



**Razumkov**  
centre

**УКРАЇНА 2019-2020:  
ШИРОКІ МОЖЛИВОСТІ,  
СУПЕРЕЧЛИВІ РЕЗУЛЬТАТИ  
(аналітичні оцінки)**

**UKRAINE 2019-2020:  
BROAD OPPORTUNITIES,  
CONTRADICTORY RESULTS  
(Assessments)**

Україна-2019: позитивні зміни та  
приводи для занепокоєння

Прогнози-2020

Громадська думка про підсумки 2019р.

Ukraine in 2019: Positive Changes  
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# UKRAINE IN 2019: POSITIVE CHANGES AND REASONS FOR CONCERN

The year 2019 was a milestone for Ukraine in terms of maintaining internal political stability and foreign policy subjectivity. Today, it is safe to say that the Ukrainian society has successfully passed this decisive point, preserving civil unity and willingness to protect national sovereignty. The key achievement of 2019 was the preservation of the European and Euro-Atlantic course by the new government, including continued cooperation with the EU within the Association Agreement, resumption of work of the NATO-Ukraine Commission, further reformation of the Armed Forces in line with Alliance standards and joint military exercises.

The dual, presidential and parliamentary, elections served as a peculiar “safety valve of democracy”, which gave vent to frustration and disappointment accumulated in society. Though the electoral “reboot” of power was accompanied by the extensive political turbulence, it put an end to a long-lasting crisis of confidence in key government institutions. Given the permanent threat to Ukraine’s sovereignty on the part of Russia, it is particularly important that democratic and legitimate transfer of power has never been questioned either domestically or internationally.

The renewed political system of Ukraine is characterised by a concentration of the state power around the President. His initiatives and official decrees go far beyond constitutional powers but are demonstratively accepted “for execution” by a single-party parliamentary majority and the Cabinet. The social legitimacy of the new government is primarily based on the personal popularity of Volodymyr Zelenskyy; there are virtually no other charismatic leaders in the ruling team.

The concentration of power around the presidential structure and a rather high level of trust in key government institutions have opened a new window of opportunity for effective reforms in Ukraine. However, the new reformers lack a systematic approach and a thorough analysis of the effects of changes made in “turbo-regime”. Moreover, these opportunities are limited by the objective foreign policy and macroeconomic realities, which can be hardly called favourable for Ukraine. Moreover, they do not always meet public expectations, ignited by electoral rhetoric.

In particular, it concerns the Russia-Ukraine conflict and the ongoing hostilities in Donbas. The desire to end the bloodshed and reintegrate the occupied territories, declared by the newly elected President, has stumbled across Russia’s unacceptable demands, which, if implemented, may lead to a political collapse in Ukraine. Therefore, the overall dynamics of the Russian-Ukrainian confrontation during 2019 points at the stabilisation of the long-lasting low-intensity conflict.

Unfortunately, there is still no progress in addressing another key problem for Ukraine – the difficult socio-economic situation. Quite the contrary, many socio-economic indicators have deteriorated in the second half of 2019, leading to a decline in households’ wellbeing. The government is still unable to boost economic growth. During the year, there was no inflow of investment, while its share in the GDP structure has notably decreased. Against the backdrop of sinking production output of Ukrainian industry, the country’s trade deficit continues to grow.

At the same time, the key components of the new government’s radical-liberal economic paradigm – deregulation, privatisation and protection of private property – do not quite meet the expectations of the majority of Ukrainians who seek easing of tariff pressure and improving of social standards. The same is true for the introduction of a free land market, which is not supported by most citizens.

The mismatch between expectations and outcomes already during the year 2020 can lead in the long run to dramatic disappointment of Ukrainians with their recently elected government.

## SECURITY AND DEFENCE

As of the end of 2019, the overall state of the national security has not changed fundamentally compared to the previous year. This can be viewed as both positive and negative. The state and society have successfully passed the test of presidential and parliamentary elections in the face of Russian military aggression and multiple external and internal challenges to stability and security. However, the lack of real progress in settling the Russia-Ukraine armed conflict remains the greatest threat to the country's security and more importantly, to millions of citizens living in the occupied territories and in the immediate proximity to the conflict zone.

The dramatic reboot of power following the elections produced high public expectations and, at the same time, concerns about the ways and ability of the new authorities to achieve the declared goals. An unbiased analysis, focused primarily on the period of the new government's activities, seeks not only to give preliminary assessments but to shape a better understanding of future steps and possible scenarios for the developments in the national security sphere.

### Security environment and the Russia-Ukraine armed conflict

Throughout 2019, the Russia-Ukraine conflict has been in the spotlight of the country's social and political life and electoral races, also remaining a priority on the international agenda. At that, both overall security environment (its nature and the relevance of challenges and threats) and trends remained virtually unchanged compared to the previous year. "Simple solutions" by President Volodymyr Zelenskyy (stop shooting, start a dialogue, and the like) may have contributed to his convincing victory in the elections, but the implementation of President Zelenskyy's peace initiatives ran into the objective reality. Russia's aggressive policy did not change, just like the positions, capabilities and will of Ukraine's partners.

The most significant events in the context of the Russia-Ukraine armed conflict included:

- a Normandy format meeting of the heads of Ukraine, Russia, France and Germany on 9 December in Paris;
- two prisoner swaps;<sup>1</sup>
- separation of forces near Stanytsya Luhanska, Zolote and Petrivske.<sup>2</sup>

At a first glance, all three events seem to be significant steps towards settling the conflict. The release of 111 Ukrainian hostages and POWs along with the resumption

of talks at the highest level after a three-year hiatus are certainly encouraging. However, the overall dynamics of the conflict during 2019 points at the *stabilisation of ongoing low-intensity conflict* rather than the signs of a settlement process.<sup>3</sup>

Most Ukrainian and foreign experts believe that the main result of the Normandy Four meeting was the fact that President Zelenskyy did not cross the "red lines" (federalisation, elections prior to fulfilment of security conditions, control over the border) and did not resort to blatant capitulation of Ukraine. It is also important to note that all three events became possible mainly due to unilateral compromises on the part of Ukraine that caused a wave of protests under the slogan "No to capitulation!"<sup>4</sup>

Therefore, the success of President Zelenskyy's first attempts to fulfil his election promises was rather vague, as the situation did not change significantly both in the conflict zone and in terms of outlooks for its settlement; neither these attempts reduced the number of Ukrainian casualties nor brought the conflict closer to settlement.<sup>5</sup> Moreover, Ukraine has undertaken additional commitments (legitimisation of the "Steinmeier formula") or confirmed the existing ones under the Minsk Agreements that were enforced in 2014-2015, being, in fact, the Russian plan to destroy Ukraine.<sup>6</sup>

In the external security environment, other important unfavourable events for Ukraine included (a) radical changes in the position of France's President Emmanuel

<sup>1</sup> 7 September – a "35 for 35" prisoner exchange (including 24 Ukrainian navy sailors who should have been released by the decision of the UN International Tribunal for the Law of the Sea dated 25 May 2019); 29 December – Ukraine released 123 persons in exchange for 76 Ukrainian citizens. According to various estimates, at least 227 citizens of Ukraine (prisoners of war and political prisoners) remain detained in ORDLO, and 115 – in Russia.

<sup>2</sup> Vorona Y. To go or to stay? Will the separation of troops help to stop the war in Donbas? – Ukrayinska Pravda, 9 October 2019, [www.pravda.com.ua/articles/2019/10/9/7228491](http://www.pravda.com.ua/articles/2019/10/9/7228491).

<sup>3</sup> Hostilities virtually did not stop despite four ceasefire agreements. Battle-related casualties of the Ukrainian forces in 2019 totalled 110 killed and over 500 wounded. See: All those killed at the front in 2019: remembering faces of fallen heroes. – Novynarnya, 23 December 2019, <https://novynarnia.com/2019/12/23/usi-zagylbi-na-fronti-2019-roku>.

<sup>4</sup> "No to capitulation!" rallies held across Ukraine and abroad. – Ukrayinska Pravda, 6 October 2019, [www.pravda.com.ua/news/2019/10/6/7228278](http://www.pravda.com.ua/news/2019/10/6/7228278).

<sup>5</sup> For more details on the outcomes of the Normandy Four meeting see "Leaders of the Normandy Four have met in Paris: results of the talks". – RBK-Ukraine, 10 December 2019, [www.rbc.ua/ukr/news/lidery-normandskoy-chetverki-vstretilis-parizhe-1575650592.html](http://www.rbc.ua/ukr/news/lidery-normandskoy-chetverki-vstretilis-parizhe-1575650592.html).

<sup>6</sup> Response on the so-called "Minsk Agreements". – Maidan of Foreign Affairs, 29 January 2016, [www.mfa.gov.uk/publications/vidozva-shhodo-tak-zvanix-minskix-domovlenostej](http://www.mfa.gov.uk/publications/vidozva-shhodo-tak-zvanix-minskix-domovlenostej).

Macron (one of the EU leaders and members of the Normandy Four) on the need for a strategic dialogue with Russia, “NATO Brain Death”, blockage of the EU enlargement;<sup>7</sup> (b) dragging Ukraine (not without the fault of domestic politicians) into the epicentre of the American intraparty strife; (c) strengthening of Russia’s position on the global arena, and its aggressive policies towards Ukraine. Crises in the EU and the erosion of the Euro-Atlantic unity, effectively fuelled by the Kremlin, weaken the West’s support of Ukraine, while the Russian threat remains steadfast.

## Security Sector

First of all, it is important to highlight the vital role of law enforcement agencies and security services in ensuring stability during the presidential and early parliamentary elections, as they have guaranteed public order, countered external interference and maintained political neutrality. Changes in the top military and political leadership and the corresponding personnel changes did not significantly affect the efficiency of day-to-day operations of the security and defence sector, as well as the progress of reforms.

The analysis of President Zelenskyy’s personnel decisions leads to the following conclusions. On the one hand, the new government also observes the well-established Ukrainian practice of appointing people to key positions based primarily on loyalty rather than professionalism. For example, the newly appointed head of the Security Service of Ukraine (SSU) – Ivan Bakanov – Volodymyr Zelenskyy’s childhood friend and business partner, who had no security sector experience and relevant education. In less than six months, the President replaced two secretaries of the National Security and Defence Council (NSDC) – the country’s highest security and defence coordination body.<sup>8</sup> On the other hand, the personnel “purges” in security agencies were less extensive than usual following the change of presidents. The Defence Minister Stepan Poltorak remained in office until the formation of the new Government, while Arsen Avakov, the Minister of Internal Affairs since 2014, retained his position in the new Cabinet of Ministers. For the first time since 2014, the position of the Minister of Defence was assigned to truly civilian official – Andriy

Zahorodniuk, former head of the Reform Project Office at the Ministry of Defence.

In the context of the reform process, we must admit consistency rather than radicality. Probably, the regulatory framework developed over the previous five years and the positive results in implementing the current reform plans are the key to this. In addition, in May 2019 the NSDC passed the decision to undertake a series of security reviews,<sup>9</sup> which should result in the development of relevant strategic and programmatic documents and action plans. However, despite the reference to Article 27 of the Law of Ukraine “On National Security of Ukraine”, the NSDC limited itself to conducting a *set of reviews* in certain spheres instead of undertaking a *comprehensive review* of the entire security sector, which can adversely affect the systematic nature of the next National Security Strategy.

Efforts to improve the regulatory framework for strengthening the country’s defence capability,<sup>10</sup> its public, information, cyber, economic and energy security, critical infrastructure protection and so on, continued during 2019. Also, increasing social guarantees for military personnel and veterans and enhancing the prestige of military service remains one of law-making priorities.<sup>11</sup> The so-called “turbo-regime” in legislative activity did not ignore the security sphere, but most of the bills were a legacy of the previous Verkhovna Rada and were designed to improve the current legislation by amending it. However, there were some innovations. For example, the “Ukraine Defence Plan”<sup>12</sup> has been introduced – a new document in the defence planning that can be objectively evaluated only after a while.

On 11 December 2019 the President of Ukraine signed the Law on the State Budget of Ukraine for 2020, which earmarked UAH 245.8 billion (or 5.45% of GDP) for the national security. Of these, UAH 135.5 billion (3% of GDP) to be spent on defence, including UAH 35.4 billion on the purchase, modernisation and repair of weapons and military equipment (UAH 7.8 billion increase compared to 2019). UAH 110.3 billion is allocated for civilian security purposes (2.45% of GDP) – this amount envisages increase in salaries of relevant personnel of this sector by 6-15%.

<sup>7</sup> Tsiupyn B., Macron justifies a “dialogue” with Russia and criticises Turkey before the NATO Summit in London. – VOA, 29 November 2019, <https://ukrainian.voanews.com/a/macron-nato-russia-turkey/5186100.html>.

<sup>8</sup> In addition to personal changes in the NSDC, the Presidential Decree No.764 of 18 October 2019 approved a new structure of the NSDC Apparatus consisting of 22 services by security spheres and administrative activities. Given the traditionally low efficiency of this body, its new composition – with no changes in powers and in its place within the overall structure of the national security system of Ukraine – can be viewed as structurally excessive and functionally inadequate.

<sup>9</sup> Defence Review; a review of public safety and civilian security; a review of the state of cybersecurity of critical information infrastructure, state information resources and information, the protection of which is required by law; a review of the nationwide counter-terrorism system; a review of the intelligence agencies of Ukraine. See: the NSDC Decision “On Organisation of Planning in the Security and Defence Sector of Ukraine”, put into effect by the Presidential Decree No. 225 of 16 May 2019.

<sup>10</sup> See, for example a Fact Sheet on regulatory and legal acts adopted in 2019 on the official web site of the Ministry of Defence of Ukraine, [www.mil.gov.ua/diyalnist/zakonotvorcha-diyalnist](http://www.mil.gov.ua/diyalnist/zakonotvorcha-diyalnist).

<sup>11</sup> Laws of Ukraine “On Amending Article 13 of the Law of Ukraine ‘On the Status of War Veterans, Guarantees of their Social Protection’ on Strengthening the Social Protection of Certain Categories of Persons with Disabilities Resulting from the War”; “On Amending Article 6 of the Law of Ukraine ‘On the Status of War Veterans, Guarantees of their Social Protection’ on Ensuring the Rights of the Members of Naval and Air Forces of the Armed Forces of Ukraine to Obtain the Combat Veteran Status”; “On Amending the Law of Ukraine ‘On Military Duty and Military Service’ on Addressing Some Issues of Military Service by Citizens”.

<sup>12</sup> The Law of Ukraine “On Amending the Law of Ukraine ‘On Defence’ on the Organization of Defence of the State”.



## Armed Forces

The reforms in the Armed Forces of Ukraine (AF) continued in 2019. According to Andriy Zahorodniuk, the new Minister of Defence, the reform priorities should include changes in the ministry's structure, adoption of new sectoral laws, eradication of corruption schemes, reformation of the Armed Forces management based on the NATO standards.<sup>13</sup>

In practice, most efforts on reforming the Armed Forces in 2019 were carried out based on the plans elaborated by the previous government, while day-to-day activities focused on conducting the missions in the conflict zone and on improving the quantitative and qualitative indicators of the operational and tactical training of troops. Ukraine continues to receive substantial material, military, technical and advisory assistance from NATO and partner countries.<sup>14</sup> The Ukrainian uniformed personnel is also actively involved in international military exercises and activities to support global peace and security. For example, close to 350 Ukrainian troops are currently engaged in eight international operations under the auspices of the UN and NATO.<sup>15</sup>

In the zone of the Joint Forces Operation (JFO), the Armed Forces' efforts largely focused on implementing the Minsk Agreements regarding ceasefire; on ensuring troop withdrawals in Stanytsia Luhanska, Zolote and Petrivske along with identification and preparation of new withdrawal sites; as well as on further training and strengthening of Joint Forces, increasing their combat readiness, addressing humanitarian issues and implementing projects of civilian-military cooperation while working with civilians in relevant areas of responsibility.

In 2019, the state expenditure on national security and defence increased by 11.3% (UAH 213.3 billion), which above all allowed to improve social protection of personnel. The size of allowances increased by about 30%, just like payments to contracted soldiers of the first year of service (UAH 10 thousand) and remunerations for direct participation in JFO (up to UAH 17 thousand). Financing of the Ministry of Defence programmes increased by 22.6% (UAH 100.7 billion).

As the budget of the Ministry of Defence (and other law enforcement and security agencies) grows, the problem of targeted, efficient and persistent use of funds

becomes increasingly more critical. For example, as of 1 October 2019, balances of unused general funds in the accounts of the main spending authorities in the security and defence sector amounted to UAH 12.1 billion with receivables of UAH 19.4 billion.<sup>16</sup>

In 2019, the Armed Forces of Ukraine received 7,434 pieces of weapons and military equipment, including close to 700 missile and artillery units, about 900 armoured and motor vehicles, 90 aircraft (planes, helicopters, UAVs), five fast attack crafts and boats, almost 700 pieces of communication, automation, military control and cyber defence equipment. As for new and advanced systems and solutions, the Ukrainian army received several upgraded electronic warfare helicopters, 40 special armoured vehicles and the first 100 stock produced "Vilkha" guided missiles. The testing of a "Neptune" anti-ship cruise missile has been completed.<sup>17</sup>

Given the lack of national capabilities to meet the scale and pace of modernisation of its arms and military equipment fleet, Ukraine not only relies on international assistance but also makes important steps towards improving its ability to purchase imported weapons, also with the view of developing its own defence industry. According to the Law of Ukraine "On Amending Some Legislative Acts of Ukraine on the Procurement of Defence Products, Works and Services via Imports" (January 2019), the state customers (including the Ministry of Defence and the General Staff) are allowed to purchase military products and services abroad. This will enhance the capabilities of the Armed Forces and contribute to Ukraine's participation in the Pentagon's Foreign Military Sales (FMS) programme.

Along with the purchase of domestically produced anti-tank missile systems, in Q4 2019 the Ministry of Defence has signed a contract with the United States worth \$39.2 million on the delivery of 10 Javelin launchers along with 150 missiles and relevant equipment.<sup>18</sup> Within the security assistance for Ukraine, the United States also plans to provide three more Island-class patrol boats to Kyiv in addition to two boats "Starobilsk" and "Sloviansk" that have already been adopted by the Ukrainian Navy.<sup>19</sup>

## Civilian Security Sector

In December 2019, five years have passed since the official launch of the European Union Advisory Mission (EUAM) to Ukraine. The initial mandate of the Mission was only to provide strategic advice, but in the course of

<sup>13</sup> Priority areas of reform in the Ministry of Defence and the Armed Forces of Ukraine for 2019-2020. – The official web site of the Ministry of Defence of Ukraine, [www.mil.gov.ua/prioritetni-napryamki-reformi-ministerstva-oboroni-ta-zbrojnih-sil-ukraini-na-2019-2020-roki.html](http://www.mil.gov.ua/prioritetni-napryamki-reformi-ministerstva-oboroni-ta-zbrojnih-sil-ukraini-na-2019-2020-roki.html).

<sup>14</sup> Foreign military instructors provide training to Ukrainian military through training missions JMTG-U (United States, Canada, Lithuania, Poland, Denmark, Sweden), ORBITAL (United Kingdom), UNIFIER (Canada); 39 international advisors from 11 NATO countries, including a group of top-level strategic advisors, provide permanent expert assistance to Ukraine. The largest share of foreign military assistance has come from the United States. Facebook page of the Embassy of Ukraine in the USA, 13 August 2019, [www.facebook.com/ukr.embassy.usa/posts/2424967694213115](https://www.facebook.com/ukr.embassy.usa/posts/2424967694213115).

<sup>15</sup> Participation of the Armed Forces of Ukraine in international peace-keeping operations. – The official web site of the Ministry of Defence of Ukraine, [www.mil.gov.ua/diyalnist/mirotvorchist](http://www.mil.gov.ua/diyalnist/mirotvorchist).

<sup>16</sup> Commentary on the closure of fiscal year of 2019: operative data. – The official web site of the Ministry of Defence of Ukraine, 2 January 2020, [https://mof.gov.ua/uk/news/komentar\\_do\\_zakrittia\\_biudzhethnogo\\_2019\\_roku\\_operativni\\_dani-1974](https://mof.gov.ua/uk/news/komentar_do_zakrittia_biudzhethnogo_2019_roku_operativni_dani-1974).

<sup>17</sup> How many weapons and equipment delivered to the military in 2019? – The official web site of the Ministry of Defence of Ukraine, 26 December 2019, [www.mil.gov.ua/news/2019/12/26/skilki-ozbroenniya-ta-vijskovo-tehniki-postavleno-u-vijska-u-2019-rozci](http://www.mil.gov.ua/news/2019/12/26/skilki-ozbroenniya-ta-vijskovo-tehniki-postavleno-u-vijska-u-2019-rozci).

<sup>18</sup> The US Department of State approved sale of 150 Javelin missiles to Ukraine. – DW, 3 October 2019, [www.dw.com/uk/](https://www.dw.com/uk/).

<sup>19</sup> The United States will hand over three more Island-class patrol boats to the Ukrainian navy, the official web site of the Ministry of Defence of Ukraine, 13 November 2019, <http://www.mil.gov.ua/en/news/2019/11/13/the-united-states-will-hand-over-three-more-island-class-patrol-boats-to-the-ukrainian-navy/>.

the EUAM activities it has been extended to include more practical aspects of support and to cover the regional level.<sup>20</sup> Without exaggeration, the EUAM Ukraine may claim being one of the most successful EU security missions. It is also difficult to overestimate the practical and symbolic importance of this Mission for Ukraine. Among other things, the EUAM mandate became the drive for developing an integrated approach to the civilian security sector, which is particularly important in the face of hybrid threats and blurred lines between military and non-military aggression and defence.

In May 2019, the decision has been passed to extend the EUAM mandate until 31 May 2021 and to increase its budget by more than 25%, which confirms (a) the ongoing EU support of reforms in Ukraine; (b) the effectiveness of the EUAM activities over five years; and (c) the increase in intensity and the scale of activities aimed at supporting reforms and contributing to the civilian security sector in Ukraine.<sup>21</sup>

### *The Ministry of Internal Affairs*

The Ministry of Internal Affairs is not the only, yet one of the key agencies within the civilian security sector in terms of subordinated structures and vested functions. In general, the reform of the law enforcement agencies within the Ministry in 2019 followed the Strategy and relevant annual action plans, approved back in 2017.<sup>22</sup> Among the most socially significant new initiatives, the Community Police Officer project,<sup>23</sup> the delivery of the first five helicopters under the United Aviation System of the Ministry of Internal Affairs<sup>24</sup> should be mentioned and the launch of the project for building a fleet of Ukrainian-French patrol boats to enhance maritime security.<sup>25</sup>

As mentioned above, the personnel changes within the law enforcement system mostly “overlooked” the top leadership, which is a factor for ensuring the consistency of reforms on the one hand, but a barrier for opportunities to address previously accumulated problems on the other.

Official statistics confirm positive effects of the reform on public safety, including reduction in crime rates (especially in number of grave crimes) and increase in crime clearance rates.<sup>26</sup> At the same time, experts believe that many changes in the Ministry of Internal Affairs in general and in the National Police in particular are non-systemic, selective and populist.<sup>27</sup>

The latter is evidenced by notorious cases, particularly those related to criminal acts and omissions by low- and mid-tier law enforcement officers, the failure to investigate assassinations of well-known activists and journalists, as well as the disgraceful attempts to close such cases in a dubious manner.<sup>28</sup> Since the onset of the Patrol Police reform, there is a traditional shortage and high turnover of staff, caused by the improper legislation, inadequate logistics, poor social protection of police officers and the lack of motivation.

### *The Security Service of Ukraine*

The Security Service of Ukraine (SSU) is the only agency that has not received a *systemic* reform programme in recent years. Yet, even in the absence of a comprehensive reform document, the SSU continues to successfully accomplish the tasks according to the current legislation and undertakes various measures to improve its own structures and working methods. The SSU's results for 2019 are truly remarkable both in the number of detected and prevented crimes, and in terms of their material dimension.<sup>29</sup> The number and nature of crimes speak for themselves: treason – 57, espionage – 7, encroachment on territorial integrity – 4, terrorism and sabotage – 54. In addition, the SSU reports high achievements in other – both specialized and non-specialized – areas of activity.<sup>30</sup>

The SSU reform is a landmark component of the entire security sector transformation; it is also a sign of the new government's efficiency. Unfortunately, it already demonstrates consistent delays in reforming the country's security service. Elaborated back in 2016,

<sup>20</sup> Our Mission: The Civilian Security Sector; Out Us; Our priorities; Field Offices; Progress in reform. – The official web site of the EUAM Ukraine, [www.euam-ukraine.eu/ua/our-mission/about-us](http://www.euam-ukraine.eu/ua/our-mission/about-us).

<sup>21</sup> EUAM Ukraine: Council extends mission and approves budget increase. Council of the European Union, 13 May 2019, [www.consilium.europa.eu/en/press/press-releases/2019/05/13/euam-ukraine-council-extends-mission-and-approves-budget-increase](http://www.consilium.europa.eu/en/press/press-releases/2019/05/13/euam-ukraine-council-extends-mission-and-approves-budget-increase).

<sup>22</sup> The Cabinet of Ministers of Ukraine Order No.1023 dated 15 November 2017 “On Approval of the Strategy of Development of the Bodies within the Ministry of Internal Affairs System until 2020”.

<sup>23</sup> A Community Police Officer project launched in Ukraine. – The official web site of the National Police of Ukraine, 28 May 2019, [www.npu.gov.ua/news/preventivna-robotu-v-ukrajini-zapustili-proekt-policejskij-oficer-gromadi](http://www.npu.gov.ua/news/preventivna-robotu-v-ukrajini-zapustili-proekt-policejskij-oficer-gromadi).

<sup>24</sup> United System of Aviation Security and Civil Protection of MIA. – The official web site of the Ministry of Internal Affairs of Ukraine, 25 May 2019, [https://mvs.gov.ua/ua/infographic/ministerstvo\\_vnutrishnih\\_sprav/dina\\_sistema\\_aviacijnoi\\_bezpeki\\_ta\\_civilnogo\\_zahistu\\_MVS\\_Ukraini.htm](https://mvs.gov.ua/ua/infographic/ministerstvo_vnutrishnih_sprav/dina_sistema_aviacijnoi_bezpeki_ta_civilnogo_zahistu_MVS_Ukraini.htm).

<sup>25</sup> 20 modern patrol boats: Arsen Avakov signed a joint project with the French Government. – The official web site of the Ministry of Internal Affairs of Ukraine, 19 November 2019, <https://mvs.gov.ua>.

<sup>26</sup> Reductions in grave and particularly grave crimes have been reported during the last three years with their number decreasing by 17%; the clearance rate is almost 91% of crimes committed in 2019. See: In 2019 crime rate is down 11 percent... – The Police of the Donetsk Region, 8 August 2019, <http://police.dn.ua/news/view/u-2019-rotsi-riven-zlochinnosti-znizivysya-na-11-vidsotkiv-porivnyano-z-2018-rokompershij-zastupnik-glavi-natspolitsii>.

<sup>27</sup> Four years of the National Police: true reform or change of uniform? – Ukrinform, 4 September 2019, <https://www.ukrinform.ua/rubric-society/2753095-cotiri-roki-nacpolicii-reforma-ci-zmina-formi.html>.

<sup>28</sup> See, for example: What are the most serious offenses committed by police in Ukraine? – Slovo i Dilo, 6 August 2019, [www.slovoidilo.ua/2019/08/06/infografika/suspilstvo/yaki-najhuchnishi-pravoporushennya-buly-skoyeni-policejskymy-ukrayini](http://www.slovoidilo.ua/2019/08/06/infografika/suspilstvo/yaki-najhuchnishi-pravoporushennya-buly-skoyeni-policejskymy-ukrayini); The Sheremet assassination: investigative journalists still have plenty of questions. – BBC Ukraine, 12 December 2019, [www.bbc.com/ukrainian/features-50762489](http://www.bbc.com/ukrainian/features-50762489).

<sup>29</sup> Prevented acts of terrorism, convicted traitors and battling corruption in the defence sector. – The SSU's counterintelligence summarises its yearly achievements. – The official web site of the SSU, 27 December 2019, <https://ssu.gov.ua/ua/news/1/category/2/view/6923#.Zml7tESC.dpbs>.

<sup>30</sup> 100 days: SSU results. – The official web site of the SSU, 12 December 2019, <https://ssu.gov.ua/ua/news/1/category/21/view/6847#.f1Ranyqf.dpbs>.

the draft concept of the SSU reformation has not been approved, and the work on the draft law on the SSU has not been completed as of the end of 2019. The draft's public presentation generated a wave of criticism both from Ukrainian expert community and partners from the EU and NATO. Both draft documents allow the SSU to retain certain powers in the fight against organised and economic crime, whereas the introduction of effective parliamentary oversight is postponed for some time. This complicates the reform of the SSU itself, and also makes things more difficult for the entire sector of combating economic crime, in particular in setting up a Bureau of Financial Investigations.

### Defence Industry

In 2019 there have been significant changes in executive positions responsible for the formulation and implementation of defence industry policy (the Ministry of Economy), in the structures that ensure proper functioning and development of the defence industry, as well as in most leading enterprises. The most important result of Ukraine's state defence industry in 2019, including that of "Ukroboronprom" as its leading entity, was the ability to consistently complete the state defence order. It should not be attributable to the new leadership alone,<sup>31</sup> as the basis for the current development of the national defence industry has been laid in the previous years.<sup>32</sup> The development of the Concept and the Strategy for Defence Industry Development is currently underway based on the relevant Defence Industry Complex review; it is expected to be completed in March 2020.

Meanwhile, thanks to arrival of new cadres, several long-awaited measures have been launched, including:

- consolidated audit of "Ukroboronprom" (relevant contract has been concluded with *Baker Tilly Ukraine*, which previously conducted a financial audit of "Ukrspetsexport");
- improvement of financial condition and stabilisation of four "Ukroboronprom" enterprises (Kharkiv Design Bureau of Mechanical Engineering after O. Morozov, Zhytomyr and Mykolaiv armour factories and the Palada plant);
- reduction in the number of special exporters, improvement of service quality and liberalisation of arms exports (only two special exporters to remain within "Ukroboronprom");
- addressing the problem of debts of "Ukroboronprom" enterprises;<sup>33</sup>

- small privatization. It is planned to keep around 80 enterprises and design bureaus within the "Ukroboronprom", while the Concern itself to be transformed into a holding company.

Also, a quite illustrative event occurred in 2019 involving a possible acquisition of more than 50% of "Motor Sich" company shares by Chinese companies. This venture has a long history and it has been suspended at the final stage thanks to America's intervention. The case is being closely monitored by the Antimonopoly Committee of Ukraine, but should it come to fruition, it may cause irreparable damage to the country's defence capability and the US-Ukraine relations.<sup>34</sup>

### Conclusions

The overall situation in the national security did not change fundamentally over the past 12 months, which gives grounds for a positive assessment of the government's actions on the one hand, and causes some concern on the other, especially in view of public's excessive social expectations of the new leadership. Above all, it is about elusive prospects of settling the Russia-Ukraine armed conflict and ensuring security of millions of citizens living in the occupied territories and in close proximity to the conflict zone.

Initial attempts to implement President Zelenskyy's peace initiatives can be viewed as certain tactical and public image victories, for which Ukraine has paid a price of unilateral compromises. The true value of these developments will become known later.

Ensuring security and stability during two election campaigns was one of the most significant performance indicators of the security sector in 2019. It is also important that changes in the military and political leadership and in senior government positions did not significantly affect the activities of the security sector agencies and the course of reforms. At the moment, consistency rather than radicality in the new government's actions in this sphere should be noted. This is evidenced, for example, by the size and allocations of the State Budget for the national security in 2020. The objective evaluation of the effects of specific innovations (such as the "Ukraine Defence Plan") can only be performed over time. For the new government, settlement of the Russia-Ukraine conflict and investigation of high-profile crimes remain the most "problematic legacy" of 2019 and a challenge in 2020.

<sup>31</sup> Ukroboronprom delivered 4,834 new and upgraded weapon systems to troops. – The official web site of Ukroboronprom, <https://ukroboronprom.com.ua>.

<sup>32</sup> For example, in 2018 the government adopted a number of concept papers that provide for a comprehensive restructuring of the state management system in the defence industry, organisational and production activities of defence enterprises, and achieving a balance of domestic production and imports. See: The Strategy for the Development of the Defence Industrial Complex of Ukraine until 2028, the Cabinet of Ministers of Ukraine Order No.442 of 20 June 2018, The Strategy for Revival of Aircraft Construction until 2020, the Cabinet of Ministers of Ukraine Order No.429 of 10 May 2018.

<sup>33</sup> 46 companies within the Concern are loss-making; 43 enterprises have wage arrears in the amount of UAH 445 million. Of these, UAH 55 million have been repaid, and it was planned to repay about UAH 100 million by the end of 2019. There are also tax and special pension arrears (about UAH 1.1 billion) and UAH 4.2 billion debts to suppliers. See: Wage arrears at "Ukroboronprom" enterprises reached 445 million. – Ukrinform, 5 November 2019, [www.ukrinform.ua/rubric-economy/2812149-zarplatni-borgi-na-pidpriemstvah-ukroboronpromu-sagnuli-445-miljoniv.html](http://www.ukrinform.ua/rubric-economy/2812149-zarplatni-borgi-na-pidpriemstvah-ukroboronpromu-sagnuli-445-miljoniv.html).

<sup>34</sup> Kanevskyi H., The dragon is lurking. Why the sale of Motor Sich undermines Ukraine's national security. – Ukrayinska Pravda, 28 August 2019, [www.pravda.com.ua/articles/2019/08/28/7224606](http://www.pravda.com.ua/articles/2019/08/28/7224606).



## FOREIGN POLICY

Early days of the new government in Ukraine and its first steps at the global stage occurred amidst difficult internal situation, unfavourable geopolitical dynamics and the hybrid war unleashed by the Kremlin. It should be admitted that Ukraine's foreign policy was forced to focus on security issues.

The apparent priority areas of Ukrainian diplomacy were (and will be in the near future) resisting Russian aggression, maintaining international aid and solidarity, providing external conditions for strengthening security and development of the country in the face of the undeclared war.

### Overview of the New Government's Foreign Policy

After changes in higher government institutions of Ukraine in 2019, the **foreign policy course consistently follows the main strategic directions**. Currently, there are no visible signs of a dramatic correction of Ukraine's foreign policy, which could "surprise" partner countries.

Describing the content and orientation of the new government's foreign policy, the following should be taken into account:

**First.** There is a movement in the wake of approaches and priorities of the previous foreign policy course. The government has declared its intentions to deepen European and Euro-Atlantic integration, to develop partnership with the United States, to resolve problems with neighbours, and to end the war in Donbas.<sup>1</sup> However, the reality, at least in the Russian and American "segments", gives no particular grounds for optimism.

**Second.** In general, the geography of foreign visits and meetings of the new President can be viewed as "well-targeted", given the geopolitical logic and national interests. These included visits to EU headquarters in Brussels, visits to Paris and Berlin, a meeting with the Canadian leadership in Toronto, talks in Ankara, visits to Poland and the Baltic states.<sup>2</sup> One should also recall the President's participation in the UN General Assembly, contacts with the leadership of the United States, Japan and Russia. But it would be premature to expect significant "breakthroughs" as these contacts were mostly informative, aiming to establish personal links, build a "regime of trust" and gain experience in top-level negotiations.

**Third.** Any assessment of international activities of the Cabinet, the Parliament and its relevant committees (including the effectiveness of inter-parliamentary relations) can be only preliminary, given a short period of functioning of these institutions. The Parliament is currently in the process of adopting a package of bills on European integration. Unfortunately, the strategic

issues of foreign policy remain beyond the Parliament's attention (this particularly concerns the basic Law "On Fundamentals of Domestic and Foreign Policy", which is outdated and needs proper revision). In addition, some legislative initiatives in areas that undergo reforms (and then some) have raised concerns among Ukraine's international partners (for more detail, see *Domestic Policy Section*).

At the same time, the nature of foreign policy activity by the new government in 2019 highlighted some issues that may have or already had negative consequences.

### *Lack of Programmatic, Conceptual Approaches and Strategic Vision.*

The foreign policy of the state and clearly defined principles of Ukraine's policy on the global stage are still missing. Some conceptual documents adopted by the new government do not solve this problem. In particular, the Presidential Decree "On Urgent Measures for Conducting Reforms and Strengthening the State" from early November outline some foreign policy activities in a very general form.<sup>3</sup> In turn, the foreign policy section of the newly adopted Action Programme of the Cabinet of Ministers is rather fragmented, selective and incomplete and only partially corresponds to the priorities outlined in the above-mentioned Presidential Decree.<sup>4</sup>

Moreover, this document effectively removes the Ministry of Foreign Affairs (MFA) from key foreign policy areas – European and Euro-Atlantic integration, relations with the United States and Russia. The MFA with its limited functions will *de facto* become a "supplement" to the Office of the President.

The lack of strategy threatens to entrench "shadow influence" on foreign policy and its hands-on management by the President's immediate environment. Some symptoms of these have already revealed themselves in 2019, in particular, in the Russian "segment". One may recall the recent *New York Times* interview with influential oligarch Ihor Kolomoisky (13 November 2019), in which he emphasised the need to restore

<sup>1</sup> Specifically, in his inaugural address on 20 May 2019, President Volodymyr Zelenskyy stressed that his "first tasks" are ceasefire in Donbas, a path to Europe and adoption of NATO standards. The next day, he met representatives of the US Administration and called for tougher sanctions against Russia. See: The President of Ukraine Inaugural Address on 20 May 2019. – The web site of the President of Ukraine, <https://www.president.gov.ua/en/news/inavguracijna-promova-prezidenta-ukrayini-volodimira-zelensk-55489>.

<sup>2</sup> For example, a Declaration on Strategic Partnership between Ukraine and Lithuania for 2020-2024 was signed with Lithuania's Gitanas Nausėda. During his first 6 months in the office, Volodymyr Zelenskyy visited all three Baltic countries and already had four meetings with Estonian President Kersti Kaljulaid. See Kyiak M. Baltic bicycle visits: what are the results of a Ze-trip to Tallinn and Vilnius? – Yevropeyska Pravda, 29 November 2019, <https://www.eurointegration.com.ua/articles/2019/11/29/7103623/>.

<sup>3</sup> See the Decree of the President of Ukraine No.837/2019 dated 8 November 2019 "On Urgent Measures for Conducting Reforms and Strengthening the State", <https://www.president.gov.ua/documents/8372019-30389>.

<sup>4</sup> See Action Programme of the Cabinet of Ministers of Ukraine, <https://program.kmu.gov.ua/>.

relationships with Russia and to give up on the West.<sup>5</sup> Similar statements could be heard from other President's associates. Such influences contributed to the adoption of overly simplistic approach to settling the conflict with Russia ("Just stop shooting ..." <sup>6</sup>), readiness to make unjustified unilateral concessions to the aggressor (*see below*), and "stigmatization" of opponents. Eventually, it increased tension in society, leading to protests and emergence of the Capitulation Resistance Movement.

### **Problems of Structural and Personnel Transformations**

The structural reorganisation of the Ministry of Foreign Affairs<sup>7</sup>, launched in December 2019, excludes the key segments (Russia, United States and Canada), which runs counter the foreign policy priorities declared by the country's leadership. On the other hand, the introduction of external competitions for the key MFA positions threatens to de-professionalise the ministry. The diplomatic corps rotation is underway, as 12 heads of embassies (including those in the United States, Argentina, Chile, Vatican, Armenia, etc.) were recalled; a number of the corresponding appointments were made.

As the Office of the President essentially plays the leading role in foreign policy activity, the short "player's bench" and the President's reliance on his own team from "Kvartal 95" is a significant problem. Volodymyr Zelenskyy admitted: "It so happened that no one can be trusted anymore. I mean, there are absolutely no people who you can trust. Apart from our narrow circle, everyone lies".<sup>8</sup> Therefore, important appointments were made based on personal friendships and recommendations from immediate environment. The case in point – the appointment of a showman Serhiy Sivokho to the position of advisor to the Secretary of the National Security and Defence Council for reintegration of Donbas.

Some personnel disturbances adversely affected the image of both the government and the country. Following the scandalous resignation of Bohdan Yaremenko, the chairman of the Parliamentary Committee on Foreign Policy and Interparliamentary Cooperation, this position remained vacant for a long time. Due to internal disputes within the ruling team, the NSDC Secretary was also replaced. The reasons for the resignation of Olena Zerkal, the Deputy Minister of Foreign Affairs, are similar. Also, the composition of the Ukrainian delegation to the Trilateral Contact Group in Minsk has been changed without a proper explanation.

This list of problems can be further expanded with a notable lack of experience, both among most MPs, who until recently have had a very vague idea about foreign policy issues, and in the Cabinet – with an average age of 39, it is now the youngest government in Europe,<sup>9</sup> and many of its members simply do not have proper political and administrative experience.

### **Problem of Communication with Society on Foreign Policy Issues**

The lack of communication between the new government and the public is quite a notable problem. Some important steps and decisions of the former lacked transparency. It refers, for example, to the adoption of the "Steinmeier formula" by the Ukrainian side, as well as the uncertainty and different interpretation of the so-called "Zelenskyy formula" for settling the Donbas conflict, which sparked public protests and a joint statement by the three opposition factions. Non-transparent, abrupt changes and reshuffles within the Ukrainian delegation to the Trilateral Contact Group in Minsk is another example. The actions of the presidential team in the American "segment" also lacked publicity. The President's "secret" visit to Oman and some other actions caused public outcry.

### **Ukraine's Foreign Policy in Some Key Areas**

#### **Russia**

The Ukrainian government's policy concerning Russia largely focused on Donbas. The country's leadership tried to reach certain compromises with the Kremlin as quickly as possible by agreeing to unilateral concessions, toning down the official rhetoric about Russia, and resuming the dialogue.<sup>10</sup> The government, through Minister of Foreign Affairs Vadym Prystayko speech in the Verkhovna Rada in August 2019, declared its intent to promptly resolve/minimise the conflict in the East.<sup>11</sup> (Already on 3 December, as many as five scenarios for reintegration of occupied Donbas were approved at the NSDC meeting).

This resulted in the resumption of prisoner exchange process and withdrawal of troops in three locations along the contact line. Also, the summit of the leaders of the Normandy Four took place in early December 2019 in Paris, where they approved the Overall agreed conclusions of the Paris Summit in the Normandy format on 9 December 2019.<sup>12</sup>

In general, it is rather declarative, framework document. "Conclusions" are more oriented to reaching local situational compromises such as "development

<sup>5</sup> "We need Russia, and the blood will be forgotten". Key points from infamous Kolomoisky's interview to NYT. – Novoe Vremya, 13 November 2019, <https://nv.ua/ukraine/politics/kolomoyskiy-dlya-the-new-york-times-shokiruyushchie-zayavleniya-intervyyu-novosti-ukrainy-50053285.html>.

<sup>6</sup> I like Volker's plan on peacekeepers and the ceasefire in Donbas. Zelenskyy V. – Censor.Net, 21 March 2019, [https://censor.net.ua/news/3117954/mne\\_nravitsya\\_plan\\_volкера\\_o\\_vvedenii\\_mirotvortsev\\_i\\_prekraschenii\\_ognya\\_na\\_donbasse\\_zelenskyyi](https://censor.net.ua/news/3117954/mne_nravitsya_plan_volкера_o_vvedenii_mirotvortsev_i_prekraschenii_ognya_na_donbasse_zelenskyyi).

<sup>7</sup> Kravchenko V. Limited liability MFA. – Dzerkalo Tyzhnya, 15 January 2020, [https://dt.ua/internal/mzs-z-obmezhenoju-vidpovidalnistyu-335604\\_.html](https://dt.ua/internal/mzs-z-obmezhenoju-vidpovidalnistyu-335604_.html).

<sup>8</sup> Zelenskyy admitted he trusts no one but people from his circle. – Ukrayinska Pravda, 17 July 2019, <https://www.pravda.com.ua/news/2019/07/17/7221204/>.

<sup>9</sup> "Young and green: the Government of Ukraine is the youngest in Europe". – DW, 3 September 2019, [https://www.dw.com/uk/юні-і-зелені-уряд-україни-наймолодший-у-європі/a-50262907?fbclid=IwAR3HMzQy3vaXGfY3-KZ4lwS\\_y4gCrsGIXFIOkZ0\\_F7lc-lVlib\\_SbEaQm0A](https://www.dw.com/uk/юні-і-зелені-уряд-україни-наймолодший-у-європі/a-50262907?fbclid=IwAR3HMzQy3vaXGfY3-KZ4lwS_y4gCrsGIXFIOkZ0_F7lc-lVlib_SbEaQm0A).

<sup>10</sup> These included: a) abstaining from harsh statements about Russia; b) statements by Andriy Bohdan, the head of the Presidential Office, on the prospects of introducing "bilingualism" in the Donbas and holding a referendum on peace agreements with the Russian Federation; c) Leonid Kuchma's initiative within the framework of the Trilateral Contact Group (TCG) in Minsk to review the "blockade" of ORDLO; d) dismissal of "unyielding" Roman Bezsmertnyi from the Ukrainian delegation to TCG; e) approval of the "Steinmeier formula" etc.

<sup>11</sup> According to Mr Prystayko, "Now it is not that important how we are going to do it – whether by engaging peacekeeping missions or by carrying out the Minsk [agreements]. The most critical thing is that we have only six months for that. And I'm refocusing the diplomatic service on this six-year term". – Yevropeyska Pravda, 29 August 2019, <https://www.eurointegration.com.ua/news/2019/08/29/7100217/>.

<sup>12</sup> Overall agreed conclusions of the Paris Summit in the Normandy format of 9 December 2019. – The official web site of the President of Ukraine, <https://www.president.gov.ua/en/news/zagalni-uzgodzheni-visnovki-parizkogo-samitu-v-normandskomu-58797>.

of the updated mine clearance plan”, “arrangements on three additional disengagement areas”, “agreements on new border crossing points”, and the like. At the same time, the key point on “ceasefire regime by the end of 2019”, as of January 2020, has not been fulfilled by occupation forces. Moreover, the basic questions for settling the Donbas conflict – “defining political and security conditions... to organise local elections”,<sup>13</sup> have been postponed to the next meeting of the Normandy Four, which is to be held within four months.

The Ukrainian initiatives remain futile, as the Kremlin demonstrates its unwillingness to compromise. Russia elevates tension, making it clear that it will speak to Kyiv in an ultimatum-like tone and from a position of strength.

**These are confirmed Russia's hostile actions throughout 2019:**

- on 24 April 2019, Putin's “humanitarian” decree on “passportisation” of ORDLO entered into force. On 17 July, an Order to simplify the acquisition of Russian citizenship by residents of Donetsk and Luhansk regions was published;
- on 1 June, the Government of the Russian Federation introduced restrictions on the supply of coal, oil and petroleum products to Ukraine;
- on 11 July, the Russian Prosecutor General's Office declared the Ukrainian World Congress “undesirable” in the Russian Federation;
- on 16 July, the Russian side initiated an extraordinary meeting of the UN Security Council to consider the Ukrainian Law on Language;
- on 5 September, at the Eastern Economic Forum, Putin clearly warned the new Ukrainian government “not to prosecute the pro-Russian opposition”;
- on 21 November, the Russian Federation dispatched another – 92nd – illegal “humanitarian convoy” of 23 trucks to Donbas;
- on 19 December, during his annual news conference, Putin yet again came up with ultimatums to Ukraine: the special status of Donbas must be formalised in the Constitution; there must be a direct dialogue with DPR/LPR; border control to be restored after the elections. Putin once again announced that “there are no foreign troops” in Donbas.
- in similar vein, the Russian president, in the spirit of great-power historical revanchism, made territorial claims to Ukraine by saying that “when the Soviet Union was created, original Russian territories that never had anything to do with Ukraine, were transferred to Ukraine... and we are dealing now with this legacy”.<sup>14</sup>

**A look at the overall situation of Kyiv-Moscow relations suggests that any talks about minimisation of the conflict are now pointless.** Russia continues its military, political, economic, energy and information aggression against Ukraine. Low intensity fighting in Donbas continues, while the efforts by international diplomacy to end war in eastern Ukraine are still fruitless. Meanwhile, the situation around the annexed Crimea remains “frozen”, turning into a long-term “pending” issue.

The situation in the Black and Azov Seas remains highly explosive due to Russia's blocking of the Kerch Strait. In January 2020, the Black Sea and the Northern Fleets of the Russian navy held large-scale military exercises in the Black Sea with the use of its advanced weapons systems. Relations between Kyiv and Moscow in the gas sphere are complicated, and recently adopted transit contract between NJSC Naftogaz and Gazprom is essentially a forced compromise to avoid another “gas war”.

***Ukraine's European Integration***

Initial steps of the new government in the area of European integration were highlighted by the attempts to accelerate integration processes, and also by ambiguous and controversial decisions.

During the first few months, the newly elected Parliament worked in the so-called “turbo-regime”. On the one hand, this Parliament was able to pass some European integration laws that had not been adopted during the previous cadence, in particular, on joint transit and the introduction of the national electronic transit system; on the introduction of the Institute of Authorised Economic Operators.<sup>15</sup> Several final laws that were necessary for the ACAA Agreement negotiations have also been adopted.<sup>16</sup>

On the other hand, this “turbo-regime” affected the quality of law-making, while some legislative innovations (“re-reforming” of the judiciary, the SSU reform, decentralisation issues) triggered sharp criticism from the Western partners.<sup>17</sup> Specifically, the ambassadors of Canada, the United Kingdom, Germany and the EU submitted a joint letter to the Speaker of Parliament, expressing concern about “compliance of certain elements of the bill with the principles of the independence of judges”.<sup>18</sup>

The new government has retained the position of a Vice Prime Minister for European and Euro-Atlantic integration; it was taken up by Dmytro Kuleba, former Ukraine's Representative to the Council of Europe. In October 2019, the government has announced plans to open the European integration offices in the regions. The Cabinet's Office for Coordination of European and

<sup>13</sup> Ibid.

<sup>14</sup> Vladimir Putin's annual news conference, 19 December 2019. – The web site of the President of the Russian Federation, <http://kremlin.ru/events/president/news/6236>.

<sup>15</sup> Draft Law on the joint transit regime and the introduction of the national electronic transit system. Draft Law on amendments to the Customs Code of Ukraine concerning some issues of functioning of Authorised Economic Operations.

<sup>16</sup> Draft Law on amendments to certain legislative acts of Ukraine in connection with the adoption of the Law of Ukraine “On Standardisation”. Draft Law on amendments to certain legislative acts of Ukraine on reducing pressure on businesses by market surveillance authorities. .

<sup>17</sup> The West's criticism of the judiciary reform includes the reduction of the Supreme Court from 200 to 100 judges. As for the SSU reform, the EU insists on limiting the agency's functions to counterintelligence, terrorism and protection of state secrets.

<sup>18</sup> Zelenskyy's judicial reform poses significant risks to independence of judges: Western ambassadors. – Yevropeyska Pravda, 17 October 2019, <https://www.eurointegration.com.ua/news/2019/10/17/7101959/>; The EU criticised the draft reform of the SSU: Bakanov will retain excessive powers. – Ukrayinska Pravda, 17 December 2019, <https://www.pravda.com.ua/news/2019/12/17/7235131/>.



Euro-Atlantic Integration and sectoral Vice Prime Minister were granted the right to submit their own draft laws to the Cabinet. To strengthen cooperation between the branches of government, a joint parliamentary-governmental platform for European integration was announced.<sup>19</sup>

The Cabinet initiated the new practice of holding meetings fully devoted to European integration issues. The first “European integration” meeting took place on 20 November 2019 and resulted in a number of important decisions, including opening access to the Pulse of the Agreement<sup>20</sup> system to the public; updating the Action Plan for the Association implementation; approving 16 European integration bills, and agreeing on the launch of the first regional European integration office in the Kherson oblast.

On 8 July 2019, Kyiv hosted the 21<sup>st</sup> EU-Ukraine Summit. In the joint statement following the Summit, the EU acknowledged the European aspirations of Ukraine and welcomed its European choice. The parties recognised the substantial significant progress made by Ukraine in its reform process, in areas such as health care, decentralisation, pensions, public administration and public procurement. At the same time, the parties emphasized the importance of strengthening fight against corruption and continuing fulfilling the visa liberalization benchmarks.<sup>21</sup>

A meeting of the EU-Ukraine Association Committee was held in Brussels on 5-6 November 2019. The parties agreed to intensify cooperation to deepen sectoral integration in some priority areas, including digital market, energy, justice, freedom and security, customs, as well as to facilitate the launch of the negotiation process concerning the ACAA Agreement (the so-called “industrial visa-free regime”). A new annex to Chapter III of the EU-Ukraine Association Agreement – the “Energy Annex” – has been submitted for consideration by the European side.<sup>22</sup>

On 12 December 2019, the European Commission published its annual Association Implementation Report on Ukraine. Generally speaking, Brussels was cautiously optimistic in assessing new government’s first steps in reforms.

The Report appreciated the new government’s efforts in anti-corruption sphere, public administration, decentralisation and health care. At the same time, it criticised the steps aimed at reforming the judicial branch and judicial self-governance bodies.

The Report gave positive marks to economic and sectoral reforms, highlighting notable achievements in relation to budget law, customs, market deregulation and procurement. Also important was the unbundling of Naftogaz from independent transmission system operator. At the same time, low progress was observed in statistics and intellectual property rights.

The Report also mentioned significant resistance to comprehensive reforms of energy sector and transport.<sup>23</sup>

At the same time, some disparities in the positions of individual members of the ruling team create unfavourable background for Ukraine’s European integration. The statement by Davyd Arakhmiya, the head of the “Servant of the People” parliamentary faction at the World Economic Forum in Davos on 22 January 2020 received clearly negative publicity, as he allegedly advised Ukraine to temporarily abandon the policy of harmonising its legislation with EU law. Dmytro Kuleba, the Vice Prime

Minister for European and Euro-Atlantic integration, had to refute this “demarche” by the leader of the pro-presidential faction.<sup>24</sup>

### *Euro-Atlantic Integration*

Ongoing contacts with NATO have continued at high and the highest levels, and the parties reached a number of agreements. Therefore, there are enough grounds to speak about positive cooperation dynamics. On 4 June 2019, President Zelenskyy met Jens Stoltenberg, the NATO Secretary General, and made a landmark statement: “The strategic course of Ukraine is aimed at full membership in the EU and NATO. This is enshrined in the Constitution of Ukraine and remains our unwavering foreign policy priority”.<sup>25</sup> The President of Ukraine stressed the need “to give a new boost to relations with the Alliance”, “to resume regular dialogue in the framework of the NATO-Ukraine Commission”.<sup>26</sup>

In September, during the visit of Vice Prime Minister Kuleba to NATO Headquarters, an agreement was reached with the Alliance leadership on: (a) intensifying activities of the Joint Working Group on Military Reform; (b) recognising Ukraine’s in the development of NATO’s “one country – one plan” programme; (c) continued training of Ukrainian sailors on NATO ships; (d) holding consultations with the Alliance in the development of Ukraine’s National Security Strategy, etc.

The visit of the Alliance’s North Atlantic Council to Ukraine on 30-31 October 2019 and ensuing high-level meeting of the NATO-Ukraine Commission in Kyiv, which was consistently blocked by Hungary,<sup>27</sup> was the key event of 2019 in Ukraine’s relations with NATO. Outcomes of the meeting included reviewing and updating joint projects

<sup>19</sup> Razumkov and Kuleba announced the creation of parliamentary-governmental platform for European integration. – *Yevropeyska Pravda*, 19 November 2019, <https://www.eurointegration.com.ua/news/2019/11/19/7103230/>.

<sup>20</sup> The Pulse of the Agreement is a monitoring system for the EU-Ukraine Association Agreement implementation; it demonstrates progress in relevant areas of the state policy. Since its launch in 2017, it was only accessible to government officials.

<sup>21</sup> Advancing mutual commitment: Joint statement following the 21<sup>st</sup> EU-Ukraine Summit. – The official web site of the President of Ukraine, <https://www.president.gov.ua/news/posilyuyemo-vzayemni-zobovyazannya-spilna-zayava-za-pidsumka-56277>.

<sup>22</sup> Updating of the Association Agreement, enhancing cooperation with the EU in energy, “digits” and cybersecurity, opening the European integration offices and training for civil servants: key results of the EU-Ukraine Association Committee meeting. – European Integration Portal, 6 November 2019, <https://eu-ua.org/novyny/onovlennya-ugody-pro-asociaciyu-posylennya-spiivpraci-z-yes-v-energetyky-cyfri-ta-kiberbezpechi>.

<sup>23</sup> Association Implementation Report on Ukraine. – European Commission, [https://eeas.europa.eu/sites/eeas/files/swd\\_2019\\_433\\_f1\\_joint\\_staff\\_working\\_paper\\_en\\_v4\\_p1\\_1056243.pdf](https://eeas.europa.eu/sites/eeas/files/swd_2019_433_f1_joint_staff_working_paper_en_v4_p1_1056243.pdf).

<sup>24</sup> Kuleba and Arakhmiya are already dismissing the statement on abandonment of European integration. – *Yevropeyska Pravda*, 22 January 2020 – <https://www.eurointegration.com.ua/news/2020/01/22/7105472/>.

<sup>25</sup> The course towards full membership in the EU and NATO remains the unwavering foreign policy priority of Ukraine. – Volodymyr Zelenskyy. 4 June 2019. – The official web site of the President of Ukraine, <https://www.president.gov.ua/news/kurs-na-povnopravne-chlenstvo-u-yes-i-nato-zalishayetsya-nez-55745>.

<sup>26</sup> Ibid.

<sup>27</sup> The development of institutional contacts between NATO and Ukraine was hampered by Hungary’s destructive position, which blocked all meetings of the NATO-Ukraine Commission since 2017 because of unfounded claims to the Ukrainian Law on Education. Such actions were not supported by other Alliance member states; the Hungary’s formal request to NATO leadership to revise the Alliance’s relations with Ukraine was also ignored.



and practical measures, intensifying the work of the NATO-Ukraine Platform for Combating Hybrid Threats, conducting joint training *Coherent Resilience 2020* in the Black Sea, and reviewing the comprehensive assistance package for Ukraine. Through trust funds, NATO allies and partners have already allocated more than € 40 million to support Ukraine in such areas as combat command and control, cyber defence, medical rehabilitation and more.<sup>28</sup>

In the Statement of the NATO-Ukraine Commission, the Alliance reaffirms its “unwavering support to Ukraine’s sovereignty and territorial integrity”, urges Russia to “stop intervening militarily in the Donetsk and Luhansk regions”, welcomes Ukraine’s peace initiatives and “strongly condemns and will not recognise Russia’s illegal and illegitimate annexation of Crimea”.<sup>29</sup> Therefore, it is safe to say about the consistency of Ukraine’s Euro-Atlantic course.

### *Relations with the United States*

The American “segment” of Ukraine’s foreign policy is critical given that official Washington continues to consistently support Ukraine in its confrontation with Russia, acts as a moderator and architect of the sanctions campaign against Russia and remains a major donor of military and economic assistance to Ukraine. Unfortunately, the dynamics of events in relations between Kyiv and Washington during 2019 was rather controversial and dangerous, thus challenging and even threatening the partnership of two countries.

The new Ukrainian government faced serious problems in this direction. Against the backdrop of the US-China trade war, the situation around the sale of Motor Sich company to the Chinese *Beijing Skyrisson Aviation* has resonated badly. This was one of the reasons for John Bolton, then the US National Security Advisor, to visit Ukraine in August 2019 and to warn the Ukrainian side of such a move.

Extremely dangerous for Ukraine was its “landing” at the epicentre of a large-scale internal American crisis related to President Trump’s attempts to obtain damaging evidence against his main political opponent in the upcoming presidential campaign – Joe Biden (namely, activities of his son, Hunter, in the Ukrainian company *Burisma Holdings*). The suspension of financing programme for the Ukrainian security sector was allegedly used by Trump as a leverage to influence the Ukrainian side.

Relevant committees of the US House of Representatives have started an investigation, and a telephone conversation between Donald Trump and Volodymyr Zelenskyy of 25 July 2019 was made public. In September, the Democrats have formally initiated the impeachment procedure in the lower house of the Congress and heard witnesses. As early as December, the House of

Representatives approved the articles of impeachment against the President of the United States.<sup>30</sup>

While the prospects of impeachment hearings in the Republican-controlled Senate are quite encouraging for President Trump, the overall implications of this situation in the context of Ukrainian-American relations seem dangerous.

**First**, it is obvious that for the US President, Ukraine will look “toxic”, at least for a while. Moreover, Kyiv’s international image will suffer from President Trump’s public arguments justifying the suspension of assistance because of large-scale corruption in Ukraine. It very likely that this thesis will be actively used as the election campaign unfolds in the United States.

**Second**, Donald Trump’s disengagement from the Donbas situation becomes quite obvious. On the one hand, he welcomes contacts between Russian and Ukrainian Presidents, which should contribute to conflict settlement, but on the other hand, he makes it clear that war in the east of Ukraine is purely European issue. The resignation of Kurt Volker, the curator of the “Ukrainian segment” at the US State Department, who ensured the US-Russia “negotiating track” on Donbass, is another bad sign.

**Third**, one should not rule out new attempts to involve Ukraine in America’s internal political struggle as a “source of dirt”. Some political forces both in Ukraine and abroad will try to exploit the problems in the US-Ukraine relations for their own benefit.

However, despite this challenging situation, the Ukrainian government – at least for now – manages not to become a source of compromising evidence, avoids being dragged into political struggle in the United States, stays away from the impeachment process, and retains support of both major American parties in general and the Congress in particular.

### **Contacts with Other Countries and International Organisations**

It should be noted that in countering Russian aggression, Ukraine was supported politically and economically by most global leaders – the United States, Canada, Britain, Turkey, Australia, Japan and others. Germany and France were actively involved in the Normandy Four negotiation process. The support from the Baltic States, Poland and other EU countries is crucial for Ukraine. A number of international organisations (UN, OSCE, PACE, EU, NATO) also demonstrated solidarity with Ukraine.

The European Union continued to provide political, diplomatic, financial, economic and humanitarian assistance to Ukraine.<sup>31</sup> The EU institutions and leaders of European nations consistently demonstrate solidarity with Kyiv. In particular, the EU reiterated its support to Ukraine’s territorial integrity and condemned the Russian aggression, as emphasised in a joint statement following the 21<sup>st</sup> EU-Ukraine Summit (July 2019). In July, the

<sup>28</sup> President: We have agreed on an updated package of projects and practical measures of NATO in support of Ukraine. – The official web site of the President of Ukraine, 31 October 2019, <https://www.president.gov.ua/en/news/prezident-mi-domovilisya-pro-onovlenij-paket-proektiv-i-prak-58149>.

<sup>29</sup> Statement of the NATO-Ukraine Commission, Kyiv. – NATO web site, 31 October 2019, [https://www.nato.int/cps/en/natohq/official\\_texts\\_170408.htm?selectedLocale=uk](https://www.nato.int/cps/en/natohq/official_texts_170408.htm?selectedLocale=uk).

<sup>30</sup> The 45<sup>th</sup> President of the United States has been accused of abuse of power by involving a foreign government to harass a political opponent and prevent Congress from investigating it.

<sup>31</sup> According to Federica Mogherini, the High Representative of the EU for Foreign Affairs and Security Policy, “After 2014 we have put together for Ukraine the biggest support package in the history of the European Union worth over EUR 15 billion. We have invested more in Ukraine than in any other country in the world”. See Mogherini: The EU invested in Ukraine more than any other partner. – Interfax-Ukraine, 10 October 2019, <https://ua.interfax.com.ua/news/political/618046.html>.

European Parliament adopted a resolution, in which it did not recognise annexation of Crimea and demanded to release Ukrainian prisoners. In December 2019, the EU Council extended its sanctions against Russia until 31 July 2020.

Consistent support for Ukraine was demonstrated at the regular UN General Assembly, which on 9 December 2019 adopted the Resolution “Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov”. In particular, the document calls upon all Member States to cooperate with the UN “to put an end to the Russian occupation of Crimea as rapidly as possible and to refrain from any dealings with the Russian Federation regarding Crimea that are inconsistent with this aim”.<sup>32</sup> The UN has formed a stable “core” of Ukraine supporters, but since 2014, the number of states that have been backing Ukraine, including in Crimean issue, has dropped from 100 to 63.

The situation in the PACE remains tough because on 26 June 2019 most of PACE delegates voted to confirm the powers of the aggressor’s delegation without any restrictions. More importantly, this decision was supported by the delegations of the EU leaders – France, Germany and Italy. In protest, the Delegation of Ukraine to the PACE has formally refused to participate in the autumn session of the Assembly (September-October). This decision is perfectly understandable and politically motivated, as the Assembly has made unscrupulous and humiliating concessions to the aggressor country. However, as early as January 2020, the Verkhovna Rada instructed the Ukrainian delegation to submit its powers in order to attend the 2020 annual session, explaining that the purpose of Ukraine’s participation in the PACE is “to communicate objective information about the illegal actions of the Russian Federation in the occupied territories of our state... to prevent the use of the PACE tribune for spreading false narratives about the situation in Ukraine”.<sup>33</sup>

***The dynamics of relations with some neighbouring countries was rather difficult and controversial.*** In 2019, the long-running conflict with Hungary around the Ukrainian Law on Education (2017) was accompanied by political and diplomatic demarches, Hungary’s artificial accusations of alleged violations of the rights of

the Hungarian minority in Ukraine, and clearly unfriendly actions.<sup>34</sup>

Kyiv has taken a number of steps to resolve the conflict. In particular, the Verkhovna Rada made amendments to the Law on Education, which extended the transition period for learning in the languages of national minorities within the general secondary education until 2023. At the same time, in January 2020, the Verkhovna Rada has passed the law “On Complete Secondary Education”, which, according to Dmytro Kuleba, should normalise relations with Hungary.<sup>35</sup> Hungary’s Foreign Minister Peter Szijjarto was invited to visit Ukraine in February. A compromise solution that allowed the December meeting of the NATO-Ukraine Commission can be viewed as a positive step. However, these are only some minor signs of a possible settlement of Ukraine’s conflict with Hungary.

Political and diplomatic contacts with Poland were rather intense; they culminated in the President Zelenskyy’s visit to Poland on 31 August 2019. The partners discussed further development of trade and economic relations, energy and cross-border cooperation, Ukraine’s participation in the Three Seas Initiative and E-40 waterway project, construction of the trans-European *Via Carpatia* highway, and many others.

However, the key part of this visit was the President Zelenskyy’s impromptu statement about his readiness “to unblock the permits for search operations in Ukraine, and the Polish side to decorate the Ukrainian memorial sites in Poland”.<sup>36</sup> Subsequently, on 5 November, the 28<sup>th</sup> meeting of the Advisory Committee of the Presidents of Ukraine and the Republic of Poland was held in Lviv to discuss these issues. The Ukrainian side did grant appropriate permits, but unfortunately this initiative remains unilateral. While meeting the Deputy Secretary of State of the Polish foreign ministry on 13 December 2019, Ihor Zhovkva, Deputy Head of the Office of the President, stressed that Ukraine kept its promise and expected that Poland would take appropriate steps to decorate the Ukrainian memory sites in its territory.<sup>37</sup>

Therefore, one can observe the advancement of Ukrainian-Polish cooperation in different spheres, but at the same time, some sensitive historical issues that hamper bilateral relations due to Poland’s position remain unaddressed.

<sup>32</sup> The UN General Assembly adopted the second resolution on the militarization of Crimea. – Ukrayinska Pravda, 9 December 2019, <https://www.pravda.com.ua/news/2019/12/9/7234336/>.

<sup>33</sup> The Verkhovna Rada instructed the Delegation of Ukraine to PACE to submit powers to participate in 2020 Annual Session. – Interfax-Ukraine, 16 January 2020, <https://ua.interfax.com.ua/news/political/636005.html>.

<sup>34</sup> In particular, in December 2019, Mr Istvan Igyarto, the Ambassador of Hungary to Ukraine, received a note of protest over his statement about the autonomy of the Hungarian minority in Ukraine. It cannot be ruled out that the confrontational position of the Hungarian side was dictated by geopolitical motives, such as Moscow’s influence on Budapest.

<sup>35</sup> Kuleba: The Law on secondary education should help in our relations with Hungary. – Ukrayinska Pravda, 16 January 2020, <https://www.pravda.com.ua/news/2020/01/16/7237556/>.

<sup>36</sup> Ukraine and Poland agreed to update and restart the bilateral working group on historical issues – Volodymyr Zelenskyy. 31 August 2019. – The official web site of the President of Ukraine, <https://www.president.gov.ua/en/news/ukrayina-ta-polsha-domovilis-onoviti-j-perezavantazhiti-dvos-57029>.

<sup>37</sup> Deputy Head of the Office of the President Ihor Zhovkva discussed further steps in the development of Ukraine-Poland relations with the Deputy Secretary of State of the Ministry of Foreign Affairs of Poland. – The official web site of the President of Ukraine, 13 December 2019, <https://www.president.gov.ua/news/zastupnik-kerivnika-ofisu-prezidenta-igor-zhovkva-obgovoriv-58893>.

The 2<sup>nd</sup> Forum of the Regions of Ukraine and Belarus on 3-4 October 2019 in Zhytomyr was the central event in Ukrainian-Belarusian relations. Attended by both presidents, the Forum hosted a session of the Ukraine-Belarus Business Cooperation Advisory Council, multiple business negotiations and meetings of the heads of both countries' regions. 15 agreements on interregional cooperation were signed, let alone a series of business contracts worth over \$500 million.<sup>38</sup> However, despite the development of contacts and cooperation, the "Belarusian segment" remains problematic and even dangerous for Ukraine, as Minsk, marching in lockstep with Russia and being its military and political ally, supports the Kremlin's anti-Ukrainian position in international organizations.

### Information Component of Foreign Policy

Ukraine's key information priorities in the global areas include countering the Kremlin's media influence, popularising Ukraine, promoting its national cultural product, improving the country's international image, and the like. When evaluating Ukraine's foreign policy media component, the following needs to be mentioned.

Changes in government, structural reforms and personnel rotation in the diplomatic corps have affected both foreign policy in general and its information component in particular. This sphere currently undergoes transformation. In early 2020, a new Directorate for Public Diplomacy was established within the Ministry of Foreign Affairs, with relevant Public Diplomacy Strategy in the works.

In July 2019, the government has defined the organisational, functional and financial parameters of relevant state institution "the Ukrainian Institute", which promotes the country's image abroad.<sup>39</sup> During the year, the Institute has organised and conducted close to 90 events abroad.

According to the Foreign Ministry, as many as 326 image events were conducted during 2019.<sup>40</sup> The most resonant of them were:

- participation of former political prisoners – journalist Roman Sushchenko and director Oleh Sentsov – in international events in Slovakia, France and Poland;
- participation of the members of Mejlis of the Crimean Tatar People in the events held in the Parliament of Austria and in the conference on the militarization of Crimea in the UK, organised by *Chatham House* Royal Institute of International Affairs;
- international news campaign *#JusticeForMH17*, dedicated to the 5<sup>th</sup> anniversary of downing the MH17 (this included public events in various countries

around the world, posting photos, audio and video materials on social media).

In 2019, close to 90 experts representing the Ukrainian NGOs took part in various activities to promote Ukraine abroad.

The distribution of the national cultural product to foreign audiences was another priority area. Specifically, in 2019 there have been more than 30 events to promote the Ukrainian cinema.

With the assistance of the Ministry of Foreign Affairs, Ukraine has participated in a number of reputable and popular international book fairs and exhibitions (*Salon du Livre* Book Fair in Paris, 45<sup>th</sup> Buenos Aires International Book Fair, Frankfurt International Book Fair, 42<sup>nd</sup> Montreal Book Fair etc.).

