

ICPS newsletter[®]

Political reform: Evaluation and recommendations from the public

The International Centre for Policy Studies has released a policy paper called "The implementation of political reform and its impact on Ukraine." This is the final report of the "Public Consultations on Reforming Local Government in Ukraine and Public Awareness Campaign" project implemented by ICPS and the Center for Ukrainian Reform Education (CURE) with the support of the Westminster Foundation for Democracy (WFD) over January–September 2007. This paper sheds light on problems related to implementing political reform and offers recommendations for improving the political system. The main conclusion was that the rushed 2004 Constitutional amendments have given rise to endless complications, so now they need to be debated publicly and politicians need to come up with a well-argued response

Establishing an effective system of government remains the main objective for Ukraine. In late 2004, one of the ways to diffuse a major political crisis in the country was for the Verkhovna Rada to adopt a bill amending the Constitution.

These amendments changed Ukraine's political system from a presidential republic to a parliamentary-presidential one. Labeled "political reform," these changes came into force in full after the Verkhovna Rada elections in 2006 and gave rise to a number of problems and challenges that, so far, those in power have not provided any answers to.

Cohabitation—when power is in the hands of your opponents

The 2004 Constitutional amendments made it possible for the President and the Premier to come from different political camps in Ukraine. So when the defection of one Orange partner after the 2006 Verkhovna Rada elections led to the collapse of Orange coalition talks, a coalition and Cabinet of Ministers were formed that were in opposition to the Head of State. The situation where representatives of different political camps can take the highest government offices, called cohabitation in France, has become the main barrier to implementing constitutional reform in Ukraine.

Unlike France, where "cohabitation" emerged for the first time 30 years after the country's Constitution was adopted, this happened in Ukraine at the very beginning of the formalization of the President–Verkhovna Rada–Government triangle. Moreover, the process was complicated by the ambiguity of the constitutional provisions.

The distribution of powers is not transparent

The amended Constitution does not provide for a clear-cut distribution of functions and powers among various branches of the government. Ukraine has approved or developed neither formal nor informal procedures for the branches to interact. To interpret ambiguous provisions in its Basic Law, Ukraine needs the Constitutional Court to rule. To develop procedures, it needs to adopt constitutional laws—or else it needs time for informal traditions to establish themselves.

Because Ukraine's legislation does not establish legal or political penalties for violating specific laws, the Verkhovna Rada coalition, the Government and the President have regularly ignored the principle of rule of law.

Building a coalition is not an easy process for politicians

With the inception of political reform, radical changes took place in the way the Verkhovna Rada and the Government worked. The main element determining the structure of the Rada and the formation of the Cabinet became the Rada-Government coalition, a new political institution for Ukraine.

Establishing a coalition is a major challenge for Ukraine's politicians. Coalition politics not only increase political accountability and strengthen links among coalition parties, but they also make new demands of politicians. Compared to a single-party Government, a coalition Government faces

Vira Nanivska is among 100 most influential women in Ukraine

President of the National Academy of Public Administration under the Office of the President of Ukraine and Honorary Chair of the ICPS Board Vira T. Nanivska was 50th among the 100 most influential women in Ukraine, according to Fokus, a business journal (№45, 9 November 2007). The journal described Ms. Nanivska's influence as the result of her serious scholarly achievements and connections in government circles. "Both academic colleagues and officials listen to Ms. Nanivska's opinion," wrote the journal.

This rating of 100 most influential women in Ukraine was prepared by male experts: top politicians, journalists, political scientists, and businessmen. This is the second year that Fokus has published the rating. Notably, Ms. Nanivska did not make this list last year. However, in 2007, she was rated 50th, scoring 1,171 points. For comparison, the leader in this list scored over 3,000, while the last position scored around 690.

additional complications, such as agreeing and implementing a common plan of action. Even more, it demands the coordination of activities among the coalition partners over policy issues that emerge.

In many aspects, voters' attitudes towards the political reforms of 2004 and the democratic system of government as a whole largely depend on whether Ukraine's coalition Governments prove stable.

The status of the opposition has not been defined

One problem in the way Ukraine's political system operates that remains unresolved is the uncertain status of the political opposition. The presence of an opposition is a fundamental aspect of a democratic political system and a mature civil society.

Establishing the opposition as an institution is one way to find a constructive settlement

of the disputes and conflicts that inevitably arise when the interests of various social groups intersect. It is also a key component in the mechanism of checks and balances in a government. The opposition needs to have an opportunity not only to express alternative opinions, but also to be a full-fledged and equal participant in the policy-making process.

The Constitution needs to be changed in a different manner

One of the main conclusions of public consultations was that a different approach is needed in rewriting Ukraine's Constitution this time. Firstly, changes should not be implemented without discussing and agreeing a concept for any amendments among all political forces.

