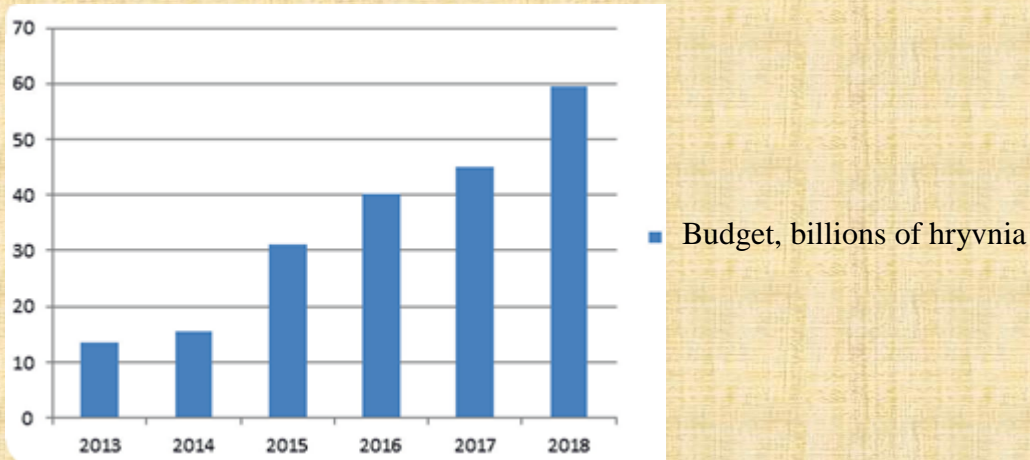
In 2016, 60 thousand (adoption of the new Criminal Procedure Code and the Savchenko Law).

In 2019, 54,905 prisoners (data from the International Center for Prison Research, ICPS).

For comparison, the number of prisoners per 100 thousand inhabitants in the country (ICPS data, 2019):

- USA - 655 (No. 1);
- Russia - 381 (No. 18);
- Poland - 196 (No. 76);
- Ukraine - 153 (No. 103)

### Budget of the Ministry of Internal Affairs

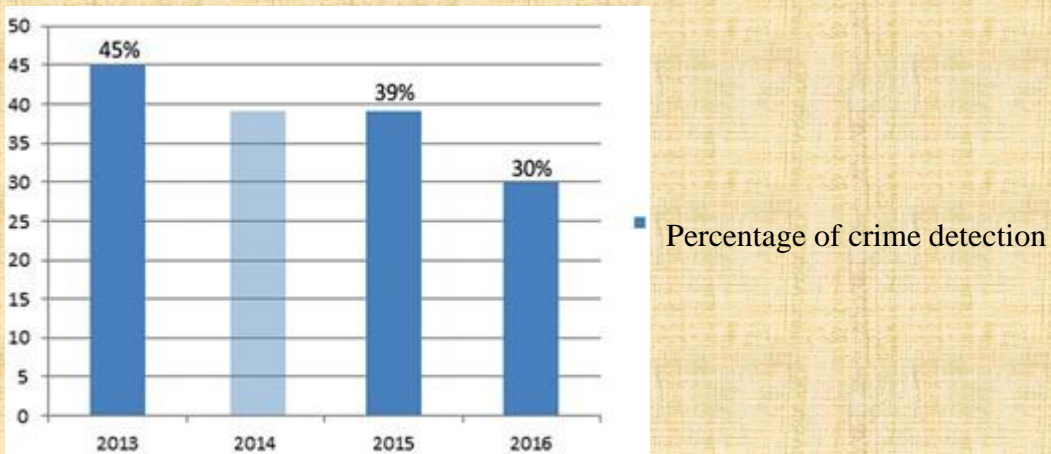


### Increased crime due to war

One of the explanations for the surge in crime in recent years is the war that has been going on in the country for six years. However, active hostilities in Ukraine ended in February 2015; more than four years ago.

For comparison, the experience of Israel. During the Second Lebanon War (2006), there was a surge in crime by 4.2%, but the very next year after the end of hostilities, crime fell by 6%

### Crime Detection



Crime detection (Yuri Sevruk, the first deputy of Prosecutor General, March 2016):

10% in Kyiv

20% on average in Ukraine

### **Trust in the police and police**

Trust in the police, (Correspondent, 2013)

- 1994 - 13%, 2005 - 12%, 2012 - 9%.

A. Avakov's statements:

- October 2015: "The level of trust in the patrol police is 85%".
- May 2016: "The level of trust in the police is 44%".

Data from the Kiev International Institute of Sociology, January 2016:

- 14.9% trusted the National Police;
- 20.7% trusted the patrol police.

### **The "cost" of crime to the economy**

- According to RAND Corp.: murder in the USA - \$ 8.6 million, rape - \$ 217 thousand, robbery - \$ 67 thousand, robbery - \$ 13 thousand, theft - \$ 2.1 thousand. We made an extrapolation of American indicators to Ukrainian realities, taking into account the difference in GDP at PPP.
- In 2013, murders "cost" the economy \$ 1.172 billion, rape - \$ 2.5 million, robberies - \$ 4.4 million, robberies - \$ 6.8 million, thefts - \$ 11.6 million. or UAH 9.560 billion.
- In 2015, murders "cost" the economy \$ 1.332 billion, rape - \$ 1.3 million, robberies - \$ 4.3 million, robberies - \$ 5.4 million, thefts - \$ 10 million. or UAH 31.795 billion.
- In 2016, murders "cost" the Ukrainian economy \$ 988 million, rape - \$ 1.45 million, robberies - \$ 5 million, robberies - \$ 6.7 million, theft - \$ 12.4 million. Total \$ 1.013 billion or UAH 26.352 billion.

*Study No. 2*  
*from the cycle "The Price of Reforms"*

**Education reform<sup>40</sup>**

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Ruslan Bortnik  
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Daniil Bogatyrev

*Current situation*

The sphere of education is the basis for the long-term cultural, humanitarian and socio-economic development of the state. Education requires increased attention from the authorities and society. Alas, the state of the education system in Ukraine is of great concern.

After Euromaidan, under the leadership of the profile minister S. Kvit, large-scale changes in the education system began, and under his successor L. Grinevich. And on September 5, 2017, i.e. 3.5 years after the start of reform activities, a new law on education was finally adopted<sup>41</sup>. At the same time, some experts, assessing the significance of the law, called it the “Constitution in the field of education”, so important it is for the industry.

In general, changes in the field of education for 2016 - 2019 boiled down to the following:

1. **Closing of universities** (in total about 80 universities)<sup>42</sup>, reduction of state-funded student positions in universities and the number of scholarship recipients (up to 30-50% of state employees - in the future, it is planned that no more than 10-15% of state employees will receive scholarships)<sup>43</sup>. However, in this case, responsibility should be assigned not only to the Ministry of Education, but also to the Ministry of Finance and the Cabinet of Ministers as a whole.
2. **Closing schools and reducing the number of teachers.** According to the State Statistics Committee, in the period 2014-2017. (excluding the Autonomous Republic of Crimea and the ATO zone) the number of general education institutions decreased by 700 - from 17.6 thousand to 16.9 thousand<sup>44</sup>. The number of teachers decreased by 16 thousand - from 454 thousand to 438

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<sup>40</sup> Initial version of presentations: <https://uiamp.org.ua/cref/reforma-obrazovaniya>

<sup>41</sup> Law of Ukraine "On education" // Vidomosty Verkhovnoy Radi (VVR), 2017, No. 38-39, article 380. <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>42</sup> The number of universities in Ukraine has decreased by one third and continues to decline. Country. <https://strana.ua/news/116507-chislo-vuzov-v-ukraine-sokratilos-na-tret-i-prodolzhaet-snizhatsja-mon.html>

<sup>43</sup> In Ukraine, the number of budget-funded places in universities has been reduced by almost 10%. "Straight". <https://prm.ua/ru/v-ukraine-pochti-na-10-sokratili-kolichestvo-byudzhethnyih-mest-v-vuzah>

<sup>44</sup> Secondary education in Ukraine: how the number of schools and students decreased during the years of independence. Word and deed. <https://ru.slovoidilo.ua/2017/08/22/infografika/obshhestvo/srednee-obrazovanie-ukraine-kak-sokratilos-kolichestvo-shkol-i-uchashhixsya-gody-nezavisimosti>

thousand<sup>45</sup>. Increased load on the infrastructure of educational institutions and teachers, which leads to a deterioration in the quality of education (the number of students in schools increased from 3.757 million to 3.846 million). The processes of “optimization” are especially painful in rural areas, where schools are closed due to decentralization, leaving only support ones within the united territorial communities. At the same time, the distance that some pupils of such schools have to cover every day is 50 kilometers or more. And the number of school buses in rural areas is not enough to transport children to educational institutions.

**3. Reducing funding.** Lack of funding is a traditional problem in Ukrainian education. So, for example, the state budget of Ukraine over the past 10 years until the second Maidan (for 2003-2013) for various scientific programs, scholarships, grants, etc. 6-8 times less funds were allocated than for the armed forces, which, as we know, have been in a catastrophic state all the years of Ukrainian independence.

Now, in connection with the armed conflict in the east of the country, government revenues to the army's piggy bank have increased significantly and amounted to tens of billions of hryvnias, but this has not proportionally increased the incomes of Ukrainians working in the field of science and education. The 2019 budget allocated UAH 211.927 billion<sup>46</sup> for defense, and UAH 126.9 billion<sup>47</sup> for education.

In the summer of 2017, the Cabinet of Ministers of Ukraine initiated a sharp reduction in student scholarships. Thus, the government proposes to reduce spending on social stipends by more than a third – from 992 to 631 million hryvnias, while the cost of an academic scholarship for students enrolled in universities subordinated to the Ministry of Education is proposed to be reduced by 21% - from 3.98 to 3.16 billion hryvnias<sup>48</sup>. This is despite the fact that in dollar equivalent the scholarship for a student of a higher educational institution of 1-2 levels of accreditation (colleges, technical schools) was about \$30, and for a student of a higher educational institution of 3-4 levels of accreditation (universities) - about 40-45 US dollars. For a European country, this is negligible, but to make the contrast more striking, one should cite the figures for a scholarship in 2013 - over \$ 100 and, for example, a scholarship for 2007 (before the world economic crisis) - almost \$140.

The cuts also affected salaries. They began to either be cut, or delayed for a month or two, or even three, depending on the region and the level of its subsidies. Note that the reduction in salaries (for example, for teachers) is also associated with a decrease in pedagogical workload - from 900 hours per teacher per year to about 600<sup>49</sup>.

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<sup>45</sup> *Ibid.*

<sup>46</sup> *The 2019 budget sets a new record for defense and security spending in Ukraine - journalist. UNIAN:* <https://www.unian.net/society/10350009-v-byudzhete-2019-novyj-rekord-rashodov-na-oboronu-i-bezopasnost-ukrainy-zhurnalist.html>

<sup>47</sup> *State budget-2019: spending on education increased by UAH 4.5 billion. DS.* <http://www.dsnews.ua/politics/gosbyudzheth-2019-rashody-na-obrazovanie-velicheny-na-4-5-mlrd-20112018100300>

<sup>48</sup> *Cabinet Decides to Cut Expenditure on Scholarships. Reviewer.* <https://www.obozrevatel.com/finance/business-and-finance/kabmin-reshil-sokratit-rashody-na-stipendii.htm>

<sup>49</sup> *The new option for the weekend will change. Reform of the most important education.*

**4. Transfer of education from scientific to ideological lines.** In educational programs for high school students in the course "History of Ukraine", the sections "Installation and approval of the Soviet totalitarian regime (1921-1939)", "The war of Soviet Russia with the Ukrainian People's Republic", "Soviet occupation of Ukraine"<sup>50</sup>. The same logic fits the statement of L. Grinevich that the Ministry of Education lacks legal grounds for dismissing teachers who pursue an "anti-state policy"<sup>51</sup>. However, the new law is already correcting this shortcoming.

In general, the education reform carried out in Ukraine has so far only led to a drop in the quality of education. In particular, to assess the quality of school education, we can refer to the results of the UPE (external independent assessment). For example, in 2015, the results of the UPE surprised even ex-Prime Minister A. Yatsenyuk: "As for secondary education, we have big problems here. 10 percent of Ukrainian graduates did not pass tests in the Ukrainian language, 25 percent of children did not pass tests in mathematics, and 70 percent of children did not answer the question when the Association Agreement with the European Union was signed"<sup>52</sup>. The results of UPE turned out to be approximately the same, and in 2016 9% of applicants did not score the minimum threshold score in the Ukrainian language and literature, 13% in the history of Ukraine, 15% in mathematics<sup>53</sup>.

In 2017, the situation continued to be unsatisfactory. VNO in Ukrainian language and literature did not pass 8% of applicants, 16% - in mathematics, 18% - in English, 13% - in the history of Ukraine<sup>54</sup>.

The trend continued in 2018. The independent assessment in the Ukrainian language and literature, which took place on June 13, did not pass 14.5% of the total number of participants<sup>55</sup>. The decline in the quality of secondary education obviously affects the quality of higher education. A total of 6 Ukrainian universities were included in the rating of the best universities in the world "QS World University Rankings" for 2016-2017, and recognized as the best university in Ukraine, KhNU im. V. N. Karazin, took only 401 place and lost 19 points in comparison with the previous year<sup>56</sup>.

The quality of education in Ukraine is best illustrated by the United Nations Human Development Report. Thus, in the 2016 report, Ukraine is ranked 84th among all countries in the

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<sup>50</sup> *Osvitni programs. Ministry of Education and Science. <https://mon.gov.ua/ua/osvita/zagalna-serednya-osvita/navchalni-programi>*

<sup>51</sup> *Minister of Education of Ukraine to identify separatist teachers. [Vlasti.net. http://vlasti.net/news/239010](http://vlasti.net/news/239010)*

<sup>52</sup> *Ukrainian graduates upset Yatsenyuk. All news. <https://123ru.net/mix/25233800>*

<sup>53</sup> *Results of ZNO-2016: the worst is the Ukrainian language in Western Ukraine. Lead. <https://vesti-ukr.com/poleznoe/obrazovanie/162126-rezultaty-zno-2016-huzhe-vsego-ukrainskij-jazyk-znajut-na-zapadnoj-ukraine>*

<sup>54</sup> *How many applicants did not pass the VNO. [Gazeta.ua. https://gazeta.ua/ru/articles/life/\\_skolko-abiturientov-ne-sdali-vno/778283](https://gazeta.ua/ru/articles/life/_skolko-abiturientov-ne-sdali-vno/778283)*

<sup>55</sup> *VNO in Ukrainian language and literature did not pass every seventh applicant. [Country. https://strana.ua/news/146592-testy-vno-po-ukrainskomu-jazyku-ne-stali-okolo-15-protsetov-uchastnikov.html](https://strana.ua/news/146592-testy-vno-po-ukrainskomu-jazyku-ne-stali-okolo-15-protsetov-uchastnikov.html)* <sup>56</sup>  
*Six Ukrainian universities were included in the top 1000 universities in the world. [Infographics. TSN. https://ru.tsn.ua/ukrayina/shest-ukrainskih-vuzov-popali-v-top-1000-universitetov-mira-874188.html](https://ru.tsn.ua/ukrayina/shest-ukrainskih-vuzov-popali-v-top-1000-universitetov-mira-874188.html)*

world in terms of the quality of education<sup>57</sup>. In this case, the dynamics are negative. Not only is Ukraine in this ranking among all European countries in third place from the end (only Bosnia and Herzegovina and Moldova have worse indicators), but also its annual indicators are decreasing: in the 2013 Report, Ukraine was in 78th place<sup>58</sup>.

As a result of the ongoing reforms, Ukraine continues to lose social capital. Graduates of Ukrainian schools have long preferred to study in European, American and Russian universities. The trend intensified after the Euromaidan: if 5 thousand Ukrainians entered the universities of neighboring Poland in 2013, then in 2014 - already 10 thousand<sup>59</sup>. At the end of 2016, at least 68 thousand Ukrainians studied at foreign universities<sup>60</sup>.

Taking into account the above, in fact, education reform should be designed to correct negative trends in the relevant area. Formally, the adoption of the new law on education is designed to stop the degradation of education in Ukraine. As far as it is possible to do this, we will answer during the analysis of the specific provisions of the law.

On September 5, 2017, the Verkhovna Rada of Ukraine, after lengthy discussions, adopted the Law of Ukraine No. 2145-VIII "On Education"<sup>61</sup>. This brought a number of significant changes to the Ukrainian educational system.

### **Various forms of education.**

An important innovation in the law is the legalization of various forms of education. In particular, it establishes the institutional, individual and dual forms of education<sup>62</sup>. Forms of education such as home, network and external become equal in legal terms with classical institutional forms.

This innovation allows you to customize the learning process. In conditions when the state is unable to provide a quality level of education within the institutional framework, it provides citizens with a legal alternative.

At the same time, the possible narrowing of the spread of institutional forms of education also has negative consequences. First, citizens pay taxes to the state, which must include going to the educational process. In case of switching to homeschooling, citizens will obviously not receive any tax benefits for the services they have not received from the state.

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<sup>57</sup> *Human Development Report 2016. Human Development for All. UNDP.*

[http://hdr.undp.org/sites/default/files/hdr\\_2016\\_report\\_russian\\_web.pdf](http://hdr.undp.org/sites/default/files/hdr_2016_report_russian_web.pdf)

<sup>58</sup> *Human Development Report 2013. Rise of the South: Human Progress in a Diverse World. UNDP.*

[http://hdr.undp.org/sites/default/files/hdr\\_2013\\_ru.pdf](http://hdr.undp.org/sites/default/files/hdr_2013_ru.pdf)

<sup>59</sup> *How many Ukrainian students study abroad. Delo.ua. <https://delo.ua/lifestyle/skolko-ukrainskih-studentov-obuchaetsja-za-rubezhom-326254>*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Law of Ukraine "On education" // Vidomosty Verkhovnoy Radi (VVR), 2017, No. 38-39, article 380.*

<https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>62</sup> *Ibid.*

Second, the government has fewer incentives to improve the quality of education. After all, there is a risk that more active people wishing to individualize their educational process will leave state educational institutions, and conditional “Average citizens” (as a rule, people with a lower income, who will not have the money to hire teachers) will be content with the current low level of education. Already today, there is a tendency in urban schools that pupils acquire the bulk of their educational knowledge at home, working independently with tutors or parents. In addition, a new level of education is emerging - vocational higher education<sup>63</sup>. It is assumed that it will be possible to obtain education at this level simultaneously with obtaining a complete secondary education.

In fact, vocational guidance of pupils is supposed already in the senior grades. This initiative is useful because it gives adolescents an opportunity to get an idea of their future profession even before entering higher education institutions. However, the question arises as to how this innovation will be implemented. Without retraining teachers and lecturers, adjusting educational programs, etc. it will remain on paper.

Another interesting innovation of the law is the actual legalization of tutoring (Article 22.). According to the document, individual entrepreneurs (IE) can provide educational services on an equal basis with educational institutions. Before the adoption of the law, a significant part of teachers worked as tutors. The above innovation was intended to legalize their activities. It should be borne in mind that the legalization of tutoring can generate corruption. In particular, teachers can be forced to take additional paid classes that have already been legalized.

At the same time, the law does not contain any norms that would stimulate teachers to obtain legal status, which means to deal with reporting and pay taxes. For this reason, the legalization of tutoring is likely to remain on paper.

### **Position of teachers**

Increasing teachers' salaries is one of the key provisions of the 2017 law on education. We are talking about the establishment of the minimum wage for teachers in the amount of UAH 10 thousand. The original bill referred to an increase to the size of two minimum wages (at that time - about 6 thousand hryvnias). Then, the estimated salary of a teacher, when discussed in parliament, was increased to 3 minimum wages (in 2017 - about 9.5 thousand hryvnias), and then increased to 10 thousand hryvnias.

It is assumed that for each successive qualifying category, the salary is increased by 10%. The law also establishes bonuses for seniority: more than 3 years - + 10% of the salary, more than 10 years - + 20% of the salary, more than 20 years - + 30% of the salary.

Another 20% the law prescribes to pay extra for those who voluntarily passed the certification of teachers.

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<sup>63</sup> *Ibid.*

According to the authors of the bill, the increase in teachers' salaries up to UAH 10 thousand. was supposed to become a powerful support for this traditionally socially unprotected group of the population and increase the prestige of the profession. However, the reality does not correspond to these plans. According to the Minister of Education Lilia Grinevich, as of September 2018, the average salary of educational workers in Ukraine amounted to 7,400 hryvnia. The Minister noted that in the future it will gradually increase and only after 2020 teachers will be able to receive a salary of at least 11 thousand hryvnias<sup>64</sup>.

Above it was said about a 20% allowance for voluntarily passing certification of teachers. This is an extremely useful initiative that has the potential to improve the skills of teaching staff. However, as of the beginning of 2019, the legislation lacks mechanisms for the implementation of this provision. They have yet to be created by the government. Accordingly, independent certification and the accompanying increase in teachers' salaries remain nothing more than a good intention of the authorities.

## **Qualifications**

The law pays special attention to improving the qualifications of teachers. In particular, it formalizes various types and forms of professional development of teachers. We are talking about both institutional and dual forms in the workplace.

Teachers are given more freedom in choosing opportunities to improve their qualifications, which can potentially be a huge advantage for Ukrainian secondary education. At the same time, one cannot exclude an increase in the activity of swindlers and fraudsters in the educational sphere.

According to the law, the National Qualifications Agency was created in early 2018<sup>65</sup>. It is intended to become a link between the education system and the labor market. For Ukraine, a typical situation remains when graduates of even top universities do not have the skills and qualifications that would allow them to meet the market requirements. The agency being created is designed to analyze the labor market, in particular, relevant and promising skills / skills, and adjust educational programs in accordance with these data.

If the National Qualifications Agency turns out to be effective and implements the tasks set before it, this will become a tangible positive change that will affect both the Ukrainian education system and the Ukrainian labor market.

Also, the concept of National Qualifications Levels appears in the law. The essence of this innovation is to formalize the levels of qualifications according to a person's ability to perform certain actions. For example, a zero-qualification level implies the ability of a person to act independently in simple known situations under the direct supervision of another person. And the tenth level of qualification presupposes the person's ability to identify and solve socially significant

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<sup>64</sup> *How and when will teachers' salaries be increased: commentary by Grinevich. 24 channel.*  
[https://24tv.ua/ru/kak\\_i\\_kogda\\_budet\\_proishodit\\_povyshenie\\_zarplat\\_uchiteljam\\_kommentarij\\_grinevich\\_n1041324](https://24tv.ua/ru/kak_i_kogda_budet_proishodit_povyshenie_zarplat_uchiteljam_kommentarij_grinevich_n1041324)

<sup>65</sup> *The National Qualifications Agency has been established in Ukraine. Loyer: <http://loyer.com.ua/ru/v-ukraine-sozdano-natsionalnoe-agentstvo-kvalifikatsij>*

problems. Accordingly, the acquisition of different levels of qualifications occurs at different levels of education.

This innovation is a useful systematization, since within the framework of the activities of the National Qualifications Agency it will allow determining the level of qualifications of a particular person or educational institution and adapting curricula in accordance with these data. Thus, the issue of professionalization of education should be resolved.

The problem is that for this system to function effectively, trained personnel (at least at the top to begin with) and regular funding are needed. As of the beginning of 2019, there are no clear conditions for the successful implementation of the initiative with qualifications in the Ukrainian education system.

### **Property and finance**

An important change, which was emphasized by the drafters of the law, is a ban on the privatization of property of educational institutions, as well as a ban on the use of this property for any purpose other than education. In particular, the lease, concession and operational management of any movable and immovable property is prohibited. In addition, the property of educational institutions, according to the law, cannot be a subject of collateral, a source of debt repayment, etc.

Proponents of this innovation rightly noted that it will become an important element in the fight against illegal seizure of land and premises from schools.

### **School management**

According to the law “On Education”, school principals can hold office for no more than 2 terms of 6 years each. For first-time appointment of director, the first term of office is 2 years. Supporters of this norm note that this will contribute to the renewal of management personnel in schools, and will attract young and progressive teachers.

However, this rule may also have negative consequences. In particular, we are talking about rural schools, which, in principle, are characterized by a shortage of teachers. Accordingly, in schools with several teachers, it will be impossible to implement this provision of the law. It should also be borne in mind that the established maximum tenure of a school principal of 12 years is fairly long. This corresponds to the full cycle of school education. And if we imagine that this norm would have come into force in 2005 after the Orange Revolution, then, having assumed the position of director, person X would have left this position only in 2017. It is worth recognizing that for a real renewal of management personnel, where shorter terms of office.

### **Education in the regions**

The situation in rural schools is closely related to the ongoing unification of territorial communities, leading to the closure of schools in small villages. According to the law on education, schools should remain only in the centers of the united territorial communities.

As a result, a situation will develop (and in part has already developed) in which the nearest school

A school providing complete secondary education may be located at a distance of 50 km from the place of residence. This leads to further degradation of education in the regions. Obviously, it will physically be extremely difficult for children, if at all possible, to travel 50 km to the nearest school every day.

Secondary vocational education will also face serious problems. Since 2017, funding for specialized secondary education institutions has been carried out from local budgets, and only in the absence of adequate funds in them, the state allocates an educational subsidy. This situation has already turned into a series of high-profile scandals with the closure of vocational schools in the regions due to lack of funds<sup>66</sup>.

Thus, the right to secondary education guaranteed by the Constitution is violated. Local vocational education is being questioned. In all likelihood, funding problems will continue to arise locally, and the receipt of subsidies from the state, given the low quality of the work of the bureaucratic apparatus, will be delayed or even absent altogether.

### **Education in the languages of national minorities**

The most resonant provision of the Law “On Education”, which has caused sharp criticism both within the country and abroad, is the linguistic component of the new law (Article 7). Thus, the law, in fact, abolishes education in Ukraine in the languages of national minorities.

First, it should be noted that the “linguistic” norm of the law on education grossly violates Ukrainian and international legislation. Here are some quotes from the Constitution of Ukraine and the UN Convention on Non-Discrimination in Education.

According to article 10 of the Constitution of Ukraine, the state language in Ukraine is Ukrainian. [...] In Ukraine, the free development, use and protection of Russian and other languages of national minorities of Ukraine is guaranteed. The state promotes the study of languages of international communication<sup>67</sup>.

Article 22. The rights and freedoms of man and citizen, enshrined by this Constitution are not exhaustive. Constitutional rights and freedoms are guaranteed and cannot be abolished. When adopting new laws or amending existing laws, it is not allowed to narrow the content and scope of existing rights and freedoms<sup>68</sup>.

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<sup>66</sup> *In Ukraine, the Cabinet of Ministers is destroying vocational schools with particular cynicism. You don't need education to earn money. UA.reporter: <https://ua-reporter.com/news/v-ukraine-kabmin-s-osobym-cinizmom-unichtozhaet-ptu-na-zarabotkah-obrazovanie-ne-nuzhno>*

<sup>67</sup> *Constitution of Ukraine // Vidomosty Verkhovnoyi For Ukraine (VVR), 1996, No. 30, art. 141. <https://zakon.rada.gov.ua/laws/show/254k/96-vr>*

<sup>68</sup> *Ibid.*

Article 24. Citizens have equal constitutional rights and freedoms and are equal before the law. There can be no privileges or restrictions based on race, skin color, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics<sup>69</sup>.

Article 53. Everyone has the right to education. Complete general secondary education is compulsory. The state ensures the availability and free of charge of preschool, complete general secondary, vocational and higher education in state and communal educational institutions; [...]. Citizens belonging to national minorities, in accordance with the law, are guaranteed the right to education in their native language, or to study their native language in state and communal educational institutions, or through national cultural societies<sup>70</sup>.

The UN Convention against Discrimination in Education<sup>71</sup> elaborates on the concept of discrimination in education:

1. In this Convention, the expression “discrimination” includes any distinction, exclusion, restriction or preference based on [...] language [...] of national or social origin, and in particular:  
a) blocking access to education of any level or type for any person or group of persons;  
(b) Restricting the education of any person or group of persons to a lower level of education<sup>72</sup>.

As you can see, the UN Convention and the Constitution of Ukraine exhaustively formulate the concept of “discrimination in education” and guarantee the citizens of Ukraine the broadest rights in the field of education (including in the languages of national minorities).

However, the “linguistic” norm of the law is in conflict not only with the Constitution of Ukraine and the UN Convention, but also with other articles of the same law.

So, in Art. 3 pt. 2 expressly stipulates the impossibility of any restrictions on the right to receive education. And Art. 12 "On complete general secondary education, among other competencies that a student forms at school", notes the ability to communicate in the native (if different from the state) language. How this can be ensured by depriving the student of the opportunity not only to study in their native language, but even to learn their native language at school is completely incomprehensible.

Unfortunately, the new law in its provisions grossly violates the above-mentioned norms. Let's consider the specific discriminating components of the “linguistic” norm of the law.

Teaching in the languages of national minorities is possible only in primary preschool education in separate classes (groups). Obtaining general secondary education in the languages of national minorities is possible until 2020 (later there were proposals to extend the “transition period”, but this did not change the essence<sup>73</sup>73), and then only for those who had previously

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<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Convention against Discrimination in Education. Adopted on December 14, 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its eleventh session. [http://www.un.org/ru/documents/decl\\_conv/conventions/educat.shtml](http://www.un.org/ru/documents/decl_conv/conventions/educat.shtml)*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Law on Education: Klimkin allowed an increase in the transition period for the language of instruction of national minorities. UNIAN. <https://www.unian.net/politics/10366953-zakon-ob-obrazovanii-klimkin-dopustil-uvelichenie-perehodnogo-perioda-dlya-yazyka-obucheniya-nacmeshinstv.html>*

studied in the languages of national minorities ... This opportunity will be canceled for this category of students from 2020. For other categories of students, not previously trained in the languages of national minorities, this provision of the law comes into force in 2018.

For indigenous peoples, separate classes (groups) are allowed for teaching and learning their languages in secondary school. The concept of “indigenous peoples” is not defined in the legislation, but they traditionally mean the Crimean Tatars, Krymchaks and Karaites.

The law declares guarantees for the study of languages of international communication, in particular English. In educational institutions, according to the norm of the law, one or several disciplines (the exact number is not regulated by the law) can be taught in two languages - state, English, in other official languages of the EU.

It is obvious that these norms grossly violate the Constitution of Ukraine, international humanitarian law and human rights. The provisions of the law on education are aimed at increased Ukrainization and ousting the languages of ethnic minorities from the educational sphere.

About 400 thousand people study in the languages of national minorities in almost 750 educational institutions<sup>74</sup>.

Over 355 thousand students' study in Russian in 581 Russian schools. It is important to note that it was Russian-language schools that were most often closed in Ukraine. So, if in 2004 there were 1,555 Russian schools in Ukraine, then by 2017 their number decreased by 3 times - to 581. The number of schools in which teaching was conducted in the Ukrainian and Russian languages decreased from 2,121 schools in 2004 to 542 in 2017. The number of pupils studying in the Russian language decreased from 1.2 million in 2004 to 355 thousand in 2017. The number of pupils studying the Russian language decreased from 1.5 million in 2004 to 919 thousand in 2017<sup>75</sup>.

16 thousand children study in 75 Romanian schools. In 2004, there were 95 Romanian schools in Ukraine with 26,000 students. The number of schools in which teaching was conducted in the Ukrainian and Romanian languages increased from 8 schools in 2004 to 20 in 2017. The number of pupils studying the Romanian language decreased from 174 thousand in 2004 to 4 thousand in 2017<sup>76</sup>.

16 thousand children study in 71 Hungarian schools. In 2004, there were 74 Hungarian schools in Ukraine with 19 thousand students. The number of schools in which teaching was conducted in Ukrainian and Hungarian decreased from 30 schools in 2004 to 26 in 2017. The number of pupils studying the Hungarian language decreased from 1,454 in 2004 to 1,110 in 2017<sup>77</sup>.

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<sup>74</sup> About 400 thousand people study in the languages of national minorities in approx. 750 educational institutions. Today. <https://www.segodnya.ua/politics/v-minobrazovaniya-obyasnili-normu-o-yazyke-obucheniya-v-novom-zakone-1054688.html>

<sup>75</sup> The data on education in the language of national minorities in Ukraine were announced. Bigmir.net. <http://news.bigmir.net/ukraine/1106944-Ozvucheny-dannye-ob-obuchenii-detej-na-43>

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

1,785 children study in 5 Polish schools. In 2004, there were 5 Polish schools in Ukraine with 1,418 students. The number of schools in which teaching was conducted in the Ukrainian and Polish languages decreased from 2 schools in 2004 to 1 in 2017. The number of students studying Polish increased from 5533 in 2004 to 45.9 thousand in 2017<sup>78</sup>.

As of the end of 2018, 2,693 students attend 3 Moldovan schools. In 2004, there were 8 Moldovan schools in Ukraine with 6128 students. The number of schools in which teaching was conducted in the Ukrainian and Moldovan languages increased from 4 schools in 2004 to 10 in 2017. The number of pupils studying the Moldovan language increased from 1335 in 2004 to 2474 in 2017<sup>79</sup>.