Other important activities included the launch of a series of large-scale information and image-making campaigns (*Ukraine Reform Conference* (July 2019, Toronto),<sup>41</sup> the International Investment Forum "RETHINK: Invest in Ukraine" (October 2019, Mariupol), events dedicated to the National Flag Day and Independence Day. In the second half of 2019, two new information campaigns *#LetMyPeopleGo* (Human Rights Day) and *#StopNordStream2* (Ukraine's energy security)<sup>42</sup> have been launched.

These media activities and events can be generally viewed as an asset of the country's information policy. However, it is clear that the impact of multiple efforts to counter Russia's information expansion and to promote the positive image of Ukraine are often limited by and sometimes nullified by the following factors:

- the absence of a foreign policy strategy, which should include an information policy component;
- the existing deficit of operating and planned budget financing, which leads to low efficiency of respective projects;<sup>43</sup>
- poorly coordinated government activities in this area, in particular as a result of reorganisation of the sectoral Ministry of Information Policy, as well as inefficient use of existing capacities;
- unacceptably limited presence of Ukraine in other countries' television networks. The announced reorganisation of UA|TV (Ukrainian multimedia international broadcasting platform) may adversely affect Ukraine's information presence in the global television space;
- internal conflicts and problems that have an adverse external effect on the country's image;
- massive information counteraction in Russia with its much more powerful media capacity.

<sup>38</sup> On 3-4 October 2019, the 2<sup>nd</sup> Forum of the Regions of Ukraine and Belarus took place in Zhytomyr. – The official web site of the Ukrainian embassy to the Republic of Belarus, <https://belarus.mfa.gov.ua/ua/press-center/news/75144-3-4-zhovtnya-2019-r-u-m-zhitomir-vidbuvsya-ii-forum-regioniv-ukrajini-ta-respubliki-bilorusy>.

<sup>39</sup> On 5 July 2019, the Cabinet of Ministers of Ukraine approved Resolution No.471 "Some Issues of Functioning of the State Institution 'The Ukrainian Institute'", and Resolution No.511 "On Approval of the Procedure of Using Funds Allocated from the State Budget for Implementation of Measures and Projects of the Ukrainian Institute".

<sup>40</sup> Hereinafter the data provided by the Ministry of Foreign Affairs of Ukraine.

<sup>41</sup> The conference brought together official delegations from 31 countries and more than 800 participants, including foreign ministers, representatives of international organisations and financial institutions, experts, activists, parliamentarians, members of local self-governments and many others.

<sup>42</sup> The development of a parallel online campaign *#MadelnUkraine* is underway; it is expected in 2020.

<sup>43</sup> Financing of the budget programme "Financial support for ensuring positive international image of Ukraine, ensuring activities of the Ukrainian Institute, measures to support links with Ukrainians living outside Ukraine" in 2018, 2019 and 2020 will amount to UAH 24,424,725, UAH 32,289,000, and UAH 31 289,000 respectively.



## DOMESTIC POLICY

The domestic political situation during 2019 was marked by substantial the turbulence, initially triggered by the scheduled presidential and early parliamentary elections and followed by ensuing dramatic changes in the system of power, the positioning of political forces and relations of the government with the civil society.

For the first time in the history of independent Ukraine, the elections brought about the actual monopoly of power for one political force (the “Servant of the People” party), which at the time of the elections was largely virtual. The elections revealed a troubling situation in the society, as citizens lost confidence not only in traditional political forces and leaders, but also in the institution of elections as a mechanism for democratic change of government. The voter turnout both in the presidential and parliamentary elections was rather low, e.g. the lowest in the parliamentary elections since Independence.<sup>1</sup>

### First Steps of the New Government: Peculiarities and Problems

The elections led to changes not only in government institutions of different levels (from the President to the heads of rayon state administrations), but also in the state policy priorities, the means of their implementation and the nature of exercising powers by higher government institutions.

Despite the declared fundamental changes, the new leadership could not offer a new model of the country’s development to society, since at the time of the elections it had no systemic vision of such model and invited the citizens to create it themselves through “election wishes”. As a result, the party, in fact, received a *carte blanche* to form a package of political proposals, which partially included measures aimed at addressing some of the society’s most pressing problems regardless of the degree of their realism.

The lack of a common programmatic framework allowed some groups within the government to try implementing their own ideological approaches that did not match the sentiment of most voters, including those who supported the “Servant of the People”. This particularly concerns libertarian approaches to economic and social policies, which are in discord with the constitutionally defined nature of Ukraine as a social state, and also exacerbate the trend of further downplaying the role and significance of the state and its institutions, both real and symbolic, especially in the face of the external armed aggression.

At the same time, electoral triumph, in particular, the support of both the President and his party by a majority of those who came to cast their ballot, has created in the new ruling team an illusion of support by the majority of the society (which is not the same thing). This was perceived as a “mandate” to act on behalf of the majority, where it was actually about concentrating power and ignoring the principles of separation of

powers, the requirements of the Constitution and legislation. At the same time, the new government’s ability to produce adequate responses to multiple challenges and threats has been called into question due to numerous errors of both contextual and communicational nature.

So far, the new ruling groups failed to demonstrate radically new approaches to policy making; instead, one could observe the growth of some negative trends typical for the previous elites. This particularly applies to the so-called “clannish” or crony selection of cadres that have a decisive influence on decision-making; the actual concentration of all levers of power in the hands of a tight group; efforts to subordinate law enforcement agencies and courts to the interests of this group; replacement of formal, legal procedures for interaction of governmental institutions with non-normative ones (not provided by the current legislation);<sup>2</sup> covert attempts to control the information space.<sup>3</sup>

The new government’s decisions often lacked quality and clear estimation of possible consequences, let alone a strategic vision. For example, while initiating radical changes in the tax policy for individual entrepreneurs, the Cabinet evidently failed to calculate their consequences. Problems in communication between the Office of the President, the Verkhovna Rada and the Cabinet led to their failure to adopt several urgent draft laws; similarly, several key reforms (land relations, further decentralisation) were not implemented.

Activities of the new government were accompanied by constant “leaks” of telephone conversations allegedly involving current members of the Presidential Office, the Cabinet, the leaders of the “Servant of the People” parliamentary faction, top officials of the State Bureau of Investigation, judges and others on anonymous Telegram channels. This may suggest the rivalry between different groups of influence and the “stakeholders” of the new government; moreover, it is a sign of critical weakness of

<sup>1</sup> Dzhulay D. Voter turnout in the parliamentary elections was the lowest in the history – Infographics. – Radio Svoboda, 22 July 2019, <https://www.radiosvoboda.org/a/yavka-na-parlamentskyh-vyborah-stala-naynyzhchoiu-v-istorii/30067764.html>.

<sup>2</sup> Pursuant to Part 2 of Article 19 of the Constitution of Ukraine “Bodies of state power and bodies of self-government and their officials are obliged to act only on the grounds, within the limits of authority, and in a manner envisaged by the Constitution and the laws of Ukraine”.

<sup>3</sup> At the end of 2019, representatives of the ruling group announced the development of laws on media and disinformation, aimed at controlling mass media and the content of the information space. See relevant section of this study.



the state. These “leaks” did not come as a shock, similar to one triggered by the release of President Kuchma’s records back in 2000, possibly because recent frequent releases of compromising information have become commonplace.

However, despite the unofficial information about business interests and links of top members of the new government, society is yet to witness high-profile corruption scandals with their involvement or to find confirmation for their abuse of power or personal enrichment at the expense of public funds. For now, this factor creates certain benefits for the new government in its perception by public opinion.

The ideological paradigm of the new ruling team also underwent changes. In the first months in power, it demonstrated severance from the Petro Poroshenko’s paradigm – “army, language, faith”. This included reorientation towards conciliation with Russia through concessions; “lowering” the goals of relations with the EU and NATO in public rhetoric; efforts to reconcile society by seeking “ideologically sterile” approaches to the formation of a national pantheon of heroes, symbolic dates and the like, which effectively “aligned” true fighters for independence and territorial integrity of Ukraine, those indifferent to these issues, and even active (or silent) adversaries.

The new government has refused to focus on confrontation with Russia and tries to reach an understanding with Putin. Public rhetoric no longer refers to Russia as the aggressor – that country is hardly mentioned in the context of the war in the East, either in public addresses or in TV news. Probably, this change in rhetoric may not imply a complete change in the policy content and may be prompted by certain political calculations. However, negative foreign policy implications of such approach already include the improved attitude towards Russia and its leader by countries that support Ukraine and the increased influence of the aggressor on the world stage.

Other signs of negative changes include the return of oligarch Ihor Kolomoisky to Ukraine, his increased public activity and a sudden string of court decisions in his favour; the termination of the persecution of odious representatives of Viktor Yanukovich’s regime, their return to the country and initiation of lawsuits against the members of previous government for actions aimed at protection of Ukraine’s sovereignty and territorial integrity; insults and even public threats to former Euromaidan participants and attempts to *post factum* discredit this phenomenon in the eyes of society.

Neither these events, nor explicitly provocative statements of Mr Kolomoisky<sup>4</sup> have been properly evaluated by the authorities, by the media, or by the civil society. In fact, both society in general and its civil society segment were largely unmoved by the persecutions of some members of previous leadership for their political

(official) activity (above all, Petro Poroshenko’s) and by curtailment of some achievements of the previous period.

Achievements of the new government may list two waves of release of the Kremlin hostages (which included such prominent figures as director Oleh Sentsov and journalist Roman Sushchenko), while the previous leadership failed to do so. The price for that was the extradition to Russia of Volodymyr Tsemakh, a suspect of the Malaysian MH17 downing in the summer of 2014, and former “Berkut” officers suspected of crimes against the Maidan protesters in 2013-2014. Other components of this “price” were not made public, but there are some assumptions based on the government actions. These may include the intent to demolish public confidence in volunteer fighters, civilian volunteers and ATO/JFO veterans; to stop interpreting the war in the East as Russia’s war against Ukraine; to forego the policy of international pressure on Russia; and to suspend, if not stop the realisation of the course towards NATO and the EU.

These factors have already affected the society’s perception of the new government. Specifically, the level of public support of its key representatives (excluding President Zelenskyy) has visibly declined. All this reduces the capacity to support the government’s decisions that are necessary to reform the country, while certain decisions may pave the way to conflict between the society (or its individual groups) and the government.

### Interaction Among State Institutions and Government Bodies

As a result of the presidential and parliamentary elections in 2019, the configuration of the political system, the philosophy of state governance and the nature of interaction between key state institutions and branches of government have underwent substantial changes.

Since the inauguration of President Zelenskyy and until the end of the year, one could observe two major periods of the new government’s activity. The transition period (until the first session of the Verkhovna Rada of the 9<sup>th</sup> Convocation and the appointment of the new Cabinet of Ministers) was highlighted by almost total refusal by Volodymyr Zelenskyy and his entourage to collaborate with the previous Parliament. In his inaugural address, the President disparagingly declared the dissolution of the Parliament, after which it was no longer possible to speak about a constructive relationship.

Volodymyr Zelenskyy and his associates demonstratively refused to cooperate with the Ministry of Foreign Affairs, the Ministry of Defence and the General Staff of the Armed Forces, as their leadership was considered affiliated with the previous President, and therefore could not be trusted. As a result, miscalculations were made, adversely affecting Ukraine’s positions in foreign relations.

<sup>4</sup> On the need of “U-turn” towards Russia and on possible influence on V. Zelenskyy, see: A Ukrainian Billionaire Fought Russia. Now He’s Ready to Embrace It. – The New York Times, Nov. 13, 2019, [https://www.nytimes.com/2019/11/13/world/europe/ukraine-ihor-kolomoisky-russia.html?fbclid=IwAR0deK4pOVybyBx8ohwqTEduiTFPT\\_OatK4a44BFwEt-Fc\\_H7WDXcWIRgLA](https://www.nytimes.com/2019/11/13/world/europe/ukraine-ihor-kolomoisky-russia.html?fbclid=IwAR0deK4pOVybyBx8ohwqTEduiTFPT_OatK4a44BFwEt-Fc_H7WDXcWIRgLA).

Instead, relations with the Cabinet of Ministers during this period were quite peaceful, resulting in the development of the draft State Budget for the next year. In this context, it is important to note that two ministers from Volodymyr Groysman's Cabinet have retained their positions in the new government – Arsen Avakov, the Minister of Internal Affairs, and Oksana Markarova, the Minister of Finance.

A new phase of political development started with the appointment of the new Cabinet of Ministers on 29 August 2019. Its key feature was the accelerated trend, introduced by President Poroshenko – mechanisms of influence in the hands of a narrow circle of the President and his entourage. Traditionally, most heads of local state administrations were replaced. At the same time, the “Servant of the People” does not control the largest cities, as well as oblast, city and rayon councils, which caused tensions in relations with many local self-governments and stirred discussions on possible early local elections to “fix” the situation.

From the very first day in power, Volodymyr Zelenskyy and his team tried to initiate early elections in Kyiv or to deprive its Mayor Vitaliy Klitschko of a substantial part of powers through separation of functions of the mayor and the head of Kyiv city state administration (Mr Klitschko holds both positions according to the law<sup>5</sup>). This approach was not successful for President Zelenskyy both in Kyiv and Dnipro, where he also confronted Mayor Borys Filatov.

Given the nature of a chosen model for the realisation of power and a corresponding model of interaction between key political actors, based on their unconditional obedience to the President as the sole centre of power and decision-making, any possibility for the restoration and further development of parliamentarism or independent functioning of the executive and judicial branches has vanished.

If during the previous “post-Maidan” political regime the balance in relations between the President and other branches of power was often disrupted in favour of the former, then after the change of power one can hardly speak about any checks and balances at all, unless one wants to discuss a constant competition between different groups of influence.

The demonstration of public discontent (e.g. on the eve of the Normandy Four meeting or during the attempts to lift the moratorium on the sale of agricultural land), or signals from foreign partners (in the case of amendments to the Constitution concerning decentralisation) served as constraining factors for the government. However, many of these signals, particularly from foreign partners regarding the judicial reform, were simply ignored.

### *The Verkhovna Rada of Ukraine*

The early elections of the People's Deputies on 21 July 2019 resulted in radical renovation of the deputy corps – close to 80%, compared to 56% in the Parliament of the 8<sup>th</sup> Convocation. More than 400 “new faces” were elected. Only one party from the previous convocation – “Batktivshchyna” (Motherland) – was able not only to retain but to increase its presence in the Parliament.

The brand-new political force – the “Servant of the People” – became the undisputed winner of the elections, having received 124 seats in the multi-mandate constituencies and winning in 130 single-mandate constituencies. At the time of the elections, the party was largely virtual, and most MPs who joined its parliamentary faction were not its members. Despite having no recognised leaders and clear ideology, this party was able to make the most of Volodymyr Zelenskyy's victory in the presidential race and his call to change the country.

In May 2019, for the first time in Ukrainian history, the “Servant of the People” urged enthusiastic citizens to nominate themselves as potential MPs in the majority constituencies, or as future political figures, volunteers and election observers. The applications of future candidates have been subject to several reviews, including one by the Office of the President. As a result, people with diverse backgrounds, value systems, worldviews and education were included in the party list as candidates in the majority constituencies. In fact, the only unifying factor for them was Volodymyr Zelenskyy's victory in the presidential elections and the opportunity to enter the power “stable”.

So, the “Servant of the People” faction can be also viewed as a coalition of different groups with different interests. In itself, the emergence of diverse groups within a faction of more than 250 MPs is perfectly natural. In particular, these groups are focused on the interests of oligarch Kolomoisky; other business sponsors of the party in the parliamentary elections; the interests of certain structures among policymakers. It is also natural that interests of some MPs elected in the majority constituencies may not match those of other influential groups, as well as those of the President or his entourage. By the end of the year, the faction was involved in several scandals of varying intensity and lost two MPs.

Due to its “mono majority”, the “Servant of the People” faction evaded the problems of forming the parliamentary coalition, committing to and complying with obligations to partners, and especially in appointing the Cabinet of Ministers. Both open and inside information suggests that the faction did not actually participate in the selection of ministerial candidates, the definition of key policy positions, and even the definition of key draft laws. Just like earlier selection of candidates to the Parliament, all these issues were advocated by the Office of the President.

The degree of faction's subordination to the President and his associates' interests can be observed in the statement by Mykyta Poturayev, a former advisor to

<sup>5</sup> See: The Law of Ukraine “On the capital of Ukraine – hero city of Kyiv”.

Volodymyr Zelenskyy and current MP from the “Servant of the People”: “I cannot imagine a situation in which the President proposes something that the faction will not agree with. We are truly one team”.<sup>6</sup> “In his address to the Verkhovna Rada of the 9<sup>th</sup> Convocation, President Zelenskyy gave it a “probationary period” of one year.<sup>7</sup> This confirmed the Head of State’s claims for actual and extra-constitutional subordination of one of the state key institutions – the Parliament – to his political will.

The results of the parliamentary elections for the “Opposition Platform – For Life”, a party based on various groups of those belonging to the ruling party during the political regime of Viktor Yanukovich (with the exception of Rinat Akhmetov’s group that formed a backbone of the Opposition Bloc in the previous Verkhovna Rada) can be considered a success. The leadership of this newly formed party (Viktor Medvedchuk, Vadym Rabinovych) is known for its pro-Russian agenda and targeted opposition to the country’s pro-European course of development.

Therefore, the trend that first emerged during the previous convocation continues in the new Verkhovna Rada, with some political forces participating in the Revolution of Dignity in 2013-2014 and representatives of the pro-Russian course alike declaring their opposition to the government.

In the Verkhovna Rada of the 9<sup>th</sup> Convocation, a truly “pro-European” opposition is represented by the faction of the “European Solidarity” party (Petro Poroshenko). The faction has 27 MPs, while its member – Ivanna Klymush-Tsintsadze – chairs the Parliamentary Committee on Ukraine’s Integration to the European Union. Despite the presence of prominent figures in the faction, its impact is insignificant. Its positions are largely ignored. In addition, Mr Poroshenko is involved in several cases initiated by the State Bureau of Investigation.

The parliamentary faction of the “Batkivshchyna” party declared its shift to the opposition after the first reading vote for the bill on lifting the moratorium on the sale of the farmland. Until then, the faction’s leader Yuliya Tymoshenko signalled about her readiness to cooperate with the winners of the elections and was not planning to go to the opposition.<sup>8</sup> With its 24 MPs, the faction became particularly noticeable for its efforts to slow down the consideration of “land moratorium” issues.

Despite the declared transition to resolute opposition, Yuliya Tymoshenko and “Batkivshchyna” MPs have long avoided direct criticism of the President. The insulting words by President Zelenskyy about Ms Tymoshenko<sup>9</sup> could have been a “hidden” reason for going to opposition.

Another brand-new political force – the “Voice” – received the smallest faction of 20 MPs. Its activities are unclear both in terms of power-opposition positioning and with regards to the key issues of further development of the state and society. Several famous figures joined the party, including the journalist Serhiy Rakhmanin (the faction leader), Yaroslav Yurchyshyn, the head of Transparency International Ukraine, Lesya Vasylenko, co-chair of the Volunteer Council, Yaroslav Zheleznyak, a lecturer at in the Kyiv School of Economics, and some others.

Expectations for the collaboration of this party, led by a popular singer Svyatoslav Vakarchuk, with the ruling party did not materialise, as the latter decided not to form a coalition to appoint the new Cabinet. Mr Vakarchuk described the stance of his party and its parliamentary faction as a “superposition”,<sup>10</sup> which casts doubts on political prospects of the party and its leader. Also, periodic disappearances of Mr Vakarchuk from the information space and the party’s failure to timely and clearly respond to high-profile domestic and foreign policy events do not add popularity to the party’s parliamentary faction.

The position of the deputy group “Dovira” (“Trust”) consisting of 17 majority MPs from different regions, who previously worked in different factions and groups, is rather pro-government.

The law-making activity of the newly elected Verkhovna Rada had some peculiar features. In particular, this concerns the so-called “turbo-regime”, when MPs, especially at the beginning of the second session, have been adopting many bills without knowing their content or the source of origin. The expert community has found repeated violations of the parliamentary rules of procedure,<sup>11</sup> which in theory gives grounds for questioning the legitimacy of the legislation adopted with procedural violations and may lead to legal chaos in the end. Dmytro Razumkov, the Speaker of the Verkhovna Rada, honestly acknowledged the existence of such violations.<sup>12</sup>

<sup>6</sup> Zelenskyy’s “political nobodies” – what was that? Explains Mr Poturayev, the author of the phrase. – BBC News Ukraine, 7 August 2019, <https://www.bbc.com/ukrainian/features-49262355>.

<sup>7</sup> “It is not that scary to dissolve the Rada” – Zelenskyy gave MPs a one-year probationary period. – Ukrinform, 29 August 2019.

<sup>8</sup> See, for example: “Batkivshchyna” is not going to the coalition and the opposition. – Ukrinform, 29 August 2019, <https://www.ukrinform.ua/rubric-politics/2769296-batkivsina-ne-zbiraetsa-ni-v-koaliciu-ni-v-opoziciu.html>.

<sup>9</sup> See Zelenskyy: Ms Tymoshenko has this stature because we don’t give her sweets. – Censor.Net, 19 November 2019, [https://censor.net.ua/ua/news/3160451/zelenskyyi\\_u\\_tymoshenko\\_taka\\_figura\\_tomu\\_scho\\_yiyi\\_ne\\_dayut\\_solodenkogo](https://censor.net.ua/ua/news/3160451/zelenskyyi_u_tymoshenko_taka_figura_tomu_scho_yiyi_ne_dayut_solodenkogo).

<sup>10</sup> Svyatoslav Vakarchuk: If I was the President, I would definitely not start with magnifying my powers. – Ukrayinska Pravda, 17 October 2019, <https://www.pravda.com.ua/articles/2019/10/17/7229242/>.

<sup>11</sup> Trends in the new Parliament: What did the first quarter show? – Report of the Agency for Legislative Initiatives, [https://parlament.org.ua/2019/11/27/tendentsiyi-roboty-vru-9-skiykannya-shho-pokazav-pershyj-kvartal/?fbclid=IwAR2wiLN2-LHZg4anusJ1qRE9GHS1iIWzYJ38R8fUSb4Zc6ikt\\_rrgTH\\_NGY](https://parlament.org.ua/2019/11/27/tendentsiyi-roboty-vru-9-skiykannya-shho-pokazav-pershyj-kvartal/?fbclid=IwAR2wiLN2-LHZg4anusJ1qRE9GHS1iIWzYJ38R8fUSb4Zc6ikt_rrgTH_NGY).

<sup>12</sup> Razumkov: If we did not violate the rules of procedure, we wouldn’t adopt even the quarter of bills. – Interfax-Ukraine, 21 January 2020, <https://ua.interfax.com.ua/news/general/636634.html>.



### LAW-MAKING ACTIVITY OF THE VERKHOVNA RADA OF THE 9<sup>TH</sup> CONVOCATION IN 2019

Since its first plenary session and up to the end of 2019, the new Verkhovna Rada passed 133 laws (this study includes only bills signed by the President) and one Code. Another 125 laws were approved in principle.

By topics, most of the adopted laws were related to finance, tax and customs policy (22).

The highest number of adopted laws were initiated by MPs (89). The President and the Cabinet of Ministers initiated 22 laws.

If to consider the laws initiated by MPs (89 laws), the absolute majority of them were submitted by the representatives of the "Servant of the People" faction (70 laws, or 80%). MPs from "Batkivshchyna" were among the authors of 10 adopted laws, the "European Solidarity" – 9, the "Opposition Platform – For Life" – 5, the "Voice" – 3, "For the Future" group – 3, and the "Trust" – 3.

Therefore, the Verkhovna Rada essentially did not consider bills elaborated by MPs not belonging to the "Servant of the People". The adopted laws were mostly supported by the deputies from the "Servant of the People", the "Voice" and the "Trust".<sup>13</sup>

Many of the laws passed by the new Parliament, are rather controversial by content, by motives of adoption, and by expected (or already materialised) consequences.<sup>14</sup>

The decline of parliamentarism in Ukraine can be observed in the fact that the Verkhovna Rada essentially did not participate in the process of appointing the Cabinet, except for its final stage – voting for the government, already approved by the Office of the President. The Government's Action Programme was not considered by the Parliament in substance, so the latter will have to bear joint responsibility for its implementation (or non-implementation) "by default". Despite the critical situation in the economy, or in cases of aggravation in certain areas, the Parliament did not resort to using the mechanisms of the effective parliamentary control over the Cabinet.

Given the fact that some MPs from the ruling faction gradually refuse to vote in support of the President's wishes with no questions asked (for example, some people's deputies refused to support the bills on "imperative mandate",<sup>15</sup> on the legalisation of gambling and others), it can be assumed that over time the pro-presidential faction will increasingly feel the need to strengthen their own agency. For the period from October to December 2019, the Verkhovna Rada's trust/distrust balance has dropped from +9% to -17%.<sup>16</sup>

### *The Cabinet of Ministers of Ukraine*

The new composition of the Cabinet of Ministers, appointed on 29 August 2019, is to some extent unique for Ukraine in several ways. First, the procedure for his selection and appointment resembled an allusion to Kuchma's presidency, when under totally different constitutional rules the President was empowered to nominate the Prime Minister and members of the Cabinet to the Verkhovna Rada. The current Cabinet does not consist of the representatives, delegated by the political parties as a result of coalition negotiations. The only "partisan" minister is Arsen Avakov – the Minister of Internal Affairs.<sup>17</sup>

Ten out of eighteen Cabinet members (the Prime Minister Oleksiy Honcharuk, Vice Prime Ministers Dmytro Kuleba and Mykhaylo Fedorov, the Minister of Economic Development Tymofiy Mylovanov, the Minister of Defence Andriy Zahorodnyuk, the Minister of Energy Oleksiy Orzhel, the Minister of Justice Denys Malyuska, the Minister of Health Zoryana Skaletska, the Minister of the Cabinet of Ministers Dmytro Dubilet, and the Minister for Communities and Territory Development Alyona Babak) have a varying degree of experience in the civil sector. Most ministers came from the ranks of BRDO – Better Regulations Delivery Office, a non-governmental think-tank founded by the Ministry of Economic Development, the Government of Canada and the World Bank, and funded by the European Union. These include O. Honcharuk, D. Malyuska and O. Orzhel.

Many members of the new Cabinet have received Western education, including O. Markarova, T. Mylovanov, A. Zahorodnyuk, D. Malyuska, A. Novosad, A. Babak, Z. Skaletska, and D. Dubilet. Oleksiy Honcharuk became the youngest Prime Minister in Ukraine's history. There are also several people from business – M. Fedorov, A. Zahorodnyuk (also representing the "volunteer landing force" in the Ministry of Defence), V. Borodyansky, D. Dubilet, T. Mylovanov. And finally, two ministers – Arsen Avakov and Oksana Markarova – held their positions from the previous Cabinet.

Not a single minister has been appointed on party quotas. Most of them have no obvious connections with the financial and industrial groups.<sup>18</sup> Moreover, most ministers have no clear personal political ambitions, which could have a positive effect.

<sup>13</sup> Study "Results of the second session of the Verkhovna Rada" based the Committee of Voters of Ukraine. – The Committee of Voters of Ukraine, <http://cvu.org.ua/nodes/view/type:news/slug:doslidzhennia-kvu-pidsumky-2-sesii-verkhovnoi-rady>.

<sup>14</sup> Some laws will be reviewed in greater detail in other sections of this report.

<sup>15</sup> See, for example: "The first mutiny aboard: How some "servants" refused to become slaves. – Glavcom, 13 September 2019, <https://glavcom.ua/publications/pershiy-bunt-na-korabli-yak-slugi-ne-zahotili-stavati-rabami-624851.html>.

<sup>16</sup> The survey was conducted by the Sociological Service of the Razumkov Centre jointly with the Democratic Initiatives Foundation on 13-18 December 2019 in all regions of Ukraine excluding Crimea and temporarily occupied territories of the Donetsk and Luhansk oblasts. The sample included 2,017 respondents aged 18+ years. The sampling error does not exceed 2.3%.

<sup>17</sup> Formally, he is still a member of the political and military council of the "People's Front" party, which did not participate in the most recent elections on 21 July 2019 as an independent player.

<sup>18</sup> Probably with the exception of Volodymyr Borodyansky, the Minister of Culture, Youth and Sports, one of top managers of StarlightMedia group that belongs to oligarch Viktor Pinchuk.



With this obviously positive background in terms of expectations, the new Cabinet has already demonstrated some negative features:

- unconstitutional dependence on the President's political will;
- lack of experience in both political activity and management of the national-scale systems and processes in most ministers;
- poor understanding of challenges and threats faced by the society, as well as inadequate understanding of society itself, its state and capability;
- external influence from financial and industrial and other groups with a considerable proficiency in communication with the authorities to solve their problems extralegally.

Very problematic for this Cabinet is its almost total absence of a sense of responsibility to the society; attempts to pass questionable from the public's viewpoint decisions "behind the scenes", without discussing them with social groups whose interests may be affected; as well as "closed to the public" decision-making by the Cabinet as a collegial body, demonstrated from the outset.<sup>19</sup>

The Cabinet of Ministers' Action Programme was approved on 30 September 2019, and thus the government was granted a fairly conditional immunity for one year. It is rather difficult to analyse this document because its separate provisions are not logically linked; moreover, it lacks strategic goals but includes mostly tactical tasks, many of which are explicitly declarative.<sup>20</sup> The Cabinet's main achievement in 2019 was timely and relatively painless adoption of the Law on the State Budget for the next year. The budget is largely based on indicators and trends achieved by the previous government.

According to the Committee of Voters of Ukraine, the success rate of legislative initiatives of Oleksiy Honcharuk's Cabinet over the first three months falls significantly behind Arseniy Yatsenyuk's premiership: if the "technocratic" new government was able to achieve approval of only 14% of its bills, then the "kamikaze" government of 2014 demonstrated a 26% rate.<sup>21</sup> It is worthy to add that five years ago the collaboration between the Cabinet and the Verkhovna Rada was far from positive.<sup>22</sup>

In January 2020, the "leak" from the Prime Minister's office resulted in a scandal caused by the incorrect statements by the Prime Minister about the President.<sup>23</sup> It

was about the need to explain to the President "in a clear way" the reasons of socio-economic situation worsening at the end of 2019. As a result, the Prime Minister submitted a letter of resignation to the President, which in fact was an unconstitutional action. The President rejected the Prime Minister's decision and they visited the World Economic Forum in Davos together. After that, President Zelenskyy stated that Premier Honcharuk was "a good car" and "he has not run out the mileage after which you change your car".<sup>24</sup>

Experts explained this scandal as an attempt by some oligarchs to provoke the President's response to these disparaging remarks, which could have resulted in the resignation of the Cabinet and changes in the NBU leadership with their subsequent replacement by more "acceptable" persons.

For the period from October to December 2019 trust balance – distrust of the Government decreased from + 7.2% to – 13%.

From October through December 2019, the Cabinet's trust/distrust balance has reduced from +7.2% to –13%.

### *The President of Ukraine*

Since his inauguration, President Zelenskyy has focused on achieving a key goal for himself, namely on concentrating in his hands all basic powers, capabilities and influences. Having no experience in politics and public administration, Volodymyr Zelenskyy stressed during his campaign that he was a personification of new forces that had no flaws of the then authorities.

The "us vs them" confrontation is truly important for him, because until the end of 2019, the President and his immediate environment continued to act within the logic of the election campaign by trying to distance themselves from the representatives of the previous government.

President Zelenskyy and his entourage have had a very simple explanation to their claims to concentrate all powers in one pair of hands – the popular election mandate. Indeed, in the second round of the presidential elections, Volodymyr Zelenskyy received 73.22%, or more than 13.5 million votes. This significantly exceeds Petro Poroshenko's results in 2014 (54.7% or 9.86 million votes), but in absolute terms, it is less than Leonid Kuchma's results in 1999 (52.14%, or almost 15.9 million votes), or Viktor Yushchenko's results in 2004 (51.99%, or over 15.1 million votes).<sup>25</sup> One of the key factors of Volodymyr Zelenskyy's victory was a large proportion of eligible voters who opted not to participate in the elections (32% of voters).

<sup>19</sup> This was reflected in the decision to keep the Cabinet of Ministers meetings closed to the media, although a system of open meetings with live broadcasts was introduced during Arseniy Yatsenyuk's government – "Meetings of the new Cabinet are now closed for journalists". – *Ukrayinska Pravda*, 2 September 2019, <https://www.pravda.com.ua/news/2019/09/2/7225098/>.

<sup>20</sup> The Cabinet of Ministers of Ukraine Action Programme. – The Government Portal, 2 December, <https://program.kmu.gov.ua/>.

<sup>21</sup> The Committee of Voters of Ukraine compared the performance of the present and previous government. – The Committee of Voters of Ukraine <http://www.cvu.org.ua/nodes/view/type:news/slug:kvu-porivniav-pokaznyky-roboty-chynnoi-i-poperednoi-vlady>.

<sup>22</sup> See: The Razumkov Centre's Study Ukraine 2014-2015: Overcoming Challenges. – The Razumkov Centre, [http://razumkov.org.ua/uploads/article/2014-2015\\_Pidsumky.pdf](http://razumkov.org.ua/uploads/article/2014-2015_Pidsumky.pdf).

<sup>23</sup> See, for example: "I am, of course, a total ignoramus in economics": two parts of Honcharuk's conversation with the leadership of the NBU and the Ministry of Finance leaked. – *Dzerkalo Tyzhnya*, 15 January 2020, [https://dt.ua/UKRAINE/ya-zvichayno-povniy-profan-v-ekonomici-u-merezhu-zlily-rozmovu-goncharuka-z-kerivnictvom-nbu-i-glavoyu-minfinu-335661\\_.html](https://dt.ua/UKRAINE/ya-zvichayno-povniy-profan-v-ekonomici-u-merezhu-zlily-rozmovu-goncharuka-z-kerivnictvom-nbu-i-glavoyu-minfinu-335661_.html).

<sup>24</sup> Zelenskyy on Honcharuk: "He's a good car". – *Ukrayinska Pravda*, 25 January 2020, <https://www.pravda.com.ua/news/2020/01/25/7238393/>.

<sup>25</sup> Official CEC data, [https://www.cvk.gov.ua/vibory\\_category/vibori-prezidenta-ukraini.html](https://www.cvk.gov.ua/vibory_category/vibori-prezidenta-ukraini.html).

The status of the winner allowed President Zelenskyy to take steps with the inappropriate constitutional justification: first to “dissolve” the Verkhovna Rada, and then the Central Election Commission. It can be explained by his willingness to gain all power in the country, as well as his belief that the Constitutional Court won’t conflict with the President.

Having built his campaign on the sharp criticism of the previous government, Volodymyr Zelenskyy, however, further developed its practices, in particular, regarding appointments based on personal loyalty or “nepotism”. Therefore, a number of people came to power along with the newly elected President, including Serhiy Shefir (First Assistant to the President, Zelenskyy’s friend and a partner in “Kvartal 95”), Serhiy Trofimov (Deputy Head of the Presidential Office, a former producer of “Kvartal 95”), Yuriy Kostyuk (Deputy Head of the Presidential Office, a screenwriter of “Kvartal 95”), Ivan Bakanov (the SBU Chairman, a childhood friend of Zelenskyy). A lawyer and film producer Andriy Yermak was appointed as the Assistant to the President on Foreign Affairs, although the opposition accused him of retransmitting Russian messages about the Donbas war.<sup>26</sup>

The chair of the Presidential Office was given to a lawyer Andriy Bohdan, who worked in government structures in 2007-2014, including those under the premiership of Mykola Azarov, and he also worked for Ihor Kolomoisky as his lawyer. Mr Bogdan is probably the only member of Volodymyr Zelenskyy’s team with the work experience in government and a clear idea of how the state machinery operates. Probably, he should be given a credit for rapid construction of the president-centred structure, and for the establishment of synergies between the key links (the President – the Parliament – the Cabinet) and interaction with the law enforcement agencies and judiciary.

Just like President Poroshenko before him, President Zelenskyy relies heavily on informal instruments. However, the nature of their formation and application varies significantly. If Petro Poroshenko used the so-called “Strategic Nine” (see previous years studies) as a platform for finding the right solution, Volodymyr Zelenskyy simply convened the heads of the Verkhovna Rada and the Cabinet to give them tasks.<sup>27</sup>

Volodymyr Zelenskyy’s style of communication with society also differs from that of his predecessors. President Zelenskyy does not show supremacy typical for each of his predecessors, but does not engage in full-scale two-way communication, limiting himself to recorded videos or statements. Instead of a presidential press conference in 2019, the so-called “press marathon” was organised in which the entertainment element outweighed the need for meaningful communication. No wonder that the President’s response to some events was inadequate or delayed. The lack of experience of the newly elected

President became particularly evident in international communication (see Section *Foreign Relations*).

For President Zelenskyy, the year ended fairly well, as he remained the only centre of decision-making and agenda-setting for the state and managed to maintain some control in public administration (primarily via relations with the Parliament and the Cabinet). Two exchanges of Ukrainian hostages were certainly the important achievement. Also, depriving Viktor Medvedchuk of the monopoly on contacts with Moscow can be viewed as one of Zelenskyy’s greatest political successes.

However, some issues and problems have only intensified. In particular, Volodymyr Zelenskyy was “haunted” by Ihor Kolomoisky’s problem, as he could not afford going beyond some court decisions in favour of the oligarch or ignore his influence and capabilities.

The personnel problem remains pressing. No matter what model of government is sought by President Zelenskyy, he cannot ignore the issue of staffing of each of the reform areas. He simply does not have enough professionals who would not be connected to the previous government.

At the end of the year, the President Zelenskyy’s trust/distrust balance was +32. Despite the fact that, compared to October, it has reduced by one-third (from 48%), this means that society still does not see an alternative to the current Head of State.

## Processes in the Party System

Early parliamentary elections of 2019 highlighted the dramatic changes in Ukraine’s party system. This reformatting was mostly driven by the success of the party brand “Servant of the People” amidst the crisis of electoral confidence in political forces that had gained power in 2014.

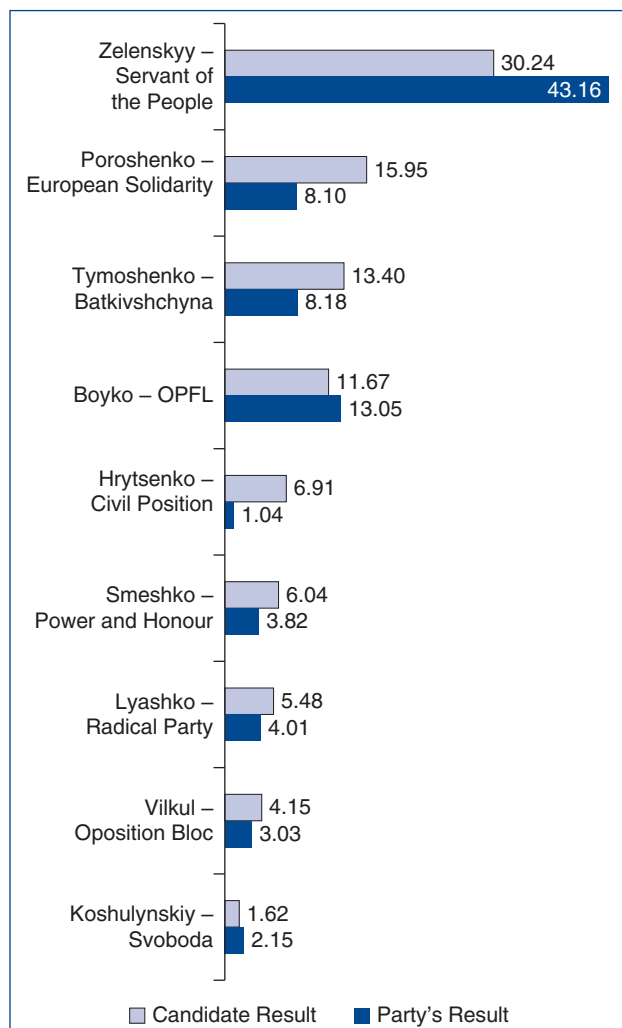
One of the two ruling parties of 2014-2019, the Petro Poroshenko’s Bloc “Solidarity” (or “European Solidarity” following rebranding), reduced its representation in the Parliament from 127 to 25 seats, while the other one, the “People’s Front”, decided not to actively participate in the campaign. “Samopomich” (Self-Reliance), the “Radical Party of Oleh Lyashko” and the “Opposition Bloc” could not clear the 5% electoral barrier (the latter, however, retained limited representation, as its nominees won in six majority constituencies). In general, the composition of the Parliament has been “renewed” by 80%.

As the election of the new Verkhovna Rada composition took place only 111 days after the second round of the presidential race, the results of inter-party competition became highly dependent on the presidential campaign. Nine most popular presidential candidates (those who received more than 1% of the vote) also had their electoral “heirs” battling for the Verkhovna Rada seats (see Diagram *Comparison of electoral support*).

<sup>26</sup> The “European Solidarity” demands the dismissal of Andriy Yermak. – Ukrinform, 13 November 2019, <https://www.ukrinform.ua/rubric-politics/2817633-u-evrosolidarnosti-vimagaut-vidstavki-ermaka.html>.

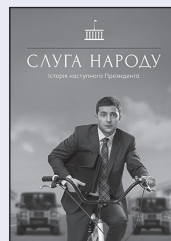
<sup>27</sup> See: Heaven (or Blog) born President. A system of power during the Zelenskyy era. – Ukrayinska Pravda, 23 December, <https://www.pravda.com.ua/articles/2019/12/23/7235598/>.

**Comparison of electoral support of top 9 presidential candidates and associated parties, %**



The practice of holding parliamentary elections shortly after the presidential campaign can have a negative impact on the development of party system, in particular on the formation of parties as sustainable and capable political institutions, the establishment of internal party democracy. Instead, it enhances typical Ukrainian perception of parliamentary elections as “secondary” compared to presidential, reinforces the dominance of “leader-driven” parties,<sup>28</sup> and encourages stakeholders to invest in personal political “brands” rather than in the development of party organisations.

A vivid example of these trends is the clear-cut winner of the most recent election campaign – the party “Servant of the People”. Even before its emergence, this brand was closely associated with the personality of the newly elected President, Volodymyr Zelenskyy.



The latter gained popularity due to the leading role in a comedy television series of the same title. The first season of the series premiered in November 2015, telling the story of a “common man” who became the President.

The “Servant of the People” party began its formal existence in December 2017 by renaming another, “hollow” party project and replacing its leadership<sup>29</sup> (Ivan Bakanov, Zelenskyy’s long-time friend and a legal director of “Kvartal 95” LLC, became the leader of the party; currently he chairs the Security Service of Ukraine).<sup>30</sup>

In December 2017, this party appeared in the published public opinion polls.<sup>31</sup> Despite showing no “signs of life” during 2018, polls still recorded a gradual increase in its support – especially against the intensification of rumours about Zelenskyy’s running for presidency and further increase in his support.

In November 2018, an outdoor advertisement appeared on the streets of Ukrainian cities with the slogan “PRESIDENT – THE SERVANT OF THE PEOPLE”, effectively advertising the new season of the TV series, hinting at the alleged candidacy of Volodymyr Zelenskyy and promoting the name of the party.<sup>32</sup> In December 2018, Mr Zelenskyy told reporters that the “Servant of the People” was going into politics, and he is the party. At the same time, he declined to name other people representing the party.<sup>33</sup>

The first public action of the “Servant of the People” party was the official nomination of Volodymyr Zelenskyy as a presidential candidate in January 2019. However, the party’s programme and “faces” were revealed to the public after the announcement of the early parliamentary elections. Of 191 candidates included in the party list, only 25 were members of this party. Of 199 candidates nominated by the party in majority constituencies, only 15 were its members.<sup>34</sup>

In the early parliamentary elections on 21 July 2019, the “Servant of the People” received more than 43% of the vote by proportional component and won 130 out of 199 majority constituencies, which in total gave it 254 seats and allowed the formation of a single-party majority in the Verkhovna Rada. Therefore, in the new party system, it holds the exclusive position of the ruling political force.

However, its organisational structure remains largely underdeveloped. According to official reports for Q3 of

<sup>28</sup> Party System before and after Maidan: Changes, Trends, Public Demand. Information and analytical materials to International Roundtable “Party System of Ukraine at Current Stage: Challenges, Problems, Public Expectations”, 16 September 2015, p.138.

<sup>29</sup> Political party the “Servant of the People”. – Opendatabot service data, <https://opendatabot.ua/c/40422142>.

<sup>30</sup> Ivan Bakanov’s interview. – TheBabel, <https://thebabel.com.ua/texts/27627-zelenskyy-lyudyna-z-velikoji-literi-mozhe-navit-vsi-bukvi-v-comu-slovi-z-velikoji-literi-kerivnik-shtabu-zelenskogo-ivan-bakanov-pro-strategiyu-kampaniji-zustrichah-z-oligarhami-i-vidnosinah-z-1-1>.

<sup>31</sup> Public opinion, December 2017: electoral and confidence ratings. – Democratic Initiatives Fund, 23 January 2018, <https://dif.org.ua/article/rejting-ijfojseojoej8567547>.

<sup>32</sup> Intrigue by Zelenskyy: social media actively discusses new “Servant of the People” boards. – Channel 24, 8 November 2019, [https://24tv.ua/intriga\\_vid-zelenskogo\\_v\\_merezhi\\_burhlivo\\_obgovoryuyut\\_novi\\_bordi\\_pro\\_slugu\\_narodu\\_n1060185](https://24tv.ua/intriga_vid-zelenskogo_v_merezhi_burhlivo_obgovoryuyut_novi_bordi_pro_slugu_narodu_n1060185).

<sup>33</sup> Showman Zelenskyy announced that the “Servant of the People” goes into politics. – Hromadske, 25 December 2018, <https://hromadske.ua/posts/shoumen-zelenskij-zayaviv-sho-partiya-sluga-narodu-jde-v-politiku>.

<sup>34</sup> Web site of the Central Election Commission, <https://www.cvk.gov.ua>.



2019, the party did not register any local branches with the legal entity status, and not a single person works in its apparatus.<sup>35</sup>

According to the party's current chairman, Oleksander Korniyenko, only about 500 people were official members of the "Servant of the People" in November 2019, including about 50 MPs working in the faction of the same name (that is, about one in five).<sup>36</sup> In other words, the majority faction in the Verkhovna Rada is not so much a representation of the party, but rather a group of political partners and "companions" who have been given an opportunity to enter the Parliament under the party brand. The party structure is more an auxiliary organisation to the informal network of loyalties and arrangements that bind Volodymyr Zelenskyy, his associates and members of the parliamentary majority.

In addition to the "Servant of the People", four more parties managed to climb the electoral threshold and form their own factions in the Verkhovna Rada; to date, these political forces represent different flanks of the parliamentary opposition. They are trying to gain a foothold in their respective electoral niches and are waiting for the popularity of current government to decline in order to "snatch" its frustrated supporters.

**The "Opposition Platform – For Life" (OPFF)** has the second largest faction in the Verkhovna Rada (43 MPs). Following the elections, the party managed to consolidate its dominant positions in the pro-Russian electoral segment, driving back its rival political project, the "Opposition Bloc" (Oleksander Vilkul, Evheniy Murayev and others). At the same time, the pro-Russian parties are closely related, and their recent history is rich in splits and unions. It is worth noting that 15 members of the parliamentary faction of the "Opposition Bloc" of the previous convocation (including Yuriy Boyko and Vadym Rabinovych) are now members of the "OPFL" faction.

The "OPFL" has consistently advocated rapprochement and peace with Russia "at any cost", while ignoring the facts of its military aggression against Ukraine. It often airs messages consistent with Russian propaganda (the Revolution of Dignity as an anti-state coup,<sup>37</sup> the conflict in Donbas as a civil war,<sup>38</sup> the oppression of the rights of the Russian-speaking people in Ukraine, etc.). A key

motive for "OPFL"'s political rhetoric is the implementation of the Minsk Agreements on Russian terms and prompt reintegration of Donbas. With regards to President Zelenskyy's efforts in the dialogue with Russia, the party took a sceptical and waiting position, also criticising him for indecision of the peacekeeping initiatives.

In public communication, members of the "OPFL" consistently stress their exclusive capacity to establish a dialogue with the Russian authorities. In September and October 2019, the "OPFL"'s Viktor Medvedchuk and Yuriy Boyko even had a formal meetings with the Russian Prime Minister and formal leader of the "United Russia" party, Dmitriy Medvedev; among other things, they discussed direct delivery of Russian gas to Ukraine at discounted prices.<sup>39</sup> The "OPFL" has been criticising the socio-economic policy of the new government (much like the previous one's) and calling for a more decisive revision of cultural policy. The "OPFL" leadership has always considered the population of Ukraine's East and South as its target audience.<sup>40</sup> In the medium term, the party's objective is to "reclaim" their voters from the "Servant of the People". As the support for the government declines, its criticism by the "OPFL" may intensify.

Among other things, the conflict in relations between the new government and the "OPFL" revealed itself in the formation of a temporary investigation commission (TIC) in the Parliament to probe the activities of three TV channels (112, NewsOne and ZIK) associated with V. Medvedchuk. The goal of TIC is to "prevent monopolisation in the information and television broadcasting market, limit the Russian Federation's influence on the information space and counter the national security threats in the information space".<sup>41</sup> In this regard, V. Medvedchuk complained about political persecution and suppression of the freedom of speech.<sup>42</sup>

**The "Batkivshchyna" party** has somewhat improved its position in the new Verkhovna Rada by expanding its representation from 21 to 26 MPs. However, this is far less than one might expect, as by the end of 2018 "Batkivshchyna" and its leader, Yuliya Tymoshenko, were favourites of Ukrainians' electoral preferences, but ultimately lost the "undecided" voter to Volodymyr Zelenskyy and his "Servant of the People". Despite its

<sup>35</sup> Not a single person officially works in the "Servant of the People". – The Committee of Voters of Ukraine, 20 November 2019, <http://www.cvu.org.ua/nodes/view/type:news/slug:kvu-u-sluzi-narodu-ofitsiino-ne-pratsiue-zhodnoi-osoby>.

<sup>36</sup> Peace, anti-corruption and economy – three things that unite: an interview with Oleksander Korniyenko, the head of the "Servant of the People". – Hromadske, 26 November 2019, <https://hromadske.ua/posts/mir-antikorupciya-ta-ekonomika-tri-obyednavchi-rechi-intervyu-z-golovoyu-sluzi-narodu-oleksandrom-korniyenkom?fbclid=iwar0medizulnfz6dh0tavdogef-duujyrs-r-c2t4vli8wjf-l79wa1-uitu>.

<sup>37</sup> The people's deputy from "OPFL" called militants "defenders", and Maidan – "coup d'état". – NBN, 6 December 2019, <https://nbnews.com.ua/politika/2019/12/16/narodnyi-deputat-ot-opzh-nazval-boevikov-zashchitnikami-a-maidan-gosudarstvennym-perevorotom-v-seti-nazvaeet-novyi-skandal/>.

<sup>38</sup> Nestor Shufrych "In this country, everyone is allowed to travel to Russia and meet anyone". – LB, 4 October 2019, [https://ukr.lb.ua/news/2019/10/04/438683\\_nestor\\_shufrych\\_u\\_nikomu.html](https://ukr.lb.ua/news/2019/10/04/438683_nestor_shufrych_u_nikomu.html).

<sup>39</sup> Boyko and Medvedchuk met Medvedev in Moscow. – Ukrayinska Pravda, 22 March 2019, <https://www.pravda.com.ua/news/2019/03/22/7209955/>; Medvedchuk yet again visited Moscow to meet Medvedev. – Ukrinform, 24 October 2019, <https://www.ukrinform.ua/rubric-polytics/2805423-medvedchuk-znovu-litav-do-moskvi-na-zustric-iz-medvedevim.html>.

<sup>40</sup> Medvedchuk: The goal of the future unification of the opposition is to protect interests of those living in South-East. – 112.ua, 8 November 2019, <https://112.ua/politika/medvedchuk-cel-budushhego-politicheskogo-obedineniya-oppozicii--zashhita-interesov-zhiteley-yugo-vostoka-468956.html>.

<sup>41</sup> Verkhovna Rada has formed TIC to study the legality of change of owners of NewsOne, 112 and ZIK. – Censor.Net, 17 October 2019, [https://censor.net.ua/ua/news/3154485/rada\\_utvoryla\\_tsk\\_z\\_vyvchennya\\_zakonnosti\\_zminy\\_vlasnykiv\\_telekanaliv\\_newsone\\_112\\_i\\_zik](https://censor.net.ua/ua/news/3154485/rada_utvoryla_tsk_z_vyvchennya_zakonnosti_zminy_vlasnykiv_telekanaliv_newsone_112_i_zik).

<sup>42</sup> Medvedchuk: President Zelenskyy is behind the pressure on 112 Ukraine, NewsOne and ZIK. – ZIK, 26 September 2019, [https://zik.ua/news/2019/09/26/medvedchuk\\_za\\_tyskom\\_na\\_112\\_ukraina\\_newsone\\_ta\\_zik\\_stoit\\_prezydent\\_zelenskyy\\_1655059](https://zik.ua/news/2019/09/26/medvedchuk_za_tyskom_na_112_ukraina_newsone_ta_zik_stoit_prezydent_zelenskyy_1655059).



well-developed regional structure, which allows it to regularly achieve high results in local elections, “Batkivshchyna” remains a clear leader-driven party, while Yuliya Tymoshenko’s 20 years of active participation in Ukrainian politics helped her to form not only the electoral core of loyal fans, but also high disapproval rating.

Nowadays these circumstances make “Batkivshchyna” a rather flexible player that looks for situational allies. Following Zelenskyy’s victory in June, Ms Tymoshenko publicly declared her readiness to form a coalition with the “Servant of the People”, while her associates hinted at the prospects of a new Tymoshenko-led Cabinet.<sup>43</sup> Even after the formation of a single-party majority and the government, “Batkivshchyna” has been refraining from the criticism of the new ruling team, but in November 2019 it announced its shift to the opposition following the adoption of the bill on opening the land market in the first reading.<sup>44</sup>

“Batkivshchyna” directs its opposition rhetoric against the government’s socio-economic policy, criticising the agrarian reform, privatisation, changes to the Labour Code and taxation system, as well as high salaries of government officials.<sup>45</sup> Foreign, security and cultural policies are less criticised. In December, on the eve of the Normandy Four meeting, the party joined the “European Solidarity” and the “Voice”, making a statement on “prevention of violation of national interests”, but did not actively participate in ensuing political actions.<sup>46</sup> Earlier, during the election campaign, Yuliya Tymoshenko did not shy away from the image of a “peacemaker”, therefore she behaved rather cautiously in these matters. Despite being in the opposition, “Batkivshchyna” has not yet made any serious attacks directly on President Zelenskyy. In the event of changes in the Cabinet, one cannot rule out the softening of this force’s attitudes towards the current government in exchange for some ministerial portfolios or even premiership.

**The “European Solidarity”** – the reformatted political force of Petro Poroshenko – was able to retain 25 seats in the new Parliament. Its faction is mainly represented by P. Poroshenko’s associates, as well as deputies from the volunteer and military circles, representatives of the Crimean Tatars (Mustafa Dzhemilev, Ahtem Chiyhoz) and well-known politicians with a distinct national-patriotic image (Andriy Parubiy, Volodymyr Vyatrovych). The main topics for mobilisation of his supporters included defending the strategic course towards the EU and NATO accession, preventing capitulation to Russia and continuing the hard line against it, protecting achievements of the government’s cultural policy in 2014-2019 (state support for the Ukrainian language and Ukrainian cultural product, decommunization).

Potential rivals, namely other parties representing the previous government, did not make a serious competition for the “European Solidarity” (as already noted, the “People’s Front” opted not to participate in the elections, while Groyzman’s “Ukrainian Strategy” received only 2.4% of the vote). Instead, the party had to compete really hard against the “Voice” (especially in the Lviv region and in Kyiv, where both parties enjoyed high support). In general, the “European Solidarity” received almost three times less votes than Petro Poroshenko himself in the first round of presidential elections (1.2 million vs 3 million), which is hardly a good result.

The party has played role of the “patriotic” opposition and is trying to get a foothold in this position. In addition to sharp criticism of foreign, security and cultural policies, the “European Solidarity” spokespeople also use socio-economic themes, although less frequently. Unlike representatives of other parliamentary forces, they resort to regular personal attacks on Volodymyr Zelenskyy, condemning his political behaviour.<sup>47</sup>

**The “Voice” party** was created for the latest parliamentary elections almost from scratch, just like the “Servant of the People”. Charismatic leaders add similarities to both political projects, with famous singer Svyatoslav Vakarchuk becoming a powerhouse of the “Voice”. He, just like Zelenskyy, was publicly discussed as a promising presidential candidate. However, his refusal to participate in the presidential race undermined his gravitas, and the “Voice” lost any chances to compete against the “Servant of the People” on equal footing. Instead, the “Voice” served as the alternative version of the “Servant” to more patriotic and pro-Western voters who were willing to improve the political class but rejected Zelenskyy’s cultural ambivalence and unclear statements about the conflict with Russia. On polling day, the “Voice” found itself trapped between two confronting forces: the “Servant of the People”, which conducted a successful, high-tech campaign and continued to increase its advantage in the central and western regions, and the “European Solidarity”, which sought to squeeze the most from its ideological position and sent its main forces to hold the “Galician Electoral Bridge”.<sup>48</sup>

As a result, the “Voice” party managed to get 17 seats in the Parliament via the proportional system and bring three more MPs from the majority constituencies. According to Svyatoslav Vakarchuk, his small fraction is in the “superposition” and tries to combine the substantive criticism of the government with the situational support of some of its initiatives that are in line with the “Voice’s” programme.<sup>49</sup> As of the end of 2019, the “Voice” faction was second behind the “Servant of the People” in

<sup>43</sup> Kravets R., After holidays. How Poroshenko, Tymoshenko and Vakarchuk will struggle for power in 2020. – Ukrayinska Pravda, 5 January 2019, <https://www.pravda.com.ua/articles/2020/01/15/7237393/>.

<sup>44</sup> Tymoshenko’s faction went to the opposition. – Ukrayinska Pravda, 13 November 2019, <https://www.pravda.com.ua/news/2019/11/13/7231865/>.

<sup>45</sup> Web site of the “Batkivshchyna” party, <https://ba.org.ua/>.

<sup>46</sup> The Normandy summit: Three parliamentary parties made a joint statement. – Ukrinform, 3 December 2019, <https://www.ukrinform.ua/rubric-politics/2830184-normandskij-samit-tri-parlamentski-partii-vistupili-iz-spilnou-zaavou.html>.

<sup>47</sup> MPs from ES are frustrated that Zelenskyy does not comment on the Russia’s role in the plane downing, <https://www.pravda.com.ua/news/2020/01/13/7237216/>; “This is not the Privoz market – we won’t meet each other in the middle” – Honcharenko on Zelenskyy, [https://www.youtube.com/watch?v=VzKDiz\\_RpYw](https://www.youtube.com/watch?v=VzKDiz_RpYw).

<sup>48</sup> Pyetsukh M., Lviv for two. How Poroshenko and Vakarchuk could not divide the monopoly to patriotism. – Ukrayinska Pravda, 17 July 2019, <https://www.pravda.com.ua/articles/2019/07/17/7221202/>.

<sup>49</sup> Kravets R., Svyatoslav Vakarchuk: If I was the President, I would definitely not start with magnifying my powers. – Ukrayinska Pravda, 17 October 2019, <https://www.pravda.com.ua/articles/2019/10/17/7229242/>.

supporting passed laws (an average, 67% of the faction voted in favour).<sup>50</sup>

At the same time, representatives of this party strongly criticised the President's approach to the Normandy Four negotiations and participated in the "No to Capitulation!" protests in Kyiv. Criticism of the government's actions also concerns agreements with Russia on gas transit, fiscal policy, reboot of the State Bureau of Investigation, and others. Unlike other parties belonging to the parliamentary minority, the "Voice" holds a moderate position in the issues related to the opening of land market, rejecting only certain aspects of government initiatives; the same is true for the proposed liberalisation of the Labour Code.<sup>51</sup>

***Among the parties that did not cross the electoral threshold but gained a significant share of votes*** (more than 1%), there is a dominance of leader-driven political projects. These include the "Power and Honour" party (Ihor Smeshko), the "Radical Party of Oleh Lyashko", the "Ukrainian Strategy" (Volodymyr Groysman), and the "Civic Position" (Anatoliy Hrytsenko). These parties have different ideological positioning, but their recognition and electoral significance is largely based on the popularity of their frontpeople. The future prospects of these political forces also depend on media activity of their leaders.

Two parties, which can be included in the "pro-Russian" camp, also enjoyed significant voter support. At the time of elections, the "Opposition Bloc" was a situational alliance of pro-Russian politicians who, for one reason or another, did not want to ally themselves with the "OPFL". Oleksander Vilkul and Yevheniy Murayev claimed the leadership positions, as the former became the party's presidential candidate and the latter topped its party list. The "Shariy Party" is a typical leader-driven virtual political project that came to existence shortly before the parliamentary elections. It targeted the audience of Anatoliy Shariy – popular blogger known for his pro-Russian views and criticism of the previous government.

The crisis of the "radical right" segment of the party system is deepening. In the most recent parliamentary elections, the "All-Ukrainian Union Svoboda" (Freedom) received only 2.15% of voters – a significant drop from 2014 (4.71%), when 1.8% of the votes were taken away by the "ideologically adjacent" "Right Sector". It is likely, that "Svoboda" electoral stance has been challenged by Petro Poroshenko's "European Solidarity", which actively used the nationalist rhetoric in its campaign and, to some extent, by the "Voice". Another right-wing political force,

the "National Corps", did not participate in the 2019 campaign, but it remained an active participant in "street politics", thus often making the political news.

In general, the presidential and early parliamentary elections have changed the type of Ukraine's party system – from moderate pluralism to a polarised pluralism with a dominant party.

### ***Registration of Political Parties and Problems of Their Cancellation***

During 2019, three new political parties have been registered in Ukraine: the "Volodymyr Saldo Bloc", the "Party of Chernivtsi Residents", and the "Democratic Axe". As of 1 January 2020, there were 349 active political parties registered in Ukraine, but not all of them were active participants in electoral processes.<sup>52</sup> According to the Central Election Commission, only 21 parties have participated in the most recent parliamentary elections; 19 political parties have nominated their presidential candidates.

Current law provides for the cancellation of registration for parties that failed to nominate their candidates in the presidential and parliamentary elections during 10 years. The obligation to cancel such registration through a proper appeal to the court rests with the authority that has registered the political party (the Ministry of Justice).<sup>53</sup> However, in practice, such cancellation does not always materialise. On 19 March 2019, the Kyiv District Administrative Court denied the claim of the Ministry of Justice requiring cancellation of the registration of 49 parties that did not nominate their candidates for the election of the President of Ukraine and the People's Deputies of Ukraine for the last 10 years (as of July 2018).<sup>54</sup> Relevant statement of reasons reads that the Ministry of Justice's duties do not include monitoring of political parties' compliance with the established procedure for participation in the electoral process (as this is the function of the CEC). However, back in 2011, the Ministry of Justice conducted verification of the parties' observance of the Law "On Political Parties in Ukraine" concerning their participation in presidential and parliamentary elections within ten years from the date of their registration by submitting relevant request to the CEC.<sup>55</sup> As a result, the registration of five parties was cancelled.<sup>56</sup> It should be noted that the CEC web site has a dedicated section "Information on Political Party Participation in Elections", but there is no data on it.<sup>57</sup>

Therefore, to ensure consistent implementation of Article 24 of the Law "On Political Parties in Ukraine", a clearer legal regulation is necessary to coordinate activities of the Ministry of Justice and the CEC on this issue.

<sup>50</sup> A study of the Committee of Voters of Ukraine "Results of the second session of the Verkhovna Rada (September 2019 – January 2020). – The Committee of Voters of Ukraine, 20 January 2019, <http://www.cvu.org.ua/nodes/term/type:news/slug:analytics>.

<sup>51</sup> Web site of the "Voice" party, <https://goloszmin.org/>.

<sup>52</sup> Info on the political parties registered in accordance with the established procedure. – The Ministry of Justice of Ukraine, 1 January 2020, <https://minjust.gov.ua/m/4561>.

<sup>53</sup> The Law of Ukraine "On Political Parties in Ukraine" (2365-III), Article 24.

<sup>54</sup> Decision No. 80629380 of 19 March 2019, the Kyiv District Administrative Court. – YOUCONTROL Portal, <https://youcontrol.com.ua/catalog/court-document/80629380/>.

<sup>55</sup> The Ministry of Justice will verify which parties observed the election law. – Tyzhden.ua, 13 January 2011, <https://tyzhden.ua/News/6528>.

<sup>56</sup> Lavrynovych "killed" 5 parties for their failure to nominate presidential candidates. – UNIAN, 24 November 2011, <https://www.unian.ua/politics/573486-lavrinovich-vbiv-5-partiy-za-te-scho-ne-znayshli-kandidativ-u-prezidenti.html>.

<sup>57</sup> Political Parties and Non-Governmental Organisations. – Web site of the Central Election Commission, <https://www.cvk.gov.ua/politichni-partii-ta-gromadski-organizatsii.html>.

### *Changes to the Mechanism of the State Financing of Political Parties*

In October 2019, the Verkhovna Rada adopted the Presidential draft law No. 1029 of 29 August 2019, which significantly changed the conditions of the state financing of political parties (Section IV of the Law “On Political Parties in Ukraine”).<sup>58</sup>

First, it halved the coefficient for determining the amount of money distributed between parties during the year; from now on, the total number of voters who took part in the ballot is multiplied by 1% (instead of 2%) of the subsistence minimum set for the first day of January of the year, which precedes the year of disbursement.<sup>59</sup> Given these changes, around UAH 283.5 million have been earmarked for financing political parties in 2020 (compared to UAH 565.7 million in 2019).<sup>60</sup>

Second, political parties that during parliamentary elections received more than 2% of the vote in the national constituency but failed to overcome the 5% threshold, which is necessary to qualify for the distribution of parliamentary seats, were deprived of the state financing. At the same time, the question of how many parties will receive state funding in 2020 – 5 or 11 – remains open (see the *Forecasts section* for more detail).

It should be noted that the above changes are in line with the public sentiment. Citizens generally objected the introduction of the political party financing from the State Budget, which began on 1 July 2016. In November 2016, as many as 69% of Ukrainians did not support such financing, while only 16% supported it.<sup>61</sup> At the same time, recent changes were criticized by experts.<sup>62</sup> Depriving extra-parliamentary parties of the right to the state financing of their statutory activities can significantly complicate the arrival of new political parties that do not enjoy support of large capital and/or powerful media holdings, thus making rapid and effective change of political elites virtually impossible. In addition, the state financing of parties, according to the logic of its introduction, should occur to the extent sufficient to ensure their relative independence from individuals or legal entities. The issue of sufficiency, however, is a topic for special analytical assessment.

Such “sterilisation” of the system of state financing of political parties is contrary to the PACE recommendations and the Venice Commission guidelines. Moreover,

the introduction of state financing of political parties was one of the conditions for granting a visa-free regime to Ukraine by the EU. The mechanism of state financing was introduced by the Law “On Amendments to Certain Legislative Acts of Ukraine on Preventing and Combating Political Corruption”.<sup>63</sup>

### **Civil Society Development**

Civil society and volunteer organisations have maintained a high level of public confidence – as of the end of 2019, most Ukrainians reported that they trusted, fully or partially, these social institutions (52% and more than 64% respectively).<sup>64</sup> These numbers do not differ much from the last year’s survey.<sup>65</sup>

However, there are many reasons to believe that such a high score is largely emotional or refers to the difficult period of 2014-2016, when during the war people observed actual revival of destroyed state institutions from ground zero.

One of the reasons is a low level of citizen involvement in NGO activities (according to the Democratic Initiatives Foundation poll, only 7.5% of citizens admitted their active participation in civic activities) – the same as in the year before the events called the Revolution of Dignity. 90 % of Ukrainians did not belong to any organisation or citizen association, while the level of volunteer activity also declined. Yet the main reason for this phenomenon was the lack of interest<sup>66</sup> – and this is despite the fact that, just like a year ago, the respondents were likely to recognise the need for civil society organizations, first of all, in protecting socially disadvantaged categories of citizens, in exercising control over government actions, in assisting citizens to assert their rights, and the like. At the same time, citizens, just like a year before, are largely unaware of NGO activities in their communities.<sup>67</sup>

The overall social and political turbulence experienced by the country during 2019 in connection with the presidential and parliamentary elections, as well as drastic changes in political configurations revealed a considerable vulnerability of non-governmental organisations both to challenges of the said situation and to critical dependence of most NGOs on the interests of a particular donor (usually foreign), which may have some short-term goals and, in turn, depend on their understanding of the political and other circumstances.

<sup>58</sup> Draft law “On amendments to some norms on ensuring effectiveness of the institutional mechanism on anticorruption measures”, No.1029 of 29 September 2019.

<sup>59</sup> The current version of the Law “On Political Parties in Ukraine” refers to 1% of the minimum wage, but the Law No.1774-VIII “On Amendments to Certain Legislative Acts of Ukraine”, adopted in December 2016, prohibits the use of minimum wage in the calculation of any government payments. In view of this, the subsistence minimum is used for relevant calculations.

<sup>60</sup> The Law “On the State Budget of Ukraine for 2020”.

<sup>61</sup> Transformation of the Party System: Ukrainian Experience in European Context/Ed. Yuriy Yakymenko. – The Razumkov Centre, 2017, p.428, [http://razumkov.org.ua/uploads/article/2017\\_PARTII.pdf](http://razumkov.org.ua/uploads/article/2017_PARTII.pdf).

<sup>62</sup> See, for example: A Consolidated Conclusion on the draft law No. 1029 concerning amendments to the Law of Ukraine “On Political Parties in Ukraine”. (Centre of Policy and Legal Reform, IFES Ukraine, Centre UA, “Chesno” Movement, the Committee of Voters of Ukraine), <https://pravo.org.ua/ua/news/20873877-konsolidovaniy-visnovok-na-zakonoproekt-1029-v-chastini-vnesennya-zmin-do-zakonu-ukrayini-pro-politichni-partiyi-v-ukrayini?fbclid=IwAR0rR5Ru80wAsZtR7fEzSpZY4UixE3lYmi7s14C1S0laqLjOW1LpW95Dk>.

<sup>63</sup> Daily analytics: Why do we need the state financing of political parties? – The Agency for Legislative Initiatives, 4 October 2019, <https://parlament.org.ua/2019/10/04/analitika-dnya-chomu-potribno-derzhavne-finansuvannya-partij/>.

<sup>64</sup> The survey was conducted by the Sociological Service of the Razumkov Centre jointly with the Democratic Initiatives Foundation on 13-18 December 2019 in all regions of Ukraine excluding Crimea and temporarily occupied territories of the Donetsk and Luhansk oblasts. The sample included 2,017 respondents aged 18+ years. The sampling error does not exceed 2.3%.

<sup>65</sup> See: Ukraine 2018-2019: Cautious Optimism Before Elections. – The Razumkov Centre, 2019, p.23

<sup>66</sup> See: Civil Society of Ukraine: Policy of Support and Involvement, Challenges and Transformations. – Analytical report of the National Institute for Strategic Studies, Kyiv, 2019, <https://dif.org.ua/uploads/pdf/17962048025dfa339d3d4347.66543282.pdf>.

<sup>67</sup> Ibid.



In particular, the results of 2019 suggest that the part of NGOs, which in previous periods actually monopolised the right to speak on behalf of the entire civil society, were disoriented, losing the influence they had on the decision-making (particularly at the stage of drafting laws) during the previous political regime.