When constitutional amendments are adopted in a rush, under political pressure, through referenda, and without broad political consensus, they are effectively both illegitimate and impracticable. If the Constitution cannot be amended through consensus, amendments should be postponed to prevent discrediting the very idea of constitutional reform.

Another option is to reject large-scale Constitutional reform in favor of small-scale, gradual changes that will not raise serious objections among the majority of political forces. In the end, this way could be even more effective and realistic.

Recommendations to the government

1. Holding Presidential and Verkhovna Rada elections in the same year.

The participants in this series of public consultations concluded that Ukraine should begin with several point-based changes instead of looking at sweeping constitutional reform. With the help of smaller changes, certain key problems requiring constitutional changes can more simply be resolved.

In particular, to avoid a confrontation between the Verkhovna Rada coalition and President, the President and National Deputies should probably be elected in the same year. This would significantly increase the chances that the President and coalition will represent the same political forces.

2. Making the VR Rules of Order law.

Experts at these public consultations said that guaranteeing the rights of the opposition should be through amendments to the Rules of Order of the Verkhovna Rada, that is, by inserting a section on the rights of the opposition, and a simultaneous "upgrade" of these Rules to a proper law.

The rights that an opposition needs to successfully operate primarily include the

right to set the VR agenda during certain sessions ("opposition days") and the right to restrict the Speaker so that this person cannot manipulate the Verkhovna Rada agenda.

3. Holding local and Verkhovna Rada elections in different years.

Many participants in public debates on the subject are convinced that local and Verkhovna Rada elections should be held at different times. In this way, voters will focus more on local elections and will have a better chance to properly about think whom to elect to local councils.

Participants also suggested switching to open candidate lists at the local level. Voters should be able to choose, not only among parties, but also within party lists for specific candidates. This would increase the likelihood that the candidates they support make it to the relevant council.

4. Requiring local deputies to be residents of their electoral territory.

During these consultations, participants also suggested that the right to run for local office be restricted, that candidates to local councils be required to be registered voters in the particular electoral district. This means they would have to reside in the relevant city, town, county, or oblast.

Moreover, such a provision could be a guarantee that local council deputies will really represent the interests of their communities. There is a risk that such a change might be interpreted as a restriction on overall voter rights.

5. Improving the quality of local policies through local government reform.

The majority of participants in the debate also agreed that one guarantee that the quality of work of parties at the local level will be adequate could be the formulation of local policies. More importantly, local governments should be given the necessary powers and resources to implement local policies.

Only increasing the real weight of local government will provide incentives for developing proper competition among political parties at the local level. This, in turn, should spur parties to improve the quality of their personnel, ideological and platform-based efforts at the local level. In other words, an improvement in the quality of local policies is directly related to the implementation of local government reform.

6. Making public consultations a standard practice.

In the opinion of participants in this series of public consultations, political reform has failed to achieve its main goal: making the executive branch more open and accountable to voters. And so, it continues to make decisions without much thought to public opinion.

The procedures for holding public consultations need to be regulated at the state and local levels, so that it becomes impossible to act in isolation from the electorate when adopting policy decisions. Effective public monitoring of the government response towards proposals made by the public is also needed.

The full version of this report can be downloaded from the ICPS website at <http://www.icps.com.ua/doc/Zvit.pdf> (in Ukrainian).

In October 2007, experts from the International Centre for Policy Studies and the Center for Ukrainian Reform Education launched the second stage of the "Public Consultations on Reforming Local Government in Ukraine and Public Awareness Campaign" project. For additional information, contact ICPS analyst Ivan Presniakov by telephone at (380-44) 484-4400 or via e-mail at ipresniakov@icps.kiev.ua.

Roundtable on the Ukraine-EU Free Trade Agreement held in Dnipropetrovsk

As part of the "EU-Ukraine FTA: Analytical, methodological and informational support for negotiations" project, ICPS is organizing consultations regarding the future Free Trade Agreement between Ukraine and the European Union. Together with the Ministry of Economy and the European Business Association, ICPS held the first roundtable called "The impact and prospects of a Free Trade Agreement between Ukraine and the European Union" in Dnipropetrovsk on 26 October 2007.

The goal was to organize meaningful public dialog among the Government, interested businesses and experts regarding a clear-cut position on the part of the Ukrainian Government in negotiations on this Free Trade Agreement.

Project Manager and ICPS Director for European Integration Olha Shumylo presented a report called "The prospects for signing a Free Trade Agreement between Ukraine and the EU." Ms. Shumylo noted that Ukraine and the EU have agreed to begin talks on free trade after Ukraine accedes to the WTO. She emphasized that implementing this agreement could be the first step towards Ukraine's formal integration with the Union and, among others, would provide Ukrainian companies better terms and conditions for access to the European markets.

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