In 2018, there was not a single Crimean Tatar school in Ukraine. In 2004, there were 14 of them, with 4797 students enrolled in them. By 2014, there were 15 Crimean Tatar schools in Ukraine with 5,551 students. In 2004, the Crimean Tatar language was studied by 26.5 thousand pupils. By 2014, there were 12.7 thousand of them left, and as of 2017 (without accounting for the uncontrolled territory of Crimea) - a total of 340 students<sup>80</sup>.

The language norm of the law on education immediately drew sharp criticism from the international community. The Ministries of Foreign Affairs of Hungary, Romania, Moldova and Russia have expressed their protest in this regard.

Hungarian Foreign Minister Peyter Siyarto called the new law on education “shame and shame”, ordered Hungarian diplomats not to support any initiative of Ukraine in the international arena, as well as to hinder the implementation of initiatives important for Ukraine<sup>81</sup>.

Moldovan President Igor Dodon called on Ukraine to revise the law on education<sup>82</sup>. According to him, the implementation of this legislative act will lead to the denationalization of the Moldovan community in Ukraine.

The Romanian President canceled his visit to Ukraine in protest against the “linguistic” norm of the law<sup>83</sup>.

On the eve of the presidential and parliamentary elections, the authorities prefer to play on the nationalist electoral field. Refusal from teaching in the languages of national minorities is an absolutely populist step.

## **Financing education reform**

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<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Hungarian Foreign Ministry announced a boycott of Ukraine because of the new law on education. UNIAN. <https://www.unian.net/politics/2126014-mid-vengrii-obyyavilo-boykot-ukraine-iz-za-novogo-zakona-ob-obrazovanii.html>*

<sup>82</sup> *Dodon urged Ukraine to revise the law on education. Telegraph. <https://telegraf.com.ua/ukraina/politika/3605978-dodon-prizval-ukrainu-peresmotret-zakon-ob-obrazovanii.html>*

<sup>83</sup> *Language question. What are Romania, Moldova and Hungary unhappy with. League.net. <https://www.liga.net/politics/opinion/yazykovyy-vopros-chem-nedovolny-rumyniya-moldova-i-vengriya>*

A traditional problem, which a significant part of the Ukrainian reforms rests on, is the lack of funds for their implementation. On July 6, 2017, the Prime Minister of Ukraine Volodymyr Groysman said that the country does not have enough \$ 3 for education reform billion<sup>84</sup>. 4 days later, the prime minister announced the cost of the reform in the national currency - UAH 87 billion. (already \$ 3.2 billion)<sup>85</sup>.

To understand the size of these figures, we note that in the period 2014-2017. The budget of the Ministry of Education increased by only 8.2 billion UAH.

–From UAH 24 to 32.2 billion. in a year.

According to the 2018 budget, the Ministry of Education allocated UAH 95.47 billion, while in 2017 UAH 85.43 billion was allocated<sup>86</sup>.

In the budget for 2019, as noted above, the amount of allocations for education amounted to 126.9 billion hryvnia<sup>87</sup>.

Thus, in spite of the declared problems with financing, the expenditures on education for 2017 - 2019. have grown significantly. Nevertheless, they are still not enough to achieve the statutory figure of 10 thousand hryvnias. as the minimum wage for a teacher.

According to Art. 78 of the Law on Education, funding for education must be at least 7% of GDP. Taking into account the fact that in Ukraine so much is not spent on any sphere (even on defense), the real implementation of this provision is hardly possible.

## Conclusion

Summing up the results of 5 years of reforms in Ukrainian education, the following results can be noted:

First, the education reform did not lead to an improvement in its quality. On the contrary, we can state the continuing degradation of secondary education, which is expressed as in the results UPE, and in the position of Ukrainian universities in international rankings.

Secondly, there is an outflow of social capital from Ukraine. Since the start of the education reform, the number of Ukrainian citizens who prefer studying at foreign universities has grown sharply and, as of the beginning of 2019, almost 70 thousand Ukrainian students (according to official data) are studying abroad. Most likely, after receiving a foreign education, they will not want to return to Ukraine, which means they will be lost for it.

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<sup>84</sup> Groysman is looking for 87 billion hryvnia for education. UA1. <http://ua1.com.ua/rus/politics/groysman-ishchet-87-mlrd-griven-na-obrazovanie-32621.html>

<sup>85</sup> Groysman: There is no money for education reform. UA1. <http://ua1.com.ua/rus/politics/groysman-deneg-na-reformu-obrazovaniya-net-32524.html>

<sup>86</sup> The system of education and science in Ukraine allocated 95.47 billion UAH - the state budget-2018. Gordon. <https://gordonua.com/news/money/na-sistemu-obrazovaniya-i-nauki-v-ukraine-vydeleno-9547-mlrd-grn-gosbyudzhhet-2018-225612.html>

<sup>87</sup> State Budget-2019: Expenditures on education increased by UAH 4.5 billion. DS. <http://www.dsnews.ua/politics/gosbyudzhhet-2019-rashody-na-obrazovanie-uvelicheny-na-4-5-mlrd-20112018100300>

Thirdly, a sharp ideological bias in Ukrainian education, causing the rejection of a significant part of Ukrainian society, which serves not to consolidate, but, on the contrary, to strengthen social contradictions in the country. Such innovations are possible only after a comprehensive discussion with the public, representing the interests of different social and national groups. An attempt to prohibit teaching in the languages of national minorities or to introduce ideological control over teachers exacerbates this problem as much as possible.

Fourthly, salary increases, changes in the organizational structure of schools, etc., most likely will not bring the desired results. Raising teachers' salaries is already facing a shortage of funds. Changes in school management are also unlikely to bring real change.

All of the above indicates the low efficiency of the reforms. Without a significant change in their direction, education in Ukraine will continue to degrade, and Ukrainian applicants will continue to seek their happiness abroad.

### **Afterword**

The above study was published in September 2017. The trend of degradation of the Ukrainian education system has not been reversed since then. In 2018, according to the annual ranking of higher education institutions in the world according to The QS World University Rankings<sup>88</sup>, only 6 Ukrainian universities were included in this list. Even more depressing is the fact that their places in the list are located far beyond the top hundred:

- Kharkiv National University. Karazin (place from 401 - 410);
- Kiev National University. Shevchenko (place from 411 - 420);
- National Technical University "Kiev Polytechnic Institute named after Sikorsky "(place from 501 - 550);
- National Technical University "Kharkiv Polytechnic Institute" (rank 701 - 750);
- Donetsk National University named after Stus (place from 801 - 1000);
- Sumy State University (ranked from 801 to 1000)<sup>89</sup>.

Another unrealized goal was to raise teachers' salaries to UAH 10,000. As mentioned above, as of October 2018, the average salary of Ukrainian teachers was slightly more than 7 thousand hryvnia, and the Minister of Education Lilia Grinevich planned to reach the figure of 11 thousand by 2020<sup>90</sup>. However, the biggest problems entailed the "Linguistic" article of the law "On education". It served as a catalyst for the deterioration of relations between Ukraine and Hungary. Since 2017, this country has consistently blocked each meeting of the commission "Ukraine-NATO". In addition, it was after the adoption in the fall of 2017 of the law on education in the regions of Transcarpathia inhabited by Hungarians that the process of issuing passports of their historical homeland to Ukrainian citizens of Hungarian origin was intensified. Despite

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<sup>88</sup> *QS Top Universities 2018*. <https://www.topuniversities.com/university-rankings/world-university-rankings/2018>

<sup>89</sup> *Ibid.*

<sup>90</sup> *How and when teachers will increase their salaries: commentary Grinevich. Channel 24:* [https://24tv.ua/ru/kak\\_i\\_kogda\\_budet\\_proishodit\\_povyshenie\\_zarplat\\_uchiteljam\\_kommentarij\\_grinevich\\_n1041324](https://24tv.ua/ru/kak_i_kogda_budet_proishodit_povyshenie_zarplat_uchiteljam_kommentarij_grinevich_n1041324)

protests from the Ukrainian side<sup>91</sup>, as of 2019, this process continues. Considering that the policy of Ukrainization pursued by the current Ukrainian authorities and the policy of supporting compatriots abroad pursued by the Hungarian authorities completely contradict each other, it is possible to predict further stagnation or deterioration in relations between the two states.

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<sup>91</sup> *The scandal with the issuance of Hungarian passports in Transcarpathia: what the Hungarian media wrote and why the Ukrainians agree to it. TSN: <https://ru.tsn.ua/ukrayina/skandal-s-vydachey-vengerskih-pasportov-v-zakarpate-cto-pisali-vengerskie-smi-i-pochemu-ukraincy-soglashayutsya-na-eto-1220829.html>*



**The cost of reforms. Education.**

**October 2017**

**Kiev**

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### **Current situation.**

- **Decline in the quality of secondary education.** In 2017, 8% of applicants did not pass the ZNO in the Ukrainian language and literature, 16% in mathematics, 18% in English, 13% in the history of Ukraine.
- **Degradation of higher education.** There are only 6 Ukrainian universities in the QS World University Rankings 2016/2017. Best, KhNU im. V.N. Karazin, took only 401 place and lost 19 points compared to the previous year.
- **UN Human Development Report.** In terms of the quality of education in 2013, Ukraine is on the 78th place, in 2016 - on the 84th place.
- **Reduced funding.** Scholarships in the range of \$ 30-45, depending on the level of accreditation of the university, in 2013 - + \$ 100. For teachers, the teaching load has been reduced from an average of 900 to 600 hours per year. Deregulation reform has been going on in Ukraine since 2015.

## **Education reform**

### **Higher education reform**

- De facto absent;
- We do not consider the cuts in the budgetary enrollment in universities and the reduction in the number of scholarship holders to be a reform of higher education.

## **Various forms of education**

Legalization of various forms of education. Domestic, network, external become equal in legal terms with classical institutional forms.

### **Advantages:**

- allows you to individualize the educational process.

### **Disadvantages:**

- the state reduces the provision of educational services, but does not provide tax incentives for the opposition;
- the state has fewer incentives to improve the quality of education.

### **Vocational college education**

- Receiving simultaneously with receiving a complete secondary education.
- Professional orientation of pupils already in high school.
- Gives adolescents the opportunity to get an idea of their future profession even before entering higher educational institutions.
- Without retraining teachers and lecturers, adjusting educational programs, etc. this innovation will remain on paper.

### **Legalization of tutoring**

- At the moment, a significant part of teachers works as tutors.
- Individual entrepreneurs (IE) can provide educational services on a par with, in fact, educational institutions.
- There is no incentive in the law for teachers to obtain legal status.
- Legalizing tutoring can create corruption.

### **Situation of teachers**

#### **Increase of salaries for teachers**

- Low teacher salaries are a traditional Ukrainian problem.
- Initially, it was planned to increase salaries to two minimum wages (ie, about 6.5 thousand hryvnias).
- When discussed in parliament, teachers' salaries were first raised to 3 minimum wages (approx. UAH 9.5 thousand).
- As a result, teachers' salaries can cost up to UAH 10 thousand.
- The argument of the people's deputies: “why can we pay the policemen 10 thousand, but not the teachers”.

#### **Increasing teachers' salaries**

- In addition, the salary for each subsequent qualification category will increase by 10%.
- Increases are established for seniority: more than 3 years - + 10% salary, over 10 years - + 20% to the salary, over 20 years - + 30% to the salary.
- Another 20% will be added to those who voluntarily passed the certification of teachers.

#### **... which can lead to the dismissal of up to 2/3 of teachers who do not have enough money**

- According to some politicians, the government can fire 2/3 of teachers in order to be able to raise the salaries of the rest.
- The question is not only that the government may simply not have enough money to fulfill financial obligations to all teachers, but also in stimulating individual forms of education.

### **Teacher certification**

- Potentially helps to improve the pedagogical level of teachers.
- As an incentive, a 20% salary bonus for volunteer certified teachers.
- The legislation lacks mechanisms for the implementation of this provision.

### **Qualifications**

- Various types and forms of professional development of teachers are being formalized.
- We are talking about both formal institutional forms and dual, in the workplace.
- More freedom in choosing opportunities to improve your qualifications. This is potentially a huge asset.
- However, there is a danger of fraudsters becoming more active.

### **National Qualifications Agency**

- The link between the education system and the labor market.
- It is called upon to analyze the labor market, current and prospective skills and abilities and, according to these data, adjust educational programs.
- If successful, it will lead to huge positive changes that will affect both the Ukrainian education system and the Ukrainian labor market.

### **National qualification levels**

- Formalization of qualification levels according to a person's ability to perform certain actions.
- Within the framework of the activities of the National Qualifications Agency, it will determine the level of qualifications of a particular person or educational institution and, according to these data, adapt curricula, etc.
- Will there be trained personnel and regular funding for the implementation of good ideas is a big question.

### **Property and finance**

#### **Ban on privatization of property**

- Ban on privatization of property of educational institutions.
- Prohibiting the use of this property for any purpose other than educational.
- This will be an important element in the fight against illegal expropriation of land and premises from schools.

## **Education in the regions**

### **Situation of rural schools**

- Transfer of schools in the regions from state funding to the maintenance of local budgets.
- Closing schools in small communities.
- An alternative is offered in the form of pivotal schools in large villages; however, they can be up to 50 km in one direction.
- Physical inaccessibility of education for residents of the regions.

### **Corruption risks from the closure of rural schools**

- A decrease in the number of rural schools will naturally lead to an increase in government purchases of buses for the needs of these schools.
- In turn, this can create corruption risks, since one of the largest bus manufacturers in Ukraine, the Bogdan corporation, belongs to the President of Ukraine, Peter Poroshenko.

### **Vocational education**

- The reform deals a big blow to vocational education.
- Vocational schools stop funding at the state level, and transfer to local budgets.
- We expect that local budgets will not cope with this. As a result, the vocational school system is degrading.
- This may lead to the fact that in a couple of decades there will be no skilled workers in Ukraine.

## **Education in languages of national minorities**

### **Fundamental laws**

#### **Excerpts from the Constitution of Ukraine**

Article 10. The state language in Ukraine is the Ukrainian language. [...] In Ukraine, the free development, use and protection of Russian and other languages of national minorities of Ukraine is guaranteed. The state promotes the study of languages of international communication.

Article 22. Human and civil rights and freedoms enshrined in this Constitution are not exhaustive. Constitutional rights and freedoms are guaranteed and cannot be abolished. When adopting new laws or introducing amendments to existing laws, it is not allowed to narrow the content and scope of existing rights and freedoms.

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#### **UN Convention against Discrimination in Education**

1. In this Convention, the expression “discrimination” covers any distinction, exclusion, restriction or preference based on [...] the language [...] of national or social origin, and in particular:

- a) blocking access to education of any level or type for any person or group of persons;
- b) limiting the education of any person or group of persons to a lower level of education;

### **Prohibition of studying and teaching in the languages of national minorities**

- Actual cancellation of education in Ukraine in the languages of national minorities.
- Teaching in the languages of national minorities is possible only in primary preschool education in separate classes (groups).
- Obtaining general secondary education in the languages of national minorities is possible until 2020, after which this opportunity is canceled.
- For indigenous peoples it is allowed to have separate classes (groups) for teaching and learning their languages.
- The law declares guarantees for the study of languages of international communication, in particular English (but, for some reason, not Russian).

### **Education in Ukraine in the languages of national minorities**

- About 400 thousand people study in the languages of national minorities in approx. 750 educational institutions.
- Over 355 thousand students' study in Russian in 581 Russian schools.
- It was Russian-language schools that were most often closed in Ukraine. So, if in 2004 there were 1,555 Russian schools in Ukraine, then by 2017 their number decreased 3 times - to 581.
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### **Education in Ukraine in the languages of national minorities**

- 1,785 children study in 5 Polish schools.
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- The number of pupils studying Polish increased from 5533 in 2004 to 45.9 thousand in 2017.

### **Education in Ukraine in the languages of national minorities**

- 2693 pupils go to 3 Moldovan schools.
- In 2004, there were 8 Moldovan schools in Ukraine with 6128 students.
- The number of schools in which education was conducted in the Ukrainian and Moldovan languages increased from 4 schools in 2004 to 10 in 2017.
- The number of pupils studying the Moldovan language has increased from 1335 in 2004 to 2474 in 2017.

### **Education in Ukraine in the languages of national minorities**

- At the moment, there is not a single **Crimean Tatar school** in Ukraine.
- In 2004, there were 14 of them, with 4797 students enrolled in them.
- By 2014, there were 15 Crimean Tatar schools in Ukraine with 5551 children.
- In 2004, the Crimean Tatar language was studied by 26.5 thousand pupils.
- By 2014, there were 12.7 thousand of them, and as of 2017 - only 340 students.

### **Prohibition of studying and teaching in the languages of national minorities**

- The Hungarian Foreign Ministry called the new law on education “shame” and began to impede the implementation of important matters for Ukraine in the international arena.
- The President of Romania canceled a visit to Ukraine due to the law on education.
- President of Moldova: "The implementation of the new law will lead to the denationalization of the Moldovan community in Ukraine."

### **Financing education reform**

- In the period 2014-2017. the budget of the Ministry of Education increased by only 8.2 billion UAH. - from 24 to 32.2 billion UAH. in a year.
- In 2017, the allocation of UAH 52.8 billion is also envisaged. for educational subventions from the state to local budgets.

**No money, but you carry on**

- IN. Groisman July 6, 2017: "The country lacks \$ 3 billion for education reform."
- in. Groisman July 10, 2017: "the cost of the reform in the national currency is UAH 87 billion (or \$ 3.2 billion)".

**In the draft budget for 2018, financing of the Ministry of Education was reduced from UAH 23 to UAH 21 billion (\$ 724 million).**

**Reform results:**

1. The reforms did not lead to an improvement in the quality of education in Ukraine. On the contrary: Ukrainian education is degrading.
2. Outflow of social capital. Almost 70 thousand young Ukrainians (according to official data) are studying abroad.
3. Ideological bias in Ukrainian education.
4. Social populism.
5. Lack of funds for reform.

*Issue No. 3*  
*from the cycle "The Price of Reforms"*

**Anti-corruption reform<sup>92</sup>**

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Corruption in Ukraine has long been the talk of the town. This depressing fact is recognized both domestically and abroad.

**Reviews of foreign partners, Ukraine's place in international ratings and the amount of damage from corruption**

At the end of 2016, the Accounts Chamber of the European Union recognized Ukraine as the most corrupt country in Europe<sup>93</sup>. The auditors' conclusions are based on the analysis of the gas sector, Kiev's actions in the field of management of public finances, the efficiency of the use of EU credit money and the fight against corruption in the period from 2007 to 2015.

According to Transparency International's corruption perceptions rating, in 2017 Ukraine was ranked 130 out of 180 (in 2016 - 131, 2015 - 130, 2014 - 142)<sup>94</sup>. Ukraine shares its position in the rating for 2017 with Gambia, Myanmar, Sierra Leone and Iran, which scored the same number of points. According to TI, 86% of Ukrainians do not believe that the government will be able to fight corruption. In Part I of the report on the situation in Europe and Central Asia, published by Transparency International in February 2018, it was noted that anti-corruption activists in Ukraine are subjected to harassment and violence, and the country's authorities have

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<sup>92</sup> Original version of the presentation: <https://uiamp.org.ua/cref/cikl-cena-reform-reforma-policii>

<sup>93</sup> The EU named Ukraine the most corrupt country in Europe. Today. <https://www.segodnya.ua/ukraine/v-es-nazvali-ukrainu-samoy-korrumpirovannoy-stranoy-evropy-777106.html>

<sup>94</sup> Corruption Perceptions Index - 2017. Transparency International: <https://transparency.org.ru/research/indeks-vospriyatya-korrupsii/rossiya-v-indekse-vospriyatya-korrupsii-2017-posadki-ne-pomogli.html>

ignored calls for the creation of an independent Anti-Corruption Court<sup>95</sup>. According to a study by Ernst & Young Global published in April 2017, 88% of Ukrainian respondents believe that bribery and corruption are widespread in the country<sup>96</sup>. Damage from corruption in the period 2014-2016 is estimated at no less than 130 billion hryvnia<sup>97</sup>, which is comparable to the annual budget expenditures on national security and defense.

On November 3, 2017, the Resident Representative of the International Monetary Fund (IMF) in Kiev, Josta Lyngman, stated that due to corruption, Ukraine annually loses 2% of its GDP growth<sup>98</sup>. In March 2017, the head of NABU Artem Sytnik announced the amount of damage state-owned enterprises from corruption for the period after 2014. According to him, it is about 80 billion hryvnia<sup>99</sup>.

### **Anti-corruption structures and costs of their activities**

Immediately after the Maidan, the ranks of anti-corruption fighters have significantly increased. New pro-film bodies have joined the anti-corruption public (which has been repeatedly implicated in corruption scandals, such as the acquisition of a house by the head of the Corruption Action Centre, Vitaly Shabunin, and the "money appropriation" by journalist Dmitry Gnap<sup>100</sup>). It should be noted that all of them - NABU, SAP, NAPK and the recently created GBR - largely duplicate the functions of the already existing GPU, SBU, MIA, military prosecutor.

As of the beginning of 2019, the list of anti-corruption bodies in Ukraine is as follows:

- National Anti-Corruption Bureau of Ukraine.
- Special anti-corruption prosecutor's office.
- General Prosecutor's Office of Ukraine.
- National Council for Anti-Corruption Policy.
- National Agency for the Prevention of Corruption.
- State Bureau of Investigation.
- General Inspectorate of Internal Investigations of the General Prosecutor's Office.
- Department of the Prosecutor General's Office for the investigation of corruption criminal offenses committed by judges.
- Main Directorate for Combating Corruption and Legal Crimes (Directorate "K" of the SBU).

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<sup>95</sup> *Europe and Central Asia: more civil engagement needed (part i)*. Transparency International: [https://www.transparency.org/news/feature/europe\\_and\\_central\\_asia\\_more\\_civil\\_engagement](https://www.transparency.org/news/feature/europe_and_central_asia_more_civil_engagement)

<sup>96</sup> Karlin A. Ernst & Young: *Ukraine Tops World Corruption Rating*. The UNZ Review. <http://www.unz.com/akarlin/ernst-young-ukraine-tops-corruption/>

<sup>97</sup> *Losses of the state in the amount of UAH 153 billion. What does the highest top corruption in Ukraine look like?* TSN. <https://ru.tsn.ua/politika/ubytki-gosudarstva-v-153-mlrd-grn-kak-vyglyadit-vyshshaya-top-korrupciya-v-ukraine-1169262.html>

<sup>98</sup> *IMF assessed the losses of Ukraine from corruption*. UNIAN. <https://economics.unian.net/finance/2224004-mvf-otsenil-poteri-ukrainyi-ot-korrupsii.html>

<sup>99</sup> *NABU is investigating 256 cases worth 80 billion hryvnia*. Facts. <https://fakty.ua/226987-nabu-rassleduet-256-proizvodstv-na-summu-v-80-mlrd-grn>

<sup>100</sup> *Gnap and others: five scandals around anti-corruption in Ukraine*. Air Force Ukraine. <https://www.bbc.com/ukrainian/features-russian-47171907>

- Department of Internal Security of the Ministry of Internal Affairs.
- State Bureau of Investigation.

In addition, since the beginning of 2017, the topic of the creation of the Supreme Anti-Corruption Court has been actively discussed in the media<sup>101</sup>. During this period, 6 alternative draft laws were submitted to parliament, one of which was subsequently withdrawn from consideration. On March 1, 2018, the Verkhovna Rada voted in the first reading the presidential bill No. 7440 “On the Supreme Anti-Corruption Court”<sup>102</sup>. On June 7, 2018, under pressure from the IMF and the threat of non-disbursement of the next loan tranche, it was adopted in the second reading<sup>103</sup>. It should be noted that of all the alternative draft laws, it is the one that least meets the requirements of the IMF on the principles of staffing and mandatory verdicts of the Council of International Experts on the issue of appointing judges, jurisdiction (jurisdiction of the VASU), and the timing of its creation<sup>104</sup>.

Delaying the process of adopting the law on the VASU and prescribing in it long terms for the formation of this body (created within 12 months from the date of entry into force), the coalition of the BPP and the Popular Front achieved one of its most important goals - leveling the influence of the future anti-corruption court on the results of the presidential and parliamentary elections in 2019. As of the beginning of 2019, if the process of adopting the law is not accelerated by unforeseen circumstances, the VASU will not be created until June, and its first decisions should be expected in 2020, that is, after the presidential and parliamentary elections.

The next in the list of anti-corruption bodies was the State bureau of investigation, the process of establishing which has been dragging on since November 2015, when the Verkhovna Rada adopted the corresponding law<sup>105</sup>. In mid-2018, it was expected that the State Bureau of Investigation would start full-fledged work in the fall, however, this was achieved only by the beginning of 2019. At the same time, many questions have accumulated in the staffing of the State Bureau of Investigation. Initially, most of them concerned the competition for the position of the head of the RRB, which was won by Roman Truba. The conditions for this official and former private entrepreneur to be included in the number of applicants remain a mystery. Based on the insights leaked to the media and information about R. Truba's previous career, it can be concluded that he is a creature of the Popular Front, agreed by the NSDC Secretary A. Turchinov with the president<sup>106</sup>. This means that, contrary to the declarations, the head of the new anti-corruption body is dependent on the representatives of the ruling coalition.

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<sup>101</sup> *The President hopes that the Anti-Corruption Court will be established by February. UNIAN.*  
<https://www.unian.net/politics/10379022-prezident-nadeetsya-cho-antikorrupcionnyy-sud-budet-sozdan-k-fevralyu.html>

<sup>102</sup> *Law of Ukraine "On the Vicious Anti-Corruption Court" // Vidomosty Verkhovnoy Radi (VVR), 2018, No. 24, Article 212.* <https://zakon.rada.gov.ua/laws/show/2447-19>

<sup>103</sup> *Ibid.*

<sup>104</sup> *What the IMF Requires: Full Text of the Letter from Washington to Bankova. European truth.*  
<https://www.eurointegration.com.ua/rus/articles/2018/01/15/7076112/>

<sup>105</sup> *Law of Ukraine "On the State Bureau of Development" // Vidomosty Verkhovnoy Radi (VVR), 2016, No. 6, Article 55.* <https://zakon.rada.gov.ua/laws/show/794-19>

<sup>106</sup> *Newly elected chairman of the RRB: whose protégé is Roman Truba. 24 channel.*  
[https://24tv.ua/ru/novoizbrannyj\\_predsdatel\\_gbr\\_chim\\_stavlennikom\\_javljaetsja\\_roman\\_truba\\_n890630](https://24tv.ua/ru/novoizbrannyj_predsdatel_gbr_chim_stavlennikom_javljaetsja_roman_truba_n890630)

As soon as Roman Truba began to hold a second competition for filling vacant positions in the bureau entrusted to him (beginning of November 2018), a scandal broke out on the network due to the alleged harassment of the husband of the head of the Deputy Head of the State Security Bureau Olga Varchenko, Sergei Varchenko to student Natalia Bureiko<sup>107</sup>. Later it became known that the incident was a production in which the political strategist Vladimir Petrov, known for organizing black PR campaigns, was accused. The main reason for such a campaign in the case of the RRB could be the conflict between Roman Truba and Olga Varchenko over the expediency of holding a repeated competition for filling vacant positions (R. Truba ordered it to be held, and O. Varchenko opposed it). As of early 2019, the investigation into the defamation scandal is ongoing.

Total budgetary expenditures on anti-corruption structures in the period 2015 - 2017 amounted to UAH 2.9 billion. And the costs for the “old” Ministry of Internal Affairs, SBU, GPU, which have not lost their anti-corruption functions, for 2014 - 2016. amounted to 138 billion hryvnia<sup>108</sup>. In the 2018 budget, more than 2.2 billion hryvnias were allocated for the activities of NABU, SAP and NAPK. At the same time, the total funding for the activities of the GPU, the Ministry of Internal Affairs and the Security Service of Ukraine in 2018 amounted to UAH 78.34 billion<sup>109</sup>.

The State Budget of Ukraine for 2019 provides for the Prosecutor General's Office in the amount of UAH 7.2 billion<sup>110</sup>. Expenses in the amount of UAH 7 billion are provided for the implementation of prosecutorial and investigative activities, training and professional development of the prosecutor's office personnel<sup>111</sup>. For work It is planned to allocate UAH 127 million to the specialized anti-corruption prosecutor's office, and UAH 14.3 million to support the activities of the qualification and disciplinary commission of prosecutors<sup>112</sup>. UAH 803 million, which is UAH 211 million. more than in 2018. For the work of units and institutions of the National Police, expenses are provided in the amount of UAH 28.8 billion, which is UAH 4 billion. more than in 2018. It is planned to allocate UAH 867.5 million to the National Anti-Corruption Bureau of Ukraine, which is UAH 10 million. more than in 2018<sup>113</sup>.

For comparison: during the period from 2010 to 2013, under the “pre-maid” government, expenses on the Ministry of Internal Affairs, Security Service of Ukraine, and GPU amounted to 68 billion hryvnias. Prominent politicians and officials were sent to jail (though not all of them for corruption): Y. Tymoshenko, Y. Lutsenko, V. Volga (head of the Financial Services Commission), I. Markov (People's Deputy from the PR), V. Galitskiy (head of the Employment Service), I.

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<sup>107</sup> Gubin V. *Cut legs for Varchenko. How Tinder and a KPI student can bury the "Ukrainian FBI". Country.* <https://strana.ua/articles/analysis/170409-vse-detali-tinder-skandala-ot-kotoroho-mozhet-zaviset-budushchee-hosbjuro-rassledovanij-.html>

<sup>108</sup> *Expenditures for NABU and NAPK in 2018 will increase, for SAP will decrease - draft state budget. ZN.ua.* [https://zn.ua/UKRAINE/rashody-na-nabu-i-napk-v-2018-godu-vyrastut-na-sap-sokratyatsya-proekt-gosbyudzhet-260391\\_.html](https://zn.ua/UKRAINE/rashody-na-nabu-i-napk-v-2018-godu-vyrastut-na-sap-sokratyatsya-proekt-gosbyudzhet-260391_.html)

<sup>109</sup> *Ibid.*

<sup>110</sup> *Spending on the Prosecutor General's Office, National Police and NABU in 2019. Ukrainian right.* <http://ukrainepravo.com/news/ukraine/vydatky-na-genprokuraturu-natspolitsiyu-i-nabu-u-2019-rotsi-zbilshat/>

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

Zvarych (“judge-carol-man”), B. Presner (deputy minister of ecology), N. Sinkovskiy (deputy head of the State Committee for Reserves), V. Shcherbina (ex-mayor of Alushta) ...

Duplication of the functions of anti-corruption agencies leads to interdepartmental competition. In 2016, the public witnessed the clarification of relations between the GPU and the NABU - not only during the searches of the prosecutor's office in the office of A. Sytnyk's department, but also right in the center of Kiev, where the officers of these bodies started a fight. In December 2016, A. Sytnik complained that the GPU, headed by Y. Lutsenko, blocked NABU's access to the Unified Register of Pre-trial Investigations<sup>114</sup>.

In 2018, conflicts between anti-corruption agencies continued. This time NABU and SAP became their defendants. In the spring of 2018, a listening device was found in the aquarium of the head of the SAP, Nazar Kholodnitsky. Later it turned out that it was installed by the employees of NABU, acting in conjunction with the GPU<sup>115</sup>. Then, in September 2018, SAP accused NABU of trying to lay a cable in the building of the department, designed to secretly collect information<sup>116</sup>.

### **Results of the work of anti-corruption bodies**

You can often hear the hypothesis that the newly formed anti-corruption structures are an instrument of external influence on the top of the Ukrainian government. This influence seems to be carried out through high-ranking officials from the past American administration, in particular, through the former US Vice President Joseph Biden, who, according to media reports, directly influenced the closure of the case by the Special Anti-Corruption Prosecutor's Office of the ex-official of the times of Yanukovich, Nikolai Zlochevsky<sup>117</sup>. Since 2014, Joseph Biden's son Hunter Biden has been on the board of directors of Burisma, the largest gas production company in Ukraine, founded by Zlochevsky<sup>118</sup>. Consequently, the former American vice president had a personal interest in closing this high-profile case, and such a closure was not difficult for him, since NABU and SAP work closely with the US Embassy in Ukraine, and in the latter, until recently, cadres (including the ambassador) dominated appointed by the Obama administration.

The development of the situation around the “Nasirov case” (the only official from the highest echelons, to whom the hands of NABU reached) may indicate the failure of foreign partners' attempts to influence the Ukrainian leadership in the issue of anti-corruption activities. The ex-head of the State Fiscal Service, dismissed from office, is accused of illegally providing tax installments to fugitive deputy A. Onishchenko, whose case, in connection with the successful

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<sup>114</sup> Lutsenko closed NABU's access to the base of criminal cases - Sytnik. *New time*.

<https://nv.ua/ukraine/politics/lutsenko-zakryl-dostup-nabu-v-bazu-ugolovnyh-del-sytnik-332807.html>

<sup>115</sup> Wiretapping and Kholodnitsky through the aquarium. Full text. *Country*. <https://strana.ua/news/133823-proslushka-kholodnitskoho-cherez-akvarium-polnyj-tekst.html>

<sup>116</sup> They found a wiretap at Kholodnitsky again. The cable was pulled from Okhmatdet. *Country*. <https://strana.ua/news/161977-k-sap-snova-protjanuli-kabel-chtoby-proslushivat-kholodnitskoho.html>

<sup>117</sup> The price of respectability. How much it cost Zlochevsky to bleach in the west and in Ukraine. *DS*.