For example, the NGO Coalition “Reanimation Package of Reforms”, which maintained close working relations with the committees of the previous Parliament and the Cabinet of Ministers, acted as an advocate for a number of priority reforms (judiciary, anti-corruption, decentralisation, public administration, law enforcement, election legislation, tax) and initiated a number of bills of varying quality, currently continues to exist as the coalition of observers of government policies following changes in the government system and in foreign donor priorities. The “revelatory” activities of once-influential anti-corruption organisations have decreased substantially. To a certain extent, this can be linked to the involvement of some of their members in the negative processes surrounding the US-Ukraine relations.

On the other hand, the civil society sector has been an important source of recruiting for top government positions. For example, BRDO – Better Regulations Delivery Office, a non-governmental think-tank founded by the Ministry of Economic Development, the Government of Canada and the World Bank, and funded by the European Union Office – delegated Oleksiy Honcharuk (Prime Minister), Oleksiy Orzhel (the Minister of Energy), Denys Malyuska (the Minister of Justice), Olena Shulyak and Oleksandra Kubrakova (MPs) to power.

Andriy Zahorodnyuk, the head of the Reform Office at the Ministry of Defence, was appointed as a Defence Minister, while other former members of this “volunteer landing party” – Davyd Arakhmia and Hanna Kovalenko – became the Head of the parliamentary faction “Servant of the People” and the Deputy Head of the Presidential Office respectively. Former experts of the Ukrainian Institute for the Future – Serhiy Babak and Denys Monastyrskiy, A. Krasnoselska, H. Yanchenko (the Anti-corruption Centre) – were included in the “Servant of the People” party list and became MPs. Yaroslav Yurchyshyn, the Chairman of Transparency International Ukraine, currently represents the “Voice” party in the Parliament. There are many other examples.

Probably due to a very brief period in power or for some other reasons, but these and some other civil society representatives have not yet been able to demonstrate the new quality of policy and new approaches to public administration based on respect for law, openness, transparency and effectiveness, while dismantling negative post-Soviet practices. At the end of the day, actions of many NGO activists who became part of the government actually contributed to increased socio-political turbulence.

Against the backdrop of political unrest, civil society was characterised by fragmentation, lack of any coordination and system in action. Paradoxically,

but after some of the known volunteers became part of the new government, one could observe the beginning of a campaign aimed at downplaying the role and significance of the volunteer movement in public consciousness.<sup>68</sup> Quite illustrative was the situation, when the group of volunteers – singer Andriy Antonenko, doctor Yuliya Kuzmenko, the Hryshchenko’s couple and combat medic Yana Duhar – were accused of assassination of the journalist Pavlo Sheremet and were called criminals without court decision. No argument outside the official version was taken into consideration, while the news by the leading TV channels in this regard specifically stressed their volunteer backgrounds.<sup>69</sup> Notably, Arsen Avakov, the Minister of Internal Affairs, who actually led this process, once actively supported and contributed to the development of volunteer movement.

On the other hand, since the end of presidential election and the inauguration of President-elect Volodymyr Zelenskyy, one could notice many signs of civil society (including veteran and volunteer associations) returning to self-organisation models, typical for 2013-2015 – the period of civil protest against Viktor Yanukovich’s regime and resistance to Russian aggression.

These included, in particular, a joint statement by civil society representatives on “red lines” for President Zelenskyy, such as “referendum on the format of negotiations with the Russian Federation or the principles of peaceful settlement”, “delaying, sabotaging or abandoning the strategic course towards the EU and NATO membership”, “large-scale redistribution of property in the interests of a certain group”, “revision of the language law”, “resumption of Russian social networks and TV channels in Ukraine” and some others.<sup>70</sup> President Zelenskyy’s decision to cancel the Independence Day military parade on 24 August 2019 not only caused outrage in many citizens, but also prompted veteran and volunteer organisations, including the Union of Families of the Fallen Heroes, to hold a separate, alternative event – the March of defenders of Ukraine. Later, the Capitulation Resistance Movement was announced in October 2019, with its several events and meetings held Kyiv and other Ukrainian cities. Many of those, who signed the abovementioned “red lines” statement, joined this Movement. They criticised the so-called “Steinmeier Formula” and the willingness of the Ukrainian leadership to implement it into national law, protested against the disengagement of troops in the Donbas, announced the Ukrainian Doctrine of Security and Peace, and the like.

Despite the government’s blatant disregard for the views of this part of civil society, its position was scrutinised and taken into account, judging from the results of the Normandy Four meeting in Paris.

Experts from the National Institute for Strategic Studies in their study of the state of Ukraine’s civil society, concluded that the low level of citizens’ interest might be due to the fact that civil society and

<sup>68</sup> As noted above, this matches the updated ideological paradigm of the new government.

<sup>69</sup> See, for example: Sensation in the case of Pavlo Sheremet assassination. The Ministry of Internal Affairs revealed the identities of the suspects and described the role of each. – NV, 12 December 2019, <https://nv.ua/ukr/ukraine/politics/pidozryuvani-u-vbivstvi-sheremeta-golovne-z-brifingu-mvs-novini-ukrajini-50058946.html>.

<sup>70</sup> See: Representatives of the civil society said to Zelenskyy about “red lines”. – Radio Svoboda, 23 May 2019, <https://www.radiosvoboda.org/a/news-zelenskyy-chervoni-liniyi/29958693.html>.



volunteer organisations no longer expressed people's expectations.<sup>71</sup>

The situation in the civil society sector following the 2019 elections further confirmed the conclusions drawn in previous years regarding its vulnerability to the political situation, dependence on donor wishes and the need for a clearer definition of its role and place in social processes. At the same time, greater role of self-organisation of active citizens (e.g. through social media) for defending national interests and democratic political values exemplifies the strengthening of genuine civil society, independent of external support.

## Reforming Individual Areas

### Constitutional Reform

2019 was marked by numerous initiatives to amend the Constitution, two of which resulted in amendments to the Basic Law of the state, the rest were at different stages of consideration at the end of the year.

#### *Amendments to the Constitution affirming the course for European and Euro-Atlantic integration*

On 7 February 2019, the Parliament adopted the Law "On Amendments to the Constitution of Ukraine (concerning the Strategic Course of the State for Ukraine's Full Membership in the European Union and in the North Atlantic Treaty Organization)". From the moment of entry into force of the Law, the parliament must "determine the basis for the implementation of the strategic course of the state for the acquisition of full membership of Ukraine in the European Union and the North Atlantic Treaty Organization" (Paragraph 5 of Part 1 of Article 85 of the Constitution of Ukraine); the head of the state became "the guarantor of realization" of this course (Part 3 of Article 102 of the Constitution of Ukraine); and the direct provision of its implementation in practice was entrusted upon the government (Article 116, Paragraph 1-1 of the Constitution of Ukraine).

A distinctive feature of the "February" 2019 changes was that for the first time in the history of independent Ukraine, amendments were also made to the Preamble to the Constitution of Ukraine, which textually does not belong to any of its sections. The Basic Law itself does not provide for such a procedure as amending the Preamble to the Constitution of Ukraine, and the parliamentarians in this case have chosen the procedure for amending stipulated for constitutional provisions not covered by Chapters I, III, XIII of the Constitution of Ukraine.<sup>72</sup>

As a result of these changes, the Preamble to the Constitution of Ukraine was supplemented by the provisions according to which "The Verkhovna Rada of Ukraine, on behalf of the Ukrainian people, citizens of Ukraine of all nationalities, /... / confirming the European identity of the Ukrainian people and the irreversibility of the European and Euro-Atlantic course of Ukraine /... / adopts this Constitution, the Basic Law of Ukraine" (Paragraph 5).

As noted earlier, apart from legal reservations, the law has caused mixed reactions in terms of possibilities and consequences of the practical implementation of its individual provisions.<sup>73</sup> However, from a political point of view, the constitutional novelties can be seen as a certain safeguard against the change of the geopolitical course of Ukraine in the case of formation of a majority in the parliament with other than pro-European geopolitical orientations.<sup>74</sup>

#### *Amendments to the Constitution as Regards Limitation of Parliamentary Immunity*

At the beginning of September 2019, the Verkhovna Rada of Ukraine of the 9<sup>th</sup> Convocation adopted the Law of Ukraine "On Amendments to Article 80 of the Constitution of Ukraine (concerning the immunity of People's Deputies of Ukraine)".<sup>75</sup>

Article 80 of the Constitution of Ukraine was set out in the version, according to which "the People's Deputies of Ukraine do not bear legal responsibility for the results of their voting or statements in the parliament and its bodies, except for responsibility for insult or libel". Instead, the other provisions of this article that had existed before ("People's Deputies are guaranteed parliamentary immunity. People's Deputies of Ukraine cannot be prosecuted, detained or arrested without the consent of the Verkhovna Rada of Ukraine"), have lost their force.

All this should in fact lead to the parliamentarians losing their ("Deputies'") immunity as such. This state of affairs is not known to be characteristic of modern democratic states, and could potentially also entail certain threats to further development of parliamentarism in Ukraine as such.<sup>76</sup>

On 18 December 2019, the Verkhovna Rada of Ukraine endorsed, in the second reading, the "Draft Law on Amendments to Certain Legislative Acts of Ukraine in order to bring it into line with the Law of Ukraine 'On Amendments to Article 80 of the Constitution of Ukraine on the Immunity of People's Deputies of Ukraine'".

<sup>71</sup> See: Civil Society of Ukraine: Policy of Support and Involvement, Challenges and Transformations, Analytical report of the National Institute for Strategic Studies.

<sup>72</sup> According to this variant of the constitutional procedure, such a draft law is approved preliminarily by a majority of the constitutional composition of the Verkhovna Rada of Ukraine and is considered adopted if at the next regular session of the Verkhovna Rada of Ukraine no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine voted for it" (Art. 155 of the Constitution of Ukraine). The Constitutional Court of Ukraine, on November 28, 2018, issued a ruling on the compliance of the draft law with Articles 157 and 158 of the Constitution of Ukraine, recognizing it as meeting their requirements.

<sup>73</sup> See: "Ukraine on the eve of the 2018-2019 elections: cautious optimism ahead of the elections. Analytical estimates", p.26.

<sup>74</sup> See, e.g.: Ivanna Klimpush-Tsintsadze named the safeguards against Ukraine turning away from EU and NATO. Web site of the Cabinet of Ministers of Ukraine, May 6, 2019, <https://www.kmu.gov.ua/news>; Sydorenko S. No harm, benefit is possible: what the "Euro-Atlantic norms" in the Constitution will actually change. – Yevropeyska Pravda, September 5, 2019, <https://www.eurointegration.com.ua/articles/2018/09/5/7086457/>.

<sup>75</sup> The draft Law No. 7203 was submitted as early as October 2017 by President P.Poroshenko.

<sup>76</sup> This has been repeatedly brought to attention by influential international institutions and their representatives, in particular the Venice Commission and the European Parliament's mission (Cox's mission); and this was the subject of a reservation expressed in the Constitutional Court's positive ruling on the draft law No. 7203, to which we have drawn attention in last year. Another flaw of the draft law remained uncorrected, namely not taking into account the changes in the legislation which removed from the text of the 2001 Criminal Code of Ukraine such offenses as "insult" and "libel". For more information, see Ukraine on the eve of the 2018-2019 elections: cautious optimism ahead of the elections. Analytical estimates, p.25.

In spite of the sufficiently high support of the MPs for this bill (291 votes in favor), some of its provisions have caused justified critical remarks in the current circumstances, from among MPs included. This concerns, first of all, the procedure of criminal prosecution of People's Deputies of Ukraine, the decisive role in which is now given exclusively to the Prosecutor General.<sup>77</sup>

Meanwhile, the expert community<sup>78</sup> drew more attention to the provision of the draft law under which "People's Deputies do not bear legal responsibility for the results of their voting or statements in the Verkhovna Rada and its bodies, as well as in exercising parliamentary powers, except for liability for insult or libel." After all, the wording "in exercising parliamentary powers" significantly expands the time and place of applying to parliamentarians of the proposed state of "not bearing" the responsibility of People's Deputies of Ukraine "for their statements."

On 28 December 2019, the President of Ukraine signed the Law of Ukraine, adopted by the Parliament, "On amendments to some legislative acts of Ukraine in order to bring them in line with the Law of Ukraine

'On Amendments to Article 80 of the Constitution of Ukraine concerning immunity of People's Deputies of Ukraine'"<sup>79</sup> which came into force on 1 January 2020.

#### **Other initiatives on constitutional change**

Along with the adoption of the Law of Ukraine "On Amendments to Article 80 of the Constitution of Ukraine (concerning the immunity of People's Deputies of Ukraine)," the Parliament addressed the Constitutional Court of Ukraine in order to obtain a ruling on compliance of seven draft laws, initiated by the President of Ukraine, with Articles 157 and 158 of the Constitution of Ukraine.

The Draft Law "On Amendments to Articles 76 and 77 of the Constitution of Ukraine (concerning reduction of the constitutional composition of the Verkhovna Rada of Ukraine and affirming the proportional electoral system)" (Reg. No. 1017) provides for the reduction of the Verkhovna Rada of Ukraine from 450 to 300 People's Deputies of Ukraine, and addresses the question of compulsory residence in the territory of Ukraine and knowledge of the state language by candidates for People's Deputies of Ukraine.

While the last two proposals are deemed not to raise serious objections in the scientific and expert community, the initiative of the Head of State to reduce the composition of the Verkhovna Rada of Ukraine

from 450 to 300 People's Deputies needs serious professional discussion, since the initiator has not given the proper justification for such rather radical changes. The need for a broad professional discussion on this subject is also confirmed by the existence of a number of significant reservations in the Constitutional Court's ruling on this draft law, despite its positive nature in general.<sup>80</sup>

The draft law also suggested amendments to Article 77 of the Constitution of Ukraine, according to which the Parliament must in the future be elected exclusively by proportional system. In our view, the expediency of constitutionally securing a particular type of electoral system is questionable, and the lack of proper motivation for choosing the proportional system for parliamentary elections in Ukraine may indicate the dominance of the principles of political expediency with the initiators of the draft law. In addition, the process of transition to the proportional electoral system in the parliamentary elections in Ukraine should be preceded by, at least, significant organizational and legal work to transform existing political parties into organizations with real nationwide status.<sup>81</sup>

Two draft laws aim at partial change of the powers of the Parliament: "On Amendments to Articles 85 and 101 of the Constitution of Ukraine (Concerning the Powers of the Verkhovna Rada of Ukraine)" (Reg. No. 1016) and "On Amendments to Article 85 of the Constitution of Ukraine" (Reg. No. 1028).

According to the first of them, it is suggested that Article 85 of the Constitution of Ukraine is supplement by provisions according to which the powers of the Verkhovna Rada of Ukraine should include "appointment and dismissal of Commissioners of the Verkhovna Rada of Ukraine in compliance with the Constitution of Ukraine and laws in certain spheres; hearing their annual reports on the state of compliance with the Constitution of Ukraine and laws in their Respective spheres." Accordingly, in Article 101 of the Constitution of Ukraine there should be stipulations according to which "for the exercise of parliamentary control over the observance of the Constitution of Ukraine and laws in certain spheres, the Verkhovna Rada of Ukraine may appoint authorized representatives of the Verkhovna Rada of Ukraine, whose legal status is determined by specific laws."

At the same time, the Constitution of Ukraine contains a provision on the Ombudsman, according to which "the Verkhovna Rada of Ukraine appoints and dismisses the Ombudsman of Ukraine; considers their annual reports on the state of observance and protection of human rights and freedoms in Ukraine" (Article 85, Paragraph 17 (1)).

<sup>77</sup> The majority of the "Servant of the People" wants to introduce a "controlled" immunity of the People's Deputies. – Voice, 21 October 2019, <https://goloszmin.org/news/>.

<sup>78</sup> Practical abolition of parliamentary immunity. – Slovo i dilo, 5 December 2019, <https://www.slovoidilo.ua/2019/12/05/pogljad/polityka/praktychneskasuvannya-deputatskoyi-nedotorkannosti-navishho-ce-zelenskomu>.

<sup>79</sup> Volodymyr Zelenskyy signed the Electoral Code of Ukraine and a number of laws. – The official web site of the President of Ukraine, <https://www.president.gov.ua/news/volodimir-zelensky-pidpisav-viborchij-kodeks-ukrayini-ta-ni-59125>.

<sup>80</sup> The ruling of the Constitutional Court of Ukraine in the Case of the address of the Verkhovna Rada of Ukraine for the ruling concerning the compliance of the Draft Law "On Amendments to Articles 76 and 77 of the Constitution of Ukraine (Concerning Reduction of the Constitutional Composition of the Verkhovna Rada of Ukraine and Affirming the Proportional Electoral System)" (Reg. No.1017) with the requirements of Articles 157 and 156 of the Constitution of Ukraine. – The web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/8\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/8_v_2019.pdf).

<sup>81</sup> Ukraine after the Elections: Public Expectations, Political Priorities, Development Prospects. – The Razumkov Centre, 2019, p.135.

The proposal to introduce in parallel with the Institute of the National Ombudsman a number of other “authorized persons of the Verkhovna Rada of Ukraine” who should exercise control over “observance of the Constitution of Ukraine and laws in certain spheres” (at the same time, these spheres themselves, as well as the legal status of such authorized persons would have to be determined later by law), on the one hand would create a situation of legal uncertainty and lay foundations for violation of the constitutional principle of separation of powers, and on the other hand, would clearly offset the constitutional status of the Commissioner of the Verkhovna Rada of Ukraine on Human Rights, potentially reducing their ability to effectively protect the rights and freedoms of citizens

Therefore, the decision of the Constitutional Court of Ukraine of November 20, 2019 was quite expected: on recognizing the Draft Law on Amendments to Articles 85 and 101 of the Constitution of Ukraine (concerning the Commissioners of the Verkhovna Rada of Ukraine) (Reg. No. 1016) as such that “does not meet the requirements of Article 157.1 of the Constitution of Ukraine”.<sup>82</sup>

The draft law *“On Amendments to Article 85 of the Constitution of Ukraine (concerning consultative, advisory and other auxiliary bodies of the Verkhovna Rada of Ukraine)”* (Reg. No. 1028) envisages to supplement Part 1 of Article 85 of the Constitution with the provision that “the powers of the Verkhovna Rada of Ukraine include creation, within the limits of the funds provided for in the State Budget of Ukraine, of consultative, advisory and other auxiliary bodies for exercising its powers.

The Constitutional Court of Ukraine found the draft law to be in conformity with the Constitution.<sup>83</sup> At the same time, as in the previous cases, “constitutional proposals” were submitted with the lack of proper justification on the part of the initiator. They seem overly declarative and cause some surprise not only of scholars but also of practitioners, including judges of the Constitutional Court.<sup>84</sup> Despite this, on January 14, 2019 the draft law was preliminarily approved by the Parliament.

Excessive declarations and legal uncertainty also occur in the draft law *“On Amendments to Article 93 of the Constitution of Ukraine (on the Legislative Initiative of the People)”* (Reg. No. 1025).

The draft law provides for the introduction of an additional (apart from the President of Ukraine, the

Cabinet of Ministers of Ukraine, and People’s Deputies of Ukraine) entity of legislative initiative in the Verkhovna Rada of Ukraine, the “people”, and also stipulates that such initiative “shall be implemented in the cases and according to a procedure specified by the Constitution of Ukraine and laws of Ukraine”, while the laws themselves “are adopted in accordance with the requirements of the legislative procedure established by the Constitution of Ukraine and the laws of Ukraine”.

However, according to the Basic Law of the State, “The Ukrainian people are citizens of Ukraine of all nationalities” (Paragraph one of the Preamble to the Constitution of Ukraine). Therefore, practical implementation of the constitutional proposal for the provision of “legislative initiative of the people in the Verkhovna Rada of Ukraine” seems more than complicated. At the same time, the initiators of the draft law did not publish their own vision of the mechanisms of practical implementation of the people’s legislative initiative, which, according to international experience, may differ significantly.<sup>85</sup>

In addition, the matter of concern, first and foremost, in view of the need to observe the rule of law (Article 8 of the Constitution of Ukraine), is the desire of initiators of constitutional changes to “move” the level of normative-and-legal regulation of the procedure of passing laws from “constitutional” to “legislative”. This concern, despite the generally positive ruling of the only body of constitutional jurisdiction on the compliance of this Draft Law with the requirements of Articles 157 and 158 of the Constitution of Ukraine,<sup>86</sup> is also shared by some judges of the Constitutional Court of Ukraine.<sup>87</sup>

The Draft Law *“On Amendments to Article 81 of the Constitution of Ukraine (concerning additional grounds for early termination of the powers of a People’s Deputy of Ukraine)”* (Reg. No. 1027) proposes to substantially change the existing system of constitutional and legal guarantees of the status of parliamentarians in Ukraine. In particular, the Head of State considers it expedient to additionally introduce early termination of the powers of a People’s Deputy of Ukraine in the case of: “establishing by the court of the fact of a non-personal vote by the People’s Deputy of Ukraine in the Verkhovna Rada of Ukraine, i.e. voting by a People’s Deputy of Ukraine instead of another People’s Deputy of Ukraine, from the moment of entry into force of a decision of a court establishing such a fact; their absence without valid reasons at one-third of plenary sessions of the Verkhovna Rada of Ukraine and/or meetings of the Verkhovna Rada

<sup>82</sup> Ruling of the Constitutional Court of Ukraine in the Case of the request of the Verkhovna Rada of Ukraine for a ruling on the Conformity of the Draft Law on Amendments to Articles 85 and 101 of the Constitution of Ukraine (concerning the Commissioners of the Verkhovna Rada of Ukraine) (Reg. No.1061) to the requirements of Articles 157 and 156 of the Constitution of Ukraine. – The web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/6\\_v\\_2019.p](http://www.ccu.gov.ua/sites/default/files/docs/6_v_2019.p).

<sup>83</sup> Ruling of the Constitutional Court of Ukraine on the request of the Verkhovna Rada of Ukraine for a ruling on the conformity of the Draft Law on Amendments to Article 85 of the Constitution of Ukraine (concerning consultative, advisory and other auxiliary bodies of the Verkhovna Rada of Ukraine) (Reg. No.1028) to Articles 157 and 156 of the Constitution of Ukraine. – The web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/5\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/5_v_2019.pdf).

<sup>84</sup> Particular Opinion of Judge of the Constitutional Court of Ukraine Slidenko I.D. regarding the Ruling of the Constitutional Court of Ukraine. – The web site of the CCU, 29 October 2019, <http://www.ccu.gov.ua/docs/2893>.

<sup>85</sup> See, e.g.: Srednytska V., Current Models of the People’s Legislative Initiative: Foreign Experience for Ukraine. – *Pivdenoukrayinsky pravnychy chasopys*. №3-4, 2016, pp.10-14, Krutko A., The concept of people’s legislative initiative and its types. – *Problemy Zakonnosti*, 2015, Vip.130, pp.44-52.

<sup>86</sup> Ruling of the Constitutional Court of Ukraine No.5, 13 November 2019.

<sup>87</sup> Particular Opinion of the Judge of the Constitutional Court of Ukraine Melnyk M.I. on the ruling of the CCU No.5. – The web site of the CCU, 13 November 2019, [http://www.ccu.gov.ua/sites/default/files/docs/5\\_v\\_2019\\_1.pdf](http://www.ccu.gov.ua/sites/default/files/docs/5_v_2019_1.pdf).



Committee of which they are a member during one regular session.”

In addition, in the case of absence of a People's Deputy, without valid reasons, at one-third of the plenary sessions of the Verkhovna Rada of Ukraine and/or meetings of the Verkhovna Rada Committee of which they are a member, during one regular session, it is proposed to suspend their powers ahead of time according to a ruling by the Supreme Court.

However, in its ruling of December 24, 2019, the Constitutional Court of Ukraine concluded that the draft law “On amending Article 81 of the Constitution of Ukraine (concerning additional grounds for early termination of powers of People's Deputies of Ukraine)” (Reg. No. 1027) does not meet the requirements of Part One of Article 157 of the Constitution of Ukraine, as some of its provisions “will cause cancellation or restriction of human rights and freedoms” and provide for the cancellation of the rights of Ukrainian citizens.<sup>88</sup>

The Draft Law “*On Amendments to Article 106 of the Constitution of Ukraine (concerning the powers of the President of Ukraine to set up independent regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and Director of the State Bureau of Investigations)*” (Reg. No.1014) envisaged the extension of the constitutional powers of the Head of State, including by means of introducing into the Constitution those powers of the President which he was already vested with by previously enacted laws.<sup>89</sup>

The suggested changes were justified by their initiator, in particular, by the fact that “in accordance with Article 102 of the Constitution of Ukraine, the President of Ukraine guarantees the state sovereignty, territorial integrity of Ukraine, the observance of the Constitution of Ukraine, the rights and freedoms of man and citizen. This provision is a principle of the constitutional and legal status of the Head of State and requires the consolidation in the Constitution of Ukraine of the real powers that the Head of State will be empowered with to implement this principle”.<sup>90</sup>

So, according to the President, the span of the President's constitutional powers should be extended,

giving him the right to “set up, according to the law, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss, according to the procedure prescribed by the laws of Ukraine, the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations; to form independent regulatory bodies which carry out state regulation, monitoring and control over the activity of economic entities in particular spheres, to appoint and dismiss officials according to the procedure determined by the laws of Ukraine”.<sup>91</sup>

It is obvious that the suggested constitutional novelties were clearly distant from the issues of state sovereignty and territorial integrity of Ukraine as such. With regard to the implementation of the constitutional prescription of Article 102 of the Basic Law of the state according to which “the President of Ukraine is a guarantor of observance of the Constitution of Ukraine, rights and freedoms of man and citizen”, the Head of State today has enough different tools and appropriate means of influence.

Meanwhile, granting the head of state the right to “form independent regulatory bodies that carry out state regulation, monitoring and control over the activity of economic entities in particular areas” may lead to excessive government interference in the economic activities of various economic entities, as well as to enhancing the President's functions in the sphere of economy to which the President is not entitled.

Hence, it seems logical that the Constitutional Court of Ukraine has ruled that the draft Law of Ukraine “On Amendments to Article 106 of the Constitution of Ukraine (on affirming the powers of the President of Ukraine to create independent regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National the Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations)” (Reg. No.1014) does not comply with part one of Article 157 of the Constitution of Ukraine.<sup>92</sup>

The draft law “*On Amending the Constitution of Ukraine (concerning abolishing the advocates' monopoly)*” actually proposes to correct one of the contradictory decisions of judicial and legal reform of 2016<sup>93</sup> concerning representation of parties' interests in national courts.<sup>94</sup> In particular, it proposes to return to

<sup>88</sup> Ruling of the Constitutional Court of Ukraine in the case on the constitutional request of the Verkhovna Rada of Ukraine for a ruling on conformity of the Draft Law on amending Article 81 of the Constitution of Ukraine (concerning additional grounds for early termination of powers of a People's Deputy of Ukraine) (Reg. No.1027) to the requirements of Articles 157 and 158 of the Constitution of Ukraine. – The web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/9\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/9_v_2019.pdf).

<sup>89</sup> In particular, the Law on the National Anti-Corruption Bureau (No.1698-VII of October 14, 2014) gave the Head of State the powers to form a NABU and appoint its Director, which are still absent from the Constitution.

<sup>90</sup> Explanatory Note to the Draft Law of Ukraine “On Amendments to Article 106 of the Constitution of Ukraine (on Affirming the Powers of the President of Ukraine to create Independent Regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations)” (Reg. No. 1014). – The official site of the Verkhovna Rada of Ukraine, [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66250](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66250).

<sup>91</sup> Ibid.

<sup>92</sup> Ruling of the Constitutional Court of Ukraine in the case of the constitutional request of the Verkhovna Rada of Ukraine for a ruling on the conformity of the draft law “On Amendments to Article 106 of the Constitution of Ukraine (on affirming the powers of the President of Ukraine to create independent regulatory bodies, the National Anti-Corruption Bureau of Ukraine, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations)” (Reg. No.1014) to Articles 157 and 158 of the Constitution of Ukraine. – The official site of the Constitutional Court of Ukraine, [http://www.ccu.gov.ua/sites/default/files/docs/7\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/7_v_2019.pdf).

<sup>93</sup> The Law of Ukraine. On Amendments to the Constitution of Ukraine (on Justice).

<sup>94</sup> See: The Constitutional Process: Current Outcome, Risks, and Prospects. Analytical report of the Razumkov Centre. Natsionalna Bezpeka i Oborona, No.5-6 (163-164), 2016, p.7.



the clause of the scheme of normative-legal regulation, which stipulates, at the constitutional level, only the “exclusive right of an advocate” to “exercise defense of a person against criminal charges”.

Such an approach will generally be in line with the current state of the bar in Ukraine and will enhance the ability of citizens to exercise their constitutional rights to access justice and fair judicial protection. Notable in this situation is that this draft law was one of the first to be recognized by the Constitutional Court of Ukraine as complying with the requirements of Articles 157 and 158 of the Constitution of Ukraine.<sup>95</sup>

At the end of 2019, the President of Ukraine submitted to the Parliament the draft law *“On Amendments to the Constitution of Ukraine (on Decentralization of Power)”* (Reg. No.2598). If adopted, it could be compared to the constitutional changes of 2004 and 2016 both in scope and in possible consequences for the national constitutional-and-legal system. After all, this draft law proposes to amend most sections of the Constitution of Ukraine, and the changes themselves should institutionally affect the head of state, the Parliament, the government, the Constitutional Court of Ukraine, local state administrations, local representatives of the President of Ukraine, bodies of local self-government, as well as the territorial organization of the state.

At the same time, in its title, the formal-legal direction (designation), as well as in its terminology, this document looks extremely close to the one submitted in 2015 by the then President of Ukraine, P.Poroshenko, the Draft Law of Ukraine “On Amendments to the Constitution of Ukraine (on Decentralization of Power)”. However, in substance, the differences between the two draft laws are more than obvious. The emergence of constitutional initiatives of the Head of State regarding decentralization of power provoked lively debate both among the People’s Deputies of Ukraine and in the scientific and expert community.<sup>96</sup> At the same time, all this happened before the preliminary consideration of this draft law by the Parliament and, accordingly, with no assessment by the Constitutional Court of Ukraine for compliance with the requirements of Articles 157 and 158 of the Constitution of Ukraine.

The following particular points of the draft law were of major concern in terms of possible negative consequences.

First, it is necessary to pay attention to the obvious tendency to increase the power of the head of state, in particular, by creating the so-called “presidential vertical” (representatives of the head of state in oblasts and okruhs, prefects), the desire to give the head of state the right

to “temporarily suspend the authority of the head of a community, of the composition of a community, of an okruh council, an oblast council at the submission of the prefect”, and the appointment (obviously, in their place) of a “temporary state Commissioner”. In addition, the suggested powers of prefects in some aspects look like reproduction of the so-called “general control by the prosecutor’s office” of the Soviet era.

Secondly, these are not entirely clear trends in the further development of local self-government, its levels, material and financial basis, status of communities, etc.

In particular, the future situation with the cities of Kyiv and Sevastopol, their territorial communities and, accordingly, the system (models) of local self-government in these cities is completely unclear.

The project does not envisage such an institution as “community head” among local government bodies, but only the “community council” as a representative body, and executive bodies of the community council. How will the mechanism of local self-government function in such a situation?

In addition, for the organization of local self-government, ensuring its capacity, sustainable development, guaranteeing equal opportunities for citizens (residents of specific territorial communities) regardless of their place of residence, etc., greater legal certainty would be required for the future constitutional novelty that “several neighboring communities form a okruh”. How will the process of uniting such communities be realized?

Thirdly, these are the proposals of the head of state regarding the change in the constitutional regulation of the system of the administrative-territorial composition of Ukraine. Of particular concern are proposals to: remove the list of oblasts from the text of the Constitution of Ukraine; transform “rayons” into “okruhs”, with the definition of the latter as “several neighboring communities”; withdraw the constitutional clause on Sevastopol; place the “order of formation, liquidation, establishment and change of boundaries, naming and renaming of communities, okruhs, oblasts” within the legislative level of regulation. These suggestions put together, in the context of hybrid warfare and the actual occupation of certain areas of Donetsk and Lugansk regions, illegal annexation of Crimea by the Russian Federation could lead to unpredictable consequences for the territorial integrity, unitary nature and sovereignty of Ukraine.

On December 27, 2019 the official web site of the Verkhovna Rada of Ukraine carried the so-called “revised draft” of the Law of Ukraine “On Amendments to the Constitution of Ukraine (on Decentralization of Power)” (Reg. No.2598), which omitted a significant portion of the provisions that caused justifiable concern, first of all, in the expert community, and among employees of local governments, city and village mayors, as well as local councilors.

<sup>95</sup> Ruling of the Constitutional Court of Ukraine in the case on the constitutional request of the Verkhovna Rada of Ukraine for a ruling on the conformity of the draft law “On Amendments to the Constitution of Ukraine (abolishing the advocates’ monopoly)” to the requirements of Articles 157 and 158 of the Constitution of Ukraine. – The web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/4\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/4_v_2019.pdf).

<sup>96</sup> Amendments to the Constitution on Decentralization: Community Heads and Experts Make a Joint Statement. – Decentralization, 19 December, 2019, <https://decentralization.gov.ua/news/12009>.

Subsequently, foreign partners of Ukraine, in particular the embassies of the Federal Republic of Germany and Canada, expressed their concerns on the content of the draft Law “On Amendments to the Constitution of Ukraine (on Decentralization of Power)” (Reg. No. 2598).

Thus, according to representatives of the German Embassy in Ukraine, the proposed changes “do not strengthen the rights of communities”,<sup>97</sup> and representatives of the Canadian Embassy in Ukraine stated that Canada “... shares the concerns of many local government leaders, civil society representatives and experts with regard to Draft Law No. 2598 that restricts democratic processes.”<sup>98</sup>

On January 16, 2020, the President of Ukraine V. Zelenskyy withdrew his earlier draft law “On Amendments to the Constitution of Ukraine (on Decentralization of Power)” for further revision.<sup>99</sup>

In total, of the seven draft laws on amendments to the Constitution of Ukraine initiated by the President of Ukraine V. Zelenskyy in 2019:

- three draft laws were recognized by the Constitutional Court as not complying with the requirements of Articles 157 and 158 of the Constitution of Ukraine;
- on two draft laws, the Constitutional Court gave generally positive rulings (i.e. recognized them as agreeing with the requirements of Articles 157 and 158 of the Constitution of Ukraine) but with serious reservations of the Constitutional Court;
- two draft laws were recognized by the Constitutional Court as meeting the requirements of Articles 157 and 158 of the Constitution of Ukraine: “On Amendments to Article 85 of the Constitution of Ukraine (concerning consultative, advisory and other auxiliary bodies of the Verkhovna Rada of Ukraine)”, and “On Amendments to the Constitution of Ukraine (concerning the advocates’ monopoly). On January 14, 2020 both draft laws were preliminarily approved by the Verkhovna Rada of Ukraine.

The draft law on amendments to the Constitution of Ukraine concerning the decentralization of power, submitted to the Parliament by the President of Ukraine, was recalled by the Head of State from the Verkhovna Rada of Ukraine.

## Judicial Reform

At the current stage of judicial reform in Ukraine, which envisaged amendments to the 2016 Constitution on justice, the process of reforming the legal framework and of internal and institutional transformations of the judicial system has actually been completed.

Adoption of new or substantial updating of the previously existing laws of Ukraine “On the Judiciary and Status of Judges”, “On Enforcement Proceedings” “On Bodies and Persons who Enforce Fulfillment of Judgments and Decisions of Other Bodies”, “On the High Council of Justice”, “On The Constitutional Court of Ukraine”, “On Amendments to the Economic Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Judiciary of Ukraine and other legislative acts” made it possible to select staff and to launch work in the updated Supreme Court, to complete, on a competitive basis, formation of the Constitutional Court of Ukraine and begin consideration of constitutional complaints, form the judiciary corps and launch the work of the Supreme Anti-Corruption Court.

The issues of forming the judiciary and the commencement of work of the Supreme Court on intellectual property issues, as well as the completion of the liquidation procedure of the Supreme Court of Ukraine, are still in the process of their realization. At the same time, it is important that the course of the judicial reform in 2016-2019 was widely discussed by both national and foreign experts,<sup>100</sup> and most of the constitutional transformations in the field of justice have received generally positive evaluations from Ukraine’s European partners.<sup>101</sup>

The newly elected Parliament started to continue the reform of the already “reformed” judiciary, having begun consideration of the Law of Ukraine *“On Amendments to the Law of Ukraine ‘On Judicial System and Status of Judges’ and some laws of Ukraine concerning the activities of judicial governance”* (16 October 2019). However, the drafting of this document took place in the context of a lack of transparency. Since the passage of this draft law in the first reading, some of its provisions have provoked a backlash from the national judiciary,<sup>102</sup> professional lawyers’ organizations,<sup>103</sup> business circles and representatives of the scientific and expert community.<sup>104</sup> Some foreign experts also expressed their concerns about possible negative consequences of the adoption of this law for the further development of judicial reform in Ukraine,<sup>105</sup> as well as a group of foreign ambassadors to Ukraine (EU, Canada, Germany, the UK, and the Managing Director of the EBRD in

<sup>97</sup> Twitter on the page of the German Embassy, <https://twitter.com/GermanyinUA/status/1217352681561501696>.

<sup>98</sup> Twitter on the page of the Embassy of Canada, <https://twitter.com/CanEmbUkraine/status/1217356874841980928>.

<sup>99</sup> The President discussed with MPs the issue of the decentralisation reform, 16 January 2020. – The official web site of the President of Ukraine, <https://president.gov.ua/news/prezident-obgovoriv-z-narodnimi-deputatami-pitannya-reformi-59297>.

<sup>100</sup> Ukraine 2016-2017: signs of progress and symptoms of disappointment (analytical estimates). – The Razumkov Centre Library, 2017, pp.13-14; Ukraine 2017-2018: new realities, old problems (analytical estimates). – The Razumkov Centre Library, 2018, pp.20-23; Ukraine 2018-2019: cautious optimism ahead of elections (analytical estimates). – The Razumkov Centre Library, 2019, pp.26-28.

<sup>101</sup> Opinion on the procedure for the selection and appointment of judges to the Supreme Court in Ukraine with a focus on its compliance with the standards of the Council of Europe. – Council of Europe, <https://rm.coe.int/coe-opinion-competition-sc/168093d89e>.

<sup>102</sup> Address of the Plenum of the Supreme Court to the President of Ukraine concerning the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Judicial System and Status of Judges’ and some Laws of Ukraine on the Activity of Judicial Governance” adopted by the Verkhovna Rada of Ukraine. – The official Web site of the Supreme Court, [https://supreme.court.gov.ua/userfiles/media/Zvernennya\\_1.pdf](https://supreme.court.gov.ua/userfiles/media/Zvernennya_1.pdf).

<sup>103</sup> The Risks of Draft Law No.1008: APU Position. – Official site of the Ukrainian Bar Association, <https://uba.ua/eng/news/6861/>.

<sup>104</sup> Joint Statement by the European Business Association (EBA), the American Chamber of Commerce in Ukraine (the Chamber) and the Union of Ukrainian Entrepreneurs (EMS). – The Union of Ukrainian Entrepreneurs, 17 October 2019, <https://sup.org.ua/en/news/328>.

<sup>105</sup> Assessment of Draft Law No.1008 “On Amendments to Certain Laws of Ukraine on the Activity of Judicial Governments” as to its Compliance with the Council of Europe Standards and Recommendations. – The official Web site of the Supreme Court, [https://supreme.court.gov.ua/userfiles/media/1008\\_Council\\_of\\_Europe.pdf](https://supreme.court.gov.ua/userfiles/media/1008_Council_of_Europe.pdf).

Eastern Europe and the Caucasus).<sup>106</sup> Therefore, a rather “cautious” reaction to the adoption of this document by the European Commission for Democracy through Law was almost expected.<sup>107</sup>

Among the provisions of the aforementioned Law which cause generally negative reaction, are, first of all, rules on the re-selection of Supreme Court judges and their number's reduction from 200 to 100, the reduction of the basic salary of judges of the Supreme Court, as well as the actual suspension of the work of High Judges Qualification Commission due to the establishment of a new procedure of its formation and substantial change of its legal status.

Thus, as for reducing the number of members of the Supreme Court and re-selecting its judges, the very reason for such changes remains unclear. After all, the procedure of formation of the composition of the “renovated” Supreme Court was completed very recently (at the end of 2017), and its quantitative composition was established due to the transition from “four-tier” to “three-tier” judicial system (courts of original jurisdiction and of appeal, and the Supreme Court with specialized cassation courts within its structure).

The very selection of judges to the new Supreme Court was a test for the new democratic and maximally open procedures, and became the subject of wide public debate. In the end, all judges of the Supreme Court of Ukraine were dismissed. Then a new competition was held, and only those judges who passed the new competition were reassigned. The very procedure for selecting new judges of the Supreme Court was based on the Final Provisions of the Constitutional Amendments on Justice (2016).

The “three-tier system” should promote the efficiency of the judiciary, improve the sustainability and coherence of the case law; such reform of the judiciary was welcomed by Ukraine's European partners, as it was intended to promote the efficiency, unity and coherence of the national legal system on the basis of democracy, transparency and social responsibility.

In the current situation in Ukraine in connection with the forthcoming reduction of the Supreme Court, the actual state of litigation of the cases is of great importance. In fact, since the beginning of the work of the “renovated” Supreme Court (December 15, 2017), 77,227 cases have been referred to it, which have not been considered by the higher specialized courts and the Supreme Court of Ukraine. Since then, the Supreme

Court has received an average of 360 cases per day. In total, from December 2017 to October 2019, the Supreme Court passed 169,777 rulings, and as of October 24, 2019, the balance of pending complaints and applications was 58,236.<sup>108</sup>

The very existence of such backlog, given the substantial number of new cases, may result in the Supreme Court not always being able to administer justice within reasonable time. In certain situations, given the importance of each case to its participants, such a delay in the administration of justice is equal to refusing to pursue it. Therefore, reducing the number of judges of the Supreme Court (by half) can lead to a significant decrease in the number of cases they are able to consider. In addition, any reduction of Supreme Court judges should be preceded by a certain revision of the provisions in its jurisdiction and the proper staffing of lower courts to ensure access to justice and stable operation of the national judicial system as a whole.

On the other hand, the envisaged reduction of the basic salary of a judge of the Supreme Court (reduction of judges' remuneration), envisaged by the Law, largely does not meet the basic international standards of guaranteeing the independence of judges.<sup>109</sup>

Such a decrease of judges' remuneration also contradicts the prescriptions of several decisions of the Constitutional Court of Ukraine regarding the inadmissibility of reducing the guarantees of independence of judges, as well as not providing by the state of the proper conditions for the administration of justice.<sup>110</sup>

The Law of Ukraine “On Amendments to the Law of Ukraine ‘On Judiciary and the Status of Judges’ and Some Laws of Ukraine on the Activity of Judicial Governance Bodies” effectively suspended the activity of the High Qualifications Commission of Judges, established a new procedure for its formation and substantially changed the legal status of the latter. At the same time, the fact that the Law terminated the powers of the “old” composition of the High Qualifications Commission of Judges without waiting for the completion of the procedure for forming its new composition is perceived in an extremely negative way. In fact, such a “break” effectively halted the important process of qualifying judges and competitions for courts of original jurisdiction and of appeal. The decision of the legislator to subordinate the “new” High Qualifications Commission of Judges to the unreformed (“old”) High Council of Justice is also deemed ill-considered

<sup>106</sup> Official Letter from the Diplomatic Corps in Ukraine on Draft Law No.1008. – The official Web site of the Supreme Court, <https://supreme.court.gov.ua/supreme/dialities/1008/803017/>.

<sup>107</sup> European Commission for Democracy through Law (Venice Commission) Ukraine opinion on amendments to the legal framework governing the Supreme Court and judicial governance bodies. Adopted by the Venice Commission at its 121st Plenary Session (Venice, 6-7 December 2019). – [https://www.venice.coe.int/webforms/documents/CDL-AD\\_\(2019\)\\_027-e\\_Ukraine\\_](https://www.venice.coe.int/webforms/documents/CDL-AD_(2019)_027-e_Ukraine_) – Opinion on the Legal Framework in Ukraine governing the Supreme Court and judicial self-governing bodies, adopted by the Venice Commission at its 121st Plenary Session, Venice, 6-7 December, 2019, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282019%29027&fbclid=IwAR2Btt5yAq7N1YXVEyOPj\\_aSR8x4y4gzFwNMTAPMHs2RT2xqhgVXqhgVXqhgVq](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282019%29027&fbclid=IwAR2Btt5yAq7N1YXVEyOPj_aSR8x4y4gzFwNMTAPMHs2RT2xqhgVXqhgVXqhgVq).

<sup>108</sup> Appeal of the Plenum of the Supreme Court to the President of Ukraine concerning the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Judicial System and Status of Judges’ and some Laws of Ukraine on the Activity of Judicial Governance” adopted by the Verkhovna Rada of Ukraine. – Official Web site of the Supreme Court, [https://supreme.court.gov.ua/userfiles/media/Zvernennya\\_1.pdf](https://supreme.court.gov.ua/userfiles/media/Zvernennya_1.pdf).

<sup>109</sup> Montreal Universal Declaration of Independence of Justice 1983; Opinion No.1 (2001) of the Advisory Council of the European Courts on Standards of Judicial Independence and Judges' Non-replacement and the Montreal Universal Declaration on the Independence of Justice (First World Conference on the Independence of Justice, Montreal, 1983). – Yevropeyski ta mizhnarodni standarty u sferi sudochynstva, Kyiv, 2015, pp.106-111; Opinion No.1 (2001) of the Advisory Council of European Judges for the Committee of Ministers of the Council of Europe on standards for the independence of the judiciary and non-replacement of judges, [https://zakon.rada.gov.ua/laws/show/994\\_a52](https://zakon.rada.gov.ua/laws/show/994_a52).

<sup>110</sup> Ruling of the Constitutional Court of Ukraine No.4 dated 18 June 2007, No.11 dated 4 December 2018.



At the same time, the changes made by the legislator “regarding the activity of judicial governance bodies” did not address the problematic issues that clearly emerged in the process of the judicial reform. Among them, the issue of organizing a proper “cooperation” of the Public Council of Integrity on the one hand and the High Council of Justice/High Qualifications Commission of Judges on the other. The sources of the conflict include the problem of inequality in pay, the amount of social guarantees between members of the High Council of Justice who are acting judges and those members of the Council who, for example, are legal scholars. However, if the latter situation occurs only because of the ordinary legislative “omission”, then in the first case, constant confrontation between the Public Council of Integrity and the High Council of Justice has in its root a serious methodological error in the field of legislative regulation of the relevant social relations.

The uncertainty of a number of normative provisions of the aforementioned Law, as well as unpredictability of their impact on further development of judicial reform in Ukraine, led to the Constitutional submission of the Supreme Court regarding the conformity to the Constitution of Ukraine (constitutionality) of certain provisions of the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Judiciary and the Status of Judges’ and some of the laws of Ukraine regarding the activity of judicial governance bodies.” The constitutional proceedings in this case have been opened and are being prepared for consideration at the plenary session of the Grand Chamber of the Constitutional Court of Ukraine.<sup>111</sup>

### *The Constitutional Court of Ukraine*

In 2019, the Constitutional Court of Ukraine issued nine rulings on the conformity of draft laws amending the Constitution of Ukraine to the requirements of Articles 157 and 158 of the Basic Law of the State,<sup>112</sup> and twelve rulings were made by the Grand Chamber of the Constitutional Court of Ukraine,<sup>113</sup> with seven rulings by its senates on constitutional complaints.<sup>114</sup>

The expert community had a mixed perception of the rulings of the Constitutional Court of Ukraine on compliance with the requirements of Articles 157 and 158 of the Constitution of Ukraine of draft laws on granting the right of legislative initiative directly to the people, as well as on the reduction of the constitutional composition of the Verkhovna Rada of Ukraine from 450 to 300 people’s deputies and affirming the proportional electoral system in the Basic Law.

After all, in this situation there was a lack in the constitutional submissions of proper argumentation of the necessity of introducing exactly such amendments to the Basic Law of the state, and some of the constitutional amendments proposed by the head of state contained legal uncertainty. Hence, the fulfillment of the constitutional obligation of Ukraine to prevent the restriction of human rights and freedoms (Part One of Article 157 of the

Constitution of Ukraine) in making such amendments to the Basic Law of the State will not be guaranteed.

The resolution of the Constitutional Court of Ukraine of May 14, 2019 dismissed Shevchuk S.V. from the position of a judge of the Constitutional Court of Ukraine. The reason was S. Shevchuk’s “substantial disciplinary misconduct, gross and systematic neglect by him of his duties” (paragraph 3 of Part Two of Article 149-1 of the Constitution of Ukraine). This, according in the opinion of the Standing Commission on Regulation and Ethics of the Constitutional Court of Ukraine, made it evident that he was not adequate for the position of a Judge of the Constitutional Court of Ukraine.<sup>115</sup>

As of December 31, 2019, the Constitutional Court of Ukraine was composed of 15 judges. Three posts of judges of the Constitutional Court remain vacant: two under the quota of the Verkhovna Rada of Ukraine, and one under the quota of the Congress of Judges of Ukraine.

### *The Prosecutor’s Office*

On August 29, 2019, the President of Ukraine V. Zelenskyy appointed Ruslan Ryaboshapka Prosecutor General, which in a short time was followed by dramatic changes in the leadership of prosecutors’ structures at different levels. In particular, four (out of five) new Deputy Prosecutors General were appointed within a few weeks; only the Deputy Prosecutor General, the Head of the Specialized Anti-Corruption Prosecutor’s Office, appointed to this position according to the results of competitive selection in 2015, remained in his post.<sup>116</sup>

At the same time, a significant part of the provisions of the basic law “On the Prosecutor’s Office” were updated.<sup>117</sup>

#### **MAIN NOVELTIES OF THE PROSECUTORS’ SYSTEM LAW**

In accordance with the legislative changes, the Prosecutor’s Office of Ukraine is being established: the Prosecutor General’s Office, the Oblast Prosecutor’s Offices, the Okruh Prosecutor’s Offices, and the Specialized Anti-Corruption Prosecutor’s Office.

Provisions on “military prosecutor’s offices” as part of the general system of the prosecutor’s office were removed; instead a clause was introduced whereby “if necessary, by the decision of the Prosecutor General, specialized prosecutor’s offices may be formed with the rights of a structural unit of the Office of the Prosecutor General, with the rights of oblast prosecutor’s offices, with the rights of a department of oblast prosecutor’s office, with the rights of okruh prosecutor’s office, with the rights of a department of okruh prosecutor’s office”.

The list, formation, reorganization and liquidation of specialized prosecutor’s offices, definition of their status, competence, structure and staffing list shall be carried out by the Prosecutor General”(Article 7 of the Law).

The requirement for being a professional in the sphere was returned to the legislative requirements for holding the position of Prosecutor General. From now on, again, a citizen of Ukraine can be appointed to the position of Prosecutor General if this person has higher legal education and work experience in the field of law for at least ten years (Paragraph 3 of Article 40 of the Law).

<sup>111</sup> The official web site of the Constitutional Court of Ukraine, <http://www.ccu.gov.ua/novyna/konstytuciyni-podannya-stanom-na-28-grudnya-2019-roku>.

<sup>112</sup> The official web site of the Constitutional Court of Ukraine: Rulings of the CCU (Grand Chamber), 2019.

<sup>113</sup> The official web site of the Constitutional Court of Ukraine: Decision of the Constitutional Court (Grand Chamber), 2019.

<sup>114</sup> Official Web site of the Constitutional Court of Ukraine: Decision of the CCU of the First Senate; The decision of the CCU of the Second Senate.

<sup>115</sup> The ruling of the CCU on the dismissal of S. Shevchuk from the position of a Judge of the CCU, 14 May 2019. – The official web site of the Constitutional Court of Ukraine, [http://ccu.gov.ua/sites/default/files/docs/1\\_nc\\_2019\\_0.pdf](http://ccu.gov.ua/sites/default/files/docs/1_nc_2019_0.pdf).

<sup>116</sup> The Prosecutor General’s Office, <https://www.gp.gov.ua/en/leadership>.

<sup>117</sup> Amendments to certain legislative acts of Ukraine on priority measures for the reform of the prosecuting authorities. The Law of Ukraine.



The Office of the Prosecutor General is designated as a higher level prosecutor's office for oblast and okruh prosecutor's offices, while oblast prosecutor's offices are a higher level prosecutor's offices for okruh prosecutors located within the administrative and territorial unit within the territorial jurisdiction of the relevant oblast office (Paragraph 4 of Article 7 of the Law).

The Office of the Prosecutor General shall organize and coordinate the work of all bodies of the prosecutor's office, ensure the proper functioning of the Unified Register of Pre-trial Investigations and its conduct by the bodies of pre-trial investigation, define a uniform procedure for reporting on the state of crime and the work of the prosecutor (Article 8 of the Law).

In accordance with the "Final and Transitional Provisions" of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures for the Reform of Prosecutor's Bodies" all prosecutors who, at the time of the Provisions' entry into force, worked in the Prosecutor General's Office of Ukraine, regional and local prosecutor's offices, as well as in the military prosecutor's offices were considered to have been personally warned in due course about their possible dismissal on the basis of Paragraph 9 of Part One of Article 51 of the Law of Ukraine "On the Prosecutor's Office" ("liquidation or reorganization of the prosecutor's office in which the prosecutor holds office, or in case of reduction of the number of prosecutors of the prosecutor's office").

They could be transferred to the position of prosecutor in the Office of the Prosecutor General, oblast prosecutor's offices, okruh prosecutor's offices only if they successfully pass the certification, which is carried out in accordance with the procedure provided for in this section. The same applies to investigative bodies of the prosecutor's office.

Appraisal of prosecutors was conducted by personnel commissions of the Office of the Prosecutor General, personnel commissions of the oblast prosecutor's offices. The subject of the appraisal was the evaluation of professional competence of prosecutors, their professional ethics and integrity. It included the following steps: 1) passing the exam in the form of anonymous written test or in the form of anonymous test using computer equipment in order to identify the level of knowledge and skills in applying the law, the suitability to exercise the powers of prosecutor; 2) conducting an interview to determine the prosecutor's compliance with the requirements of professional competence, professional ethics and integrity.

At the same time, for the interview, the personnel commissions were entitled to receive the necessary information from all prosecutor's offices, from the Council of Prosecutors of Ukraine, the Secretariat of the Qualification and Disciplinary Commission of Prosecutors, the National Anti-Corruption Bureau of Ukraine, the State Bureau of Investigations, the National Agency for the Prevention of Corruption, for the purposes of the appraisal, about the prosecutor.

At the same time, natural and legal persons, public authorities, local self-government bodies had the right to submit to the relevant personnel commissions information

that could bear testimony to the prosecutor's failure to meet criteria of competence, professional ethics and integrity.<sup>117</sup>

The organization of appraisal of prosecutors who submitted applications for competitive selection for positions in the Office of the Prosecutor General took place during October-December 2019 and revealed both its strengths and weaknesses. Of the 1,082 candidates,<sup>118</sup> who initially expressed a desire to participate in the competitive selection for positions in the Prosecutor General's Office, the necessary procedures were successfully completed by only 610 prosecutors.<sup>119</sup>

At the same time, the approach to conducting a "total" re-certification of prosecutors of all levels had a mixed reaction, first of all, from law enforcement officials.

## The Law Enforcement Reform

### The State Bureau of Investigations

The first year of functioning of the State Bureau of Investigations (*DBR officially started its work in November 2018*), is remembered not only for carrying out the necessary administrative and procedural measures to ensure its activities, significant work on the formation of the administrative apparatus, and personnel appointments. Unfortunately, this period of the DBR's work was accompanied by excessive (as for the state law enforcement body) media activity of its leadership and numerous scandalous stories.

The work of the DBR itself during this time provoked mixed reaction both in the professional (law enforcement) community of the country and among the broad circles of the Ukrainian society. Indeed, against the background of the actual lack of practical results of work on "prevention, detection, termination, disclosure, and investigation" of crimes committed by officials who hold particularly responsible positions "in the state, judicial and law enforcement structures" (defined by law as being within the scope of the DBR's tasks<sup>120</sup>), the emergence of "information" on periodic "consultations" on specific criminal proceedings of the DBR leadership with individual representatives of the President's Office caused great surprise in the Ukrainian society.

At the same time, regardless of the processes directly related to the formation of the DBR, the establishment of its professional activity, the formation of human resources, etc., almost immediately after the early (2019) parliamentary elections, the so-called "renovation" procedure of the State Bureau of Investigations started. Although there was no clear legitimate reason for the immediate "personnel reboot" of the DBR (as well as in the situation of early re-election of the members of the Central Election Commission), there was no corresponding draft law at the beginning of September 2019 submitted by the head of state to the Verkhovna Rada of Ukraine.<sup>121</sup>

<sup>118</sup> Nearly two hundred prosecutors failed the first exam. – Ukrinform, 24 October 2019, <https://www.ukrinform.ua/rubric-society/2805305-persij-ispit-zavalili-majze-dvi-sotni-prokuroriv.html>.

<sup>119</sup> GPU Announces Results of the Final Stage of Appraisal of Prosecutors. – Legal Hub, 20 December 2019, <https://legalhub.online/pravoohoronni-organy/gpu-oprylyudnyla-rezultaty-zavershalnogo-etapu-atestatsiyi-prokuroriv/>.

<sup>120</sup> On the State Bureau of Investigation. The Law of Ukraine.

<sup>121</sup> Draft Law of Ukraine "On Amendments to the Law of Ukraine 'On the State Bureau of Investigations' on the improvement of the work of the State Bureau of Investigations".

On December 3, 2019, the Verkhovna Rada adopted the Law “On Amendments to the Law of Ukraine ‘On the State Bureau of Investigations’ on the improvement of the work of the State Bureau of Investigations”, signed by the President of Ukraine on December 24, 2019, and officially published in the “*Holos Ukrayiny*” newspaper on December 26, 2019.

According to its provisions, the State Bureau of Investigations becomes “a state law enforcement agency entrusted with the task of preventing, detecting, terminating, disclosing, and investigating crimes within its competence” (Article 1 of the Law).

In doing so, the head of the DBR was given the right to independently lead this body without sharing powers with his deputies. The previous provisions of the Law on the competition for filling of the positions of deputy directors of the DBR were removed, and the Director of the DBR has since been granted the right to independently appoint and dismiss his deputies.

According to the “Final and Transitional Provisions” of the Law, “the powers of the Director of the State Bureau of Investigations, the First Deputy Director of the State Bureau of Investigations, and the Deputy Director of the State Bureau of Investigations shall be terminated early.”

In the future, the new head of the DBR should be appointed by the head of state upon submission of the competition commission, instead the participation of the Prime Minister in the appointment of the DBR Director is no longer envisaged.

On December 27, 2019, the President of Ukraine dismissed R. Truba from the position of Director of the State Bureau of Investigations. On the same day, by another decree, he appointed I. Venediktova the Acting Director of the State Bureau of Investigations. One of the first decisions of the new DBR leadership was to initiate full review of the DBR’s previous work (it is planned, in particular, to carry out measures of state external financial control by the Accounting Chamber of Ukraine; the State Auditing Service of Ukraine is to audit financial and economic activities and the lawfulness of public procurement; the National Public Service Agency of Ukraine will verify the facts of the illegal dismissal of employees of the DBR, established by courts, etc.).

The Acting Director of the State Bureau of Investigations, after her appointment (according to the official message of the DBR), actively held various kinds of meetings, consultations, and other administrative activities.<sup>122</sup> In this situation it is worth attention that at the time of her appointment as Acting Director of the State Bureau of Investigations, Ms Venediktova was a People’s Deputy of Ukraine, the Chairperson of the Committee on Legal Policy and Justice. However, Ms Venediktova relinquished her powers as a People’s Deputy of Ukraine no earlier than on the nineteenth day of exercising her new duties as the Director of the State Bureau of Investigations.<sup>123</sup>

It should also be noted that the signing by the President of Ukraine of the Law “On Amendments to the Law of Ukraine ‘On the State Bureau of Investigations’ in order to improve the work of the State Bureau of Investigations” (24.12.2019) took place after the publication of the ruling of the Constitutional Court of Ukraine in the case

of the constitutional request of the Verkhovna Rada of Ukraine for a ruling on the conformity of the draft law “On Amendments to Article 106 of the Constitution of Ukraine (concerning the consolidation of powers of the President of Ukraine to create independent regulatory bodies, the National Anti-Corruption Bureau, appoint and dismiss the Director of the National Anti-Corruption Bureau of Ukraine and the Director of the State Bureau of Investigations)” (Reg. №1014) with Articles 157 and 158 of the Constitution of Ukraine (December 16, 2019). In this document, in particular, the Constitutional Court of Ukraine declared that the power of the President of Ukraine to appoint and dismiss the Director of the State Bureau of Investigations was not in conformity with the Constitution of Ukraine.<sup>124</sup>

In such circumstances, the signing by the President of Ukraine of the Law “On Amendments to the Law of Ukraine ‘On the State Bureau of Investigations’ in order to improve the work of the State Bureau of Investigations”, at least, causes some surprise. After all, Part 1 of Article 11 of this Law establishes a procedure according to which “the Director of the State Bureau of Investigations is appointed to the post by the President of Ukraine upon submission of the commission for the competition for the position of the Director of the State Bureau of Investigations.” Such actions of the head of state clearly do not agree with the constitutional prescriptions of Part 2 of Article 102 of the Basic Law of the state, according to which “The President of Ukraine is a guarantor of state sovereignty, territorial integrity of Ukraine, **observance of the Constitution of Ukraine** (*underlined by the editor*), rights and freedoms of man and citizen”.

The negatively resonant nature of the competition for the replacement of deputy directors of this department had not contributed to strengthening the reputation of the DBR either. The contest itself was conducted right during the New Year holidays in a non-transparent manner, and its winners were a former lawyer of Mr Yanukovich, and a person associated with the current Acting DBR Director, both connected to Kharkiv region.<sup>125</sup>

### *The Security Service of Ukraine*

Among the state law enforcement agencies (“the bodies with law-enforcement functions”) in 2019, the Security Service of Ukraine had seen the least changes in the legal regulation of its activities. On June 6, 2019, by the Law “On Amendments to Certain Legislative Acts of Ukraine on the Implementation of Acts of the European Union’s Legislation in the Field of Technical Regulation”, Article 24 of the Law of Ukraine “On the Security Service of Ukraine” was supplemented by specific provisions under which the SBU is obliged to “carry out the function of technical regulation in the field of special technical means for obtaining information from communication channels and other technical means of covert gathering of information”.

Meanwhile, the leadership of the Security Service of Ukraine has been completely changed following the regular presidential and early parliamentary elections in

<sup>122</sup> The official web site of the State Bureau on Investigation, <https://dbr.gov.ua/news>.

<sup>123</sup> The official web site of the Verkhovna Rada of Ukraine, <https://rada.gov.ua/news/hpz9>.

<sup>124</sup> Decision of the Constitutional Court No.7 16 December 2019. – The official web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/7\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/7_v_2019.pdf).

<sup>125</sup> See: Mokryk D. The contest to the DBR was won by an SBU man who is connected to Venediktova through his wife. – Bihus.Info, 28 January 2020, [https://bihus.info/konkurs-do-dbr-vygrav-sbushnyk-povyazanyj-iz-venediktovoyu-cherез-druzhynu/?fbclid=IwAR1vryxFeyqotV1-QEqNpNbuv1KVrb1mY99fJ3-KpROHmVrUDK\\_nEPgZYdM](https://bihus.info/konkurs-do-dbr-vygrav-sbushnyk-povyazanyj-iz-venediktovoyu-cherез-druzhynu/?fbclid=IwAR1vryxFeyqotV1-QEqNpNbuv1KVrb1mY99fJ3-KpROHmVrUDK_nEPgZYdM).

2019. On May 22, 2019, by the Decree of the President of Ukraine V. Zelenskyy, I. Bakanov was appointed to the position of the First Deputy Head of the Security Service of Ukraine, Head of the Main Directorate for Combating Organized Crime and Corruption on 29 August 2019, the Verkhovna Rada of Ukraine appointed him to the post of the Head of the Security Service of Ukraine. In the same period, new deputy heads of the Security Service of Ukraine were appointed by the President.

The new leadership of the Security Service of Ukraine immediately declared its intention to reform the Security Service of Ukraine. The priority areas should be the rejection of features, inappropriate for public security in democracies, making impossible investigation of crimes that do not pose an immediate threat to the national security of Ukraine; expanding the counterintelligence direction of the SBU; introducing a more “flexible” structure of the service, as well as reducing and reloading its personnel; increasing wages of the service’s personnel; removing political bias from the governing vertical of the SBU.

Special attention is paid to the necessity of transition to the system of appointment of the head of the SBU for a term that will not coincide with the term in office of the head of state. In addition: it is planned to significantly strengthen in the future the work on the improvement of international cooperation, exchange of information with the “partner special services” of other countries; improve the formation of a system of democratic civilian control over the SBU’s work and, in particular, strengthen its work on respect for the rights and legitimate interests of natural and legal persons; and making impossible manifestations of pressure of bodies and officials of the Security Service of Ukraine on entrepreneurs.<sup>126</sup>

However, the declared intentions of the new leadership of the SBU have not yet been implemented in practice. This process obviously requires primarily qualitative changes according to the Law “On the Security Service of Ukraine.” However, the relevant draft law (the concept of which was presented at a meeting of the respective parliamentary committee in the second half of 2019) has not been submitted to the Verkhovna Rada of Ukraine

### *Anti-Corruption Reform*

The prolonged confrontation between the *National Anti-Corruption Bureau* and the *Specialized Anti-Corruption Prosecutor’s Office*, which generally had a negative impact on the public’s assessment of the state of anti-corruption reform in Ukraine<sup>127</sup> has gradually lost its acuteness in the second half of 2019.

A peculiar confirmation of the latter was the joint press conference of the NABU’s and the SAP’s leaders, A. Sytnik and N. Kholodnytsky on the topic: “Report on NABU and SAP work in the first half of 2019: achievements and challenges” (09/09/2019), the spotlight of which were exclusively issues of organizing the work of anti-corruption bodies, outlining ways to improve the work of the NABU and the SAP, as well as summarizing their activities for the first half of 2019.<sup>128</sup> Remarkably, the highest officers of the NABU and the SAP expressed their common hope for the start of the work of the Anti-Corruption Court which would begin consideration of cases brought before it.

At the time of the above-mentioned joint press conference, there were 760 criminal proceedings being processed by the NABU and the SAP, within the framework of the investigation of which 140 persons were reported suspected; 215 cases of misconduct of 372 persons were brought to court.<sup>129</sup> Three months later (November 30, 2019), the anti-corruption bodies suspected 221 persons of criminal corruption offenses, which were investigated by the detectives of the National Bureau under the procedural guidance of the SAP within 836 criminal proceedings.

At the same time, 237 cases were brought to court, in which 418 persons were charged. In the last quarter of 2019, resonant actions of the NABU and the SAP included catching red-handed and detaining an employee of the Office of the President on suspicion of unlawful gain, within an organized criminal group, of \$300,000 from an individual for assisting in the appointment to a leading position in the NJSC Naftogaz of Ukraine, as well as the completion of the pre-trial investigation in criminal proceedings over the seizure of more than 300 million cubic meters of natural gas of NJSC Naftogaz Ukraine and submitting the charge by the prosecutors of the SAP to the Supreme Anti-Corruption Court to consider the case.<sup>130</sup>

At the same time, the NABU Director A. Sytnyk himself was among those who were entered into the Unified State Register of persons who committed corruption or corruption-related offenses, based on the decision of the Rivne Court of Appeal of December 13, 2019, under Part 1 of Art. 172-5 of the Code of Administrative Offenses of Ukraine, “Violation of statutory restrictions on receiving gifts”.<sup>131</sup> This fact will obviously not help improve public confidence in the agency headed by A. Sytnyk.

<sup>126</sup> The concept of a new version of the Law on the Security Service of Ukraine was presented by a special service to the Committee of the Verkhovna Rada of Ukraine. – The official web site of the SSU, 1 October 2019, <https://ssu.gov.ua/ua/news/1/category/21/view/6557#2A18taez.dpbs>.

<sup>127</sup> Activities of anti-corruption bodies (NABU and SAP). Ukraine 2018-2019: cautious optimism in the run-up to the elections (analytical estimates), 2019, p.28-29.

<sup>128</sup> Briefing of Sytnyk and Kholodnytskyi. – Channel 24, 9 September 2019, [https://24tv.ua/brifing\\_sitnika\\_ta\\_holodnitskogo\\_pro\\_shho\\_govorili\\_n1190221](https://24tv.ua/brifing_sitnika_ta_holodnitskogo_pro_shho_govorili_n1190221).

<sup>129</sup> 140 persons suspected of corruption. – The official web site of the National Anti-Corruption Bureau, 9 September 2019, <https://nabu.gov.ua/novyny/140-osib-pidozryuyut-u-korupciyi-nabu-i-sap-pidsumky-roboty-za-serpen-2019-roku>.

<sup>130</sup> Among the documents in these cases are, in particular, indictments concerning: a former Minister, who is charged with declaring false information for four years (2015, 2016, 2017 and 2018), namely failure to provide information on the existence of financial obligations to the tune of almost \$1.25 million US; a former official of the National Anti-Corruption Agency, who is accused of failing to declare a fortune of more than UAH 544,000; a former head of one of the regional state administrations, who did not declare a fortune of UAH 35 million and UAH 8 million for 2016 and 2017, respectively, and did not submit the declaration for 2015 at all; a former Deputy Minister of Environment of Ukraine, who had not provided in the declarations for 2015 and 2016 the information on close relatives who owned property worth more than \$6.9 million US, and others. See: <https://nabu.gov.ua/novyny/237-sprav-u-sudi-836-u-roboti-rezultaty-nabu-na-kinec-lystopada>.

<sup>131</sup> The United Register of persons convicted of corruption, <https://corruptinfo.nazk.gov.ua/>.



On October 2, 2019, the Verkhovna Rada of Ukraine adopted the Law “On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Effectiveness of the Institutional Mechanism for Preventing Corruption”, provisions of which substantially altered the procedure for forming and organizing the work of the *National Anti-Corruption Agency (NAZK)*.

Thus, instead of five members of the NAZK management (provided for by the previous legislative provisions), the position of the NAZK Chairperson was established, to be appointed and dismissed by the Cabinet of Ministers for a term of 4 years and without a possibility to hold this position for two consecutive terms.

At the same time, one of the reasons for their dismissal may now be the conclusion of a commission that will conduct an independent evaluation of the NAZK's activities. The NAZK Chairperson may have three deputies, whom the Chairperson appoints and dismisses.

The final provisions of the Law stipulate that from the date of its entry into force the powers of the members of the National Agency for the Prevention of Corruption, of the head of the apparatus, of the deputy heads of the apparatus of the National Agency for the Prevention of Corruption or persons fulfilling their duties, of members of the Public Council at the National Council for the prevention of corruption are terminated early, and the Cabinet of Ministers of Ukraine, within two months from the entry into force of the Law, shall organize the competition for the position of the Head of the National Agency for the Prevention of Corruption.

On December 16, 2019, the selection committee elected Oleksander Novikov the Chairperson of the National Anti-Corruption Agency (with all the members of the commission, consisting of three representatives from the government and three representatives of international organizations, voting for him).<sup>132</sup> By Order of the Cabinet of Ministers of Ukraine No. 2-r of January 15, 2020, O. Novikov was appointed Chairperson of the National Anti-Corruption Agency for the term of four years.

At the end of 2019, the NAZK completed the analysis of 272 reports of political parties on assets, income, expenses and liabilities of financial nature, submitted in the third quarter of that year. According to the results of the analysis, information on the contributions was made public, as well as on the expenses of political parties that received state funding for their statutory activities and other political parties (“Radical Party of Oleg Lyashko”, “European Solidarity”, “All-Ukrainian ‘Batkivshchyna’ Association”, “Opposition Bloc”, “‘Samopomich’ Association”, “Popular Front”, “Opposition Platform - For Life”, “Groysman Ukrainian Strategy”, “Ukrainian Patriots’ Association – UKROP”, “All-Ukrainian ‘Svoboda’ Association”, “Servant of the People”, “Voice”).<sup>133</sup>

Reducing the “acuteness” of relations between the NAZK and the SAP does not substitute for the performance of their basic tasks in the anti-corruption sphere, as well as changes in the legislation on NAZK or replacement of its leader do not guarantee improvement of its work. It is high time for all anti-corruption bodies to perform their core missions, set by the current legislation, and to observe legal requirements in their actions.

## Local Government Reform

The local government reform related to the decentralization process has been ongoing in Ukraine since 2014. An important component of this is the creation of effective and economically viable Amalgamated Territorial Communities (ATCs), operating on the principle of subsidiarity. According to the main statistical indicators, during 2019, the dynamics of amalgamation of territorial communities preserved the trends of 2015-2018.

As of the end of 2019, there were 1,029 ATCs in Ukraine, with 11.7 million residents (33.3% of total population). ATCs cover 44.2% of the country's total area. At the same time, the Government's prospective plans envisage the creation of 1,441 ATCs that would unite 39.2 million people and 90.3% of the country's total area)<sup>134</sup> (see Diagram *Dynamics of ATCs creation in 2015-2019*).

The real functioning of local self-government within the framework of already established ATCs is only possible after the election of local mayors (in rural and urban ATCs) and deputies of local councils (in urban ATCs). By the end of 2019, elections were held in 936 ATCs, and another 49 were awaiting a decision by the CEC. At the same time, the results of decentralization should be consolidated by the next local elections. In November 2019, Speaker of the Parliament D. Razumkov announced that general local elections will be held in the autumn of 2020.<sup>135</sup> In December 2019, he announced the completion of decentralization reform “in the near future” and the holding of local elections under the new system.<sup>136</sup>

As the process of decentralization involves delegating a number of powers to local governments (in particular, to the level of ATCs), the electoral struggle for representation in local governments becomes more principled. Results of the elections significantly depend on the balance of power in the country, in particular on the level of centralization around the “presidential vertical”.

The last regular local elections were held in October 2015; however, during 2016-2019, there were also several relatively massive stages of local council elections in newly created ATCs (the so-called “first”, as well as additional elections in the case of an ATC expansion), which makes it possible to trace the overall dynamics of different political forces at the local level.<sup>137</sup>

<sup>132</sup> Oleksander Novikov will be the Chairperson of the NAZK. – BBC Ukraine, 16 December 2019, <https://www.bbc.com/ukrainian/news-50807074>.

<sup>133</sup> See: The NAZK analysed reports of the political parties (3Q, 2019). – Official web site of the NAZK, 15 January 2020, <https://nazk.gov.ua/en/novyny/nazk-zdjisnylo-analiz-zvitiv-politychnyh-partij-za-iii-kvartal-2019-roku/>.

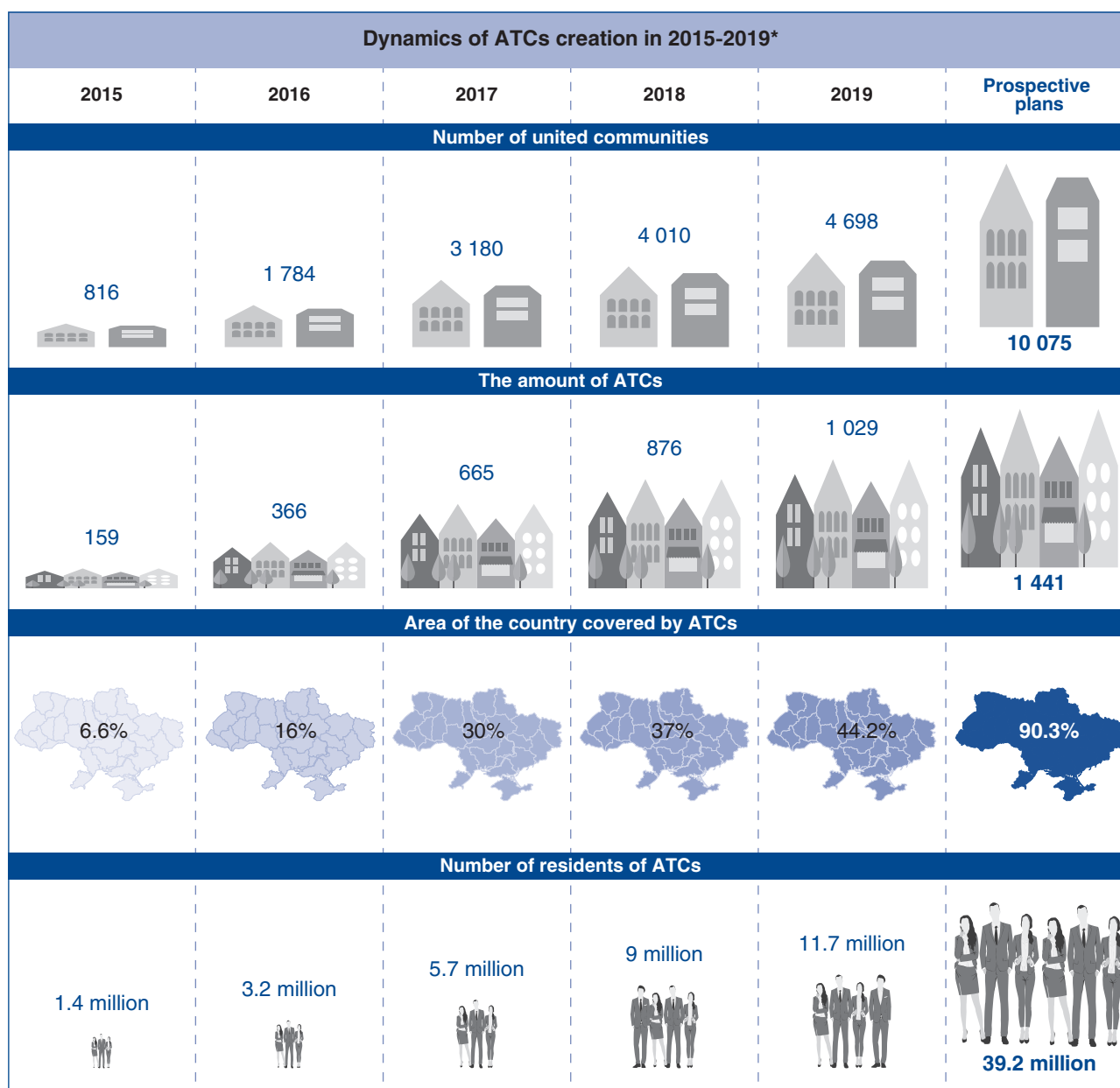
<sup>134</sup> Monitoring the Decentralization and Local Government Reform Process (as of 10 January 2020). – Decentralization, <https://decentralization.gov.ua/uploads/library/file/526/10.01.2020.pdf>.

<sup>135</sup> The local elections in Ukraine will be held in the fall of 2020. – Chairman of the Verkhovna Rada, <https://decentralization.gov.ua/news/11876>.

<sup>136</sup> Razumkov announces the end of decentralization in the near future. – Ukrayinska Pravda, 9 December 2019, <https://www.pravda.com.ua/news/2019/12/9/7234259/>.

<sup>137</sup> It should be borne in mind that the data for 2016-2019 do not represent the regions evenly, since elections were scheduled as individual ATCs were formed (and the pace of their formation varies significantly in different areas).





\* Excluding temporary occupied territories.

In 2015-2018, we can distinguish two political parties that led by the number of seats won in local councils: “Batkivshchyna” and “Petro Poroshenko’s Bloc”, later renamed “European Solidarity”.

At the regular local elections in 2015, the preference for these parties was expressed rather poorly (7% and 6% of seats won respectively, while the closest competitor, “Opposition Bloc”, received 3% of seats), but there is a steady upward trend in the representation of “Batkivshchyna” and the PPB in local councils (up to 26% and 18% of seats won in the December 23, 2018, elections). Instead, the proportion of self-nominated candidates among the newly elected deputies of local councils has been steadily declining (see Diagram *Election results of local council deputies*).

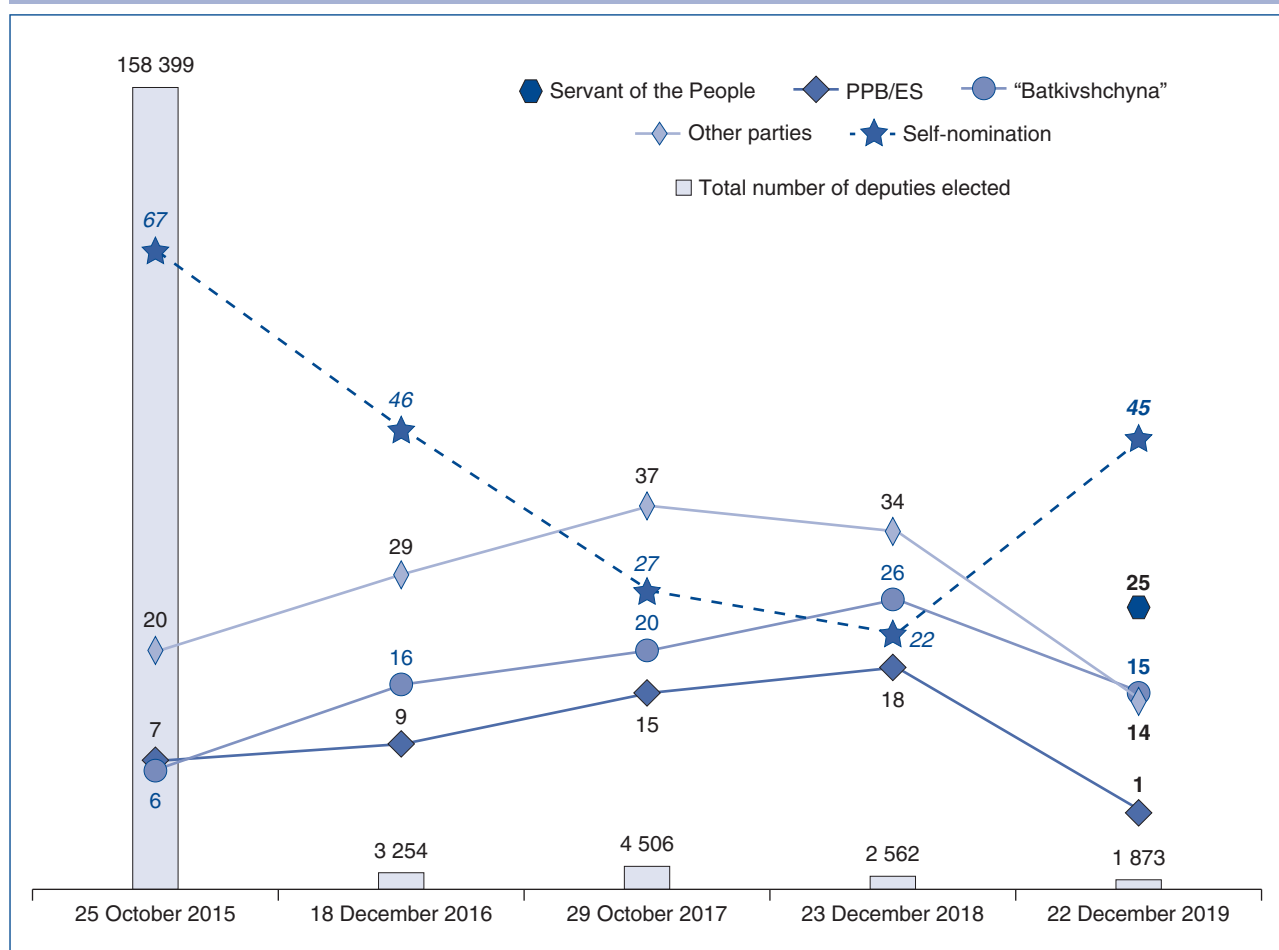
In the first local elections on December 22, 2019 (as well as in by-elections held on the same day), the “Servant of the People” Party won 25% of the seats, while “Batkivshchyna” received 15%, and “European Solidarity” only 1%. The share of mandates received by self-nominees is 45%.

Based on this, it can be expected that in the case of national elections to local governments, the “Servant of the people” party will have the largest representation in them, but not dominant at all.

“Batkivshchyna” maintains a sufficiently high electoral capacity at the local level, which in the long run allows it to become an important situational partner of the authorities at the local level, or vice versa, to form numerous centers of opposition in local councils.

Other parties’ prospects are much more modest. The fact that nearly half of the seats were won by self-nominated candidates indicates a rather weak party influence at the local level. This is likely to be due to the decrease in parties’ funding and the curtailment of their regional networks in the aftermath of the parliamentary elections.

**Election results of local council deputies (CEC data)\***  
% of elected deputies



\* Data of the Central Election Committee.

Overall, actions and statements of government officials indicate that efforts are being made to accelerate the process of decentralization and to bring it closer to completion. On December 1, 2019, the Minister for Development of Communities and Territories A. Babak noted that the term of voluntary amalgamation of settlements in communities would last until about February 2020.<sup>138</sup> However, on December 20, the Law "On Amendments to the Law of Ukraine 'On Voluntary Amalgamation of Territorial Communities'" came into force.<sup>139</sup> This law provides that community amalgamations will continue solely according to prospective plans. The law also states that prospective plans will be developed by Oblast state administrations and approved by the Government. This means that the creation of prospective plans will no longer involve a stage of approval of these documents by Oblast councils.

An important component of decentralization reform is introducing amendments to the Constitution, in particular those that relate to the method of appointment and the extent of powers of executive bodies at rayon and

oblast level (see the relevant section). At the same time, a number of aspects of the functioning of such bodies are governed by usual laws; in particular, it is service in local self-government bodies, the foundations of which have not yet been reformed. The Verkhovna Rada of the last convocation could not pass the relevant law since 2015, and in 2017, when it finally happened, the President vetoed it. In September 2019, a new draft law on service in local self-government was registered (Reg. No. 1223); it is currently under review by the respective committee.<sup>140</sup> Other important draft laws related to local self-government are still under consideration by the Parliament: "On Amendments to the Law 'On Regulation of Urban Planning Activity'" (No. 0860), "On Municipal Guard" (No. 0974).

By the end of 2019, work on changes to the administrative-territorial structure was intensified. In December, the Government approved the draft law "On the Principles of the Administrative and Territorial System of Ukraine", which envisages the creation of

<sup>138</sup> The government made public the term for voluntary amalgamation of communities. – Ukrayinska Pravda, 1 December 2019, <https://www.pravda.com.ua/news/2019/12/1/7233491/>.

<sup>139</sup> On Amendments to the Law of Ukraine "On Voluntary Association of Territorial Communities" to simplify the procedure for approval of prospective plans for formation of territorial communities of the Autonomous Republic of Crimea, oblasts, <https://zakon.rada.gov.ua/laws/show/348-20>.

<sup>140</sup> Draft Law on Local Government Service, [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66592](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66592).

a three-tier system of the administrative and territorial division: community - rayon (povit) - oblast (region). Also, this bill defines the procedure of formation, liquidation, establishment, and changing of boundaries of administrative-territorial units and settlements.<sup>141</sup> Legislation is also being developed to optimize the number of districts with a view to creating ATCs.<sup>142</sup>

The reformatting of rayons in each oblast is planned to be implemented through the adoption of specific laws. The draft laws on the reform of the administrative and territorial structure of four oblasts (Donetsk, Luhansk, Ternopil and Kharkiv) were prepared by experts of the Ukrainian Association of Rayon and Oblast Councils with the support of the Council of Europe. Discussions are ongoing in five other oblasts (Volyn, Odessa, Poltava, Chernivtsi, Kyiv), according to which experts will also propose relevant draft laws. In addition, for eight oblasts (Ivano-Frankivsk, Kirovograd, Mykolaiv, Poltava, Sumy, Kherson, Khmelnytsky, Chernihiv) draft laws were prepared by MPs. As for Lviv Oblast, the relevant draft law has already been submitted to the Verkhovna Rada.<sup>143</sup>

In October 2019, the draft law “On the City of Kyiv, the Capital of Ukraine” was passed in the first reading.<sup>144</sup> Among other things, it provides for the separation of offices of the Mayor of Kyiv and the Head of the Kyiv City State Administration. The Mayor is elected by the people of Kyiv during direct elections, heads the city council, and the magistrate (the city’s executive body), but is not connected to the KCSA. Instead, the Head of the KCSA is appointed by the President at the submission from the government. At the same time, with the establishment of the magistrate, the KCSA will lose its functions of the executive body of the Kyiv City Council and will have mainly control functions.

Such changes are in line with the desire of the presidential team to gain control of the local authority in Kyiv, which they failed to implement through a scenario with early elections or an attempt to adopt a more “rigid” version of the Kyiv Law in 2019.<sup>145</sup> However, although the draft law, passed in the first reading, guarantees control of the city government over its own executive body, the Head of the KCSA has the opportunity to block decisions of the Kyiv City Council for up to 5 days with simultaneous court appeal. The draft law is also inclined

to over-regulation of issues within the competence of territorial communities and self-governing bodies created by them.<sup>146</sup> Overall, these features of the draft law are determined by specific approaches of its proponents to division of powers and decentralization.

## Public Administration Reform

Appointed by the Verkhovna Rada of the 9<sup>th</sup> convocation, headed by O. Goncharuk, the Cabinet of Ministers adopted a resolution at the beginning of its work,<sup>147</sup> which reformatted the structure of ministries by merging or renaming some of them and creating new ones (see Scheme *Reorganisation of Ministries of Ukraine*). The reasons for these changes were cited as “personnel hunger” and limited funding for government activities.

However, this innovation seems highly doubtful, at least because the reorganization of ministries is in itself a complicated and costly procedure, not only in material terms but also in terms of efficient use of time and human resources. In addition, combining very different directions within one ministry was contrary to the logic of sector division. It is noticeable that at the beginning of 2020 V. Zelenskyy declared it expedient to divide some ministries that had previously been merged.<sup>148</sup>

In September 2019, the Law “On Amendments to Certain Laws of Ukraine Concerning the Rebooting of Power” was passed, which created an opportunity to hire up to 7% of civil servants under contract, and also expanded the possibilities for dismissal of category “A” officials (including secretaries of state, who, according to the intention of the reform, should become administrative heads of ministries and ensure stability and continuity in their functioning).

In particular, ministers have now been given the opportunity, to dismiss, at their own discretion, the secretary of state of “their” ministry (whereas previously they could only do so at the request of the Commission on Top Civil Service Staff); similarly, without the submission of the Commission on Top Civil Service Staff, the Secretary of State is appointed by the Cabinet of Ministers.

De facto, this means the elimination of the institute of State Secretaries as politically neutral professionals

<sup>141</sup> The Government approved a bill defining the principles of the Ukrainian administration. – The Government Portal, 27 December 2019, <https://www.kmu.gov.ua/news/uryad-shvaliv-zakonoproekt-yakij-viznachaye-zasadi-adminterustroyu-ukrayini>.

<sup>142</sup> Why, how and when rayons should change. – Decentralisation, <https://decentralization.gov.ua/news/11369>.

<sup>143</sup> Draft Law on Creation, Elimination and Change of Boundaries of Rayons of Lviv Oblasts (No. 1217), [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_2?id=&pf3516=1217&skl=10](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=1217&skl=10).

<sup>144</sup> Draft Law on the City of Kyiv, the Capital of Ukraine (No. 2143-3 of 09/24/2019), [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66939](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66939).

<sup>145</sup> According to Art. 141 of the Constitution, the territorial community of Kyiv elects Mayor in open and direct elections, who, among other things, heads its executive body (which currently is the KCSA); at the same time, according to Article 118 of the Constitution, heads of local state administrations are appointed to office and dismissed by the President of Ukraine. According to Clause 1.2 of the Ruling of the Constitutional Court of Ukraine No.21-gr / 2003 of 25.12.2003 in case No.1-45/2003 (case on peculiarities of the exercise of executive power and local self-government in the City of Kyiv), the KCSA should be headed only by a person elected as the Mayor of Kyiv, appointed by the President of Ukraine as the head of the Kyiv City State Administration.

<sup>146</sup> For details, see, e.g.: Antonenko B. The new draft law on the capital from Servants is more democratic than the previous one, but still harmful. – Teksty.org.ua, 7 November 2019, [http://texty.org.ua/pg/article/Oximets/read/97794/Novyj\\_projekt\\_zakonu\\_pro\\_stolycu\\_vid\\_Slug](http://texty.org.ua/pg/article/Oximets/read/97794/Novyj_projekt_zakonu_pro_stolycu_vid_Slug).

<sup>147</sup> “Some Issues of Optimization of the System of Central Bodies of Executive Power” No.829, 2 September 2019, <https://www.kmu.gov.ua/npas/deyaki-pitannya-optimizaciyi-sistem-829>.

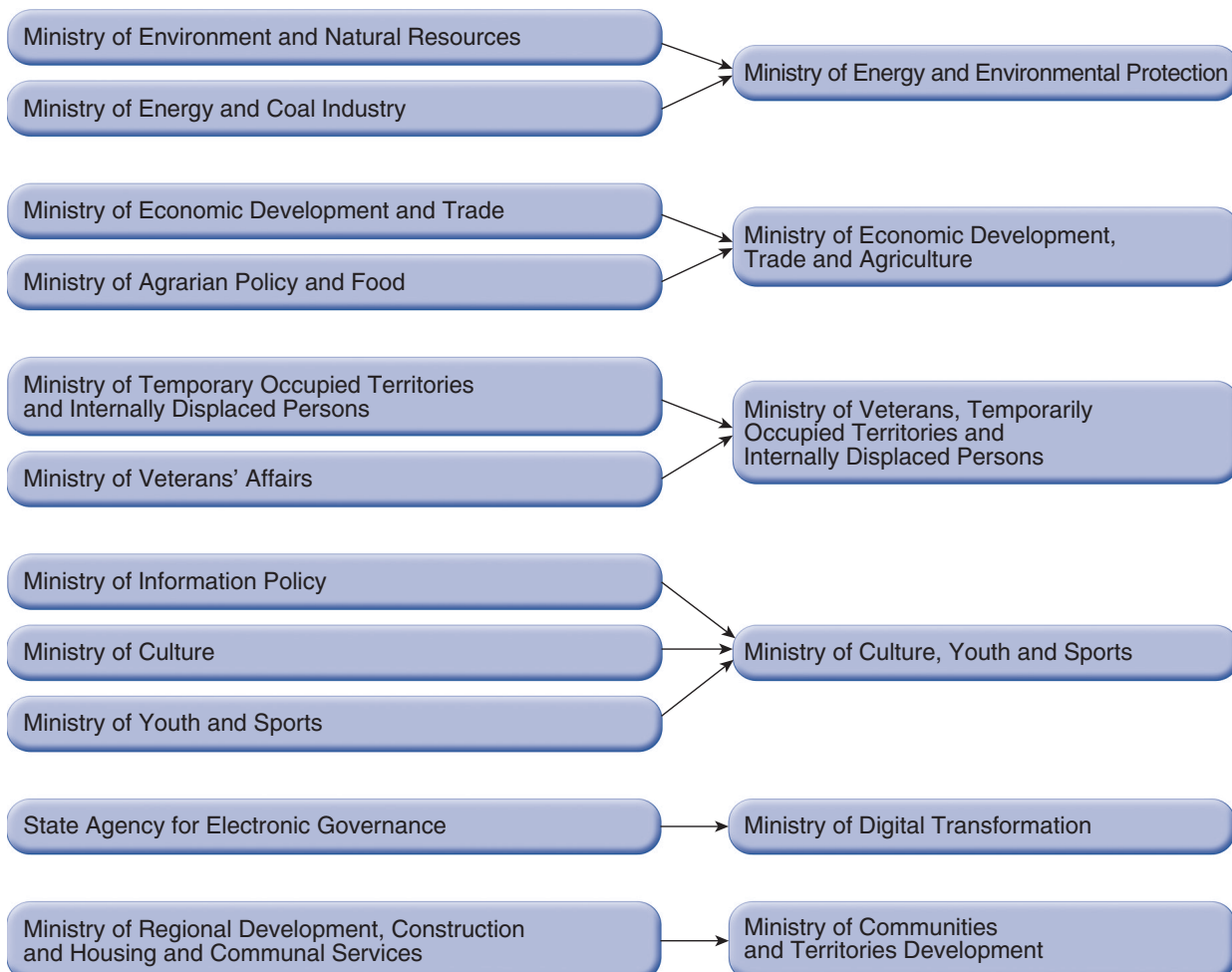
<sup>148</sup> Personnel changes and the split of ministries. – UNIAN, 17 January 2019, <https://www.unian.ua/politics/10835405-kadrovi-zmini-i-rozdil-ministerstv-zelenskiy-nazvav-shlyahi-pokrashchennya-roboti-uryadu.html>.



## REORGANISATION OF MINISTRIES OF UKRAINE

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with an active management position who can contradict a Minister when necessary. Remember that the introduction of such an institution in the Ukrainian government was based on successful European experience and was one of the key decisions in the reform of the civil service<sup>149</sup>.

In total, by the end of the year, the Cabinet of Ministers has dismissed secretaries of state in 7 of the 14 ministries (not counting the newly created Ministry of Digital Transformation). In the Ministry of Health, the dismissal of civil servants in the executive branch was massive and has caused considerable public resonance.

In addition, due to a conflict with the newly appointed head of the ministry and her deputy, the heads of the National Health Service and of the government agency "Center of Public Health of the Ministry of Health of Ukraine" were dismissed.<sup>150</sup>

On September 25, 2019, immediately after the entry into force of the Law "On Amendments to Certain Laws of Ukraine concerning the Rebooting of Power", the Cabinet of Ministers also dismissed a number of heads of central executive bodies: the State Architectural and Construction Inspectorate of Ukraine, the State Geological and Archives Service, the State Service of Geology and Resources, the National Civil Service Agency, the State Reserve Agency, the State Agency for Electronic Government, and the State Transport Security Service of Ukraine.<sup>151</sup>

In December 2019, there were new changes to some legislative acts of Ukraine that regulate the work of individual state bodies; in particular in terms of undergoing and specific features of the civil service, regulation of the legal status of civil servants, powers of heads of civil service, exclusion of the institution

<sup>149</sup> Koliushko Ihor. State Secretaries of Ministries: the start of new administrative reform. – Center for Policy and Legal Reform, 7 November 2016, <https://www.prav.org.ua/en/news/20871708-dergeavni-sekretari-ministerstv-start-novoyi-upravlinskoyi-reformi>.

<sup>150</sup> Sytnyk O. Two more top executives have resigned from the MoH. This time, Deputy Minister Skaletska and the head of the Public Health Center. – Ukrayinska Pravda, 17 December 2019, <https://life.pravda.com.ua/health/2019/12/17/239081/>.

<sup>151</sup> The Government has taken a number of personnel decisions. – The Government Portal, 25 September 2019, [https://www.kmu.gov.ua/news/uryad-prijnyav-nizku-kadrovih-rishen?fbclid=IwAR3ElzLyRmoinTT\\_SJDOibIG4npZBm4aEefJ\\_E\\_NOHAQDucgZGVC0zFBZPY](https://www.kmu.gov.ua/news/uryad-prijnyav-nizku-kadrovih-rishen?fbclid=IwAR3ElzLyRmoinTT_SJDOibIG4npZBm4aEefJ_E_NOHAQDucgZGVC0zFBZPY).

of appointment of heads of structural subdivisions with third parties, the rules of the Law of Ukraine “On Civil Service” were removed as a subjective factor and instrument of influence.<sup>152</sup>

At the same time, the draft law “On Administrative Procedure” (the previous version of this draft law was withdrawn at the end of 2018), as well as the new Cabinet of Ministers’ Regulations (as stipulated by the Strategy for the Public Administration Reform by 2021), are still pending.<sup>153</sup>

In general, recent legislative changes in the civil service and the specifics of the government’s personnel policy are at odds with the overarching goals of reforming the civil service: its stabilization, professionalization and independence from “political teams” in control of a particular ministry.

## EGovernment

The newly created Ministry of Digital Transformation and the respective Committee of the Verkhovna Rada drafted a number of laws that have been adopted as a whole or passed the first reading by the end of 2019<sup>154</sup>:

- Draft Law No. 1050 “On Amendments to Certain Legislative Acts of Ukraine Regarding the Reduction of the List of Business Activities to be Licensed” was adopted in the second reading as a law. The regulation simplifies the conduct of business in the field of telecommunications and reduces the administrative pressure on business entities;
- Draft Law No. 2042 “On Amendments to Certain Laws of Ukraine on Access to the Infrastructure of Construction, Transport, Electricity Facilities” was adopted in the first reading as a basis. Adoption of the draft law aims at creating favorable conditions for the location of communication infrastructure in remote regions of the country, and providing the population with quality electronic communications services;
- Draft Law No. 2043 “On Amendments to the Law of Ukraine ‘On Protection of Information in Information and Telecommunication Systems’ (to confirm compliance of the information system with the requirements for information protection)” was adopted in the first reading as a basis;

- Draft Law No. 2110 “On Public Electronic Registers” was adopted in the first reading as a basis. The adoption of the draft law aims at creating a single legal framework for the creation, operation and interaction of state, municipal and other registers, inventories and information systems.
- In December 2019 changes have been made to a number of existing laws, according to which both paper or electronic documents (including those created in automated mode) will be considered written documents in compliance with the requirements of the Laws of Ukraine “On Electronic Documents and Electronic Document Management” and “On Electronic Confidential Services”. It is determined that paper and electronic document have the same legal force.<sup>155</sup> This step is important for the implementation of electronic document flow in public administration.

On October 23, the Cabinet of Ministers of Ukraine agreed to launch a pilot project on the use of the electronic driver’s license and vehicle registration certificate, which may be presented to police officers instead of documents issued on forms. Another innovation is an opportunity to renew the driver’s license online.<sup>156</sup>

On December 4, the Government approved the Resolution, “Issues of the Unified State Web Portal for Electronic Services and the Unified State Portal for Administrative Services” and the corresponding Regulations. This portal should provide citizens with access to all one-stop administrative online services.<sup>157</sup> E-cabinet of the developer<sup>158</sup> was also launched in test mode, which will provide users with access to fully automated notification and declaration services for all stages of construction of CC1 impact class facilities.

The Government expects that digitization of these services will have a significant anti-corruption impact, as it will eliminate the human factor in the provision of these services.<sup>159</sup> A register of permits of the State Architectural and Construction Inspectorate (DABI), published in open data format, was also launched.<sup>160</sup>

Also in December 2019, the Government launched “The Data Verification Experiment in Registers”, which provides for synchronization of data from more than 350 registries for more efficient use.<sup>161</sup>

<sup>152</sup> Law “On Amendments to Certain Legislative Acts of Ukraine concerning Improvement of Certain Issues of Civil Service and Electronic Document Management” was adopted.

<sup>153</sup> Public Administration Reform Strategy for 2021. – The Government Portal, [https://www.kmu.gov.ua/storage/app/sites/1/reform%20office/01\\_strategy\\_ukr.pdf](https://www.kmu.gov.ua/storage/app/sites/1/reform%20office/01_strategy_ukr.pdf).

<sup>154</sup> Results of the work of the Digital Transformation Committee for 2019. – The official web site of the Ministry and Committee of Digital Transformation, 10 January 2020, <https://thedigital.gov.ua/news/pidsumki-roboti-komiteta-tsifrovoyi-transformatsii-za-2019-rik>.

<sup>155</sup> Law “On Amendments to Certain Legislative Acts of Ukraine on Improvement of Certain Issues of Civil Service and Electronic Document Management” was adopted.

<sup>156</sup> Electronic driver’s licenses and car registration certificates will be checked via a QR code. – The Government Portal, <https://www.kmu.gov.ua/news/elektronni-posvidchennya-vodiya-ta-svidoctvo-pro-reyestraciyu-avto-perevirayimut-cherez-qr-code>.

<sup>157</sup> Official: Diya Portal is henceforth the only state web portal for electronic services. – The official web site of the Ministry and Committee of Digital Transformation, 4 December, <https://thedigital.gov.ua/news/ofitsiyniy-portal-diya-vidteper-ediniy-derzhavniy-vebportal-elektronnikh-poslug>.

<sup>158</sup> Developer’s E-office works now in Ukraine. – The official web site of the Ministry of the development of regions and territories of Ukraine, 13 December 2019, <https://thedigital.gov.ua/news/v-ukraini-zapratsyuvav-elektronniy-kabinet-zabudovnyka>.

<sup>159</sup> E-cabinet of the developer was launched in Ukraine. – The official web site of the Ministry and Committee of Digital Transformation, 13 December 2019, <https://thedigital.gov.ua/news/v-ukraini-zapratsyuvav-elektronniy-kabinet-zabudovnyka>.

<sup>160</sup> Registry of DABI permits opened. – The official web site of the Ministry and Committee of Digital Transformation, 26 December 2019, <https://thedigital.gov.ua/news/vidkrito-reestr-dozvilnikh-dokumentiv-dabi>.

<sup>161</sup> Putting state registers to order. – The official web site of the Ministry and Committee of Digital Transformation, 5 December 2019, <https://thedigital.gov.ua/news/navodimo-lad-u-derzhavnikh-reestrakh>.

At the beginning of 2020 the system of electronic interaction of the Ukrainian state electronic information resources, “Trembita”, has been officially put into operation. It was developed and implemented with the support of the “EGOV4UKRAINE” project of the “U-LEAD with Europe” Program. Thus, its testing period is over and it is recognized as fit for use, and complies with all information security requirements.<sup>162</sup>

Overall, the activities of the Ministry of Digital Transformation in 2019 can be considered successful.

## Electoral Law Reform

An important political event in 2019, the adoption of the Electoral Code envisages fundamental changes to the electoral system (from mixed to proportional with semi-open regional lists).

The Draft Election Code (Reg.No. 3112-1) was endorsed by the Parliament in its first reading back in November 2017, but has since remained pending before the respective Committee due to the large number of amendments submitted (more than 4,000). On July 11, 2019, the Verkhovna Rada of the 8th convocation did approve the draft in its second reading, in the last days of its work, but subsequently the President vetoed the decision, having made 17 comments on the contents of the document.

Based on these comments, the Committee finalized the text of the draft, but at the same time, the substance of some of them was ignored. In practice, not all the comments made by the President have been taken into account in the final text of the document (in particular, this concerns retaining of the “closed” part of party lists). However, the final version of the Electoral Code was endorsed by the Parliament on December 19, and signed by the President. From January 1, 2020, the Electoral Code entered into force. The EU Delegation to Ukraine welcomed its approval.<sup>163</sup>

Evaluating the abolition of the first-past-the-post part of the electoral system mostly positively, experts also note some shortcomings of this document.<sup>164</sup>

In particular, there is a mixed perception of the clause that the first 9 positions in the party lists remain closed and do not depend on the personal preferences of voters: according to some experts, this number seems excessive. The mechanism of distributing slots in the open part of regional party lists is complicated: in the suggested form, it creates a risk that large segments of voters will not use the right to identify a specific candidate, so that many “passing slots” in the lists will be distributed by the parties themselves.

On the other hand, being able to form lists is an important prerequisite for parties’ active stance and

for allowing teamwork to succeed in elections; full dependence of the distribution of mandates within the party list threatens to chaotize the institutionally weak party system, exacerbating populist tendencies in intra-party competition. A more unequivocal assessment of the new parliamentary system can be made after its practical application in Ukrainian conditions.

Also contradictory is the system of distribution of seats among parties depending on a fixed “electoral quota”, which is the same for all regions. It results in regions with higher turnouts receiving more representation in the Verkhovna Rada than regions where turnout is lower. In the long run, this may weaken the legitimacy of the Parliament and make the country’s political system less stable.

The Electoral Code also regulates the procedure for local elections. Like at the level of parliamentary elections, deputies of oblast and city councils in settlements with populations of over 90 thousand will also now be elected according to a proportional system with open party lists. Voters must first elect a party and then a deputy from that party. Mandates will be given to local party organizations that have gained more than 5 percent of the vote.

In contrast, elections of deputies of city, rayon, village, and town councils (with populations of up to 90,000 people) will be held according to the first-past-the-post system, but in multi-seat constituencies. Moreover, in each such district, those candidates who will win 2 to 4 first places (depending on the specific council) will be considered elected. The quantitative composition of local councils has also been revised; it will depend on the number of voters in the district. If there are fewer than 1,000 voters, the council will consist of 12 deputies; from 500 thousand voters to one million, of 64 deputies; for 1-2 million voters, 84 deputies; for more than 2 million voters, 120 members of the local council.

In settlements with populations of up to 90,000 village and city Mayors and village headpersons will be elected by first-past-the-post system: the candidate with the highest number of votes will win. Mayors (in cities with population over 90,000) will be elected by absolute majority (with the possibility of a second round); a candidate with more than 50% of those who came to the polls will win.

In general, despite some controversial points, these changes to the electoral system are progressive and bring Ukraine closer to modern European electoral approaches.

<sup>162</sup> Trembita System is in Industrial Operation. – The official web site of the Ministry and Committee of Digital Transformation, 16 January 2020, <https://thedigital.gov.ua/news/sistema-trembita-u-promisloviy-ekspluatatsii>.

<sup>163</sup> The EU welcomes adoption of new Electoral Code. – Yevropeyska Pravda, 19 December 2019, <https://www.eurointegration.com.ua/news/2019/12/19/7104445>.

<sup>164</sup> OPORA statement on approval of the Electoral Code following its reconsideration, <https://www.oporaua.org/statement/vybory/19583-zaiava-oporishchodo-ukhvalennia-viborchogo-kodeksu-za-resultatami-iogo-povtornogo-rozgliadu>; Code under the Christmas tree: what changes are preparing the new election rules. – Slovo i Dilo, 21 December 2019, <https://www.slovoidilo.ua/2019/12/21/kolonka/aleksandr-radchuk/polityka/kodeks-yalynku-yaki-zminy-hotuyut-novi-vybory-pravyla>.



## ECONOMY

The economic results of the previous governments (2014-2019) were diverse and mixed.<sup>1</sup> The finale of election marathons in the first half of 2019 followed by the formation of the new “single-party” ruling team created potentially favourable conditions for introduction of rapid economic transformations and implementation of a productive model for accelerated economic growth and development. However, the potential of opportunities has been exhausted speedily, as positives had no time to manifest. Instead, at the end of the year, serious reasons for disappointment have emerged.<sup>2</sup>

### 1. Peculiarities of Ukraine's Economic Development in 2019

2019 was marked by two major trends in the economy – the continued course towards creation of institutional grounds for encouraging economic development in line with the EU-Ukraine Association Agreement and other Ukraine's international commitments, and efforts to substantially adjust the model of the country's economic development on the basis of so-called libertarianism, which largely defines the political priorities declared by the new Ukrainian government following the 2019 presidential and parliamentary elections.

A distinctive feature of the implementation of announced institutional changes is its extremely short period – the so-called “turbo-regime”, which makes this policy very similar to the “shock therapy”. In Ukraine, the specific content of this policy was defined by the **Presidential Decree “On Urgent Measures for Conducting Reforms and Strengthening the State”**,<sup>3</sup> with almost all measures planned for the end of 2019 and 2020. Moreover, in order to clear the institutional space from the outdated norms, the government abolished close to 60 economy-related presidential decrees from 1991–1995. The key structural components of the libertarian paradigm of economic reform include deregulation, privatisation and the protection of private property.

In **deregulation**, steps have been made to reducing the list of economic activities subject to licensing

(primarily in the telecommunications sector)<sup>4</sup> and streamlining the very process of licensing of economic activities, in particular through the introduction of licensing registers and mechanisms for their interaction with the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations, more clear regulation of the procedure of suspension, renewal and revocation of licenses,<sup>5</sup> reduced pressure on businesses by authorities.<sup>6</sup> However, in 2019 the Verkhovna Rada failed to find a compromise regarding gambling – the most socially resonant and controversial issue of deregulation.

It should be noted that the deregulation trend had some exceptions. In the financial services sector, the newly adopted provisions strengthened the regulation of markets of non-banking financial services and the protection of rights of their consumers.<sup>7</sup>

Prospects for **privatisation** have become the most radical and meaningful reform area in the new government's institutional package. It is about the dramatic reduction of the list of state-owned enterprises not subject to privatisation<sup>8</sup> and accelerated transfer of property of these enterprises from the sectoral ministries and departments to the State Property Fund and their preparation to the privatisation procedure.<sup>9</sup>

The new government places greater focus on the issues of intellectual property protection. To this end, the current legislation was amended to improve the legal protection of geographical indications and to

<sup>1</sup> For more detail on economic results from 2017 through the first half of 2019, see Yurchyshyn V., Ukraine's socio-economic dimension in the period of changes of political elites. – The Razumkov Centre, 2019, [http://razumkov.org.ua/uploads/article/2019\\_soc-econ\\_vymir\\_ukr.pdf](http://razumkov.org.ua/uploads/article/2019_soc-econ_vymir_ukr.pdf).

<sup>2</sup> Ukraine remains economically unattractive, remaining **only 135<sup>th</sup>** among 162 countries in the **Index of Economic Freedom**. Along with ongoing significant “brain drain”, the country has poor competitiveness at the macro- and microeconomic levels, significant budget and trade deficits, along with a large foreign debt.

<sup>3</sup> The Decree of the President of Ukraine No.837, 8 November 2019 “On Urgent Measures for Conducting Reforms and Strengthening the State”.

<sup>4</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Reduction of the List of Economic Activities Subject to Licensing”, 18 September 2019.

<sup>5</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improvement of the Procedure of Licensing of Economic Activities”, 2 October 2019.

<sup>6</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Reduction of Pressure on Businesses by Market Supervision Bodies”, 12 December 2019.

<sup>7</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improvement of Functions of the State Regulation of the Financial Services Markets”, 12 September 2019 (enters into force on 1 July 2020); The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Protection of the Rights of Consumers of Financial Services”, 20 September 2019.

<sup>8</sup> The Law of Ukraine “On Recognition of the Law ‘On the List of Objects of State Property Not Subject to Privatisation’ as Null and Void”, 2 October 2019.

<sup>9</sup> A series of Cabinet of Ministers directives No.1355, No.1357 and No.1365 of 24 December 2019, and especially No.1101 of 20 November 2019, according to which some well-known enterprises, e.g. the Ukrainian Aircraft Corporation “Antonov”, were included in the list for privatisation.

reinforce the protection of intellectual property rights in the customs clearance of goods.<sup>10</sup>

At the same time, in 2019 the new ruling team failed to complete its key institutional project in the development of private property relations – lifting the moratorium on the sale of agricultural land. Having passed the first reading on 13 November, the bill by the sectoral Parliamentary Committee<sup>11</sup> faces serious disapproval not only by the opposition factions, but more importantly – by the absolute majority (about two-thirds) of Ukrainian society.<sup>12</sup>

Implementation of the new reform policy is closely linked to the **major changes in the system of public administration**.<sup>13</sup> These changes signified not only the emergence of new economic priorities, such as digital transformation (with creation of a specialized ministry), but also set a course towards deregulation and demounting of regulatory functions of ministries and departments.

This was reflected in the merger of several key ministries (economic development and trade with agrarian policy and food; energy and coal with environment and natural resources). In the meantime, virtually all earlier regulations on ministries and departments (about 120 presidential decrees adopted during 2005-2019) were abolished, implying a significant revision of the functions of public administration in the economy.<sup>14</sup>

A comprehensive **digitalisation**, with a slogan “a state in a smartphone” as the symbol of this policy, should become a centrepiece of transformations in the state economic functions. A number of important steps have been taken in this regard:

- formulation of the framework for implementing the state policy of digital development by executive bodies (adopted by the previous government);<sup>15</sup>
- prioritisation of policy to improve access to e-services and mobile Internet;<sup>16</sup>
- introduction of unified state web portals for electronic and administrative services;<sup>17</sup>
- introduction of an integrated automated system of state supervision (control);<sup>18</sup>
- deployment of modern infrastructure and technologies of digital development and electronic communications;<sup>19</sup>
- significant strengthening of cybersecurity measures;<sup>20</sup>
- creation of mechanisms to ensure compatibility of Ukrainian and foreign systems of digital development and electronic communications, including for electronic data exchange under the common transit mode in line with the Convention of 20 May 1987 on a common transit procedure.<sup>21</sup>

However, the evident emphasis placed on digital dissemination cannot screen the obvious **problem of**

<sup>10</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improvement of Legal Protection of Geographical Indications”, 20 September 2019; The Law of Ukraine “On Amendments to the Customs Code of Ukraine on the Protection of Intellectual Property Rights in Moving Goods across the Customs Border of Ukraine”, 17 October 2019.

<sup>11</sup> Draft Law on amendments to certain legislative acts of Ukraine on the circulation of agricultural land, No.2178-10 of 10 October 2019.

<sup>12</sup> Public attitudes towards the introduction of land market and lifting the moratorium on the sale of agricultural land. Press release of the Razumkov Centre, 11 November 2019, <http://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/stavlennia-gromadian-do-zaprovadzhennia-rynku-zemli-ta-skasuvannia-moratorii-na-kupivliuprodazh-zemli-silskogospodarskogo-pryznachennia-2>.

<sup>13</sup> The Cabinet of Ministers of Ukraine Resolution No.829, 2 September 2019 “Some Issues of Optimisation of the System of Central Executive Bodies”.

<sup>14</sup> However, some of the measures developed by the previous Cabinet of Volodymyr Groysman are still in place. These, for example, include action plans for implementation of conceptual directions of reforming the system of agencies implementing state customs and tax policies, approved by the Cabinet of Ministers Directive No.542, 5 July 2019.

<sup>15</sup> The Cabinet of Ministers of Ukraine Resolution No.56, 30 January 2019 “Some Issues of Digital Development”.

<sup>16</sup> The President of Ukraine Decrees No.558 dated 29 July 2019 “On Some Measures on Improvement of Access of Individuals and Legal Entities to Electronic Services”, No.17, p.23, No.497, 8 July 2019 “On Some Measures on Improvement of Access to Mobile Internet”.

<sup>17</sup> The Cabinet of Ministers Resolution No.1137, 4 December 2019 “The Issue of Unified State Web Portal of Electronic Services and Unified State Web Portal of Administrative Services”.

<sup>18</sup> The Cabinet of Ministers of Ukraine Resolution No.1077, 23 October 2019 “Some Issues of Ensuring Functioning of Integrated Automated System of State Supervision (Control)”.

<sup>19</sup> The Cabinet of Ministers of Ukraine Directive No.60, 23 January 2019 “On Approval of the Plan of Measures to Facilitate the Development of Mobile Broadband Access”; the Cabinet of Ministers of Ukraine Resolution No.546, 19 June 2019 “On Approval of Provisions on Integrated System of Electronic Identification”, as amended by the Resolution No.1068, 11 December 2019.

<sup>20</sup> The Decree of the President of Ukraine No.923 dated 20 December 2019 “On the Decision of the National Security and Defence Council of 7 December 2019 concerning urgent measures for strengthening the state’s capability in cybersecurity”; the Cabinet of Ministers of Ukraine Resolution No.518, 19 June 2019 “On Approval of General Requirements to Cyber Protection of Critical Infrastructure Facilities”.

<sup>21</sup> The Cabinet of Ministers of Ukraine Resolution No.60, 23 January 2019 “On Approval of the Procedure for Mutual Recognition of Ukrainian and Foreign Public Key Certificates, Electronic Signatures, and the Use of the Information and Telecommunication System of Central Certification Body to Ensure the Recognition of Electronic Trust Services in Ukraine, Foreign Public Key Certificates Used in the Provision of Legally Significant Electronic Services within Interaction between Subjects of Different States” (as amended by the Resolution No.1068, 11 December 2019; the Law of Ukraine “On the Common Transit Mode and Introduction of the National Electronic Transit System”, 12 September 2019 (to enter into force on 25 March 2020)).

**Ukraine's significant lag in scientific and technological development in general and low level of innovation of the Ukrainian economy.** According to the most recent *Bloomberg Innovation Index*,<sup>22</sup> Ukraine is ranked only 56<sup>th</sup> among 60 innovatively active economies, having fallen by three over the past year.

To this end, the previous government's **Strategy for Innovation Development until 2030**<sup>23</sup> becomes particularly important.

The strategy seeks to increase the share of expenditure on scientific and technical works in GDP from 0.45% to 3%; the share of innovative enterprises – from 16.2% to at least 30% in the total number of enterprises; the share of exports of goods produced by high- and medium-tech sectors – from 15.4% to 30% of in total exports; the share of workers employed in enterprises of high- and medium-tech sectors of industry – from 21.3% to 29% of all workers; the share of sales of innovative products in the total volume of industrial production – from 0.7% to 10%.

The strategy envisaged the development of smart specialisation, including within of relevant regional strategies for innovation development; the launch of innovation pilots and support for their implementation; promotion of scientific, technical and technological achievements in Ukraine and around the world, as well as best practices of companies and entrepreneurs embarking on the path of innovation; development of public-private partnership in the innovation sphere. The intent is to develop a long-term strategic document on sustainable development “**Ukraine – 2050**”. **Amendments to the legislation aimed at implementing the EU norms on technical regulation** should revitalise innovation activity.<sup>24</sup>

The availability of **modern infrastructure** in general is critical for promoting economic development. In addition to digitalisation areas described above, it

is necessary to achieve progress in other priority areas of infrastructure development. While activities in this sphere are far from satisfactory, there have been some positive developments achieved largely thanks to cooperation with international financial institutions.

In particular, the Financial Agreement with the EIB to fund the project for improving road safety in Ukrainian cities has been approved and put into operation.<sup>25</sup> The government also decided to attract the EIB loan of EUR 450 million from the EIB loan for implementing the Trans-European Transport Network project.<sup>26</sup> It is planned to receive EUR 149 million from the European Bank for Reconstruction and Development (EBRD) to modernise the transmission network.<sup>27</sup> In addition, on 24 July 2019, the EBRD has allocated funds for the *Ukraine Public Transport Framework 2* (EUR 250 million), and announced its participation in the *Ukraine Railway Eurobonds* programme.<sup>28</sup>

Further strategic development of Boryspil International Airport is an important infrastructure project that should significantly build Ukraine's capacity to develop international communication.<sup>29</sup> The adoption of the concessions law is vital for the prospects development of infrastructure modernisation, as it allows private capital to be attracted in the development of state-owned objects.

Considering the significant impact of external economic development factors, the **correction of externally set institutional parameters of economic development** continued to play a key role. The most important events in this regard include:

- adaptation of the public procurement regime in Ukraine to the provisions of EU law;<sup>30</sup>
- further implementation of WTO norms in the Ukrainian legislation regarding the provisions of the Trade Facilitation Agreement;<sup>31</sup>

<sup>22</sup> Bloomberg 2020 Innovation Index, <https://www.bloomberg.com/news/articles/2020-01-18/germany-breaks-korea-s-six-year-streak-as-most-innovative-nation>.

<sup>23</sup> The Cabinet of Ministers of Ukraine Directive No.526, 10 July 2019 “On Approval of the Strategy for Innovation Sphere Development for the Period until 2030”.

<sup>24</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Implementation of Acts of the European Union Legislation in the Field of Technical Regulation”, 6 June 2019.

<sup>25</sup> Project “Improving Road Safety in Ukrainian Cities”. A financial agreement between Ukraine and the European Investment Bank. Brussels, 9 July 2018. An agreement was ratified by the Law of 19 December 2019.

<sup>26</sup> The Cabinet of Ministers of Ukraine Directive No.1042, 6 November 2019 “On Raising Funds from the European Investment Bank for the Implementation of the Trans-European Transport Network Development Project”.

<sup>27</sup> The Cabinet of Ministers of Ukraine Directive No.537, 26 June 2019 “On Receiving the Loan from the European Bank for Reconstruction and Development for the Implementation of the Investment Project ‘Transmission Network Modernisation’”; EBRD project database, signed on 24 July 2019, <https://www.ebrd.com/work-with-us/projects/psd/ukrenergo-transmission-network-modernisation.html>.

<sup>28</sup> EBRD project database, <https://www.ebrd.com/work-with-us/projects/psd/ukraine-public-transport-framework-2.html>; <https://www.ebrd.com/work-with-us/projects/psd/ukraine-railway-eurobonds.html>.

<sup>29</sup> The Cabinet of Ministers of Ukraine Directive No.293, 8 May 2019 “On Approval of the Concept of Boryspil International Airport Development until 2045”.

<sup>30</sup> The Law of Ukraine “On Amendments to the Law of Ukraine ‘On Public Procurement’ and some other Legislative Acts of Ukraine on Improvement of Public Procurement”, 19 September 2019 (the law enters into force on 19 April 2020).

<sup>31</sup> The Cabinet of Ministers of Ukraine Directive No.444, 19 June 2019 “On Approval of the Plan of Action for Implementing Provisions of the WTO Trade Facilitation Agreement”.



- conclusion and implementation of the Free Trade Agreement between Ukraine and Israel;<sup>32</sup>
- Ukraine's withdrawal from a number of CIS economic development agreements.<sup>33</sup>

Particularly important for ensuring conditions of Ukraine's effective economic development is the creation of an environment that would **prevent the spread of illegal economic activity and tax evasion**, since it is hard to expect any transition towards innovative development amidst the distortion of economic flows and biases of the market environment. Relevant institutional changes are closely linked to Ukraine's accession to international conventions and treaties. The most important developments in 2019 in this area included:

- ratification (with reservations) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, concluded on 24 November 2016 and signed by Ukraine on 23 June 2018<sup>34</sup> (valid for Ukraine since 1 December 2019);
- OECD standards-based revision of a number of bilateral double tax avoidance agreements, in particular, with Switzerland, Cyprus and the United Kingdom,<sup>35</sup> which will eliminate the gaps that allowed avoiding taxation of large volumes of income and assets in Ukraine;
- Improvement of tax compliance mechanisms under the tax treaty with the United States.<sup>36</sup>

At the same time, a number of domestic innovations for financial control, taxation and customs have been applied. First of all, one should note the law on preventing

and counteracting the legalisation of proceeds of crime, financing of terrorism and proliferation of weapons of mass destruction, adopted at the end of 2019 (enters into force on 28 April 2020). Certain positive effect can be expected from amendments to the Tax Code on the liberalisation of registration of real estate and sale of property,<sup>37</sup> as these have become a source of corruption and one of the factors for unfounded increase in the value of construction objects. Also important in this regard is the Presidential Decree aimed at combating smuggling and corruption at customs by increasing transparency of respective operations, introducing proper information support and real-time data sharing with other countries' information systems in the field of customs clearance of goods.<sup>38</sup>

## 2. Economic Policy Update: Expectations and Risks

In early days of the new Cabinet, the newly appointed Prime Minister has declared at least 40% of economic growth over the next 5 years (an annual growth of 5-7%) along with creation of about one million new jobs as the new government's priorities. Such economic acceleration should build on high and rational institutional capacity, the adoption of effective legislation, as well as effective and consistent activities of the Verkhovna Rada and the Cabinet.

However, it soon became clear that achievement of these ambitious goals is problematic, given the insufficient professionalism of the new Cabinet. It manifested itself in the absence of a genuine Action Programme of the Cabinet of Ministers, while the document of the same name, approved by the Parliament, is

<sup>32</sup> The Law of Ukraine "On Ratification of the Free Trade Agreement between the Cabinet of Ministers of Ukraine and the Government of the State of Israel" (concluded on 21 January 2019 in the city of Jerusalem).

<sup>33</sup> Including Agreements on measures to improve settlement of payments between business entities of the states – members of the Commonwealth of Independent States (Tashkent, 15 May 1992); Agreements on the interstate exchange of economic information (Minsk, 26 June 1992); Agreements on the exchange of information in the field of foreign economic activity (Moscow, 24 September 1993); Agreements on cooperation in the field of foreign economic activity (Tashkent, 15 May 1992); Agreements on general terms of supply of goods between the organizations of the states – members of the Commonwealth of Independent States (Kyiv, 20 March 1992); Agreements on methodological comparison and creation of a general statistical base of the Economic Union (Almaty, 10 February 1995); Agreements on the mutual provision for the preservation of interstate secrets in the field of legal protection of inventions (Minsk, 4 June 1999); Agreements between the states – members of the Commonwealth of Independent States on cooperation and mutual assistance on tax compliance and combating violations in this field (Minsk, 4 June 1999); Agreements on cooperation between states – members of the Commonwealth of Independent States in the fight against tax crimes (Tbilisi, 3 June 2005); Protocol on the unification of approach and the conclusion of agreements on the prevention of double taxation of income and property (Tashkent, 15 May 1992).

See the Decree of the President of Ukraine "On the withdrawal of Ukraine from the Agreement on measures to improve settlement of payments between business entities of the states – members of the Commonwealth of Independent States", No.851, 18 November 2019; The Cabinet of Ministers of Ukraine Resolutions No.42, 23 January 2019; No.50, 30 January 2019, No.356 and No.358, 24 April 2019.

<sup>34</sup> The Law of Ukraine "On the Ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting", 28 February 2019.

<sup>35</sup> Laws of Ukraine: "On ratification of the Protocol between the Government of Ukraine and the Federal Council of Switzerland amending the Convention between the Government of Ukraine and the Federal Council of Switzerland on avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital and the Protocol thereto, done in Kyiv on 30 October 2000", 18 September 2019; "On ratification of the Protocol amending the Convention between the Government of Ukraine and the Government of the Republic of Cyprus on avoidance of double taxation and prevention of fiscal evasion with respect to income taxes", 30 October 2019; "On ratification of the Protocol between the Government of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland amending the Convention between the Government of Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, done in London on 10 February 10, 1993", 30 October 2019.

<sup>36</sup> The Law of Ukraine "On Ratification of the Agreement between the Government of Ukraine and the Government of the United States of America to Improve International Tax Compliance and to Implement Foreign Account Tax Compliance Act (FATCA), done on 7 February 2017", 29 October 2019.

<sup>37</sup> The Law of Ukraine "On Amendments to the Tax Code of Ukraine on Elimination of the Corruption Scheme in the Area of Registration of Information from Real Estate Appraisal Reports and Transparency of Property Sales", 5 December 2019.

<sup>38</sup> The Decree of the President of Ukraine No.505, 9 July 2019 "On Measures to Counter Smuggling and Corruption in Customs Clearance of Goods".

only a set of declarations and promises. It is illustrative that just a few days after the Prime Minister's statement on high economic growth, the Ministry of Finance submitted the draft Budget for 2020 with a projected growth of just over 3%.

More weighted and systemic description of key activity areas and priority measures is presented in the Presidential Decree "On Urgent Measures for Conducting Reforms and Strengthening the State".<sup>39</sup> The vast majority of tasks identified in the Decree concerned the development of draft laws, regulations and action plans by the end of 2019 in order to help launching some systemic transformations, while for positive results to emerge as early as 2020.<sup>40</sup>

For example, **by the end of 2019 the government should have:**

- elaborated draft laws to create favourable conditions for entrepreneurs. *However*, according to the business community, tax and administrative pressure did not diminish, while government's intentions to regulate activities of individual independent entrepreneurs (FOPs) even triggered protests;
- developed and approved an action plan aimed at attracting investment (\$50 billion over 5 years). *However*, with no visible inflow of investments, their share in the GDP structure has significantly decreased, while foreign investors do not demonstrate any significant interest in entering the country;
- started a large-scale privatisation, including of "historically" attractive businesses. *However*, while only five priority objects of "big privatisation" were identified, no competition was announced yet;
- initiated a systematic preparation for the introduction of the agricultural land market. *However*, the adoption of the "key bill" in the first reading has produced a wave of protests in Kyiv and the regions, including due to poor communication with the public and major stakeholders, as well as poor quality of the accompanying laws.

Meanwhile, during the first months in the office, the Prime Minister have announced a number of initiatives aimed at accelerating and improving wellbeing in the short and long term. In particular, they include:

- reducing of utility tariffs for Ukrainians as soon as possible;<sup>41</sup>
- accelerating the development of infrastructure and communication, including repair of 24 thousand kilometres of roads, 5 airports and 5 seaports; covering the entire country with high-speed quality Internet;<sup>42</sup>
- eliminating paperwork in government agencies ("a state in a smartphone");<sup>43</sup>
- launching a support programme for micro and small businesses from 1 February 2020, including accessible low rate loans;<sup>44</sup>
- presenting the expert-made programme of large-scale national projects to stir interest of investors and society;<sup>45</sup>
- introducing far-reaching and efficient anti-corruption and anti-smuggling initiatives and measures.<sup>46</sup>

Probably, the seriousness of the intentions to accelerate economic reforms should be attested by the **Memorandum between the Cabinet and the NBU** on interaction "for achieving sustainable economic growth", signed on 3 October 2019.<sup>47</sup> However, such interaction of two key state institutions is unconditional for public administration system and **does not require additional memoranda**. Therefore, the emergence of such document in current situation of contradictions and poor efficiency of implementing the declared intentions may **suggest attempts to blur responsibility**, as well as efforts of the leaders of these institutions to hide behind the collegiality of decisions in the event of failure to deliver on promises. Specifically, the Memorandum stresses on price and financial stability among its main goals, which in fact repeats the NBU's constitutional duties, but does not in any way mention the requirement to the NBU to promote economic growth and development.<sup>48</sup>

<sup>39</sup> The Decree of the President of Ukraine No.837, 8 November 2019, <https://www.president.gov.ua/documents/8372019-30389>.

<sup>40</sup> Six months of the presidency: how many promises Zelenskyy fulfilled and failed. – Slovo i Dilo, 19 November 2019, <https://www.slovoidilo.ua/2019/11/19/infografika/polityka/piv-roku-prezydentstva-skilky-obychanok-vykonav-provalyv-zelenskyy>.

<sup>41</sup> The Cabinet works on reducing utility tariffs – Honcharuk. – Ukrinform, 2 September 2019, <https://www.ukrinform.ua/rubric-society/2771581-kabmin-pracue-nad-znizennam-komunalnih-tarifiv-goncaruk.html>.

<sup>42</sup> It is necessary to repair 24 thousand km of roads in Ukraine. – Ukrinform, 2 September 2019, <https://www.ukrinform.ua/rubric-economy/2771571-v-ukraini-potribno-vidremontuvati-24-tisaci-kilometriv-dorig-goncaruk.html>.

<sup>43</sup> The Cabinet made an important clarification on the paperwork ban. – UNIAN, 3 September 2019, <https://www.unian.ua/economics/other/10671180-ukabmini-zrobili-vazhlive-utonennya-shchodo-zaboroni-papierovogo-dokumentobminu.html>.

<sup>44</sup> The Prime Minister specified the date of launching of the credit programme for small businesses with 5-9% per annum. – UNIAN, 4 December 2019, <https://www.unian.ua/economics/finance/10780832-prem-zer-rozpoviv-koli-zapracyuye-programa-kredituvannya-malogo-biznesu-pid-5-9-richnih.html>.

<sup>45</sup> Honcharuk and Zelenskyy outlined the ambitious programme of the new government. – Novynarnya, 2 December 2019, <https://novynarnia.com/2019/09/02/okreslili-ambitnu-programu/>.

<sup>46</sup> How the project-based approach can deal with corrupt schemes in central government bodies – Reanimation Package of Reforms, 11 October 2019, <https://rpr.org.ua/news/yak-proiektnyy-pidkhd-dopomozhe-u-borot-bi-z-koruptsiynymy-skhemamy-u-tsentral-nykh-orhanakh-vlady/>. It is the task of the newly adopted Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Effectiveness of the Institutional Anti-Corruption Mechanism" of 2 October 2019.

<sup>47</sup> The Cabinet and the NBU signed the Memorandum of Cooperation to achieve sustainable economic growth and price stability. – NBU, <https://www.bank.gov.ua/news/>.

<sup>48</sup> Dzhush M. Understanding without reciprocity. What the Memorandum between the Cabinet and the National Bank is about? – Business Censor, 10 December 2019, <https://biz.censor.net.ua/columns/3164298/porozumnnya-bez-vzamnost-pro-scho-pdpisali-memorandum-kabmn-ta-natsbank>.

One should take note of the **significant impact** of the IMF on economic policymaking in Ukraine, primarily concerning the opening of the land market and keeping PrivatBank in state ownership. At the end of 2019, a preliminary agreement was reached on IMF's continued support of Ukraine, however, the terms, scope and timing of the new programme are still to be specified; it is unlikely to be launched before the spring of 2020.

For now, the IMF representatives generally appreciate the efforts of the President and the Cabinet "...in promoting reforms and continuing reasonable economic policy" and declare their readiness "...to support the political plan of the government for macroeconomic stability and boosting the economy to higher, sustainable and comprehensive growth".<sup>49</sup> Of course, if the IMF-backed measures are successful, the influence of government institutions may increase along with improvement of the country's investment attractiveness (at least in the eyes of international investors).

However, one should not rule out a possibility of **growing social dissatisfaction**, especially in the case of forced attempts to introduce the agricultural land market. In this case, both the investment intentions (regarding entrance to Ukraine) and the socio-political situation in the country may worsen. In addition, economic trends as of the end of 2019 provided no grounds for great optimism.

### 3. Real Sector

As already noted, the government has declared the goal of achieving high economic dynamics by ensuring real GDP growth of 40% over a five-year period. However, there are reasons to believe that 2019 did not become, and 2020 is unlikely to become a year of economic acceleration. Growth rate in Q2 (4.6%) and Q3 (4.1%) of 2019, compared to the corresponding indicators of 2018 was not retained. According to expert estimates, real GDP growth in 2019 will remain at approximately the same level as the year before (the annual growth in 2018 was 3.3%).

#### GDP structure

In 2019, the **main industrial sectors** failed to surpass the last year's results and have been declining monthly over the second half of the year: in 2019, **industry reduced** by 1.8% (1.2% over 11 months), the agricultural sector increased only symbolically by 1.1% (2.4% over 11 months), and goods turnover dropped by 2.1% (2.4% over 11 months).<sup>50</sup>

Ukraine's poor macro- and microstructure represent a significant defect in economic environment. The macroeconomic structure of GDP is excessively consumer, as the country implements **a consumer rather than an investment economic model, which is necessary for accelerated growth**. Therefore, the volume of final consumption expenditure in the first half of 2019 even exceeded GDP during this period, which was largely driven by the peculiarities of financing and spending of electoral races.

The consumer model cannot accelerate the economy, given the low living standards of the country's population. Although in the second half of 2019 the government started saving a little more resources, this did not encourage economic agents to scale up their investment expansion, primarily due to uncertainty and contradictions of the new government's economic policy.

The ultra-high consumption means not only low savings along with practical **refusal from investment** (16-18% in the GDP structure at best can only support the existing capacities) but is also accompanied by an **increase in foreign trade deficit** (according to estimates based on 2019 results, such deficit reached 8.5% of GDP (see Table *Gross domestic product structure*).<sup>51</sup>

**Gross domestic product structure.**  
% of total (unless stated otherwise)

	Jan-Jun 2019	2019 (estimates)
<b>GDP, UAH trillion</b>	<b>1.74</b>	<b>4.10</b>
Final consumption expenditure	100.4	94.0
Gross capital formation	6.3	14.5
Gross capital formation fixed	16.2	17.5
Exports of goods and services	47.5	40.5
Imports of goods and services	-54.1	-49.0
Gross reserves, \$ billion	20.8	25.3

#### Investments

The new government has declared active attraction of investments, including FDI, as one of its key priorities. In support of these plans, it has adopted the law on investment encouragement,<sup>52</sup> which **should improve the investment climate** in priority areas in line with the *Doing Business* rating methodology.

<sup>49</sup> Ukraine and IMF agreed on a new programme of cooperation. – The official web site of the President of Ukraine, 7 December 2019, <https://www.president.gov.ua/en/news/ukrayina-ta-mvf-dosyagli-domovlenosti-shodo-novoyi-programi-58781>.

<sup>50</sup> Hereinafter in this section, unless stated otherwise, the authors used the latest available statistics from the official web sites of the State Statistics Committee of Ukraine (<http://ukrstat.gov.ua>) and the National Bank of Ukraine (<https://www.bank.gov.ua>).

<sup>51</sup> It should be reminded that low savings for a country that in addition to foreign trade deficit has to permanently address crises, such situation triggers deficits of public funds and brings about significant social risks.

<sup>52</sup> The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Encouraging Investment Activity in Ukraine", 29 August 2019.



It has been announced that the law is a complex document which provides for elimination of legal loopholes and introduces innovative legal instruments in the country's legal system. However, so far one can hardly argue that the law will have absolutely positive consequences.

#### SIMPLIFICATION IN CONSTRUCTION FOR BETTER INVESTMENT ATTRACTIVENESS

It is generally believed that regulations in Ukrainian construction sector are rather burdensome for businesses, which undermines the country's investment attractiveness. To ease financial requirements to construction, the new law abolishes the mandatory shared participation of investors in the development of local infrastructure starting from 2021. More specifically, it cancels contributions paid by developers to local budgets for the creation and development of community infrastructure in the amount of 4% and 10% of the cost of construction of residential and non-residential buildings respectively.

This provision is hardly straightforward. True, businesses generally appreciate this innovation as it reduces some financial burden on the individual developer. Moreover, it can be viewed as an improvement in the business climate, contributing to Ukraine's progress in the Doing Business and thus having some macroeconomic boost. However, local budgets will suffer as they will be deprived of the opportunity to get real revenue.<sup>53</sup>

Another step to facilitating investment was made by the adoption of the bill in the first reading,<sup>54</sup> which defines the **legal framework for the functioning of capital markets** and organised commodity markets in Ukraine and for conducting relevant professional activity. It also regulates relations in securities offering and trading, and the like.<sup>55</sup> Only persistent legislative activity in this area and its effective implementation gives hope for strengthening of the country's investment attractiveness in the coming years.

As the global practice suggests, the growth of investment potential in all countries has been **associated with reduced tax pressure on investment**. This involves partial exclusion of investment costs from taxable amounts, income tax exemption for new investments, accelerated depreciation of fixed assets, which encourages capitalisation and production renewal. However, in its legislative efforts to implement the 2019 budget and

to finalise the 2020 budget, **the new government was unable** to focus on defining and introducing conditions for fiscal stimulation of the investment activity (see also the *Forecasts* section).

Meanwhile, the **structure of capital investments by sources of funding continued to deteriorate** in Ukraine in autumn 2019. If in the first 6 months of 2019, the enterprises' own funds in total investment amounted to 73.3%, bank credits and other loans – to 7.7%, and funds from foreign investors – to 0.8%, then the results of three quarters demonstrated their relative **reduction, especially in Q3** to 71.4%, 7.1%, and 0.7% respectively. The increased share of funding from the state and local budgets in this period from 9.0% to 11.3% could be welcomed **if accompanied by the growing private investment**, as it is universally known that budget investments are more effective and efficient if they occur in tandem with the private sector.

#### Inflation

There are reasons to believe that **economic results could have been better** if businesses had better access to financial (bank) resources. However, just like in previous years, **the National Bank of Ukraine (NBU) was overly focused on the so-called “inflation targeting”**, which should allegedly secure persistently low inflation.

Indeed, in 2019 the government was able to somewhat reduce the official Consumer Price Index (CPI): if in 2018 it increased by 9.8% (December to December), with average annual growth of 10.9%, then in 2019, the CPI increased by only 4.1% and 7.9%, respectively.<sup>56</sup> In settings, where the upward country has to cope with the effects of deep crisis, it is generally recognised that **“relentless focus” on low inflation** (with losses for the real sector) is highly **unproductive and inefficient**. The “fight” against inflation under 10-12% should not dominate the economic growth targets. Quite the contrary, the vast majority of successful countries made efforts to secure real sector growth, perhaps even at the expense of some inflationary acceleration,<sup>57</sup> which is normal with active monetary expansion to support the real sector with money.