<http://www.dsnews.ua/politics/tsena-respektabelnosti-kak-eks-ministr-yanukovicha-zlochevskiy-02022018220000>

<sup>118</sup> *Ibid*.

escape of the defendant to Europe, became a failure for the Anti-Corruption Bureau<sup>119</sup>. As often happens in such cases, R. Nasirov was released “for health reasons” from the courtroom. At a reporting briefing in February 2018, the heads of NABU and SAP admitted that taking into account the pace of consideration in court and the volume of the indictment (800 pages), R. Nasirov's case could be heard for years<sup>120</sup>. In fact, this statement is a sign of one's own impotence.

Another fugitive, Judge N. Chaus, who was "taken" with fanfare by NABU and SAP, by a happy coincidence, was detained in Moldova. However, in April 2017, a Moldovan court released him from custody. Extradition negotiations are still ongoing<sup>121</sup>.

Another fugitive judge, ex-head of the Kiev Court of Appeal A. Chernushenko, in addition to hiding from law enforcement agencies, made a series of statements about pressure on the judiciary by senior Ukrainian officials. Law enforcement agencies did not react to these statements<sup>122</sup>.

The power structures also did not react to the statement of the ex-deputy A. Shepelev that the current Attorney General Y. Lutsenko in 2006 demanded a bribe from him in the amount of 150 thousand dollars. According to A. Shepelev, he personally transferred this amount to Y. Lutsenko in exchange for the termination of the pressure - deprivation of parliamentary immunity and citizenship<sup>123</sup>.

The case of ex-head of the State Emergency Service Sergei Bochkovsky, who was publicly detained right at the Cabinet meeting on March 25, 2015, ended with a similar shameful failure<sup>124</sup>. After a short stay in custody, Bochkovsky was released, and then on April 26 In 2018, by the decision of the Kiev District Administrative Court, the order of the Cabinet of Ministers of Ukraine dated March 25, 2015 on the dismissal of Sergei Bochkovsky from the post of the head of the State Emergency Service and the corresponding order of the State Emergency Service was declared illegal<sup>125</sup>. Official was reinstated in his post and even tried several times to show up for work, which he did, however, failed, as the Ministry of Internal Affairs appealed against the decision to restore it.

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<sup>119</sup> NABU summoned Onishchenko to serve the indictment. NewsOne. <https://newsone.ua/news/society/nabu-vyzvalo-onishchenko-dlja-vruchenija-obvinitelnoho-akta-.html>

<sup>120</sup> Nasirov's lawyers demanded that the court read out almost 800 pages of the accusation. RIA Novosti Ukraine. <https://rian.com.ua/politics/20171207/1030192142/Nasirov-obvinenie-advokaty.html>

<sup>121</sup> As soon as Chaus is extradited to Ukraine, it will take us no more than three weeks - a month for the case to go to court - Kholodnitsky. Gordon. <https://gordonua.com/news/politics/kak-tolko-chausa-ekstradiruyut-v-ukrainu-nam-ponadobitsya-ne-bole-treh-nedel-mesyaca-chtoby-delo-poshlo-v-sud-holodnickiy-234914.html>

<sup>122</sup> Former MP: Chernushenko's statement about pressure from the Presidential Administration should be investigated. UNIAN. <https://www.unian.net/politics/1095198-eks-deputat-zayavlenie-chernushenko-po-povodu-davleniya-so-storonyi-ap-neobhodimo-rassledovat.html>

<sup>123</sup> The ex-People's Deputy admitted that the drunken Lutsenko received a huge bribe from him. News: <https://vesti-ukr.com/politika/225853-eks-nardep-priznalsja-hto-daval-lutsenko-ohromnuju-vzjatku>

<sup>124</sup> The head of the State Emergency Service was detained at a meeting of the Cabinet of Ministers. New time. <https://nv.ua/ukraine/glava-gossluzhby-po-chrezvychnym-situacijam-zaderzhan-priamo-na-zasedanii-kabmina-40666.html>

<sup>125</sup> The case of ex-head of the State Emergency Service Bochkovsky is being considered by the Court of Appeal today. RBK - Ukraine. <https://www.rbc.ua/rus/news/delo-eks-glavy-gschs-bochkovskogo-segodnya-1531832145.html>

Another scandal with which the National Anti-Corruption Bureau is strongly associated is the “case of Manafort,” the ex-head of staff of D. Trump. In 2016, NABU legalized the anti-Trump political “jeans”, accusing P. Manafort of receiving \$ 12.7 million from V. Yanukovych's team<sup>126</sup>. After D. Trump's victory in the presidential election, a number of political experts expressed fears that the story with incriminating evidence from NABU would harm Ukraine's relations with the United States. However, shortly after D. Trump came to the presidency, P. Manafort was accused in the United States of “conspiracy against American interests”<sup>127</sup>, and everyone forgot about the potential reason for deteriorating relations with Ukraine.

As for the measurable indicators of the fight against corruption, they are extremely modest. Of the 128 people who received prison sentences for corruption (in the period from July 2015 to July 2016), only 3 high-ranking officials (two heads of regional state administrations and the deputy head of the State Agricultural Inspection) and 4 an official of class "B" (three investigators and the head of the Lazurnensky village council). According to A. Sytnik, as of February 2017, NABU transferred 50 criminal cases to court and achieved 12 sentences, but no less than 5 cases an agreement was reached with the investigation. The head of the department argues that many cases are hampered in the courts, therefore he advocates the creation of the aforementioned VASU. At the beginning of 2018, Roman Sytnyk announced that the National Anti-Corruption Bureau of Ukraine had brought 173 criminal proceedings to court in two years.

The attitude of corrupt officials. In addition, according to him, in two years of work, the courts passed sentences against only 18 people<sup>128</sup>.

As of September 2017, the total number of proceedings in cases investigated by NABU was 410. At that time, the bureau's detectives reported suspicion to 260 persons, and 86 cases were sent to court. Of these, court decisions were made only in 23. At the same time, only 17 convictions have gained legal force<sup>129</sup>.

At a joint briefing on the results of work for the 2nd half of 2017, the heads of NABU and SAP A. Sytnik and N. Kholodnitsky said that since the beginning of the investigations, the amount of compensated damage amounted to about UAH 250 million, 117 of which were compensated for reporting half-year. In addition, according to the statements of anti-corruption officials, “it was possible to prevent the embezzlement of almost 2 billion hryvnias, 1.5 of them in the energy sector,” and another 650 million hryvnias are currently in the process of confiscation. During the investigation period, the bureau's lawyers filed 35 lawsuits to invalidate transactions related to corruption. The final decision was made by the court of cassation only in 15 of them<sup>130</sup>.

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<sup>126</sup> *Ukraine is ready to provide the United States with information about Manafort - Groisman. Delo.ua. <https://delo.ua/economyandpoliticsinukraine/ukraina-gotova-predostavit-ssha-informaciju-o-manaforte-grojsma-336034/>*

<sup>127</sup> *The FBI accused Manafort of money laundering and conspiracy against the United States. Delo.ua. <https://delo.ua/economyandpoliticsinukraine/fbr-obvinilo-manaforta-v-otmyvanii-deneg-i-zagovore-protiv-ssha-335942/>*

<sup>128</sup> *In two years, NABU transferred 173 criminal cases to court - Sytnik. Voice.ua. <https://golos.ua/i/595334>*

<sup>129</sup> *In 2017, the rotsi of NABU was able to attack the corruption - Artem Sitnik. NABU.*

*<https://nabu.gov.ua/novyny/u-2017-roci-nabu-posylylo-nastup-na-korupciyu-artem-sytnyk>*

<sup>130</sup> *Ibid.*

At a briefing held on February 12, 2019, Artyom Sytnik said that out of 28 criminal cases sent to court in the second half of 2018, only in 8 cases did the judges begin consideration on the merits. The rest of the cases are in preparation for consideration. The head of the NABU called such a pace of trial unacceptable. He stated that their joint work with SAP is being stopped in the courts. In the second half of 2018, according to A. Sytnik, 44 persons were notified of suspicion, investigations were completed against 61 suspects, and 32 top corruption cases were sent to court<sup>131</sup>. Also, the head of the department said, that, as of the time of the report, about 200 cases referred to the court are not being considered, as they await the creation of the Supreme Anti-Corruption Court<sup>132</sup>.

The statistics on the return of funds to the budget is impressive only at first glance. There are serious reasons for doubting its reliability. So, in 2016, the management of NABU reported that during the year of their work, 100 million hryvnias were returned to the treasury and the theft of 580 million hryvnias from state-owned enterprises was prevented. At the same time, according to D. Kalenyuk, Executive Director of the Anti-Corruption Center, in the first half of 2016, only 78 thousand hryvnias of corruption assets were returned to the budget.

In addition, NABU itself for weeks for a long period of its existence, was a participant in corruption scandals associated with the purchase of ammunition for special forces - socks for 373 hryvnia per pair and T-shirts for 1116 hryvnia<sup>133</sup>.

The activities of the NAPK, headed by the former teacher A. Yatsenyuk N. Korchak also caused serious complaints. According to Schemes, in July and September 2016, NAPK members wrote out bonuses for themselves in the amount of 250% in addition to salaries and allowances<sup>134</sup>. The criteria for the success of a given department are determined by its employees. As a result of this scandal, as well as behind-the-scenes trading for positions in March 2018, N. Korchak was dismissed from the post of head of the NAPK, and her place was taken by Alexander Mangul<sup>135</sup>.

Full verification of the noisy electronic declarations of Ukrainian officials as of the beginning of 2019 have not been held. At the beginning of 2019, NAPK checked a total of 615 declarations of officials for 2016-2018. out of several million<sup>136</sup>. In fact, the legalization of capital took place in Ukraine, a large part of which was obtained illegally.

## Conclusion

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<sup>131</sup> *Stenograms to the Director of NABU Artem Sitnik*

<sup>132</sup> *Ibid.*

<sup>133</sup> *NABU saved: shirts for the special forces were purchased at UAH 1.6 thousand, and T-shirts at UAH 1.1 thousand. TSN. <https://ru.tsn.ua/groshi/nabu-sekonomilo-rubashki-dlya-specnaza-zakupili-po-1-6-tys-grn-a-futbolki-po-1-1-tys-grn-546233.html>*

<sup>134</sup> *Anti-corruption fighters from the NAPK have written bonuses for themselves in the amount of 250% of their salary. Country. <https://strana.ua/news/37779-razrabotchiki-e-deklarirovaniya-premirovali-sebya-na-250-k-okladam-rassledovanie-zhurnalistov-shem.html>*

<sup>135</sup> *Instead of the scandalous Korczak, Alexander Mangul was elected the new head of the NAPK. UNIAN. <https://www.unian.net/politics/10059593-vmesto-skandalnoy-korchak-novym-glavoy-napk-izbran-aleksandr-mangul.html>*

<sup>136</sup> *How NAPC checks the declarations of politicians - mass media. Bigmir.net. <http://finance.bigmir.net/news/97843-Kak-NAPK-proverjaet-deklaracii-politikov---SMI>*

Summarizing the above, we have to admit that the anti-corruption reform has not yet achieved its goals. The problem of its failure seems complex to us. It is associated with such factors as low qualifications of employees of anti-corruption bodies, imperfect legal framework, dependence of anti-corruption structures on the highest echelons of power, etc.

The results of the work of anti-corruption bodies clearly do not correspond to the funds spent on their activities. So, the total costs for NABU, SAP, and NAPK in the period from 2015 to 2019. (including the funds pledged for 2019) will amount to UAH 6.09 billion<sup>137</sup>.<sup>137</sup> At a reporting briefing in early 2018, the heads of NABU and SAP stated that since the start of the investigations, the amount of compensated damage amounted to about UAH 250 million. Taking into account the data announced at a similar briefing in 2019, this figure reached UAH 450 million<sup>138</sup>. In addition, according to them, “it was possible to prevent the theft of almost another UAH 2 billion, 1.5 of them - in the field of energy”<sup>139</sup>. Even with this "prevention" in mind, the effect of activities of NABU and SAP does not cover the spent on it in the period from 2015 to 2019. 3.1 billion hryvnia<sup>140</sup>.

The number of solved cases and “incarceration” of corrupt officials is also not impressive. At the beginning of 2018, out of 300 persons suspected of corruption over the entire period of the NABU and SAP activities, only 165 citizens were referred to court. Out of 86 criminal proceedings sent to court, decisions were made in 23 cases, and only 17 convictions entered into legal force (data as of September 2017, 1 more conviction was added to them by February 2019).

Delaying the process of creating an anti-corruption court, confrontation between various elements of the anti-corruption system (NABU against the GPU, etc.), as well as attempts by the authorities to direct the process of creating new specialized structures in a direction favorable to them are vivid evidence that a corrupt “deep state”, in the depths of which the main decisions of a political and economic nature are made and for which external forms such as the ruling coalition, presidential powers and the judicial system serve only as a screen.

At the moment, we are witnessing how large corruption cartels are trying to fill the newly formed anti-corruption structures with their henchmen and paralyze their work in every possible way. Modest anti-corruption results from 2016 to 2018 serve as the best proof that in this fight against the will of foreign partners and financial donors who have high hopes for NABU, SAP, and the future VASU, Ukrainian corrupt officials are still winning. This means that the tangle of corruption problems in Ukraine will have to be unraveled for more than one year.

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<sup>137</sup> The figure was obtained by summing up the costs of the activities of anti-corruption structures for the indicated years, described in the section “Anti-corruption structures and costs of their activities”.

<sup>138</sup> Stenogram in the speech of the Director of NABU Artem Sitnik for an hour at the press briefing “Result of that wiklici in the robot of NABU for the 2nd half of 2018”, 8 February 2019. NABU. <https://nabu.gov.ua/verbatims/stenograma-vistupu-direktora-nabu-artema-sitnika-pid-chas-prec-brifingu-rezultati>

<sup>139</sup> In 2017, the rotsi of NABU made an attack on corruption - Artem Sitnik. NABU. <https://nabu.gov.ua/novyny/u-2017-roci-nabu-posylylo-nastup-na-korupciyu-artem-79>

<sup>140</sup> The figure was obtained by summing up the costs of the activities of the anti-corruption structure for the indicated years, described in the section “Anti-corruption structures and costs of their activities”.

## **Afterword**

The above study was published in March 2018, and subsequently supplemented with fresh data (as of late 2018 - early 2019) and is included in this book. From the updated data, it follows that over the past year, the authorities have failed to reverse the failed trajectory of anti-corruption reform. At the beginning of 2019, the Supreme Anti-Corruption Court had not yet been created, as a result of which hundreds of criminal cases investigated by NABU are gathering dust in the courts, waiting “in the wings”. The situation in the National Anti-Corruption Agency has not changed either. The agency remains extremely ineffective, as evidenced by the fact that since 2016 it has checked a little more than 600 electronic declarations of officials out of several million. During this time, an automated system for checking declarations has not been created.

The enmity between anti-corruption structures, undermining public confidence in them, continued throughout 2018. The situation was relatively stabilized only closer to the presidential elections.

In view of the above, our conclusions remain unchanged: the anti-corruption reform in Ukraine has failed.



**The cost of reforms. Anti-corruption reform.**

**March 2018**

**Kiev**

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### **Current situation: international rankings / independent research data**

- According to Transparency International's Corruption Perceptions Index, in 2017, Ukraine ranked 130th out of 180. It shares its position with the Gambia, Myanmar, Sierra Leone and Iran.
- According to a study by Ernst & Young Global published in April 2017, 88% of Ukrainian respondents believe that bribery and corruption are widespread in the country.
- According to Transparency International, 86% of Ukrainians do not believe that the government will be able to fight corruption.
- At the end of 2016, the Accounts Chamber of the European Union recognized Ukraine as the most corrupt country in Europe. The auditors' conclusions are based on the analysis of the gas sector, Kiev's actions in the field of public finance management, the effectiveness of the use of EU loan money and the fight against corruption in the period from 2007 to 2015.

### **Current situation: damage from corruption**

- According to the statement of the Permanent Representative of the International Monetary Fund (IMF) in Kiev, Jost Lyngman, due to corruption, Ukraine annually loses 2% of its GDP growth.
- Damage from corruption in the period 2014-2016. is estimated at no less than 130 billion hryvnia, which is comparable to the annual budget expenditures on national security and defense.
- According to the statements of the head of NABU Artem Sytnyk, since 2014 the damage to state-owned enterprises from corruption amounted to about UAH 80 billion.

### **Anti-corruption structures**

#### **New:**

- National Anti-Corruption Bureau of Ukraine
- Special anti-corruption prosecutor's office
- National Council for Anti-Corruption Policy
- National Agency for the Prevention of Corruption
- State Bureau of Investigation

#### **Old:**

- General Prosecutor's Office of Ukraine
- General Inspectorate of Internal Investigations of the General Prosecutor's Office
- Department of the Prosecutor General's Office for Investigation of Corruption Criminal Offenses Committed by Judges
- Main Directorate for Combating Corruption and Legal Crimes (Directorate "K" of the SBU)
- Department of Internal Security of the Ministry of Internal Affairs

### **The Creation of an Anti-Corruption Court: An Unfinished Epic**

- The first draft anti-corruption court law was submitted to parliament in February 2017.
- Since then, 6 alternative bills have appeared in the Rada, one of which (the first) was withdrawn.
- The presidential bill “On the Supreme Anti-Corruption Court” was adopted by the Rada in the first reading on March 1, 2018.
- According to the statements of experts and Western partners, the presidential bill is aimed at sabotaging the creation of an anti-corruption court, or turning this process in a direction favorable to the authorities.
- The main claims of Western partners to the presidential bill were put forward in a letter to the IMF to the head of the Presidential Administration of Ukraine I. Rainin, January 11, 2018

### **IMF requirements for the law "On the Supreme Anti-Corruption Court"**

1. Make the role of the Public Council of International Experts decisive, not advisory.
2. Ensure participation in the Council of experts recommended by international organizations and donor countries.
3. Bring the jurisdiction of the Supreme Anti-Corruption Court in line with the jurisdiction of NABU and SAP.

On March 1, 2018, the draft law was voted in the first reading without making the appropriate amendments. At the same time, the letter to the IMF noted that in its current form the Fund is not ready to support the adoption of the law on the Supreme Arbitration Court, and therefore - to recognize this requirement as fulfilled.

### **Budget expenditures on anti-corruption structures**

- Total budgetary costs for anti-corruption structures in the period 2015-2017. amounted to UAH 2.9 billion.
- Expenses for the Ministry of Internal Affairs, Security Service of Ukraine, GPU, which have not lost their anti-corruption functions, for 2014-2016. amounted to UAH 138 billion.
- In the budget for 2018, more than 2.2 billion hryvnias were allocated for the activities of NABU, SAP and NAPK. At the same time, the total funding for the activities of the GPU, the Ministry of Internal Affairs and the Security Service of Ukraine in the current year will amount to UAH 78.34 billion.
- Until the beginning of 2019, the amount spent on the activities of NABU, SAP and NAPK since their inception will exceed UAH 5.1 billion.

**Duplication of anti-corruption functions**

- Last year, the public witnessed the clarification of relations between the GPU and the NABU - not only during the searches of the prosecutor's office in the office of A. Sytnyk's department, but also right in the center of Kiev, where the officers of these bodies staged a fight.
- In December 2016, A. Sytnik complained that the GPU, headed by Y. Lutsenko, blocked NABU's access to the Unified Register of Pre-trial Investigations.

**Results of work: the amount of funds returned**

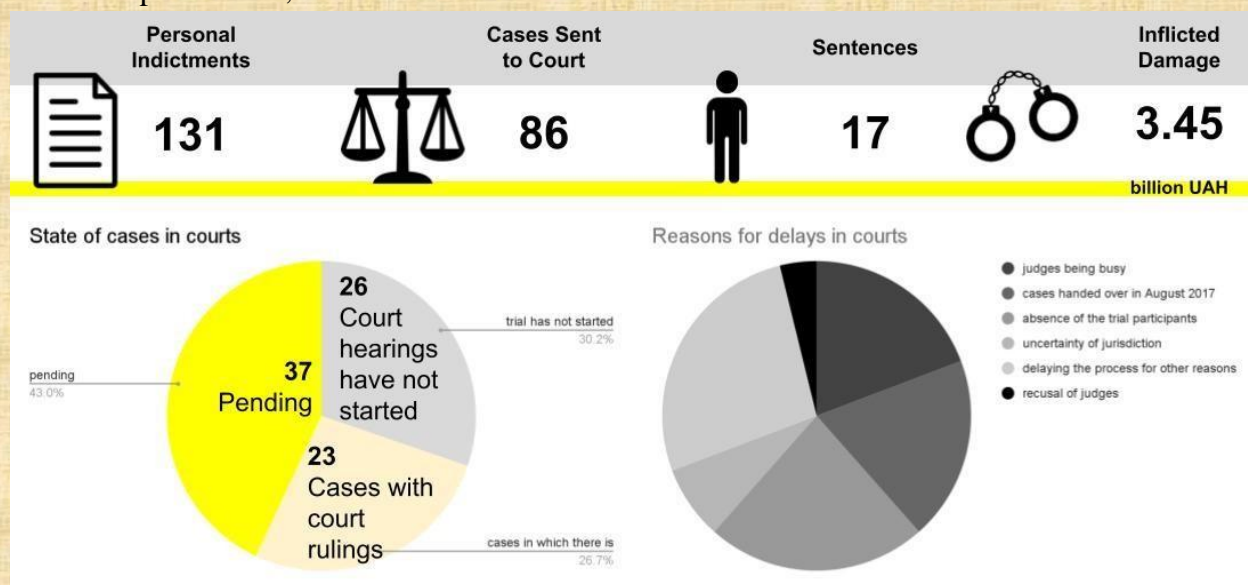
- Based on the results of the second half of 2017, the amount of damage compensated by NABU and SAP for the entire period of their activity amounted to about UAH 250 million.
- It was possible to prevent the theft of almost 2 billion hryvnias, 1.5 of them in the energy sector.
- Another UAH 650 million is currently in the process of confiscation.
- Even taking into account the "theft prevention", the refunded amount does not cover UAH 2.9 billion spent on anti-corruption structures in 2015–2017.

**Results of work: cases and sentences**

- As of September 2017, the total number of proceedings in cases investigated by NABU was 410.
- The Bureau reported suspicion to 260 persons, and 86 cases were sent to court.
- Decisions were made in 23 cases.
- 17 convictions have become legal.

## Consideration of NABU cases in courts

- As of September 01, 2017



## Results of work: high-profile cases

- The case of the ex-head of the State Fiscal Service R. Nasirov.  
The ex-head of the State Fiscal Service, dismissed from office, is accused of illegally providing tax installments to the fugitive deputy A. Onishchenko. On June 26, 2017, R. Nasirov was released by the Solomenskiy District Court on bail of UAH 100 million. The heads of NABU and SAP admitted that taking into account the pace of consideration in court and the volume of the indictment (800 pages), the case of R. Nasirov can be heard for years.
- The case of Judge N. Chaus, suspected of receiving a bribe in the amount of \$ 150,000. The suspect fled to Moldova, was detained there, but after the expiration of the period of detention, he received a measure of suppression "house arrest" and is suing the Moldovan authorities for political asylum. Negotiations on the extradition of N. Chaus to Ukraine are still going on.
- Statement of ex-deputy A. Shepelev about the extortion of a bribe by Y. Lutsenko in 2006. The statement of extortion and the receipt of a bribe of \$ 150,000 by the current Prosecutor General was ignored by law enforcement and anti-corruption agencies.
- The case of P. Manafort, accused of receiving \$12.7 million from V. Yanukovich's team. After D. Trump's victory in the US presidential elections, the case was hushed up in fear of worsening relations with the American side. It was not renewed even after P. Manafort was brought to trial in the United States.

**Summing up**

- The anti-corruption court has not yet been created and is unlikely to work until 2020 (in accordance with the presidential bill, its formation is envisaged for 1 year).
- The amounts of funds returned by NABU and SAP to the treasury do not cover the costs of their maintenance.
- The percentage of convictions that have entered into force is 19.7% of the number of cases brought to court by NABU.
- Out of 423 declarations of people's deputies in two years, only 11 electronic declarations were checked by the NAPC.
- Places in international anti-corruption ratings remain consistently low, and Western partners are unhappy with the progress of the fight against corruption and attacks on anti-corruption activists.

*Study No. 4*  
*from the cycle "The Price of Reforms"*

**Health care reform<sup>141</sup>**

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The state of the healthcare system is a key marker of the state of society and the state, a “litmus test” of social changes and the real effectiveness of state policy. Unfortunately, a fair number of problems have accumulated in this area, which are exacerbated by ill-considered experiments and reforms. We have devoted this study to their consideration.

**The current health situation**

In the period from 2013 to 2015, the number of hospital beds per 10 thousand people decreased from 88 to 78.1, and in 2017 this indicator decreased to 74 units per 10 thousand people<sup>142</sup>.

Decreased in the above time period and the number of medical personnel per 10 thousand people from 97.4 in 2013 to 87.3 in 2015. In 2018, there were 4.4 doctors and 8.6 nurses per 1000 people in Ukraine<sup>143</sup>. The shortage of medical workers in the regions of Ukraine bordering on the EU countries is especially acute.

The amount of funds allocated for health care in the state budgets from 2013 to 2018 inclusive (consolidated budget in million hryvnia):

- 2013 - 61.5 (\$ 7.68)<sup>144</sup>
- 2014 - 57.1 (\$ 4.42)<sup>145</sup>
- 2015 - 71.0 (\$ 2.95)<sup>146</sup>
- 2016 - 75.4 (\$ 3)<sup>147</sup>

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<sup>141</sup> The original version of the presentation: <https://uiamp.org.ua/cref/reforma-zdravoohraneniya-issledovanie-no4-iz-cikla-cena-reform>

<sup>142</sup> Pendzin O. Medical reform in a European way: what should Ukraine be guided by. Mind. <https://mind.ua/ru/openmind/20178091-medicinskaya-reforma-po-evropejski-na-cto-orientirovatsya-ukraine>

<sup>143</sup> Ibid.

<sup>144</sup> Budget expenditures by function. The price of the state. <http://cost.ua/ru/budget/expenditure>

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

- 2017 - 102.3 (\$ 3.8)<sup>148</sup>
- 2018 - 103.6 (\$ 3.93)<sup>149</sup>

Despite the nominal growth in healthcare spending, which we can observe in the table above, in freely convertible currency, they fell from \$ 7.6 billion to \$ 3.9 billion - almost twice. In 2018, 2.6% of GDP<sup>150</sup> was spent on health care (for comparison: in 1998 - 3.3%<sup>151</sup>, in 2010 - 7.8%<sup>152</sup>, in 2012 - 7.4%<sup>153</sup>). In 2019, less than 3% of GDP was also allocated to medicine<sup>154</sup>154. In the most developed countries of the world (USA, Belgium, Denmark, Norway) the same indicator is at least 8%.

According to WHO recommendations, funding for the health sector should be maintained at 7% of GDP.

Health care services are becoming unavailable for the average Ukrainian. In a study carried out jointly by the International Renaissance Foundation, the Kiev International Institute of Sociology and the NAUKMA School of Public Health “Health Index. Ukraine - 2016”, the following data are given: “43% of the citizens of the country hospitalized in the last year were forced to borrow or sell property to cover the cost of treatment. According to an all-Ukrainian poll, the average amount of funds that Ukrainians had to borrow amounted to UAH 4865<sup>155</sup>”. In a similar study for 2017, it is indicated that 30% of respondents were forced to refuse a visit to a doctor or hospitalization due to financial problems. To be fair, it should be noted that in 2016 this indicator was 42%, and in 2018 it dropped to 24%<sup>156</sup>. However, in some regions of the country it still exceeds last year's level. Thus, in the Cherkasy region, due to financial difficulties, 75% of the respondents refused to be examined / hospitalized<sup>157</sup>.

There is reason to believe that healthcare spending will continue to decline in the foreseeable future. Adviser to the Cabinet of Ministers of Ukraine, ex-Minister of Economy of Slovakia Ivan Miklos stated: “Financing of these spheres (health care and education) is excessive and extremely ineffective. Therefore, it is important not only to cut costs, but also to improve the quality of services, which, despite huge budget spending, remain poor. Do not invest unjustified

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<sup>148</sup> *Ibid.*

<sup>149</sup> *Ibid.*

<sup>150</sup> *Expenditures on health care in the 2018 budget will amount to 2.6% of GDP. Bigmir.net.*

<http://finance.bigmir.net/news/86260-Rashodi-na-zdravoohranenie-v-budjete-2018-sostavyat-26-VVP>

<sup>151</sup> *First Annual Report of the Supreme Council for the sake of Ukraine for the rights of the people from the standpoint of the defense of the rights and freedoms of the people in Ukraine, 2000.*

[http://www.uapravo.com/hro/text.php?lan=ukr&id=1727&id\\_book=1698&id\\_parent=1723](http://www.uapravo.com/hro/text.php?lan=ukr&id=1727&id_book=1698&id_parent=1723)

<sup>152</sup> *The system of financing health protection of Ukraine and new tendencies. HCM. [http://www.hcm.in.ua/wp-content/uploads/sistema\\_finansuvannya\\_ohoroni\\_zdorovya\\_ukrayini\\_reformi\\_i\\_svitovi\\_tendenciyi\\_shevchenko\\_m.v.pdf](http://www.hcm.in.ua/wp-content/uploads/sistema_finansuvannya_ohoroni_zdorovya_ukrayini_reformi_i_svitovi_tendenciyi_shevchenko_m.v.pdf)*

<sup>153</sup> *Ibid.*

<sup>154</sup> *Shklyarskaya O. The 2019 budget for medicine: free diagnostics and reform against the backdrop of savings. Angle. <https://racurs.ua/2088-budjet-2019-na-medicinu-besplatnaya-diagnostika-i-reforma-v-oblastyah-pilotah-na-fone-ekonomii.html>*

<sup>155</sup> *Health Index. Ukraine - 2016. [http://health-index.com.ua/zvit\\_index\\_2016\\_ukr.pdf](http://health-index.com.ua/zvit_index_2016_ukr.pdf)*

<sup>156</sup> *Health Index. Ukraine - 2018. <http://health-index.com.ua>*

<sup>157</sup> *Ibid.*

sums in hospital walls, but redirect them to caring for the patient's health. This is an example of structural reform<sup>158</sup>.

In terms of the rate of population decline, Ukraine occupies one of the first places in the world. The reason for this is not only labor migration, but also a high mortality rate of the population. If in 2013 the negative balance (the difference between births and deaths) was 158 thousand people, then in 2017 it was already 210 thousand<sup>159</sup>. Thus, the negative balance increased by 32.9%.

In 2015, Ukraine recorded the highest level of child and maternal mortality among European countries. So, in Ukraine, 2378 cases of infant deaths were registered in the first 28 days of life. In Poland, the same indicator was 1,122 cases, in Romania - 1,047, in Germany - 1,449<sup>160</sup>. According to international estimates, in 2015, the country registered 120 cases of maternal mortality, while in neighboring Poland - 12, Romania - 56, Germany - 42. At the same time, the population of Poland and Germany significantly exceeds the population of Ukraine<sup>161</sup>.

In addition, there is a surge in the growth of tuberculosis incidence among children and adolescents in Ukraine. It was the result of the missing BCG and tuberculin vaccines. In 2016, the incidence rate of children increased from 4.2 to 5.8<sup>162</sup> cases per 100 thousand population. In general, in Ukraine, this figure was 8.6 cases.

According to the WHO, more than 5% of people in Ukraine are infected with hepatitis C, in absolute terms it is more than 2 million people<sup>163</sup>. According to the chief state sanitary doctor of Kiev, Oleg Ruban, there is a latent epidemic of viral hepatitis in Ukraine. Hepatitis C and B - only in Kiev in 2015 a twofold increase in chronic viral hepatitis was registered<sup>164</sup>.

Ukraine remains the leader in Europe in terms of the spread of HIV infection. According to UNAIDS experts, up to 250 thousand people live with HIV in Ukraine. And only every second person knows about his diagnosis - as of October 1, 2016, 132 thousand HIV-positive patients were registered in Ukraine<sup>165</sup>. According to experts, since 2014, the epidemiological situation with HIV in our country has been rapidly deteriorating. One of the main indicators used to track the development of the epidemic is the number of new cases of HIV infection. For 10 months of 2017,

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<sup>158</sup> Miklos named two failed reforms in Ukraine. Reviewer. <https://www.obozrevatel.com/finance/business-and-finance/01948-miklosh-nazval-dve-provalnyie-reformyi-v-ukraine.htm>

<sup>159</sup> Ukrainians are becoming less and less: why is this happening and what will happen next. Today. <https://www.segodnya.ua/ukraine/pochemu-ukraincev-stanovitsya-vse-menshe-1064912.html>

<sup>160</sup> Deaths of children and women in childbirth. Is everything as bad in Ukraine as UNICEF claims? RIA Novosti Ukraine. <https://rian.com.ua/analytics/20170316/1022311180.html>

<sup>161</sup> Ibid.

<sup>162</sup> Drugova I. There is an epidemic of tuberculosis, HIV and hepatitis in Ukraine. Next in line for the bubonic plague? RIA. News Ukraine: <https://rian.com.ua/analytics/20170226/1021761111.html>

<sup>163</sup> An innovative project for the treatment of hepatitis C was launched in Ukraine. 100 Life. <http://network.org.ua/ru/2017/07/28/v-ukraine-zapustili-innovatsionnyj-proekt-po-lecheniyu-gepatita-s/>

<sup>164</sup> There is a latent epidemic of viral hepatitis in Ukraine, it's worse than AIDS - Ruban. RIA Novosti Ukraine. <https://rian.com.ua/kyev/20160303/1006121615.html>

<sup>165</sup> The HIV situation is worse than in Africa: Germans are shocked by the situation in the Russian Federation. League News. [http://news.liga.net/news/world/14839187-situatsiya\\_s\\_vich\\_khuzhe\\_chem\\_v\\_afrike\\_nemtsy\\_v\\_shoke\\_ot\\_polozheniya\\_v\\_rf.htm](http://news.liga.net/news/world/14839187-situatsiya_s_vich_khuzhe_chem_v_afrike_nemtsy_v_shoke_ot_polozheniya_v_rf.htm)

this indicator increased by 10.1%<sup>166</sup> compared to the same period in 2016. These data correspond to the dynamics of the epidemic, which it was about 10 years ago.

In 2016, the World Health Organization predicted a measles epidemic in Ukraine in 2017, since the level of vaccination in the country was lower than in African countries. At the end of 2017, the WHO forecast began to come true. A measles epidemic came to Ukraine, from which (as of January 12, 2018) 5 people died in different regions of the country, including two children. The total number of measles cases over the past year amounted to more than 7 thousand people<sup>167</sup>.

Answering the question about what epidemics of infectious diseases may arise in Ukraine in the near future, the executive secretary of the National Medical Chamber of Ukraine S. Kravchenko was categorical: “Due to the catastrophically low level of vaccination we can have outbreaks of any immunosuppressive infectious diseases. In addition, given the state of affairs in our infrastructure, which, in fact, has been destroyed, starting with aeration and water utilities, we have to admit that the water in the tap and the water in the sewerage system are one and the same. Therefore, we can have anything that is transmitted by contact and everyday life - and cholera is the same<sup>168</sup>”.

## Health care reform

At the end of 2016, the Cabinet of Ministers adopted 10 resolutions initiated by the Ministry of Health on reforming the industry. One of them involved the creation of hospital districts. Despite the fact that more than two years have passed since the adoption of the resolution, the process of their formation has not yet been completed.

According to the plan, hospitals will be divided into hospital districts, in each of which one specialized hospital will remain. They will serve the population of two or three districts of the region at once. One district provides coverage of an area with a population of at least 200 thousand people with a level 2 hospital or 120 thousand people with a 1st level hospital. Thus, some of the medical institutions will be enlarged, and the rest will be re-profiled with a decrease in status and staff reduction. According to the Ministry of Health of Ukraine, these measures should significantly save public funds and improve the quality of medical care.

Disagreement with the reform decisions led to protests in the Vinnytsia region. Their participants believed that as a result of the reform of U. Suprun, entire districts would remain without full-fledged medical care, because in order to receive the necessary treatment, their residents would have to go to other settlements, covering a distance of tens and hundreds of kilometers, which is tantamount to a sentence for many patients and poor people.

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<sup>166</sup> *AIDS in Ukraine: statistics as of 01.11.2017. Elena Pinchuk Foundation. [http://www.antiaids.org/news/aids\\_stat/spid-v-ukraine-statistika-na-01112017-11214.html](http://www.antiaids.org/news/aids_stat/spid-v-ukraine-statistika-na-01112017-11214.html)*

<sup>167</sup> *More than 7 thousand people fell ill with measles this year in Ukraine - Ministry of Health. UNIAN. <https://health.unian.net/country/10040258-v-ukraine-v-etom-godu-koryu-zaboleli-bolee-7-tysyach-chelovek-minzdrav.html>*

<sup>168</sup> *Drugova I. There is an epidemic of tuberculosis, HIV and hepatitis in Ukraine. Next in line for the bubonic plague? RIA Novosti Ukraine. <https://rian.com.ua/analytics/20170226/1021761111.html>*

Later, similar protests took place in other regions of Ukraine. Participation in them was noted mainly by rural residents and hospital staff, subject to reduction. The former were outraged by the disappearance of medical facilities within walking distance, while the latter were outraged by the loss of jobs.

The aforementioned executive secretary of the National Medical Chamber of Ukraine S. Kravchenko commented on the creation of hospital districts as follows: “We see that within the framework of the creation of hospital districts, there is “optimization”, but in fact - the destruction of medical institutions. And this is contrary to the Constitution, which stipulates that this cannot be done. Therefore, in this case, within the framework of this reform, the availability of medical care for citizens of Ukraine and their medical provision are reduced<sup>169</sup>”.

During 2016 - 2018 there were regular scandals in connection with the purchase of foreign drugs and vaccines. In the summer of 2016, the procedure for certification of foreign medicines was simplified, which, according to a number of physicians, led to the prevalence of low-quality drugs used to treat Ukrainians, since the examination of registration materials for medicines purchased by international organizations was replaced by a validation translation of instructions or information on the use of the drug. There were cases when the list of drugs purchased through international intermediaries (UNDP, Crown Agents, UNICEF, etc.) included drugs of dubious quality with Indian origin.

As of 2018, there was no effect from the reform of the reference pricing of medicines: 28.9% of medicines in Ukraine are more expensive than in neighboring EU countries, and the price of a number of medicines is overstated by 14 times<sup>170</sup>.

The aforementioned reform initiatives at the end of 2016 were just the beginning of a large-scale and highly dubious reform of the healthcare sector, which we are witnessing. The main legislative framework for the reform was adopted at the end of 2017, and at the time of this study we were on the verge of its entry into full force.

This base consists of two laws signed by the President on December 29, 2017:

- "On state financial guarantees for the provision of medical services and medicines<sup>171</sup>" 171;
- "On increasing the availability and quality of medical services in rural areas<sup>172</sup>" 172.

The main innovation of the first law was the introduction of the concept "State solidary health insurance". In fact, it means that there will be no transition to the insurance model of medicine, which experts have been talking about for a long time and in which deductions of each patient go to his personal insurance account, in Ukraine. The insurance model is good for its accumulative principle, in which by the time of retirement (when citizens usually have problems that require expensive surgical or conservative treatment), the patient accumulates an amount in

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<sup>169</sup> "Medical Maidan" was the beginning of a large-scale social explosion. Arguments and Facts.

[http://www.aif.ua/opinion/medicinskiy\\_maydan\\_kak\\_nachalo\\_masshtabnogo\\_socialnogo\\_vzryva](http://www.aif.ua/opinion/medicinskiy_maydan_kak_nachalo_masshtabnogo_socialnogo_vzryva)

<sup>170</sup> Ukraine after medical reform: a country of epidemics with record mortality. RIA Novosti Ukraine.

<https://rian.com.ua/analytics/20180412/1034179276/Ukraine-reforma-strana-epidemiya.html>

<sup>171</sup> Draft Law on State Financial Guarantee of Providing Medical Services to Likarsky Assistance. Verkhovna Rada of Ukraine. [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61566](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61566)

<sup>172</sup> Law of Ukraine "On the promotion of the availability and quality of medical services at the Silk society" // Vidomosti Verkhovnoi Radi (VVR), 2018, No. 5, Art. 32. <https://zakon.rada.gov.ua/laws/show/2206-19>

his personal insurance account sufficient to cover the cost of all procedures. However, the introduction of the model of “state solidarity health insurance” means that the Ukrainian authorities have decided to go the other way.

As stated in the law, under such a system, contributions will be collected from all citizens and sent to the general budget, from where they will then be redistributed to cover the “state guaranteed package” of medical services to patients who have applied for medical care. To the concept of a "guaranteed package".

Let us return below, but for now we note that this approach is fraught with serious problems in the future. In their essence, they are similar to the problems of the solidarity pension system, when the people currently employed provide for the current pensioners. Given the depopulation and aging of the population, which are extremely relevant for Ukraine, in a few decades, when today's able-bodied citizens will massively seek medical care, the system of solidarity health insurance will not be able to provide them with sufficient funding for even a modest “guaranteed package”.

As for the "guaranteed package" itself, it is nothing more than evidence of the abolition of free medicine in Ukraine at the legislative level. In addition, in spite of the unambiguous name, the law directly states that “The state guarantees full or partial ... payment for the services specified in the guaranteed package<sup>173</sup>”. Actually, within the framework of the “package”, the state guarantees payment for emergency, primary and palliative medical care, but specialized and highly specialized care will be paid from the state treasury only in part. Basically, this means that the word "guaranteed" here - nothing more than a fiction, because not all of the listed services are going to be compensated by the state in full.

Another extremely dubious provision of the law is the creation of a central executive body that implements state policy in the field of organizing financing for the provision of medical services (later called the “State Health Service”). According to experts, excessive centralization and lack of control of this body is fraught with increased corruption in the distribution of funds allocated in the budget for medicine.

Thus, the Vice-President of the Academy of Economic Sciences of Ukraine, Candidate of Medical Sciences A. V. Peshko, wrote the following in his publication about the medical reform: “According to the medical“ reform,” a body not provided for by the Constitution is created, a certain public council on medicine, which at its own discretion, without any outside control and qualified management, will distribute the entire medical budget at its “great-power” discretion, which a priori confirms the corruption nature of this a body that launders public health expenditures of Ukraine, which is not under the control of either the medical community or the employees of the Ministry of Healthcare of Ukraine<sup>174</sup>”.

As for the law “On improving the availability and quality of medical care in rural areas”, one of its main innovations is “the introduction of telemedicine facilities on the basis of primary

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<sup>173</sup> Draft Law on State Financial Guarantor of Providing Medical Services to Likarsk Employees. Verkhovna Rada of Ukraine. [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61566](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61566)

<sup>174</sup> Peshko A. Medical "reform" named after paramedic U. Suprun. League blogs: <https://blog.liga.net/user/apeshko/article/29886>

health care centers”. In practice, this means that former rural hospitals, “downgraded” to the level of feldsher-midwife stations, will become a place where doctors from the city will be treated via Skype, with the only employee of such centers communicating with them. Needless to say, the quality of the examination, and hence the accuracy of the diagnosis, will decrease significantly with this method?

As for telemedicine in Ukrainian villages, one should also note the low rates of its implementation. Thus, the World Bank, together with international partners, prepared the terms of reference for the development of a software product for the implementation of telemedicine in 5 regions of Ukraine only at the beginning of 2019<sup>175</sup>.

Changes in the procedure for providing medical care have affected not only rural residents. On April 2, 2018, a campaign of signing “declarations” with family doctors began in Ukraine. Within the framework of the adopted concept of medical reform, therapists will turn (at the beginning of 2019 they have already partially turned) into family doctors, without whose referral it will be impossible to get an appointment with specialized specialists (for example, an ophthalmologist, gastroenterologist, etc.). In addition, contrary to the statements of the acting Minister health care U. Suprun that citizens should not rush to choose a family doctor and sign a declaration with him, since July 1, 2018, therapists, pediatricians and family doctors receive patients free of charge only after signing this document.

Patients who sign the declaration with the family doctor will be entitled to the following services:

- monitoring the state of health;
- diagnosis and treatment of the most common diseases, injuries, poisoning, complications during pregnancy;
- accompanying a patient with chronic diseases;
- provision of emergency assistance;
- referral of the patient to provide secondary (specialized) or tertiary (highly specialized) medical care;
- Prophylaxis (vaccination, reviews and studies of at-risk patients);
- hematological studies (general blood test with leukocyte formula), biochemical and immunochemical studies (blood glucose, total cholesterol, general urine analysis), instrumental research methods (electrocardiogram, sputum microscopy), rapid tests (for HIV, viral hepatitis, syphilis)<sup>176</sup>.

For all services and procedures, except for the ones listed above (in the finally approved list of free medical services for 2019, there are 54 services related to the above categories<sup>177</sup>), patients will have to pay out of pocket, according to tariffs that are updated once a year.

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<sup>175</sup> How telemedicine will help rural residents of 5 regions in 2019. *Faces*. <http://www.litsa.com.ua/show/a/44918>

<sup>176</sup> Medical reform: what free medical services will patients receive. *Delo.ua*. <https://delo.ua/economyandpoliticsinukraine/medreforma-kakie-besplatnye-meduslugi-poluchat-pacienty-344180>

<sup>177</sup> In Ukraine, 54 medical services will become free. Today: <https://www.segodnya.ua/ukraine/v-ukraine-54-medicinskie-uslugi-stanut-besplatnymi-1202293.html>

The above approach raises many questions even among ordinary citizens, not to mention medical professionals. For example, it remains unclear whether a person will need the injured person to go to the family doctor, or, as before, he will be able to go directly to the traumatologist.

The reform assumes that with the introduction of the institution of family doctors, the basic rate of a doctor will be 370 hryvnia per patient per year. At the same time, a physician can sign declarations with 2 thousand citizens. However, this does not mean that he will receive in his hands the amount of 740 thousand hryvnia (2 thousand multiplied by 370). The hospital will accumulate money for patient care. In particular, they will form the rates for narrow-profile specialists who do not conclude contracts with patients. As for the real salary of a family doctor, it will, of course, depend on how many patients he can “recruit”, but not directly. At the same time, the Aesculapius will receive an additional payment for serving elderly patients.

In general, according to the calculations of the legislators, the salaries of doctors should grow 6 times. According to the Deputy Head of the Verkhovna Rada of Ukraine Committee on Health Issues Irina Sysoenko, the starting salary of doctors should be 250% (over 18 thousand hryvnias) of the average in Ukraine. Surgeons and neurosurgeons are promised 4-6 times the average salary.

In a professional environment, such rosy forecasts cause skepticism. So, according to the aforementioned A. Peshko: “The load that is provided for one family doctor is 2 thousand people per year a priori shows that he will be able to devote to each of his patients no more than half an hour of time throughout the year. If the doctor physically only has 30 minutes. time for examination, examination, diagnosis and treatment of the aforementioned average patient, plus the preparation of paper or even electronic documentation, no effective and real help, and even less about any cure of the patient from any disease there is no need to speak<sup>178</sup>”.

Attention is also drawn to the personnel problems of Ukrainian medicine, which stood in the way of implementing the health care reform.

according to the described principle. If we divide the population of Ukraine, which, according to the State Statistics Committee, reaches 42 million 603 thousand, by the standard “2 thousand patients per doctor”, we can conclude that there is a need for more than 21 thousand family therapists. According to some estimates, now there are about half of them.

## **Conclusion**

As of the beginning of 2019, Ukrainian healthcare is in a deplorable state. Epidemics occur on the territory of the country, the presence of which is unthinkable for a civilized state in the 21st century. Child mortality in Ukraine is significantly higher than in neighboring countries of Eastern Europe, and the volume of funding for the health sector is only 2.6% of GDP, instead of 7% recommended by WHO. In these conditions, it becomes obvious that medical reform in our country is really necessary.

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<sup>178</sup> Peshko A. Medical "reform" named after paramedic U. Suprun. League. Blogs. <https://blog.liga.net/user/apeshko/article/29886>

Nevertheless, the concept of reforming the health sector that is being introduced now raises a lot of questions. The system of “state solidarity health insurance” introduced by the law “On state financial guarantees for the provision of medical services and medicines” will inevitably lead to the fact that in the future the amount of funds for payments for state-guaranteed medical services will steadily decrease. The introduction of “telemedicine” instead of full-fledged medical care in rural areas will lead to further population decline due to an increase in mortality and emigration abroad in search of better living conditions. In addition, the spread of this technology leaves hope for the best.

The introduced concept of family medicine will worsen the quality of patient care due to the high workload on doctors, create new bureaucratic procedures related to the signing of declarations, and is unlikely to be able to raise the salaries of doctors to the promised level due to providing hospitals with the opportunity distribution of funds allocated to patients (fertile ground for corruption). As a result, we run the risk of getting a situation in which hospital bosses will write out exorbitantly high salaries for themselves, and ordinary family doctors will still have to demand humiliating handouts from patients and ask them to buy medicines at their own expense.

During the period of implementation of the healthcare system reform (2016 - 2018), we did not see significant changes for the better, and the above-mentioned shortcomings of the introduced concept give us reason to believe that in the future it will not succeed, destroying the remnants of the old medical system and not offering anything effective in return.

## Afterword

The UIAMP study on health care reform was published in April 2018. Updating it for inclusion in this book, we have updated the material with fresh data.

Since the publication of the study, the model of health sector reform described in it has begun to materialize. As of the end of 2018, more than 20 million people all over Ukraine signed declarations with family doctors<sup>179</sup>. Nevertheless, the results of opinion polls on the topic of trust and. about. Minister of Health Ulyana Suprun and the reform she is carrying out speak of a negative assessment by citizens of both the head of the Ministry of Health and her activities. According to the October (2018) survey of the Sofia Center for Social Research, 75% of respondents did not trust Ulyana Suprun<sup>180</sup>. A poll on trust in the advice of the U. Suprun, conducted in September of the same year, showed a 68.5% level of distrust<sup>181</sup>.

In view of the “toxicity” of the figure of Ulyana Suprun and the reform she is carrying out, attempts are regularly made in parliament and courts to remove her from the post of acting. Head of the Ministry of Health. At the time of compilation of this book (February 2019), the last of them

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<sup>179</sup> *Declarations with the doctor were signed by over 20 million Ukrainians. Today.*

<https://www.segodnya.ua/ukraine/deklaracii-s-vrachom-podpisali-bolee-20-millionov-ukraincev-1186279.html>

<sup>180</sup> *"Politics with female disguises". Center for Social Doslidzhen "SOFIA". [http://sg-sofia.com.ua/politika-z-zhinochim-oblicham?utm\\_referrer=](http://sg-sofia.com.ua/politika-z-zhinochim-oblicham?utm_referrer=)*

<sup>181</sup> *Poll: how many Ukrainians believe in the professionalism of Ulyana Suprun. Et Cetera.*

<https://etcetera.media/opros-kakaya-chast-ukraintsev-verit-v-professionalizm-ulyanyi-suprun.html>

was undertaken by deputy I. Mosiychuk, at whose suit the Kiev District Administrative Court banned U. Suprun for several days from performing the duties of running the ministry<sup>182</sup>. However, a few days later the court annulled its decision<sup>183</sup>.

In general, with the exception of a number of scandals around the personality of U. Suprun, no significant changes have occurred in the trajectory of the ongoing reform of the health care system since the initial publication of the study. As of the beginning of 2019, all of the above conclusions remain valid.

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<sup>182</sup> The court clarified the ruling banning Suprun from exercising the powers of the minister. *Censor.net*. [https://censor.net.ua/news/3110685/sud\\_razyasnil\\_reshenie\\_o\\_zaprete\\_suprun\\_realizovyyvat\\_polnomochiya\\_ministra](https://censor.net.ua/news/3110685/sud_razyasnil_reshenie_o_zaprete_suprun_realizovyyvat_polnomochiya_ministra)

<sup>183</sup> The judge overturned the decision by which Suprun was banned from acting as head of the Ministry of Health. *Delo.ua*: <https://delo.ua/economyandpoliticsinukraine/sudja-otmenil-reshenie-kotorym-suprun-zapretili-350181/>



**The cost of reforms. Health care reform.**

**April 2017**

**Kiev**

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### **Current position**

#### **Number of nursing staff and hospital beds**

- In the period from 2013 to 2017, the number of hospital beds per 10 thousand people decreased from 88 to 74.
- In the above time period, the number of medical personnel in terms of 10 thousand people also decreased from 97.4 in 2013 to 87.3 in 2015.
- Currently, there are 4.4 doctors and 8.6 nurses per 1000 people in Ukraine.
- The deficit of medical workers is especially acute in the regions of Ukraine bordering on the EU countries.

### **Healthcare spending in the budgets of 2013-2018**

Year	Healthcare spending, consolidated budget	
	Billion UAH	Billion USD
2013	61.5	7.68
2014	57.1	4.42
2015	71	2.95
2016	75.4	3
2017	102.3	3.8
2018	103.6	3.93

### **Budget expenditures on health care as a percentage of GDP**

- Today, 2.6% of GDP is spent on health care.
- For comparison: in 1998 this indicator was 3.3%, in 2010 - 7.8%, and in 2012 - 7.4%.
- In the most developed countries of the world - the USA, Belgium, Denmark, Norway, the same indicator is at least 8%.
- According to WHO recommendations, funding of the health sector should be maintained at 7% of GDP.

### **Accessibility of healthcare services**

- In the study “Health Index. Ukraine - 2016” provides the following data:  
43% of the country's citizens hospitalized over the past year were forced to borrow or sell property to cover the cost of treatment.
- The average amount of funds that the Ukrainians had to borrow amounted to UAH 4865.
- A similar study from 2017 indicated that 30% of respondents were forced to refuse a visit to a doctor or hospitalization due to financial problems.

### **Fertility and mortality**

- In 2013, the negative balance (the difference between births and deaths) was 158 thousand people, and in 2017 it was already 210 thousand. Thus, the negative balance increased by 32.9%.
- Today, Ukraine has the highest level of child and maternal mortality among European countries. In 2015, 2378 cases of infant deaths in the first 28 days of life and 120 cases of maternal deaths were registered in Ukraine.

### **Epidemics**

- In Ukraine, there is a spike in the growth of tuberculosis incidence among children and adolescents. It was the result of the loss of the BCG vaccine and tuberculin. In 2016, the incidence rate of children increased from 4.2 to 5.8 cases per 100 thousand population.
- According to the WHO, more than 5% of people in Ukraine are infected with hepatitis C, in absolute terms it is more than 2 million people.
- Our country remains the leader in Europe in terms of the spread of HIV infection. According to UNAIDS experts, up to 250 thousand people live with HIV in Ukraine. For 10 months of 2017, the number of new HIV infections increased by 10.1%.
- In 2016, the World Health Organization predicted a measles epidemic in Ukraine in 2017. At the end of 2017, the WHO forecast began to come true. A measles epidemic came to Ukraine, from which (as of January 12, 2018) 5 people died in different regions of the country, including two children. The total number of measles cases over the past year was more than 7 thousand people.

### **Reform: hospital districts**

- At the end of 2016, the Cabinet of Ministers adopted 10 resolutions initiated by the Ministry of Health, one of which provided for the formation of hospital districts.
- According to the plan, hospitals will be divided into hospital districts, in each of which one specialized hospital will remain. They will serve the population of two or three districts of the region at once.
- One district provides coverage of an area with a population of at least 200 thousand people with a level 2 hospital or 120 thousand people with a level 1 hospital.

### **Problems in the procurement of drugs**

- Over the past 2 years, there have been regular scandals in connection with the purchase of foreign drugs and vaccines. In the summer of 2016, the procedure for certification of foreign medicines was simplified, which, according to a number of physicians, will lead to the prevalence of low-quality drugs used to treat Ukrainians.
- Examination of registration materials for medicines purchased by international organizations has been replaced by checking the correctness of the translation of the instructions or information on the use of the medicine.
- There is still no effect from the reform of the reference pricing for medicines - 28.9% of medicines in Ukraine are more expensive than in neighboring EU countries, and the price of a number of medicines is overstated by 14 times.

### **Legal framework for the reform**

- The Law of Ukraine “On State Financial Guarantees for the Provision of Medical Services and Medicines”.
- Law of Ukraine “On improving the availability and quality of medical services in rural areas”.
- Both laws were signed by the President on December 29, 2017.

### **Health Reform Law Provisions**

- The main innovation of the first law was the introduction of the concept tiya "state solidary health insurance". In fact, it means that there will be no transition to the insurance model of medicine in Ukraine.
- Under such a system, contributions will be collected from all citizens and sent to the general budget, from where they will then be redistributed to cover the “state guaranteed package” of medical services to patients who have applied for medical care.
- Given the depopulation and aging of the population of Ukraine, in a few decades, when current able-bodied citizens will massively seek medical care, the system of solidarity health insurance will not be able to provide them with sufficient funding for even a modest “guaranteed package”

### **"Guaranteed package" and its pitfalls**

- The “Guaranteed Package” is nothing more than evidence of the abolition of free medicine in Ukraine at the legislative level.
- Despite the unambiguous name, the law directly stipulates that “The state guarantees full or partial ... payment for the services included in the guaranteed package”.
- As part of the “package”, the state guarantees payment for emergency, primary, and palliative medical care, but specialized and highly specialized care will be paid from the state treasury only partially.

### **Allocation of funds for financing medical services**

- According to the law, a Central Executive Body is created. government, implementing state policy in the organization of financing the provision of medical services.
- According to experts, excessive centralization and lack of control of this body is fraught with increased corruption in the distribution of funds allocated in the budget for medicine.
- So, Vice President of the Academy of Economic Sciences of Ukraine, Candidate of Medical Sciences A.V. Peshko, in his publication on medical reform, wrote the following: “According to medical “Reform”, a body, as stipulated by the Constitution, is created, a certain public council on medicine, which at its own discretion, without any outside control and qualified management, will distribute the entire medical budget at its “great power” discretion”.

### **Rural medicine:**

#### **Reduction, degradation and treatment by Skype**

- One of the main innovations of the law “On improving the accessibility and quality of medical care in rural areas” is “the introduction of telemedicine facilities on the basis of primary health care centers”.
- In practice, this means that former rural hospitals, “downgraded” to the level of feldsher-obstetric centers, will become a place where doctors from the city will be treated via Skype, with whom the only employee of such centers will be in contact.

### **Family doctors and conclusion of declarations with them**

- On April 2, 2018, the signing campaign began in Ukraine “Declarations” with family doctors.
- Within the framework of the adopted concept of medical reform, therapists will turn into family doctors, without whose referral it will be impossible to get an appointment with specialized specialists.
- Contrary to the statements of the acting. Minister of Health U. Suprun said that citizens should not rush to choose a family doctor and sign a declaration with him, since July 1, 2018, therapists, pediatricians and family doctors will receive patients free of charge only after signing this document.

### **Services provided by family doctors**

- Patients who have signed a declaration with a family doctor will be entitled to the following services:
  - Health monitoring.
  - Diagnosis and treatment of the most common diseases, injuries, poisoning, complications during pregnancy.
  - Accompanying a patient with chronic diseases.
  - Providing emergency care.
  - Direction of the patient to provide him with secondary (specialized) or tertiary (highly specialized) medical care.
  - Prophylaxis (vaccination, reviews and studies of at-risk patients).
  - Hematological studies (general blood test with leukocyte count), biochemical and immunochemical studies (blood glucose, total cholesterol, general urine analysis), instrumental research methods (electrocardiogram, sputum microscopy), rapid tests (for HIV, virus- hepatitis, syphilis).
- For all services and procedures other than those listed above, patients will have to pay out of pocket, according to tariffs that are updated once a year.

### **Personnel problems of Ukrainian medicine**

- If we divide the population of Ukraine, which, according to the State Statistics Committee, reaches 42 million 603 thousand, by the standard “2 thousand patients per doctor”, we can conclude that there is a need for more than 21 thousand family therapists.
- According to some estimates, now there are about half the number of doctors.

### **Workload and salaries of doctors**

- The reform assumes that with the introduction of the institution of family doctors, the basic rate of a doctor will be 370 hryvnia per patient per year. At the same time, the physician will be able to sign declarations with 2 thousand citizens.
- However, this does not mean that he will receive in his hands the amount of 740 thousand hryvnia. The hospital will accumulate money for patient care. In particular, rates for narrow-profile specialists will be formed from them.
- According to the legislators' calculations, the salary of physicians should grow 6 times and amount to 250% (more than UAH 18 thousand) of the average in Ukraine.
- In a professional environment, such rosy forecasts cause skepticism. Thus, according to the aforementioned academician, candidate of medical sciences A. Peshko, “the load that is provided for one family doctor is 2 thousand people. per year, a priori, shows that he will be able to devote no more than half an hour of time to each of his patients during the whole year”.

*Study No. 5  
from the cycle "The Price of Reforms"*

**Business deregulation reform<sup>184</sup>**

**Authors:**

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Reform of deregulation of doing business has been going on in Ukraine since 2015. Unlike anti-corruption or medical reforms, it is not heard by the society, and all reports on its progress go without proper media coverage. Meanwhile, this is one of the most ambitious reforms affecting such spheres as legal regulation of doing business, the formation of an investment climate, registration of property rights to real estate and even prices for socially significant food products, as well as the basics of human life safety. in society. We present to your attention an analysis of the interim results of the deregulation reform.

***Deregulation of doing business***

The deregulation reform was launched in April 2014, when the government of A. Yatsenyuk began its first stage. Already in October 2014, the then prime minister reported on the first results of deregulation, proudly stating that out of 56 regulatory bodies only 27 remained, 680 of more than 1,100 controlling functions remained, and only 84<sup>185</sup> of 143 licenses now exist.

The beginning of the reform was presented under anti-corruption slogans. According to A. Yatsenyuk, the reduction in the number of supervisory bodies and functions, as well as the introduction of a moratorium on inspections, should have spurred the pace of business development. This statement was fully consistent with the dogmas of the neoliberal approach to the economy, in which any regulation of business by the state is considered a clear evil, and it is assumed that, freed from such regulation, business will flourish, raising the entire economy and creating more jobs.

However, theory has diverged from practice. The reduction in the number of control functions and a moratorium on inspections pushed the business to save on product quality, safety of warehouses and production facilities.

A striking example of the consequences of “deregulation” together with an unscrupulous approach to doing business and a desire to hide corruption schemes was the fire at the oil depot of

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<sup>184</sup> Original version of the presentation: <https://uiamp.org.ua/cref/issledovanie-no5-iz-cikla-cena-reform-reforma-deregulyacii>

<sup>185</sup> 185 Arseniy Yatsenyuk: Praise for the package of anti-corruption new laws and deregulation to give Ukraine the power of the article on the way to really fight against corruption. Uryadovy portal. <https://www.kmu.gov.ua/ua/news/247657661>

the BRSM-Oil company near the city of Vasilkov in the Kiev region in the summer of 2015<sup>186</sup>. The fire killed 6 people. In addition, irreparable damage to the environment was caused. The prevalence of counterfeit products on store shelves was another consequence of "deregulation from Yatsenyuk." This was especially pronounced in the growth of counterfeit alcohol volumes. In the fall of 2016, a wave of fatal surrogate alcohol poisoning swept across Ukraine. In October 2016 alone, 143 cases of poisoning were registered throughout the country, 65 of which resulted in the death of patients<sup>187</sup>.

Also, in October 2016, the head of the State Service of Ukraine on food safety and consumer protection in Kiev, Oleg Ruban stated that about 40% of goods that hit the shelves of Ukrainian stores are counterfeit<sup>188</sup>.

In 2015, the then Minister of Economic Development Aivaras Abromavicius began a new stage of reform. The minister called deregulation the main priority for the activities of the body entrusted to him. "Our priorities were clearly defined from the very beginning, and we adhere to them. The first is deregulation, the second is the reform of state-owned enterprises, the third is public procurement, and the fourth is the promotion of Ukrainian goods abroad<sup>189</sup>" - said A. Abromavichus. Nevertheless, three years after the start of the reform, its slipping was obvious, and the results leave much to be desired. To illustrate this thesis, let us turn to the official statistics.

For the period from 2015 to 2018 in Ukraine, two deregulation plans were adopted and should have been implemented: the first for 2015–2016 and the second for 2016 - 2017. Let's consider their implementation in order, based on the official data of the State Regulatory Service of Ukraine.

### ***Deregulation plan (2015-2016)***<sup>190</sup>

The document consists of 12 sections, each of which is subdivided into a different number of paragraphs. Some of them were successfully completed, and some were not. Below is an analysis of completed / unfulfilled items in a tabular format.