Instead, Ukraine reduces the supply of real money and limits the economic agents' access to resources as an anti-inflation measure,<sup>58</sup> keeping their value at an

<sup>53</sup> Shared contributions in construction: no more corruption with promised schools and kindergartens. – Ukrinform, 24 September 2019, <https://www.ukrinform.ua/rubric-economy/>.

<sup>54</sup> The Draft Law “On Amendments to Certain Legislative Acts of Ukraine on Simplification of Investment Attraction and Introduction of New Financial Instruments”, No.2284, 17 October 2019.

<sup>55</sup> MPs in principle adopted the law to simplify attraction of investment. – Bukvy, 19 December 2019, <https://bykvu.com.ua/>.

<sup>56</sup> It should be noted that this is the official inflation rate. According to multiple observations, the real inflation is much higher. Nonetheless, the increase in utility tariffs has been the most significant inflationary factor in recent years. Their keeping at the same level and even slight reduction in cold season significantly limited the inflationary “spiral” in November-December (these are the months with traditionally highest prices).

<sup>57</sup> Bruno M., Easterly W. Inflation and growth: in search of a stable relationship, <https://ideas.repec.org/a/fip/fedlpr/y1996imayp139-146nv.78no.3.html>.

<sup>58</sup> The truly significant real economic growth in Ukraine occurred only in periods with a substantial increase in money supply (broad money). Instead, the restricted money supply was accompanied by a decline in economic growth. It is necessary to emphasise that further **money restriction is considered disastrous** for Ukraine.

extremely high level<sup>59</sup> (see *Monetary Restriction* section for more details). It must be stressed that **holding down real money** in the economy is a **significant constraint to rebuilding** the real sector.

### *Industry as an Economic Driver?*

In 2019, **particularly devastating for the Ukrainian industrial sector were financial restrictions**, as the sector's position in global competitiveness remains extremely low. Moreover, these restrictions exist amidst the *de facto* absence of an industrial policy, although the European Union's attention to the development of a modern industrial policy has been growing in the past few years (see Box "New Industrial Policy for the EU").<sup>60</sup> As a result, Ukraine may **lag even further behind** the EU.

#### **NEW INDUSTRIAL POLICY FOR THE EU**

In the face of increased global competition, one cannot ignore the issue of finding potential drivers to accelerate the country's economic development. In the previous centuries, it was the industrial potential that determined the power of the nation. Over the past two decades, however, the significance of industry to developed countries (especially in Europe) has diminished (including as a result of the rapid industrial expansion of Asian countries).

However, the new industrial policy is back in the agenda of developed economies in general and the European Union in particular, while various issues and tasks of developing conceptual points of industrial policy are at the centre of global development discussions.<sup>61</sup>

With the EU undergoing complex structural processes, leading countries are concerned with the deepening gap between Europe and the US and China, which are strengthening their own technological leadership. The new growth strategy in general and the new industrial policy in particular must help Europe to renew its potential and to determine its competitive position in the rapidly changing world via digitalisation, automation, artificial intelligence and other innovative intellectual and technological advances.

For Ukraine, these shortcomings became particularly evident in the second half of 2019, when the industry increasingly declined from month to month (unlike the first 6 months, when it showed weak growth), thus

"slowing down" the overall economic dynamics, while other major manufacturing sectors demonstrated only "symbolic" growth.

The government hopes to compensate these losses in the nearest future by actively selling off the Ukrainian assets, after which they – as envisioned – will suddenly start working effectively. While industrial policy remains a "weak point" in the government's economic policy, some top officials even question the need for it.<sup>62</sup> This approach can lead to further economic losses.

### *Privatisation*

The results for economy in general and for industrial development in particular could have been much better if **the government finally initiated transparent privatisation processes**. In 2019, it was planned to earn more than UAH 17 billion from privatisation. As most experts warned, these figures were significantly overestimated, and in the first 10 months of 2019, privatisation brought only UAH 413.5 million to the budget.<sup>63</sup> Although the aforementioned volumes were planned by the previous government, **the privatisation failed to gain traction with the new leadership as well**. Accordingly, other expected results of privatisation, including employment growth, have not been achieved.

To invigorate the privatisation processes, in October 2019 the Verkhovna Rada passed the law cancelling the list of state-owned enterprises that could not be privatised.<sup>64</sup> It should be reminded that this excessive list of "protected" enterprises was the key barrier to broad privatisation. The next planned step included the transfer of 500 companies from ministries and other central authorities to the State Property Fund by the end of 2019 for their prompt privatisation.

However, it is still unclear, **which policy will be applied** to specific enterprises. It is generally believed that large companies require **"individual approach"**, which, however, is **often prone to corruption**, as some enterprises generate interest from competing oligarchic groups. Another problem is that the best available companies **are overburdened with debt**, and

<sup>59</sup> In Ukraine's current economic environment, it is doubtful that monetary expansion will provoke an accelerated inflation. In the Ukrainian reality, it appears that the restriction on the growth of money supply means failure to meet the economic agents' demand for financial resources. As a result, the resources become more expensive with the rise of interest rates.

In turn, **having received expensive resources, manufacturers include their value in the price of their goods and services, which implies acceleration of inflation**. That is, **money restriction itself provokes the inflationary "spiral"**. – For more detail, see Yurchyshyn V., Ukraine's socio-economic dimension in the period of changes of political elites. – The Razumkov Centre, 2019, [http://razumkov.org.ua/uploads/article/2019\\_soc-econ\\_vymir\\_ukr.pdf](http://razumkov.org.ua/uploads/article/2019_soc-econ_vymir_ukr.pdf).

<sup>60</sup> Seventh Friends of Industry Ministerial Conference. (04.10.2019), <https://www.bmdw.gv.at/en/Topics/Europe-and-EU/>.

<sup>61</sup> See, for example, Enderlein H. et al. Beyond Industrial Policy. Why Europe needs a new growth strategy?, <https://institutdelors.eu/en/publications/beyond-industrial-policy-why-europe-needs-a-new-growth-strategy/>.

<sup>62</sup> See Avdeyenko V. Ukrainian industry goes down the drain: who to blame and what to do. – Apostrophe, 27 December 2019, <https://apostrophe.ua/ua/article/economy/promyshlennost/2019-12-27/ukrainskaya-promyshlennost-letit-v-propast-kto-vinovat-i-chto-delat/30018>.

<sup>63</sup> At the same time, privatisation "shortfalls" create budgetary complications. Given the "bracket" between planned and actual revenues, the government increased borrowings by UAH 16 billion in the domestic market. The Cabinet reduced the privatisation plan for 2019 by UAH 16 billion, <https://nv.ua/ukr/biz/finance/privatizaciya-kabmin-zmenshiv-plan-nadhodzhen-v-2019-roci-na-16-mlrd-grn-novini-ukrajini-50057067.html>.

<sup>64</sup> The Law of Ukraine "On Recognition of the Law of Ukraine "On the List of Objects of State Property Not Subject to Privatisation" as Null and Void", 2 October 2019.

it is not clear whether the state should assume additional burden (as expected in the case of Odesa Port Plant). Moreover, given the fact that many “candidates” for privatisation are still parties to lawsuits that may last for years, the **launch of privatisation does not seem an easy task**. As mentioned above, by the end of 2019, only 5 large companies were identified to start working with investment advisors.<sup>65</sup> It is obvious that full-scale privatisation competitions will take place no earlier than summer 2020.

### Agricultural Sector

The introduction of open land market will probably be the **most difficult and controversial socio-economic issue** for the new government. Relevant bill “On the Circulation of Agricultural Lands” (No. 2178-10) have already passed the first reading in November 2019.

A number of domestic and international experts have linked further growth of Ukraine’s agricultural sector and hence – the entire economy – **with open sale of agricultural land**. However, this part of agrarian reforms still **evokes resistance in overwhelming majority of the rural population** (as well as in some political parties and regional “elites”, see Box “*Public resistance to land market*” below). On the other hand, it cannot be properly implemented due to the absence of quality land legislation, agricultural infrastructure, and the like.<sup>66</sup>

Meanwhile, it is the agricultural sector that progressively improves its production, including exports to the markets of developed countries. A number of indicators confirm the sector’s resilience:

- in January-September 2019, the trade in agricultural commodities between Ukraine and the European Union increased compared to last year by 23% and reached a record high of \$ 7.5 billion.<sup>69</sup> The positive balance amounted to \$ 3.2 billion.

### PUBLIC RESISTANCE TO LAND MARKET

More than 40 political and non-governmental organisations opposing the land sales have joined their forces in the National Staff for the Protection of Native Land<sup>67</sup> and put forward the demands for the President. Above all, they are about the need to postpone the adoption of “land laws”, to continue the moratorium and to **declare a referendum**, giving the people the opportunity to decide **whether to sell agricultural land or not**.<sup>68</sup>

At the first meeting of the National Staff, the participants decided to consolidate all the staffs of different organisations into a joint movement. Activists appealed to deputies of various levels to support the demands of the Staff. A separate appeal on the inadmissibility of opening the land market in Ukraine was sent to international organisations. If these demands are ignored, the National Staff reserves the constitutional right to peaceful protest.

- since the beginning of the 2019/20 marketing year (from July 1) to mid-December, Ukraine exported 26.7 million tons of pulse plants;
- in January-November 2019, transshipment of grain for exports in seaports of the country amounted to 47.2 million tons – a 33.4% increase from the same period last year.<sup>70</sup>

Although the new government declares the state support for agricultural producers and farms, the mechanisms of preferential loans, grants, subsidies, investment financing and budget support are still not in place.<sup>71</sup> Instead, such support is directly linked to the introduction of a free land market. However, the claim that opening of the land market will immediately attract significant investment not only in the agricultural sector but in the economy as well, thus increasing its productivity, while peasants and farmers will have access to loan resources, seems ambiguous and unsubstantiated.<sup>72</sup>

<sup>65</sup> These include Odesa Port Plant, United Mining and Chemical Company, “Elektrovazhmash”, “President-Hotel” and “Krasnolymska” coalmine.

<sup>66</sup> The Razumkov Centre has repeatedly addressed the issues of the open land market and pointed to systemic risks associated with rushed and unprepared decisions. See, for example, Yakymenko Y. et al, Ukraine 2018-2019: Cautious Optimism Before Elections (Assessments). – Kyiv, the Razumkov Centre, 2019.

<sup>67</sup> National Staff for the Protection of Native Land. – “Batkivshchyna”, <https://ba.org.ua/tag/nacionalnij-shtab-zaxistu-ridnoi-zemli/>.

<sup>68</sup> The National Staff for the Protection of Native Land demands referendum from Zelenskyy, <https://ua.interfax.com.ua/news/political/628763.html>.

<sup>69</sup> By mid-October, in 2019, the domestic exporters have already exhausted the EU duty-free export quotas for honey (basic and additional), sugar, barley and flour, processed starch, canned tomatoes, apple and grape juices, corn (basic and additional), wheat, poultry and butter.

As in previous years, a significant proportion of quotas remain with zero or negligible use. This means that domestic producers of agrarian food products are not yet ready to fully realize their export potential in the European market.

<sup>70</sup> Given the result of 11 months, there are good reasons to believe that in 2019 they set an absolute record for transshipment of agricultural cargoes – The transshipment of agricultural products for exports in Ukrainian seaports has broken records of several decades. – Dzerkalo Tyzhnya, 10 January 2019, <https://dt.ua/ECONOMICS/>.

<sup>71</sup> The government has only promised to establish a Partial Land Crediting Fund with proper legislative regulation – See: A Partial Crediting Fund will be offered to small and medium-sized farmers in Ukraine. – *Seeds*, 7 December 2019, <https://www.seeds.org.ua/>.

<sup>72</sup> Constraining factors for investment include, above all, weak institutions for protection of registration and property rights (they will hardly improve with the opening of land market), weak financial infrastructure (likewise, reliable financial and insurance instruments will hardly appear with the market opening). An international experience suggests that land often becomes the most attractive speculative asset that leads to peasants and farmers’ loss of their land. A rational and effective landowner and producer comes later, when speculative opportunities are overwhelmingly exhausted – For more detail see Land Market: Existing threats to Ukraine and necessary safeguards / Analytical report *GROWFORD Institute*. September 2019. p.56.



**The most dangerous** (and unacceptable for most Ukrainian citizens) is the issue of **sale of agricultural land involving foreigners** (individuals and legal entities), **as well as the level of concentration of land** by one proprietor (large landowner).<sup>73</sup> During 2019, supporters and opponents of open land market tried to convince each other, but a compromise is yet to be found.<sup>74</sup>

On the last session day of the Verkhovna Rada in 2019, all parliamentary factions and groups signed a **memorandum on joint preparation** of relevant draft law No. 2178-10 for the second reading. At its meeting on 28 December, the Parliamentary Committee on Agrarian and Land Policy approved the bill for the second reading. MPs have agreed on key provisions, which will probably allow parliamentary consideration of the bill in early 2020.<sup>75</sup>

- only citizens of Ukraine and companies founded by citizens of Ukraine, as well as territorial communities and the state will be able to purchase land;
- limited concentration of land per owner – no more than 10 thousand hectares;
- banks may also become landowners if they receive the land as collateral; then they will be obliged to sell such land plots at auctions within two years;
- the land price cannot be lower than the normative monetary valuation;
- foreigners will be allowed to buy land only after the referendum (no indicative date has been set).

At the same time, the Law on Extension of the Moratorium on the Sale of Agricultural Land was automatically extended beyond 1 January 2020 and until the adoption of a new law. In any case, **political decisions on the land market** will be already made in 2020 (with their practical implementation to begin no earlier than 1 October 2020). Therefore, the question of pace and effectiveness of reform has no answer.

#### 4. Salaries and Solvency of the Population

Although the government declares sustainable growth (e.g. GDP growth in Q2-Q3 2019 by more than 4%), wages demonstrate an opposite trend, which **casts**

**doubt on the government's socio-economic successes.** Thus, in autumn 2019, the average nominal wage did not increase (UAH 10,687 in September, UAH 10,679 in November).<sup>76</sup> Instead, the **average real wage**, even given the accelerated inflation in autumn, has **dropped** by about 1%. In other words, the government failed to maintain the **positive dynamics of real wage**.

#### *Disparities in wages and solvency*

The government also failed to reverse the negative remuneration practices in education (although it emphasised its priority funding). Specifically, the average (nominal) salary in education in **autumn 2019 was about 75% of the general average wage**, and it is unclear how the salaries in education can grow at an outperforming rate.<sup>77</sup> Instead, wage arrears in the sector continue to rise.

The new Cabinet suspended the previous government's resolution,<sup>78</sup> which established a minimum teacher salary in the amount of three subsistence minimums (UAH 6,306).<sup>79</sup> Although the current ruling team assure that the Budget for 2020 secures additional UAH 3.7 billion to improve social protection of certain categories of educators (in general secondary education), such statements only raise scepticism, given the vagueness of "certain categories", terms and the size of extra payments.

**Solvency of households** remains **low** due to other "chronic" income-related weaknesses of the Ukrainian households.<sup>80</sup> *First*, they include **wage arrears (timely payment of salaries)**, which have grown rapidly in autumn 2019.<sup>81</sup> Moreover, both the greater share (more than 60%) and the total amounts of debt are directly linked to economically active enterprises (the Diagram *Wage arrears and the share of debt* below), which, of course, affects the wellbeing of employees (mainly low income workers), undermines the image of these enterprises and limits investment intentions.

The *second "chronic weakness"* of Ukraine's socio-economic environment is the **payment of housing and utility services** by the population, as their cost demonstrates a steady upward trend. Due to incomplete and untimely payments for consumed utility services, the debt of the population continues to increase, further aggravating the households' financial

<sup>73</sup> See: Attitudes of Ukrainians to the introduction of land sales market. – Press release of the Sociological Group Rating, 8 October 2019, [http://ratinggroup.ua/research/ukraine/otnoshenie\\_ukraincev\\_k\\_vnedreniyu\\_prodazhi\\_zemli.html](http://ratinggroup.ua/research/ukraine/otnoshenie_ukraincev_k_vnedreniyu_prodazhi_zemli.html).

<sup>74</sup> The land law – cons and pros. – Channel 24, 17 December 2019, [https://24tv.ua/zakon\\_pro\\_zemlyu\\_2020\\_zajproti\\_shhodo\\_rinku\\_zemli\\_v\\_ukrayini\\_n1234105](https://24tv.ua/zakon_pro_zemlyu_2020_zajproti_shhodo_rinku_zemli_v_ukrayini_n1234105).

<sup>75</sup> The draft law on the land market has been approved for the second reading. 5 key provisions. – The Ministry of Finance of Ukraine, 28 December 2019, <https://minfin.com.ua/ua/2019/12/28/40218438/>.

<sup>76</sup> For more detail on salaries and social standards see Section *Social Policy*.

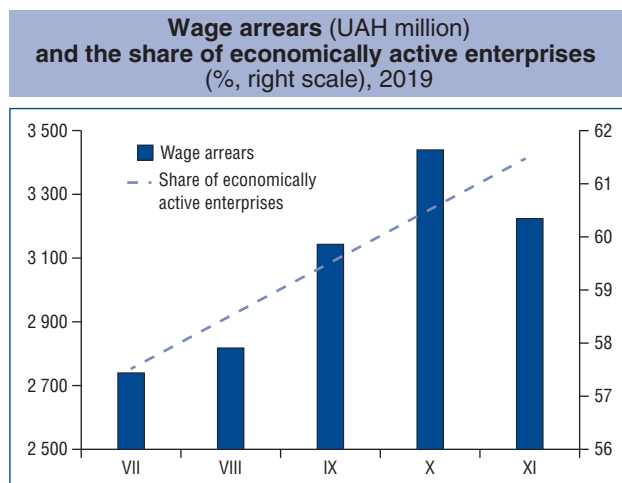
<sup>77</sup> Holdback of wages in humanitarian sectors is often justified by the fact that salaries in education and health care are "low-performing". We must stress that these are the areas where human capital is formed, and their residual financing is wrong and inadmissible.

<sup>78</sup> The Cabinet of Ministers of Ukraine Resolution No.822, 10 July 2019.

<sup>79</sup> The government suspended the resolution on the increase of teachers' salaries. – Konkurent, 6 December 2019, <https://konkurent.in.ua/publication/49733/uryad-prizupiniv-postanovu-pro-zblshshennya-zarplati-vchitelyam/>.

<sup>80</sup> For more detail, see Yurchyshyn V., Ukraine's socio-economic dimension in the period of changes of political elites. – The Razumkov Centre, 2019, [http://razumkov.org.ua/uploads/article/2019\\_soc-econ\\_vymir\\_ukr.pdf](http://razumkov.org.ua/uploads/article/2019_soc-econ_vymir_ukr.pdf).

<sup>81</sup> The slight decrease in the volume of debt in November compared to October did not significantly change the situation. First, it occurs in the conditions of the conservation of wages, and second, it is still the highest (except October) in the last three years.



difficulties. In the autumn months of 2019, this debt has been growing at accelerated pace, increasing by 1.7% in October, reaching UAH 47.3 billion – in October, Ukrainians paid UAH 5.8 billion, or 83% of the amount accrued. According to current data, UAH 7.4 billion was paid for housing and utility services in November – only 48.5% of necessary amount for this period. Therefore, the estimated accumulated debt on utility bills **at the end of the year exceeds UAH 55 billion.**

In general, a significant part of socio-economic indicators deteriorated noticeably in the second half of 2019, which has **diminished the economic capacity of households and damaged the expectations of the population and business** regarding the accelerated economic recovery of the country (for more detail on the assessment of economic capacity see Annex: *Index of Economic Capacity of Households in 2019*).

On 15 November 2019, the Cabinet of Ministers passed the decision “On the Recognition of the Resolution No.556 dated 26 June 2019 as Void”,<sup>82</sup> which abolished the maximum tariffs for heating and hot water supply. This decision should supposedly ensure a stable passage of the heating season and eliminate the threat of disconnecting cities from gas supply because of economically unreasonable tariffs (and, inter alia, to meet the IMF’s requirements for reforming the domestic housing and utilities sector).

The government believes that due to compensation mechanisms, the above decision will not lead to more expensive services and not worsen the payment

discipline. However, lessons of previous efforts to “protect” the population from expensive utility services **give no reasons to expect payment improvements.** And to date, with prevailing price administration, there are still **no rational and effective instruments** for putting the housing and utility sector into financial order, which will significantly limit the authorities’ ability to strengthen and improve the solvency of the population.

## 5. Business development and deregulation

From the first days in power, the new ruling team has been highlighting the priority of supporting and promoting entrepreneurship, also by reducing tax and regulatory pressure on businesses. In the meantime, **measures aimed at implementing relevant initiatives are frequently not in line with the declared intentions,** and therefore the results of the first months cannot be viewed as positive.

**The intentions and realities of reducing pressure on businesses.** One of the first laws, adopted by the new Verkhovna Rada, was the **law on reducing pressure on business**<sup>83</sup>. This law decriminalised creation or acquisition of business (legal) entities for the purpose of covering illegal activities or performing activities for which there is a prohibition, by extracting relevant articles from the Criminal Code of Ukraine. Of course, the decriminalisation of economic activity should be welcomed, but the “cover”, mentioned in the law, **may well be used to create a variety of “bogus” and “umbrellas”,** and therefore lead to **open raiding.**

The law on easing administration by **market surveillance authorities** and improving the state market surveillance system for product safety<sup>84</sup> also seeks to **reduce pressure on businesses.** The main purpose of the law is to reduce corruption risks in the activities of officials during inspections. The law has been passed pursuant to Ukraine’s commitments under the Association Agreement and can help to enhance the country’s economic relations with the EU and other developed economies.<sup>85</sup>

An updated law on the lease of state property<sup>86</sup> can also facilitate reduction of administrative pressure on businesses. It is expected that it will if not completely eliminate but significantly limit sources of corruption in public administration.<sup>87</sup> This is largely due to the fact

<sup>82</sup> The government has taken steps to ensure the sustainable passage of winter, [http://mpe.kmu.gov.ua/minugol/control/publish/article?art\\_id=245419287](http://mpe.kmu.gov.ua/minugol/control/publish/article?art_id=245419287).

<sup>83</sup> The Law of Ukraine “On Amending the Criminal Code of Ukraine and the Code of Criminal Procedure of Ukraine on Reduction of Pressure on Businesses”, 29 August 2019.

<sup>84</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Reducing Pressure on Businesses by Market Surveillance Authorities”, 25 September 2019.

<sup>85</sup> The Verkhovna Rada reduced pressure on businesses on the part of market surveillance authorities. – Ukrinform, 12 December 2019, <https://www.ukrinform.ua/>.

<sup>86</sup> The Law of Ukraine “On the Lease of the State and Municipal Property”, 6 September 2019.

<sup>87</sup> Marchak D. The Verkhovna Rada passed the law on leasing the state property. Why it concerns everyone? – Ekonomichna Pravda, 4 October 2019, <https://www.epravda.com.ua/publications/2019/10/4/652278/>.

that since 1 February 2020 (the day the law enters into force), information on all leases of the state and municipal property will be publicly available; all new lease contracts will be concluded only through the electronic trading system, and all commercial leases – through an online auctions.

**Countering raiding** remains an important and urgent task. The leadership of the Ministry of Justice claims that after full renovation of the **Anti-Raiding Commission**, a complete reboot of its work and changes in the state registration control system, hundreds of illegal registration acts and systematic raiding in state registers<sup>88</sup> were eliminated during 100 days of the new team's activities. It is, however, premature to draw systematic conclusions about the effectiveness and efficiency of the Commission's work.

**Countering raiding** becomes particularly important in the context of the controversial **land reform**, since land grabbing is expected to increase in case of ill-considered land market legislation.<sup>89</sup> In particular, raiding (primarily in agricultural sector) is the main focus of recently approved (but not yet signed by the President) law that prohibits double registration of land plot leases and grabbing of businesses through the misappropriation of corporate rights, etc.<sup>90</sup>

**Inconsistency of deregulation.** Meanwhile, the situation with legislative initiatives does not look too encouraging, as not all laws seem to be improving the business environment. A series of initiatives aimed at **adjusting fines and liabilities of tax authorities**, registration of tax invoices, etc. (known as bills No. 1209, No.1209-1<sup>91</sup> and No. 1210, No.1210-1<sup>92</sup>) generated a considerable criticism in business community. In particular, these bills introduce taxation on export operations and increase rent payments, exclude the provisions on personal responsibility of tax inspectors from the Tax Code, increase fines for untimely registration of tax invoices, introduce taxation of exchange differences. According to businesses, these and other planned innovations will **lead to the increased administrative and fiscal pressure**, worsen the business environment for small businesses and force them to either “hide in shadow” or close down.

Other extensive disputes were ignited by the laws on **“unshadowing” of trade transactions and on new**

**requirements to individual independent entrepreneurs** (FOPs) for the use of cash registers (transaction recorders).<sup>93</sup> The widespread criticism on the part of small businesses is driven by their dissatisfaction with provisions that oblige entrepreneurs to use cash registers, introduce electronic checks and cashback for buyers, as well as considerable fines.

At the same time, **rationalisation** of the tax system for **FOPs has to occur**, as some of them are used by large businesses to erode the tax base and thus weaken budgets. However, many entrepreneurs reasonably believe that such measures will increase the tax pressure, leading to closure of small businesses. **Such fears are justified.** As of 1 October 2019, the total number of individual entrepreneurs who discontinued their business activities reached 167 thousand. For reference, during the entire 2018, the number of FOPs who terminated their activity was 196 thousand.<sup>94</sup>

The government's response to criticism was quick. On the one hand, it proposes to ease the responsibility of all groups of FOPs for cash register-based reporting; introduces a two-year moratorium on the inspection of FOPs of all categories, excluding the “high risk” ones; ensures availability of free transaction recording software for testing from 1 January 2020, and the like. On the other hand, on 16 October 2019, the Cabinet of Ministers established the **Commission on Business Protection**.<sup>95</sup> This body is expected to analyse the state of affairs and causes of problems for businesses in the process of implementation of the state policy; it will also review activities of central and local authorities in order to create better conditions for protecting businesses from illegal influences.

It is likely that this Commission will also assess the situation with **audits and inspections**, as businesses frequently complain about their excessive number. At the end of 2019, the State Tax Service of Ukraine announced reduction in the number of audits, as tax offices have reduced the number of business audits by almost a third. Further reduction in scheduled business audits by another 20% is planned for 2020 (including observance of a two-year moratorium on FOP checks).<sup>96</sup> However, the quantity of inspections is not the main problem. **More critical is the duration of each audit, its depth and cost (losses) for businesses both directly**

<sup>88</sup> The Ministry of Justice announces the elimination of systemic raiding in the state registers. – AgroPolit.com, 10 December 2019, <https://agropolit.com/news/>.

<sup>89</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Protection of Property Right”, 6 September 2019.

<sup>90</sup> The Law of Ukraine “On Amendments to the Land Code of Ukraine and some other Legislative Acts of Ukraine to Counter Raiding”, 29 August 2019 (adopted on 5 December 2019).

<sup>91</sup> Draft Law on amendments to certain legislative acts of Ukraine on improving tax administration, removing technical and logical mismatches in the tax legislation, 30 August 2019 (adopted in principle on 3 December 2019).

<sup>92</sup> Draft Law on amendments to the Tax Code of Ukraine on improving tax administration, removing technical and logical mismatches in the tax legislation, No.1210, 30 August 2019 (passed the first reading on 3 December 2019).

<sup>93</sup> Laws of Ukraine “On Amendments to the Law of Ukraine ‘On the Use of Transaction Recorders in Trade, Catering and Service Provision’”, 6 September 2019, “On Amendments to the Tax Code of Ukraine on Unshadowing of Payments in the Sphere of Trade and Services”, 29 August 2019.

<sup>94</sup> 167 thousand persons closed their businesses from the beginning of 2019. – UNN, 5 November 2019, <https://www.unn.com.ua/uk/news/>.

<sup>95</sup> The government has set up a Commission on Business Protection ... – The Government Portal, 16 October 2019, <https://www.kmu.gov.ua/news/>.

<sup>96</sup> Vinokurov Y. The tax authority will reduce the number of business audits by 20%. – Hromadske, 10 December 2019, <https://hromadske.ua/>.



from the process (diversion of staff from work, suspension of certain functions, etc.) and from imposed fines and penalties (including due to discretionary auditor's decisions). This is what should be **the subject of quality control** of tax services.

Positive results in deregulation and formulation of clear rules for business activity are linked to **attraction of investments for of digitization**, which will lead to rapid innovative renovation and modernisation of production capacities, increased productivity, intensified introduction of smart technologies for the balanced development of the most important spheres and industries of Ukraine. Once again, **deregulation does not imply liquidation or elimination of any economic regulation – instead, it introduces a rational, transparent, understandable, predictable**, equally acceptable and applicable regulatory field for all economic agents.

Although relevant state institutions are being set up for this purpose,<sup>97</sup> the legislation, as well as new opportunities for public administration and population **are in their infancy**.<sup>98</sup> Therefore, in 2020, the tasks of interaction between the state and business, citizens and business, suppliers and customers, including at the interstate level, in the context of accelerating global digitization, will be increasingly more relevant for Ukraine as well, spanning wider areas and industries.<sup>99</sup>

In the meantime, one can talk about the **“pinpoint” adjustments** of legislation in terms of digitization in individual sectors,<sup>100</sup> which is expected to achieve two main goals – to eliminate or at least minimise the risks of corruption and to simplify and reduce the permitting procedures. This is why even the smallest but positive developments are welcome. Pursuant to the decisions on improving the construction industry and reducing corruption,<sup>101</sup> the government presented the

**Developer's E-cabinet**.<sup>102</sup> It is expected that this service will completely eradicate the impact of the human factor and minimise corruption risks in relations between the construction owners and the controlling bodies.

Also, Ukraine has introduced a **transport portal of electronic services**,<sup>103</sup> which has been created based on the new standards of public service delivery; it integrates electronic services in all areas of the transport industry into one system. One can order not only state administrative services regarding transport, but also obtain general thematic services.

It is likely that the first generalised results of digitalization and its impact on the economic and regulatory environment of Ukraine will be available at the end of 2020.

## 6. Public Finance in 2019

The country's fiscal policy in the second half of 2019 was probably **the most predictable**, which was largely due to the fact that the previous leadership of the Ministry of Finance retained their positions and ensured succession of actions of the “new” Ministry, and due to the lack of financial education of the new government in general (which limited its interference with the budget process). However, said “heredity” of fiscal institutions **failed to protect the budget process from excessive and unjustified omissions**.<sup>104</sup>

**Execution of Budget for 2019.** The annual deficit of the State Budget (according to the latest Treasury data available at the time of preparation of this document) exceeded UAH 81 billion. (or 2% of GDP),<sup>105</sup> even despite new adjustments to the current budget execution were already made in autumn.<sup>106</sup> The deficit was mainly due to the underperformance of budget revenues,<sup>107</sup> which have been increasing in autumn months.

<sup>97</sup> The Ministry of Digital Transformation of Ukraine is the central executive body responsible for the formation and implementation of state policy in the field of digitization, open data, national electronic information resources, implementation of electronic services, etc. – Issues of the Ministry of Digital Transformation. – The Government Portal, 5 November 2019, <https://www.kmu.gov.ua/npas/pitannya-ministerstva-cifrovoyi-t180919>.

<sup>98</sup> Presentation of the Ministry of Digital Transformation: “a state in a smartphone” and other innovations. – The Centre for Democracy and Rule of Law, 4 October 2019, <https://cedem.org.ua/news/prezentatsiya-mintsyfy>.

<sup>99</sup> Ukraine 2030 – a country with developed digital economy. – Ukrainian Institute for the Future, <https://strategy.uifuture.org/kraina-z-rozvinutoyu-cifrovoyu-ekonomikoyu.html>.

<sup>100</sup> See, for example, the Draft Law of Ukraine “On Amendments to Section XX ‘Transitional Provisions’ of the Tax Code of Ukraine on Promoting Digitization and Investment Attractiveness of the Enterprises of Light Industry” No.2508, 28 November 2019.

<sup>101</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts on Improving the Procedure of Provision of Administrative Services in the Construction Sector and Creating a Unified State Electronic System in the Construction Sector” No.1081, 29 August 2019.

<sup>102</sup> Developer's E-cabinet is a new service that minimises corruption risks. – LIHA:ZAKON, 2 September 2019, <https://dabi.gov.ua>.

<sup>103</sup> A transport portal of electronic services was launched in Ukraine. – The Government Portal, 27 December 2019, <https://e-transport.gov.ua>.

<sup>104</sup> In particular, the government failed submit a three-year budget declaration for 2021-2023 by the end of 2019, although such procedure has already been approved in the Budget Code – The three-year budget declaration was not submitted to the Verkhovna Rada, despite Markarova's promise. – Slovo i Dilo, 1 January 2020, <https://www.slovoidilo.ua/2020/01/01/novyna/polityka/>.

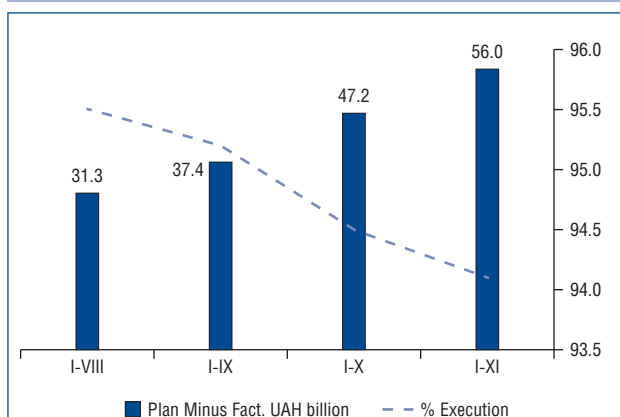
<sup>105</sup> ...and was presumably lower than expected – The deficit of the State Budget 2019 is less than planned (preliminary data). – Ekonomichna Pravda, 8 January 2020, <https://www.epravda.com.ua/news/2020/01/8/655568/>.

<sup>106</sup> In October 2019, the Verkhovna Rada approved changes to the current year's budget, reducing the revenue plan by UAH 20.4 billion and offsetting this by reducing the debt service plan by UAH 21.6 billion – Where did the \$ 3 billion hole in the State Budget come from? – Business Censor, 27 December 2019, <https://biz.censor.net.ua/resonance/>.

<sup>107</sup> ... even with the NBU's transfer of over UAH 17 billion.

For 8 months of 2019 and with planned revenue of UAH 703 billion, the State Budget received UAH 672 billion revenues, or 95.5% of the plan (the revenue deficit of UAH 31).<sup>108</sup> However, over the last 11 months, only UAH 900 billion were collected out of planned UAH 956 billion, that is, the **execution rate fell to 94.1%** (the revenue deficit increased to UAH 56 billion) (Diagram *Execution of the State Budget by Revenue*). The financial situation was partially “corrected” by **local budgets**, as their revenues exceeded the target by **UAH 5.6 billion** in 11 months, and their level of execution reached 102.2%.

**Execution of the State Budget by Revenue,**  
August–November 2019



This “above the target” performance of local budgets confirms the assumption that, given the increased budgetary constraints, during 2010 **the government’s “systemic tax reform” will seek to redistribute revenue streams towards the central (state) budget**, which will become a feature of “financial decentralization”, cutting current sources for local budgets. This will definitely **affect the autonomy** of the regions and their ability to properly exercise their powers and obligations.

**At the end of 2019**, several negative “innovations” have emerged in the fiscal sphere, **calling into question the rationality of the budget process**. *First*, given the indicated low level of meeting the revenue targets, the Prime Minister instructed the Minister of Finance to suspend some expenditures. These

so-called “unprotected” expenditures – on development, construction and the like<sup>109</sup> – are mostly for the regions, and this step significantly weakens their financial capacity and undermines the ability to shape and improve regional infrastructure.

*Second*, in order to “bypass” revenue losses, the Ministry of Finance in mid-December prepared a draft order for additional domestic borrowings of up to UAH 10 billion **in lieu of financing of the State Budget next year**.<sup>110</sup> At the same time, on 26 December, the Cabinet of Ministers obliged Naftogaz to urgently pay UAH 8.5 billion of dividends on the company’s profit for the Q1-Q3 2019, although these funds should be channelled to finance the State Budget for 2020.<sup>111</sup> Such decisions **are in violation of the budget laws** of the current and next years, and, in fact, **legitimise the “manual management”** of the budget process.

*Third*, the government considered the possibility of **suspending VAT reimbursement** to some large industrial enterprises<sup>112</sup> as well as exporters of agricultural products.<sup>113</sup> It is worth noting that in recent years the state has more or less properly refunded VAT to large enterprises. The abrupt suspension of VAT reimbursement can have an extremely negative impact on the industry in general (total losses of enterprises are estimated at UAH 150 billion). Moreover, given that there are many “cities-factories” in Ukraine, disruption in financing of industrial enterprises may trigger crisis in industrial regions. Similarly, non-refunding of VAT to corn traders also limits farmers in making money on grain sales, which may also disrupt the spring sowing season and, in turn, lead to the loss of a new crop.

**Administrative transformations.** One may argue that **inconsistent government decisions will continue**, as the government is still trying to properly position itself within the functional structure of the public finance sector.

At the end of the year, the State Fiscal Service was finally divided into Tax and Customs Services. 8 December 2019 became the “birthday” of a new institution responsible for the state customs policy. **The newly created State Customs Service** was delegated the powers of former State Fiscal Service for implementing the state customs policy.<sup>114</sup> Its main task is to exercise control and counter violations in the application of the

<sup>108</sup> Execution of the State Budget of Ukraine by Revenue. – The State Treasury of Ukraine, <https://www.treasury.gov.ua/ua/file-storage/2019-2?v=5c2f2e9c00709>.

<sup>109</sup> Honcharuk instructed Markarova to block some expenditures. – Ekonomichna Pravda, 19 December 2019, <https://www.epravda.com.ua/news/2019/12/19/655054/>.

This is the second time over the last six months when the Ministry of Finance suspended some expenditures. In summer, the Cabinet “delayed” UAH 7.6 from the Regional Development Fund and UAH 2.5 billion of subventions for socio-economic development (at the request of the head of the President’s Office!).

<sup>110</sup> The Ministry of Finance wants to borrow extra planned UAH 10 billion. – Financy ta Ekonomika, 17 December 2019, <http://finbalance.com.ua/news/>.

<sup>111</sup> Vinnychuk Y. Where did the \$ 3 billion hole in the State Budget come from?, <https://www.ukrrudprom.com/digest/>.

<sup>112</sup> The state may suspend VAT reimbursement to large industrial enterprises. – Censor.Net, 20 December 2019, <https://censor.net.ua/ua/news/>.

<sup>113</sup> Corn traders announce problems with VAT refunds: no working capital to buy grain from farmers, <https://censor.net.ua/ua/news/3167193/>.

<sup>114</sup> New customs has officially started to work. – The Government Portal, 9 December 2019, <https://www.kmu.gov.ua/news/nova-mitnitsya-oficijno-rozpochala-robotu>.

state customs legislation. It was also planned to introduce the fully functioning “one-stop shop” at customs, which could truly facilitate the foreign economic activity of economic agents and reduce the corruption losses for businesses.<sup>115</sup> However, the issue of interaction between two fiscal institutions probably needs careful attention, since **poor understanding and lack of proper interaction** in the past created loopholes for tax abuses and corruption.

Administrative changes also occurred in the audit service. The Cabinet of Ministers has set up the **Office of Financial Control**,<sup>116</sup> which has emerged from the State Audit Service of Ukraine.<sup>117</sup> The new institution is expected to protect citizens and bona fide businesses from financial fraud, thus enhancing the predictability and reliability of private and public finances. However, there is no evidence that multiple reformatting of the state control bodies **leads to improved** administration and governance.

Essential for Ukraine’s integration into the global trading space was the adoption of the law on the **common transit mode** through the customs territory of Ukraine and the introduction of a national electronic transit system (one of “customs visa-free” laws),<sup>118</sup> which will grant Ukraine an access to a real-time sharing of customs information with 35 countries of the European region. This, on the one hand, will increase the efficiency of the risk analysis system. On the other, it will allow the application of European transit rules, which provide for the use of a single customs declaration and a single guarantee for the movement of goods from the country of origin to the country of destination without delay, across borders of all parties to the Convention on a Common Transit Procedure.

Currently the electronic system is in test mode for about a year; after testing, Ukraine will be able to

finally join the transit system with the European Union and some other countries using the *New Computerised Transit System (NCTS)*.<sup>119</sup>

**Tax intentions and cost management.** The intended transformations (customs policy innovations, “customs visa-free regime” and the like) are potentially correct steps, but there are questions as to whether they will be implemented. It is more likely that in 2020 the **main efforts of fiscal authorities** will focus on **expanding the possibilities for replenishing the state budget**, despite the government’s promises to reduce both the tax pressure and the share of GDP redistribution through the budget system.

Initiated in 2019, the relevant legislative activity has often been criticised by the business community for increasing fiscal pressure instead of promises to reduce it. Specifically, on 3 December 2019, the Verkhovna Rada passed the bill **on strengthening control over tax payment**<sup>120</sup> in the first reading. This document was designed to introduce international tax control standards for all participants in international trade and to implement the standards set out in the BEPS Plan.

However, according to business community, some of its norms **disrupt the balance of interests of the state and business**, and thus intensify the confrontation between the controlling bodies and businesses.<sup>121</sup> First of all, it concerns the **increased discretion** (legally established possibility for an official to “resolve issues” at his/her own discretion), the expanded rights of controlling bodies and reduced ability of economic agents to protect their interests in conflicts with tax authorities.<sup>122</sup> It is highly likely that discussions around the bill **will continue** in 2020.

**Public procurement** plays central role in cost management. Despite notable positive results achieved

<sup>115</sup> ... it has not been fully implemented yet.

<sup>116</sup> See the meeting of the Cabinet of Ministers of Ukraine on 11 December 2019. – The Government Portal, <https://www.kmu.gov.ua/meetings/zasidannya-kabinetu-ministriv-ukrayini-11-12-2019>.

<sup>117</sup> It should be reminded that the State Audit Service was established in 2016 instead of the State Financial Inspection, which, in turn, replaced the Central Control and Revision Department.

<sup>118</sup> The Law of Ukraine “On the Common Transit Mode and Introduction of the National Electronic Transit System”, 29 August 2019. It is significant that this bill was drafted pursuant to the Association Agreement between Ukraine and the European Union. The document introduces the provisions of the Common Transit Convention in Ukrainian law – Zelenskyy has signed a law on “customs visa-free regime” with the EU. – The Ministry of Finance of Ukraine, 24 September 2019, <https://minfin.com.ua/ua/2019/09/24/39158682/>.

<sup>119</sup> European countries have supported Ukrainian efforts by providing technological assistance in installing and testing the necessary software – Lithuania has provided the Ukrainian customs with software to test the new transit system. – Ekonomichna Pravda, 13 December 2019, <https://www.epravda.com.ua/news/2019/12/13/654872/>.

<sup>120</sup> Draft Law on amendments to the Tax Code of Ukraine on improving tax administration, removing technical and logical mismatches in the tax legislation, 30 August 2019.

<sup>121</sup> Businesses call to revise or revoke the bill No. 1210 on tax administration. – The Ukrainian Association of Businessmen and Entrepreneurs, 12 September 2019, <https://uspp.ua/news/actual/2018/>.

<sup>122</sup> The peculiarity of new provisions of the bill is that it essentially introduces the “culpability principle”: if the economic agent does not agree to imposed penalties, then he will have to prove his innocence. At the same time, the bill removes from the Tax Code the rule regarding the personal responsibility of tax inspectors for unreasonable taxes and fees. Of course, such “disproportions” are discriminatory against business. See, in particular: The President is asked by Borzenko T. to protect businesses from the “tax terror” of bills No.1210 and No.1210-1. – Ukrayinski Novyny, 15 November 2019, <https://ukranews.com.ua/news/666214-prezydenta-prosyat-zahystyty-biznes-vid-podatkovogo-teroru-zakonoproektiv-1210-i-1210-1>.



in the area in recent years, it remains vulnerable to corruption. A new law on public procurement<sup>123</sup> is aimed at eliminating some of the gaps. It, inter alia, establishes the **personal responsibility of officials** for violation of public procurement laws, limits the possibility for disruption of procurement procedures by unfair bidders, and introduces mechanisms for automatic rejection of proposals with “abnormally low prices”.

**Internal debt.** As the debt problem is viewed as one of the most painful in the public finance sector, the government, when considering amendments to the Budget Code, has set up the **Debt Management Agency**,<sup>124</sup> which will be coordinated by the Cabinet of Ministers through the Minister of Finance and implement government borrowing and debt management policies.

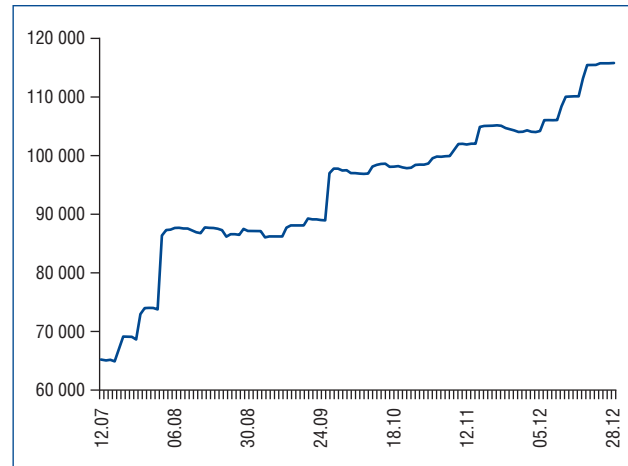
However, it is **still unclear whether the agency will actually have any real capacity** to manage Ukraine’s debt position. While nothing has changed in domestic government bonds (OVDP), **the OVDP pyramid continues to grow**, primarily owing to the active purchase of bonds by non-residents (although the Debt Management Agency should probably recommend an active decrease in the yield on OVDP, given high demand for these bonds)

Following the presidential and parliamentary elections, some expected that domestic debt policy in the second half of 2019 would undergo rational changes (reduced access of non-residents, profitability or placement terms).<sup>125</sup> However, with the completion of the parliamentary elections and the formation of a new government, it became clear that **needs to finance the deficit would only grow**, and the NBU would maintain “neutrality” in the face of inflows of speculative capital (keeping high discount rate and pushing for further strengthening of Ukrainian hryvnia to fuel speculative intentions).

As a result, since mid-July, the active entry of non-residents into the OVDP market resumed, as the decline in yield was very insignificant. This contributed to **further accumulation of debt pressure** on current and future public finances (Diagram *Bonds owned by non-residents*). Only after the NBU Council found the National Bank Board’s activities unsatisfactory (see *Monetary Restrictions*), there was a significant decrease in the discount rate along with bonds profitability (which, however, left Ukraine’s OVDPs highly attractive). As of the end of 2019, the volume of government bonds owned by non-residents reached almost UAH 116 billion – only

half of OVDPs owned by the NBU (UAH 337 billion). The total cost of issued government bonds is UAH 823 billion.

**Bonds owned by non-residents,  
UAH million, 2019**



## 7. Monetary Policy

The National Bank’s **monetary policy** during 2019 was neither **sufficiently transparent not clear**, which generated plenty of criticism from experts and the public. Although the NBU pursued gradual liberalisation of foreign exchange markets and discontinued its voluntary decisions on the solvency of individual banks, it still continued to undertake rigid measures under the declared “inflation targeting” and maintained high discount rates with limited supply of money. The decisions regarding the exchange rate dynamics of hryvnia were questionable, which accelerated the conservation of current weak economic dynamics.

**Inconsistencies of the NBU’s foreign exchange policy.** In 2019, the NBU has taken a number of steps aimed at further **liberalisation of foreign currency flows** and settlements with non-residents.<sup>126</sup> In particular, these included:<sup>127</sup>

- removal of a number of administrative restrictions for businesses regarding the financing of their own foreign offices;
- simplification of reinvestment of foreign investors’ income from transactions with Ukrainian securities;
- expansion of the **list of transactions in foreign currency in Ukraine**, primarily transactions between the Cabinet of Ministers and financial institutions within the framework of international credit, grant and loan agreements;

<sup>123</sup> The Law of Ukraine “On Amendments to the Law of Ukraine ‘On Public Procurement’ and Some other Legislative Acts of Ukraine on Improvement of Public Procurement”, 29 August 2019.

<sup>124</sup> The Law of Ukraine “On Amendments to the Budget Code of Ukraine”, 16 September 2019.

<sup>125</sup> For more detail, see Yurchyshyn V., Ukraine’s socio-economic dimension in the period of changes of political elites.

<sup>126</sup> As a continuation and clarification of measures related to the implementation of the Law “On Currency and Currency Transactions”, 21 June 2018.

<sup>127</sup> The National Bank cancelled some foreign currency restrictions for businesses. – LIHA:ZAKON, 4 July 2019, [https://biz.ligazakon.net/ua/news/187407\\_natsbank-skasuvav-chastinu-valyutnykh-obmezhen-dlya-bznesu](https://biz.ligazakon.net/ua/news/187407_natsbank-skasuvav-chastinu-valyutnykh-obmezhen-dlya-bznesu).

- abolition of restrictions on dividend repatriation (previous limit of €12 million per month);
- cancellation of a monthly limit of € 5 million for repatriation of funds from the sale of securities, corporate rights, as well as funds obtained as a result of decrease in the authorized capital of legal entities and withdrawal from companies by foreign investors.<sup>128</sup>

It should be noted that lifting restrictions for domestic businesses on **financing activities abroad**<sup>129</sup> is, of course, a step forward.<sup>130</sup> Removing this type of restriction is also very important for investment flows (from foreign businesses to Ukraine and from Ukrainian business abroad) in the context of further expansion of trade and investment. According to the NBU estimates, these and similar innovations allow residents and non-residents to manage their funds more flexibly, which should facilitate the flow of investment into Ukraine.

However, these “reliefs” also present significant risks associated with shadow capital outflows or increased offshoring, especially if the macroeconomic situation in Ukraine deteriorates. Therefore, the NBU will have to **strengthen control** over companies expanding foreign exchange flows abroad and areas of financing (including to prevent financing of aggressors and countries subject to FATF restrictions). As time goes by, it will become clear how these monetary liberalisation measures meet the needs of national financial security.

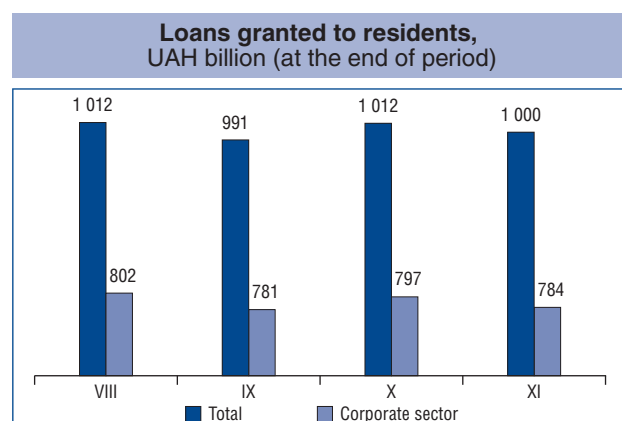
In the meantime, precisely because of these liberalisation steps, **the exchange rate situation in the country itself provokes increasing risks**. The rapid acquisition of Ukrainian government bonds (OVDs) by non-residents (*for more information, see the subsection on internal debt above*), has led to the inflow of foreign currency and thus significantly strengthened the hryvnia.<sup>131</sup> Instead of intensifying its currency buyback along with a significant reduction in base rates (with ensuing decrease in appetites of portfolio investors), which would allow the hryvnia to fluctuate around the already balanced exchange rate (UAH 26-27/\$1), the NBU continued to maintain the rate much above the reasonable level,<sup>132</sup> further fuelling speculative appetites.<sup>133</sup>

As a large proportion of OVDs was short-term (redemption in less than a year), Ukraine faced an **increased risk of currency shock with the rapid**

**withdrawal of foreign currency resources by non-residents** with their exit from the government bonds market. Since neither the NBU nor the Ministry of Finance were concerned with such risks, it generated clear concern in the expert environment.

**Restrictive monetary policy.** The continued critical money restriction is another **negative result** of the government’s monetary policy.

In the vast majority of successful countries, central banks increasingly pursue monetary expansion (or increase money supply), lower interest rates where possible, or apply monetary easing through repurchase of securities, which is seen as an important prerequisite for supporting economic growth and development. Ukraine, however, applies different approach. During 2019, the volume of loans granted by the banking system to residents declined not only in real but also in nominal terms. If in spring the volume of loans to residents was UAH 1.04-1.05 trillion (UAH 820-850 billion to the corporate sector), then in autumn it dropped to UAH 0.99-1.01 trillion (UAH 780-800 billion to the corporate sector) (see Diagram *Loans granted to residents*).



The situation with the **economic agents’ access to financial resources is exacerbated** by the fact that the cost of loans in Ukraine remains excessively high, especially for the households.

During 2019, the NBU’s refinancing rate fluctuated mainly in the range of 17-18% and reduced to 15.5% only in October-November, even though the “targeted” inflation rate for 2019 was announced at 6-7%.<sup>134</sup> Interest rates for new loans in the national currency for residents also ranged within 17-18% (29-31% for households),

<sup>128</sup> The National Bank cancelled restrictions on the capital extraction for foreign nationals. – UNIAN, 9 September 2019, <https://www.unian.ua/economics/finance/10679079-nacbank-skasuvav-obmezhennya-na-vivedennya-kapitalu-dlya-inozemciv.html>.

<sup>129</sup> Resolution of the NBU Board No.86, 27 June 2019.

<sup>130</sup> Previously, the transfer of funds to foreign branches was restricted by a common limit for legal entities to invest abroad at €2 million per year, which is extremely insufficient for the “normal” activity of even a medium-sized company. By this decision, the transfer of funds directly to the accounts of foreign offices and branches is no longer limited in size.

<sup>131</sup> It should be emphasized that the strengthening of Ukrainian hryvnia was not caused by acceleration of economic dynamics or increased competitiveness of Ukraine, or any other macroeconomic factor.

<sup>132</sup> ...with targeted inflation rate (5-7%) plus 3-5% – in other words, the refinancing rate could have been reduced to safe 10-12% already in summer.

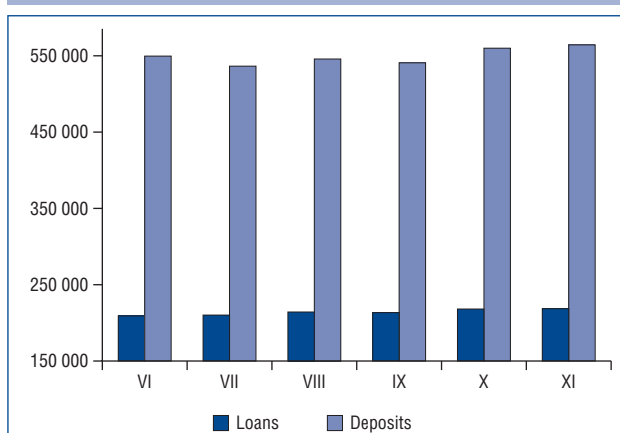
<sup>133</sup> Significant strengthening of the national currency without proper improvement of the economic environment and production potential, without better competitiveness and access to new export markets, and only due to the inflow of speculative capital into high-yield risk-free government securities cannot be welcome, since it temporarily veils problems and provokes further internal and external imbalances.

<sup>134</sup> The most recent reduction in discount rate to 13.5% occurred on 13 December 2019, and only after the NBU Council’s decision to declare the National Bank’s interest rate policy unsatisfactory. At the same time, according to the November results, consumer inflation only slightly exceeded 5% in annual terms. That is, the gap between the change in the CPI and the base rate of the NBU remained significant.

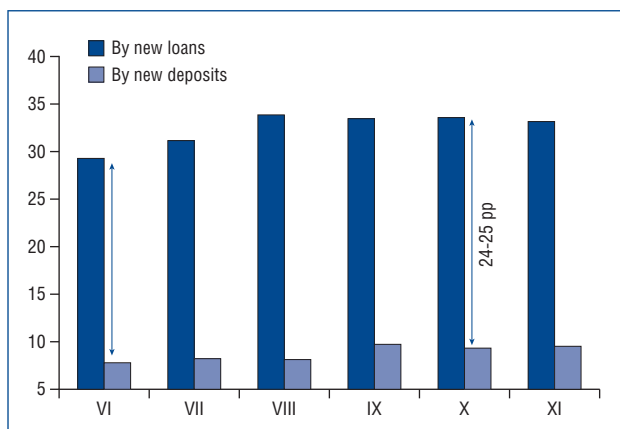
while new deposit rates stayed at 11-12% (7-9% for households).

Although the population continued to increase savings, banks were still unwilling to scale up loans for households (Diagram *Household deposits and loans*). Moreover, this did not change the negative interest rate trends – in recent months, the difference between loan and deposit rates for households has even increased (Diagram *Interest rates...*), which is the evidence of further decline of mutual expectations of banks' creditworthiness and households' solvency. It seems paradoxical, but the extremely limited supply of loans by commercial banks has by no means affected the banks' financial performance. At the end of November, bank

**Household deposits and loans,  
UAH million**



**Interest rates for new household  
loans and deposits, %**



profit reached a record high UAH 59 billion, which was, of course, obtained mainly from the high-yielding NBU deposit certificates and OVDs. In such circumstances, with a significant decline in industry, weak growth in the agricultural sector and transport, one can argue that

the NBU and the banking system acted against the needs of the real sector and did not work in favour of sustainable growth of the Ukrainian economy.

**Weaknesses of the NBU policy.** Withdrawal of the National Bank of Ukraine from the economic policy has caused **serious criticism**, because the bank's restrictive policy impeded the restructuring of the real sector.<sup>135</sup> As a result, on 5 December 2019, the NBU Council announced the **activity of the NBU Board** in the formulation and implementation of the currency exchange policy in 2019 **inefficient, failing to meet the challenges of Ukraine's modern development**.<sup>136</sup>

The NBU Council's recommendations for further implementation include the following:<sup>137</sup>

- to apply all monetary policy tools and methods to soften the NBU's monetary policy;
- to update the strategy for managing gold and foreign exchange reserves and the schedule of replenishing gold and foreign currency reserves for the medium term;
- to develop scenarios of situations on the foreign exchange market as a result of possible exit of non-resident holders of government bonds (OVDs) and the corresponding plan of actions for the NBU; together with the Ministry of Finance, to develop a regulation on smoothing the effect of sale/purchase of foreign currency by non-residents on the inter-bank market;
- to assess the impact of the situation on increasing demand for OVDs among non-residents, as well as the impact of changes in the exchange rate on consumer inflation in Ukraine.

So far, there have been some serious discussions around the NBU activities. However, the bank's **leadership maintains a "defensive" position**, rejecting any criticism.

Speaking of the situation in the financial sector, one should recall the long-awaited law aimed at **improving the regulation of financial services markets and protecting the rights of consumers of financial services** – the so-called "split" law<sup>138</sup> – that was finally adopted in September 2019. It provides for the liquidation of the National Commission for State Regulation of Financial Services Markets with distribution of its regulatory powers between the NBU and the National Securities and Stock Market Commission. The initiators of the law believe that its adoption will strengthen the consumers' confidence in the financial sector and create mechanisms to protect their rights and interests.<sup>139</sup>

<sup>135</sup> Dzhus M. Understanding without reciprocity. What the Memorandum between the Cabinet and the National Bank is about? – Business Censor, 10 December 2019, [https://biz.censor.net.ua/columns/3164298/porozumnnya\\_bez\\_vzamnost\\_pro\\_scho\\_pdpisali\\_memorandum\\_kabmn\\_ta\\_natsbank](https://biz.censor.net.ua/columns/3164298/porozumnnya_bez_vzamnost_pro_scho_pdpisali_memorandum_kabmn_ta_natsbank).

<sup>136</sup> The NBU Council declared the currency exchange policy of the National Bank Board ineffective. – Ukrinform, 6 December 2019, <https://www.ukrinform.ua/rubric-economy/2832353-rada-nbu-viznala-neefektivnou-valutnokursovu-politiku-pravlinna-nacbanku.html>.

<sup>137</sup> ...also largely supported by the expert community.

<sup>138</sup> The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Protection of Consumers of Financial Services", 6 September 2019.

<sup>139</sup> The Verkhovna Rada approved the law on protecting consumers of financial services, <https://www.ukrinform.ua/rubric-economy/2784196-rada-uhvalila-zmini-do-zakoniv-pro-zahist-spozivaciv-finsposlug.html>.

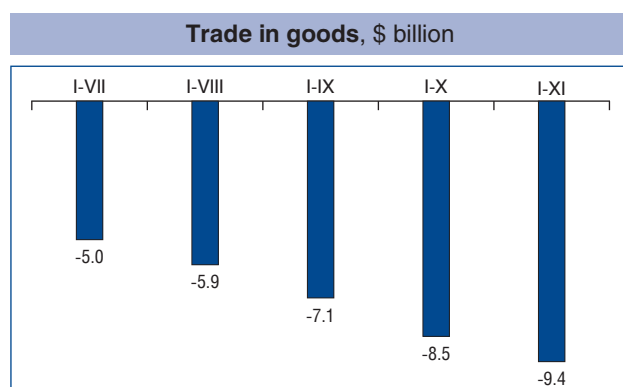


## 8. Foreign Trade Sector

Foreign trade results for Ukraine also remain **controversial**. *On the one hand*, Ukraine has substantially **changed and developed the geography of foreign trade**, boosting trade relations with the EU and Asian countries. *On the other hand*, amidst the growing **trade deficit**, the country's foreign trade structure is dominated by items with low added value. The inflow of foreign direct investment (FDI) in 2019 remained extremely low at \$2.2-2.4 billion.

**Trade balance.** The dynamics of Ukraine's foreign trade in 2019 largely followed the trends of the previous years. Although the country is steadily increasing its exports, its foreign trade balance remains considerably negative. Moreover, the dynamics of the foreign trade volume growth is diminishing (which is partly a reflection of the slowdown in global trade).

Over 11 months of 2019, exports of goods amounted to \$ 46 billion (a 6.3% increase over the same period of 2018), and imports – to \$55 billion (a 6.2% increase). Although exports growth rates slightly exceeded that of imports, one should note that given the much higher nominal import rates, the trade deficit in goods over the period has increased (more than \$9 billion, a year earlier – less than \$9 billion) (Diagram *Trade in Goods*).



An **upward trend in the deficit** persisted until the end of 2019.<sup>140</sup> As estimated, exports and imports of goods and services in 2019 showed roughly the same growth (8-9% relative to 2018), and the deficit of trade in both goods and services almost equalled the previous year's deficit - 8.5% of GDP (8.6% in 2018).<sup>141</sup>

Two factors are worthy of attention as regards to the **geographical structure of commodity trading**. *First*, the foreign trade turnover of Ukraine with the EU countries continues to grow, as after 10 months of 2019, the EU countries accounted for 41.9% of total Ukrainian exports (\$ 17.4 billion) and 41.2% of imports

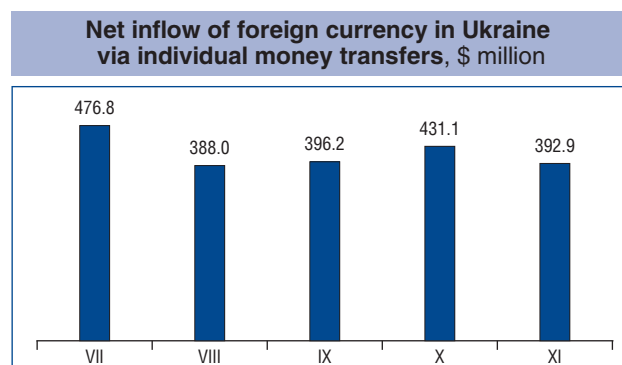
(\$ 20.7 billion). *Second*, **China continues to improve its position as Ukraine's largest foreign trade partner** (among countries),<sup>142</sup> displacing Russia, which has been the number one partner for many years.

Today, there are reasons to believe that, in the absence of global economic turmoil, Ukraine will accelerate its turnover, first and foremost, with the EU countries. This is largely due to the adoption of the above-mentioned law on the **common transit mode** through the customs territory of Ukraine ("customs visa-free regime"). Another contributing factor is the launch in December 2019 of the new institutions responsible for Ukraine's customs policy – the new State Customs Service (see *Public Finance* section).

**Current account.** Despite Ukraine's significant foreign trade (commodity) deficit, its **current account of the balance of payments**, although remains **negative**, but is now markedly **smaller** (Table *Foreign trade balance of Ukraine*).

*First*, there is positive dynamics of **trade in services**, as over the first nine months of 2019, the positive balance exceeded \$ 4.2 billion, even despite some losses were caused by disruptions in the transit of energy resources from Russia to the EU countries. It is also encouraged by the continued positive dynamics of exports of air transport and, above all, the **exports of IT services**,<sup>143</sup> which, as estimated, will reach \$ 4.5 billion in 2019.

*Second*, the level of **cash inflows (transfers)** received by citizens from abroad mostly from Ukrainian migrant workers (Diagram *Net inflow...*) still remains high. While currency liberalisation may further accelerate the withdrawal of foreign currency from the country by individuals, for now **"clean" annual positive balance** of the corresponding foreign exchange earnings in 2019 was estimated **at about \$ 5 billion** (the data for 11 months is just under \$ 4.5 billion).



At the same time, part of the current account deficit is financed by foreign direct investment, but so far their level is extremely low. Overall, in January - October

<sup>140</sup> Imports grew at a higher rate, given the high propensity of Ukrainians for consumer imports, which was particularly "fuelled" by increasing costs in the New Year period.

<sup>141</sup> Although nominal trade volumes (both exports and imports) in 2019 increased compared to 2018, the significant strengthening of the hryvnia, especially in the second half of the year, made the relative foreign trade indicators (as a share of GDP) in 2019 slightly smaller than they were in 2018.

<sup>142</sup> For the first time, China as Ukraine's foreign trade partner outpaced Russia in Q1 of 2019. Ukraine's exports to China account for 7.0% of total Ukrainian exports (6.6% to Russia); imports from China make up 15.1% of total imports (11.8% from Russia).

<sup>143</sup> An 11.5% increase for 9 months 2019 (compared to the corresponding period of 2018); the share in the total structure of exports of services is more than 19%.

2019, the net inflow of financial account was \$5.5 billion, and the net inflow of FDI was estimated at \$2.2 billion. The **expectations for increasing FDI** owing to improved investment image of Ukraine as a result of the rapid formation of the new government and its reform efforts are still **not met**.<sup>144</sup>

**Areas of foreign economic stimulation.** In the context of increasing global competition, Ukraine needs to develop and implement effective **tools for foreign economic stimulation**.

The expansion of the **Export Promotion Office**<sup>145</sup> activities is one of key drivers for supporting exports. The EPO develops and offers trainings and consultations, supports trade missions and exhibitions, provides assistance in partner search and marketing, and much more. It is alleged that the Office's collaboration has generally improved the interaction between the government and businesses, which is essential in the settings of increasing international competition.

At the same time, the difficulties of Ukrainian manufacturers entering foreign markets increase even further due to the fact that much needed institutions (including formally established ones) are still unable to properly start their operations. Two years ago, an Export Credit Agency (ECA) was formed in Ukraine. It was expected to boost the capacity of domestic businesses to enter international markets.<sup>146</sup> However, the agency is still not functioning properly,<sup>147</sup> which is largely due to the incompleteness and inconsistency of administrative and internal procedures prescribed by the legislation in the development and approval of acts regarding ECA. In addition, the actual lack of financial resources does not stimulate promotion of national businesses.

Nonetheless, the agency still has some good examples of established cooperation with industry associations and unions that deserve appreciation. For example, the Ukrainian Agricultural Export Association and the Export Credit Agency signed a **memorandum of cooperation**. This step should strengthen the joint support of agricultural exporters and lay the foundations for improving the insurance system of the agricultural sector, which is represented on the world markets.<sup>148</sup> Unfortunately, today this is something that one can only hope for.

**Foreign debt.** Ukraine's entry into **foreign borrowing markets in 2019 was complicated** – first by the electoral races and then by the contradicting intents and actions

of the new government – which probably **played a positive role** in the country's external debt structure. In particular, the government is able to keep direct external debt of the state (bodies of state administration) and debt of the NBU (monetary authorities) in a relatively stable condition (Table *External Debt of Ukraine*).

However, in 2019, the significance of domestic debt on government bonds (OVDP) has increased drastically, as some parts and some volumes of this debt have “transformed” into external public debt. This concerns OVDPs, owned by non-residents who have substantially increased their portfolios (for more detail see the section *Public Finance*) – at the end of 2019 their volume exceeded UAH 115 billion (or \$4.5 billion). Therefore, while official external government debt and the NBU debt have increased only slightly, the “general” external debt to non-residents (external government debt + NBU debt + US dollar equivalent of OVDP owned by non-residents) in Q3-Q4 of 2019 reached maximum figures (Table *External Debt of Ukraine*).

External debt of Ukraine, 2019. \$ billion (unless stated otherwise)				
	Q1	Q2	Q3	Q4 (exp)
State + NBU	48.9	50.2	50.2	49.5
OVDP owned by non-residents, UAH billion	20.3	56.2	97.8	115.8
OWB owned by non-residents (\$ bln)	0.8	2.1	3.9	4.5
“General” external debt to non-residents (State+NBU+OVDP)	<b>49.6</b>	<b>52.3</b>	<b>54.2</b>	<b>54.4</b>

A minor increase in the national debt had another positive outcome. Considering the strengthening of hryvnia, the US dollar equivalent of nominal GDP in the second half of 2019 has significantly increased, causing significant reduction in another key macroeconomic indicator – **the debt-to-GDP ratio**,<sup>149</sup> which increases the stability of the country's macroeconomic environment.

**International reserves.** Maintaining high foreign trade deficits in the absence of financing from international financial institutions was compensated by the inflow of private capital, significant individual transfers from abroad and the entry of non-residents into the OVDP market. As a result, Ukraine **have not lost its foreign**

<sup>144</sup> Only in 2020, after stabilisation of new government structure and formation of new institutions, foreign investors may consider investing in Ukraine more boldly. However, the direct inflow of FDI will be extremely cautious and largely depend on the real protection of property rights, as well as the transparency and effectiveness of the privatisation processes, which remained motionless until the end of 2019.

<sup>145</sup> Report of the Export Promotion Office of Ukraine for 2019, <https://epo.org.ua/zvit-ofisu-z-prosuvannya-eksportu-ukrayiny-za-2019-rik/>.

<sup>146</sup> ECA is a government-authorised agency tasked to support and stimulate exports of Ukrainian goods, as well as to protect Ukrainian exporters from the risk of non-payment and financial losses. For more information, see Export Credit Agency (ECA), <http://www.me.gov.ua/Documents/>.

<sup>147</sup> For more detail see: Deputy Minister explained why the Ukraine's Export Credit Agency was not working. – NV, 25 December 2019, <https://nv.ua/ukr/biz/economics/>.

<sup>148</sup> The Ukrainian Agricultural Export Association and the Export Credit Agency have signed a Memorandum of Cooperation. – Interfax, 6 December 2019, <https://ua.interfax.com.ua/news/press-release/628949.html>.

<sup>149</sup> Specifically, external government debt + NBU external debt at the end of 2018 amounted to just under 37% of GDP, and by the end of 2019 – 32% of estimated GDP.

**exchange reserves**; instead, it substantially increased them, which created a good basis for securing external payments during 2019-2020.