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<sup>186</sup> *The fire at the oil depot near Vasilkov uncovered the grandiose scam of the Belarusian Republican Youth Union and the deception of drivers. TSN. <https://ru.tsn.ua/politika/pozhar-na-neftebaze-pod-vasilkovom-rasskryl-grandioznuyu-afery-brsm-i-obman-voditeley-439518.html>*

<sup>187</sup> *Already 65 people have died of alcohol poisoning in Ukraine. Gordon. <http://gordonua.com/news/localnews/otravleniya-alkogolem-v-ukraine-umerli-uzhe-65-chelovek-155312.html>*

<sup>188</sup> *Greetings from the past from Yatsenyuk: Ukrainians are forced to eat cheap counterfeit products. News agency Kharkov. <https://nahnews.org/936849-privet-iz-proshlogo-ot-yacenyuka-ukraincy-vynuzhdeny-est-deshevyj-falsifikat>*

<sup>189</sup> *Guk O. Interview with the Minister of Economy Aivaras Abromavicius: "Well, what kind of a foreigner am I?". Today. <https://www.segodnya.ua/economics/enews/intervyu-s-ayvarasom-abromavichusom-nu-kakoy-ya-inostranec-654438.html>*

<sup>190</sup> *Deregulation plan 2015-2016 p. The sovereign is the regulatory service of Ukraine. <http://www.drs.gov.ua/deregulation/plan-deregulyatsiy/>*

Section Name	Completed Items and Sub-Items	Uncompleted items and sub-items
Simplification of licensing and permitting procedures for regulating economic activities	31	14
Improvement of procedures for technical regulation of economic activity	4	3
Improvement of the procedure of state supervision (control) over the regulation of economic activity	2 (no data for one item)	4
Simplification of procedures for customs and tax regulation of economic activities	3 (no data for one item)	2
Improvement of Ukraine's position in the DoingBusiness rating	6	1
Simplification of the conditions for doing business in the agricultural sector	8	2
Simplification of the conditions for doing business in the food industry	8	0
Simplification of the conditions for doing business in the construction industry	8	1
Simplification of the conditions for doing business property activity in the electric power industry	3 (for one item no data)	0
Simplification of the conditions for doing business in the oil and gas industry	5	3
Simplification of the conditions for doing business in the field of information technology	8	4
Simplification of the conditions for doing business in the field of telecommunications	8	11
Total	94	45

*Items, the execution status of which at the time of the end of the plan was listed as “in the process of execution” were taken into account as unfulfilled, since they were not completed on time.*

As we can see, out of 139 points and sub-points, only 94 were fulfilled according to the results of the planning period. And 45 points and sub-points remained unfulfilled. Attention is drawn to the fact that the deregulation of business in the field of telecommunications was the worst. Here, out of 19 points and sub-points, only 8. We will draw more informative conclusions after analyzing the plan for 2016-2017 and comparison of the results of the implementation of the two documents.

### **Deregulation plan (2016 - 2017)<sup>191</sup>**

This time the plan consisted of 10 sections with different numbers of points and sub-points. An analysis of their implementation is given below in the form of a table.

Section Name	Completed Items and Sub-items	Uncompleted Items and Sub-Items
Simplification of the conditions for doing business in the agricultural sector	4	2
Simplification of administrative procedures for regulating economic activity	8	25
Simplification of the conditions for doing business in the construction industry	4	0
Improvement of the procedure of state supervision (control) over the regulation of economic activity	6	3
Expanding the opportunities of business entities to participate in the provision of public services	2	6
Simplification of the conditions for doing business in the oil and gas industry, subsoil use, and power generation	6	2

<sup>191</sup> *Deregulation plan 2016-2017 rr. The sovereign is the regulatory service of Ukraine. <http://www.drs.gov.ua/deregulation/plan-deregulyatsiyi-2016-2017-rr/>*

Section Name	Completed Items and Sub-items	Uncompleted Items and Sub-Items
Simplification of procedures for customs and tax regulation of economic activity and reporting	7 (no data for one item)	5
Simplification of the conditions for doing business in the field of information technology and telecommunications	14	8
Improvement of procedures for technical regulation of economic activity	4	1
Simplification of the conditions for doing business in the food industry	3	2
Total	58	64

In contrast to the previous plan for 2015 - 2016, here we see a negative dynamic of implementation. Of the 122 points and sub-points, only 58 have been implemented, while the majority (64) remain unfulfilled. This state of affairs seems especially deplorable, given that the data are provided as of May 20, 2018, that is, almost five months after the announced deadline for the implementation of the plan. But even these five months could not break the negative balance of accomplished and unfulfilled.

It should also be noted that it had the least success in 2016 - 2017. managed to achieve in the simplification of administrative procedures for regulating economic activities. Here we see 25 unfulfilled points versus 8 completed ones. Meanwhile, this section of the plan concerns all industries and types of activity without exception, which means that it affects the investment climate more than all others. The results of the simplification of the conditions for doing business in the sphere of information technology and telecommunications. Obviously, keeping in mind that in the previous plan the deregulation of the telecommunications sector showed the worst balance, it was decided to combine it with the information technology sector in one column. But this did not greatly improve the situation: 14 completed items and 8 unfulfilled ones. The “progress” of regulatory reform in the field of information technology and telecommunications is most clearly illustrated by a study published in 2018 by the Swiss business school IMD on competitiveness in the digital environment. In the rating compiled according to the results of the study, Ukraine was in 58th place out of 63<sup>192</sup>.

<sup>192</sup> Despite the challenge from Asia. “The West” leads in digital - US, Canada and seven European countries in top 10. IMD. <https://www.imd.org/news/updates/imd-world-digital-competitiveness-ranking-2018/>

In general, comparing the results of the implementation of the two plans, we have to state that even according to official sources in 2016-2017. deregulation reform slowed down significantly. The picture of what is happening is complemented by a message from the same State Regulatory Service dated the end of February 2018, which states that “60 and even more than 80% of the planned activities remain unfulfilled by individual regulators<sup>193</sup>”.

Research by think tanks also suggests that there are no grounds for victorious reports on the issue of deregulation of doing business. On October 2, 2018, the Bureaucracy Index 2018 study was published by the analytical center “EasyBusiness”, which showed that the sphere of employment in Ukraine is much more bureaucratic than in the rest of the studied countries (mainly Europe)<sup>194</sup>. Thus, the number of man-hours that a Ukrainian entrepreneur must spend per year to register employees is 170 people / hour with an average the indicator for the rest of the countries is 74 people / hour. At the same time, the number of bureaucratic procedures required to register an employee in Ukraine is 31% higher than the average. Given these data, it can be safely argued that high taxes are not the only reason for "wages in envelopes." The reluctance of Ukrainian employers to formalize their employees is also due to the bureaucratic nature of this process.

In early October 2018, discussions around the deregulation of control in the field of fire safety resumed. The draft law “On Amendments to Certain Legislative Acts of Ukraine Concerning the Methods of State Supervision (Control) in the Sphere of Technological and Fire Safety” (No. 9132)<sup>195</sup> was submitted for consideration to the Parliament. According to Andrey Zaletov, member of the National Commission for Financial Services, it is designed to reduce pressure on entrepreneurship by minimizing state supervision (control) measures in the field of technogenic and fire safety<sup>196</sup>. We have already seen what such bills are fraught with during the fire at the BRSM-Neft oil depot.

### **Involvement of non-state actors in the implementation of deregulation reform**

Some nongovernmental structures are quite satisfied with the ongoing deregulation reform, which is the main reason for their existence and the source of budget funds for their activities. Such an organization is, for example, the Better Regulation Delivery Office, an independent non-governmental structure, created on the initiative of the Ministry of Economic Development during his tenure as head A. Abromavicius<sup>197</sup>. Arguing the need to create an OER, Deputy Minister Yulia

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<sup>193</sup> Tyravsky V. *Deregulation in Ukraine is taking place, but very slowly*. UBR. <https://ubr.ua/business-practice/laws-and-business/derehuljatsija-v-ukraine-proiskhodit-no-ochen-medlenno-3865486>

<sup>194</sup> *The sphere of pravlashtuvannya in Ukraine is bureaucratized. The state is the regulatory service of Ukraine*. <http://www.drs.gov.ua/press-room/sfera-pratsevlashtuvannya-v-ukrayini-zabyurokratyzovana/>

<sup>195</sup> *Draft Law on Making Amendments to Acts of Legislative Acts of Ukraine as a Way of Hardening Powerful Observation (Control) in the Sphere of Technogenic and Pozhezhnaya Security*. Verkhovna Rada of Ukraine. [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64699](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64699)

<sup>196</sup> *Deregulation of state supervision in the field of technogenic and fire safety will contribute to the development of the insurance market - Zaletov*. Interfax Ukraine. <https://interfax.com.ua/news/economic/535308.html>

<sup>197</sup> *How the best regulation is happening in Ukraine: the first results of the robotics of the BRDO Efficient Regulation Office. Reform in advance*. <http://reforms.in.ua/ua/news/yak-stvoryuyetsya-yakisne-regulyuvannya-v-ukrayini-persh-rezultaty-roboty-ofisu-efektyvnogo>

Klimenko then said: “Realizing that no ministry today has sufficient resources to quickly analyze and change the regulatory field, the Ministry of Economic Development has taken the initiative to create a BRDO<sup>198</sup>” 198. From the lips of a high-ranking government official, this statement sounds like a sign of his own impotence. It follows from it that the Ministry of Economic Development itself is not able to conduct an appropriate analysis and remove regulatory barriers, and a dubious non-state structure can do this without any special problems.

In fact, such a statement of the question may have two reasons:

- desire to show loyalty to Western partners and implement all measures recommended by an organization affiliated with them;
- the intention to create a non-governmental structure, for which activities will be continuously allocated funds from the budget, while the line ministry will not fulfill its direct responsibilities.

Considering that the OER was created in Ukraine and precisely at the initiative of the Ministry of Economic Development (although it has a fashionable English-language name), we tend to the second option.

According to the OER representatives, one of the key goals of their organization was to improve Ukraine's position in the rating Doing Business. It is worth noting that Ukraine has indeed managed to achieve some progress in this area. In 2015, our country climbed 16 points in the ranking, taking 96th position<sup>199</sup>, in 2016 it continued to improve its indicators and provided ranked 83rd<sup>200</sup>, at the end of 2017 ranked 76th<sup>201</sup>, and at the end of 2018 - 71<sup>202</sup>. It would seem that progress is obvious and an “independent non-governmental organization” could triumphantly declare its success. If not for one “but”: the largest growth in the rating of Ukraine in “Doing Business” was noted in 2014, when the country “skyrocketed” by 28 positions, taking 112th place<sup>203</sup>. As a reminder, no Office of Effective Regulation existed at that time.

However, the very formulation of the goal of improving positions in the rating looks strange, because in order to attract investment, the key condition is not only the simplicity of legislative regulation of entrepreneurial activity, but also political stability in the state. Until the end of the armed conflict in Donbass, or at least the establishment of a lasting truce, there is no need to talk about this.

But even with the growth of positions in the rating, not everything is so smooth. “Colleagues” of Ukraine in the post-Soviet space occupy much higher positions in it than our country (even despite the growth of its rating from year to year). Thus, Russia in 2017 took 35th

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<sup>198</sup> *Ibid.*

<sup>199</sup> *In the Doing Business rating for ease of doing business, Ukraine climbed 16 points. Gordon.*

<http://gordonua.com/news/money/v-reytinge-doing-business-po-legkosti-vedeniya-biznesa-ukraina-podnyalas-na-16-punktov-64289.html>

<sup>200</sup> *200 Ukraine has improved its place in the ranking of ease of doing business. TSN.*

<https://ru.tsn.ua/groshi/ukraina-uluchshila-svoe-mesto-v-reytinge-legkosti-vedeniya-biznesa-513706.html>

<sup>201</sup> *Rankings & Ease of Doing Business Score. Doing Business. <http://www.doingbusiness.org/rankings>*

<sup>202</sup> *There are no major changes. What does the growth of Ukraine in Doing Business mean? League business.*

<https://biz.liga.net/ekonomika/all/article/kardinalnyh-izmeneniy-net-o-chem-govorit-doing-business-2019>

<sup>203</sup> *Doing Business-2014 rating: Ukraine skyrocketed by 28 positions. Details. <http://podrobnosti.ua/938930-rejting-doing-business-2014-ukraina-vzletela-na-28-pozitsij-no-v-top-100-ne-voshla-obnovleno.html>*

place, Kazakhstan - 36th, and Belarus - 38<sup>204</sup>. An even more significant gap is observed with its western neighbors. In last year's ranking, Poland took 27th place.

In view of the above, even if we assume that when choosing a country for financial investments, foreign investors are guided exclusively by the Doing Business rating, the conclusions for Ukraine will be disappointing.

Another ambitious goal of the Office of Effective Regulation in 2015 was the development and implementation of the information and analytical system PROSTIR, designed to “analyze the complex impact of any regulatory function on individual markets and make informed decisions based on macroeconomic indicators<sup>205</sup>”. As of the end of 2018, this system has not been developed and implemented.

Looking ahead, we note that the OER is constantly gushing with dubious ideas about deregulation in various spheres of the state's life. Its employees did not bypass the party and the regulation of prices for socially important products. But first things first.

On May 5, 2018, the Cabinet of Ministers approved a package of decisions developed by the Office for Effective Regulation in conjunction with the Ministry of Economic Development<sup>206</sup>. All of them were aimed at further deregulation of the norms of doing business by curtailing the powers of regulatory authorities and abolishing seals confirming the legal origin of products. In particular, instead of inspections of enterprises by the relevant inspectorates, it is proposed to create an “analytical system that will operate on the basis of a risk-based approach”. As conceived by the authors of the initiative, such a system will allow checking not all enterprises in a row, but only those where there are risks of violations. The mechanism for identifying such risks remains unclear. The only way to identify them without preliminary checks is to check enterprises based on the results of poisoning with low-quality products or accidents at work. That is, instead of work proactively, it is proposed to use a reactive approach. Needless to say, such initiatives are fraught with new victims of non-observance of industrial safety regulations and poisoning with counterfeit products?

The list of industries subject to deregulation as a result of the aforementioned package of decisions of the Cabinet of Ministers deserves special attention. The official statement on the website of the Ministry of Economic Development says the following: “The government has canceled a number of acts in order to reduce the burden on retail trade in alcoholic beverages, trade in petroleum products and repair of household appliances in terms of the use of seals<sup>207</sup>”. That is, the lowering of safety standards is applied specifically to those industries, the deregulation of which has already led to a man-made disaster and poisoning by a surrogate, which has claimed

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<sup>204</sup> *Rankings & Ease of Doing Business Score. Doing Business.* <http://www.doingbusiness.org/rankings>

<sup>205</sup> *How the best regulation is happening in Ukraine: the first results of the robotics of the BRDO Efficient Regulation Office. Reform in advance.* <http://reforms.in.ua/ua/news/yak-stvoryuyetsya-yakisne-regulyuvannya-v-ukrayini-pershi-rezultaty-roboty-ofisu-efektyvnogo>

<sup>206</sup> *Uryad adopted low deregulation initiatives of the Ministry of Economic Development. Ministry of Economic Development and Trade of Ukraine.* <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=06058746-eb3c-4c71-ba94-2dda81f8df6a&title=UriadPidtri+mavNizkuDereguliatsiinihInitsiativMinekonomrozvitku>

<sup>207</sup> *Ibid.*

more than 70 human lives. It is easy to guess that with the entry into force of the new rules, tragedies may repeat themselves.

The “firm tread of reform” continued on 18 July 2018, when the Cabinet of Ministers adopted the so-called “Sixth Deregulation Package”, simplifying the employment of foreigners in Ukraine<sup>208</sup>. The corresponding decision provides for the cancellation of the possibility of refusing to issue a residence permit on the basis that the date of entry into Ukraine precedes the date of obtaining a work permit. The message of the Ministry of Economic Development and Trade says that the expected result of such changes is the openness of Ukraine for highly qualified foreign specialists, as well as a decrease in the burden on the Migration Service. According to the first deputy head of the department M. Nefyodov: “We are not talking about illegal migrants coming to us. The point is to remove absolutely absurd norms of legislation, when a person who received a certificate for permanent employment ... must leave the territory of Ukraine and come back<sup>209</sup>”.

In reality, the situation looks somewhat different. Given the low level of wages, highly qualified foreign specialists are unlikely to go to work in Ukraine, especially in conditions when our own professionals are actively leaving abroad. But for illegal (or semi-legal) migrants from the Middle East and Africa, Ukraine remains quite attractive (albeit not as attractive as the EU countries). We have seen examples of how simple documents are forged to obtain a residence permit or Ukrainian citizenship for immigrants from the aforementioned regions in numerous stories with fictitious marriages. The loudest of them was exposed in Odessa, where Arab students "married" local pensioners in order to obtain a residence permit. After the above deregulation norms come into force, a similar situation may be repeated (on a much larger scale) with work permits. All sorts of small entrepreneurs will happily arrange them for hard currency and a small (by foreign standards) monthly fee. This can result in both a reduction in the number of low-skilled jobs for Ukrainian citizens and an increase in ethnic organized crime.

A quick glance at the above figures and data is sufficient to draw some important conclusions. First, during the course of the reform of the deregulation of entrepreneurial activity in Ukraine, a number of enslaving legislative norms were indeed abolished. However, none of the adopted deregulation plans, which had expired, were implemented in full. Moreover, we have to admit that the progress of the reform slows down over time. If the deregulation plan for 2015 - 2016. was fulfilled by 67.6%, then the next plan for 2016 - 2017. was fulfilled by only 47.5%. In addition, in comparison with 2014 - 2015, progress in the Doing Business rating has slowed down significantly<sup>210</sup>.

Secondly, on the initiative of one of the former ministers of economic development A. Abromavicius, the analysis of state regulatory acts and the development of amendments to them was partially entrusted to a specially created non-state structure – Office of effective regulation

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<sup>208</sup> *Sixth package of deregulation: The Cabinet of Ministers has simplified the employment of foreigners in Ukraine. UNIAN. <https://economics.unian.net/finance/10192338-shestoy-paket-deregulyacii-kabmin-uprostit-trudoustroystvo-inostrancev-v-ukraine.html>*

<sup>209</sup> *Ibid.*

<sup>210</sup> *See Sections: Deregulation Plan (2015 - 2016); Deregulation plan (2016 - 2017); and Engaging non-state actors in the implementation of deregulation reform.*

(Better Regulation Delivery Office). For three years of work, this organization has not achieved the goals set for them, but continues to regularly receive funding for its activities from the state budget. 54 million hryvnias have been allocated for the implementation of one project, developed and implemented with the help of the OER - the Educational Platform<sup>211</sup>. Some of these funds will go towards the purchase of computers, however, the rest will be allocated directly to the implementation of the project, which is the responsibility of the nongovernmental organization. At the moment, the Office of Effective Regulation oversees five such projects, which makes it possible to estimate the funds spent on it at about several tens of millions of hryvnias.

### ***Deregulation of prices for manufactured goods, services, and consumer goods***

Along with the reform of state regulation of the economic activity of private enterprises in Ukraine the deregulation of prices for various goods and services is being systematically carried out.

From October 1, 2016 to January 1, 2017, the effect of decrees No. 1548 of December 25, 1996 and No. 1222 of October 17, 2007 regarding state regulation of prices (to establish a maximum trade markup of 15-20%) was suspended for 17 groups of goods, in particular for bread, sugar, cereals, meat and sausages, cheese, sour cream, butter, baby food, eggs, etc.<sup>212</sup>

As it turned out later, this deregulation of prices was an experiment designed to study the reaction of the market and consumers to such measures. As a result, prices for various food products in 2016 increased from 7.9% (chicken carcasses) to 64.1% (cabbage)<sup>213</sup>. Apparently, the government was satisfied with the result of the experiment and decided to abolish state regulation of prices for certain food products on an ongoing basis. On June 7, 2017, the Cabinet of Ministers of Ukraine adopted a resolution No. 394, which abolishes state regulation of food prices<sup>214</sup>. It entered into force on July 1, 2017. According to the State Statistics Service, in 2017 the rise in food prices in different commodity groups ranged from 20% to 170%. At the same time, vegetables rose in price the most: beets - by 170%, and carrots - by 160%<sup>215</sup>. For meat and dairy products, the rise in price ranged from 21% (butter) to 39% (pork). The overall inflation rate

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<sup>211</sup> Office of Effective Regulation in addition to helping to light up the e-platform. New Ukrainian school. <http://nus.org.ua/news/ofis-efektyvnogo-regulyuvannya-dopomozhe-stvoryty-osvitnyu-e-platformu/>

<sup>212</sup> Retail pricing deregulation awaits. TradeMasterGroup. <https://trademaster.ua/zakon/312319>

<sup>213</sup> Food prices are growing: the TOP of the most expensive products in Ukraine has been named. Today. <https://www.segodnya.ua/economics/enews/ceny-na-edu-rastut-nazvan-top-samyh-podorozhavshih-produktov-v-ukraine-781202.html>

<sup>214</sup> Decree from 7th worm 2017 p. No. 394. Cabinet of the Ministry of Finance of Ukraine. <https://www.kmu.gov.ua/ua/npas/250050387>

<sup>215</sup> The State Statistics Service named the "leaders" of price increases among products in 2017. Today. <https://www.segodnya.ua/economics/enews/gosstat-nazval-liderov-podorozhaniya-sredi-produktov-v-2017-godu-1103370.html>

in Ukraine in 2017 was 13.7% and exceeded the same indicator for the previous year (12.4%)<sup>216</sup>. However, in 2018 it slightly decreased - to 9.76%<sup>217</sup>.

To illustrate the difference between how price / regulation deregulation is presented to society and what it actually entails, the simplification of the industrial fishing permit system is best suited. In 2015, lobbying for this decision, the head of the State Agency for Fisheries of Ukraine Yarema Kovaliv stated that, according to the estimates of the service entrusted to him, after deregulation, some commodity items produced in Ukraine (bream, carp, silver loaf) may amount to 40%<sup>218</sup>. However, with the beginning of deregulation in 2016, the opposite trend began to be observed - and over the year, prices for fish of Ukrainian production increased by an average of 1.7%<sup>219</sup>. Compared to the rest of the food, the increase is small, but this is clearly not the promised 40% price reduction.

As can be seen from the above data, the abolition of state regulation of consumer prices led to their significant growth and a drop in the purchasing power of the population. But the process of price deregulation in this area is not over yet.

On June 13, 2018, the Ukrtsukor Association called on the Chairman of the Verkhovna Rada, Andriy Parubiy, to consider as soon as possible the draft Law of Ukraine “On invalidating some laws of Ukraine on state regulation of the production and sale of sugar<sup>220</sup>”. The bill was passed by the Verkhovna Rada on September 4, 2018 - and now the price of sugar is gradually increasing, as has already happened with other products. It should also be noted that during 2016 - 2017. sugar remained almost the only product, the price of which (after taking off in 2014) steadily decreased every year. In view of this, in this case, the argument about “ineffectiveness of government regulation, unable to contain prices”, which is often cited by supporters of deregulation in this area, seems untenable.

Sugar price deregulation initiatives are not limited to “free float” of sugar prices. Thus, on June 19, 2018, the already mentioned non-governmental organization Office of Effective Regulation held a round table “State price regulation in Ukraine, arguments for and against<sup>221</sup>”. From the press release of this event, it can be understood that its organizers are in favor of the abolition of such regulation. The Law of Ukraine “On Prices and Pricing” of 2012 established state regulation of prices for goods that have a significant impact on the general level and dynamics of prices, have significant social significance and are produced by natural monopolies. The first two categories are not clearly defined in the legislation, which leads to their arbitrary interpretation by the authorized bodies. As a result, 139 spheres are subject to price regulation instead of 43, ”the

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<sup>216</sup> *Inflation in Ukraine at the end of 2017 has become known. Today.* <https://www.segodnya.ua/economics/enews/stala-izvestna-inflyaciya-v-ukraine-po-itogam-2017-goda-1104391.html>

<sup>217</sup> *Inflation rate in Ukraine in 2018. StatBureau.* <https://www.statbureau.org/ru/ukraine/inflation>

<sup>218</sup> *Deregulation will reduce fish prices by up to 40%. AgroNews.* <https://www.agronews.ua/node/55542>

<sup>219</sup> *What kind of fish do Ukrainians buy and how much does it cost. Delo.ua.* <https://delo.ua/business/kakuju-rybu-pokupajut-ukraincy-i-skolko-ona-stoit-340243/>

<sup>220</sup> *220 Ukrtsukor Calls on Verkhovna Rada to Support Deregulation of the Sugar Market. ProAgro.* <http://www.proagro.com.ua/news/ukr/15114.html>

<sup>221</sup> *221 Business insight: more low challenge. Office of effective regulation.* <https://www.facebook.com/brdo.ukraine/posts/600650413627372>

announcement of the event says<sup>222</sup>. Based on the fact that the Office of Effective Regulation plays a significant role in planning deregulation measures, which it then recommends to the Ministry of Economic Development, during 2019 we should expect appropriate initiatives to amend the aforementioned Law of Ukraine “On Prices and Pricing”.

Deregulation of prices is taking place not only in the retail food trade, but also in the sphere of transport services. As part of this policy, on February 19, 2018, Ukrzaliznytsya introduced a new procedure for determining the tariff for the use of freight cars belonging to it. As a result, the tariff increased by 16-17% depending on the distance of transportation<sup>223</sup>. This circumstance significantly affected the enterprises of the agricultural sector, which are one of the main users of this service. As a result, in the fall of 2018, bakery products rose in price.

As for the very formation of the tariff for the rental of wagons “On a market basis”, it looks absurd in the absence of a market. Ukrzaliznytsia is the only company on the Ukrainian market that provides services of this kind. The service price is formed taking into account such factors as the freight rate (70% when the tariff for car rental is set) and station dues (6%). The cost of both components is determined by "Ukrzaliznitsa" alone. Thus, under the pretext of “deregulation,” the monopolist simply raises prices in the hope of getting 3 billion hryvnias of additional profit.

But the most disastrous consequences for ordinary citizens are threatened by the deregulation of energy prices, to which during 2017-2018. European partners called on Ukraine. In particular, in the fall of 2017, such calls were made by the Director of the EBRD in Ukraine Shevka Acuner<sup>224</sup> and the chief economic adviser to the Prime Minister of Ukraine, Slovak politician Ivan Miklos<sup>225</sup>.

After analyzing the above data, we can conclude that the deregulation of prices for food products, as well as for services provided to citizens and private enterprises, led to a significant rise in prices for these goods and services. The lack of a market in some areas allows local monopolists (Ukrzaliznytsia, Naftogaz and others) dictate their terms to consumers and raise the price unilaterally for no apparent economic reason. As a result, the policy of price deregulation negatively affects the well-being of most households and the development of private entrepreneurial initiatives.

### ***Property registration reform***

On December 13, 2015, the laws “On state registration of rights to real estate”, “On state registration of legal entities, individual entrepreneurs and public organizations”, “On amendments

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<sup>222</sup> *Ibid.*

<sup>223</sup> "Deregulation" of the carriage component: but things are still there. AgroPortal. <http://agroportal.ua/views/blogs/deregulyatsiya-vagonnoi-sostavlyayushchei-a-voz-i-nyne-tam/#>

<sup>224</sup> 224 Participants of the Kiev International Economic Forum called for a move away from manual regulation of energy prices. Ukrainian news. <https://ukranews.com/news/523309-uchastnyky-kyevskogo-mezhdunarodnogo-ehkonomycheskogo-foruma-pryzvaly-otoyty-ot-ruchnogo>

<sup>225</sup> The greatest success in the energy reform - deregulation of prices in the energy sector - Ivan Miklos. Commander-in-Chief. <https://glavcom.ua/news/naybilshiy-uspih-energoreformi-deregulyaciya-cin-na-energonosiji-ivan-miklosh-446399.html>

to Budget Code of Ukraine (regarding the financial support for the provision of administrative services by local self-government bodies)”, simplifying the entry of data into registers<sup>226</sup>.

Thus, a registration reform began in Ukraine, the goals of which were declared to be the simplification of the registration procedure, the fight against corruption in the field of registration, and additional protection of property rights. A key innovation was the acquisition of the right to amend the registers by private notaries, accredited banks, centers for the provision of administrative services of local councils and even Ukrposhta.

The head of the Ministry of Justice Pavel Petrenko then declared: “We did the right choice by handing over these functions to professional notaries. Their motivation not to commit illegal actions is much higher, because they risk losing their license<sup>227</sup>”.

It should be noted that the reform has not yet achieved the stated goals. Instead of making it easier to do business, the adopted legislation provided new opportunities for fraudsters and raiders who, with the help of corrupt registrars, transfer property and corporate rights to themselves. Raiding is facilitated by the fact that when dealing with real estate, a title deed is no longer issued - all information is stored only in the electronic register. The obligatory notarization of the signatures of the founders and authorized persons on the constituent documents is not required, nor is the notarization of the constituent agreement required. Private businesses are no longer required to use stamps. The territorial principle of registration actions has been canceled.

All this led to the fact that in October 2016, parliamentarians needed to adopt a law "On Amendments to Certain Legislative Acts of Ukraine Concerning Improving State Registration of Rights to Real Estate and Protection of Property Rights<sup>228</sup>", which was nicknamed "anti-raider law". " (in particular, the mandatory provision of extracts from the state register in paper form was returned).

If we turn to the statistics, then, according to the Deputy Head of the Ministry of Justice Pavel Moroz, in 2015 3,000 raider attacks were recorded, 90% of which were successful. In 2016, the number of raider seizures exceeded 3 thousand<sup>229</sup>. The indicators of the growth of raiding in certain sectors of the economy are also impressive. Thus, in 2017, the number of raider seizures in the agricultural sector increased 2.5 times<sup>230</sup>.

According to the Anti-Raider Union of Entrepreneurs of Ukraine, today there are more than 30 large raider groups operating in the country with connections in the Ministry of Justice, courts and law enforcement agencies. It is noteworthy that according to the results of 2016 in the

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<sup>226</sup> *The transfer of more importance to the sphere of state restructuring, like a warehouse reform of decentralization in Ukraine. Migratsiya. <http://migraciya.com.ua/news/MainTerritorialDepartmentofJusticeintheOdessaRegion/ua-the-transfer-of-authority-in-the-civil-register-as-part-of-decentralization-reform-in-ukraine/>*

<sup>227</sup> *227 In our country, some law enforcement agencies work on the principle of television shows. Channel 112. <https://112.ua/interview/u-nas-nekatorye-pravoohranitelnye-organy-rabotayut-po-principu-teleshou-421224.html>*

<sup>228</sup> *228 Law of Ukraine "On the introduction of amendments to certain legislative acts of Ukraine as well as for a thorough restructuring of the rights of the state to protect the rights of power" // Vidomosti Verkhovna Radi (VVR), 2016, No. 47, article 800 <http://zakon2.rada.gov.ua/laws/show/1666-19>*

<sup>229</sup> *Raiding in Ukraine: out of 3 thousand capture attempts, 2.7 thousand were successful - Dorotich. RIA Novosti Ukraine. <https://rian.com.ua/economy/20161008/1017497642.html>*

<sup>230</sup> *During the year, the number of raider seizures of Ukrainian fields increased by 2.5 times. Voice.ua. <https://golos.ua/i/588379>*

world ranking of the Property Rights Index, Ukraine dropped to 115th place out of 128 (in 2015 - 109th place out of 129). In 2017, the trend continued - and our country was already in 123rd place out of 127<sup>231</sup>.

Raiders show a particular interest in agricultural land, since the export of agricultural products in the general structure has already grown to 40%.

In the fall of 2016, the head of the Association of Farmers and Landowners, Ivana Tomich, announced that over the past year, raiders destroyed 2,000 farms<sup>232</sup>.

However, it is difficult to say unequivocally what is the contribution of the legislative amendments of December 13, 2015 to the increase in the incidence of raiding. In addition to the transformation of legal norms, the growth in the number of attempts at raider seizures is facilitated by:

- reduction of the resource base;
- fragmentation of the country's legal field;
- collapse of law enforcement and judicial systems.

Nevertheless, it can be unambiguously asserted that with the help of unlawful interference, attacks were carried out on the assets of the American company Bunge Ukraine (elevators in Vinnitsa region), the network of gas stations of the Latvian company TRI Management, the network of Lithuanian hypermarkets Novus (under threat had assets for UAH 1 billion). These cases were included in the top 5 raider attacks on the assets of foreign investors in Ukraine in 2016<sup>233</sup>.

In the first half of 2016, the Ministry of Justice received about one thousand complaints about the actions of registrars, most of which were related specifically to raider seizures. The goal of fraudsters is not necessarily control over the entire enterprise - often it is enough to gain access to liquid working capital.

No less resonant stories for the period 2014 - 2016. combined (legal and force) raider attacks on the Zhitomir delicacies ", supermarket chain " Amstor ", Kramatorsk metal warehouse, Odessa market " 7 km ", " Agro-firm Kornatskikh ", private private enterprise " Chumaki<sup>234</sup>."

In addition, the cyber defense system requires serious improvement in registers of property rights, since recently there has been a sharp increase in cases of cybercrime, when fraudsters gain access to personal computers of notaries, and then copy over corporate rights and real estate objects. Now in Ukrainian courts dozens of cases are being examined, where it is a question of such manipulations with registers.

Economic losses from raiding are measured in billions of hryvnias - these are lost foreign investments, and assets of enterprises that have been raided offshore, and payments by Ukraine in cases lost in international courts, and much more. In a word, raiding is a complex problem that

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<sup>231</sup> *The Right of Power - 2017. Ukrainian Helsinki Split of Human Rights.* <https://helsinki.org.ua/pravo-vlasnosti-2017/>

<sup>232</sup> *War for land in Ukraine. This is no longer raiding, this is robbery*  
*RIA Novosti Ukraine:* <https://rian.com.ua/analytics/20170707/1025616798.html>

<sup>233</sup> *TOP-5 raider seizures of foreign investors' assets. Business Censor:*  
[https://biz.censor.net.ua/resonance/3009363/top5\\_reyiderskih\\_zahvatov\\_aktivov\\_inostrannyh\\_investorov](https://biz.censor.net.ua/resonance/3009363/top5_reyiderskih_zahvatov_aktivov_inostrannyh_investorov)

<sup>234</sup> *Ibid.*

will have to be solved for many years. It seems to us that an important step for its solution is not only the improvement of legislation, but also the expansion of the “fodder base” through the new industrialization of Ukraine, which will reduce the motivation for illegal enrichment.