If in early 2019, gross international reserves amounted to \$ 20.8 billion and slightly decreased in May to \$19.4 billion after the country made necessary payments, then by the end of June the reserves have been replenished to \$ 20.6 billion. Subsequently, although part of the debt payments were made from reserves, they have been increasing consistently, reaching \$ 25.3 billion at the end of 2019 (Table *Foreign exchange reserves*).<sup>150</sup>

Foreign exchange reserves		
	2018	2019
Gross reserves, \$ billion	20.8	25.3
% of GDP	15.9	16.1
Reserves – Monetary Base Ratio	132.6	132.7
Reserves in months of imports of goods and services of the next period	3.2	3.7

These relatively high international reserves also helped to improve the level of import coverage by reserves, which was consistently maintained above the “recommended” 3 months. Therefore, despite external debt pressure, the above reserves indicators suggest that in 2020 **Ukraine is likely to avoid default and prevent a new economic collapse or a new wave of devastating crisis.** (See more in the *Forecasts* Section)

## 9. Infrastructure Development

**Road operation and road safety.** Some steps forward in this sector included the adoption of several laws related to sources of road financing<sup>151</sup> and road safety management,<sup>152</sup> which in particular set new levels

of fines for overloaded trucks. Half of the proceeds from overloading fines will go to the State Road Fund on road repair and reconstruction. In 2019, a pilot project *Weight in Motion* was introduced – a smart system of complex data collection on vehicles moving on highways. Currently, there are 5 Weight in Motion sites in the country.<sup>153</sup> In order to improve the quality of local roads (over 25 thousand km long), the government approved the Strategy for the Development of Roads of Territorial Importance<sup>154</sup> in July 2019.

For 11 months of 2019, almost UAH 40.6 billion (out of UAH 53.4 billion)<sup>155</sup> was used from the State Road Fund on repairing state and local. According to preliminary data for 2019, (1) 371.7 km of roads, bridges and overpasses were repaired; (2) 2.26 thousand km of roads were under repair.<sup>156</sup>

Digitalisation of transport services was one of more important steps in 2019. On 12 July 2019, the Ministry of Infrastructure of Ukraine enacted the order that introduced a single consignment note (E-TTN).<sup>157</sup> The plans for the near term (in 2020) include the implementation of this project for international transport in the e-CMR format. In the field of international road haulage, the adoption of the Law on Multimodal Transport<sup>158</sup> will facilitate the country's accession to the TRACECA<sup>159</sup> Agreement on Multimodal Transport Development and enhance Ukraine's transit potential.

**Cooperation with international partners continued** in 2019:

- In early 2019, Ukraine joined the *Connecting Europe Facility (CEF)*,<sup>160</sup> which enables the country to participate in joint projects with EU Member States on cross-border infrastructure. CEF budget in the transport sector is around € 23.5 billion. This tool also allows for investment in digital infrastructure, its security and environmental friendliness.

<sup>150</sup> Particularly significant was the increase in reserves in December – an increase of \$3.4 billion, with the active purchase of currency by the National Bank on the interbank market. Overall, international reserves in 2019 increased by \$4.5 billion. – Ukrinform, 8 January 2020, Ukraine's international reserves reached a seven-year high at \$25.3 billion, <https://www.ukrinform.ua/rubric-economy/>.

<sup>151</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Specific Issues of Dimensional and Weight Control”, 11 September 2019.

<sup>152</sup> The Law of Ukraine “On Amendments to the Budget Code of Ukraine on Sources for the State Road Fund”, 12 September 2019, .

<sup>153</sup> The project is implemented by the State Road Agency of Ukraine with IBRD support.

<sup>154</sup> See: The government approved the strategy for the development of roads of territorial significance, – Volodymyr Omelyan. – The Ministry of Infrastructure of Ukraine, 5 July 2019, <https://mtu.gov.ua/news/31003.html>.

<sup>155</sup> Source: Report on the use of funds from the State Road Fund. – The State Treasury Service of Ukraine, <https://www.treasury.gov.ua/ua/file-storage/misyachnij-zvit-pro-vikonannya-derzhavnogo-byudzhetu-ukrayini-za-sichen-listopad-2019-roku?page=2>.

<sup>156</sup> Most roads were repaired in the Kharkiv (116.6 km), Kyiv (59.6 km), Vinnytsya (51 km) and Zhytomyr (47 km) oblasts: How many roads did they repair in Ukraine in 2019? – Slovo i Dilo, 11 November 2019, <https://www.slovodilo.ua/2019/11/11/infografika/polityka/skilky-dorih-vidremontuvaly-ukrayini-2019-rik>.

<sup>157</sup> The Order of the Ministry of Infrastructure of Ukraine “On Approval of Changes to the Rules of Carriage of Goods by Road in Ukraine” No.413, 6 June 2019.

<sup>158</sup> Adoption of this document will facilitate the implementation of the provisions of the EU Council Directive of 7 December 1992 establishing common rules for certain types of combined carriage of goods between Member States.

<sup>159</sup> International transport program with the participation of the EU and 14 member states of the East European, Caucasus and Central Asian regions.

<sup>160</sup> See: Ukraine joined projects within the *Connecting Europe Facility*, – Volodymyr Omelyan. – The Ministry of Infrastructure of Ukraine, 28 March 2019, <https://mtu.gov.ua/news/30792.html>.



- An agreement was reached with the EBRD to finance the reconstruction of regional roads (€ 300 million), as well as with the EIB on the allocation of funds for major repairs of the Odesa – Kyiv highway and construction of the by-road in Lviv (€ 450 million).<sup>161</sup>
- On 31 October 2019, Ukravtodor and Chinese *Poly Changda Engineering Co. Ltd* signed a Memorandum of Cooperation within the first phase of construction of the Great ring road around Kyiv “Transport interconnection between M-05 Kyiv-Odesa and M-06 Kyiv-Chop”.<sup>162</sup>

**Air transport.** The aviation industry demonstrates positive trends for the third consecutive year. The passenger flow in Ukrainian airports in 2019 has increased by 18.5%, compared to 2018, reaching 24.3 million.<sup>163</sup> And if compared to 2016, the number of passengers has almost doubled.

The number of flights above Ukraine has also increased: UKSATSE provided air navigation services to 335,407 flights of foreign and Ukrainian airlines – a 11.5% increase from 2018.<sup>164</sup> It is worth mentioning that in the structure of flights in 2019, transit flights dominated – 141,680 (+13.2%), followed by international flights (with departure/landing) – 162,937 (+11.5%), and domestic flights – 30,790 (+ 4%).<sup>165</sup> This shows that every year Ukraine gains more trust from domestic and foreign airlines (and thus passengers), becoming an increasingly more powerful European transit hub.

As for **water transport**, the goal of the new government is to raise the level of inland water exploitation and river potential. This objective is set out in the draft law “On Inland Water Transport”.<sup>166</sup> In particular, the volume of river transportation of commercial goods is expected to increase to 30 million tons in 2025.

2019 was quite successful for seaports, as for the first time in a decade the volume of transshipment in them exceeded 150 million tons.<sup>167</sup> Three quarters (75%) of the total cargo accounted for exports of domestic products, imports – 16%, and transit – 7%. The largest was the share of transshipment of agroindustry products (41%), followed by the mining products/ore (23%). Over 11 months of 2019, ports have transferred by almost 9 million tons of cargo more than in 2018.

**Rail industry** in 2019 has had probably the fewest positive achievements. Last year for the industry is largely associated with scandals surrounding the unprecedented enrichment of Ukrzaliznytsia’s top management, along with almost weekly news about rolling stock malfunctions. To change the situation, the government prohibited the importation of obsolete rolling stock originating in the Russian Federation, starting from 20 November 2019.<sup>168</sup>

On 6 September 2019, the Draft Law “On Rail Transport of Ukraine”<sup>169</sup> was once again registered in the Verkhovna Rada (since 2016, there have already been three failed attempts to pass the law). Its goal is to create an effective competitive environment in the market for rail freight and passenger transport, taking into account basic requirements of EU legislation.

Given the lack of proper funding, in 2019 Ukrzaliznytsia issued Eurobonds reportedly amounting to \$600 million.<sup>170</sup> Most of the raised funds will be used on upgrading the railway infrastructure of TEN-T international transport corridors, upgrading dispatching and communication facilities, as well as improving rail traffic control systems.

**On 19 December 2019 the Parliament has finally ratified the agreement with the EBRD,**<sup>171</sup> which envisages attracting €150 million for the project “Electrification of the Dolynska - Mykolaiv - Kolosivka

<sup>161</sup> See: In 2020 we will renovate 4,000 km of roads; the next step is building roads to hub schools and hospitals. – Vladyslav Kryklii. – The Ministry of Infrastructure of Ukraine, 12 November 2019, <https://mtu.gov.ua/news/31286.html>.

<sup>162</sup> See: A Memorandum of cooperation with the Chinese company *Poly Changda Engineering Co. Ltd* has been signed within the framework of the first phase of construction of great ring road around Kyiv. – The Ministry of Infrastructure of Ukraine, 31 October 2019, <https://mtu.gov.ua/news/31259.html>.

<sup>163</sup> See: The Passenger flow in Ukraine’s airports has increased by almost 20% during the year. – RBK-Ukraine, 13 January 2020, <https://www.rbc.ua/ukr/news/passazhiropotok-cherez-aeroporty-ukrainy-1578927536.html>.

<sup>164</sup> See: The amount of air navigation services provided by UKSATSE increased in 2019 by 11.5%. – The Ministry of Infrastructure of Ukraine, 15 January 2020, <https://mtu.gov.ua/news/31491.html>.

<sup>165</sup> By the volume of air traffic, Ukraine still falls behind 2013, when the total number of flights above Ukraine amounted to 534,581. In 2019, this indicator is by 37.3% lower.

<sup>166</sup> The bill defines legal, economic and organisational principles of inland water transport, the use of river waterways and their coastlines for navigation, the relations linked to the use of river vessels, etc. It also defines the legal regime of inland waterway infrastructure, the activity of executive bodies carrying out state regulation, management, state supervision and control over the safety of navigation, etc. **The bill seeks to refocus some of the freight traffic from roads and railways to inland water transport.** For more details see: Draft Law “On Inland Water Transport” No.1182-1, 6 September 2019, [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66739](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66739).

<sup>167</sup> See: Ukrainian ports have reached a record volume of cargo transshipment. – Vladyslav Kryklii. – The Ministry of Infrastructure of Ukraine, 12 December 2019, <https://mtu.gov.ua/news/31394.html>.

<sup>168</sup> The Cabinet of Ministers of Ukraine Resolution “On Amendments to the List of Goods Banned for Imports into the Customs Territory of Ukraine Originating in the Russian Federation” No.535, 15 May 2019.

<sup>169</sup> Adoption of the bill will allow implementation of a number of EU Directives and Regulations into the national legislation by 2022, and also **create a competitive environment in the market for transportation of passengers and cargo by rail.** The bill envisages non-discriminatory access to the infrastructure, regulation of activities of rail siding owners, creation of new bodies for public administration in the competitive transportation market, implementation of the railway safety system, introduction of technical investigation of railway traffic accidents, etc. See: Draft Law “On Rail Transport of Ukraine” No.1196-1 dated 6 September 2019, [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66737](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66737).

<sup>170</sup> The maturity of the additional issue is 2024. at a rate of 7.292% pa. For more details see: Ukrzaliznytsia raises \$ 100 million from EBRD at the lowest rate in 8 years. – Vladyslav Kryklii. – The Ministry of Infrastructure of Ukraine, 10 September 2019, <https://mtu.gov.ua/news/31113.html>.

<sup>171</sup> The Verkhovna Rada ratified two important infrastructural agreements with the EIB and EBRD. – Vladyslav Kryklii. – The Ministry of Infrastructure of Ukraine, 19 December 2019, <https://mtu.gov.ua/news/31422.html>.

Railway”.<sup>172</sup> The project will help to intensify movement of freight trains and, accordingly, reduce the delivery time of cargo, and thus logistics and operating costs.

Overall, 2019 was rather “moderate” in terms of achieving positive results, implementing large-scale country-wide projects and adopting necessary laws for the infrastructural reforms. In view of the change of government and leadership of Ukravtodor, as well as initiation of changes in Ukrzaliznytsia by the Prime Minister (due to multiple reports from employees about corruption), this year will be remembered by “declarative” promises. Therefore, progressive digitalisation of the industry can be viewed as the only real achievement.

## 10. Environmental Protection and Sustainable Development

**Sustainable development.** Global trends of sustainable development, which is being actively introduced into various spheres of public life around the world, also found their way to Ukraine. In particular, On 21 August 2019, the government approved indicators and data collection procedures for monitoring the implementation of Sustainable Development Goals.<sup>173</sup> On 20 September 2019, while endorsing the UNGA Declaration of 25 September 2015, No. 70/1 “Transforming our world: the 2030 Agenda for Sustainable Development”,<sup>174</sup> the President of Ukraine has also signed the Decree “On Sustainable Development Goals for Ukraine until 2030”.<sup>175</sup> The tasks of the new government in this area should include: (1) analysis programmatic and forecast documents relevant to SDGs and their improvement (if necessary); (2) introduction of a monitoring system for SDG implementation. Performing these tasks will help determine whether the country is on track to achieving the global Sustainable Development Goals, namely major gains, miscalculations, and obstacles to achieving the goals.

**Environmental policy.** In 2019, efforts continued to improve the state environmental policy. These included, in particular, adoption of the Law “On Fundamental Principles (Strategy) of the State Environmental Policy of Ukraine until 2030”,<sup>176</sup> which defined the main purpose of the environmental policy and its key strategic

goals aimed at: (1) shaping environmental values and principles of sustainable consumption and production in society; (2) ensuring sustainable development of Ukraine’s natural resource potential; (3) incorporating the environmental policy into decision-making regarding the socio-economic development of Ukraine; (4) reducing the level of environmental risks to ecosystems, socio-economic development and public health, etc. Their implementation is expected to improve the environment to be more secure for ecosystems and population.

In order to effectively counter climate change, it is extremely important to curb the uncontrolled deforestation and to pursue a targeted policy of afforestation in Ukraine. Unfortunately, here one can observe only sporadic and limited action, such as legislative amendments of local significance on the conservation of forests in terms of administrative and criminal liability for violations in this area,<sup>177</sup> as well as the prohibition of clean felling on the mountain slopes.<sup>178</sup> The efficiency of these changes is rather questionable.

Another important area of the policy for adaptation to climate changes that threaten Ukraine is a significant scale up in the use of amelioration and drainage. This goal could be backed by the government’s endorsement of relevant strategy until 2030.<sup>179</sup> Expenditure for this strategy is estimated at about \$ 4 billion.

The law adopted at the end of 2019 should play a central role in climate policy as it sets the framework for legal regulation of production, imports, exports, storage, use, marketing and management of ozone-depleting substances, fluorinated greenhouse gases (GHG), goods and equipment containing or using them, affecting the ozone layer and the level of global warming.<sup>180</sup> The law also approves the list of ozone-depleting substances, as well as their ozone-depleting and global warming potential.

On 12 December 2019, the Parliament passed the Law “On the Principles of Monitoring, Reporting and Verification of Greenhouse Gas Emissions”.<sup>181</sup> Implementation of this system with further introduction of the GHG emissions trading system is part of the policy for implementing the market-based approach to reducing greenhouse gas emissions.

<sup>172</sup> The agreement itself was signed back on 30 December 2017.

<sup>173</sup> The Cabinet of Ministers of Ukraine Directive No.686, 21 August 2019, “The Issues of Data Collection for Monitoring the Implementation of Sustainable Development Goals”.

<sup>174</sup> In July 2020, representatives of member states will gather in New York to review the progress towards global SDGs approved in 2015. However, a number of economic observers, experts and politicians are quite sceptical about the countries’ results.

<sup>175</sup> The Decree of the President of Ukraine “On Sustainable Development Goals for Ukraine until 2030” No.722, 30 September 2019.

<sup>176</sup> The Law of Ukraine “On Fundamental Principles (Strategy) of the State Environmental Policy of Ukraine until 2030”, 28 February 2019.

<sup>177</sup> The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Conservation of Ukrainian Forests”, 25 April 2019.

<sup>178</sup> The Law of Ukraine “On Amendments to Certain Laws of Ukraine Concerning the Prohibition of Clean Felling on Mountain Slopes in Fir and Beech Forests of the Carpathian Region”, 30 October 2019.

<sup>179</sup> This strategy is aimed at: (1) ensuring sustainable eco-balanced agricultural development in Ukraine based on integrated basin water management and taking into account the need to separate water management function from water infrastructure management function; (2) preserving and restoring soil fertility, protecting territories and settlements from the harmful effects of water, achieving and maintaining good status of river basin districts; (3) restoring and expanding the area of irrigated lands, drainage systems; (4) stimulating the PPP mechanism in this area. For more information see: The Cabinet of Ministers of Ukraine Directive No.688, 14 August 2019 “On Approval of the Irrigation and Drainage Strategy in Ukraine until 2030”.

<sup>180</sup> The Law of Ukraine “On Regulation of Economic Activity with Ozone-Depleting Substances and Fluorinated Greenhouse Gases”, 12 December 2019.

<sup>181</sup> The Law of Ukraine “On the Principles of Monitoring, Reporting and Verification of Greenhouse Gas Emissions”, 12 December 2019.

The adoption of the National Waste Management Plan until 2030<sup>182</sup> by the previous, Volodymyr Groysman-led government, is definitely positive. This problem is still one of the most challenging in Ukraine's sustainable development policy.

Despite recent adoption of a number of laws and strategies (including in 2019) in the area of environmental policy and sustainable development, the effectiveness of their practical implementation remains low. The efficiency of relevant policies is reflected in different indexes, including the *Environmental Performance Index (ERI)*, a comprehensive indicator for measuring the environmental policy of the state and its individual entities,<sup>183</sup> according to which **Ukraine in 2018 (the latest available date) was ranked 109<sup>th</sup> among 132 countries**. Another important indicator is the *Climate Change Performance Index (CCPI)*, where **Ukraine in 2020 was ranked seemingly high – 17<sup>th</sup> among 61 countries/regions**,<sup>184</sup> but such a high position can be attributed to the war in the East and economic decline rather than efforts of the Ukrainian government. Geopolitical conflict and economic crisis of previous years continue to affect the country's ecological status. Instead of being the result of an effective climate policy, reduced GHG emissions and per capita energy consumption in 2012-2017 is explained by disruptions caused by long-lasting Russian aggression, the decline in the productivity of the mining industry and the deterioration of the country's industrial sector as a whole.

Ukraine's low scores in both indexes point at the need to strengthen the state's efforts to ensure sustainable development in several areas, including biodiversity

protection, GHG emission reductions, etc. Quite common today is poor coordination between different sectoral agencies (for example, the effectiveness of merger of two ministries – the Ministry of Environmental Protection and the Ministry of Energy and Coal Industry – into a single **Ministry of Energy and Environment Protection** raises many questions), as well as the abundance of strategic documents with different targets (adopted by different authorities) makes practical realisation of environmental policy benchmarks virtually impossible.

**Tax and financial incentives.** Starting from 2019, the rate of environmental tax for carbon dioxide emissions from stationary sources of pollution has increased significantly to 10 UAH/t.<sup>187</sup> Nonetheless, the misuse of the environmental tax remains one of key problems.<sup>188</sup>

The new government faces the task of improving the system of taxation of GHG emissions to ensure targeted use of received funds. First of all, it is about shifting towards automatic tax refund.

The underdevelopment of the stock market and the banking system, which prevents businesses from attracting the necessary long-term loans, has prompted the new parliament to take steps to improve the situation with funds for environmental projects aimed at energy saving and energy efficiency. Therefore, on 19 December 2019 the draft law on facilitation of investment and introduction of new financial instruments (Reg. No.2284) passed the first reading. The bill specifically suggests the introduction of internationally endorsed principles and procedures of the "green bonds" market into domestic law.

Environmental Performance Index (2018) <sup>185</sup>					Climate Change Performance Index (2020) <sup>186</sup>		
Rating	Country	Environmental protection	Environmental health	Ecosystem vitality	Rating	Country	Score
1	Switzerland	87.42	93.57	83.32	4	Switzerland	75.77
2	France	83.95	95.71	76.11	5	Denmark	71.14
3	Denmark	81.60	98.20	70.53	6	Morocco	70.63
4	Malta	80.90	93.80	72.30	7	United Kingdom	69.80
5	Sweden	80.51	94.41	71.24	8	Lithuania	66.22
<b>109</b>	<b>Ukraine</b>	<b>52.87</b>	<b>64.44</b>	<b>45.16</b>	<b>17</b>	<b>Ukraine</b>	<b>60.60</b>

<sup>182</sup> The Cabinet of Ministers of Ukraine Directive No.117, 20 February 2019, "On Approval of the National Waste Management Plan until 2030".

<sup>183</sup> The Index is calculated based on 24 indicators in 10 categories, encompassing, inter alia, environmental health, ecosystem vitality and many others.

<sup>184</sup> The Index methodology assesses the countries' efficiency in 4 categories: GHG emissions (40% of total score), use of renewables (20% of total score), energy consumption (20% of total score), climate policy implementation (20% of total score). The rating is made by German organisations *New Climate Institute*, *Germanwatch* and *Climate Action Network*. For more detail, see Burck J., Hagen U., Höhne N., Nascimento L., Bals Ch. Climate Change Performance Index, Results 2020, <https://www.climate-change-performance-index.org/sites/default/files/documents/ccpi-2020-results-191209.pdf>.

<sup>185</sup> Based on 2018 EPI Results. – Environmental Performance Index, [https://epi.envirocenter.yale.edu/epi-topline?country=&order=field\\_epi\\_score\\_new&sort=desc](https://epi.envirocenter.yale.edu/epi-topline?country=&order=field_epi_score_new&sort=desc).

<sup>186</sup> This year, the leading countries that demonstrate improvements (compared to 2019) in implementing the climate policy have not been determined. Based on Burck J., Hagen U., Höhne N., Nascimento L., Bals Ch. Climate Change Performance Index, Results 2020.

<sup>187</sup> Immediately after appointment, the new government predicted even higher environmental tax rates for pollutant emissions.

<sup>188</sup> The procedure for payment of environmental tax is determined by Articles 240-250 of the Tax Code of Ukraine and shall be paid: (1) for emissions of pollutants into the air by stationary sources of pollution, discharges of pollutants into water bodies; (2) for generation of radioactive waste and temporary storage of radioactive waste beyond the specified terms of the license.



## APPENDIX: INDEX OF ECONOMIC CAPACITY OF HOUSEHOLDS IN 2019

**The Economic Capacity Index (*Index*)** for Ukraine, proposed by the Razumkov Centre in 2017, covers not only the traditionally analysed purchasing power of the population, but also its economic stability – the ability of an “average” household (the aggregate of most households or society as a whole) to survive in the case when current income sources are lost for a certain period of time.<sup>1</sup>

**The Index** integrates various aspects of the current purchasing power, access to finance, as well as the financial stability of citizens (i.e. of their savings), and can provide an overall assessment of Ukraine’s socio-economic environment. It is the economic stability that is one of the most important conditions to have a sense of security in life and confidence in future – hence, the ability to build long-term life strategies, including strategies for economic behaviour, and a general condition for positive social (and psychological) wellbeing.

The socio-economic situation in Ukraine as shown in the *Index* values for 2018-2019, has the following dynamics (Diagram *Index of Economic Capacity of Households*). With regard to the most recent indicators, the **Index value in December** (data at the end of November 2019) **was 96 – the lowest of the year, excluding winter months.**

This outcome **was predictable** given the negative dynamics of deterioration that began in August 2019 (a period that correlates with the activities of the new ruling team). The components of such deterioration include:

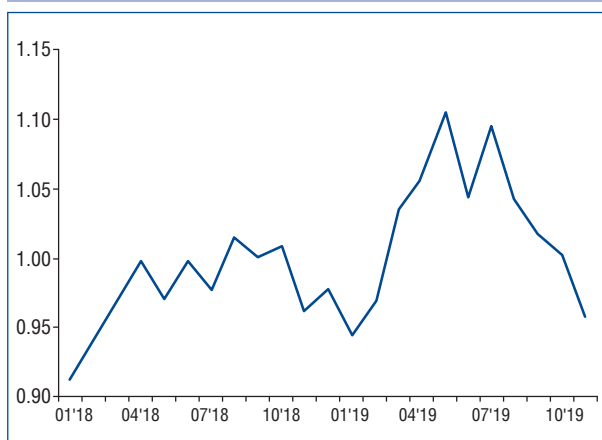
- slowing down of increases of average wages. From August to November, the average nominal

wage did not increase, amounting to UAH 10,687 in September and UAH 10,679<sup>2</sup> in November (hereinafter official data on the web sites of the UkrStat and the NBU). The average real wage, even given the accelerated inflation in autumn, has dropped by about 1%;

- growth of wage arrears. By the end of July, the debt amounted to UAH 2.7 billion, and reached UAH 3.2-3.4 billion in October-November;
- poor consumer loans indicators (low volumes of loans with high interest rates). From November 2018 through November 2019, the volume of household loans increased by only 4.4%, while interest rates on new loans to households for the same period increased from 31% to 33%;
- decline in payments in the housing and utility sector (as a result of high tariffs and the above-mentioned wage conservation). The monthly coverage of accrued amounts with payments for housing and utility services in November fell below 50%;
- decrease in employment rates in cold season (autumn and winter), compared to warm season (spring and summer). Although this is a seasonal phenomenon, including due to the return of some migrant workers from agricultural works abroad, its impact on the welfare assessment is significant;
- Continued reduction in the size of the present population in Ukraine and worsening of its structure.

**In 2020, *Index* dynamics** is expected to be under the influence of several conflicting factors. *On the one hand*, if it becomes possible to maintain (at least weak) positive economic dynamics, wages will resume their growth; private cash transfers from abroad will remain high; and inflation and devaluation expectations will not come as shock. *On the other hand*, high risks are associated with exchange rate uncertainty, while debts in housing and utility sector will remain significant. As in previous years, households’ access to loans will be low (although the government promises to introduce broad credit programmes, including for small businesses). In general, the *Index* value will essentially depend on how much the current ruling team is able to propose and initiate positive structural changes, without diminishing the real income of the population.

Index of Economic Capacity of Households



<sup>1</sup> For more detail, see: Shangina L., Yurchyshyn V., The current economic capacity index: comprehensive assessment of the socio-economic situation in Ukraine. – Kyiv, “Zapovit”, 2017.

<sup>2</sup> Hereinafter official data of the UkrStat and the NBU.

## ENERGY SECTOR

For Ukraine's energy sector, 2019 was the year of radical and at the same time controversial reforms that pose high risks for the sector's European integration, the interests of producers and consumers of energy resources.

The earlier reforms continued in 2019, but they were fraught with poor quality of law-making and inadequate activity of the government in implementing the Energy Strategy of Ukraine until 2035. Instead Oleksiy Orzhel, the newly appointed Minister of Energy and Environment Protection of Ukraine, came up with the idea of developing a new Energy Strategy to replace the current one, but provided no reasoned arguments in favour of this step.

*First*, the uncertainty of legal status of the National Energy and Utilities Regulatory Commission (NEURC), formed following the relevant Constitutional Court decision,<sup>1</sup> has led to increased political influence on the industry, which, in turn, significantly slowed down the process of reforming the energy and utilities markets based on the principles set forth in the Treaty on Ukraine's accession to the Energy Community.<sup>2</sup>

*Second*, the lengthy electoral process and ensuing "reboot" of the Verkhovna Rada and the Cabinet of Ministers have also contributed to a slowdown in the implementation of EU legislation and led the adoption of a number of conflicting laws.

*Third*, the establishment of a joint Ministry of Energy and Environment Protection has become a true challenge, which requires changes in the architecture of this central authority and creation of new synergies between the sector's branches and market players. The relevance of the merger of two ministries is very questionable, especially in view of serious manageability issues of the newly formed structure amidst the personnel shortage.

Therefore, there was no notable progress in the functioning of the country's energy sector after the presidential and parliamentary elections and the formation of the new Cabinet. In many cases, the policy was implemented without proper evaluation, while ignoring the

previous developments and positions of market participants, including in the matters of electricity imports, audit of coal-mining enterprises and promotion of renewable energy.

### Main Achievements and Challenges

Attempts of the new government to regulate the legal status of the NEURC pursuant to the Constitutional Court Decision by passing relevant legislation<sup>3</sup> have produced additional opportunities for political manipulation and breach of European law, such as the Regulator's powers to set price caps in some segments of electricity market and expanded opportunities to influence the market players through increased licensing control. New risks to independent and professional functioning of the NEURC have emerged as a result of unclear definition of its status and political bias in the procedure of dismissal and rotation of the National Commission's members. As MPs, representatives of the central executive authorities and law enforcement agencies may be elected as the members of the NEURC's Competition Commission, further politicization of the selection of candidates to the Regulator is very likely.<sup>4</sup>

Gas transit in 2019 amounted to 89.6 bcm, a 3% increase compared to the previous year. The conflict between the government's position and Naftogaz Ukraine's vision regarding the unbundling of the gas transmission system (GTS) operator was settled after the change of government.<sup>5</sup> This allowed Ukraine to conclude a five-year gas transit contract with Russia's Gazprom.<sup>6</sup> However, the gas sector reform has largely lost its value due to continued involvement of Naftogaz as a mediator of Russian gas transit between the Russian monopoly and the newly established GTS operator of Ukraine.

The corporate governance reform in the oil and gas sector was only limited to the Cabinet's requirement on Naftogaz goals in conducting market activities

<sup>1</sup> The Decision of the Constitutional Court of Ukraine № 5-r/2019 dated June 13, 2019 in the case upon the constitutional petition of 46 People's Deputies of Ukraine regarding conformity to the Constitution of Ukraine (constitutionality) of Articles 1.1, 4.1.2, 5.1, paragraphs 1, 2 of Article 5.2, paragraphs 2, 3, 4, 5, 39, 40 of Article 8.3, Article 8.6 of the Law "On the National Energy and Utilities Regulatory Commission" (the case on the National Energy and Utilities Regulatory Commission).

<sup>2</sup> The Law of Ukraine "On Ratification of the Protocol on the Accession of Ukraine to the Energy Community Treaty".

<sup>3</sup> The Law of Ukraine "On Amending Some Legal Acts of Ukraine on Ensuring Constitutional Principles in Energy and Public Utilities Sectors".

<sup>4</sup> Analysis of provisions of the Law of Ukraine "On Amending Certain Laws of Ukraine on Ensuring the Constitutional Principles in Energy and Utilities": see DiXi Group Alert: Amendments to the law on energy regulator are a temporary solution. – DiXi Group, 20 December 2019, <http://dixigroup.org/news/dixi-group-alert-zmini-do-zakonu-pro-energetichnogo-regulyatora-ye-timchasovim-rishennyam>.

<sup>5</sup> The Cabinet of Ministers of Ukraine Resolution No.840, 18 September 2019 "On Unbundling of Natural Gas Transmission Activity and Ensuring Operation of Gas Transmission System Operator"

<sup>6</sup> Since the text of the contract is not publicly available, its detailed analysis is currently impossible.

and performing special functions<sup>7</sup> – no personnel decisions regarding the failure to fulfil the programme of increasing production and lossmaking of the GTS operator of Ukraine were made.

With the launch of electronic auctions and competitions for product distribution agreements, some progress was achieved in implementing competitive procedures on granting subsoil use rights.<sup>8</sup> However, problems with attracting sufficient foreign investment in gas production persist. At the same time, there is a need to revise the concept of stimulating gas production. During 2019, the natural gas production in Ukraine has dropped by 1%, compared to the previous year, amounting to 20.7 bcm. At the same time, Ukgazvydobuvannya reduced its gas production by 3.7% to 14.8 bcm.

It is worth noting that details of data manipulation with the so-called marketable gas and process gas by Naftogaz Ukraine became public in 2019. In other words, during 2015-2018, this state monopoly demonstrated increase in gas production in numbers, when in reality only production and technological cost indicators were growing.<sup>9</sup>

The central executive authorities developed a regulatory framework for the operation of a new electricity market, but the market itself has been launched in a rather strictly regulated regime. Some questions remain, including certification of the transmission system operator; introduction of ancillary services market; improvement of the mechanism of special responsibilities<sup>10</sup> and gradual adjustment of prices to market indicators for all categories of consumers.

At the same time, the current system of special responsibilities and opening up the market to import electricity from Russia created discriminatory conditions for nuclear power generation; moreover, this denies lasting efforts of Ukraine's authorities to integrate with the European grid. The total volume of electricity generation in Ukraine in 2019 decreased by 1.7% compared to 2018 to 152.04 billion kWh. Ukrainian companies have started importing electricity in significant volumes since July 2019, when the country liberalised the market

of electricity supply from Belarus and the Russian Federation. Therefore, in the second half of 2019, Ukraine's unified power system received 2.6 billion kWh, which accounted for more than 30% of electricity exports. Despite some changes in the generation structure, electricity consumption did not change at 122 billion kWh.

During 2019, Ukraine has made tangible progress in implementing the European principles in its nuclear industry regulations.<sup>11</sup> Specifically, it has adopted the law that introduces the Council of Europe Directives 2014/87/Euratom, 2013/59/Euratom, and 2006/117/Euratom.<sup>12</sup>

Also, a series of multifaceted inspections and other measures involving international partners have been completed. These inspections confirmed the high level of nuclear safety and compliance with the IAEA standards by Ukraine's Energoatom despite the chronic underfunding and discriminatory market position of this company as a result of unreasonably low tariffs for the electricity supply by Energoatom and introduction of special responsibilities following the commencement of the electricity market.

Since the introduction of a new market model, electricity prices for Ukrainian industrial consumers have increased by an average of 25%, while tariffs for households have not changed.<sup>13</sup> Utility tariffs continued to grow throughout 2019. In particular, as a result of the 24% increase in the cost of natural gas in Q1, one could observe an increase in heating tariffs,<sup>14</sup> which did not exceed the percentage of the gas price growth. Later, despite the decrease in natural gas prices in Q3-Q4,<sup>15</sup> the consumers saw the increase in payments for hot water supply by an average of 15% depending on the region,<sup>16</sup> at the same time, heating tariffs were not re-calculated accordingly.

Speaking of the alternative energy, 2019 was the year of addressing various issues in the EV market<sup>17</sup> and rapid growth of RES capacity along with significant increase of financial burden on consumers. The total income of RES enterprises in 2019 amounted to UAH 28 billion, while installed capacity of renewable energy facilities in Ukraine has increased to 5 GW, which is 2.3 times higher

<sup>7</sup> The Cabinet of Ministers of Ukraine Directive No.456 of 26 June 2019 "On Setting Clear Objectives of Activity for Public Unitary Enterprises and Business Societies, in the Authorized Capital of Which 100 Percent of Stock (Shares) Owned by the State, the Functions and Corporate Rights of which are Managed by the Cabinet of Ministers of Ukraine, for 2019".

<sup>8</sup> The Cabinet of Ministers of Ukraine Resolution No.588 of 19 June 2019 "On Amending the Procedure on Granting Special Permits for Subsoil Use".

<sup>9</sup> Data from the official web site of Ukgazvydobuvannya, [www.ugv.com.ua](http://www.ugv.com.ua).

<sup>10</sup> The Cabinet of Ministers of Ukraine Resolution No.1003 of 9 December 2019 "On Amending Provisions on Special Responsibilities for Electricity Market Participants to Ensure Public Interests in the Functioning of the Electricity Market".

<sup>11</sup> The President of Ukraine No.104 of 4 April 2019 "On Measures to Support the Development of Nuclear Energy Sector and Increase Safety of the Use of Nuclear Power".

<sup>12</sup> The Law of Ukraine "On Amending Certain Laws of Ukraine on the Use of Nuclear Energy" dated 18 September 2019.

<sup>13</sup> Data on functioning of various segments of the electricity market from the transparency platform SE "Market Operator", <https://www.oree.com.ua>.

<sup>14</sup> The NEURC Resolution No.1775 of 10 December 2018 "On Setting Tariffs for District Heating and Centralised Hot Water Supply Services Provided to the Public by the Utility Company "TEPLOENERGO" of the Dnipro City Council – the Service Provider".

<sup>15</sup> Price list for natural gas from the NJSC Naftogaz Ukraine resources, [www.naftogaz.com](http://www.naftogaz.com).

<sup>16</sup> The NEURC Resolution No.2468 of 22 November 2019 "On Amending the Resolution of the National Energy and Utilities Regulatory Commission dated 16 June 2019".

<sup>17</sup> The Law of Ukraine "On Amending Certain Legal Acts of Ukraine on Creating Access to Charging Station Infrastructure for Electric Vehicles" (dated 11 July 2019).



than in 2018. Having the highest “green tariff” in Europe, Ukraine has come very close to the technological limit for construction of new power plants using renewables. Instead, consumers have accumulated multibillion debts in the electricity market as a result of cross-subsidisation, which hinders the implementation of the country’s Energy Strategy until 2035 and extends the transition from the use of fossil fuels to clean energy.

Therefore, a key challenge for RES development is the improvement of primary and secondary legislation to reduce green tariffs by introducing auctions to support renewables market participants, as well as developing residual and storage capacities. In 2019, as many as 4,505 MW of renewable energy capacity was commissioned in Ukraine, with relevant investments amounting to €3.7 billion a year. Due to this pace of implementation, Ukraine is currently ranked 8th in investment attractiveness in this sector, compared to 63rd in 2018.<sup>18</sup>

Problems in the coal sector in 2019 have not been addressed even partially. The industry is in decline due to underfunding and the lack of effective measures for liquidation of lossmaking coal producers and refineries, as well as restructuring the economy of the coal mining regions. With underdeveloped coal market, the funds allocated from the State Budget in 2019 on structural reforms were yet again used to cover wage arrears. In January–December 2019, the Ukrainian miners produced 24.8 million tonnes of power plant coal, a 9.3% reduction from the last year. This includes 22.1 million tonnes, produced by private enterprises – by 7.4% less than in 2018.

Compared to 2018, oil transit has decreased by 14% to 13.5 million tonnes. This fact further confirms that Russia continues to implement its long-term strategy of reducing the transit dependence of its energy companies on Ukrainian pipelines, both gas and oil.

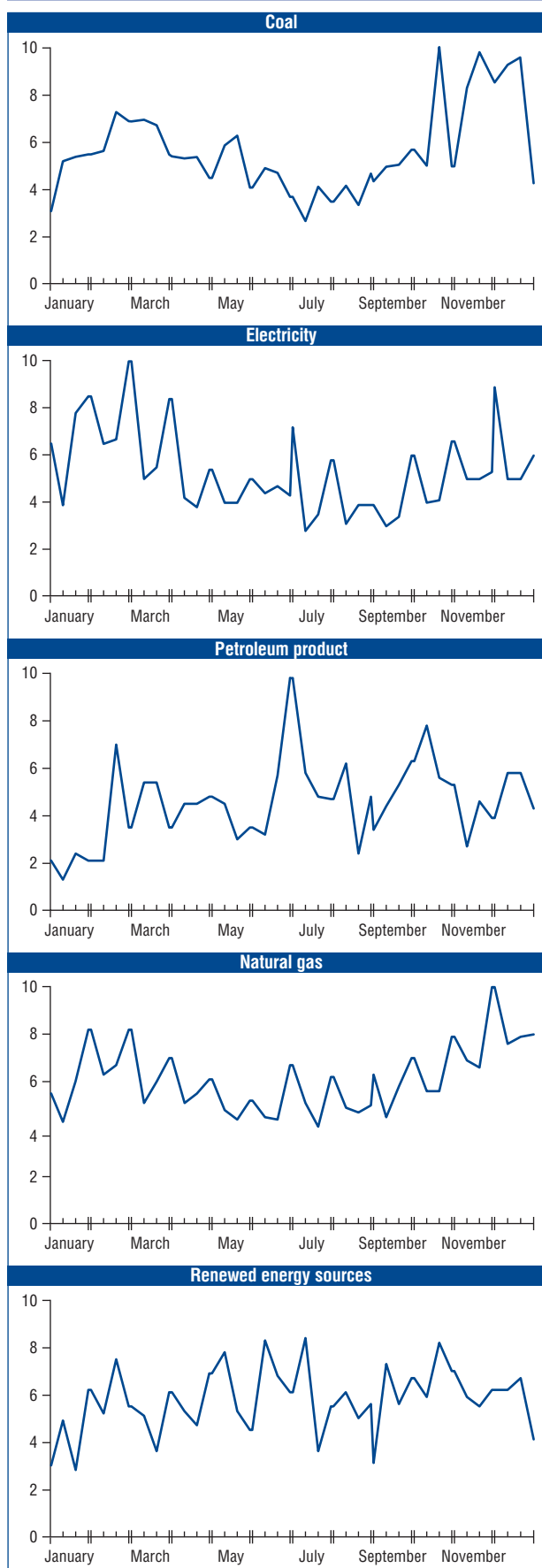
In the context of environmental issues, an approval of the Concept of State Policy in the Field of Industrial Pollution was an important achievement in 2019.<sup>19</sup> In the meantime, the practical implementation of the National Emissions Reduction Plan for Large Combustion Plants (NERP) is yet to begin. Amendments to this document only delay the realisation of environmental measures and fail to address the main issue – developing and introducing practical financial mechanisms for NERP implementation.

As in previous years, the state “Warm Loans” programme was not funded adequately. Nonetheless, Ukraine generally continued its course towards implementation of relevant European legislation. The government has set the national energy efficiency targets for the period until 2020; the Energy Efficiency Fund has started its operations. At the same time, some crucial provisions of Directives 2012/27/EU, 2010/31/EU and 2010/30/EU were never included in Ukrainian legislation, which results in the absence of effective tools to properly organise energy efficiency measures.

<sup>18</sup> Climatescope 2019. – Bloomberg NEF, <http://global-climatescope.org/results>.

<sup>19</sup> The Cabinet of Ministers of Ukraine Directive No.402 of 22 May 2019 “On Approval of the Concept of the State Policy in the Field of Industrial Pollution”.

### Ukrainian Energy Markets Environment Index 2019\*



\* Index is developed by the Razumkov Centre's experts and is published for the first time. The methodological basis of this indicative will be disclosed in the future Centre's publications.

## SOCIAL SECTOR

The expectations of most Ukrainians from the new government regarding shift in the focus of the state policy and revival of the state's concern for an individual did not materialise. For now, the government is guided by neoliberal approaches to the social policy, and their antisocial effect is aggravated by the lack of funds to meet commitments to citizens. In reality, this means a departure from the constitutionally enshrined social nature of the Ukrainian state.

## Key Social Indicators and Evaluation of Reforms

During 2019, one could observe an artificial restraint on budget expenditure, including social sector, resulting from the failure to meet budget revenues.<sup>1</sup> During three quarters of 2019, the total expenditure gap has not been covered by more than UAH 65 billion.<sup>2</sup>

The budget deficit is due to the budget sequester in 2019: “suspension of payments by the Treasury, registration of budget expenditure commitments and granting loans from the General Fund of the State Budget (excluding protected budget expenditure)”.<sup>3</sup> In particular, the government blocked financing of the development projects that support and promote the development of local social infrastructure.<sup>4</sup>

Although these restrictions did not apply to the so-called “protected items”, problems have emerged with financing of salaries paid through transfers to local budgets. Specifically, subventions in 2019 were channelled to local governments without taking into account actual needs. As a result, medical and educational

subventions were deficit-plagued, leading to considerable wage arrears.

The budget sequestration measures were initiated in summer 2019 with suspension of transfers to the cities from the Regional Development Fund (UAH 7.6 billion) and reduction of subventions for socio-economic development (by UAH 2.5 billion). In October, the Parliament passed a bill to amend the budget, thus reducing the revenue plan for 2019 by UAH 20.4 billion.<sup>6</sup> In November, the Social Insurance Fund of Ukraine suspended payments to hospitals in connection with cost overruns.<sup>7</sup> Also in November, the government cancelled the Resolution<sup>8</sup> that set maximum tariffs for utilities.<sup>9</sup> This was explained by the fact that tariff restrictions would lead to “extra” budget expenditure of UAH 7 billion.

At a first glance, this situation does not seem disastrous.<sup>10</sup> However, the inconsistency with the IMF Memorandum, the disappointing situation with budget replenishment and the debt burden that “eats away” the effect of economic growth (See *Economy* Section) create even more dangerous side effects in the social sphere.

State Budget expenditure on some social programmes<sup>5</sup>,  
(UAH billion)

Indicator	Total			Including the General Fund		
	Plan 2019	Executed	% of execution	Plan, January-September	Executed	% of execution
Health care	36.6	24.9	62.9	28.9	23.6	81.5
Education	56.9	35.9	63.2	27.3	23.6	86.6
Social protection and welfare	220.2	156.5	71.1	152.8	148.2	97.0
Including social protection of pensioners	182.2	132.8	72.9	195.4	188.1	96.3
Funds transferred to local budgets	274.6	200.2	72.9	195.5	188.1	96.3

<sup>1</sup> Over 11 months the budget revenue fell short by more than UAH 60 billion, while the gap from planned amount exceeded 20% in early December 2019.

<sup>2</sup> Analysis of the implementation of the Law on the State Budget of Ukraine for 2019 in January – September: Conclusion. Approved by the Accounting Chamber Decision 33-8 of 26 November 2019, [https://rp.gov.ua/upload-files/Activity/Collegium/2019/33-8\\_2019/Vysn\\_33-8\\_2019.pdf](https://rp.gov.ua/upload-files/Activity/Collegium/2019/33-8_2019/Vysn_33-8_2019.pdf).

<sup>3</sup> See the Cabinet of Ministers Directive “On the results of the meeting chaired by the Prime Minister of Ukraine”. Scanned document. – STRANA.ua, 18 December 2019, <https://strana.ua/news/240154-iz-za-problem-s-postupleniem-dokhodov-v-bjudzhet-ne-budut-profinansirovani-nekotorye-programmy.html>.

<sup>4</sup> This is the evidence of a systemic crisis of the financial system.

<sup>5</sup> Analysis of the implementation of the Law on the State Budget of Ukraine for 2019 in January – September: Conclusion. Approved by the Accounting Chamber Decision 33-8 of 26 November 2019, [https://rp.gov.ua/upload-files/Activity/Collegium/2019/33-8\\_2019/Vysn\\_33-8\\_2019.pdf](https://rp.gov.ua/upload-files/Activity/Collegium/2019/33-8_2019/Vysn_33-8_2019.pdf).

<sup>6</sup> The Law of Ukraine “On the State Budget of Ukraine for 2019”.

<sup>7</sup> Clarification on suspension and resumption of payments by the Fund. – The Social Insurance Fund of Ukraine, 21 November 2019, <http://www.fssu.gov.ua/fse/control/main/uk/publish/article/966666>.

<sup>8</sup> Resolution of the Cabinet of Ministers No.560, 26 June 2019.

<sup>9</sup> The government has taken steps to ensure the sustainable passage of winter. The Ministry of Energy and Environment Protection of Ukraine. 15 November 2019, [http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?sessionId=7BC92956B2FBD5A1DE45E360740DC.app1?art\\_id=245419287&cat\\_id=35109](http://mpe.kmu.gov.ua/minugol/control/uk/publish/article?sessionId=7BC92956B2FBD5A1DE45E360740DC.app1?art_id=245419287&cat_id=35109).

<sup>10</sup> For example, at the end of 2016 the budget deficit was twice the current values.

The labour market traditionally demonstrates conflicting trends and seasonal instability. Employment rates were on the rise with unemployment dropping in Q2-3 of 2019. The growing employment is traditionally due to the seasonal “revitalisation” in HoReCA, tourism, transport and logistics sectors.<sup>11</sup> However, in Q1 and Q4, the market showed the opposite trend (see *Labour market dynamics*). In October 2019, the number of unemployed was 259.3 thousand, but in November this figure increased to 288 thousand. In December 2019, the number of unemployed in Ukraine increased significantly to 338.2 thousand persons.

Data from private recruiting platforms suggest that trends in the labour market have changed, with an employee taking a central role instead of an employer. Observed in recent years, this situation is primarily linked to the global competition for labour force and the labour migration of Ukrainians.

Despite the increased availability of labour (growth by 0.6%),<sup>14</sup> the labour market becomes increasingly narrower and the problem of filling vacancies persists. The share of companies reporting that the lack of skilled workforce limits their production has reached 34% – a maximum since 2006.<sup>15</sup> It can be partially explained by the change of migration patterns, with the share of permits and employment applications increasing in 2019 in Poland and Czech Republic, particularly in industry,

**Number of registered unemployed persons and the number of vacant jobs in 2019<sup>13</sup>**

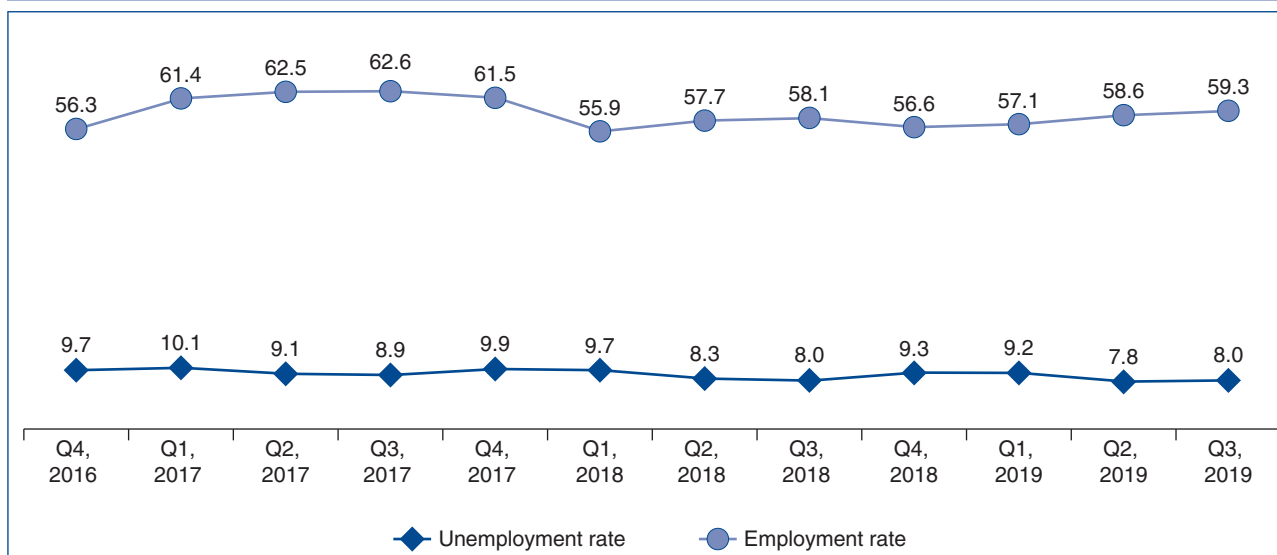
	The number of registered unemployed persons, thousand	The number of vacant jobs, thousand	Registered unemployed persons per job, persons, thousand
January	364.3	67.8	5
February	367.0	84.5	4
March	340.7	100.0	3
April	31.4	90.8	3
May	300.9	96.2	3
June	287.1	93.2	3
July	280.8	95.4	3
August	275.0	108.2	3
September	268.2	100.9	3
October	259.3	102.8	3
November	288.9	80.9	4
December	338.2	59.0	6

\* Excluding temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol, and some areas of the Donetsk and Luhansk oblasts.

transport and construction, which made it difficult to fill vacancies in Ukraine’s internal market.<sup>16</sup>

According to the World Bank, Ukraine is one of the leaders in the labour migration dynamics.<sup>17</sup> The Ministry

**Labour market dynamics<sup>12</sup>, %**



<sup>11</sup> Seasonal hype in Ukraine's labour market: who they are looking for and how much they pay. – HR-League, <https://hrliga.com/index.php?module=news&op=view&id=20291>.

<sup>12</sup> UkrStat. Express issue, <http://www.ukrstat.gov.ua/express/expr2019/09/131.pdf>

<sup>13</sup> UkrStat, <http://www.ukrstat.gov.ua>.

<sup>14</sup> NBU Inflation Report, <https://bank.gov.ua/news/all/inflyatsiyniy-zvit-jovten-2019-roku>.

<sup>15</sup> Ibid.

<sup>16</sup> Notably, the highest rates of salary increases were observed in industries with the highest shortage of skilled workers: industry and construction.

<sup>17</sup> Record High Remittances Sent Globally in 2018. – World Bank, <https://www.worldbank.org/en/news/press-release/2019/04/08/record-high-remittances-sent-globally-in-2018>.



of Social Policy data suggest that close to 3.2 million Ukrainians permanently work abroad, and about 7-9 million people<sup>18</sup> – a quarter of the country's population – are involved in the labour migration processes. According to the human resources portal *hh.ua*, the number of CVs of the job hunters willing to move to EU countries has increased over the past two years, reaching a 4-time increase in some professional spheres. The “house personnel” demonstrated the highest growth, as the number of CVs registered in this section during the past year was 4.44 times higher than in the period from May 2016 through May 2017.<sup>19</sup>

According to the National Bank of Ukraine (NBU), the total amount of private transfers over three quarters of 2019 totalled \$8.7 billion.<sup>21</sup> Of these, up to \$2.5 billion account for “schemes”, where foreign currency enters the country via fictitious services contracts and then it is used in the shadow economy and corrupt practices. The remaining \$6 billion are partially used to pay for the work of Ukrainian specialists through IT outsourcing.<sup>22</sup>

As for transfers from migrant workers who have been working abroad for more than a year, their contribution is very small – just over \$0.6 billion (or about \$1 billion a year). In addition, the share of

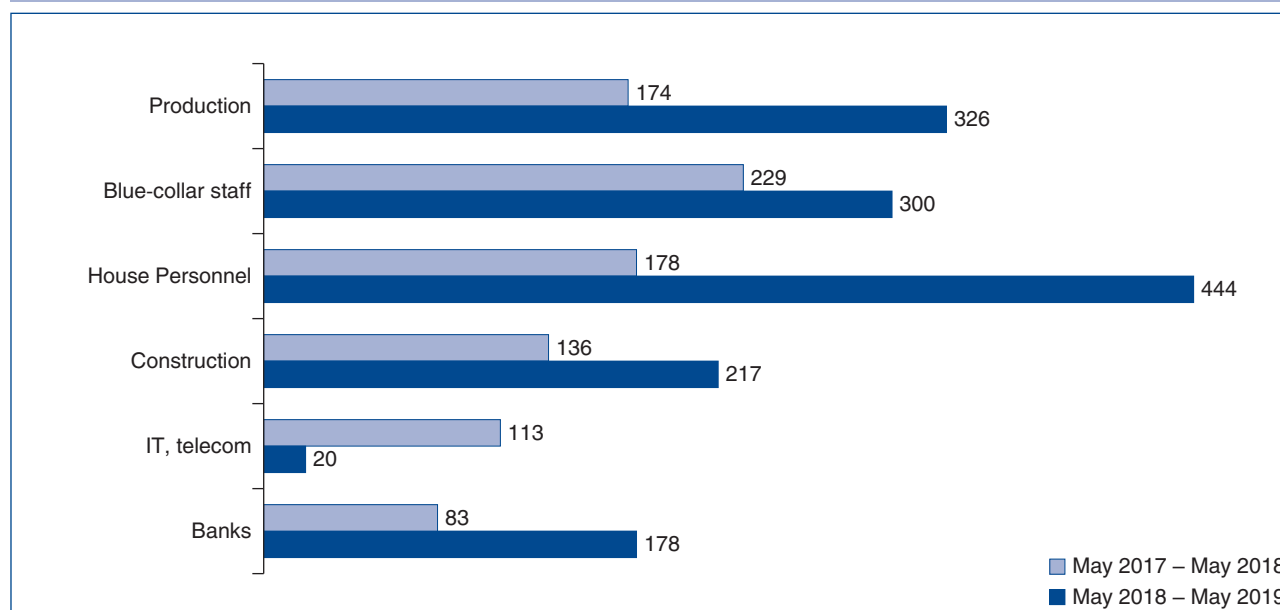
Money transfers to Ukraine from abroad <sup>24</sup> , \$ million			
	Net salary and private transfers	Including	
		Private transfers	Money transfers from those working abroad for more than a year
2015	6 959	2 843	1 013
2016	7 535	2 741	906
2017	9 264	2 995	996
2018	11 111	3 200	872
2019*	8 746	2 207	676

\* Over 3 quarters of 2019.

transfers from Ukrainian labour migrants to their families in Ukraine is decreasing.<sup>23</sup> This suggests that labour migration becomes irreversible, that is, increasingly more families reunite with children and stay abroad forever (see *Table* above).

The NBU views money transfers from the viewpoint of maintaining the current account deficit<sup>25</sup> (as a compensator for foreign trade deficit) and as one of the decisive factors for stabilising the domestic foreign exchange market.<sup>26</sup> As a consequence, the NBU's

**Dynamics of CVs of job hunters who are ready to move to EU countries<sup>20</sup>, %**



<sup>18</sup> More than 3 million Ukrainians permanently work abroad. – The Minister. – *Ekonomichna Pravda*, 23 August 2019, <https://www.epravda.com.ua/news/2019/08/23/650914/>.

<sup>19</sup> Head Hunter, <https://kiev.hh.ua/>.

<sup>19</sup> Ibid.

<sup>21</sup> Over 10 months of 2019, transfers from labour migrants working abroad amounted to \$9.7 billion; \$11.5 billion expected by the end of the year. – ESPRESO.TV, 12 December 2019, [https://espreso.tv/news/2019/12/12/zarobitchany\\_perekazaly\\_v\\_ukrayinu\\_9\\_7\\_mlrld\\_nacbank](https://espreso.tv/news/2019/12/12/zarobitchany_perekazaly_v_ukrayinu_9_7_mlrld_nacbank).

<sup>22</sup> NBU money transfers. – NBU, [https://bank.gov.ua/files/ES/Perekaz\\_q.pdf](https://bank.gov.ua/files/ES/Perekaz_q.pdf).

<sup>23</sup> See: Holubeva O. We will pay for ourselves and for someone else. Why labour migration leads Ukraine to a dead end. – 112.ua, 14 May 2019, <https://112.ua/statji/budem-platit-za-sebja-i-za-togo-dyadyu-pochemu-trudovaya-migraciya-vedet-ukrainu-v-tupik-491629.html>.

<sup>24</sup> Money transfers, [https://bank.gov.ua/files/ES/Perekaz\\_q.pdf](https://bank.gov.ua/files/ES/Perekaz_q.pdf).

<sup>25</sup> NBU Inflation Report, <https://bank.gov.ua/news/all/inflyatsiyniy-zvit-jovten-2019-roku>.

<sup>26</sup> In 10 months transfers in foreign currency received from abroad amounted to UAH 165,159,573. At the same time transfers made outside Ukraine amounted to UAH 49,159,572. Amount of transfers in foreign currency by individuals (regional distribution). – NBU, <https://bank.gov.ua/statistic/sector-external/data-sector-external#1>.

monetary policy is in fact an indirect incentive for economic activity in the form of labour migration and for persistently high level of natural unemployment (8-10%),<sup>27</sup> which is regarded by the NBU as a necessary component of the inflation targeting.

And if the National Bank of Ukraine explains the increase in employment and high demand for labour force by economic growth during 2019,<sup>28</sup> then from the businesses' point of view, the wages of workers increase mainly due to talent shortage.

### Personal Income

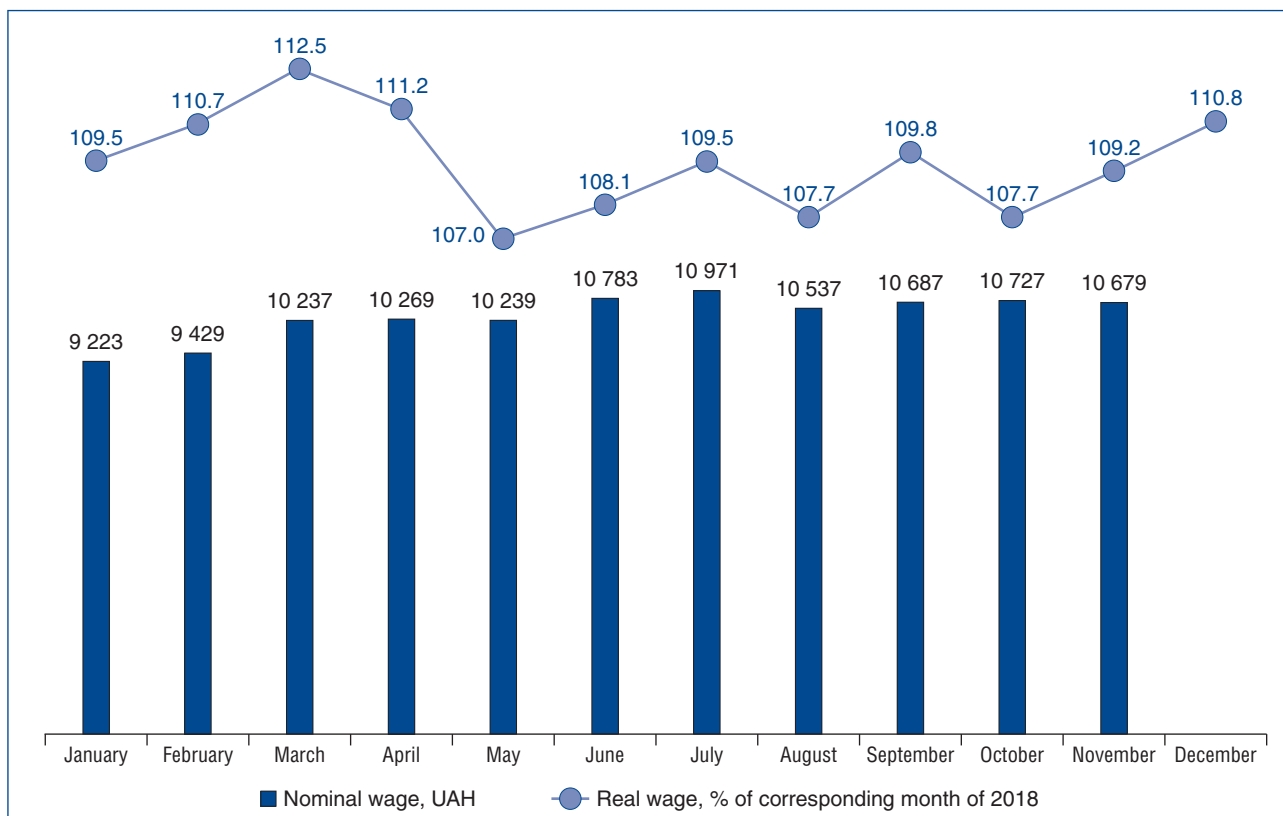
During 2019, the increase in personal income was mainly driven by significant pre-election payments. This had an impact on overall economic growth, associated with a temporary growth in private consumption.<sup>29</sup> Starting from March 2019, the money paid out during the election campaign flooded the market. The government introduced automatic indexation of pensions and made

additional one-off compensation of UAH 2,410 to more than 2 million pensioners with pensions not exceeding UAH 1,700.<sup>30</sup> Overall pension payments for June increased by UAH 1.1 billion.<sup>31</sup> Then there was a wave of hidden raises and extras for civil servants – bonuses, financial aid and the like.<sup>32</sup>

According to *Info Sapiens*, the Consumer Confidence Index (CCI) has been growing rapidly since early April 2019 (by more than 30 points) and reached its 12-year maximum, but in October its growth stopped. Moreover, one of key CCI components – expected changes in personal financial standing – decreased by 5 points.<sup>33</sup> Deterioration in personal wealth expectations was particularly evident among vulnerable population – persons with below-average income, those aged 60+ and those living in villages and small towns.

Worsening of economic capacity of the population began in July 2019. Its components included deceleration in the process of raising average wages. For

Dynamics of average wage (2019)



<sup>27</sup> *Natural rate of unemployment (NRU)* is defined as a share of the unemployed that corresponds to a reasonable rate of full employment in the economy, that is, to potential GDP. This unemployment rate is not linked to the economic growth dynamics. It depends on natural causes such as staff turnover, migration, demographic factors. It is estimated that the natural rate of unemployment is 4-5% of the total workforce. The current unemployment rate in Ukraine as a tool for restricting consumer prices can hardly be viewed as an adequate policy, given current challenges faced by the country.

<sup>28</sup> NBU Inflation Report, <https://bank.gov.ua/news/all/inflyatsiyniy-zvit-jovten-2019-roku>.

<sup>29</sup> According to the State Statistics Service, the average wage in Ukraine during 2019 increased by 19.6%. Actual wages increased by 9%. Salaries in the public sector were growing at a slower pace given the limited increase in budget revenues. UkrStat does not take into account informal, "shadow" income, unregulated employment and quasi-labour relations (formalised through independent entrepreneurs). UkrStat mainly operates with the data from public sector, while its analysis of data from small and medium-sized businesses and the agricultural sector is inadequate. For example, it does not explain the significant excess of salaries in vacancies on private official salary platforms.

<sup>30</sup> Indexation of pensions. – The Government Portal, <https://www.kmu.gov.ua/gromadskosti/pensii>.

<sup>31</sup> On recalculation of pensions from 1 March 2019. – The Pension Fund of Ukraine, <https://www.pfu.gov.ua/944398-pro-pererahunok-pensij-z-1-berezhnya-2019-roku-ta-vyplaty-odnorazovoyi-dopomogy-2>.

<sup>32</sup> See: Resolutions of CMU No.1112 of 24 December 2019, No.102 of 6 February 2019.

<sup>33</sup> Info Sapiens, <https://sapiens.com.ua/ua/other-research-single-page?id=98>.

example, the average nominal wage did not increase from August (UAH 10,687 in September) to November (UAH 10,679). Compared to October, the average nominal wage has dropped by 0.4%. With accelerating inflation, the average real wage in autumn 2019 decreased by about 1%.

There is an increasing dependence of pensions and benefits on the Pension Fund's loans from the Treasury single account (TSA). Over the period of January–November 2019, the Pension Fund received loans from TSA to cover temporary cash gaps in the total amount of UAH 111.1 billion, of which UAH 100.8 billion have been repaid. As of 1 December 2019, the total debt of the Pension Fund on respective loans (*including the debt for previous years*) reached UAH 58.3 billion and increased by UAH 5.5 billion since the beginning of the year.<sup>34</sup>

The government still has no solution to a long-standing problem of returning UAH 48.05 billion to TSA, loaned in 2007–2014 to cover temporary cash gaps of the Pension Fund, and given the growth of this debt in 2019, the risk of non-repayment is growing.<sup>35</sup> Therefore, compared to the previous year, the financial situation of the Pension Fund is not improving – quite the contrary, its dependence on the State Budget resources and TSA loans is increasing.

### Social Aspects of the Government's Economic Course

On the one hand, the current Cabinet cannot be blamed for low levels of the existing social standards, including pensions and wages. The government did not have sufficient time to produce more positive results. On the other hand, worsening of the population's economic capacity began in August 2019 – the period when the new government already began to function (for more detail, see the *Economy* Section).

It is the economic model, implemented by the current government, that can deepen the crisis. In the social sphere, the Cabinet of Ministers has been consistently pursuing a neoliberal course, mainly focused on preferences and recommendations of the IMF and Western partners. In fact, the government continues its course towards desocialization of the state. The main goal of the announced reforms in the social sector is actually to reduce social spending, to gradually increase the tax burden on the population,<sup>36</sup> to introduce total fiscalisation of business,<sup>37</sup> and to reduce social rights.

Mechanisms for implementing structural economic reforms were reflected in the Presidential Decree “On Urgent Measures for Conducting Reforms and Strengthening the State”, which tasked the Cabinet of Ministers to implement a set of measures in the areas of labour relations, social protection and health by 31 December 2019.<sup>38</sup> It should be stressed that not all of the tasks outlined in the Presidential Decree can be realistically completed by the end of the year. For example, the NSDC instructed the government to pay off all salary arrears to the miners working in the state mines by 1 January 2020 and to avoid such debts in the future.<sup>39</sup> In this case, however, it is necessary to make a choice whether to close these mines or to put them up for privatisation. Obviously, this cannot be done within the specified time limits.

**Labour market reform was declared as one of the top government priorities.**<sup>40</sup> The new version of the Labour Code<sup>41</sup> (the Draft Law of Ukraine “On Labour”)<sup>42</sup>, suggested by the new government, can be viewed as an illustration of its “super liberal” (or anti-social) policy. According to the bill, labour relations will be built “under the terms of a new form of labour contracts “by agreement” with employers that “will have precedence over provisions of the Labour Code and include minimum guarantees”.<sup>43</sup> In line with this draft law, Ukraine

<sup>34</sup> Conclusion of the Accounting Chamber on the analysis of the implementation of the Law on the State Budget of Ukraine for 2019 in January–September and information on the implementation of the State Budget in the current year. – The Parliamentary Committee on Budget, <http://budget.rada.gov.ua/fsview/76066.html>.

<sup>35</sup> The Accounting Chamber.

<sup>36</sup> The legislation does not provide for a reduction in the tax burden. – The Parliamentary Committee on Budget, <http://budget.rada.gov.ua/fsview/75975.html>.

Two bills of the same name were submitted to the Verkhovna Rada for consideration (No. 1210 and 1209): “On Amendments to the Tax Code of Ukraine to Improve of Tax Administration, Eliminate Technical and Logical Mismatches in the Tax Legislation”, which provide for increased fines for VAT payers, introduction of taxation of foreign exchange differences and increased timing of tax audits.

<sup>37</sup> The main stage of tax reform is planned for 2020, the government intends to end the tax legislation “reboot” by 2021.

<sup>38</sup> The Decree of the President of Ukraine No.837 dated 8 November 2019 “On Urgent Measures for Conducting Reforms and Strengthening the State”.

<sup>39</sup> The Decree of the President of Ukraine No.874/2019 “On the Decision of the National Security and Defence Council of 2 December 2019 ‘On Urgent Measures for Ensuring the Energy Security’”, <https://www.president.gov.ua/documents/8742019-30769>.

<sup>40</sup> Improving of the investment climate is one of the Government's priorities. – Tymofiy Milovanov. – Press service of the Ministry of Economy, 13 September 2019, <http://www.me.gov.ua/News/Detail?lang=uk-UA&id=0bdbcce7-4884-445e-b0f7-4b1642c0fad3&title=PokraschenniaInvestitsiinogoKlimatuOdnimZPrioritetnikhZavdanUriadu-TimofiiMilovanov>.

<sup>41</sup> The draft Labour Code approved by the previous Parliament in the first reading, which was re-registered on the Verkhovna Rada web site as a bill No.0595 of 29 August 2019, has been withdrawn from consideration. Therefore, the Labour Code, which was supported by all parties of the social dialogue, was successfully “blocked”. The new draft Code was yet again registered on 29 August and eventually withdrawn on 10 September.

<sup>42</sup> Draft Law on Labour No.2708 of 28 December 2019, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=67833](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67833).

<sup>43</sup> For example, it is planned to simplify the dismissal of employees at the request of an employer; to introduce short-term labour contracts and contracts with non-fixed working hours; to reduce overtime payments by 5 times; to reduce protection of women with young children with simplification of their dismissal; de facto elimination of trade unions.



will depart from the standards stipulated by the International Labour Organisation conventions and from the commitments undertaken when signing the Association Agreement with the EU.

The fact that the government is “hiding” the concept of the draft Labour Code, secretly developed by the Ministry of Economy (instead of the sectoral Ministry of Social Policy) from the participants of social dialogue is quite concerning. It is likely that its authors consulted “foreign investors” that are to be attracted via reduction of the rights of employees. For the first time, Ukrainians heard the statement from the top official about the government’s readiness to introduce legislative discrimination of the rights of workers who actually form the state budget and maintain the state power itself.<sup>44</sup>

Such approaches run counter to Ukraine’s international commitments and European social standards and humiliate Ukrainian citizens. Leaders of the global and European trade union movements stood up to the draft Labour Code, including the International Trade Union Confederation<sup>45</sup> (which believes that the new legislation deprives workers of legal protection and deprives trade unions of the ability to protect them),<sup>46</sup> the European Trade Union Confederation,<sup>47</sup> as well representatives of ten European trade union federations.<sup>48</sup> It should be added that Ukrainian trade unions have announced a campaign against the said bill and the government’s policy.<sup>49</sup>

The government also came up with a number of initiatives to reform the social protection system seeking to save budget resources. For example, to improve targeting of the state benefits and to ensure efficient use of budget funds, the Verkhovna Rada adopted the Law on Verification and Monitoring of State Payments

No. 1231 dated 3 December 2019, including proposals of the President of Ukraine).<sup>50</sup>

The law provides for the establishment of a central executive body, responsible for the formation and implementation of the state financial and budgetary policy in exercising verification and monitoring of state payments. Pensions, allowances, social benefits, subsidies, scholarships, other payments from the State and local budgets, from compulsory state social and pension insurance funds become subject to verification. This government body is to determine the accuracy of information submitted by the recipients of state payments.