Summarizing the above, one cannot fail to note a negative trend consisting in an increase in the number of raider seizures and a fall in Ukraine's positions in international ratings of the observance of property rights. Reform of state registration that took place in 2015 - 2016 not only did not correct the situation, but also aggravated it. All this cannot but affect the investment climate, the improvement of which was declared as the goal of all the above aspects of the deregulation reform.

## **Conclusion**

Having analyzed the activity and results of the deregulation reform in its three main areas (deregulation of doing business, price deregulation, and deregulation of state registration), we came to the following conclusions:

First, since 2014, the reform has been unsuccessful. Already the first two waves of cancellation of regulatory acts and supervisory functions in 2014 - 2015. led to a catastrophic deterioration of safety standards at enterprises and the quality of produced products. The consequence of this policy was an increase in the number of counterfeit and simply low-quality goods on store shelves (up to 40% of the total mass), as well as a wave of poisoning with surrogate alcohol in 2016, during which more than 60 people died. The man-made disaster at the BRSM-Neft oil depot near Kiev in 2015, which killed 6 people, was also a consequence of the deterioration in control over safety standards at enterprises. In this regard, it is especially significant that these tragedies did not teach the Ukrainian government anything - and in the spring of 2018 it adopted a new package of deregulation, which provides for another simplification of control in the spheres of alcohol production and trade in oil products. Probably, in the future Ukraine will face a repetition of the tragic poisonings and man-made disasters of 2015-2016.

Secondly, the results of the implementation of the deregulation plans approved by the government are also questionable. In 2017 - 2018 the pace of reform in the field of doing business has slowed down significantly compared to the period 2016-2017. None of the two deregulation plans that have expired so far have been implemented to the end. Moreover, the deregulation plan for 2016 - 2017. was completed by less than half. The negative dynamics is obvious. Telecommunications and computer technologies remain one of the most problematic sectors in terms of legislative deregulation, which is confirmed by Ukraine's low positions in the digital competitiveness rating. At the same time, the industry in which deregulation is most active is agriculture. This testifies to the priority of the agricultural sector over the sphere of knowledge-intensive production in the eyes of the government.

Third, the Ministry of Economic Development engages a non-governmental organization, the Office of Effective Regulation, which it itself has created, in the analysis of regulatory acts and planning the next steps of deregulation reform. From our point of view, this organization was

created to obtain and “wash out” of public funds received to finance its activities. According to our estimates, only on projects supervised by the OER, as of the end of 2018 it earned several tens of millions of hryvnias. The organization duplicates the functions that the ministry itself should perform. In addition, over the three years of its existence, the OER has not achieved any of its goals, with the exception of the dubious growth of Ukraine's positions in the rating.

“Doing Business”, which are far from the only criterion for increasing investment attractiveness.

The above-mentioned dubious proposals for further deregulation of the sphere of alcohol production and trade in petroleum products were put forward by the Office of Effective Regulation.

Fourthly, the deregulation of prices for food products and services for the population and business led to a significant increase in prices, which, for some commodity items, exceeded 200% in two years. This circumstance negatively affects the purchasing power of citizens, since the new prices “eat up” most of the growing average wages (not to mention the minimum). The planned deregulation of gas prices, which is planned to be increased by 18% - 70%, threatens to have even more disastrous consequences for the population. Considering that at the moment 65% of citizens receive subsidies for utilities, and the state does not have enough funds to cover them, the next increase in the price of gas (and after it for heating with hot water) threatens to generate a large-scale crisis of non-payments and evictions.

Fourthly, deregulation in the field of state registration did not give positive results. The simplification of the rules for registering property rights and the expansion of the range of subjects entitled to carry out registration actions led to a significant increase in crimes and fraud on this basis. In addition, the number of attempted raider seizures is growing steadily from year to year. This trend is especially noticeable in the agricultural sector, which, as we have already indicated above, is a priority for the authorities in terms of getting rid of enslaving regulatory norms. In view of the increase in the number of attempts at raider seizures, even the systematic deregulation of the agricultural sector is not able to increase its attractiveness for foreign investors.

**Thus, the following was spent on the reform of deregulation:**

- 4 years of time;
- several billion hryvnias.

**Its results were:**

- an increase in the number of counterfeit products on the shelves of grocery stores up to 40% of the total mass of goods;
- death of more than 60 people from poisoning with surrogate alcohol in 2016;
- a man-made disaster at the BRSM-Oil base, which claimed the lives of 6 people and had a disastrous impact on the environment;
- an increase in prices for some commodity items by 200% for the period from 2016 to 2017;
- billions in losses from raiding, the growth of which was the result of deregulation of the sphere of registration of property rights.

## *Afterword*

An initial study by the Ukrainian Institute for Policy Analysis and Management on business deregulation reform dates from October 2018. From its publication to February 2019, little has changed in this area. Speaking about the consequences of the deregulation reform, first of all, it should be noted that it has failed to achieve one of its main goals - the restoration of the inflow of foreign investments into the Ukrainian economy. In 2012 the volume of foreign investments amounted to 7.19 billion US dollars, then in 2016 (the most successful year in terms of investments after the Euromaidan) this figure was 3.19 billion, and in 2018. - 1.53 billion<sup>235</sup>. Moreover, over the last two years (2017-2018), when deregulation was carried out most actively, the volume of investments not only did not increase, but more than halved.

The above indicates that the wrong strategy was chosen during the reform. Instead of entrusting its implementation to specialized state structures, the authorities created an opaque scheme involving the involvement of the Office of Effective Regulation, which is, in fact, a private contractor, in the reform process. The work of this structure was aimed at increasing Ukraine's positions in the "Doing Business" rating, which was really achieved. However, the volume of direct foreign investments is not growing, but on the contrary - it is decreasing.

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<sup>235</sup> *Foreign direct investment. last update: 14.01.2019. Ministry of Finance.*  
<https://index.minfin.com.ua/economy/fdi/>



**The cost of reforms. Deregulation reform.**

**October 2018  
Kiev**

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## **Current Position**

- Reform of deregulation has been going on in Ukraine since 2015.
- This is one of the most ambitious reforms affecting such spheres as legal regulation of doing business, formation of the investment climate, registration of property rights to real estate, prices for socially important food products, and the basics of human life safety in society.

## **Deregulation of doing business**

- Launched in April 2014
- In October 2014, out of 56 regulatory bodies, only 27 remained, out of more than 1,100 regulatory functions - 680, and out of 143 licenses - 84.
- The reform was launched under anti-corruption slogans.

## **First results**

- Reducing the number of supervisory functions and moratoriums on inspections pushed businesses to save on product quality and safety.
- Tragic results:
  - fire at the BRSM-Neft oil depot (2015) - 6 dead.
  - In October 2016, about 40% of goods in stores in Ukraine were counterfeit.
  - 143 cases of poisoning with surrogate alcohol in October 2016, 65 of them were fatal.

## **Deregulation Plan 2015-2016**

- Only 94 promises out of 139 were fulfilled, whereas 45 were not.
- The worst results of deregulation took place in the field of telecom industry. Only 8 promises out of 19 were fulfilled.

## **Deregulation Plan 2016-2017**

- Out of 122 points and sub-points, only 58 have been fulfilled. 64 remain unfulfilled.
- Negative dynamics of implementation of the plan in comparison with 2015 - 2016.
- Least success in 2016 - 2017 managed to achieve in the simplification of administrative procedures for regulating economic activities. Here we see 25 unfulfilled points versus 8 completed ones. This section of the plan affects the investment climate more than all others, as it concerns all industries and activities without exception.

### **Outcomes**

- 58th out of 63rd in the ranking of competitiveness in the digital environment (Swiss business school IMD).
  - The number of man-hours that a Ukrainian entrepreneur must spend per year to register employees is 170 people / hour, while the average figure for other countries is 74 people / hour. (Bureaucracy Index 2018 from EasyBusiness).
  - The number of bureaucratic procedures required to register an employee in Ukraine is 31% higher than the average (Bureaucracy Index 2018 from EasyBusiness).
  - At the beginning of October 2018, a draft law “On Amendments to Certain Legislative Acts of Ukraine Concerning the Methods of State Supervision (Control) in the Sphere of Technogenic and Fire Safety” (No. 9132) was submitted to parliament for consideration.
- We have already seen what such bills are fraught with during the fire at the BRSM-Neft oil depot.

### **Involvement of non-state actors in deregulation**

- Involvement of non-state structures in deregulation
- “Office of Effective Regulation” (Better Regulation-Delivery Office) is a non-governmental structure created on the initiative of the Minister of Economic Development A. Abromavicius, designed to “quickly analyze and change the regulatory field, since no ministry is able to do this”.
- The main goal of the OER was the growth of Ukraine's positions in the Doing Business rating, and it was achieved.
- In 2015, the country was ranked 96th, in 2016 - 83rd, in 2017 - 76th.

#### **If not for one "but":**

- The largest growth in the rating of Ukraine in the "Doing Business" was noted in 2014 (before the existence of the OER / BRDO), when the country "skyrocketed" by 28 positions, taking 112th place.
- Only for the implementation of one project developed and implemented with the help of the OER - the Educational Platform, 54 million hryvnias were allocated. Some of these funds will go towards the purchase of computers, however, the rest will be allocated directly to the implementation of the project, which is the responsibility of the nongovernmental organization. At the moment, the Office of Effective Regulation oversees five such projects, which makes it possible to estimate the funds spent on it at about several tens of millions of hryvnias.

### **Price deregulation and its consequences**

- Started in October 2016 (experimental).
- As a result, prices for various food products in 2016 increased from 7.9% (chicken carcasses) to 64.1% (cabbage).
- June 7, 2017 - Resolution No. 394 was adopted, abolishing state regulation of food prices.
- According to the State Statistics Service, in 2017 the rise in food prices in different product groups ranged from 20% to 170%. At the same time, vegetables rose in price the most: beets - by 170%, and carrots - by 160%.

### **Price deregulation and its consequences**

- Price deregulation is taking place not only in the food retail sector, but also in the transport services sector. As part of this policy, on February 19, 2018, Ukrzaliznytsya introduced a new procedure for determining the tariff for the use of freight cars belonging to it. As a result, the tariff increased by 16-17% depending on the distance of transportation.
- As part of the deregulation of energy prices, from November 1, 2018, gas for ordinary consumers will cost UAH 8,550. per thousand cubic meters.

### **Property registration reform**

- Began in 2015 with the entry into force of the laws “On state registration of rights to real estate”, “On state registration of legal entities, individual entrepreneurs and public formations”, and “On amendments to the Budget Code of Ukraine (relative - but financial support for the provision of administrative services by local governments)”, simplifying the entry of data into the registers.
- Instead of making it easier to do business, the adopted legislation provided new opportunities for fraudsters and raiders who, with the help of corrupt registrars, began to rewrite property and corporate rights to themselves.
- This led to the fact that in October 2016, parliamentarians were forced to adopt the law “On Amendments to Certain Legislative Acts of Ukraine Concerning the Improvement of State Registration of Rights to Real Estate and Protection of Property Rights”, which was nicknamed in the professional environment “Anti-raider law” and partially rolled back legal norms to the state “before December 13, 2015” (in particular, the mandatory provision of extracts from the state register in paper form was returned).
- In 2015, 3 thousand raider attacks were recorded, 90% of which were successful.
- In 2016, the number of raider seizures exceeded 3 thousand.
- The indicators of the growth of corporate raiding in certain sectors of the economy are also impressive. So, in 2017, the number of raider seizures in the agricultural sector increased about 2.5 times.

### **Property registration reform**

- According to the information of the Anti-Raider Union of Entrepreneurs of Ukraine, today there are more than 30 large raider groups operating in the country with connections in the Ministry of Justice, courts and law enforcement agencies.
- According to the results of 2016, in the world ranking of the Property Rights Index, Ukraine dropped to 115th place out of 128 (in 2015 - 109th place out of 129).
- In 2017, the trend continued, and our country was already in 123rd place out of 127.

### **Conclusions:**

Thus, the following was spent on the reform of deregulation:

- 4 years of time;
- several billion hryvnias. Its results were:
- Increase in the amount of counterfeit goods on the shelves of grocery stores up to 40% of the total mass of goods.
- Death of more than 60 people from poisoning with surrogate alcohol in 2016.
- Man-made disaster at the BRSM-Oil base, which claimed the lives of 6 people and had a devastating impact on the environment.
- Increase in prices for some commodity items by 200% for the period from 2016 to 2017.
- Billions of losses from raiding, the growth of which was the result of deregulation of the sphere of registration of property rights.

*Study No. 6*  
*from the cycle "The Price of Reforms"*

**Decentralization reform<sup>236</sup>**

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In 2014, the decentralization process started in Ukraine. All the talk about the need for administrative-territorial reform, which had been conducted before, remained just talk and did not go further than projects. Decentralization includes two blocks: budget decentralization itself and administrative-territorial reform with the creation of united territorial communities. Below is a retrospective analysis of the implementation of both blocks.

***Fiscal decentralization***

Within the framework of budgetary decentralization, the sources of replenishment of local budgets have been changed. The essence of the changes is as follows<sup>237</sup>:

- payments for the provision of administrative services were transferred from the state budget (except for 50% of the administrative fee for state registration of rights to real estate and state registration of legal entities / individuals - entrepreneurs), as well as the state duty;
- the percentage of enrollment of the environmental tax has been increased from 35 to 80%;
- local budgets are assigned stable sources: personal income tax according to new standards (budgets of cities of regional significance, districts - 60%, regional budgets –15%, the budget of the city of Kiev - 40%) and 10% of the income tax to the regional budgets. It should be noted that earlier (before the start of the reform) at the disposal of local budgets, 100% of personal income tax (Kiev - fifty%);
- from 2015, a tax was introduced on retail sales of excisable goods (beer, alcoholic beverages, tobacco products, oil products) at a rate ranging from 2% to 5% of the cost of goods sold instead of the tax for viticulture, horticulture and hop growing, which will be received to local budgets;
- Since 2015, the real estate tax base has been expanded by including commercial (non-residential) property in taxation.

Have such changes led to an increase in local budget revenues? Let's consider specific indicators.

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<sup>236</sup> Original version of the presentation: <https://uiamp.org.ua/cref/reforma-decentralizacii-v-ukraine-celi-hod-posledstviya>

<sup>237</sup> Budgetary decentralization: a real inflow on the financial basis of securing and generating the views of territorial communities. Hromadske Space: <https://www.prostir.ua/?news=byudzhetna-detsentralizatsiya-realnyj-vplyv-na-finansove-zabezpechennya-ta-rozpodil-vydatkiv-terytorialnyh-hromad>

On August 2, 2016, President of Ukraine P. Poroshenko, celebrating the “Day of the Paratrooper” in Zhytomyr, said that the revenues of local budgets in 2016 due to the decentralization reform increased by 43%<sup>238</sup>. In 2015, the then Prime Minister of Ukraine A. Yatsenyuk<sup>239</sup> also spoke about the 40% growth in local budget revenues.

At the same time, statistics paint a completely different picture for us.

Revenues of local budgets in 2013 amounted to 103.6 billion UAH<sup>240</sup> 240, in 2014 (at the beginning of decentralization) - 99.1 billion, in 2015 – 117.4 billion UAH, 2016 - 146.6 billion. Nominal own revenues of local budgets (i.e., excluding transfers) in the period 2013 - 2016. increased by UAH 78.3 billion, from 92.3 billion to 170.6 billion. At the same time, the share of local budgets (excluding transfers) in the consolidated structure remained unchanged, amounting to 21.5%.

However, one should distinguish nominal budget revenues from real ones. Indeed, inflation in 2014 was 24.9%, and in 2015 - 43.3%<sup>241</sup> 241. The cost of many goods, services and works has grown exponentially (in particular, the tariffs for housing and communal services by 4-6 times). Thus, real revenues of local budgets fell: in 2014 - by 30.5%, and in 2015 - by 21% (compared to 2014) and by 57.5% (compared to 2013 g.).

However, in 2014 - 2015 in Ukraine, there was also a galloping devaluation. Therefore, if in dollar terms the revenues of local budgets in 2013 amounted to \$ 13.1 billion, then in 2014 - \$ 8.8 billion, in 2015 - \$ 5.3 billion, and in 2016 - \$ 5, 5 billion. So "In foreign currency" local budget revenues fell by almost 2.5 times for (2013 - 2016).

With the development of the reform, officials tirelessly increase the perceived “profit” from its implementation. Here's what they said about the reform in 2018:

“From 2014 to 2017, the own revenues of local budgets of Ukraine increased by UAH 124 billion. (from 68.6 billion to 192.7 billion). For 2018, the upward trend also continues. And the total amount of financial resources at the disposal of local governments in 2017 for the first time exceeded half of the total consolidated budget of Ukraine and amounted to 51.2%, ”the government portal“ Decentralization ”says<sup>242</sup>.

Similar figures (the share of local budgets at the level of 52% of the consolidated budget) were given by the President during his speech in the Cherkassy region on November 20, 2018<sup>243</sup>.

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<sup>238</sup> Poroshenko stated about the re-election of monetary budgets. Novini. <http://ua.lexss.org/5864-poroshenko-zayaviv-pro-perevikonannya-mscevih-byudzhetv.html>

<sup>239</sup> Yatsenyuk rozpov, as soon as they grew in income to the state budget. News-Cloud. <http://www.news-cloud.net/news/ukraine/28531-yacenyuk-rozpovv-nasklki-virosli-dohodi-derzhbyudzhetu.html>

<sup>240</sup> Consolidated budget of Ukraine. Last update: 27.02.2019. Ministry of Finance. <https://index.minfin.com.ua/finance/budget/cons/>

<sup>241</sup> Inflation Index. Last update: 13.02.2019 09:54. Ministry of Finance. <https://index.minfin.com.ua/economy/index/inflation/>

<sup>242</sup> People's Deputies were presented with an assessment of the financial capacity of some communities. Decentralization. <https://decentralization.gov.ua/news/8489>

<sup>243</sup> President in Cherkasy: Decentralization is the opportunity to develop communities. President of Ukraine. [https://www.president.gov.ua/news/prezident-na-cherkashini-decentralizaciya-ce-mozhливosti-roz-51086?fbclid=IwAR3F3NMv2E9DH9bH-Hmkisn4Z\\_IeThwj1wxMWOVZDJrw5](https://www.president.gov.ua/news/prezident-na-cherkashini-decentralizaciya-ce-mozhливosti-roz-51086?fbclid=IwAR3F3NMv2E9DH9bH-Hmkisn4Z_IeThwj1wxMWOVZDJrw5)

It is noteworthy that in these statistical calculations and statements of the President, in contrast to last year, there is no comparison with 2013, when the dollar exchange rate was at around UAH 8. Nevertheless, knowing the average dollar exchange rate for 2014, we can conclude that in dollar terms over the specified period, the revenues of local budgets of Ukraine decreased by slightly more than 1 billion dollars (from 8.8 billion to 7.24 billion). When compared with 2013, local budget revenues fell by \$ 5.86 billion.

The dependence of local budgets on transfers has not disappeared, which was declared one of the goals of the reform. In 2013, the amount of transfers amounted to UAH 115.8 billion. (125% of own revenues), in 2016 - UAH 170.6 billion. (115% of own income), and in 2017 - UAH 272.9 billion. (141% of their own income).

Analysis of the dynamics of inter budgetary transfers for 2010 - 2016 showed that almost all types of transfers are increasing every year. According to the State Treasury of Ukraine, in 2016 UAH 195.4 billion was transferred. inter-budget transfers from the state budget to local ones, which is 210% more than the volume of transfers in 2010<sup>244</sup>. Thus, the decentralization reform in no way reversed the trend of subsidizing local budgets at the expense of the state, which was outlined long before the Maidan.

According to the government portal Decentralization, in 2018, local budgets were provided with 3 types of transfers<sup>245</sup>:

- Basic subsidy. Bureaucratic language explains it as “the result and means of equalizing the tax capacity of local budgets<sup>246</sup>”. In fact, this means that the “rich” territorial communities and regions, of which there are not so many, are withdrawn “surplus” of taxes collected by them (we have already written above about the decrease in the share of personal income tax remaining in local budgets from 100% for regions and 50% for Kiev, up to 60% and 40%, respectively), and are sent to the “poor” administrative units, where the collected taxes do not cover the cost plan. To put it even simpler, we are not talking about any decentralization here. This is a typical post-Soviet system with donor and subsidized regions. Its only difference is the smaller distribution of regions (in addition to districts, there are also territorial communities).
- Additional subsidies. Here the picture is even more interesting. The document states that these subsidies are used to finance the costs transferred from the state budget for the maintenance of educational and health care institutions, as well as to compensate for the losses of local budgets caused by the introduction by the state of benefits for the payment of land tax. That is, the state continues to finance the institutions transferred to the balance of local authorities, but now all the responsibility for the problems that arise in them (such as lack of funding) are borne by the city, village councils, and UTO, and not the central and regional apparatus of ministries. As for the land tax, the situation looks completely absurd. At the beginning of the decentralization reform, it was announced that land would become almost the main source of income for united territorial

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<sup>244</sup> Mizina I. V., Kochergina O. V. *Office of transfer of income in the international budgets*.  
[http://www.pap.in.ua/5\\_2017/73.pdf](http://www.pap.in.ua/5_2017/73.pdf)

<sup>245</sup> *Formation of budget budgets for 2018 ric: interbudgetary transfers. Part II. Decentralization*.  
<https://decentralization.gov.ua/news/6571>

<sup>246</sup> *Ibid.*

communities in rural areas. It was assumed that large agricultural holdings would pay for its use to local budgets. But it was not there. For oligarchic companies, the state introduced incentives, and instead of large revenues from land tax, local budgets have to be content with modest provided compensations.

- Subventions. They are divided into two types: educational and medical. This type of transfers is a direct derivative of the reforms in education and medicine, which have reduced the number of relevant institutions in rural areas. Those areas and general relativity, where they remained "Pivotal" hospitals and schools allocate these subventions, and the neighboring districts, in which most of the students of "pivotal" schools and patients of "pivotal" hospitals live, do not get anything, since "Money follows the patient / student". It is unlikely that such a principle of distribution of subventions will contribute to the expansion of the network of medical services or school education in the future.

Thus, the nominal increase in the own revenues of local budgets is achieved to a large extent by transferring them (in fact, subsidies) from the state budget. The volume of these transfers and their percentage in the structure of local budgets is constantly growing, which does not allow us to speak of this "reform" as an actual decentralization of local budget revenues.

Social expenditures are also shifted to local budgets. In 2016, the Cabinet of Ministers transferred to them at least UAH 19 billion of spending on social infrastructure (educational and healthcare institutions), in 2017 - another UAH 18 billion. At the same time, since 2017, the responsibilities for the payment of salaries to the administrative and technical personnel of social infrastructure institutions, as well as payment for utility services consumed by these facilities, have been transferred to local budgets. The situation was getting worse

The "reform of 3200," and then 3700, which sharply increased the minimum wage and, accordingly, the tax burden, which made it necessary to send a certain part of the workers on unpaid leave.

As already mentioned two paragraphs above, in the transfer of costs for the operation of educational and medical institutions to local budgets, there is a hidden goal - to shift the responsibility for insufficient funding of these institutions onto the shoulders of local authorities while actually preserving their content at the expense of the state budget through the mechanism subsidies. In other words, when there is a problem of underfunding of a separate vocational school or a district hospital, and residents of the district write complaints about this to the relevant ministry, they are told that the local authorities are to blame for the current situation, although in fact the institutions were both financed from the center and continue to be financed ( however, the amount of funds allocated for their activities has decreased).

Summing up the results of budget decentralization, it is worth noting that:

- taking into account inflation and devaluation of the national currency in the period from 2013 to 2017, the local budgets did not increase, as the authorities report, but decreased. In dollar terms, they fell from \$ 13.1 billion to \$ 7.24 billion;

- the so-called transfers (grants and subsidies) from the central budget significantly exceed the own revenues of local budgets. In 2017, they accounted for 141% of the declared amount of their income. This indicates that the statistical increase in “own revenues of local budgets” occurs due to manual control from the center. Thus, the local authorities become hostages to the central authorities, which can give money for certain costs, or maybe (for example, due to the political disloyalty of the local authorities) they cannot be allocated. At the same time, according to the legislation, the blame for the underfunding of certain items of expenditure will lie with the local, not the central leadership;
- The basic subsidy (one of the main types of transfers) is nothing more than the reincarnation of the good old system, in which “surpluses” from donor regions are redistributed to subsidized regions. Thus, there is no question of any correlation between the number of large taxpayers on the territory of the administrative-territorial unit and the standard of living in it. Universal "poverty leveling" triumphs;
- additional subsidies include funding (significantly reduced) of institutions transferred to the local balance, including hospitals, schools and vocational schools. In fact, the state continues to finance them, but the responsibility for cutting funds for their maintenance has been assigned to the local authorities, which in fact have a very indirect relationship to this process.

### ***Administrative and territorial reform.***

Administrative and territorial reform, which began simultaneously with budgetary decentralization, presupposes formation of a new administrative-territorial structure of the state, consisting of three levels:

- Basic. Its administrative-territorial units will be communities created by combining village and settlement councils of nearby settlements. For example, if there is one urban settlement and several villages in the neighborhood, they can be united into one community. As of December 2018, 838 such communities were created, which, according to the Minister of Regional Development Gennady Zubko, is 57.7% of the planned for 2020 the final number of united communities (1450)<sup>247</sup>.
- District. Everything here remains unchanged. Despite the fact that the boundaries of the districts were determined back in Soviet times, and proceeding from the reduction in the number of population, they should have been revised long ago, the Concept of the formation of local self-government and territorial organization of power in Ukraine<sup>248</sup>. proposes to completely preserve these administrative-territorial units ...

<sup>247</sup> Until 2020, Ukraine can complete the process of establishing communities, - Zubko. Khmelnytskyi regional state administration. <http://km-rda.gov.ua/news/novynu-uryad/7961-do-2020-roku-ukrainina-maie-zavershiti-proces-obiednannia-gromad-zubko.html>

<sup>248</sup> Cabinet of Ministers of Ukraine. Ordering from April 1, 2014 № 333-r Kiev. About the concept of reforming the micro-self-production and the territorial organization of power in Ukraine: <http://zakon5.rada.gov.ua/laws/show/333-2014-p>

- Regional. Here, as in the previous paragraph, no revisions of the boundaries of regions (oblasts, cities of national subordination, and autonomous republics) are envisaged.

The expected goals for the implementation of this concept with three levels of administrative-territorial units are named:

- strengthening the legal, organizational, and material resources of territorial communities;
- improving the quality and availability of public services;
- introduction of a mechanism of state and public control over the provision of public services;
- introduction of quality standards for public services, etc.

It should be noted that in 2014, when the reform began, the level of its support in society was extremely low. According to the results of a sociological survey conducted by KIIS in 2014, only 2.4% of respondents considered the problem of reforming the administrative-territorial structure a priority<sup>249</sup>. Contrary to the statements of the authorities, this circumstance is due not only to “Poor awareness of the population”. Rather, on the contrary: residents of small settlements understood that with their unification into territorial communities, most of the administrative services would “move” from them to neighboring urban-type settlements, to which they had to travel several tens of kilometers. At the same time, it is not a fact that the quality of service provision will increase.

Another obstacle on the way to the reform of the administrative-territorial structure was the disproportion between officials of local executive authorities and local self-government bodies. In 2015, there were three quarters of the former, and only a quarter of the latter<sup>250</sup>. With the unification of territorial communities, this proportion practically did not change. Meanwhile, this indicator is key in defining real, and not declarative, decentralization. Officials of the executive branch of the district and especially the regional level will not be able to effectively respond to the needs and aspirations of citizens, even if there are 3 times more of them than employees of local self-government bodies. That is why in neighboring countries that have successfully carried out the administrative-territorial reform, this proportion looks exactly the opposite. For example, in Poland, there are 3 employees of local government bodies for one local executive official<sup>251</sup>.

The main legislative act regulating the unification of territorial communities was the law adopted in 2015 "On the voluntary unification of territorial communities"<sup>252</sup>. According to its main provisions, voluntary unification of territorial communities of villages, towns and cities is carried out in compliance with the following principles:

- constitutionality and legality;
- voluntariness;
- economic efficiency;
- state support;

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<sup>249</sup> *Creation of OTG is not a priority: KIIS research. ZN.ua. <http://opros2014.zn.ua/main>*

<sup>250</sup> *Nudelman V. Administrative and territorial reform: do no harm! ZN.ua. <https://zn.ua/internal/administrativno-territorialnaya-reforma-ne-navredi-.html>*

<sup>251</sup> *Ibid.*

<sup>252</sup> *Law of Ukraine "About the voluntary establishment of territorial communities" // News of the Verkhovnoy Radi (VVR), 2015, No. 13, Article 91. <http://zakon.rada.gov.ua/laws/show/157-19>*

- ubiquity of local self-government;
- transparency and openness;
- responsibility.

As of the beginning of 2019, the principle of “ubiquity” raises the greatest number of questions. According to the government portal “Decentralization”, today there are 838 united territorial communities in Ukraine, the population of which is 6 864 882<sup>253</sup>. At the same time, according to the official data (from which the government portal comes when determining the population of the UTO, although they are clearly overestimated), 31.1% of the population of Ukraine, or 13,155,300 people are rural residents<sup>254</sup>. Taking into account the fact that the united territorial communities include not only villages and urban settlements, but also small towns, it can be stated that the administrative-territorial reform affects less than half of its potential audience.

One of the obstacles to the unification of communities is the confusion with the data of the State Geocadastra, which arose as a result of the disorderly and / or corrupt allocation of land plots by representatives of the village councils. So, in 2015, about the obstacles to volume the head of the State Geocadastra M. Martynyuk declared the change in territorial communities due to the lack of data on the territories of the village councils in the cadastre<sup>255</sup>. A natural question follows from this statement: if in the State Geocadastra all the years of independence there was no data on the territories of individual village councils, how could these village councils allocate to their residents the land plots prescribed by law? When uniting communities, the desire of a larger settlement to “pocket” the land assigned to a neighboring small village / s for the purpose of their subsequent distribution often becomes a big problem.

Most of the “land” problems in the unification of territorial communities arise near large cities and regional centers. So, in June 2018, the country's main political and land battles unfolded around the creation of new united territorial communities in the suburban Ternopol region. Then the deputies from “Svoboda”, supporting their fellow party member - the mayor of Ternopil Sergei Nadal - and enlisting the support of irreconcilable opponents - elected from the Petro Poroshenko Bloc, protested against the creation of several UTOs near Ternopil, especially in the village of Belaya. This story has been going on since 2015. Deputies of the Ternopil Regional Council are trying to prevent the creation of united territorial communities in the suburban area, suggesting instead to join the city, thereby providing it with an additional resource for land allocation.

Another problem in the unification of territorial communities is the selection criteria for their centers. The state defined them as simply as possible: no more than 20 kilometers of distance and the presence of a paved road in the center of the community. However, the mere presence of a paved road does not solve anything. According to the Minister of Infrastructure, 97% of the roads in the country are in poor condition. Even in the capital, 90% of the roads require major repairs,

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<sup>253</sup> *Perelik of common territorial communities. Decentralization.* <https://decentralization.gov.ua/gromada>

<sup>254</sup> *254 Population of Ukraine 2017-2018: quantity, density. Zh\_nochiy online magazine I vagitna.* <http://www.yavahitna.com.ua/2017/09/08/naselennya-ukraïni-2017-2018-kilkist-gustota>

<sup>255</sup> *V. Nudelman. Administrative and Territorial Reform: Do No Harm! ZN.ua.* <https://zn.ua/internal/administrativno-territorialnaya-reforma-ne-navredi-.html>

which requires UAH 1.5 billion. How, in such conditions, to ensure the declared indicator of 30 minutes of travel to school for students from remote villages of united territorial communities? Moreover, under the guise of decentralization, a number of educational institutions are being closed (only “pivotal” schools in the OTO center remain) and healthcare.

According to the State Statistics Committee, in the 2016-2017 academic year, the number of educational institutions compared to the previous "Season" decreased by 400 units: from 17.3 thousand to 16.9 thousand<sup>256</sup>. The number of teachers also decreased by 6 thousand: from 444 thousand to 438 thousand.

The situation with medical institutions is no better. In 2012, there were 2.5 thousand hospitals in Ukraine, and in 2017 there were already 1.7 thousand<sup>257</sup>. Opponents of the reform argue that in this way the authorities are trying to drive the population off the land, which will then be transferred to transnational corporations.

Summing up the results of the administrative-territorial component of the decentralization reform, we note the following facts:

- The creation of united territorial communities is proceeding more slowly than the authorities planned. He is hampered by the disorder in the documents on land management and the desire of the authorities of the larger settlements to get the land of the smaller ones at their disposal.
- Contrary to the stated goals, the unification of village and settlement councils into territorial communities does not always lead to an improvement in the quality of administrative services provided. The main reasons for this state of affairs are the remoteness of the basic infrastructure (schools, hospitals, OTO councils) from the residents of the villages that entered them, combined with the disgusting quality of the roads, as well as the unhealthy proportions of the distribution of administrative resources (officials) between the local executive power and local governments (3/1 in favor of the former).
- Administrative and territorial reform carried out within the framework of decentralization, does not take into account the population that has significantly decreased over the past 27 years and does not change the boundaries of districts / oblasts established in the Soviet period. Because of this, an imbalance is created between different districts and regions in the number of sources of income and taxpayers, which the authorities subsequently try to compensate through the redistribution of income and subsidies from the central budget. This, in turn, creates significant corruption risks.