Another proposal for reforming social policy is to update the format of regulating benefits for Chernobyl affected people, combat veterans and other categories of recipients by shifting from the status-based assistance to the assistance based on real life and health harm.<sup>51</sup> The rationale for this approach includes the lack of money that is being spent on millions of citizens with relevant status who, in fact, are not in need.

The same goal drives the government initiatives to introduce the “subsistence minimum reform” with the detachment of more than 150 types of social benefits and financial indicators from the subsistence minimum.<sup>52</sup> It is suggested to set the payment size as a baseline in absolute figures and to review it annually during the budget adoption. This initiative is conditioned by the proposals of possible increase of the subsistence minimum to actual minimum (UAH 4.2 thousand)<sup>53</sup> – in this case social payments and benefits would increase severalfold.

Since 2014, the subsistence minimum is no longer used as a poverty criterion but as a fiscal indicator. It was

<sup>44</sup> Halyna Tretyakova, the Head of the Parliamentary Committee on Social Policy and Protection of the Rights of Veterans: The new Labour Code will be very liberal for an employer. – The official web site of the Verkhovna Rada of Ukraine, 23 September 2019, <https://portal.rada.gov.ua/news/Novyny/181745.html>.

<sup>45</sup> ITUC represents interests of 200 million workers in 163 countries; it unites 332 national membership organisation.

<sup>46</sup> Ukraine’s government puts oligarchs and multinational enterprises ahead of its own people. International trade union confederation. – ITUC, [https://www.ituc-csi.org/ukraine-draft-law?fbclid=IwAR39sA7INt\\_GSXA7cZT0eyfY9YgYs5cpExkA2nNNp61oaB3gthgofOqrY&lang=en#Xgn2aQ7TekQ.facebook](https://www.ituc-csi.org/ukraine-draft-law?fbclid=IwAR39sA7INt_GSXA7cZT0eyfY9YgYs5cpExkA2nNNp61oaB3gthgofOqrY&lang=en#Xgn2aQ7TekQ.facebook).

<sup>47</sup> ETUC represents interests of 45 million workers from 90 professional unions in 8 European countries. See: <https://www.etuc.org/sites/default/files/document/file/2019-12/ETUC%20Support%20to%20the%20PERC%20Statement.docx.pdf>? Update on the situation in Ukraine December 2019, [https://www.epso.org/sites/default/files/article/files/Update%20on%20situation%20in%20Ukraine\\_EN%20%281%29.pdf](https://www.epso.org/sites/default/files/article/files/Update%20on%20situation%20in%20Ukraine_EN%20%281%29.pdf). Update on the situation in Ukraine. 12.12. 2019, <https://www.epso.org/article/update-situation-ukraine>.

<sup>48</sup> In mid-December 2019, the Pan-European Regional Council of ITUC adopted the resolution, condemning these proposals and calling on the government of Ukraine to withdraw the bill and seek technical assistance from the ILO. A few days later, ETUC promised to raise the issue in the European Commission and the European Parliament on the grounds that the bill contravened the EU-Ukraine Association Agreement. See ETUC Executive Committee statement on the lack of Social Dialogue on Labour Law reform in Ukraine. Adopted at the Executive Meeting of 17-18 December 2019, <https://www.etuc.org/en/node/18514>.

<sup>49</sup> Trade unions, agrarians and entrepreneurs started to prepare a general strike in Ukraine. – Strana.ua, <https://strana.ua/news/233632-v-ukraine-anonsirovali-zabastovku.html>. Letters were sent to the central government authorities regarding the draft law “On Labour”. Confederation of Free Trade Unions of Ukraine, <http://www.kvpu.org.ua/uk/news/4/3890-do-tsentralnykh-orhaniv-vlady-nadislano-lysty-shchodo-zakonoproektu-pro-pratsiu>.

<sup>50</sup> The President’s proposals to the Law on Verification and Monitoring of State Payments of 7 November 2019, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66609](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66609).

<sup>51</sup> Work on the new Labour Code is underway. – Apteka.ua, 4 October 2019, <https://www.apteka.ua/article/517041>.

<sup>52</sup> Draft Law of Ukraine on amendments to some legislative acts of Ukraine regarding changes in the approach to the use of subsistence minimum in determining wages and introducing the size of penalty rate and calculation unit, <https://www.msp.gov.ua/projects/491/>.

<sup>53</sup> The government approved a bill that will allow raising the subsistence minimum in the future. – The Government Portal, <https://www.kmu.gov.ua/news/uryad-shvaliv-zakonoproekt-yakij-dozvolit-v-podalshomu-pidvishchiti-prozhitkoviy-minimum>.

frozen and kept low “in manual mode”; its size has not been affected by current price level for more than five years.<sup>54</sup> Therefore, the subsistence minimum reform looks more like the government’s attempt to shake off some of its social obligations and continue dismantling the remnants of the social state.

Against the backdrop of the government’s cancellation<sup>55</sup> of the previous Cabinet’s resolution establishing a minimum teacher salary of 3 subsistence minimums<sup>56</sup> and the lack of extras and bonuses in the regions due to budget deficit that primarily affected rayon-level officials, teachers and doctors, a 3.5 to 5 times (!) increase in salaries of all ministers and their deputies in late 2019 caused huge public outrage, as this raise exceeded the salaries of ordinary workers by almost 50-100 times.

### Health Sector Reform

The Ministry of Health has approached the second stage of health reform but bumped into the lack of funding and political uncertainty. The Free Diagnostics programme was expected to begin in July 2019 allowing patients to receive a package of the most demanded health services for free upon reference from a family doctor, paediatrician or therapist (the initial list of 54 free services was later reduced to 50). They did not start the project in due time, as Ukrainian health facilities and the country’s electronic health system were not ready for it. The State Budget ring-fenced UAH 2 billion for the programme, but half of the funds from the Free Diagnostics were diverted to cover the needs of the primary health care.

The reform of the second tier of health system – services by narrow specialists – is yet to begin. The only change so far concerned the principle of arranging the appointment: a patient may see the specialist upon referral from a family doctor or agree on a visit individually. The Free Diagnostics was viewed as a preparation to another programme – the state financial guarantees for health services. As early as 2020, this programme should have become a launching pad for changes to the payment mechanism for all health services.

The reform of the third tier – inpatient treatment – waits for its turn. For now, the health reform process is in a standby mode.

### Protection of Social Rights of the Residents of Occupied Territories

Protection of social rights of those living in non-government-controlled areas of the Donetsk and Luhansk oblasts (ORDLO) presents a significant complex of problems<sup>57</sup>. These include the recognition of legality of property and housing agreements, the problems of inheritance, the issuance of documents of the so-called “LPR” and “DPR”. Discussions are underway on most of these issues.

The United Nations Human Rights Monitoring Mission in Ukraine regrets the government’s continued discriminatory policy and actions regarding payment of pensions and calls on the new government to find a solution for payment of pensions to the residents of non-government-controlled parts of Donbas.<sup>58</sup> This process should be regulated by a special law, which is considered as part of the Donbas reintegration policy.<sup>59</sup> It is also acknowledged that payment of pensions in cash to residents of these territories is still impossible due to the absence of secure cash delivery mechanisms.

During the Normandy Four meeting in Paris, the parties agreed on the admission of representatives of the International Committee of the Red Cross to the temporarily occupied territories.<sup>60</sup>

An erroneous and unjustified merger of the Ministry for Temporarily Occupied Territories and the Ministry for Veterans Affairs occurred in August 2019. Already in January 2020, the Minister Oksana Kolyada announced the government’s intent to split them up and to set up a separate “Ministry for Reintegration”.<sup>61</sup> Another questionable decision is the formation of “overly multifunctional” Parliamentary Committee “On Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in the Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations”.

<sup>54</sup> The subsistence minimum is calculated on the basis of sets of food products, non-food items and services for the main social and demographic population groups, approved by the Cabinet of Ministers of Ukraine Resolution No. 780 of 11 October 2016, which was declared illegal and invalid by the decision of the District Administrative Court of Kyiv No.826/3639/17 of 25 April 2018 and the ruling of the Kyiv Administrative Court of Appeal of 10 July 2018, <http://budget.rada.gov.ua/fsview/75975.html>.

<sup>55</sup> The Cabinet of Ministers of Ukraine Resolution No.1044 of 15 November 2019 “On Amendments to the Cabinet of Ministers of Ukraine Resolution No.822 of 10 July 2019 and its abolition”.

<sup>56</sup> The Cabinet of Ministers of Ukraine Resolution No.822 of 10 July 2019 “On Remuneration of Labour of Pedagogical, Scientific-Pedagogical and Scientific Workers of the Establishments and Institutions of Education and Science”, <https://zakon.rada.gov.ua/laws/show/822-2019-%D0%BF>.

<sup>57</sup> As estimated, there may be up to 700,000 pensioners in the Donbas who are not currently registered as internally displaced persons.

<sup>58</sup> Office of the United Nations Commissioner for Human Rights. – Report on the human rights situation in Ukraine, 16 May to 15 August 2019, [https://www.ohchr.org/Documents/Countries/UA/ReportUkraine16May-15Aug2019\\_UA.pdf](https://www.ohchr.org/Documents/Countries/UA/ReportUkraine16May-15Aug2019_UA.pdf).

<sup>59</sup> Draft Resolution on approving in principle the Draft Law on amendments to some laws of Ukraine on the realisation of the right to pension 2083-d/P of 26 November 2019, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=67474](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67474).

<sup>60</sup> An agreement was reached on the admission of ICRC representatives to the occupied Donbas, 14 December 2019, <https://ua.interfax.com.ua/news/general/630472.html>.

<sup>61</sup> Two ministries will deal with the Donbas issues; the Ministry for Veterans Affairs to split. – Ukrayinska Pravda, 23 January 2020, <https://www.pravda.com.ua/news/2020/01/23/7238190/>.

## HUMANITARIAN POLICY

From the humanitarian policy standpoint, Ukraine is currently building a new post-communist, post-Soviet identity, raising a political nation and forming a common historical memory. This process continues in the settings and under the influence of historically conditioned and regionally localised socio-cultural and mental differences of separate parts of Ukrainian society, which are being actively utilized by political forces in electoral campaigns. Armed conflict in the East of the country, annexation of Crimea by the Russian Federation and its hybrid aggression against Ukraine have drastically aggravated the situation.

Under these conditions, humanitarian issues are at the forefront of both public discourse and government policy. Change of power following 2019 presidential and parliamentary elections has also led to changes in humanitarian policy, primarily organisational and personnel.

### Organisational Support and Staffing

In the period between the presidential and parliamentary elections (May - July 2019), members of the Office of the President informed the public about future changes in exercising the state humanitarian policy. In particular, they mentioned the creation of the Ministry of Humanitarian Policy of Ukraine, which probably could be viewed as a sign of importance attached to humanitarian issues by the new ruling team.<sup>1</sup>

On 29 August 2019, the Verkhovna Rada approved the new composition of the Cabinet of Ministers. Some ministries were liquidated, some new ones created.<sup>2</sup> In particular, the Ministries of culture, of youth and sports and of information policy were dismantled; the *Ministry of Culture, Youth and Sports* (MCYS)<sup>3</sup> was established on their basis. Volodymyr Borodyansky, the Presidential adviser on humanitarian issues, has been appointed as the Minister.

Legislative provision of the state humanitarian policy, support and parliamentary oversight of the MCYS are exercised by the Parliamentary Committee on Human Rights, De-occupation and Reintegration of Temporarily Occupied Territories in the Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities (Subcommittee on Ethnic Policy, Rights of Indigenous Peoples and National Minorities of Ukraine), and the Parliamentary Committee on Youth and Sports.

Within the public administration reform regarding the separation of functions of formation, strategizing and implementation of the state policy, the MCYS leadership announced a fundamental restructuring of the Ministry with new division of functions, tasks and powers of this body and its subordinated institutions. The Ministry will formulate humanitarian policy (or policies in various sectors of the humanitarian sphere)

to be implemented by relevant agencies, services and inspections<sup>4</sup>.

At the time of the reorganisation, the Ministry of Culture managed such institutions as the Ukrainian Institute of National Remembrance (UINR), the Ukrainian State Film Agency (DerzhKino), the Ukrainian Cultural Foundation (UCF), the Ukrainian Book Institute (Book Institute).<sup>5</sup> The previous government also provided for the establishment of the State Service for Ethnic Policy and Freedom of Conscience<sup>6</sup> based on the Department of Religions and Nationalities at the Ministry of Culture.

In addition, on 4 December 2019 the government created seven new institutions with the central executive body, namely the state agencies on arts; on artistic education; on the development of youth and civil society; on sports, and on tourism development. The State Inspectorate of Cultural Heritage and the State Service for the Protection of Cultural Heritage were also established. As reported, all these institutions were being set up within the MCYS's staffing and budget limits, thus requiring no increases in budget expenditure.

With the exception of the Book Institute, the leadership positions of all these institutions have undergone personnel changes. Their heads either resigned or were dismissed; relevant competitions were announced for the respective positions, but only one competition (the Director of the UINR) has ended effectively. The new head of the UINR was appointed on 4 December 2019. At the end of the year, repeated competitions for the top positions in DerzhKino and the State Service for Ethnic Policy were announced.

At the initiative of the MCYS, the powers of the chairman of the UCF Supervisory Board were also terminated in December 2019; the new head is to be elected by the Board meeting in January 2020.

<sup>1</sup> In Ukraine, they can create a joint ministry of humanitarian policy – Deputy head of the OP. – Ukrinform, 29 July 2019, <https://www.ukrinform.ua/rubric-politics/2750142-v-ukraini-mozut-stvoriti-obednane-ministerstvo-z-gumanitarnoi-politiki-zastupnik-glavi-op.html>.

<sup>2</sup> The Cabinet of Ministers of Ukraine Resolution No.829, "Specific Issues of Optimisation of the Central Executive Bodies" of 2 September 2019, <https://www.kmu.gov.ua/npas/deyaki-pitannya-optimizaciyi-sistem-829>.

<sup>3</sup> On 17 January, some sources claimed that the government intends to review the results of reorganisation and to restore the ministries in their original form, including the MCYS. It will become known only after 4 February whether these intentions are to be implemented. Currently there are no reliable data on the issue.

This text provides information as of 24 January 2020.

<sup>4</sup> The organisational restructuring of the MCYS was preceded by the functional audit of its three "donor" ministries. See MCYS: The government set up 7 new central executive bodies in the fields of culture, youth and sports. – MCYS, 4 December 2019, [http://mkms.gov.ua/news/3239.html?fbclid=IwAR0tj3w\\_QXnsQrREU07CQa7uKGhP19Nu8V4H7hzmARBEi46T-pspo42rsqk](http://mkms.gov.ua/news/3239.html?fbclid=IwAR0tj3w_QXnsQrREU07CQa7uKGhP19Nu8V4H7hzmARBEi46T-pspo42rsqk).

<sup>5</sup> UINR and DerzhKino were reorganised in 2014; UCF and the Book Institute were established in 2017.

<sup>6</sup> The Cabinet of Ministers of Ukraine Resolution No. 503 dated 12 June 2019 "On the Establishment of the State Service for Ethnic Policy and the Freedom of Consciousness".



It should be added that this process of personnel changes was accompanied by heated discussions involving professional communities, certain political forces and NGOs.<sup>7</sup> There were allegations of political bias of both candidates and the members of the National Civil Service Agency of Ukraine, which conducted relevant competitions.<sup>8</sup> The Office of the President and the MCYS were accused of pressuring the above commissions and forcing them to pass “suitable” decisions. All this may reflect a significant politicization of humanitarian policy, as well as people and institutions that implement it.

### Programme Documents, Strategic Planning

In August 2019 Volodymyr Borodyansky (then one of the candidates for the Minister of Humanitarian Policy) announced the development of a programme document – the State Humanitarian Strategy.<sup>9</sup> The newly established *Office for the Development of the Humanitarian Policy of Ukraine* determined 10 activity areas and started developing corresponding goals, tasks and measures.<sup>10</sup> However, the draft Strategy is yet to be presented.

The MCYS goals formulated in the *Government Action Programme until 2025*<sup>11</sup> are rather general; they are further specified in the document “The New Vision of the Ministry of Culture, Youth and Sports” presented on 12 December 2019 at the meeting of the Parliamentary Committee on Humanitarian and Information Policy. The document focused on the goals and objectives of new central executive bodies, including the non-existent ones.<sup>12</sup>

At present, the MCYS publishes mostly sectoral documents and action plans for previously approved

programmes until 2020 and invites the public to discuss them. On 20 December 2019 it submitted *The Sports and Physical Activity Development Strategy until 2032* for public discussion; on 17 January 2020 it presented *The Concept of Sports Infrastructure Development in Ukraine*; professional communities were invited to join the development of *The Calendar Action Plan for the implementation of the state policy of national patriotic education*, as well as proposals for *The Plan of Cooperation with the Council of Europe for Youth*.<sup>13</sup>

### Legislative Provision of Humanitarian Policy

Speaking of legislative support for humanitarian policy actions, the Ministry currently focuses on further development of cinematography, protection of cultural values, and regulation of the information sphere, specifically on countering disinformation and introducing measures to improve media literacy in society.

On 12 September 2019 the Parliament passed the Law “On Amendments to the Budget Code of Ukraine on State Support for Cinematography”; another Law “On Amendments to the Law of Ukraine ‘On State Support for Cinematography in Ukraine’ Regarding the State Subsidy to Reimburse Qualified Expenses Incurred by a Foreign Subject of Cinematography in the Production (Making) of a Film in Ukraine” (No. 1058) followed on 20 September. Also, on 14 January 2020, the Parliament passed the Law “On Amendments to Certain Legislative Acts of Ukraine (on the Preservation of Cultural Values)”.

According to the Minister, the MCYS is currently elaborating a number of bills related to media (protection against disinformation, increased protection of journalists); sports (new sports law, anti-doping legislation); preservation of cultural heritage; regulation (legalisation) of the art market, and many others.<sup>14</sup>

<sup>7</sup> Concerning the competition for the head of the State Service for Ethnic Policy: on 26 November 2019 an open letter to the Prime Minister and the Minister of Culture, Youth and Sports was disseminated by the MCYS Expert Council on Ethnic Policy in support of Andriy Yurash. – Ukrayinska Pravda, Blogs, <https://blogs.pravda.com.ua/authors/bystrytsky/5ddcc08dd3c61/>.

The personality of Mr Yurash was also supported by Refat Chubarov, the Chairman of the Mejlis of the Crimean Tatar People. The situation around the competition for the head of the State Service for Ethnic Policy and Freedom of Conscience, [facebook.com/dogrujol/posts/2514945045267301](https://facebook.com/dogrujol/posts/2514945045267301).

At the same time, a letter against the appointment of this candidate was published on 25 November. See: Zelenskyy, Honcharuk and Borodyansky are asked to respond to the appointment of Yurash as the head of the State Service for Ethnic Policy and Freedom of Conscience. – ZIK, [https://zik.ua/news/2019/11/25/zelenskoho\\_honcharuka\\_ta\\_borodianskoho\\_prosiat\\_vidreahuvaty\\_na\\_pryznachennia\\_yurasha\\_holovoju\\_derzhsluzhby\\_z\\_pytan\\_etnopolityky\\_ta\\_svobody\\_sovisti\\_946474](https://zik.ua/news/2019/11/25/zelenskoho_honcharuka_ta_borodianskoho_prosiat_vidreahuvaty_na_pryznachennia_yurasha_holovoju_derzhsluzhby_z_pytan_etnopolityky_ta_svobody_sovisti_946474).

Media reports that Andriy Yurash was an active supporter and advocate of the establishment and recognition of the Orthodox Church of Ukraine (OCU), while his major opponent, Yuriy Reshetnikov, lobbied the Ukrainian Orthodox Church of Moscow Patriarchate (UOC-MP). See: 11 candidates are in for the position of the Head of the State Service for Ethnic Policy. – Ukrinform, 10 January 2020, <https://www.ukrinform.ua/rubric-society/2853031-na-posadu-golovi-derzhsluzbi-z-etnopolitiki-pretenduit-11-kandidatuv-konkurs.html>.

The repeated competition ended on 21 January 2020; four candidates, including Mr Yurash and Mr Reshetnikov, are considered as frontrunners.

<sup>8</sup> The unsuccessful completion of the competition for the position of the Chairman of DerzhKino was sharply criticised by its former head, Pylyp Ilyenko: “The contest was a farce, and the situation of the agency and the entire Ukrainian cinema is once again dramatic and crisis-ridden”. See: K. Slipchenko. The Competition Committee failed to elect the chairman of DerzhKino, [https://zaxid.net/statti\\_tag50974/](https://zaxid.net/statti_tag50974/). Representatives of the film-making community held a protest under the walls of the National Civil Service Agency in support of the finalist Sinkievych Y., the general producer of the Odesa International Film Festival. See: “We give a zero grade to this commission...”. – Censor.Net, 25 November 2019, [https://censor.net.ua/ua/news/3161565/tsiyni\\_komisiyni\\_my\\_stavymo\\_nul\\_baliv\\_aktivisty\\_piketuvaly\\_natsagentstvo\\_z\\_pytan\\_derzhsluzhby\\_na\\_pidtrymku](https://censor.net.ua/ua/news/3161565/tsiyni_komisiyni_my_stavymo_nul_baliv_aktivisty_piketuvaly_natsagentstvo_z_pytan_derzhsluzhby_na_pidtrymku).

<sup>9</sup> Borodyansky confirmed being one of the candidates for the position of the head of the Ministry of humanitarian policy. – Ukrinform, 13 August 2019, <https://www.ukrinform.ua/rubric-politics/2759626-borodianskij-pidtvierdiv-so-e-pretendentom-na-post-ministra-gumanitarnoi-politiki.html>.

<sup>10</sup> V. Borodyansky’s statement of 30 August 2019, <https://www.facebook.com/borodyansky/posts/10221053270908504>.

<sup>11</sup> The Cabinet of Ministers of Ukraine Action Programme. – The official site of the VRU, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66959](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66959); The main goals of the Ministry of Culture, Youth and Sports of Ukraine until 2025. – MCYS, <http://mkms.gov.ua/news/3196.html>.

<sup>12</sup> Presentation of the new vision of the MCYS (slides), <https://detector.media/withoutsection/article/173161/2019-12-11-prezentatsiya-novogo-bachennya-roboti-ministerstva-kulturi-molodi-ta-sportu-slaidi>.

<sup>13</sup> The official web site of the Ministry of Culture, Youth and Sports, press releases, <http://mkms.gov.ua/news/3>.

<sup>14</sup> Verhelis O., Konstantynova K.: Volodymyr Borodyansky and the ministry of critical thinking propaganda. – Dzerkalo Tyzhnya, 29 November 2019, [https://dt.ua/interview/volodimir-borodyansky-i-ministerstvo-propagandi-kritichnogo-mislennya-331392\\_.html](https://dt.ua/interview/volodimir-borodyansky-i-ministerstvo-propagandi-kritichnogo-mislennya-331392_.html).

The law on the national minority languages is also being drafted; it will be presented to the public in the first quarter of 2020.<sup>15</sup> Previously developed draft law on indigenous peoples of Ukraine, which recognises Crimean Tatars, Crimean Karaites and Krymchaks accordingly, is being finalised. As reported, this list may not be exhaustive, while the law only identifies the characteristics of indigenous people.<sup>16</sup>

Overall, the Committee on Humanitarian and Information Policy has proposed the Parliament to consider as many as 47 sector-specific bills in 2020,<sup>17</sup> including 16 relating to film production and information.

## Information Policy

At present, the MCYS policymaking focuses mostly on countering manipulative information and disinformation, and on spreading Ukrainian content to temporarily occupied territories.

However, some of the Ministry's bills and practical steps in this area produce mixed responses from professionals and the public. On 17 January 2020, the MCYS made public some theses of the bill on countering disinformation,<sup>18</sup> and it has already triggered some media allegations about the introduction of censorship, violations of the right to freedom of expression, and obstruction of journalistic activity.<sup>19</sup> Serhiy Tomilenko, the head of the National Union of Journalists, called it "a bill hostile to Ukrainian journalists".<sup>20</sup> The document is being equally criticised by the international media community: on 22 January, Ricardo Gutierrez, the Secretary General of the European Federation of Journalists (EFJ), stated that "the EFJ strongly rejects any proposal where the state would regulate journalistic

activity and imposes any restriction on journalists".<sup>21</sup> The next day, Harlem Desir, the OSCE Representative on Freedom of the Media expressed his concerns about several provisions of the draft law, noting that he was "ready to engage in discussions with the authorities and to provide a legal review of the draft law to ensure that it will not affect negatively media freedom and its full compliance with international standards".<sup>22</sup>

Introduction of broadcasting to the temporarily occupied territories also raised some questions. During the Humanitarian Unity Forum in Mariupol on 30 October 2019, Minister Borodyansky announced his intent to launch a Russian-language TV channel that would broadcast to the temporarily occupied territories of Ukraine but refused to comment on the details of its practical realisation.<sup>23</sup>

In early December, there were updates about two channels for the temporarily occupied territories – infotainment channel with the launch in February 2020, and purely informational channel with the launch during 2020.<sup>24</sup> It turned out that both are created on the basis of the Multimedia International Broadcasting Platform of Ukraine – UA|TV.<sup>25</sup> In this connection, the status of UA|TV as a foreign broadcaster is changing pursuant to the draft law "On Amendments to the Law of Ukraine 'On the System of International Broadcasting of Ukraine (concerning Programme Coverage Policies)", which has already passed the first reading.<sup>26</sup> Another problem is the termination of live broadcasting and reduction of the Arabic and Crimean Tatar editorial offices.<sup>27</sup> The latter is utterly unacceptable, as the Crimean Tatar ATR channel is currently on the verge of closure due to financial difficulties.<sup>28</sup> Needless to say, the Crimean Tatar

<sup>15</sup> Maksymchuk A.: The law on the national minority languages will be presented for public discussion in the 1<sup>st</sup> quarter of 2020. – MCYS, 24 December 2019, <http://mkms.gov.ua/news/3261.html>.

<sup>16</sup> The bill will define three indigenous peoples of Ukraine. – Korynevych. – LB.ua, 22 November 2019, [https://ukr.lb.ua/society/2019/11/22/442976\\_zakono\\_proiektom\\_budut\\_viznacheni\\_tri.html](https://ukr.lb.ua/society/2019/11/22/442976_zakono_proiektom_budut_viznacheni_tri.html).

<sup>17</sup> Ostapa S. The Committee on Humanitarian and Information Policy has proposed the Parliament to consider 47 relevant bills in 2020. – Detector Media, 12 December 2019, <https://detector.media/infospace/article/173205/2019-12-12-komitet-gumanitarnoi-ta-informopolitiki-zaproponuvav-parlamentu-rozglyanuti-2020-roku-47-profilnikh-proektiv>.

<sup>18</sup> MCYS: Main provisions of the disinformation bill made public. – MCYS, 17 January 2020, <http://mkms.gov.ua/news/3327.html>.

This is the second stage of discussion of the bill – the presentation of the draft concept took place on 15 November 2019. On 12 December, the United Nations Monitoring Mission for Human Rights expressed its concern about certain provisions of the future draft law and warned the government "against inappropriate restrictions on freedom of expression and freedom of the media". See: UN Monitoring Mission warns Ukraine against restrictions on freedom of speech in drafting the disinformation bill. – HORDON, 12 December 2019, <https://gordonua.com/ukr/news/politics/-monitoringova-misija-on-zasterigaje-ukrajinu-vid-obmezhen-svobodi-slova-pri-pidgotovtsi-zakonoproektu-pro-dezinformatsiji-1478986.html>.

<sup>19</sup> See, for example: Provisions of the draft law on disinformation outdid even the Putin's Russia. – Siumar. – PRYAMIY, 20 January 2019, <https://prm.ua/normi-zakonoprojektu-pro-dezinformatsiyu-pereplyunuli-navit-putinsku-rosiyu-syumar>.

<sup>20</sup> The law on intervention in journalistic activity. – Tomilenko FB page, <https://www.facebook.com/sergiy.tomilenko/posts/2647292005355647>.

<sup>21</sup> Ukraine: journalists' union rejects new draft law on disinformation. – European Federation of Journalists, 22 January 2020, <https://europeanjournalists.org/blog/2020/01/22/ukraine-journalists-union-rejects-new-draft-law-on-disinformation>.

<sup>22</sup> OSCE Media Freedom Representative concerned by several provisions of Ukraine's new draft law on disinformation. – OSCE, 23 January 2020, <https://www.osce.org/representative-on-freedom-of-media/444673>.

<sup>23</sup> Citation: "We performed some tests and we know how to do it. I'll keep it a secret as long as possible. Why give additional tools of influence to people who oppose us?", <https://detector.media/infospace/article/172007/2019-10-30-volodimir-borodyanskii-mi-znaemo-yak-dostaviti-kontent-do-80-meshkantsiv-tot>.

<sup>24</sup> Ostapa S. The Ministry of Culture will launch two channels for the occupied territories instead of one – infotainment and informational. – Detector Media, 12 December 2019, <https://detector.media/rinok/article/173111/2019-12-10-minkult-zapustit-na-okupovani-teritorii-ne-odin-a-dva-kanali-informatsiino-rozva-zhalnii-ta-informatsiini>.

<sup>25</sup> For reference: a 24-hour international broadcasting TV channel in English, Arabic, Crimean Tatar, Ukrainian and Russian. Broadcasting via cable operators: Azerbaijan, Bulgaria, Georgia, Israel, Canada, USA, Germany, Latvia, Moldova, Poland. Broadcasting via satellite: Europe; Turkey and Western Europe. News offices: Ankara, Warsaw (web site – <https://www.ukrinform.ua/info/uatv.html>). The channel started broadcasting on 1 October 2015. MIBP operates on the basis of state broadcasting companies World Service of Ukrainian Television and Radio, Bank Television (BTB) and Ukrinform news agency.

<sup>26</sup> Draft Law "On Amendments...", Reg.No.2521, 3 December 2019, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=67521](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67521).

<sup>27</sup> Kostynskiy S. The disappearance of the Crimean studio from air will undermine Ukraine's positions in information space. – Detector Media, 30 October 2019, <https://detector.media/blogs/article/174025/2020-01-19-vipadinnya-z-efiru-atr-ta-krimskoi-redaktsii-uatv-suttevo-poslabit-pozitsii-ukraini-v-infoprostori>.

<sup>28</sup> Crimean Tatar ATR channel is about to close. – Ukrayinska Pravda, 21 January 2020, <https://www.pravda.com.ua/news/2020/01/21/7238023>.

broadcaster is no less important to Ukraine's national interests than broadcasting to temporarily occupied territories.

The UA|TV managers had different vision of the channels' future development. For example, they suggested launching three UA|TV-based channels within the planned budget: the English-language channel, the channel for national minorities of Ukraine, and the Russian-language channel, which would also cover the temporarily occupied territories of Ukraine. However, these proposals were rejected, and the channel's directorate resigned on 28 December 2019.<sup>29</sup>

The Ministry's initiative has met resistance from media community. In particular, on 20 January 2020, an electronic petition demanding the resumption of full-scale operation of the international broadcasting channel was registered on the President's web site.<sup>30</sup>

The persistence with which the MCYS tries to implement its own initiative on broadcasting to temporarily occupied territories raises doubts in media community about the initiators' professionalism and/or their adequate understanding of the national interests.<sup>31</sup> Creating a TV channel to cover the occupied territories is a positive and necessary step, but not at the expense of limiting Ukraine's international broadcasting and reducing the presence of the Crimean Tatar broadcaster in the information space.

The steps of the new ruling team in information policy (and in personnel support of the humanitarian policy in general) point at the lack of officials' communication with professional communities, their inability or unwillingness to constructively cooperate with the public and to timely inform society about the meaning of key changes. The new government also lacks competent speakers capable of explaining the humanitarian strategy in a clear and reasonable manner.

### Historical Memory Policy

In the context of historical memory, the new ruling team generally continues working on previously defined thematic areas and implements previously initiated programmes and projects. This includes coverage of the Holodomor, the Holocaust, the WWII history and others, as well as the initiation of constructive dialogues with

Ukraine's neighbours on complex issues of common historical past. For example, on 19 August 2019, President Zelenskyy addressed the Israeli Prime Minister Benjamin Netanyahu and called on Israel to recognise the Holodomor of 1932-1933 as an act of genocide against the Ukrainian people.<sup>32</sup>

Ukraine has taken steps to resume a dialogue with Poland on complex historical issues. In response to the request of Andrzej Duda, the President of the Republic of Poland, Ukraine unblocked search operations on the territory of Ukraine and permits for exhuming bodies of Polish victims in the Volyn region.<sup>33</sup> However, the Polish side has not yet given its consent to the construction of a joint memorial of reconciliation at the Ukraine-Poland border, proposed by President Zelenskyy in June 2019 in Brussels. Moreover, judging from the official statement after the recent meeting of the new director of the UINR with Bartosz Cichocki, the Polish Ambassador to Ukraine, the Polish side to date has taken no concrete steps aimed at restoring the destroyed Ukrainian memorial sites in Poland.<sup>34</sup>

### State-Church Relations, Ethnic Policy

The current church and religious situation in the country is quite uneasy. In particular, the unification of two Orthodox denominations, the creation of the Orthodox Church of Ukraine (OCU), and the grant of Tomos of Autocephaly from the Constantinople Patriarchate did not resolve the issue of the Orthodox church split in Ukraine. *First*, the process of local parishes transition from the UOC-MP to the OCU was not as active as hoped; *second*, in May 2019, Filaret, the Honorary Patriarch of the OCU, announced the restoration of the UOC-KP; *third*, during 2019, the UOC-MP has increased the number of its communities, which preserves the risk of using the church network to promote the "Russian world" ideology.

At present, there are still three *de facto* Orthodox denominations with none of them being dominant across Ukraine; the geographical distribution of their parishes and believers is defined regionally, as the UOC-MP has the majority of followers in the East and South and the OCU – in the Centre and West (where it also competes with the Ukrainian Greek Catholic Church). The UOC-KP is currently quite weak, but 12% of Orthodox believers identify themselves with this denomination.<sup>35</sup>

<sup>29</sup> Ryaboshan I. Lyudmyla Berezovska leaves the position of the UA|TV Director General. – Detector Media, 27 December 2019, <https://detector.media/rinok/article/173565/2019-12-27-lyudmila-berezovska-ide-z-posadi-gendirektorki-ua-tv-dopovнено>.

The staffing problems of the channel, however, did not end. On 3 January 2020, the UA|TV team met the new director of international broadcasting, Olena Trybushna, but on 22 January, even before the official appointment, she refused from the position. See: Olena Trybushna quits the reformed UA|TV. <https://detector.media/rinok/article/174119/2020-01-22-olena-tribushna-pishla-z-reformovanogo-ua-tv>.

<sup>30</sup> Petition 22/082998-ep "To restore the full operation of UA|TV foreign broadcasting channel in English, Arabic, Russian, Crimean Tatar and Ukrainian languages via satellites, cable networks and in social media". – The official web page of the President of Ukraine, <https://petition.president.gov.ua/petition/82998>.

<sup>31</sup> See, for example, Kostynskiy S. The disappearance of ATR and the Crimean studio of UA|TV from air will undermine Ukraine's positions in information space. – Detector Media, 19 January 2020, <https://detector.media/blogs/article/174025/2020-01-19-vipadinnya-z-efiru-atr-ta-krimskoi-redaktsii-ua-tv-suttevoposlabit-pozitsii-ukraini-v-infoprostori>.

<sup>32</sup> Zelenskyy called on Israel to recognise Holodomor as a genocide against the Ukrainian people. – DW, 19 August 2019, <https://www.dw.com/uk/зеленський-закликав-ізраїль-визнати-голодомор-геноцидом-українського-народу/a-50077179>.

<sup>33</sup> Ukraine suspended search permits for Polish organisations in April 2017 after a series of vandalism acts against Ukrainian graves and monuments in Poland.

<sup>34</sup> The director of the Ukrainian Institute of National Remembrance and the Ambassador of Poland discussed the areas of cooperation. – UINP, 10 January 2020, <https://uinp.gov.ua/pres-centr/novyny/golova-ukrayinskogo-institutu-nacionalnoyi-pamyati-ta-posol-polshchi-obgovoryly-napryamky-spivpraci>.

<sup>35</sup> For more detail, see: The State and Church in Ukraine 2019: Results and Prospects of Relations. – The Razumkov Centre, 2019, [http://razumkov.org.ua/uploads/article/2019\\_Religiya.pdf](http://razumkov.org.ua/uploads/article/2019_Religiya.pdf).



In the process of parishes transition from the UOC-MP to the OCU one can observe clashes over the church property. The courts receive dozens of lawsuits on renaming the UOC-MP, on liquidation of the UOC-KP as a legal entity and the cancellation of its registration, on intervention of local authorities in the transition process, and the like. The risks of destabilisation of the church and religious environment are very real.

The ethnic policy is another problematic area. In September 2019, Kyiv, Odesa and Chernivtsi hosted discussion panels on the protection of the rights and freedoms of national minorities in Ukraine. In particular, their participants outlined the problems of granting a status of indigenous peoples to certain ethnic groups.<sup>36</sup> Another issue is linked to the mixed attitudes of ethnic communities (primarily Hungarian and Romanian) towards the transition of Ukrainian secondary schools to the state language of teaching.

Generally speaking, the current situation in the state-church, inter-denominational and interethnic relations requires an increased and competent attention of the state. In the meantime, the central executive body tasked to regulate these relations by law, still it has no director and does not operate according to its status.<sup>37</sup>

## Youth Policy

As for the youth policy, it is worthy to mention the adoption of the Law “On the Recognition of the Plast Movement and Peculiarities of the State Support for Plast and Scout Movements”, which includes the following objectives: “developing the European identity in children and young people, promoting integration of the Ukrainian Plast and Scout movements into the European and Euro-Atlantic community”, as well as “promoting civic education of children and youth as responsible and active citizens who profess and uphold democratic values”.<sup>38</sup>

While reporting on the performance of his Ministry on 30 December 2019, Minister Borodyansky announced the large-scale youth mobility campaign. This first ever educational trips programme for school students around Ukraine received UAH 500 million from the State Budget. It is expected that in 2020 every fifth school in the country will be involved in the programme. The Minister also announced the reboot of arts education in Ukraine with the new project *Arts Education for the Future*. The government initiated a dialogue with professional communities, particularly on primary art education.

The ban on the animal use in circuses (“Circus without Animals”) may be viewed as an element of humanistic

education of children and young people. Minister Borodyansky assured that all state-owned circuses will stop exploit animals in circus performances during 2020.<sup>39</sup>

## Humanitarian education

This is one of key areas of the state humanitarian policy, especially for a school that promotes socialisation of an individual, lays the foundation for all dimensions of the personal and collective identity of an individual and community, teaches the values and ideological components of any knowledge and competences. The school’s humanitarian education involves learning of the humanities, which primarily include language (native and official), literature and history. The issues of their teaching and studying, as well as scope and content are currently highly politicised and therefore become even more relevant.

The Ministry of Education and Science of Ukraine (MoES) is responsible for humanitarian education. Just like in case of the MCYS, the Ministry’s tasks are generally formulated in the Cabinet’s programme as broad goals that are further specified in the MoES documents and some legislative acts adopted by Parliament. In general, the government declares continuation of education reform within the *New Ukrainian School* concept, commenced in 2017 by the Law “On Education”.

On 10 January 2020, the MoES made public draft concepts of the state policy for achieving the above-mentioned government goals.<sup>40</sup> One of these draft concepts refers directly to school education – *the Concept of the State Public Policy for Achieving Goal 1.2. “School graduates are self-sufficient, inventive and creative personalities who have a thorough knowledge and competencies necessary in the modern world” of the Cabinet of Ministers of Ukraine Action Programme*. This goal is specified in sub-goals and objectives, but they all are generally linked to formal dimensions of the educational process, its material and technical support. The content of basic and specialised secondary education is only described as “meeting modern requirements”.<sup>41</sup>

The plan for the implementation of the said goal provides for updating the content and methodology of teaching. Regulatory support for updating (development of the State Standard and Standard Curriculum for basic secondary education) is expected to be completed by March 2021, while all necessary textbooks and methodological materials to be provided by December 2024.

<sup>36</sup> For example, Moldovans living in Southern Bessarabia, profess to the ingenious people status. See: Forums on the rights of the national minorities took place in Kyiv, Odesa and Chernivtsi. – MCYS, <http://mkms.gov.ua/news/3200.html>, <http://mip.gov.ua/news/3200.html?PrintVersion>.

<sup>37</sup> Provisions on the State Service was approved by the Cabinet of Ministers on 21 August 2019.

<sup>38</sup> The bill was signed by the President on 13 January 2020, <https://zakon.rada.gov.ua/laws/main/385-IX>.

The initial title was “On the State Recognition and Support of Plast – the National Scout Organisation of Ukraine” (draft law No.10184 dated 25 March 2019).

<sup>39</sup> Currently the specialists explore the ways to rehabilitate circus animals; all of them must be referred to the rehabilitation centres.

<sup>40</sup> MoES submits for public discussion draft concepts and action plans for the implementation of the state policy regarding goals 1.1.-1.5. of the Cabinet of Minister’s Action Programme. – The web site of MoEs, <https://mon.gov.ua/ua/news/mon-proponuye-dlya-gromadskogo-obgovorennya-proyekti-koncepcij-ta-planiv-realizaciyi-derzhavnoyi-politiki-shodo-dosyagnennya-cilej-11-15-programi-diyalnosti-kabinetu-ministriv-ukrayini>.

<sup>41</sup> The Concept of the state policy for achieving Goal 1.2. – The web site of MoEs, [https://mon.gov.ua/storage/app/media/gromadske-obgovorennya/2020/01/10/koncep-do-chily-PDU-1\\_2.pdf](https://mon.gov.ua/storage/app/media/gromadske-obgovorennya/2020/01/10/koncep-do-chily-PDU-1_2.pdf).

It is worthy to note that the sole responsibility for updating the content of school education has been assumed by Ministry of Education and Science, and this, from the humanitarian education standpoint, raises questions about participation of MCYS and its institutions in the educational process. Such involvement is foreseen in just one clause of the Action Plan: “Organization of extra-curricular activities of students according to their needs and interests”. In education, it deems unacceptable to limit the powers and responsibilities of the agency, which shapes the state’s humanitarian policy, solely to conducting extra-curricular activities and to meeting – rather than shaping – students’ general cultural needs and interests. This becomes even more unacceptable, as the OECD’s Programme for International Student Assessment (PISA) found poor progress of the Ukrainian students in reading, and especially in skills of analysing unfamiliar texts – which is a basis for the overall cultural development.<sup>42</sup> In the meantime, it is the MCYS and its institutions that are tasked to shape the culture of reading among children and young people. The Minister has repeatedly mentioned close cooperation with the educational sphere, including in the development of the above-mentioned Strategy of the State Humanitarian Policy.<sup>43</sup> The UINR Director has also emphasised intensification of work with schools. He recently announced that his Institute has developed for schools in Ukraine a series of lectures on decommunization.<sup>44</sup>

Current MoES documents create an impression of poor coordination between the Educational Ministry and the MCYS, which can have negative consequences not only for the humanitarian, but for education and youth policies alike.

The Law “On Complete General Secondary Education” was approved on 16 January 2020.<sup>45</sup> The requirements of using the state language in the educational process and

the procedure of transition of schools with non-state language to Ukrainian teaching were eased, but they still displease some national minorities.<sup>46</sup> The law also differentiates between national minorities and indigenous peoples, but, as noted above, their definition in the current legislation is still absent.<sup>47</sup>

The law has generated controversial responses in the educational environment. For the Trade Union of Education and Science Workers, it is unacceptable to dismiss teachers and school headmasters who receive old age pensions and to conclude fixed-term contracts with them, as stipulated by the new law.<sup>48</sup>

Other provisions of the law are also debateable, such as Article 32 on granting the right to establish lyceums – institutions of general secondary education of the 3<sup>rd</sup> level of accreditation – only to cities with the population over 50,000.<sup>49</sup> Without a doubt, this will undermine opportunities for students of small towns and surrounding rural communities to complete secondary education at the place of residence. Moreover, this provision directly contradicts the Goal 1.1 of the Government Action Programme, and the MoES Sub-Goal 3: “*A network of schools capable of providing quality education to all children, irrespective of their residence*”, which provides for building a “*network of lyceums that ensure obtaining a profile general secondary education of academic and professional direction*”.

There are grounds to believe that the interest of school students in the humanities is quite high. Specifically, the Ukrainian language and literature, as well as the history of Ukraine are the most popular – along with mathematics and English – among students who have signed to participate in the External Independent Evaluation (ZNO) in March 2020.<sup>50</sup> The task, therefore, is to formulate and implement adequate time-specific humanitarian and educational policies by all competent state institutions, professional communities and the public.

<sup>42</sup> According to PISA survey, nearly 30% of Ukrainian respondents have not reached the base level; in reading Ukrainian students scored 466 points (average – 488, maximum – 1000); less than 4% of students were able to analyse unfamiliar text in detail. See: Ukrainian students’ knowledge in reading, math and science is below average. – PISA study, <https://hromadske.ua/posts/riven-znan-ukrayinskih-shkolyariv-u-chitanni-matematiki-ta-prirodnicih-naukah-nizhche-serednogo-doslidzhennya-pisa>.

<sup>43</sup> A new Zelenskyy’s advisor on humanitarian initiatives. – Ukrinform, 29 July 2019; <https://www.ukrinform.ua/rubric-society/2750036-novij-radnik-zelenskogo-rozpoviv-pro-gumanitarni-initsiatiivi.html>.

<sup>44</sup> See the first press conference of Anton Drobavych, the UINR Director. Key points.

<sup>45</sup> The bill was submitted to the Parliament on 5 May 2019 and approved in principle on 30 May 2019. The next Parliament finalised it for the second reading. See: [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66333](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66333).

<sup>46</sup> The law generated a negative response from the Hungarian community in Zakarpattia. The Antal Hodinka Research Centre at the Ferenc Rakoczi II Transcarpathian Hungarian Institute published the conclusion that this law is “another step of Ukrainization”. See: D. Tuzhansky, S. Sidorenko. The schools of reconciliation: can new language norms settle the conflict between Ukraine and Hungary? – Yevropeyska Pravda, 17 January 2020, <https://www.eurointegration.com.ua/articles/2020/01/17/7105243>.

<sup>47</sup> Draft laws on the languages of national minorities and indigenous people are currently under development. See: <https://www.ukrinform.ua/rubric-society/2844597-zakonoproekt-pro-movi-nacmensin-predstavlat-na-pocatku-2020-roku-mkms.html>.

<sup>48</sup> Practical implementation of the innovation will lead to a simultaneous release of more than 70 thousand teachers, as well as educators, organisers, heads of hobby groups and other pedagogical workers by 1 July 2020. See: The Trade Union: more than 70 thousand teachers of retirement age will be fired. – Osvita.ua, 23 January 2020, <https://osvita.ua/school/69717>.

<sup>49</sup> Of 472 cities and towns of Ukraine, 376 have the population below 50,000.

<sup>50</sup> Registration for the test run of ZNO-2020 has finished. – Osvita.ua, 24 January 2020 <https://osvita.ua/test/69817>.

# FORECASTS-2020

## SECURITY AND DEFENCE

As described in the summary section, the eventful 2019 produced virtually no fundamental changes in Ukraine's security. At the same time, a number of factors of external and internal influence that have emerged, persisted or transformed throughout the year deserve priority attention in the context of possible scenarios for 2020.

This will be the first full year, when President Zelenskyy and his political force will bear the sole responsibility for the national security and reforms. Any progress – or lack of tangible results – of security reforms alone during the year will serve as an indicator of the government's competence, but it will hardly have a decisive impact on its ratings. Instead, a “turbo-regime” of peaceful initiatives and unilateral compromises can create significant problems not for the ruling elite only.

### Security Environment and the Russia-Ukraine Armed Conflict

Aggressive policy of Russia remains the main external threat to Ukraine's security. The settlement of the Russia-Ukraine conflict, which since day one has gone beyond the scope of the bilateral relations, will largely depend on external factors. The so-called “Ukrainian crisis” is strictly incorporated into the global security crisis and Russia's confrontation with the West. With the Kremlin's ongoing activity in different parts of the world and its unaltered policy regarding Ukraine, Putin will continue trying to use Ukraine for consolidating successes or compensating domestic and foreign policy failures of the Russian regime.

The analysis of previous year's outcomes allows identifying the following external factors that are likely to have a decisive impact on national security in general and on the course of the Russia-Ukraine conflict in 2020:

- increasing international turbulence; geopolitical competition between world leaders;
- inability of international institutions to guarantee peace, stability and security;
- use of the “Ukrainian card” in relations between Russia, Europe and the United States; attempts to settle the so-called “Ukrainian crisis” without Ukraine;

- erosion of the West's attention to the Russia-Ukraine conflict against the backdrop of escalating conflicts in the Middle East, as well as increased prioritisation of climate change, nuclear disarmament, arms control and non-proliferation, and the crisis of Euro-Atlantic solidarity.

Today, there are plenty of reasons to expect “neither (large-scale) war nor (full-fledged) peace” as the most likely scenario of Russian-Ukrainian relations in the near future. Any progress in the implementation of some agreements already reached within the Normandy Four format<sup>1</sup> and the Trilateral Contact Group on de-escalation of the conflict will have largely tactical effect.

At the same time, possible agreements of the next Normandy Four meeting (if it takes place) “as regards political and security conditions, inter alia, to organise local elections”<sup>2</sup> can trigger a new wave of protests in Ukraine, while the President's consent to introduce – let alone to implement – the political section of Minsk Agreements (amending the Constitution, holding elections under the “Steinmeier formula”) will definitely have grave consequences for national security.

More than obvious is the pessimistic outlook on the prospects of Crimea's de-occupation. At the same time, the conflict potential of this “delayed” problem is likely to increase in 2020, given the unprecedented militarisation of the Crimean Peninsula and maritime areas, creeping annexation of the Black Sea and the Sea of Azov during 2014-2019.<sup>3</sup> Ukraine and its international partners will have to tackle Russia's ambitions, while avoiding a direct military confrontation.

In 2020, the conflict situation around water supply of the Crimean Peninsula may intensify. Unlike issues of transport links and energy supply that emerged after the annexation of Crimea, the occupying power largely ignored the possible consequences of water supply interruption through the North Crimean Canal (85% of Crimea's water needs). According to specialists, much of the Crimea may face the problem of acute lack of drinking water be left without drinking water as early as March 2020,<sup>4</sup> and Ukraine should expect “offers that are hard to refuse” from the Kremlin.

Along with its support of the “simmering” confrontation in Donbas, Russia is highly likely to intensify activities aimed at destabilizing and changing the socio-political balance of power in the regions, especially in

<sup>1</sup> The package of the existing (Minsk) Agreements in the Normandy Four format including results of the December 2019 meeting at which the parties agreed to hold another meeting within 4 months. See: Overall agreed conclusions of the Paris Summit in the Normandy format of 9 December 2019. – The official web site of the President of Ukraine, <https://www.president.gov.ua/en/news/zagalni-uzgodzheni-visnovki-parizkogo-samitu-v-normandskomu-58797>.

<sup>2</sup> Ibid.

<sup>3</sup> For more detail. see: Klymenko A. (Un)foreseeable storm – from Mariupol to Bosphorus. Sea risks in 2020: The Sea of Azov. – *BSNews*. 12 January 2020, [www.blackseanews.net/read/159386](http://www.blackseanews.net/read/159386); Klymenko A. (Un)foreseeable storm 2 – from Crimea to Odesa. Sea risks in 2020: The Black Sea. – *BSNews*, 13 January 2020, [www.blackseanews.net/read/159547](http://www.blackseanews.net/read/159547).

<sup>4</sup> The occupants in Crimea claim that the drinking water supply would be enough until March. – *Dzerkalo Tyzhnya*, 12 November 2019, [https://dt.ua/UKRAINE/okupanti-krimu-stverdzhuyut-scho-zapasiv-pitnoyi-vodi-vistachit-do-berezhnya-329377\\_.html](https://dt.ua/UKRAINE/okupanti-krimu-stverdzhuyut-scho-zapasiv-pitnoyi-vodi-vistachit-do-berezhnya-329377_.html).



the South and East of Ukraine, especially during 2020 local elections.

Despite the relevance of foreign policy factors, the state of national security will primarily depend on the ability of the Ukrainian government to perform one of its key functions. In 2020, the new presidential team should expect a serious test of its competence and ability to exercise its authority and fulfil commitments.

## Security Sector

In 2020, one can hardly expect significant results of the reform, given the available scarce resources, the announced permanent personnel changes,<sup>5</sup> and the government's low-key and populist style of making and implementing decisions. At least during the first half of the year 2020, the security sector activities will be driven by old strategies and plans, and by the end of the year at best, the government may complete the strategic planning cycle and create conditions for future reforms based on the State Budget - 2021.

The process of elaborating an updated package of strategic documents, programmes and action plans is likely to continue until the end of the year (subject to their coordination with NATO). At present, due to limited information on the content of these documents, it is impossible to assess whether they are systematic and realistic to the degree where results of the reviews are taken into account; and if there is the consistency of results, timing and resources in general, as well as consistency among concepts, strategies and plans of different security structures, or separate thematic sections of the future National Security Strategy.<sup>6</sup>

The absence of a national strategy for settling the Russia-Ukraine conflict<sup>7</sup> as part of the National Security Strategy will have a negative impact not only on the process of conflict resolution, but also on the development and implementation of reform plans for both the specific security components and the entire sector.

## Armed Forces

The above prospects for reforming the security sector in 2020 also concern the Defence Ministry. 11 priority areas, announced by the MoD leadership<sup>8</sup> late

last year are, in essence, an expanded interpretation of five strategic goals of the 2016 Strategic Defence Bulletin<sup>9</sup> and, more importantly – a confirmation of the transformation sequence consistent with previously approved documents (the new team did not introduce fundamental innovations).

The same is true about the General Staff's strategic vision of the development goals, transformation priorities and daily activities of the Armed Forces of Ukraine for a 10-year period, published in early 2020.<sup>10</sup> Given that both documents were presented immediately after the completion of the 2019 Defence Review, one can expect that the main priorities and directions will remain unchanged in the new strategic and programmatic documents on the defence sector development for the next five years.

In 2020, previously planned large-scale measures aimed at transforming the defence and military command and control system regarding the separation and redistribution of functions and powers between the MoD and the General Staff, as well as between the Commander-in-Chief of the Armed Forces, the General Staff and other command structures, branches and types of the military are to be implemented. This will be accompanied by restructuring of existing governing bodies and the creation of new, along with transition to NATO standard (J/G/A/N/S) structures. In the long term, these measures should not only approximate the Ukrainian Armed Forces to NATO standards, but also contribute to a qualitative change in all aspects of their functioning and development. However, the shift from old to new model poses the risks of partial weakening of the system, which is especially dangerous in the context of the active armed conflict and the permanent threat of its escalation.

## Law Enforcement Agencies

In 2020, it is planned to carry out the planned measures to reform the structures within the Ministry of Internal Affairs and to improve performance of their functions, which cover the lion's share of the civilian security sector (the National Police, the National Guard, the State Border Service, the State Emergency Service, and the State Migration Service).

<sup>5</sup> "I believe we will have a long journey of personnel changes. and this is normal. We need to change. Change. change. change. until we find a perfect team. which then. you know. to clean...". Volodymyr Zelensky's interview to Channel 9. "I am not sure is the scar between Russia and Ukraine will ever resolve". – Channel 9. Israel, 24 January 2020, [www.9tv.co.il/item/9192?utm\\_source=facebook&utm\\_medium=social&utm\\_campaign=ts&utm\\_content=ss#0\\_5\\_8983\\_6951\\_1900\\_215211597](http://www.9tv.co.il/item/9192?utm_source=facebook&utm_medium=social&utm_campaign=ts&utm_content=ss#0_5_8983_6951_1900_215211597).

<sup>6</sup> At the beginning of 2020 only a defence review has been completed while the new National Security Strategy was not approved at the time of publication. In addition, the quality of the Strategy may be adversely affected by the violation of the provisions of the Law of Ukraine "On the National Security", No.225 by the previous President issued on 16 May 2019 provides for reviews of security sector components rather than a comprehensive review as provided by law.

<sup>7</sup> Foreign Minister Prystayko V. acknowledged the absence of the "Zelenskyy formula" in written. According to the Minister. he will have to meet the President and "sketch it out". See Prystayko described the "Zelenskyy formula" for Donbas settlement. – Ukrinform. 17 September 2019, [www.ukrinform.ua/rubric-polytics/2781457-pristajko-nazvav-formulu-zelenskogo-dla-vreguluvanna-na-donbasi.html](http://www.ukrinform.ua/rubric-polytics/2781457-pristajko-nazvav-formulu-zelenskogo-dla-vreguluvanna-na-donbasi.html).

<sup>8</sup> Development of a defence strategy security of the Black Sea region infrastructure development professionalism and social protection provision of housing implementation of NATO standards weapons and innovative technologies defence procurement reform electronic document management. territorial defence anti-corruption. See: Priority areas of reform of the Ministry of Defence and the Armed Forces of Ukraine for 2019-2020. – The official web site of the Ministry of Defence of Ukraine, [www.mil.gov.ua/prioritetni-napryamki-reformi-ministerstva-oboroni-ta-zbrojnih-sil-ukraini-na-2019-2020-roki.html](http://www.mil.gov.ua/prioritetni-napryamki-reformi-ministerstva-oboroni-ta-zbrojnih-sil-ukraini-na-2019-2020-roki.html).

<sup>9</sup> Presidential Decree No.240 issued on 6 June 2016 "On the Decision of the Security and Defence Council of Ukraine of 20 May 2016 'On the Strategic Defence Bulletin'", [www.president.gov.ua/documents/2402016-20137](http://www.president.gov.ua/documents/2402016-20137).

<sup>10</sup> The vision of the General Staff of the Armed Forces of Ukraine on the armed forces development for the upcoming ten years. Official web site of the Ministry of Defence of Ukraine, 11 January 2020, [www.mil.gov.ua/news/2020/01/11/viziya-generalnogo-shtabu-zs-ukraini-shhodo-rozvitku-zbrojnih-sil-ukraini-na-najblizhchi-10-rokiv/](http://www.mil.gov.ua/news/2020/01/11/viziya-generalnogo-shtabu-zs-ukraini-shhodo-rozvitku-zbrojnih-sil-ukraini-na-najblizhchi-10-rokiv/).

Within the civilian security sector budget for 2020, it is planned to achieve the following:

- Increasing the prestige of the profession (salary increases by 6-15%, loans to 2 thousand staff within the housing programme).
- Developing a civil security system in the regions (expansion of the Community Police Officer programme to 806 communities in addition to current 206, provision of qualified personnel and equipment).
- Developing a new system of cyber defence and rapid response to emergencies and crimes.
- Renewing the fleet of coast guard boats (three-year Ukrainian-French programme for building 20 boats).
- Continuing the MoIA's Unified Aviation System and Civil Safety project (procurement of additional 10 *Airbus* helicopters from France).
- Improving the road safety (introduction of photo and video recording of violations).<sup>11</sup>

The declared plans are likely to be implemented. This may be partially guaranteed by the reform experience of a team led by Minister Arsen Avakov, as well as by realistic support of plans with relevant budget and existing contracts. At the same time, one should not rule the resignation of Minister Avakov<sup>12</sup> and his immediate team in 2020. Change in the ministerial position (for objective reasons) will have at least short-term negative effects for the ministry's management and completeness of plans that are being implemented. Moreover, Avakov's replacement with a figure more loyal to the President poses risks of losing the "political neutrality", demonstrated by Mr Avakov since 2014 and especially during the 2019 elections.

## Special Services

A framework for systematic reform of special services and intelligence agencies is expected in Ukraine in 2020. In addition to approval of relevant specialised bills, concepts, strategies and plans, this will also require changes to the legal acts that regulate the redistribution of functions and powers, coordination and interaction, as well as civil democratic control over the activities of special services. In particular, it is envisaged to amend the Criminal Code, the Code of Criminal Procedure, and the Code on Administrative Offenses regarding activities of the SSU and intelligence agencies.

Submission to the Parliament, adoption and subsequent implementation of the Law "On the Security Service of Ukraine" will test the political independence of the new SSU leadership and its readiness to give

up corruption-sensitive functions. The powers of the reformed SSU should be limited by counterintelligence, counterterrorism and protection of state secrets.

In addition, draft laws "On Intelligence" and "On Foreign Intelligence Service of Ukraine" also wait for finalisation and approval. It is obvious that the specific nature of activities and reforms of this national security area implies a much lower publicity for society and openness to international partners (excluding cases of formalised collaboration). That is why effective democratic control over special services by the Parliament, as well as the active position of international advisors involved in the reform of Ukraine's special services become essential as never before.

## Defence Industry

In 2020, the state and the defence industry will have a number of important interrelated tasks. Their successful implementation will depend on the quality of public-private partnerships and interagency collaboration. Particular attention will be given to the following issues:

- Gaining access to NATO's defence procurement system, not only to meet the needs of the defence and other security agencies in the field of armaments, military and special equipment, but also to unlock the export potential of Ukrainian defence enterprises entering the European and third-country markets.
- Completing the defence industry review and developing the strategy for national military-technical and defence-industrial policy aimed at addressing the following important problems:
  - the role of the state (including in price setting) and a rational model for managing the functioning and development of the defence industry;
  - the role and place of the private sector;
  - approaches to import substitution;
  - achieving a rational balance between competition in the domestic arms market with the participation of foreign suppliers and the development of a domestic manufacturer, in particular, the establishment and strengthening of internal defence-industrial base using offset agreements during foreign purchases;
  - building export capacity, strengthening and adequate simplification of export controls.

The problems already generated by the new government also need urgent solution. In particular, this concerns the unlocking of domestic and export contracts – this pause was caused by the poor personnel policy.

<sup>11</sup> Anton Herashchenko: The security budget for 2020 will be UAH 93 billion. – The official web site of the Ministry of Internal Affairs of Ukraine, 5 November 2019, [https://mvs.gov.ua/ua/news/25718\\_Anton\\_Gerashchenko\\_U\\_2020\\_byudzhet\\_na\\_bezpeku\\_skladatime\\_93\\_mlrdriven.htm](https://mvs.gov.ua/ua/news/25718_Anton_Gerashchenko_U_2020_byudzhet_na_bezpeku_skladatime_93_mlrdriven.htm).

<sup>12</sup> Denys Monastyrskiy: Arsen Avakov's probationary period has not ended yet. – RBK-Ukraine, 27 January 2020, [www.rbc.ua/ukr/news/denis-monastyrskiy-ispytatelnyy-srok-arsena-1579973801.html](http://www.rbc.ua/ukr/news/denis-monastyrskiy-ispytatelnyy-srok-arsena-1579973801.html).

However, most tasks and problems are the legacy of previous governments that are unlikely to be solved within one year:

- Establishment and expansion of cooperation with foreign companies; attraction of foreign investments in Ukraine's defence industry.
- Liquidation of arrears of defence enterprises; optimisation of the defence industry structure through privatisation and clustering.
- Quality realisation of the first stage of small-scale privatisation; piloting of new approaches to ensure transparency and efficiency of this process.
- Improvement of public-private partnerships; increased role of the private sector in completing the state defence order (SDO).
- Improvement of medium- and long-term planning process.
- Rejection of the Soviet standards and transition to modern state standards of Ukraine, harmonised with NATO standards. This will require an extensive system of testing, standardisation and certification of weapons, military and special equipment.

## Conclusions

The crash of the Ukrainian passenger jet PS752 in early days of 2020 seemingly occurred due to a tragic coincidence<sup>13</sup> amidst the "controlled" escalation in the Middle East. However, the incident with a Ukrainian plane downed by Russian-made missiles at the epicentre of the US-Iran confrontation quite symbolically demonstrates the "globalisation" of security problems, the risk of the situation spiralling out of control and ensuing realisation of worst-case scenarios that are difficult to predict, but which one should be prepared to deal with.

Despite the relevance of foreign policy factors, the state of the national security primarily depends on the government's ability to exercise one of its key functions. In 2020, the new presidential team will be tested for competence, ability to take strategic and systematic approaches, presence of political will, and courage in making and implementing decisions. Effective communication with society and international partners should be an essential component of these activities.

Positive results will contribute to strengthening the defence capability, protecting the state and society against a wide range of threats, and achieving gradual and irreversible progress of reforms. However, any mistakes will be used by the political opponents to criticise and weaken the ruling team, and will also have a negative impact on the country's national security.

<sup>13</sup> "...missiles fired due to human error caused the horrific crash of the Ukrainian plane and death of 176 innocent people". – Twitter of Iran's President Hassan Rouhani, 11 January 2020, <https://twitter.com/HassanRouhani/status/1215856039997984768>.

## FOREIGN POLICY

In 2020, Ukraine's foreign policy will be affected, on the one hand, by instability and unpredictability of the world processes and the mounting geopolitical conflictogenity amidst the crisis of global and regional security structures. On the other hand, it will be influenced by the complex and contradictory domestic policy dynamics. Ukrainian diplomacy will face challenges and tests in key areas of foreign relations, mainly Russian. It is obvious that the issue of security will remain the foreign policy priority.

### Russian Segment

Russian aggression will continue to be the main external threat to Ukraine. Unfortunately, the course of events in 2019 does not suggest the presence of any real prospects for settling the deep and long-lasting Russia-Ukraine conflict.

Despite the initiation of constitutional reform in the Russian Federation, the arrival of a new "technocratic" government and the announced change of the "Ukrainian" curator (Dmitry Kozak) in Putin's administration, one should not expect any positive changes in Russian policy in general and in its policy regarding Ukraine in particular. The personnel reshuffle can be explained *inter alia* by the fact that the experienced negotiator D. Kozak, a former ideologist of asymmetric federalisation of Moldova (2003), will actively advance an absolutely unacceptable Russian plan of "federal disintegration", or *de facto* dismemberment of Ukraine, within the framework of the Normandy negotiations.

One can assume that the Normandy format talks will follow two likely scenarios. *First*, at the next meeting in Berlin, the Kremlin may imitate its "peacekeeping aspirations" and agree to small compromises at the expense of Ukraine – disengagement of troops in new sectors of the frontline, another round of prisoner exchange and other humanitarian steps, such as demining of some jointly agreed areas. *Second*, Russia may deliver an ultimatum with totally unacceptable conditions for Ukraine or even block the Normandy process altogether.

Given the results of 2019, the current policy of concessions to Russia has not led to any improvements in relations with the aggressor. Further continuation of this policy may have the opposite effect, fuelling Moscow's aggressiveness and "appetite" and leading to the increased pressure from the Western partners. Aggravated internal situation may be the third outcome of such behaviour.

In general, there are reasons to believe that the confrontation between Kyiv and Moscow will continue in all spheres – military, ideological, political, diplomatic, economic, humanitarian and others. In particular, the problem of annexed Crimea will be "frozen", with the situation in the Black Sea and the Sea of Azov remaining highly explosive. At the same time, the Kremlin will maintain a "simmering" conflict in Donbas with possible escalation.



Therefore, time is against Ukraine. The total alienation of Donbas and Crimea from Ukraine continues along with political, ideological, social and cultural Russification, as well as militarisation of the occupied territories. The topic of Russian aggression is being gradually pushed to the side-lines of global politics. In the meantime, in Europe and elsewhere in the world one can observe the ever-increasing trends towards renewed cooperation and partnership with the aggressor, as well as the revision of the sanctions policy.

### European and Euro-Atlantic Integration

In 2020, one should not expect any breakthrough in relations between Kyiv and Brussels, as the routine implementation of the EU-Ukraine Association Agreement (AA) will continue. To this end, the pace of the AA implementation becomes particularly important as the lion's share of its provisions have to be fulfilled during the presidency of Volodymyr Zelenskyy.

Sectoral integration will be a priority in Ukraine's relations with the EU, such as the conclusion of a key ACAA Agreement (Agreement on Conformity Assessment and Acceptance of Industrial Goods). This "industrial visa-free regime" will open up the EU's internal markets for Ukrainian producers. Also, the Ukrainian government will focus on a) recognition of compliance of the Ukrainian system of sanitary and phytosanitary protection of agricultural products with the European standards; b) recognition of the authorized economic operators and mutual recognition of electronic services; c) accession to the EU's New Computerised Transit System (NCTS); d) signing of the agreement on the common aviation area, and the like.

Amending relevant provisions of the AA (annexes) is another important area of activity. These include the liberalisation of quotas within the Deep and Comprehensive Free Trade Area, as well as the updating provisions on financial and telecommunication services.

There are reasons to believe that the European Union will generally continue to demonstrate solidarity and support Ukraine in the face of Russian expansion. However, one should not expect from official Brussels either tougher rhetoric or the extension of anti-Russian sanctions.

In the meantime, internal processes in the EU will adversely affect Ukraine's European integration and limit Europe's ability to assist Ukraine. The European Union currently undergoes transformation, with centrifugal trends, the rise of right-wing radicalism and conflicts between the EU institutions and individual countries becoming increasingly visible. The Russian factor also gains momentum.

NATO will continue providing its political and diplomatic support to Ukraine along with the financial assistance. The Alliance will follow its policy of not recognising Crimea's annexation and condemning Russia's aggression in the Donbas. Military, technical and financial support to Ukraine will be optimised and improved through trust funds in "one country – one plan" format. Multi-level contacts and joint exercises will also continue.

In this context, the development and implementation of the Annual National Programme of Cooperation with NATO – clear, balanced and responsive to the current needs of the Ukrainian defence sector – becomes essential. It is also evident that Ukraine's high-level contacts with NATO in 2020 (e.g. a NATO-Ukraine Commission meeting) will depend on the current bilateral relations between Kyiv and Budapest.

### Relations with Other Countries and International Organisations

Kyiv's contacts with other countries and international organizations will be largely determined by security issues. On the one hand, there are good reasons to believe that the group of leading nations (the United States, Canada, the EU members, Japan, Australia and others) will maintain anti-Russian sanctions and continue supporting Ukraine. On the other hand, the above-mentioned trend of establishing *business as usual* relations with Russia will increase. Therefore, the key task of Ukraine's foreign policy is to preserve international solidarity and support, to ensure the sanctions unity of the Western countries, and to mainstream the Crimea and Donbas issues on the global community's agenda.

An intense confrontation with the aggressor will continue within international organisations. The Russian side will consistently block the initiatives of Ukraine and its partners in the UN Security Council. At the same time, despite the resistance from the Russian Federation and its post-Soviet satellites, one can expect international support of Ukraine's positions and the advancement of pro-Ukrainian resolutions at the UN General Assembly meetings.

The situation in the PACE is quite unfavourable. The return of Russian delegation to the Assembly contrary to the previous decisions devalues its influence and authority in Europe and, at the same time, inspires the international process of normalising relations with the Kremlin. The limiting factors for Ukraine in this regard include a lack of experience of some members of the Ukrainian delegation, internal conflicts and different political positions. Moreover, there is a polarisation in the PACE not in favour of Ukraine (namely pro-Russian positions of several delegations from the leading European countries). At the same time, the new, extremely intricate procedural mechanism of imposing sanctions effectively guarantees the impunity of the aggressor. The tone of previously rigid PACE rhetoric regarding Russia is likely to soften.