### ***Conclusion***

In the course of analyzing the above material, we came to the following conclusions:

Firstly, despite the fact that 2017 was declared “decisive” and almost “final” in the implementation of the reform, which assumed budgetary decentralization and changes in the

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<sup>256</sup> *Osvita in numbers: how the number of schools changed for the rest of the rock. New Ukrainian school.* <http://nus.org.ua/news/osvita-v-tsyfrah-yak-zminylas-kilkist-shkil-za-ostanni-roky/>

<sup>257</sup> *There are fewer hospitals in Ukraine. UNN.* <https://www.unn.com.ua/ru/news/1738838-v-ukrayini-pomenshalo-likaren>.

administrative-territorial structure, none of its components so far so far (as of the end of 2018) has not been fully implemented.

Secondly, with each year of reform, the country is moving further and further away from the goal declared by the authorities - the growth of own revenues of local budgets. Despite the positive dynamics demonstrated by government statistics, the number of transfers from the central budget to local budgets (in fact, subsidies) is growing every year and has already reached 141% of the total amount of local budgets' own revenues. One of the main transfers, the basic subsidy, undermines the very idea of decentralization reform, since it is the reincarnation of the system of redistribution of “surplus” from “rich” regions to “poor” ones. As a result, all regions are equalized in poverty, and the number of economically efficient enterprises paying taxes on the territory of the community does not affect its welfare. As for the real revenues of local budgets, in dollar terms from 2013 to 2017. they fell from \$ 13.1 billion to \$ 7.24 billion. The principle of providing “progressive” statistics by increasing the percentage of transfers in the structure of local budgets indicates that the appearance of "budgetary decentralization" is created from the center in manual mode. This leads to a situation of dependence of local authorities on the central authorities, which may or may not allocate funds for them (including due to the political disloyalty of local leaders). Thus, the declared decentralization turns into even greater centralization, which takes place covertly, but emerges with a careful analysis of statistics and the legal framework. Leaving the “crane” on the financial flow in its hands, the central government shifted all formal responsibility for the underfunding of infrastructure facilities onto local officials.

Thirdly, at the time of the study, the administrative-territorial component of the reform (creation of united territorial communities) covers less than half of its target audience (in terms of population) and slightly more than half (in terms of the number of united territorial communities planned for creation). This is due to the fact that the merger does not always entail an improvement in the quality of administrative and other services. The main number of officials in the regions is concentrated in the executive authorities, and not in local self-government, which is entrusted with the function of direct contact with people. In addition, in off-road conditions, even 20 km, defined as the maximum distance from the center to the outskirts of the community, becomes a serious obstacle when it comes to travel to school or hospital. Another problem of the administrative-territorial reform is the disorder in the data of the State Geocadastre on the boundaries of settlements and the desire of large cities to swallow nearby villages in order to dispose of their land. This circumstance has already given rise to a number of conflicts, and, most likely, will generate more than one in the future.

### *Afterword*

Since the first publication of this study on the UIAMP website, the authorities have continued to advertise the decentralization reform as the most successful of all the reforms carried out. At the same time, the same figures of "growth of local budgets" were named, which we cited above, and the increase in the share of subsidies from the center in these budgets was hushed up.

Nevertheless, Ukraine needs decentralization, as well as administrative and territorial reform. But the goal of these transformations should not be to cut spending on “ineffective” rural schools and hospitals, but to optimize the territorial organization of the state in accordance with the decrease in its population over the past 27 years. In addition, local authorities should indeed be given more authority to improve infrastructure and attract investment. However, this does not mean that they should be blamed on the problems associated with financing educational or other communal institutions.

As of February 2019, it can be predicted that decentralization reform will continue to follow the beaten path without producing tangible positive results.



**The cost of reforms. Decentralization reform.**

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**Kiev**

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## **Decentralization Reform**

The decentralization process in Ukraine started in 2014.

It consists of the two parts:

- **Administrative and territorial reform with the creation of united territorial communities**
- **Fiscal decentralization**

**Within the framework of budgetary decentralization, the sources of filling local budgets have been changed.**

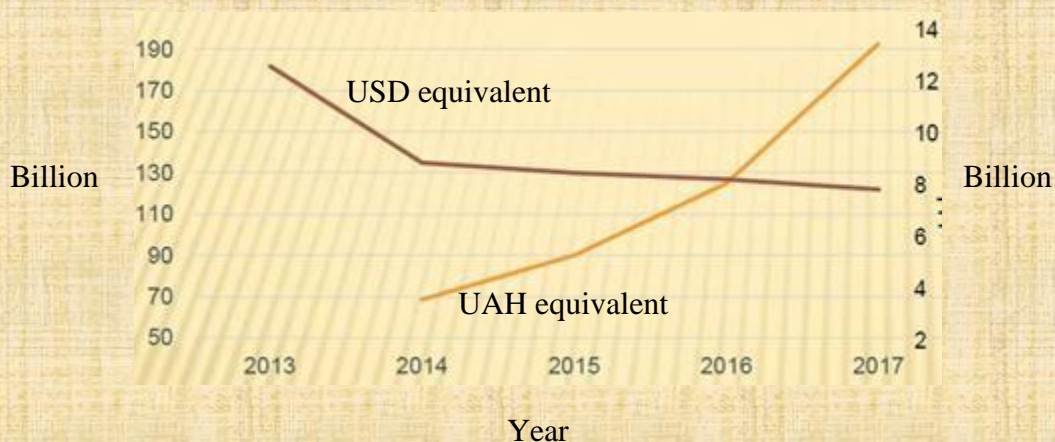
**The essence of the changes is this:**

- The state budget transferred the fee for the provision of administrative services (except for 50% of the administrative fee for state registration of rights to real estate and state registration of legal entities / individuals - entrepreneurs), as well as the state fee.
- The percentage of the environmental tax has been increased from 35 to 80%.
- Since 2015, the real estate tax base has been expanded by including commercial (non-residential) property in taxation.
- Since 2015, a tax has been introduced on retail sales of excisable goods (beer, alcoholic beverages, tobacco products, oil products) at a rate ranging from 2% to 5% of the cost of goods sold instead of the tax for viticulture, horticulture and hop growing, which will be go to local budgets.
- Local budgets are assigned stable sources
  - The tax on income of individuals according to new standards (budgets of cities of regional significance, districts - 60%, regional budgets - 15%, the budget of Kiev - 40%) and 10% of the profit tax to regional budgets; It should be noted that earlier, before the start of the reform, 100% of personal income tax remained at the disposal of local budgets (Kiev - 50%).

### Change in revenues of local budgets

- The President and the Government report on the growth of their own revenues of local budgets from UAH 68.6 billion to UAH 192.7 billion. from 2014 to 2017 In fact, the situation is somewhat different:
- Due to the devaluation, in dollar terms over the specified period, the revenues of local budgets of Ukraine decreased by slightly more than \$ 1 billion (from 8.8 billion to 7.24 billion). When compared with 2013, local budget revenues fell by \$ 5.86 billion.
- It is also worth making an adjustment for inflation, which in 2014 was 24.9%, and in 2015 - 43.3%).

Change in revenues of local budgets



### Increasing dependence of local budgets on transfers

Analysis of the dynamics of interbudgetary transfers for 2010-2016 showed that almost all types of transfers increase every year. According to the State Treasury of Ukraine, in 2016 UAH 195.4 billion was transferred. inter-budgetary transfers from the state budget to local ones, which is 210% higher than the volume of transfers in 2010.

- In 2013, the amount of transfers amounted to UAH 115.8 billion. (125% of own revenues of local budgets).
- In 2016 - UAH 170.6 billion. (115% of own income).
- In 2017 - UAH 272.9 billion. (141% of own income).

**Types of transfers:****• Basic subsidy**

Bureaucratic language explains it as “the result and means of equalizing the tax capacity of local budgets”. In fact, this means that the “rich” territorial communities and regions, of which there are not so many, are withdrawn “surplus” of taxes collected by them and sent to “poor” administrative units, where the collected taxes do not cover the cost plan. Typical "leveling" of the Soviet model.

**Types of transfers:****• Additional subsidies**

Here the picture is even more interesting. Officially, these subsidies are used to finance the costs transferred from the state budget for the maintenance of educational and health care institutions, as well as compensation for the losses of local budgets caused by the introduction by the state of benefits for the payment of land tax. That is, the state continues to finance the institutions transferred to the balance of local authorities, but now all responsibility for the problems arising in them is borne by the city, village councils, and OTO, and not the central and regional offices of ministries.

**Types of transfers:****• Subventions**

They are divided into two types: educational and medical.

This type of transfers is a direct derivative of the reforms in education and medicine, which have reduced the number of relevant institutions in rural areas. These subventions are allocated to those districts and OTOs where the “pivotal” hospitals and schools remain, and the neighboring districts, where most of the pupils of the pivotal schools and patients of the “pivotal” hospitals live, do not get anything.

## Results of budget decentralization

- Taking into account inflation and devaluation of the national currency, in the period from 2013 to 2017, the own revenues of local budgets did not increase, as the authorities report, but decreased. In dollar terms, they fell from \$ 13.1 billion to \$ 7.24 billion.
- The so-called transfers (grants and subsidies) from the central budget significantly exceed the own revenues of local budgets. In 2017, they accounted for 141% of the declared amount of their income.
- Basic subsidy (one of the main types of transfers) is nothing more than the reincarnation of the good old system, in which “surpluses” from donor regions are redistributed to subsidized regions.
- Additional grants include funding (significantly reduced) of institutions transferred to the local balance, including hospitals, schools, and vocational schools. In fact, the state continues to finance them, but the responsibility for cutting funds for their maintenance has been assigned to local authorities.

## Administrative and territorial reform

Administrative and territorial reform presupposes the formation of a new administrative-territorial structure of the state, consisting of three levels:

### •Base

Its administrative-territorial units will be communities created by combining village and settlement councils of nearby settlements. To date, 838 such communities have been created (57.7% of the final number of united communities planned for 2020 - 1,450).

### •District

Everything here remains unchanged.

### •Regional

Here, as in the previous paragraph, no revisions of the boundaries of regions (oblasts, cities of national subordination, and autonomous republics) are envisaged.

## Reform goals:

- Strengthening the legal, organizational, and material resources of territorial communities;
- Improving the quality and availability of public services;
- Introduction of a mechanism of state and public control over the provision of public services;
- Implementation of quality standards for public services, etc.

### **Disproportion of officials**

One of the obstacles on the way to the reform of the administrative-territorial structure was the disproportion between officials of local executive authorities and local self-government bodies. In 2015, there were three quarters of the former, and only a quarter of the latter. With the unification of territorial communities, this proportion practically did not change. Meanwhile, this indicator is key in determining real, not declarative decentralization. Officials of the executive branch of the district and, moreover, the regional level, will not be able to effectively respond to the needs and aspirations of citizens, even if there are three times more of them than employees of local self-government bodies. That is why, in neighboring countries that have successfully carried out the administrative-territorial reform, this proportion looks exactly the opposite. For example, in Poland there are 3 employees of local self-government bodies for one local executive power official.

### **Legislative regulation**

The law “On the voluntary unification of territorial communities”, adopted in 2015, became a legislative act regulating the unification of territorial communities. According to its main provisions, the voluntary unification of territorial communities of villages, settlements, and cities is carried out in compliance with the following principles:

- Constitutionality and legality;
- Volunteering;
- Economic efficiency;
- State support;
- The ubiquity of local self-government;
- Transparency and openness;
- Responsibility.

### **Implementation problems**

• At the moment, the greatest number of questions is caused by the principle of “ubiquity”. According to the government portal “Decentralization”, today there are 838 united territorial communities in Ukraine, the population of which is 6 864 882 people. At the same time, according to official data (from which the government portal comes when determining the number of the UTO population, although they are clearly overestimated), 31.1% of the population of Ukraine, or 13,155,300 people, are rural residents. Taking into account the fact that the united territorial communities include not only villages and urban settlements, but also small towns, it can be stated that the administrative-territorial reform affects less than half of its potential audience.

**Problems:**

One of the obstacles to the unification of communities is the confusion with the data of the State Geocadastre, which arose as a result of the indiscriminate and / or corrupt allocation of land plots by representatives of the village councils.

- When uniting communities, the desire of a larger settlement to “pocket” land assigned to a neighboring small village / s for the purpose of their subsequent distribution often becomes a big problem.
- Most of the “land” problems in the unification of territorial communities arise near large cities and regional centers.
- Another problem in the unification of territorial communities is the selection criteria for their centers. The state defined them as simply as possible: no more than 20 kilometers of distance and the presence of a hard-surfaced road in the center of the community. However, the mere presence of a paved road does not solve anything. According to the Minister of Infrastructure, 97% of the roads in the country are in poor condition.

**Reducing the number of schools and hospitals**

- According to the State Statistics Committee, in the 2016-2017 academic year, the number of educational institutions, compared with the previous “season”, decreased by 400 units: from 17.3 thousand to 16.9 thousand. teachers: from 444 thousand to 438 thousand
- The situation with medical institutions is no better. In 2012, there were 2.5 thousand hospitals in Ukraine, and in 2017 there were already 1.7 thousand.

**Results of the administrative-territorial component of the decentralization reform**

- The creation of united territorial communities is proceeding more slowly than the authorities planned. He is hampered by the disorder in the documents on land management and the desire of the authorities of the larger settlements to get the land of the smaller ones at their disposal.
- Contrary to the stated goals, the unification of village and settlement councils into territorial communities does not always lead to an improvement in the quality of administrative services provided.
- The administrative-territorial reform carried out within the framework of decentralization does not take into account the population that has significantly decreased over the past 27 years and does not change the boundaries of districts / oblasts established back in the Soviet period.

## General conclusions

- **Firstly**, despite the fact that 2017 was declared “decisive” and almost “final” in the implementation of the reform, which implied budget decentralization and changes in the administrative-territorial structure, none of its components before so far (as of the end of 2018) has not been fully implemented.
- **Secondly**, with each year of reform, the country moves farther and farther from the goal declared by the authorities - the growth of own revenues of local budgets. Despite the positive dynamics demonstrated by government statistics, the number of transfers from the central budget to local budgets (in fact, subsidies) is growing every year and has already reached 141% of the total amount of local budgets' own revenues.
- **Third**, at the time of the study, the administrative-territorial component of the reform (creation of united territorial communities) covered less than half of its target audience (in terms of population) and slightly more than half (in terms of the number of combined territorial communities planned for creation). This is due to the fact that the merger does not always entail an improvement in the quality of administrative and other services. The main number of officials in the regions is concentrated in the executive authorities, and not in local self-government, which is entrusted with the function of direct contact with people. In addition, in off-road conditions, even 20 km, defined as the maximum distance from the center to the outskirts of the community, becomes a serious obstacle when it comes to travel to school or hospital. Another problem of the administrative-territorial reform is the disorder in the data of the State Geocadastre on the boundaries of settlements and the desire of large cities to absorb nearby villages in order to dispose of their land. This circumstance has already given rise to a number of conflicts, and, most likely, will give rise to more than one in the future.

*Study No. 7*  
*from the cycle "The Price of Reforms"*

**Judicial reform**

**Authors:**

Daniil Bogatyrev,  
Ruslan Bortnik

Officially, the last judicial reform in Ukraine began in 2014, when its strategy was developed<sup>258</sup>. Prior to this, attempts at reform were undertaken several times, but they are not the subject of this study. The initial goal of the reform was formulated rather vaguely: “to achieve EU standards by 2020”. At the same time, there was an understanding among the lawyers and judges involved in the development of this strategy that the future reform should be comprehensive.

Thus, the head of the Main Directorate for the Judiciary and Legal Policy of the Presidential Administration of Ukraine, Alexander Volkov, while developing a strategy for reforming the judicial system, noted: “It is impossible to implement judicial reform as such without constitutional reform. Until the moment of making changes to the Constitution, it is necessary to correct what is possible. If there are problems with the transparency of the judicial system or specific cases of specific judges, then these problems must be eliminated.

The European Court of Human Rights in one of its decisions noted that in Ukraine there is a significant imbalance in the organization of the distribution of powers, therefore, the country must bring its Constitution in line with its obligations. It is necessary to determine the constitutional foundations of the judicial system.

A serious reform of the judicial system can only take place on the basis of a new section "Justice" in the Constitution<sup>259</sup>.

In addition, at the dawn of the reform, the idea arose not to appoint judges by a parliamentary decision, as this "politicized the process."

In accordance with the law “On Restoring Confidence in the Judiciary in Ukraine<sup>260</sup>” adopted in the spring of 2014, a temporary ad hoc commission was created to check judges who were suspected of “making unjust decisions”. The audit was carried out within one year from the moment of the formation of the temporary special commission, the procedure for the creation of which was also determined by this law.

In particular, judges who made decisions on restricting the rights of citizens to hold rallies and assemblies in the period from November 21, 2013 to the entry into force of the law, on the election of a preventive measure in the form of detention of persons who were recognized as political prisoners, and decisions on administrative penalties from protesters from November 21,

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<sup>258</sup> Prodigal M. *New wave of judicial reform. Vishcha is glad to be righteous.* [http://www.vru.gov.ua/mass\\_media/510](http://www.vru.gov.ua/mass_media/510)

<sup>259</sup> *Ibid.*

<sup>260</sup> *Law of Ukraine "On the Renovation of Confirmation to Judicial Authority in Ukraine" // Vidomosty Verkhovna*

2013 until the entry into force of the law and the decision to revoke the status of a people's deputy, etc.

The law also established new rules for the formation of judicial bodies. In particular, judges began to be elected to administrative positions by secret ballot from among the judges working in this court. Delegates to the Congress of Judges became conferences of judges of general, administrative and economic courts in all regions of Ukraine on the principle of "one delegate from twenty judges".

The Council of Judges of Ukraine began to be elected by the delegates of the Congress of Judges. New members of the High Council of Justice, the High Qualification Commission of Judges, as well as judges of the Constitutional Court of Ukraine, who began to be appointed by the Congress of Judges, could only be persons appointed in accordance with the requirements of this law.

The transitional provisions indicate that from the moment of entry by virtue of this law, the powers of the members of the High Council of Justice and the High Qualification Commission of Judges of Ukraine were terminated, after which these bodies were formed in accordance with the current legislation.

The above-described law was popularly nicknamed "the law on the lustration of judges". This is how the new government itself presented it.

In practice, it turned out to be much more difficult to "lustrate" judges than to pass a law. It is worth mentioning here that, according to the classical definition, lustration is legal restrictions introduced after the change of government to restrict the rights of supporters of the previous government<sup>261</sup>. Thus, lustration (including judges) on the basis of their belonging to the previous government does not correspond to the Constitution of Ukraine, since Article 24 of the latter states: "There can be no privileges or restrictions based on race, color, political, religious and other convictions<sup>262</sup>". The occupation of certain positions under the previous government can be interpreted as following certain political convictions.

On August 10, 2016, two years after the adoption of the law on restoring confidence in the judicial system, the head of the Department for Lustration of the Ministry of Justice of Ukraine Tatiana Koochenko stated that in Ukraine the lustration of the judicial system did not actually take place<sup>263</sup>. In her opinion, this did not happen "because of the enormous resistance of the judicial system."

Partly T. Kozachenko was right. Knowing the legal framework and having extensive connections in the justice system, dismissed judges were easily reinstated in their posts, proving the illegality of their dismissal.

Thus, it can be stated that the first and most impulsive act of judicial reform failed.

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<sup>261</sup> Larin A. *Lustration as a basis for restricting the right to vote*. <https://cyberleninka.ru/article/n/lyustratsiya-kak-osnovanie-ogranicheniya-izbiratel'nogo-prava>

<sup>262</sup> *Constitution of Ukraine*. <https://www.president.gov.ua/documents/constitution>

<sup>263</sup> *In Ukraine, the lustration of the judicial system actually did not take place - Ministry of Justice*. UNIAN. <https://www.unian.net/politics/1463343-v-ukraine-lyustratsiya-sudebnoy-sistemyi-fakticheski-ne-sostoyalas-minyust.html>

The next attempt to reform the judicial system was the law “On ensuring the right to a fair trial” that came into force in March 2015<sup>264</sup>. Its main innovations were: the return of the right to make the final decision in contentious cases to the Supreme Court of Ukraine, permission for one judge to head the court for no more than one term, as well as the passing of a qualification assessment by all judges, including any information about the work of a judge.

As a result of the qualification assessment and more detailed detailing of the requirements for “shaking up” the judiciary in the laws, which will be discussed below, the number of judges from 2015 to summer 2018 decreased by 3.2 thousand people. This was announced at the beginning of August 2018 by the chairman of the High Qualification Commission of Judges (VKKSU) Sergey Koziakov<sup>265</sup>. According to him, when the new composition of the VKKSU began its work (2015), about 9 thousand judges worked in Ukraine, and as of the summer of 2018, their number decreased to 5.8 thousand.

S. Koziakov himself then commented on these results of the reform in the following way: “Because we had demands from people and politicians to carry out a serious reform of two components - it is purification and renewal. Unfortunately, cleaning up is much faster than updating<sup>266</sup>”. He also said that in 2016, together with the National Anti-Corruption Bureau, VKKSU began a primary qualification assessment procedure. “On the air, they actually asked a lot of unpleasant questions about the condition and so on. A total of 350 judges were evaluated by us first, and in subsequent four months, more than 1.5 thousand judges resigned of their own free will,” said S. Koziakov<sup>267</sup>.

Along with the number of judges, the number of courts also decreased. In June 2018, Lyuba Beardsley, an expert of the Strategic Group of Advisers to Support Reforms in Ukraine, reported that at the central level, the Supreme Court absorbed four High Specialized Courts, which reduced the number of judges by half, and at the regional and local levels the number ships decreased from 764 to 380<sup>268</sup>.

Today in Ukraine there are 22 courts in which cases are not considered and, in general, justice is not performed. This was announced on August 13, 2018 by the chairman of the Council of Judges of Ukraine Oleg Tkachuk. “In Ukraine, out of more than 8 thousand judges, 5,200 thousand are currently working. Perhaps a little less, a little more - qualification assessment is underway, judges submit an application dismissal and so on. That is, the lack of judges and courts as such in the state is obvious,” O. Tkachuk said<sup>269</sup>.

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<sup>264</sup> Law of Ukraine “On the protection of the right to a fair trial” // Vidomosty Verkhovnoi Radi (VVR), 2015, No. 18, No. 19-20, article 132. <https://zakon.rada.gov.ua/laws/show/192-19>

<sup>265</sup> Since 2015, the number of judges in Ukraine has decreased by more than a third, - VKKSU. Censor.net. [https://censor.net.ua/news/3081180/s\\_2015\\_goda\\_kolichestvo\\_sudeyi\\_v\\_ukraine\\_umenshilos\\_bolee\\_chem\\_na\\_tret\\_vkksu](https://censor.net.ua/news/3081180/s_2015_goda_kolichestvo_sudeyi_v_ukraine_umenshilos_bolee_chem_na_tret_vkksu)

<sup>266</sup> Ibid.

<sup>267</sup> Ibid.

<sup>268</sup> Beardsley L. Justice reform in Ukraine: there is progress. Ukrainian truth. <https://www.pravda.com.ua/rus/columns/2018/06/19/7183788/>

<sup>269</sup> The Council of Judges told how many courts do not work in Ukraine. Today. <https://www.segodnya.ua/politics/v-sovete-sudey-rasskazali-skolko-sudov-v-ukraine-ne-rabotayut-1162618.html>

Speaking of the reduction in the number of courts and judges, one cannot ignore the issue of costs for the judicial system. According to the report of the European Commission on the Effectiveness of Justice (CEPEJ) of the Council of Europe, published in 2016, the budget of Ukraine allocated for the needs of the judicial system, in terms of each inhabitant, was 8.1 euros. This amount was almost eight times lower than the European average - 64.5 euros - and 26 times lower than the maximum figure among EU countries, which was recorded in Switzerland - 214.8 euros per capita<sup>270</sup>.

Overall, in Europe, the lowest per capita government budget for the judiciary in 2016 was recorded in Azerbaijan (7.8 euros), Moldova (8.3 euros) and Armenia (8.4 euros)<sup>271</sup>.

It should be noted that one of the goals of the judicial reform in Ukraine was initially named to reduce the costs of maintaining the judicial system. Nevertheless, it can be stated that, in comparison with the EU countries, which is declared as a state policy, Ukraine spends too little on justice, and this may well be one of the reasons for its inefficiency.

As for the costs of the judicial system of Ukraine, in absolute terms they are growing (and not decreasing, as it was declared) from year to year. Thus, to finance the Office of the State Judicial Administration of Ukraine from the general fund of the state budget in 2018 was allocated 10 billion 687 million UAH<sup>272</sup> 272, which is 61% more than in 2017 (6 billion 632 million). UAH). The 2019 budget provides for an allocation of UAH 13.6 billion for similar purposes<sup>273</sup>.

As for the salaries of judges, they have increased since 2014. From January 1, 2018 (as of the beginning of 2019), the base salary of a judge is: for a judge of a local court - 20 living wages (UAH 37,060), for a judge of an appellate court and a higher specialized court - 30 living wages (UAH 55,590)<sup>274</sup>.

At the same time, the salaries of court administrative staff remain extremely low. Thus, the salary of an assistant judge of a local court is UAH 7900, an appellate court - UAH 9600, a secretary of a local court hearing - UAH 3500, an appeal court - UAH 4400, judicial director of the local court - UAH 2643, court of appeal - UAH 3600<sup>275</sup>.

From the above data, it follows that despite the increased costs of the judicial system, not all of its employees receive a decent salary.

Innovations provided for by the laws "On Amendments to the Constitution of Ukraine (on Justice)" and "On the Judiciary and the Status of Judges"

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<sup>270</sup> *Ukraine's expenses on the judicial system are 26 times lower than the average European* - Council of Europe. *Fi. News.* <https://news.finance.ua/ru/news/-/435953/rashody-ukrainy-na-sudebnuyu-sistemu-v-26-raz-nizhe-sredneevropejskih-sovet-evropy>

<sup>271</sup> *Ibid.*

<sup>272</sup> *Costs for courts in 2018 will grow by 60% - draft state budget.* *ZN.ua.* [https://zn.ua/UKRAINE/rashody-na-sudy-v-2018-godu-vyrastut-na-60-proekt-gosbyudzheta-260401\\_.html](https://zn.ua/UKRAINE/rashody-na-sudy-v-2018-godu-vyrastut-na-60-proekt-gosbyudzheta-260401_.html)

<sup>273</sup> *Budget-2019: how much money will the judicial system receive.* *Judicial-legal newspaper.* <https://sud.ua/ru/news/publication/125484-byudzheta-2019-skolko-deneg-poluchit-sudebnaya-sistema>

<sup>274</sup> *In 2018, the salary gap for judges will be even wider,* - *Monich. Law and business.* <https://zib.com.ua/ru/131564-v-2018-godu-razriv-v-zarplate-sudey-budet-esche-bolshe-moni.html>

<sup>275</sup> *The salaries of employees of the judiciary in 2018 were announced.* *Law and business.* <https://zib.com.ua/ru/131639-obnarodovani-razmeri-zarplat-rabotnikov-sudebnoy-sistemi-v-2.html>

On June 29, 2016, the Law of Ukraine "On Amendments to the Constitution of Ukraine (on Justice)<sup>276</sup>" was published, which entered into force on September 30, 2016, with the exception of the provisions on the possibility of Ukraine's recognition of the jurisdiction of the International Criminal Court under the conditions determined by the Roman charter, which will enter into force three years after the publication of this law. In addition, on July 16, 2016, the Law of Ukraine "On the Judicial System and the Status of Judges<sup>277</sup>" was published, set out in a new edition and aimed at implementing the changes introduced by the Law on Justice. Judicial reform involves the following conceptual changes<sup>278</sup>:

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<sup>276</sup> Law of Ukraine "On the introduction of amendments to the Constitution of Ukraine (justice)" // Vidomosty Verkhovnoi Radi (VVR), 2016, No. 28, art. 532. <http://zakon.rada.gov.ua/laws/show/1401-19>

<sup>277</sup> Law of Ukraine "On the judicial system and the status of courts" // Vidomosty Verkhovnoi Radi (VVR), 2016, No. 31, art. 545. <http://zakon.rada.gov.ua/laws/show/1402-19>

<sup>278</sup> Court reform in Ukraine. Asters. [https://www.asterslaw.com/ru/press\\_center/publications/judicial\\_reform\\_in\\_ukraine/](https://www.asterslaw.com/ru/press_center/publications/judicial_reform_in_ukraine/)

# JUDICIAL REFORM IN UKRAINE

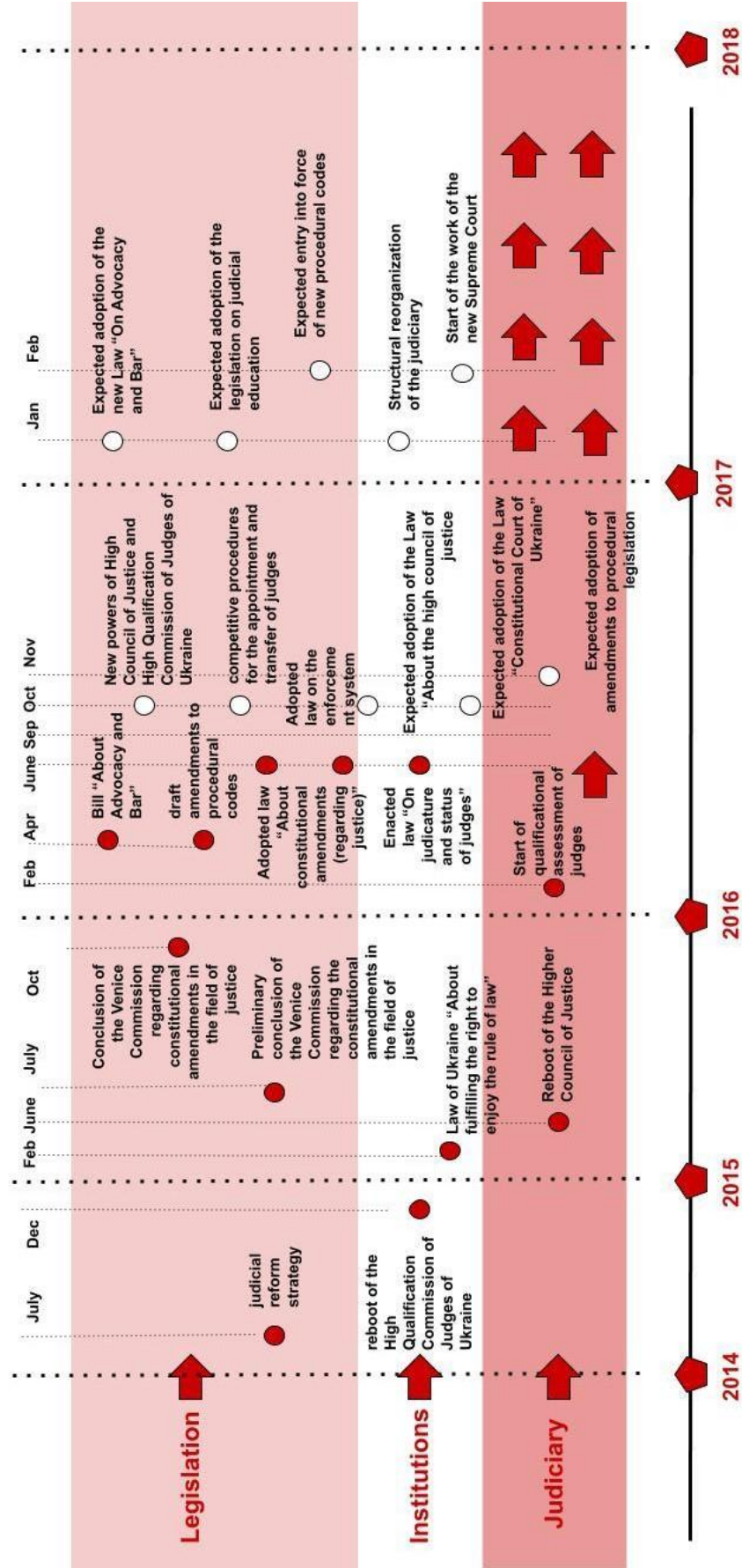


Table - "Judicial reform in Ukraine"<sup>279</sup>

### ***1. Changes to the court system***

The Law on the Judiciary introduces a three-tier system of judiciary, which includes local courts, courts of appeal and the Supreme Court, which performs the functions of the cassation instance (there is a direct contradiction with the Constitution, which will be discussed below). Higher specialized courts will operate in the judicial system to consider certain categories of cases. The Supreme Court is composed of the Grand Chamber of the Supreme Court, the Administrative Court of Cassation, the Economic Court of Cassation, the Cassation Court of Cassation and the Cassation Court of Civil Law.

The restructuring of the Supreme Court had to be carried out within six months from the date of the entry into force of the Law on the Judiciary (that is, at the end of 2016). However, the process lasted until the beginning of November 2017 (it dragged on for almost a year longer than the timeframe prescribed in the law), when the President appointed 114 Supreme Court justices<sup>280</sup>. The whole process looked like this.

The High Council of Justice, during September 14-25, 2017, considered 120 materials on the submission to the President on the appointment of judges of the Economic Cassation, Administrative Cassation, Cassation Criminal, Civil Cassation Courts as part of the Supreme Court. On September 29, 2017, the High Council of Justice approved a submission to the President on the appointment of 111 candidates to the positions of judges of cassation courts within the Supreme Court. At the same time, the SCJ postponed consideration of materials on seven candidates for positions of judges of the Supreme Court. The reasons for this were unresponsive reviewed disciplinary proceedings against incumbent judges; the presence of disciplinary complaints requiring verification prior to resolving the issue of appointing candidates to positions; the receipt of appeals regarding the candidate, which required additional study.

During the meeting on November 9, 2017, the SCJ considered the issue of submitting a submission to the President on the appointment of three more judges to positions at the Cassation Court and the Civil Court of Cassation within the Supreme Court.

Thus, the Supreme Council of Justice formed a list of 114 judges of the Supreme Court, who were appointed by the President on November 11, 2017. On 30 August 2018, he appointed three more judges<sup>281</sup>.

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<sup>279</sup> *Judicial reform in Ukraine. Ukraine Crisis Media Center. <http://uacrisis.org/ua/44463-ukrainian-sudova-reforma-v-ukrayini>*

<sup>280</sup> *New Supreme Court: Poroshenko will appoint 114 judges today. Ukrinform. <https://www.ukrinform.ru/rubric-politics/2341861-novyj-verhovnyj-sud-poroshenko-segodna-naznachat-114-sudej.html>*

<sup>281</sup> *The President appointed three justices of the Supreme Court. Judicial-legal newspaper. <https://sud.ua/ru/news/publication/124430-prezident-naznachil-trekh-sudej-verkhovnogo-suda>*

Criticism of the process of creating the Supreme Court in professional legal circles is connected with the excessive role of the president in appointing judges (the transfer of these powers from parliament to the president was presented under the guise of “reducing political influence on the judicial system”, but now this influence is concentrated in the same hands), and with the uncertainty of the legal nuances of its formation (as noted above, the Supreme Court was to be formed in six months, but in fact this process took almost one and a half; in addition, the Constitution states that the new court should have been created by a separate law, and the adoption of the law on the Supreme Court of Ukraine did not take place<sup>282</sup>).

Separately, it is worth dwelling on the issue of forming the High Council of Justice, which, according to the law “On the Judicial System and the Status of Judges,” is responsible for submitting candidates for judicial positions for approval by the President. The powers of the SCJ include the appointment and dismissal of judges, as well as the consideration of disciplinary cases against them. This structure replaced the previously existing High Council of Justice, and it is on it that responsibility for the formation of the judiciary. Now Bankova has a controlled majority in the GSP. According to various estimates, 16 “bayonets” are loyal to the president and his partners with a sufficient quorum of fifteen members. The Supreme Council has become a convenient body for total control over the judiciary<sup>283</sup>. Thus, any decisions of this structure can be considered potentially biased, especially when it comes to the appointment of judges of the Supreme Court.

## ***2. Specialization***

Taking into account the specifics of certain categories of cases, it was planned to introduce the High Court for Intellectual Property and the High Anti-Corruption Court, which were supposed to act as courts of first instance to consider certain categories of cases assigned to their jurisdiction, and were to be created. given within 12 months from the date of entry into force of the law.

As we know, the epic with the creation of the Supreme Anti-Corruption Court continues to this day. Until the beginning of spring 2018, factions of the parliamentary coalition generally denied the need to establish it. Then, after Western partners, represented by the EU and the IMF, “put the squeeze on” the Ukrainian authorities, the law “On the Supreme Anti-Corruption Court” was nevertheless adopted. However, this court has not yet been established. As of the time of the study, the process of its formation was at the stage of selection of candidates. Meanwhile, such a long-term formation of an anti-corruption court is nothing more than a sabotage of the norms of one of the two main laws that determine the contours of judicial reform in the country, since it clearly states that the process of creating this court cannot last more than 12 months. However, this norm was “Interrupted” (without cancellation) by a similar provision of the law “On the

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<sup>282</sup> *BC: legitimacy is in question. Law and business.* [https://zib.com.ua/ru/130612-o\\_chem\\_zabili\\_reformatori\\_sozdavaya\\_verhovniy\\_sud\\_.html](https://zib.com.ua/ru/130612-o_chem_zabili_reformatori_sozdavaya_verhovniy_sud_.html)

<sup>283</sup> *The rush from Sakhalin to Kiev and the disappearance of tens of thousands of dollars and euros. Country.* <https://strana.ua/articles/analysis/174563-iz-deklaratsii-hlavy-vyssheho-soveta-pravosudija-ihorja-benedisjuka-ischezli-krupnye-summy-nalichnosti.html>

Highest anti-corruption court ", which allows you to delay the start of the work of this body until the summer of 2019.

In addition, the reform provides for additional specialization at the level of cassation review of cases. Thus, in the Administrative Court of Cassation, separate chambers should be created to consider cases in relation to taxes, fees and other obligatory payments, to protect social rights, the electoral process and referendum, as well as to protect the political rights of citizens, and court - separate chambers for considering bankruptcy cases, on the protection of intellectual property rights, and cases related to antitrust and competition laws, as well as in relation to corporate disputes, corporate rights and securities.

### ***3. New procedure for appointment, dismissal and responsibility of judges***

We have already briefly touched on this topic above, when we wrote about the formation of the new composition of the Supreme Court. Now let's take a closer look at it.

As part of the judicial reform, the minimum age threshold for judges was raised to 30 years and the maximum age was set at 65 years. A procedure for appointing judges based on a public competition and qualification assessment was also introduced. This appointment is carried out by the President on the proposal of the High Council of Justice (previously, the Supreme Rada was responsible for the unlimited election of judges). This rule raises the most questions and allows doubting the sincerity of the intentions of the presidential entourage to reform the judicial system in the direction of increasing its independence. If earlier the appointment of judges required a search for a compromise, at least within the ruling parliamentary coalition, which provided a (albeit not ideal) system of checks and balances, now the president alone makes such decisions. Whether it is possible in such a situation to speak about the independence of the appointed judges is a rhetorical question.

As before, judges are appointed for an indefinite term. However, in order to avoid abuse, the grounds for their dismissal have been broadened and guarantees of immunity have been narrowed. Thus, a judge cannot be held accountable for his court decision, while the commission of a crime or disciplinary offense will result in prosecution on a general basis.

An exhaustive list of grounds for dismissal of a judge was also defined, which covers, in particular, such grounds as: commission of a significant disciplinary offense by a judge, gross or systematic neglect of his duties, which is incompatible with the status of a judge or determined his inadequacy for the position held. , as well as violation by the judge of the duty to confirm the legality of the source of origin of the property. The High Council of Justice (formed from the High Council of Justice) is empowered, inter alia, to decide on the dismissal of a judge from office, to consent to the detention or detention of a judge, and to decide on the temporary suspension of a judge from the administration of justice. In addition, during a two-year transitional period (ended in summer 2018), the President was empowered to transfer all judges from one court to another, and the corresponding powers of the High Council of Justice in this area were deferred. This

provision also shows the true intentions of the reformists of the judicial system - to maximize the powers of the president so that he could form a completely loyal judiciary.

It should be noted that the Law on Justice provides that the powers of judges previously appointed for a term of five years shall terminate at the end of the term for which they were appointed. In the future, such judges may be appointed to office in accordance with the general procedure. Previously elected judges indefinitely, continue to exercise their powers. At the same time, the law on justice provides for the assessment of the adequacy of the office of all judges without exception. Determination, based on the results of such an assessment, of the judge's inconsistency with the positions based on the criteria of competence, professional ethics or integrity, or the refusal of the judge from the specified assessment, are grounds for the dismissal of the judge from office.

In the summer of 2018, the High Qualification Commission of Judges reported that, based on the results of the qualification assessment, 17%, or 238 judges, had already been dismissed or are subject to dismissal<sup>284</sup>. As of July 30, 2018, the assessment is reported to have been completed in respect of 1,385 judges of local and appellate courts. Of these, 1,147 judges (83%) successfully completed this procedure and were recognized as appropriate for their position. The remaining 238 (17%) judges are subject to dismissal or have already been dismissed, in particular: 127 judges (9%) did not confirm their suitability for their position - 83 judges did not pass the exam and 44 judges did not pass interviews with the members of the Commission; 111 judges (8%) were dismissed, among other things, of their own free will or their powers were terminated during the assessment. Judges, in respect of whom the assessment has started, but there are no final results due to the announcement of a break or suspension of the qualification assessment - 292.

Behind the bureaucratic wording, it is difficult to identify which of the judges was dismissed for objective reasons, and who - on instructions from "above"; serious influence of the president.

#### ***4. Results of the courts***

The main results of the work of the courts are considered to be the ratio of the number of convictions and acquittals, as well as - the ability to pass sentences in high-profile cases of significant social and political significance.

Speaking about these indicators, it is worth noting that in 2016, local courts announced sentences against 86,744 persons. Of these, 314 people were acquitted, which is 0.36%. In 2017, the percentage of acquittals was 0.29%<sup>285</sup>. For comparison, in Japan 1% is justified, in the

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<sup>284</sup> According to the results of a quality assessment, 17%, or 238 judges, are still sound or sound. *Vishcha kvalifikatsiyna komisiya suddiv*. <https://vkksu.gov.ua/ua/news/za-riezultatami-kwalifikacijnogo-ociniuwannia-17-abo-238-suddiv-wzie-zwilnieno-abo-pidliagaiut-zwilnienniu/>

<sup>285</sup> Gorobets A. *Where are the acquittals? Presumption of innocence and practice*. *League.net*. <https://www.liga.net/society/opinion/gde-opravdatelnye-prigovory-prezumptsiya-nevinovnosti-i-praktika>

Netherlands - 10%, in Great Britain - 20%, in the USA - 20% (of those who did not cooperate with the investigation)<sup>286</sup>.

It follows from the above that the “reformed” Ukrainian judicial system, in terms of its accusatory bias and the miraculous number of acquittals, can only be compared with the Russian one (in the Russian Federation in 2016, the percentage of convictions was also 0.36%, 2015 - 0.43%, and in 2014 - 0.54%<sup>287</sup> 287), and not with the judicial systems of the liberal democracies of the West.

One of the most striking results of the reform of the judicial system of Ukraine can rightfully be considered the case of the judge of the Dnieper district court of Kiev, Mykola Chaus. On August 9, 2016, he was detained while receiving a bribe of \$ 150,000. The bribe was for making the “necessary decision” in a criminal proceeding on drug trafficking.

“Nikolai Chaus suspected that NABU was engaged in it, and demanded to raise the bribe from \$ 100,000 to \$ 150,000,” said the head of the National Anti-Corruption Bureau Artem Sytnik. The judge buried the money he received in his garden in liter jars. Despite the fact that the judge was caught taking a bribe, they could not arrest him, since the Verkhovna Rada did not give permission for this. A request for consent to the detention of N. Chaus was sent to the Verkhovna Rada. The next day after being caught in a large currency bribe, the judge did not come to work.

On August 11, 2016, detectives of the National Anti-Corruption Bureau of Ukraine searched N. Chaus's house.

On November 14, 2016, the press service of the National Anti-Corruption Bureau of Ukraine reported that on November 11, 2016, Interpol put on the international wanted list Nikolai Chaus, a judge of the Dniprovsky District Court of Kiev. The latter crossed the border illegally into Moldova and surrendered to the authorities. Ukraine demanded extradition, and while the case was pending, N. Chaus was allegedly found dead in an apartment with multiple stab wounds. Later it turned out that this was not true, N. Chaus is alive, is under house arrest and is awaiting extradition to Ukraine. As of the beginning of 2019, the pending extradition of the odious “servant of Themis” continues<sup>288</sup>.

Another resonant "achievement" of the reformed judicial system is the story of Judge Anton Chernushenko, which has been going on since 2015. On June 19, 2015, a search was carried out in his office in the building of the Kiev Court of Appeal, which was carried out by employees of the General Prosecutor's Office and the Security Service of Ukraine. The judge was accused of committing offenses under Part 2 of Art. 375 (Deliberately unjust decision made by a judge) and Part 2 of Art. 376-1 (Interference in the activities of the judiciary) Criminal Code<sup>289</sup>.

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<sup>286</sup> 99.64%. With such a probability, you will be found guilty if the case goes to trial. *New Newspaper*. <https://www.novayagazeta.ru/articles/2017/08/11/73453-pered-kem-vy-opravdyvaetes>

<sup>287</sup> *Ibidio*

<sup>288</sup> *Judge Chaus, who escaped to Moldova, was temporarily removed from office - SCJ. Censor.net.*

[https://censor.net.ua/news/458046/sbejavshiyi\\_v\\_moldovu\\_sudya\\_chaus\\_vremenko\\_otstranen\\_ot\\_doljnosti\\_vsp](https://censor.net.ua/news/458046/sbejavshiyi_v_moldovu_sudya_chaus_vremenko_otstranen_ot_doljnosti_vsp)

<sup>289</sup> *Former chairman of the Kiev Court of Appeal dismissed. Court.ua.* <https://sud.ua/ru/news/publication/119180-uvolen-byvshiy-predsedatel-apellyatsionnogo-suda-kieva>

The judge was charged with the facts of interference in the work of the automated system for the distribution of cases. This, according to the investigation, led to the fact that Anton Chernushenko personally decided which judge to consider which case, including with political overtones.

On June 30, 2015, the Verkhovna Rada agreed to the arrest and arrest of Anton Chernushenko.

On July 2, 2015, the judge's son Dmitry Chernushenko was arrested, whom the investigation suspected of influencing the distribution of cases in the Capital Court of Appeal. However, it was not possible to bring Anton Chernushenko to justice. On July 7, 2015, the GPU announced that the judge had left Kiev, and put him on the wanted list. According to the investigation, Anton Chernushenko left for Russia.

Subsequently, the fugitive judge published a series of video messages, in which he spoke about the sanctions that the judges of the Kiev Court of Appeal issued for wiretapping certain persons, for example, well-known politicians, diplomats and representatives of various foreign missions in Ukraine.

The High Council of Justice tried to dismiss the judge, but for various reasons this did not happen. In 2016, A. Chernushenko even tried to resign, but he failed to do so. The Supreme Council of Justice began to consider the case of Anton Chernushenko on April 2, 2018, after which he dismissed him only on May 29, 2018. It seems that there is no talk of bringing A. Chernushenko to criminal liability.

Another indicator that colorfully describes the results of judicial reform in Ukraine is its place in international rankings. Thus, according to the ranking of the rule of law, compiled by the international organization World Justice Project in 2017, Ukraine was in 77th place (out of 113)<sup>290</sup>. In 2016, it was ranked 78th, and in the pre-reform 2012, in a similar ranking, our country was ranked 79th in terms of the "Effectiveness of Criminal Justice" indicator<sup>291</sup>, although only 97 countries were assessed at that time.

Progress in 2 positions in this international rating is extremely difficult to call "an outstanding achievement of the reform".

### ***5. Attempts to reform the institution of the Bar***

On September 6, 2018, a draft law "On Advocacy and Advocacy" No. 9055 was introduced to the Rada, initiated by President<sup>292</sup>. This bill has caused a stormy critical reaction in the professional community.

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<sup>290</sup> World Justice Project: Ukraine ranked 77th in the world rule of law ranking. DS. <http://www.dsnews.ua/politics/world-justice-project-ukraina-stala-77-oy- v-mirovom-reytinge-verhovenstva-04022018133700>

<sup>291</sup> The level of the rule of law in Ukraine was rated at the top three. LB.ua. [https://lb.ua/news/2012/11/28/180602\\_uroven\\_verhovenstva\\_prava\\_ukraine.html](https://lb.ua/news/2012/11/28/180602_uroven_verhovenstva_prava_ukraine.html)

<sup>292</sup> Draft Law on the legal profession and advocacy activity. Verkhovna Rada of Ukraine. [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64557](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64557)

On October 8, 2018, Lawyer's Day, a massive flash mob of lawyers began on the Facebook social network, who protested against the presidential bill<sup>293</sup>. In the opinion of representatives of the legal community, the document significantly limits the independence of lawyers and narrows the rights of lawyers. Lawyers note that the analysis of the provisions of the draft law in the context of advocacy indicates the presence of a real threat of loss of independence by advocates, and, as a result, deprivation of Ukrainian citizens for years ahead of their right to effective defense.

“Behind the unconcealed desire to change the profile of the law there are illusory ideas to make the legal profession weak and dependent, and the lawyers - manageable,” wrote the lawyers with an appeal to support the initiative against the draft law<sup>294</sup>.

Leading lawyers of the country took part in the flash mob and thus expressed their attitude to the bill, emphasizing that if it is adopted, it will be much easier for the state, represented by law enforcement agencies, to get rid of the “obstinate” lawyer than to build its legal position in a state-controlled court. Lawyers want to draw the attention of the authorities, deputies, the public and the whole society to the risks and risks of draft law No. 9055. Some of them drew attention to the fact that such norms were recently adopted in the self-proclaimed “DPR”<sup>295</sup>.

As for the essence of the presidential bill, it contains two blocks: fundamental changes in the system of lawyer self-government and new rights of lawyers. At the same time, the draft law does not solve any of these tasks, which caused a public protest and the advocacy community.

VA, and human rights organizations. Moreover, realization of a draft law can lead to the opposite effect - paralysis of self-government and the lack of rights of a lawyer in the process. When the cumulative effect of these two trends is achieved, the legal profession as a professional institution will cease to exist.

The greatest resistance among lawyers is caused by the amendments to the Criminal Procedure Code of the draft law on the so-called “abuse of procedural rights”. At the discretion of the judge, many of the actions of the lawyer can be considered a violation with further sanctions against the lawyer. Motions, complaints and recusals can turn from defensive tactics to abuse if the judge so decides. For failure to appear at a hearing, this rule can be applied to a lawyer, but not to a prosecutor.

The draft law contains many preferences in favor of the prosecutor's office, ranging from access to the legal profession and ending with the presentation of suspicions to lawyers in a simplified manner. According to the current legislation, if an investigator submits a suspicion, then he violates the rights of a lawyer as a special subject. This is often seen as a form of pressure on lawyers.

If the new bill is passed, prosecutors will have expanded opportunities to temporarily suspend lawyers, replacing them with public defenders from the free legal aid system, in fact, in any situation that is unfavorable for the prosecution. The document also provides for a complete

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<sup>293</sup> *What are the risks and threats of the presidential draft law on the legal profession? UN.*

<https://ukranews.com/publication/2548-kakye-rysky-y-ugrozy-neset-prezydentskyy-zakonoproekt-ob-advokature>

<sup>294</sup> *Ibid.*

<sup>295</sup> *Ibid.*

“reset” (liquidation) of all bodies of lawyers' self-government and the election of new ones, which will directly affect the security and legal status of each lawyer.

Summing up the section devoted to the changes in the judicial system of Ukraine introduced by the laws "On Amendments to the Constitution of Ukraine (on Justice)" and "On the Judicial System and the Status of Judges", we note the following points:

- The High Council of Justice was replaced by the High Council of Justice, in which the president has a majority of his loyal members;
- the right to appoint judges was transferred from the Verkhovna Rada to the President, which was originally presented as “a decrease in political influence on the process of appointing judges”, but in fact led to the concentration of this influence in the same hands.
- Despite the fact that the previously appointed judges retained their posts, the qualification assessment mechanism provided for by the new laws makes it possible to weed out the most disloyal judges under the pretext of inconsistency with their position, or failure to pass an “interview” with members of VKKS;
- In general, the adoption of the two above-mentioned laws was aimed rather not at reforming the judicial system, but at its subordination to the president, which eventually resulted.
- The Ukrainian justice system has retained its “accusatory” bias with a meager number of acquittals. At the same time, in the most resonant cases, it was not possible to obtain decisions;
- The scanty percentage of convictions, the abundance of outrageous high-profile cases and the consistently low places of Ukraine in the ratings of justice indicate the failure of the reform, and attempts to make the legal profession “manual” further aggravate the impression of the results of the reform.

***The innovations stipulated by the law “On Amendments to the Economic Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts”.***

Law No. 6232 “On Amendments to the Economic Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts<sup>296</sup>” was signed by the President on November 23, 2017.

Its main disadvantages are:

- anti-social orientation, depriving the majority of citizens of access to justice;
- procedural violations - the bill contains three new codes, changes to a number of other codes and laws, which should be considered and adopted as separate bills.

Next, we will consider the main innovations introduced by the aforementioned law and their consequences in more detail.

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<sup>296</sup> Draft Law on the introduction of amendments to the State Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Judicial Service of Ukraine and other legislative acts. Verkhovna Rada of Ukraine. [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=61415](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61415)

***1. The Supreme Court became both the first and the cassation instance at the same time.***

The new procedural codes of draft law No. 6232 define the Supreme Court as a court of cassation, which directly contradicts the provisions of clause 11 of the “Transitional Provisions” of the Constitution of Ukraine, which clearly distinguishes between the Supreme Court and the courts of cassation. The Grand Chamber of the Supreme Court now acts as a court of appeal in cases considered by the Supreme Court as a court of first instance.

The list of such cases is defined in Art. 22 of the draft Code of Administrative Procedure of Ukraine<sup>297</sup>, according to which the Supreme Court, as a court of first instance, has jurisdiction over cases on the establishment of the results of elections or an all-Ukrainian referendum by the Central Election Commission, cases on a claim for the early termination of the powers of a people's deputy, as well as on appealing acts, actions or inactivity of the Verkhovna Rada, the President of Ukraine, the High Council of Justice, the High Qualification Commission of Judges, the Qualification and Disciplinary Commission of Prosecutors.

It is easy to see that all of the listed types of court proceedings relate to elections, political trials in the country and the process of appointment / dismissal of judges. This means that their transfer to the Supreme Court, on which, as we have already written above, the President has enormous influence, is fraught with the complete politicization of these trials and the issuance of controversial (dependent) decisions on them.

***2. Cassation is no longer for everyone.***

According to Art. 328 of the Code of Administrative Procedure of Ukraine, court decisions in cases of minor complexity are not subject to cassation appeal, except for cases defined by evaluative concepts not deciphered in the text:

- The cassation appeal concerns the issue of law, is of fundamental importance for the formation of a unified law enforcement practice;
- the person filing the cassation appeal is deprived of the opportunity to refute the circumstances established by the court decision when considering another case;
- the case is of significant public interest or is of exceptional importance to the party to the case who is filing the cassation appeal.

Thus, situations may arise when similar cases will be reviewed on cassation, depending on the composition of the court, and not on the existence of legal grounds for such a review.

The cassation administrative court is given the authority to declare the cassation appeal unfounded before its consideration, at the stage of its adoption. In addition, he may refuse to open a cassation proceeding if it is clear that the rule of law has been correctly applied and that there are no “reasonable doubts” about its application or interpretation. These concepts are not

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<sup>297</sup> Code of Administrative Judiciary of Ukraine // Vidomosty Verkhovnoi For Ukraine (VVR), 2005, No. 35-36, No. 37, art. 446.<http://zakon.rada.gov.ua/laws/show/2747-15>

deciphered in the text of the law, which deprives the applicant of the guaranteed Art. 6 of the "Convention for the Protection of Human Rights and Fundamental Freedoms" the right to a fair trial.

### ***3. The final destruction of banking secrecy.***

Amendments to the Law "On the Judicial System and the Status of Judges" provide for the creation of a unified judicial information and telecommunication system, which, in particular, will ensure the automated seizure of funds.

### ***4. The court will become inaccessible to the poor.***

According to Art. 136, the court fee is once again increasing, after it has grown tenfold with the adoption of the law on court fees in 2016. The plaintiff, together with the defendant, must submit to the court an approximate amount of expenses for professional legal assistance. The court may order the parties to pay in advance to the deposit account of the court a predetermined amount of such expenses. If the plaintiff fails to pay the specified funds, the court has the right to leave the claim without consideration or cancel due to non-payment of the summons of a witness or an expert examination in advance. This limits access to justice for 90% of citizens.

From January 1, 2019, the court fee for individuals is from UAH 768.4. up to 9 605 UAH for legal entities, the same indicator is from UAH 1921. up to UAH 672 350 Thus, the court fee rates are high enough to restrict access to justice for the majority of citizens.

In addition, the mandatory pre-trial settlement limits access to justice. Art. 169 of the law provides that the statement of claim shall be returned, in particular, when there is no evidence of the adoption of measures for pre-trial settlement of the dispute in the case when such measures are mandatory by law.

### ***5. The increased terms of the appeal make it possible to evade responsibility (amendments to Art. 461 of the CCP).***

Setting a 30-day time limit for filing an appeal. During this time, the decision of the first instance court did not take effect. If the court did not apply measures to secure the claim, then the defendant, who lost the case, may, for example, sell or otherwise alienate the property on which the dispute was considered, or take actions that would make it impossible in the future to enforce a court decision in favor of the plaintiff. Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms regarding a reasonable time frame for the consideration of the case<sup>298</sup>.

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<sup>298</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (as amended and supplemented by Protocol No. 11, accompanied by the texts of Protocols No. 1, 4) Rome, 4.XI.1950: [https://www.irs.in.ua/index.php?option=com\\_content&view=article&id=276:1&lang=ru&Itemid=](https://www.irs.in.ua/index.php?option=com_content&view=article&id=276:1&lang=ru&Itemid=)

***6. The electronic court denies access to justice for all who do not have the Internet.***

Pursuant to Articles 129 and 130, part of the notices of litigation (for example, if the last registration was Donbass, Crimea or the location is unknown) will be transmitted via the Internet, while neither smartphones nor Internet services are included in the living wage.

***7. The court ceased to be open to society; the principle of publicity of the trial has been violated (Articles 9, 204, 205).***

The court may prohibit photographic recording, video recording or broadcasting of an open court session if they interfere with the course of the trial. In fact, it is the judge's unlimited discretionary right to make the process closed to society for far-fetched reasons, especially in high-profile cases.

**The court may not admit those who wish to be present at an open court session into the courtroom** if there are no vacant seats.

**The court may refuse to publicly declare court decisions** taken following the results of closed court hearings, which violates Article 6 of the European Convention on Human Rights<sup>299</sup>, which states that judgments are in any case announced publicly.

**The judge will be able to secretly meet with each of the parties separately**, while the subject of the conversation cannot be fixed even by a participant in the process on pain of criminal prosecution. This will allow judges to claim undue benefit from one side or the other without fear of responsibility.

**The presumption of guilt of the defendant in administrative proceedings is canceled.** If earlier the authority was obliged to prove the legality of its decisions, then after the adoption of 6232 the court was able to transfer the responsibility of proving the violation of rights to the plaintiff-citizen. This limits the rights of citizens in the admin process.

**The consideration of cases is legalized in the case when, through the fault of the court, the participant in the case did not receive notification in a timely manner.** So, in a large number of administrative cases, in particular on electoral disputes, disputes on the restriction of freedom of peaceful assembly, appeal against administrative penalties, the participant in the case is considered to be duly notified of the time and place of the consideration of the case from the moment of notification (part 2 of Art. 268 CAS as amended by law). And even if such a referral took place a minute before the start of the court session, the person will be considered duly notified.

**Experts with powers of judges.** In accordance with Art. 69, an expert on legal issues may be involved in the case, whose powers include providing an opinion on the application of the analogy of law or analogy of the law and the content of the norms of foreign law (Article 115 of the draft). However, according to Ukrainian law, only the court has this right.

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<sup>299</sup> *Ibid.*

**Punitive psychiatry.** Art. 343 provides that a court decision in a case on compulsory provision of psychiatric care to a person is subject to immediate execution, and an appeal against the decision does not suspend its execution.

**Disclosure of personal data.** The register of court decisions will include the names and surnames of the participants in the cases.

### *Procedural violations*

In accordance with Article 4 of the Law of Ukraine “On the Judicial System and the Status of Judges”, amendments to this law can be made exclusively by laws on amendments to the Law of Ukraine “On the Judicial System and the Status of Judges”.

The text of the bill, introducing new editions of the codes, does not cancel the actions of the old codes.

A huge number of formulations that violate the constitutional requirement for the authorities to act only on the basis and within the framework of the law: “the court may”, “the court has the right”, “recognized by the court”, “at the initiative of the court”, “the court promotes reconciliation of one hundred - ron. ”

At the end of the second section of our study, we note that the law "On Amendments to the Economic Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts":

- continues the trend towards strengthening the president's control over the judicial system. This is ensured through the consideration of all cases related to elections, political processes, and, in fact, the appointment of judges, in the Supreme Court of Ukraine, over which the president has direct and strong influence;
- violates a number of rights of citizens, including the right to access to an independent trial, regardless of financial situation.

### *Conclusion*

Summing up the results of the study, several important conclusions can be drawn. First, before the start of the reform in 2016, its authors said that it should ensure the functioning of the judicial system, prescribed in the constitution, as one of three independent branches of government. To this end, it was supposed, among other things, to neutralize the influence of political factors on the appointment of judges, depriving the Verkhovna Rada of this function. In fact, it turned out to be the exact opposite. As a result of the adoption of the laws “On Amendments in the Constitution of Ukraine (on Justice)” and “On the Judicial System and the Status of Judges”, as well as the transformation of the judicial system in accordance with them, the right to appoint judges passed to the President. He also gained decisive influence in the High Council of Justice and the Supreme Court. Thus, political influence on the judiciary was concentrated in one hand, which further exacerbated the problem of politically motivated appointments and sentences.

Secondly, under the pretext of qualification assessment, a “cleaning” of the judicial system from disloyal to the authorities / insufficiently compliant judges is carried out. The presence in the procedure of this assessment of such a subjective element as an interview with members of the High Qualification Commission of Judges with the decisive influence of the President on this commission allows you to reject any “Politically unreliable” or refusing to make decisions handed down from above by a judge.

Thirdly, the fact that the cases related to the work of the Central Election Commission, the election results, the termination of the powers of people's deputies, the appointment and dismissal of judges will now be considered by the Supreme Court controlled by the president, makes it practically impossible to issue independent verdicts in such cases. - possible.

Fourthly, the costs of the functioning of the judicial system are growing, not decreasing, contrary to the declared goals of reforms. Nevertheless, what this money is spent on is a big question. While the salaries of judges have been raised to a decent level, the salaries of court administrators are still scanty. At the same time, the legal costs were shifted onto the shoulders of citizens and legal entities-plaintiffs. Thus, it turns out that the lion's share of the increased costs of the justice system goes to “reorganizations” and “proficiency tests”, the effectiveness of which is highly questionable, due to the large number of unfilled judicial vacancies and, as a result, delays in the consideration of cases.

Fifth, the results of reforming the judicial system through the adoption and implementation of the above-mentioned laws remain dubious. Since 2012, Ukraine has risen in the rule of law rating by only 2 positions, which can hardly be called a “success” adequate to the funds and efforts spent on reform. In addition, the percentage of acquittals not only does not grow, but has even decreased in recent years, which speaks of the “punitive” bias of our judicial system, which in no way correlates with the situation in countries with developed democracies. The last straw in the assessment of the judicial reform was resonant criminal cases, which ended in nothing but the flight of the defendants.

Sixth, the law “On Amendments to the Economic Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts” has narrowed the possibility of citizens' access to fair and independent justice. In fact, he introduced a property qualification for going to court, once again increasing court fees. In addition, the changes introduced by this law to the Code of Administrative Procedure of Ukraine allow citizens to refuse cassation on the basis of provisions that can be interpreted ambiguously. In addition, the law contains a number of minor legal inconsistencies and violations of the rights of citizens.

### *Afterword*

The UIAMP study on judicial reform has not previously been published on the institute's website. It was held in December 2018 and is the most recent of all presented in this book. Since its inception, the situation in the justice sector has not changed.

To confirm this thesis, we will cite one glaring fact: on February 26, 2019, the Constitutional Court declared unconstitutional Art. 368-2 of the Criminal Code, which provides for the punishment for illicit enrichment<sup>300</sup>. This article obliged civil servants to provide explanations about the sources of their income and the income of their family members. If the official could not do this, he should have been prosecuted. According to the Constitutional Court, Art. 368-2 of the Criminal Code violates the presumption of innocence. According to the judges, the prosecution must prove the illegality of the proceeds.

After the abolition of the above article, the National Anti-Corruption Bureau and the Special Anti-Corruption Prosecutor's Office will be forced to close all criminal cases initiated under it. Among other things, this means that the public will never wait for the verdict in the case of the Minister of Infrastructure Vladimir Omelyan and many others like him. In fact, this decision of the Constitutional Court put an end to two reforms at once - judicial and anti-corruption.

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<sup>300</sup> *The Constitutional Court canceled the article of the Criminal Code on illegal enrichment. League News:* <https://news.liga.net/politics/news/konstitutsionnyy-sud-otmenil-statyu-uk- o-nezakonnom-obogaschenii>

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