The situation around the American-Ukrainian relations will remain difficult and even vulnerable. One can expect attempts by foreign actors (primarily the Russian Federation) to "pit" Kyiv and Washington against each other and deprive Ukraine of the American military and political support. Moreover, domestic players will also use these tensions in their own interests.

It is difficult to predict future course of events in this area primarily because of the impulsiveness and unpredictability of the American President. However, one can already assume the following: (a) the "Ukrainian theme" will become an integral part of the US election

campaign, being “toxic” to the incumbent President. At the same time, Donald Trump’s counterarguments involving the alleged widespread corruption in Ukraine will definitely undermine Kyiv’s international image. (b) It is possible that, on the one hand, President Trump will withdraw from the Crimean and Donbas topics even further, especially after “killing” the previous negotiation format (Volker-Surkov). On the other hand, he seeks to revive a dialogue with Moscow (e.g. Trumps intentions to engage Putin in the G-7). (c) The suspension or reduction of Washington’s military and economic assistance to Kyiv is unlikely, as on 20 December 2019 President Trump signed the US defence budget for next year, which includes \$700 million in assistance to Ukraine, but “Ukraine’s presence” in the US elections will complicate the political and diplomatic dialogue between two countries.

The Ukrainian authorities must consistently stay away from the internal processes in the United States, avoid being dragged into the electoral struggle as a “source of dirt”, and retain confidence and support of both Republicans and Democrats.

Due to the following circumstances, Ukraine will also face challenges in relations with its neighbours. *First*, Poland, Romania, Moldova, Slovakia and Belarus will hold presidential and/or parliamentary elections, which may have a different impact on these countries’ internal political situation and also affect their foreign policies. This adds uncertainty to Kyiv’s regional policy. The most “problematic” for Ukraine are the presidential elections in Moldova, which can strengthen Russian influence and presence in this country and even prompt Chisinau’s drift away from the EU and the Eastern Partnership. *Second*, Ukraine’s concessions to Poland and Hungary remain unilateral. Such policy can resonate negatively in Ukraine and stir public protest. Moreover, Ukraine’s weak positions can provoke partners to advancing additional demands, which will cause a new spiral of tension in bilateral relations.

## DOMESTIC AND LEGAL POLICY

### Key Challenges and Factors Affecting Political Situation

In 2020, the main challenges for the development of political situation in Ukraine will be linked to answers to the following questions:

- finding ways to end war in the East and possibilities to reintegrate the occupied territories of the Donetsk and Luhansk oblasts; approaches to addressing the Crimean issue;
- determining the limits of compromises that Ukrainian society will agree on regarding war and peace;
- defining the pattern of further relations with Russia (“thaw” and normalisation, concessions and restoration of Russian influence; coexistence with the minimum necessary set of relations, etc.);
- searching for Ukraine’s place in the ever-changing world; identifying key external partners and building a model of relations with them;

- defining the model of further development of the country and its economy in the long run; shifting from the policy of situational decisions and experiments to strategic planning.

Russia’s hybrid aggression will continue, even if countries reach agreements to end hostilities. Instead, Russia will intensify other forms of aggression aimed at destabilising Ukraine’s internal socio-political and economic situation, as well as discrediting Ukraine and weakening its position in the international arena (including disinformation, sabotage, terrorism, intelligence, subversion, etc.)

Ukrainian society’s vulnerability manipulative information technologies will remain high, which will be reflected in its support of various populist movements and campaigns. The latter may well focus on real socio-political and economic problems, in particular, issues of land sales, protests against raising of retirement age, encroachment upon the rights of employees, and the like. All these can be actively used during the expected election campaigns.

The influence of the Western nations will remain noticeable, despite the pre-election situation in the United States and the deepening crisis in the EU and other European institutions. The vector of the West’s action will be determined by the acts and decisions of the Ukrainian government. For example, continued efforts toward concentration of power, revision or rejection of reforms initiated with the support of international partners, regress in the independence of courts, lack of results in ensuring protection of property, curbing raiding and combating corruption can lead to cooling in relations and reduced support. In this context, the government’s worst possible steps include increased pressure on the political opposition and ongoing attempts to control information and introduce censorship.

With the public’s attitude to the authorities becoming increasingly more pragmatic, it will be determined by the balance of positive and negative impact of government actions on the wellbeing of citizens, while the credit of confidence will be gradually exhausted. In society, there will be a growing annoyance with inability (or unwillingness?) of the government to act in accordance with expectations of those who voted for it and to fulfil election promises.

Such discontent in society may be caused by actions and intentions of the government that run counter to positions of the majority (sometimes even demonstrative) and aggravate the social status of citizens (see below). The situation will be exacerbated by the lack of proper communication between the authorities and the public, attempts to conceal intentions and to provide incomplete or untruthful information.

An increasing dissatisfaction has already become evident, as the level of public confidence in all higher state institutions – the President, the Verkhovna Rada and the Cabinet – has dropped (the trust/distrust balance of the last two even reached negative values). The same is true for some personalities in the new ruling team. Volodymyr Zelenskyy and his entourage can channel this discontent away towards the Verkhovna Rada and the Cabinet.

One should not forget that a sizeable group made of people involved in armed response to Russian aggression (ATO/JFO veterans, military and civilian volunteers, their families and many others) has been formed in society. These categories, as well as patriotic citizens in general, have a certain sense of community, which revealed itself, for example, in the organisation of alternative celebration of Independence Day in Kyiv on 24 August 2019 – the March of Defenders of Ukraine, and the participation in actions under the motto “No to Capitulation!” It is easy to predict that any government actions in relations with Russia, which may cross the “red lines” outlined by civil society, or increased pressure on these categories may trigger their active resistance.

## Government

Russia remains the main “headache” for the Ukrainian government, as it can easily provoke crisis both in military confrontation, in political life, and in the economic situation.

- Strong internal challenges for the government mainly originate from its own actions and intentions:
- accelerated introduction of the agricultural land market, which is opposed by most Ukrainians;<sup>14</sup>
- the decision to reform the labour legislation. The new draft Labour Code significantly weakens the guarantees of employees’ rights in their relations with employers;
- possible decisions regarding for “decentralisation”. As noted above, the withdrawn draft amendments to the Constitution sought minimisation the powers of local self-governments and community rights;
- high likelihood of decisions regarding reintegration of the occupied territories of the Donetsk and Luhansk regions and holding elections under the terms of the “Steinmeier formula”, or *de facto* Russia’s terms;
- intensification of tax, fiscal and other pressure on both entrepreneurs and consumers, that is, on entire society (in particular, following possible adoption of bills on taxation of services received online; on mandatory declaration of income and property by all citizens and “legalization” of their savings that are stored outside the banking system, etc.);
- lack of professional talent pool with sufficient level of training. Moreover, despite obvious failures in the work of the Parliament and the Cabinet, the new ruling team cannot afford recruiting members of the previous regime for image (and possibly emotional) reasons;

- unaddressed issues of de-monopolisation and “de-oligarchisation”, along with probable and potentially powerful resistance from the financial-industrial and other groups of influence to any government decisions in this area. Particularly illustrative in this context will be further development of the situation around PrivatBank,<sup>15</sup> which remained “frozen” over the past year;
- increase in arrears of wages, pensions, subsidies, other social benefits;
- reduction of social obligations and the social sphere itself. The threat of discontinuation of health reform due to lack of funds and absence of competent management.

The system of government formed after the 2019 elections has two weak links – the Parliament and the Cabinet, which began the year of 2020 basically deprived of own subjectivity. Therefore, one can expect an elevated level of conflict in relations between the President (who will continue playing his role of hegemon) and other branches and institutions of government. Above all, this will concern the Parliament, given the heterogeneity of pro-presidential faction, its gradual understanding of dependence, and the President’s readiness to sacrifice this composition of the Verkhovna Rada in case of possible social discontent.

During the year, the government will feel the constant pressure of a difficult socio-economic situation, no longer being able to “blame predecessors” for mistakes. There are still no prerequisites for the radical improvement of the situation and economic growth declared by the Cabinet. This will add to the growing conflict in relations between the branches of power and between them and the President. Under such circumstances, the dissolution of the Parliament and early elections in the second half of the year become possible. The resignation of the Cabinet or significant changes in its composition are also likely.

## The President of Ukraine

The President will remain the most stable government institution throughout the year. He has concentrated all basic capacities and instruments of power in his hands; he represents the expectations of a larger part of society for positive change; and he is the main person responsible for the state of affairs in the country in the eyes of society.

During the election campaigns and until the end of 2019, President Zelensky managed to avoid giving direct answers to key questions concerning the further direction of the country’s development. It is unlikely that he will have this opportunity further on, since the new ruling elite under his leadership has been generally outlined. Issues,

<sup>14</sup> See: Public attitudes towards the introduction of land market and lifting the moratorium on the sale of agricultural land. – Press release of the Razumkov Centre, 11 November 2019, <http://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/stavlennia-gromadian-do-zaprovadzhennia-rynku-zemli-ta-skasuvannia-moratorii-na-kupivliuprodazh-zemli-silskogospodarskogo-pryznachennia>.

<sup>15</sup> In particular, in the Joint press statement following the 6<sup>th</sup> Association Council meeting between the EU and Ukraine, the sides “agreed on the importance of irreversibility of reforms in the banking sector, in particular in relation to the nationalisation of PrivatBank stressing the importance of bringing to justice those responsible for the large-scale fraud at PrivatBank and the recovery of assets. – The official web site of the Ministry of Finance of Ukraine, [https://www.mof.gov.ua/uk/news/joint\\_press\\_statement\\_following\\_the\\_6th\\_association\\_council\\_meeting\\_between\\_the\\_eu\\_and\\_ukraine-2003](https://www.mof.gov.ua/uk/news/joint_press_statement_following_the_6th_association_council_meeting_between_the_eu_and_ukraine-2003).



where President Zelenskyy will have to clearly define his position include but are not limited to the following:

- vision of the way to end war in the East, return of Ukraine's sovereignty over temporarily occupied territories, the limits of compromises that the country will have to make, and the price it will have to pay;
- return of Crimea;
- restoring justice in a broad sense (countering corruption, raiding, arbitrary bureaucracy and employers);
- law enforcement and judicial reform.

Predictably significant challenge for the President is his further relationship with Ihor Kolomoisky, who is trying to solve his personal problems at the expense of the country, and with other "oligarchs".

The President will have to seek common ground with various social groups whose expectations from the new government did not materialise. These primarily include the military, ATO/JFO veterans, volunteers, independent entrepreneurs. During 2019, the President and his entourage have made a mistake by associating patriotic sentiment in society with the supporters of their political rivals – Petro Poroshenko and his "European Solidarity" party. Continued disregard for the interests of participants of the Revolution of Dignity and ATO/JFO veterans, and especially repression against the latter, may come at a high price for President Zelensky and his system of government.

The need to find the right tone in the dialogue with regional elites to preserve not only formal but also real unitary system remains critical. Volodymyr Zelenskyy's possible consent to introduction of any "special status" for any region of the country will create serious threats to national security.

One of the main tasks for the President is to "bridge" the divisions in society that were deepened by elections and his first steps as the Head of State. At the same time, further authentication of patriotic citizens with "peace opponents" and solidarity with value system of the "peace at any price" supporters will provoke divisions and conflicts in the society. The threat will intensify if the President – either directly or indirectly – agrees to Russia's terms of ending the war or curtails the country's course towards the European and Euro-Atlantic integration.

Volodymyr Zelenskyy's words about his preparedness to declining approval rating<sup>16</sup> should be understood in the sense that he is aware that any certainty in his rhetoric or action will lead to the loss of support of one or another social group. As he will still have to make choices, one can assume that he is ready to issue a decree on the appointment of early elections to the Verkhovna

Rada at the right moment. This is further confirmed by his statement about the "great journey into personnel change".<sup>17</sup>

Irrespective of the vector of future events, the intensity of information attacks on the President will increase. On the one hand, he will remain under the information pressure of Russia and pro-Russian forces in Ukraine. On the other hand, both the media and the "leaks" in Telegram channels will serve as a tool for different groups of influence to achieve certain goals (getting hold of certain sectors of the economy, avoiding certain bad decisions, and the like).

### *The Verkhovna Rada of Ukraine*

The institutional instability of the Verkhovna Rada will only increase, and there are several reasons for this. First, the natural process of fragmentation of the pro-government faction "Servant of the People" will continue. It will become increasingly more difficult to find necessary votes for a particular decision, even within a "mono-majority". The latter will resemble a confederation of different groups that have reached a temporary agreement on common tactical goals. We can expect detachment of majority MPs who usually have a better sense of public sentiment.

Quite indicative will be the Parliament's voting on the bill regarding prevention of PrivatBank return to its former owners. No further delays are impossible, as passing of this decision is one of key conditions for Ukraine to receive the IMF and EU loans.

Second, the Verkhovna Rada will be increasingly used as a "lightning rod" – an institution that will accumulate the effects of negative public perception of the actions of the entire government system. At the same time, the opposition and non-progovernment political forces in the Verkhovna Rada will also be divided, since their interests will not always coincide.

The likelihood of early parliamentary elections is rather high, given the President's recent statements on the personnel policy and his entourage's attitudes towards the Parliament and parliamentarism. As the Verkhovna Rada will fight to preserve its subjectivity, and the President and his entourage will seek to minimise this subjectivity, the conflict between two institutions is inevitable, whereas the possibilities for its settlement through other instruments are limited. There is a popular idea circulating in the halls of power on the feasibility of holding elections to the Verkhovna Rada simultaneously with local elections in the autumn of 2020.

In case of parliamentary elections, the personal composition of the deputy corps can be significantly renewed, and current proportions of representation after the 2019 elections will definitely change. Given the fact that the elections – if they are announced – will follow

<sup>16</sup> Zelenskyy: We are ready to falling rating in exchange for better country and good investment climate. – Interfax-Ukraine, 20 January 2020, <https://ua.interfax.com.ua/news/economic/636490.html>.

<sup>17</sup> Zelenskyy: The great journey into personnel change is ahead of us. – Ukrinform, 25 January 2020, <https://www.ukrinform.ua/rubric-politics/2862835-na-kladu-ocikue-se-bagato-kadrovih-zmin-zelenskij.html>.

the new rules (pursuant to the new Electoral Code that eliminated the majority constituency), many members of the 9<sup>th</sup> Verkhovna Rada will not be re-elected.

The “Servant of the People” faction is likely to remain the largest. However, it will hardly repeat its 2019 success because of the large outflow of the electorate.<sup>18</sup> Under such circumstances, the party will have to look for partners to form the parliamentary coalition.

The “Voice” party will hardly make it to the new Parliament. Instead, other parties represented in current Verkhovna Rada (ES, “Batkivshchyna”, OPFL) may strengthen their positions against the backdrop of increased public frustration with the government. They may be joined by the “Power and Honour” party, which after the unsuccessful 2019 elections did not show any signs of activity but may well compete for voter support. In the event of renewal of the Parliament, its new composition will not immediately raise the issue of consolidation of opposition to President Zelensky, since the current non-progovernment parties have too many strategic and tactical differences.

The most problematic bills for the Verkhovna Rada will include the decision on launching agricultural land market, amendments to the Constitution concerning decentralisation, as well as amendments to the labour and social policy legislation.

### *The Cabinet of Ministers of Ukraine*

The Cabinet is hostage to relations between the President and the Parliament, and more importantly – a hostage to public attitudes to the government in general. Although formally the Cabinet has a certain immunity for a one-year period since the approval of its Action Programme, in reality it can be the subject of full rotation or replacement of individual ministers.<sup>19</sup> In his address to the Verkhovna Rada of the 9<sup>th</sup> convocation, President Zelensky said that he was giving the new government a “probationary period” until the beginning of 2020.

A key problem for the Cabinet’s rotation is staffing. In particular, the lack of a suitable candidate was one of important reasons why the Prime Minister Honcharuk was not immediately dismissed following the release of scandal records in early 2020. Obviously, after that, the current Prime Minister will have a chance (6 to 9 months) to achieve the results expected by the President. In case of the Cabinet’s failure, resignation will be the next step. Meanwhile, it is clear that some ministers will be preplaced; new vice prime ministers may be appointed; some ministries will undergo structural reformations. In particular, the President emphasised on the separation of previously merged ministries of economy, culture, veterans affairs.<sup>20</sup>

However, the main problem for the Cabinet, irrespective of its composition and structure, is the questions of how the “programming” of its activities will be done, who will define a key role in it and how the orientation of the Cabinet’s strategy will look like. At the moment, the key actors influencing the government policy include President Zelensky and his entourage, the President’s groups of influence, as well as international financial organisations. Foreign partners of Ukraine, such as the European Union and the United States, have lost the lead in determining the course of sectoral reforms, as evidenced by the revision or even reversal of transformations in certain areas.

During 2020, changes may occur in this hierarchy, depending on the principles of formation of the new Cabinet composition, and more broadly, on the direction of public policy as a whole. The Cabinet is to remain, first and foremost, an “implementor” of the President’s will until the parliamentary majority reacquires its own political subjectivity and “intercepts” its constitutional control over the executive branch of power. This can happen as early as 2020 under two different scenarios:

- (1) if early elections to the Verkhovna Rada take place, but the “Servant of the People” will not get enough seats and will have to form a coalition with other political forces;
- (2) if some peculiar balance of interests emerges within the parliamentary “mono-majority”, but the President, for these or other reasons, will fail to dissolve the Verkhovna Rada and will have to look for another model of relations with the Parliament. We consider the first option more probable.

The processes of marked decline in the level of public support and confidence in key government institutions began almost immediately after the “reset” government started to pass its decisions in the second half of 2019. The reduction in the number of citizens who believe that events are progressing in the right direction, along with the growth of the share of those frustrated by actions of the new government, have become evident in early 2020. There are reasons to believe that these processes will be also felt by the President by mid-2020.

For a while, the Head of State may correct this trend for himself by initiating another “reboot of power” or imprisoning some odious persons with a corrupt reputation and prominent member of the previous government. This can have a short positive effect if the government makes no critical mistakes on issues related to war in the East and elections in the temporarily occupied territories, and also recognises opinions of larger parts of society on these and other sensitive issues.

In turn, the loss of public confidence will significantly reduce the government’s ability to make transformations

<sup>18</sup> According to the public opinion polls conducted by the Razumkov Centre, the level of support of the “Servant of the People” from September 2019 through January 2020 has dropped by 5 to 31% depending on the region.

<sup>19</sup> See Kravets R., R. Romaniuk. P. ReZet: How Zelenskyy is preparing to change the Honcharuk’s Cabinet. – *Ukrayinska Pravda*, 5 February 2020.

<sup>20</sup> Zelenskyy used to support the merger of ministries; now he wants to separate them. – *Ukrayinska Pravda*, 17 January 2020, <https://www.pravda.com.ua/news/2020/01/17/7237706>.

in different sectors, no matter how necessary and urgent they may be, and how calculated and thought-out the proposed solutions are. This will also adversely affect the country's international positions.

### *Processes in the Party System*

In late 2019 – early 2020 one could observe a certain stabilisation of the party system along with reduced activity of non-parliamentary political forces. However, such timeout will not last long. First, there is a likelihood of early parliamentary elections in 2020. Second, scheduled local elections are to take place in the autumn of 2020. These factors will keep political players “alert and alive”.

The idea of early dissolution of newly elected Parliament was articulated by the President already in August 2019. It can materialise in case of certain negative (for the President) developments in different spheres,<sup>21</sup> or simply for “blowing off steam”, if the Cabinet's resignation is not enough.

Political factors affecting the likelihood of such events include the lack of control over the “mono-majority” in the Verkhovna Rada and the state of electoral support of the “Servant of the People” Party.

As it is known, there are many informal groups within the parliamentary majority that stand up for their interests and may in some cases act against the “party line”. From the first days of the new Parliament, the leadership of the majority faction tried to ensure its controllability by adopting a bill No. 1038, which provides for withdrawal of the MP's mandate in the event

of termination of his/her membership in the faction<sup>22</sup>. However, the voting had to be postponed because of the resistance of some pro-government deputies. In the event of growing disagreements between different groups within the faction, the President will have greater motivation for dissolving the Parliament.

Also, the likelihood of early elections will be high as long as the party brand “Servant of the People” has serious voter support. This gives the President an opportunity to “effectively” reboot the Verkhovna Rada while maintaining his control over the Parliament, clearing the ranks of the ruling majority by removing disloyal elements and eliminating some of the accumulated negativity.

The recent Razumkov Centre's polls confirm the absence of any significant changes in electoral preferences of Ukrainians in early 2020 (see Table *Electoral orientations of the citizens of Ukraine*).<sup>23</sup>

The “**Servant of the People**” Party continues to dominate in electoral positions. As before, its support stems from Volodymyr Zelenskyy's personal popularity. It is he who remains the public steward of the party brand. Instead, at least some members of the parliamentary faction of the “Servant of the People” have already managed to get into uncomfortable and even disgraceful situations (e.g. Oleksander Dubinsky,<sup>24</sup> Davyd Arakhmia,<sup>25</sup> Yevhen Bragar<sup>26</sup>, Bohdan Yaremenko). Given the lack of political experience in many members of faction, one can expect new mistakes in their public communication.

**Electoral orientations of the citizens of Ukraine, %**

	ELECTIONS, July 2019	Opinion Polls conducted by the Razumkov Centre			
		September 2019	November 2019	January 2020	January 2020
“Servant of the People”	<b>43.16</b>	63.5	48.9	47.6	45.4
Opposition Platform – For Life	<b>13.05</b>	7.9	11.8	13.3	13.8
The European Solidarity	<b>8.10</b>	7.3	9.3	9.6	12.3
“Batkivshchyna”	<b>8.18</b>	5.7	7.2	8.1	8.0
Power and Honour	<b>3.82</b>	2.5	5.1	3.4	5.2
Civic Position	<b>1.04</b>	1.3	1.9	2.6	2.9
Radical Party of Oleh Lyashko	<b>4.01</b>	1.4	1.7	1.4	2.9
The Voice	<b>5.82</b>	3.6	4.6	3.8	2.5
Groysman's Ukrainian Strategy	<b>2.41</b>	0.8	2.1	1.9	2.2
“Svoboda”	<b>2.15</b>	0.8	2.3	1.9	1.6
The Opposition Bloc	<b>3.03</b>	2.3	1.9	1.7	0.9
The Shariy's Paryt	<b>2.23</b>	0.5	0.7	1.0	0.5
Other	<b>2.82</b>	2.4	2.5	3.7	1.7

<sup>21</sup> Zelenskyy threatened the new Rada with dissolution. – RBK-Ukraine, 29 August 2019, <https://www.rbc.ua/ukr/news/zelenskiy-prigrozil-novoy-rade-rospuskom-1567087550.html>.

<sup>22</sup> Draft Law “On Amendments about the Status of People's Deputy of Ukraine”.

<sup>23</sup> The election results (July 2019) are reported based on the Central Election Commission data. Further dynamics of electoral support for parties (September–November–December 2019, January 2020) are modelled on the basis of national polls conducted by the Sociological Service of the Razumkov Centre (voter support includes % of those expressed their readiness to vote and already made their electoral choices).

<sup>24</sup> About Dubinsky: 24 apartments, 17 cars and one mom with Maserati – gains by the Servant. – Nashi Hroshi. No.297, [https://www.youtube.com/watch?v=70lfCXsH774&feature=youtu.be&fbclid=IwAR1tJYnTx7gnB5V\\_CwpePRp4Efpn3d0SidEQtFEIpleG3h5vu7t6w4ed-x0](https://www.youtube.com/watch?v=70lfCXsH774&feature=youtu.be&fbclid=IwAR1tJYnTx7gnB5V_CwpePRp4Efpn3d0SidEQtFEIpleG3h5vu7t6w4ed-x0).

<sup>25</sup> European integration cancelled? Ukraine reacts to Arakhmia's Davos statement. – BBC Ukraine, 23 January 2020, <https://www.bbc.com/ukrainian/features-51218347>.

<sup>26</sup> Sell the dog and pay for gas: new scandal and MP Bragar's apologies, <https://www.bbc.com/ukrainian/features-51340910>.



After the parliamentary majority and the Cabinet have accumulated a certain level of “toxicity”, President Zelenskyy may personally reboot the party along with the initiation of early parliamentary elections. The prospects of early elections also explain the surprisingly small membership of the “Servant of the People”<sup>27</sup>: the ideological self-identification is important for the party and the party leadership is vigilant to have a controlled majority at the upcoming election congress.

The “**Opposition Platform - For Life**” has no strong competition in its electoral segment yet. With the falling popularity of the government, this party’s support may somewhat increase. At the same time, a serious threat for the party is Viktor Medvedchuk’s potential loss of control over the national TV channels 112, NewsOne and ZIK; this would significantly complicate the party’s communication with its supporters, undermine its electoral positions and alter the balance of forces within the party in favour of the Lyovochkin-Firtash group that controls the Inter channel.

According to the polls data, the “**European Solidarity**” for now retained the loyalty of its voters and even started to gain popularity. This is facilitated by the lack of quality alternatives in the patriotic-pro-Western segment. However, the former ruling party has limited prospects for growth, given the still high disapproval rating of its leader, Petro Poroshenko.

The “**Batkivshchyna**” party maintains steady electoral positions. The government’s initiatives to open up the land market, changes to labour laws, its “libertarian” / “antisocial” approaches to governance give “Batkivshchyna” the manoeuvre room for opposition activity, which it actively uses. Although such activity does not yet guarantee new supporters, this party does have firm electoral foothold.

The moderate behaviour of the “**Voice**” makes it difficult for this party to keep its voters. It receives neither electoral dividends for supporting popular initiatives of the government nor “points” for criticising its unpopular actions. Political observers have reasonably predicted to the Voice the fate of “Samopomich” (Self-Reliance) party, which also used to criticise the previous government but supported some of its reform initiatives. It is worth noting that “Samopomich” earned only 0.62% of the vote in the most recent parliamentary elections (compared to almost 11% in the previous ones).<sup>28</sup>

Despite the decline in media activity of its leader, Ihor Smeshko, the “**Power and Honour**” party retains the commitment and support of a large part of its potential

voters. In case of early elections, this gives the party a theoretical chance of getting into parliament.

It should also be noted that the next parliamentary elections will be held under the new Electoral Code, which has already entered into force. So far, two effects of the new electoral legislation are clear – the end of the single-majority era under “neutral flags” and the intensification of inter-party competition to pass the 5 percent threshold (from now on it is the only way to win seats in the Verkhovna Rada). An in-depth research is needed to predict how the system of regional party lists will work in Ukraine.

**The prospects of holding local elections in 2020** (most likely in the fall) shift the focus of political competition to regional and even local levels. And here the dominance of the pro-presidential party “Servant of the People” does not look quite as convincing as at the national level. The recent elections to the local councils of the newly formed united territorial communities (UTG) in December 2019 demonstrated that the ruling party could count on about a quarter of the seats on average (see the results of the local council elections in the relevant section of the *Summary*).

The main reason for relatively weak electoral positions of the “Servant of the People” at the local level is the embryonic state of its organisational structure, specifically the absence of local branches that could ensure the simultaneous delegation of candidates to local councils throughout the country (see the relevant section of the *Summary*). However, by holding a privileged title of the “party of power” and receiving a considerable state funding (as estimated, the party will receive about UAH 121 million from the budget during 2020),<sup>29</sup> the “Servant of the People” has all opportunities for rapid expansion of its regional infrastructure.

Another thing that makes it difficult for the ruling party to gain control of local councils is that its electoral advantage is based on the personal popularity of President Zelenskyy. With a transition from the national to the local level, the significance of this factor in voter motivation may diminish. It is likely that a large-scale nationwide campaign to promote the nominees from the ruling party will be organised during the local elections, but it is unknown whether it will work as effectively as it did in a majority constituency in July 2019. This strategy may work well in the elections to oblast councils, but there are questions regarding the elections to individual settlements and UTCs.

The early 2020 elections – if they do occur – could mark the end of the trend of “public demand for new faces

<sup>27</sup> As noted above, as of November 2019, only about 500 persons held formal membership in the party, according to Oleksandr Korniyenko. See: Peace, anti-corruption and economy – three things that unite: an interview with Oleksandr Korniyenko, the head of the “Servant of the People”, <https://hromadske.ua/posts/mir-antikorupciya-ta-ekonomika-tri-obyednavchi-rechi-intervyu-z-golovoyu-slugi-narodu-oleksandrom-korniyenkom?fbclid=iwar0medizulnfz6dh0tavdogef-duujyrs-r-c2t4vli8wjf-l79wa1-uitu>.

<sup>28</sup> Kravets R. After holidays. How Poroshenko, Tymoshenko and Vakarchuk will struggle for power in 2020. – Ukrayinska Pravda 15 January 2020, <https://www.pravda.com.ua/articles/2020/01/15/7237393/>.

<sup>29</sup> The state financing of the statutory activities of political parties in 2020. – The Center for Political and Legal Reform, <https://www.pravo.org.ua/ua/news/20874165-derzhavne-finansuvannya-statutnoyi-diyalnosti-partiy-u-2020-rotsi>.

and new forces” that long existed in Ukrainian society and led to the victory of Volodymyr Zelensky and his “Servant of the People” party in the 2019 elections. As there is no clear answer about the new trend to replace it, it is safe to say that different political forces will “experiment” with different election slogans and strategies.

### *Changes to the mechanism of the state financing of political parties*

Following changes to Section IV of the Law “On Political Parties in Ukraine” made in 2019, parties that gained less than 2 to 5% of the vote will be no longer eligible to the state funding. However, there is also a legal position, according to which six parties that received the necessary voter support during the parliamentary elections on 21 July 2019 may still get the state funding for the period between elections, since the aforementioned legislative changes were made after the election (in October) and their action should not apply to events that have happened earlier.<sup>30</sup> However, the National Agency on Corruption prevention, responsible for distributing the state funding between parties, is yet to announce its position on this issue.

### **Civil Society Situation**

After the change of power in Ukraine, civil society finds itself in a rather difficult situation. Its politicised part, which in the previous periods essentially “privatized” the right to speak on behalf of the entire civil society, is experiencing a decline both in demand for its services from government institutions (ministries, parliamentary committees, etc.), and in interest on the part of the existing and potential international donors.

This primarily concerns the NGO Coalition “Reanimation Package of Reforms”, which has been actively involved in proposing and advocating for reforms in various spheres. Other organisations working with the government on the basis of long-term programmes (such as BRDO – Better Regulation Delivery Office) are not yet in the “risk zone”, but this does not mean that such a situation will never affect them.

At the same time, there is vast room for activities of NGOs operating in the regions in humanitarian, socio-cultural and other similar spheres.

In any case, the need to revise priorities is equally relevant for civil society representatives and for international donors that seemingly have not yet developed an adequate understanding of the situation in Ukraine or a clear vision of their interests.

Different organisations providing support and assistance to volunteer and regular army units, as well as to ATO/JFO veterans have found themselves in a rather difficult situation, as after the change of government they became subject to an information campaign seeking to downplay their role.<sup>31</sup> Despite the fact that both voluntary organisations that have demonstrated the ability of different social groups to self-organise on the basis of shared values, and civil society organisations that receive support from international donors, enjoy high level of public confidence, people’s interest in their activities, let alone civic activism, is unlikely to grow during 2020 for many reasons. One of them is the lack of interest on the part of government authorities and local self-governments, and hence – the absence of stimulating measures.

At the same time, if various government representatives continue acting as to discredit ATO veterans, military and civilian volunteers, or “equalise” them with those who did not care about the Russian occupation or even welcomed it, it is possible that currently dispersed veteran groups and associations may consolidate on non-partisan basis and become serious players in the socio-political arena. There are already some signals suggesting that having analysed the situation, these people are no longer willing to be passive observers.<sup>32</sup>

The trade union movement may also come back to life during 2020. This process, if it does take place, will be directly linked to the government’s intention to alter labour laws thus significantly reducing the rights of employees even compared to their current level. Of course, a full-size revival of the trade union movement will not be possible without an audit of the existing unions, which is generally a difficult process. In particular, newly formed associations will certainly face competition and even opposition from trade unions that pursue interests of different groups of influence.

The activities of informal associations like “No to Capitulation!” have not seen significant citizen support over the past year, but the situation may reverse in case of changes in the official course of the government policy.

The establishment of the State Agency for Youth and Civil Society Development in late 2019 within the Ministry of Culture, Youth and Sports, as well as relatively prompt appointment of its head (Oleksander Yarema, former Deputy Minister of Youth and Sports) in February 2020 may indicate at least partial interest of the new government in the development of the civil society.

<sup>30</sup> Why non-parliamentary parties CANNOT be deprived of the state funding? – The Center for Political and Legal Reform, <https://www.pravo.org.ua/ua/news/20873991-chomu-pozaparlamentski-partiyi-ne-mogeut-buti-pozbavleni-derzhavnogo-finansuvannya>.

<sup>31</sup> See relevant section of this report concerning 2019 results.

<sup>32</sup> See, for example, Turchak H.: “Veterans were having a moment with the previous government, they don’t have it anymore with the new government”. – Online portal “Liwy Bereh”, 8 February 2020, [https://ukr.lb.ua/society/2020/02/08/449205\\_georgiy\\_turchak\\_pri\\_minuliy\\_vladi.html](https://ukr.lb.ua/society/2020/02/08/449205_georgiy_turchak_pri_minuliy_vladi.html).

## REFORMING INDIVIDUAL SPHERES

### *The Constitutional Reform*

In 2020, the Constitution of Ukraine may see the introduction of amendments the processes of consideration of which were started last year. However, different issues have different probability of realization.

In particular, it is possible that changes stipulated by two draft laws will be introduced to the Basic Law of the state: ***“On Introducing Amendments to Article 85 of the Constitution of Ukraine (on consultative, advisory, and other auxiliary bodies of the Verkhovna Rada of Ukraine)”*** and ***“On Introducing Amendments to the Constitution of Ukraine (on cancelling the advocates’ monopoly)”***.

Both draft laws, in 2019, received positive rulings of the Constitutional Court of Ukraine on their compliance with Articles 157 and 158 of the Constitution of Ukraine and were approved preliminarily by a majority of the Constitutional composition of the Verkhovna Rada of Ukraine.

Taking into account the fact that these draft laws were initiated by the head of the state, they are guaranteed to receive support of the parliamentary majority of the “Servant of the People” representatives. With the view to the draft laws themselves being “politically neutral” as to their contents, ***the probability of them being supported by no less than two-thirds of the Constitutional composition of the Verkhovna Rada of Ukraine (Article 155 of the Constitution of Ukraine) is high enough.***

The situation with adopting Constitutional amendments initiated by the President of Ukraine concerning ***decreasing the constitutional composition of the Verkhovna Rada of Ukraine and affirming the proportional electoral system, and “giving” the right to initiate laws directly to the people*** looks different, to a certain extent.

In fact, despite the generally positive rulings of the Constitutional Court of Ukraine on the compliance of these draft laws with Articles 157 and 158 of the Basic Law of the state, these rulings contain essential reservations.<sup>33</sup>

**In particular, the ruling of the Constitutional Court of Ukraine says the following about the proposal to affirm the proportional electoral system:**

“The definition of the type of electoral system, its attributes and specifics is a matter of political feasibility and has to be resolved by the Parliament according to its Constitutional powers under the condition of observing Constitutional principles and democratic standards of organizing and holding elections. With view to this, there is no necessity (imperative) of affirming the type of the electoral system in the Constitution of Ukraine”.

**The Constitutional Court stated the following on the introduction of the people’s initiative:**

“According to Part 2 of Article 5 of the Constitution of Ukraine the people are bearers of sovereignty and the only source of power in Ukraine, this is why the people cannot be defined as subject of legislative initiative without determining, in the Constitution of Ukraine, of the respective number of citizens of Ukraine, having the right of vote, in order to realize legislative initiative...”

While determining cases and procedure for the realization of the right to legislative initiative, the Verkhovna Rada of Ukraine cannot limit the right to legislative initiative of any subject of this right as defined by the Constitution of Ukraine.”

These reservations (not provided stipulated by the current legislation) cannot, formally, be a barrier for further process of realization of Constitutional initiative of the head of the state. In the social-and-political dimension, however, they can play the role of a sort of “warning lights” attracting the attention of both society as a whole and People’s Deputies of Ukraine to the nature of these Constitutional initiatives, in particular, to their legal uncertainty, dubious feasibility, and unpredictable effects of their implementation.

On 4 February 2020 (as soon as the first day of the work of the third session of the Verkhovna Rada of Ukraine of the 9<sup>th</sup> convocation) the preliminary adoption of the draft law “On Introducing Amendments to Articles 76 and 77 of the Constitution of Ukraine (on decreasing the Constitutional composition of the Verkhovna Rada of Ukraine and affirming the proportional electoral system)” took place. 236 People’s Deputies of Ukraine voted in favor of this decision while the minimum required number is 226.

This decision was supported, in particular, by 197 representatives of the pro-Presidential faction of the “Servant of the People” political party, 35 People’s Deputies of the “Opposition Platform for Life” party, and 4 non-faction People’s Deputies of Ukraine.

In contrast, other factions and groups (the “European Solidarity” political party, the All-Ukrainian “Batkivshchyna” Association, “For the Future” deputies group, “Holos” political party, “Dovira” deputies group) have not given a single vote for this decision.

It is also indicative that almost 15 percent of the members of the faction of “Servant of the People” political party whose leader initiated this draft law had not supported its preliminary adoption.

Hence, **the adoption of this draft law at the next regular session by no less than two-thirds (300) of votes of People’s Deputies of Ukraine looks more than problematic.**

In 2020, the “next” submitting by the President of Ukraine of the draft ***Law “On Introducing Amendments to the Constitution of Ukraine (on the decentralization of power)”*** should be expected because the similar draft law that he submitted in 2019 was revoked for “its further drafting”.

However, the preparation of this draft law, taking into account a rather negative public reaction to its previous version and actual “false start” in 2019, will require, as a minimum, a certain visibility of “involvement” into this process of representatives of local self-government bodies, specialists in the sphere of municipal governance, as well as scientists, lawyers and economists in particular

The “passing” as such of this draft law both in the Parliament and the Constitutional Court will to a great extent depend on the ability of its initiator to find the so-called “golden median” between national interests, the interests of local communities, and a doable fulfillment of the so-called “homework for Ukraine” born of the Minsk Agreements. While doing this, taking into account the high public interest in the processes of decentralization of power, the issue of preserving the unitary nature of

<sup>33</sup> CCU Ruling №8-B/2019 of 16 December 2019. – The official web site of the CCU, [http://www.ccu.gov.ua/sites/default/files/docs/8\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/8_v_2019.pdf); CCU Ruling №5 of 13 November 2019, [http://www.ccu.gov.ua/sites/default/files/docs/5\\_v\\_2019.pdf](http://www.ccu.gov.ua/sites/default/files/docs/5_v_2019.pdf).



Ukraine, the future restoration of its territorial integrity, and the prevention of further spreading of separatist trends will remain definitive.

At the same time, taking into account the failed attempt to solve the issue of the launch of the process of Constitutional changes concerning the decentralization of power with a “cavalry charge”, the President of Ukraine’s team may resort not only to an essential refreshing of the text of the draft law itself but also to the replacement of its initiator. In fact, a draft law on introducing amendments to the Constitution of Ukraine can be submitted to the Verkhovna Rada of Ukraine both by the President of Ukraine and by no less than a third of the People’s Deputies of Ukraine of the constitutional composition of the Verkhovna Rada of Ukraine (150 and more People’s Deputies of Ukraine).

The faction of “Servant of the People” political party, numbering 247 People’s Deputies, can submit this draft law to the Verkhovna Rada on its own thus “relieving” the head of the state from future unwanted public reproaches of inconvenient questions. Thus, **in 2020, the draft law may be submitted to the Constitutional Court by the majority**, and its further prospects will depend at this stage on the ruling of the Constitutional Court.

#### *Judicial Reform and Law-Enforcement Bodies’ Reform*

In 2020, the judges must be appointed, and the High Court on the issues of intellectual property must start its work, as well as appointment of judges of the High Anti-Corruption Court must be completed, and the personal composition of the Constitutional Court of Ukraine must be finished (two vacancies of judges must be filled belonging to the quota of the Parliament, and one belonging to the quota of the Congress of Judges of Ukraine).

The Constitutional Court of Ukraine should pass its ruling on the Constitutional request of the Supreme Court on the compliance with the Constitution of Ukraine (constitutionality) of individual clauses of Ukraine’s laws “On the Judiciary System and the Status of Judges” of 2 June 2016 No 1402–VIII, “On Introducing Amendments to the Law of Ukraine ‘On the Judiciary System and the Status of Judges’ and some laws of Ukraine on the work of judges’ governance bodies”, “On the High Council of Justice”.

In case of confirming the constitutionality of the legal clauses that the Supreme Court appeals against “the highest court in the judiciary system of Ukraine” (Part 2 of Article 125 of the Constitution of Ukraine) will be in for another reorganization because of the lessening of the number of judges of the Supreme Court from 200 to 100 judges, adopted by the Parliament, another re-appraisal of judges, etc. At the same time, recognizing the arguable clauses non-constitutional, for which ruling there are well-founded reasons, can, on the one hand, protect the Supreme Court of Ukraine from undesirable turmoil, and, on the other hand, demonstrate to the society the Constitutional Court’s independence from the Office of the head of the state.<sup>34</sup>

Among the legal provisions appealed against in the Constitutional Court the most prospective as to being recognized as non-constitutional are the norms decreasing the size of judges’ remuneration. In fact, such actions of bodies of power (legislative, in this case) were recognized as a direct diminishing of judges’ independence by a number of international legal documents. A similar position was also expressed more than once by the Constitutional Court of Ukraine itself.

Besides, **2020 has to see the new composition of the High Qualification Commission of Judges**, because the previous one had terminated its existence early on the basis of a resolution of the Verkhovna Rada of Ukraine in the second half of 2019.<sup>35</sup>

Under the circumstances in place by the end of 2019 (a clear strengthening of the trend for monopolization of power and managerial rights exceptionally by representatives of the political force of the head of the state), there is a high probability of filling the list of members of the High Qualification Commission of Judges by people who are “personally grateful” to the Office of the President of Ukraine or to other people who are directly close to the head of the state. The High Commission of this kind will hardly be able to fully perform its duties as concerns the formation of highly professional and independent community of judges.

**In 2020, the enrolment of prosecutors to the Office of the Prosecutor General who will have undergone their respective reappraisal shall also be completed.** Besides, conducting the appraisal of prosecutor personnel is expected, as well as of all other persons who will want to fill positions in oblast and okruh prosecutor’s offices.

The launched reform of prosecutor’s office bodies, dismissal of their staff, organizing the procedure of hiring new employees, etc., will objectively result in a certain slowing down of the work of the entire prosecutor system. Especially alarming is the situation of “transformation” around the military prosecutor’s office as combat actions in the East of Ukraine do not stop. At the same time, **the dismissal of a considerable part of employees of prosecutor’s offices on the grounds of their refusal to undergo reappraisal will increase the number of court complaints they launch.**

In connection with the ruling of the Constitutional Court of Ukraine recognizing as non-compliant with Articles 157 and 158 of the Constitution of Ukraine the draft law “On Introducing Amendments to Article 106 of the Constitution of Ukraine (on affirming the powers of the President of Ukraine to create independent regulatory bodies, the National Anti-corruption Bureau of Ukraine, appoint to and dismiss from their positions the Director of the National Anti-corruption Bureau of Ukraine and the Director of the State Bureau of Investigations)” (Reg.No1014) **there will be a high probability of a Constitutional request for a ruling on the compliance with the Constitution of Ukraine (constitutionality) of individual clauses of the Law of**

<sup>34</sup> Such development of events would look partially logical taking into account the fact that in late 2019 the Constitutional Court of Ukraine recognized three of the seven draft laws on introducing amendments to the Constitution of Ukraine, tabled by the President of Ukraine, as non-compliant with Articles 157 and 158 of the Basic Law of the state, and, in two other cases, the CCU passed positive rulings but with certain reservations.

<sup>35</sup> The Law of Ukraine “On the Judiciary System and the Status of Judges” of 16 October 2019.

**Ukraine “On Introducing Amendments to the Law of Ukraine ‘On the State Bureau of Investigations’ concerning the improvement of work of the State Bureau of Investigations” (24.12.2019).**

The latter will first of all pertain to the affirming by the legislature of the power of the President of Ukraine to appoint to and dismiss from their position the Director of the State Bureau of Investigations. If this legal provision is recognized unconstitutional (for which there are more than convincing arguments in connection with the above-mentioned ruling of the CCU), the organization of the work of the State Bureau of Investigations can sustain significant changes.

Certain changes are expected in the legal regulation of the organization and work of the Security Service of Ukraine. In particular, it is planned to adopt a new version of the Law “On the Security Service of Ukraine”, as well as to introduce amendments to a number of other laws directly related to the functioning of state security bodies. However, the contents of the draft law “On the Security Service of Ukraine”, even several months after the announcement of intentions for drafting it, has not become known to the public. This does not help the process of democratization and openness of the work of security bodies or the strengthening of civilian control in this sphere of societal relations.

At the same time, if the numerical composition of the Security Service of Ukraine is lessened according to a new law (like this happened with the latest amendments to the law on prosecutors), the people who may be dismissed in the first turn may be the employees who are not loyal to the current leadership of the Service, to the Office of the President of Ukraine, or to the people who are directly close to the head of the state.

### **Local Self-Government Reform**

It may be expected that in 2020 the government will speed up the completion of the process of amalgamating territorial communities in order for the new system of local self-government to work to the full capacity as soon as in autumn, after the next local elections<sup>36</sup>. This is being corroborated by the Concept, made public by the Ministry for Communities’ and Territories’ Development<sup>37</sup> and the Plan of its fulfillment for 2020<sup>38</sup>.

According to the current prospective plans, within less than a year, the government and local state administrations will need to integrate over 5,000 village, settlement, and city communities into the system of amalgamated territorial communities, including creation of 400 new ATCs. Taking into account the previous rates of decentralization, the timely fulfillment of such

a large-scale task seems questionable. As remarked previously, as of the start of 2020, the network of ATCs covers just 44.2 percent of the country’s territory while the government plans to cover the entire territory of Ukraine with viable territorial communities. The recent legislative changes concerning simplifying the procedure of adopting prospective plans of forming the communities’ territories, as well as the revised methodology of forming viable communities, adopted by the Government in January 2020 have to make the process of creating ATCs more active<sup>39</sup>.

The Government draft law “On the Principles of the Administrative-and-Territorial System of Ukraine”, determining the procedure of forming, liquidation, establishment, and change of boundaries of administrative-and-territorial units and settlements, awaits its consideration in the Verkhovna Rada.<sup>40</sup> The respective Ministry has the following plans for 2020: drafting and submitting to the Cabinet of Ministers of legislative acts aimed at implementing the new version of the draft law “On local self-government in Ukraine”, drafting and discussion of the concept of the introduction of the institute of prefects, etc.<sup>41</sup>

Besides, to provide for the efficient work of local self-government, it is necessary to adopt the respective law on service in local self-government bodies which has not happened yet (the draft law No1223 is being considered by the respective Parliamentary Committee). Also, continuation of optimization of administrative division of oblasts is expected from the Parliament (making rayons bigger); the respective draft laws for a number of oblasts have been already registered in the Verkhovna Rada. The draft law “On the City of Kyiv, the Capital of Ukraine” has to undergo its second hearing. It remains to be hoped that all the drawbacks which were touched upon in the respective “results” chapter will be removed from this draft law.

The principled “stumbling block” while completing the reform of decentralization is passing the amendments to the Constitution which would affirm the new system of local self-government, and also would put the system of state administrations in correspondence with the conditions that have formed after their administrative functions were transferred to the ATCs’ executive bodies. After criticism on the part of representatives of local self-government and Ukraine’s foreign partners, the President’s draft law No.2598, “On Introducing Amendments to the Constitution of Ukraine (on decentralization of power)” was revoked by the initiator for further work on it.<sup>42</sup> It was stated at the meeting of the President with representatives of the parliamentary

<sup>36</sup> We have to complete decentralization this year. – Vyacheslav Negoda, <https://decentralization.gov.ua/news/12085>.

<sup>37</sup> The Concept of the State Policy to Achieve Goal 10.3. “Ukrainians have a real opportunity to influence the organization of their living space as residents of viable communities”. The programs of work of the Cabinet of Ministers of Ukraine, [https://decentralization.gov.ua/uploads/attachment/document/516/Концепція\\_політики\\_ціль\\_10.3.pdf](https://decentralization.gov.ua/uploads/attachment/document/516/Концепція_політики_ціль_10.3.pdf).

<sup>38</sup> The Plan of Realization of the State Policy to Achieve Goal 10.3. “Ukrainians have a real opportunity to influence the organization of their living space as residents of viable communities. The programs of work of the Cabinet of Ministers of Ukraine, [https://decentralization.gov.ua/uploads/attachment/document/520/План\\_10.3.pdf](https://decentralization.gov.ua/uploads/attachment/document/520/План_10.3.pdf).

<sup>39</sup> The text of the revised methodology of forming viable communities. – Decentralization, 30 January 2020, <https://decentralization.gov.ua/news/12111>.

<sup>40</sup> Draft Law on Principles of Administrative-and-Territorial System of Ukraine, No.2804 of 24 January 2020.

<sup>41</sup> Plan for implementing the state policy..., [https://decentralization.gov.ua/uploads/attachment/document/520/План\\_10.3.pdf](https://decentralization.gov.ua/uploads/attachment/document/520/План_10.3.pdf).

<sup>42</sup> President has revoked draft amendments to the Constitution of Ukraine on decentralization of power. – Decentralization, 16 January 2020, <https://decentralization.gov.ua/news/12070>.

faction of the “Servant of the People” party that introducing amendments to the Constitution as concerns the decentralization reform requires detailed discussion and consultations with representatives of all sides.<sup>42</sup> The quality of future Presidential initiatives will depend on the level of detailed and inclusive character of these consultations, and there is not so much time left for the timely legislative confirmation of these initiatives.<sup>43</sup>

### **Public Administration Reform and Electronic Governance**

The new government has not introduced changes to the Strategy of Reforming the State Governance of Ukraine for 2019-2020, so formally it remains valid and must be implemented. 1.06 billion UAH has been assigned in the 2020 budget for the program of comprehensive reform of the state governance (of which 818 million UAH assigned to pay for the work of specialists on the reform’s issues).<sup>44</sup> It is not known, however, if the reform will be going along the lines of the current Strategy as the latest steps of the Cabinet of Ministers do not fully correspond to the former logic of the reform of state governance (see Results). According to the plan of implementing the Strategy, it is planned for 2020:

- To hold contests for positions of specialists on reform issues with the aim of completing the formation of personnel of directorates, general departments, the Government Office on issues of coordination of European and Euro-Atlantic integration;
- To introduce professional training of civil servants who hold civil service positions of “A” category;
- To conduct research and draw proposals on classification of civil service positions, as well as on requirements to professional competence;
- To bring norms on Ministries and the organizational structure of their apparatus in accordance with the target model determined by the Concept of optimization of the system of central bodies of executive power;
- To create and introduce the information system to plan and manage the process of drafting normative-and-legislative acts.

Besides, as a number of measures related to the introduction of the state strategic planning for mid-term perspective was not realized in 2019 (in particular, determining of the system of documents of the state strategic planning at the legislative level, drawing and introducing relevant changes to the Regulations of the Cabinet of Ministers, approving methodic regulations of drawing documents of the state strategic planning) their fulfillment is also moved to 2020.<sup>45</sup>

In 2020, the second re-formatting of the system of Ministries should be expected (this time, towards

disbanding “the hybrids” like the Ministry for Economic Development, Trade, and Agriculture, the Ministry of Culture, Youth, and Sports, etc.). Most probably, this will happen as the Government itself will be partially or completely replaced.

The plans of the Ministry of Digital Transformation which took upon itself the formation and realization of the state policy in the sphere of electronic governance and electronic democracy for 2020, contain the following measures: further development of the single state web portal “Diya”; development of the single electronic office for using online services; optimization of state resources; development of the system of electronic interaction of the state electronic information resources “Trembita”. And also: a number of measures in the sphere of development of digital literacy; adapting Ukraine’s legislation to EU requirements in the sphere of information protection; legalizing crypto currencies; regulation of legislative and fiscal conditions for entrepreneurship in the sphere of information technologies, etc.<sup>46</sup>

### **Electoral Legislation Reform**

With the adoption of the new Electoral Code by the Verkhovna Rada, the reform of legislation in this sphere has moved forward significantly. However, taking into account the introduction of a rather complicated system of voting with open regional lists, it is important, for the efficient functioning of the new electoral system, to provide for the upgrading of levels of expertise of members of electoral commissions, as well as for the raising the political literacy of the population. Meanwhile, a system of citizen education for adults which would be an optimum for solving this task is not yet there in Ukraine.

Probably, the task of informing voters on the new electoral system at the state level will be fulfilled by way of episodic information campaigns to be conducted when the elections itself are approaching. However, it is as yet hard to predict the results of informing people in such a way. Most likely, during the next elections a considerable part of voters will face difficulties while voting, and the complexity of the mechanism of assigning mandates will become a pretext for political speculations during the elections and after them.

Despite the adoption of the Electoral Code, the issues of canvassing in the Internet and transparency of sources of its financing remain unregulated as yet, and the mechanism of control over filling and using electoral funds requires further improvement, as well as the legislation on preventing bribing of voters (respective clauses of the Criminal Code and the Code on Administrative Offences).

<sup>43</sup> To observe the procedure of introducing changes to the Constitution the respective law has to get support of the Parliament during the third session of the Verkhovna Rada of the 9<sup>th</sup> convocation (February-July 2020) and be passed by the Constitutional majority during the next session (see: Article 155 of Chapter 13 of the Constitution of Ukraine).

<sup>44</sup> State budget assigns over 800 million UAH for reformers’ salaries. – Dzerkalo Tyzhnya, 30 January 2020, [https://dt.ua/ECONOMICS/u-derzhbyudzheti-nazarplati-reformatoriv-peredbacheno-ponad-800-milyoniv-griven-337113\\_.html](https://dt.ua/ECONOMICS/u-derzhbyudzheti-nazarplati-reformatoriv-peredbacheno-ponad-800-milyoniv-griven-337113_.html).

<sup>45</sup> On introducing amendments to Orders of the Cabinet of Ministers of Ukraine of 24 June 2016 No.474 and of 27 December 2017 No.1013.

<sup>46</sup> Plan of Work of the Ministry for Digital Transformation for 2020, [https://thedigital.gov.ua/storage/uploads/files/page/ministry/План\\_роботи\\_Мінцифри\\_на\\_2020\\_рок.pdf](https://thedigital.gov.ua/storage/uploads/files/page/ministry/План_роботи_Мінцифри_на_2020_рок.pdf).



## ECONOMY

### Preconditions and Problems of Ukraine

Overall conditions of Ukraine's economic development in 2020 will remain complicated given the impact of contradictory set of internal and external factors, as well as emergence of both new opportunities and new risks.

*The internal environment* creates certain positive preconditions linked to the new government's willingness to undertake radical transformations, to impart greater dynamism to internal development and institutional transformations, to accelerate innovations based on the latest digital technologies and to significantly intensify investment processes.

At the same time, socio-economic transformation technologies applied by the new government built on a rather complex and often illogical combination of different ideas and, above all, on the ideology of libertarianism and "shock therapy" methods, posing significant risks for the country.

The current team of pragmatic reformers still does not feature outstanding personalities capable of deep *conceptualisation* of the entire complex of extremely difficult problems that will emerge during the rapid reform process in Ukraine, and *strategic vision* of the transformation algorithm. Under these circumstances, the transformations in 2020 are likely to exacerbate all sorts of imbalances, lead to the loss of control of socio-economic processes and consequently, intensify social conflicts.

The following issues will be the **most problematic** in this context:

- (1) lifting the moratorium on agricultural land sales, which can significantly accelerate social differentiation and stimulate the "latifundation" of the Ukrainian agricultural sector;
- (2) adopting of new labour legislation, which can considerably expand opportunities for dismissal of employees and limits their rights in protecting own labour interests, including via trade unions and collective agreements. This can trigger significant contradictions between capital and labour in Ukraine and encourage the exit of skilled labour from the country;
- (3) undertaking "shock" privatisation of a large number of state-owned entities, which can disrupt the balance between supply and demand and significantly reduce the sale prices of these assets, while creating conditions for the destruction of production and closure of enterprises instead of arrival of new effective owners;
- (4) accelerated dismantling of state regulation mechanisms in the absence of alternative methods

of self-regulation by business institutions, which can create prerequisites for increasing chaos in the economy. This is particularly dangerous given significant depreciation of fixed assets, and accordingly – increased risks of accidents and man-made disasters. Under such circumstances, one cannot rule out switching to "hands-on management", which may create additional risks and uncertainties and increase corruption.

The success of Ukraine's policy of economic development will largely – if not decisively – depend on the **new government's ability to address the following three categories of issues:**

- *Creating a development potential for domestic businesses* (investors) that must be competitive with foreign companies (investors) in the settings of economic deregulation. In this context, the key issue is *to prevent the imbalance of opportunities in favour of more powerful transnational structures based outside Ukraine*. It is not just an issue of economic efficiency and economic security, but also a question of confidence of the broad public in Ukraine in the course of reforms as such.
- *Significant expansion of the range of innovation policy*, going beyond the digitalisation of economic processes and finding effective responses to challenges created by *all* spheres of technological innovation and structural change in the context of the unfolding Fourth Industrial Revolution. In fact, it is about Ukraine's ability to develop in a balanced way along the trajectories of all 17 Sustainable Development Goals, set for the period until 2030.
- *Finding a balance between considerations of economic efficiency and market flexibility* on the one hand, and *conditions for human and social capital development* on the other. The current imbalance of economic policy in favour of the former not only contradicts the current understanding of the economic development mechanisms, but also poses serious risks of social degradation, as the remnants of the social protection system can bury any sprouts of economic acceleration. The government needs to better understand that effective development is not only about greater economic freedom and tougher market selection mechanisms – it also needs adequate *development institutions* and increasing *social responsibility of business*.

**It should be noted that Ukraine's economy in 2020 will continue facing a number of serious external risks.** Although predictions of the *new wave of the global financial and economic crisis* in 2019 did not materialise, the global economy and its financial system still have significant imbalances and asymmetries linked to gigantic external debt, trade protectionism, exacerbated

geopolitical rivalries and the crisis of international security system. To some extent, these risks have been mitigated by signing of phase one of the US-China trade deal in mid-January 2020, and by finding a regulated Britain's exit from the EU on 31 January 2020.

On the other hand, the situation in the Middle East worsened, thus affecting the stability of global energy markets and hence – global macroeconomic stability in general. The world faces a serious challenge of the large-scale diversion of resources towards the new round of arms race as a result of demolition of fundamental agreements on the strategic arms limitation and development of fundamentally new weapons by a number of countries. A serious and yet unpredictable new challenge is posed by the spread of a new coronavirus from China. Overall, the leading international organisations estimate that growth of the global economy in 2020 will slow down.

**Possible worsening of external conditions for development once again highlights the significance of finding own sources to finance economic development** through effective fight against corruption and illegal economic activity, the concealment of income and property from taxation along with a substantial increase in the efficiency of socially important functions of the state. At the same time, an adequate response to the mass exodus of the most skilled workers and young people from Ukraine becomes increasingly more relevant, as this creates a huge and strategically important problem for the country.

As economic development of Ukraine is conditioned by its commitments under the Association Agreement with the EU, it is necessary to adequately assess the real impact of these conditions on the country's socio-economic development. Such assessments should result in identification of weaknesses in the association agenda and timely development of adequate responses and adjustments that would actually contribute to economic development.

### Ukraine's Economy in 2020

Despite the complicated socio-political and socio-economic environment caused by inconsistent and ill-considered actions and declarations regarding economic reform, the government continues to insist on its high economic capability, and thus the reality of the prospects for a significant improvement in the wellbeing of Ukrainians. Such proclamations could have been taken for granted, but the number of internal and external challenges, as well as poor government's performance in 2019 question the attainability of its ambitious goals in 2020.

At the beginning of 2020, Ukraine is once again will have to transform risks and challenges into gains and positive outcomes. However, negative external and internal factors become increasingly more dangerous:

- international experts point to **increasing risks to the global economy** in 2020. Moreover, the cycles of economic recovery followed by economic recession are highly likely during the year. Therefore, the probable deterioration of the global economy – even if crisis scenarios are localised or limited – implies a decline in global aggregate demand.<sup>47</sup> **For Ukraine** and its economy, which is too sensitive to the external environment, this means **the weakening of industrial potential and the decline of export opportunities** (dominated by semi-raw and low-tech goods), the restoration of inflationary pressure (due to more expensive resources for industry), the deterioration of the situation in housing and utility sector (highly dependent on imported energy resources);
- high “**volatility**” of world trade linked to periodic escalations between the two largest economies – the United States and China (these contradictions will also have a significant negative impact on the economies of the EU and Southeast Asia) will also undermine confidence in relations between countries, and thus require “alignment” (which is always an extremely difficult task) of national trade and investment flows with the vision of global political players;
- **another round of Russia's “hybrid” aggression**, which erodes productive resources (including labour) in Ukraine's production processes and intensifies measures to counter military invasion, which is burdensome for the population and the economy;
- **reduction of able-bodied population** and the population of Ukraine in general, caused both by natural factors (decline in birth rates, population ageing) and by increased emigration accompanied by the loss of human capital;
- **lack of clear and acceptable positive results** in the first months of the new government;<sup>48</sup>
- increased **administrative and fiscal pressure** (which will significantly impede corporate activities) caused by the need to replenish the state budget in order to implement the constantly declared social “improvements”;
- advancing extremely **contradictory and unpopular** (not always reformist) **transformations**, grudgingly accepted by the government due to its low competence and also caused by **ill-considered advice from international financial institutions**.

<sup>47</sup> Davery F. Global economy: the year of recession? – ISPI, 26 Dec 2019, <https://www.ispionline.it/en/publication/global-economy-year-recession-24637>.

<sup>48</sup> As noted in the previous section, the success of the socio-economic performance of the new government is rather questionable.

The list of challenges is obviously far from exhaustive. Some of them may emerge in the coming months, while others are more of a medium to long-term. However, none of these challenges can be ignored as they all increase the risk of socio-economic losses, which is particularly relevant for countries with low quality of government.

At the same time, the government of Ukraine “checks” its achievements against the position and recommendations of international financial institutions, primarily the IMF.<sup>49</sup> Given the government’s focus on this institution, there are reasons to believe that **Ukraine’s next programme of cooperation with the IMF** will be approved, also as a demonstration of political support to incumbent government,<sup>50</sup> although its exact terms, scope and conditions are still unknown.<sup>51</sup> At the same time, the **IMF programme is by no means a recipe for success** – instead it may **play a negative role** if disregards Ukrainian realities. Meanwhile, the government is **negligent and inattentive** to criticism, also ignoring the rational advice by Ukrainian experts, which is also a significant factor in the deterioration of the socio-economic environment.

Under these such circumstances, we **have to significantly reduce our projected estimate of real GDP growth** in 2020. Note that our estimates for 2020 in a number of positions are significantly different from the indicators in the so-called the consensus forecast presented at the end of 2019.<sup>52</sup>

Although the government insists on macroeconomic stability, which will allow achieving real GDP growth of 3.3-3.7% (the same estimate is given in the consensus forecast), **we estimate that in 2020 Ukraine’s economy (real GDP) will grow by no more than 1.5%.**

We do not view this estimate of low economic dynamics as negative. It is obviously far from desirable, but it still confirms our **cautious belief that no economic “collapse” will occur in Ukraine.** Moreover, over the last decade, Ukraine has managed to survive in the most difficult political, economic, social and humanitarian conditions. And today, we also see **opportunities for a relatively positive, albeit very weak, development of the country’s economy in 2020.**

Therefore, in order to achieve positive results in the economy and to keep macro- and microeconomic

situation under control, the government will have to undertake the following.<sup>53</sup>

### Key Macroeconomic Components of Real Sector

As noted, within the next five years the government plans to achieve high economic dynamics – a real GDP growth by 40%. However, the targets for 2020 look much more “reserved” and do not differ much from the previous government’s plans for 2019.

**According to the main indicators in the Law on the State Budget for 2020, economic growth** (real GDP growth) is planned at 3.5-3.7%, **inflation** – at 5.3-5.5%, average **wage** growth – at 10%. However, these figures appear to be too optimistic.

We believe that most economic processes in 2020 will follow the trends set in 2019. In particular, the **“consumer boom” will weaken** (the share of final consumption expenditure will remain above 90% of GDP), but investment scale up will not become an expansion with **most investors still taking the wait-and-see approach** (gross accumulation will not reach even the 2018 level). (see the Table *Forecast of key macroeconomic indicators*).

Forecast of key macroeconomic indicators			
	2018	2019 (estimate)	2020 (forecast)
Real GDP, % growth	3.3	3.1	1.5
GDP, UAH trillion	3.56	4.07	4.57
GDP, \$ billion	130.8	157.6	172.4
Final consumption expenditure, % of GDP	89.8	94.0	92.0
Gross capital formation, % of GDP	18.8	14.5	16.5
CPI growth, % (December - December)	9.8	4.1	5.4
Exchange rate: UAH/\$1 (period-average)	27.2	25.8	26.5

In 2020, the inflation rate is likely to be maintained within the planned limits at around 5% as a consequence of the NBU’s continued pursuit of “inflation targeting” policy (albeit in a slightly softer form, see *Monetary Policy* Section for more detail),<sup>54</sup> as well as the

<sup>49</sup> However, the most recent formal IMF outlines for Ukraine largely ignored the socio-political peculiarities of the country and their impact on the socio-economic environment. – The IMF Memorandum: What commitments Ukraine has made, <https://minfin.com.ua/ua/2018/12/20/36062723/>.

<sup>50</sup> This has been informally confirmed by the new IMF head. – Ukraine and the IMF agreed on the new programme of cooperation. – The Ministry of Finance, 8 December 2019, <https://minfin.com.ua/ua/2019/12/08/39973157/>.

<sup>51</sup> According to international experts, the new programme will be considered in Q1 2020. The total amount of funding is \$5.5 billion; Ukraine to receive \$2.2 – 2.5 billion in the first year. Ukraine: strengthening reforms with IMF help. – J.P.Morgan Europe Emerging Markets Research, 9 December 2019.

<sup>52</sup> Vinnychuk Y. How the hryvnia exchange rate will change in 2020. – Business Censor, 23 December 2019, [https://biz.censor.net.ua/resonance/3166531/yak\\_zmnitsya\\_kurs\\_grivn\\_v\\_2020\\_rots](https://biz.censor.net.ua/resonance/3166531/yak_zmnitsya_kurs_grivn_v_2020_rots).

<sup>53</sup> A number of other think tanks are taking a similar approach. See, for example, Repko M. Without stress and default: Ukraine can safely live through 2020 – <https://www.epravda.com.ua/publications/2020/01/14/655740/>.

<sup>54</sup> As noted before, a “pursuit” of low inflation in weak economic dynamics is irrational as it does not take into account the detrimental effect of monetary constraints on the development of the real sector. In addition, the **inflation rate in Ukraine** can be easily subjected to **politicised manipulation**, especially in the face of limited attention to statistics in the country.



government's determined efforts to maintain and stabilise utility tariffs (at least during the first 6 months of 2020). The latter is largely politically motivated, since the **situation in the housing and utility sector is viewed by the government as a success criterion.**

At the same time, slight inflation acceleration may occur in the context of short-term currency imbalances, largely due to the outflow of foreign currency resources with non-residents' exit from government bonds (OVDP) market (see *Monetary Policy* Section for more details). In the event of such imbalances, they will continue to support negative devaluation and ensuing inflation expectations, although one should not expect the inflation shock.

Inflation acceleration could be triggered by monetary expansion, which is vital for supporting real sector. We continue to insist that domestic economic agents need greater access to financial resources, that is, the **introduction of a stimulating monetary policy**, which was overly restrictive during 2014-2019. However, the NBU will continue to carefully regulate monetary expansion, and this is why the monetary impact on inflation in 2020 seems unlikely.

According to our observations and estimates, **devaluation dynamics of hryvnia will resume** in 2020, and its exchange rate at the end of 2020 will return to UAH 27.5-27.7 / \$1 (with average annual rate of UAH 26.5 / \$1). Key factors will include weak economic dynamics (primarily induced by the government's inability to improve the situation in the industry), retention of a significant foreign trade deficit (worsening of trade conditions for Ukraine and virtually no easing in protectionist confrontations), as well as significant foreign debt payments (with limited access to international capital markets).

### Expected Changes in Different Sectors of Economy

The fundamental task for the government, which will determine the future of the national economy, is to support and strengthen national manufacturers and their competitiveness in conditions of ongoing globalisation and accelerated introduction of innovative technologies *on the one hand*, and weak understanding by the ruling team of factors and components of the present-day economic environment, directions and tools for its improvement *on the other*.

Unfortunately, changes in the production spheres **will not have a clear positive orientation, and therefore the reservations about the factors of growth and development in 2020 are largely similar to those described one year ago.**<sup>55</sup>

- there will be **no new incentives** for small and medium-sized business development (announced incentives for entrepreneurship and declared loans for SME are clearly not enough for the entry of real competitive investors);
- **the sectoral structure will hardly change** – due to low investment capacity and high risk of fiscal administration, the industry (mainly processing) will at best **show only weak growth**, and only thanks to the price situation rather than structural competitive transformations;<sup>56</sup>
- the resumption of **privatisation** – if it occurs – will be largely **fragmented** (with isolated involvement of specific investors in certain sectors or companies on predefined terms), which, among other things, will mean a “hole” in financing the budget deficit;
- hopes for a significant improvement in the **performance of large state-owned enterprises are futile**. Only after a scrupulous audit with the establishment of clear financial and privatisation plans one can expect their new economic opportunities;
- access to financial and credit resources will **hardly be easier**, leaving businesses and households without proper support;
- support for exports and exporters will be **neither systemic** nor adequately resourced.

In view of the above, there are hardly **any reasons to expect the sustainably high positive dynamics** of the real sector. Meanwhile, such positive dynamics is **still achievable** if at least some of the shortcomings of the current economic policy are corrected. In particular, privatization may be one of the areas, which can contribute to accelerated structural change and improved efficiency of enterprises.

Thus, according to the Action Programme of the Cabinet of Ministers of Ukraine,<sup>57</sup> it is planned to once again carry out **large-scale privatisation**, which should result in significant reduction of the share of state property.<sup>58</sup> The total revenue from privatisation, expected

<sup>55</sup> See, for example, Yakymenko Y. et al, Ukraine 2018-2019: Cautious Optimism Before Elections (Assessments). – The Razumkov Centre, 2019.

<sup>56</sup> Our last year's forecasts (prepared in late 2018 – early 2019) predicted that the industry will show only weak, albeit positive, dynamics during 2019, achieving a 2% growth. However, even such low growth turned to be too optimistic – as we have indicated, in reality, the Ukrainian industry **has dropped** by the “same” 2% in 2019.

<sup>57</sup> The Verkhovna Rada of Ukraine Resolution “On the Action Programme of the Cabinet of Ministers of Ukraine” No.188 dated 4 October 2019, <https://zakon.rada.gov.ua/laws/main/188-IX>.

<sup>58</sup> In particular, it is planned to close down loss-making state-owned enterprises and to focus on improving the performance of strategic state-owned companies. According to the line ministry, the state owns 3,643 objects, of which 1,261 are bankrupt and must be liquidated; 1006 do not develop and should be privatised. The state spends millions of hryvnias every year to support them. 766 are strategic companies subject to improvement of corporate governance. – For more detail, see: 737 SOEs to be privatised upon the Ministry of Economy agreement, <http://me.gov.ua/News/Detail?lang=uk-UA&id=d865e55b-4756-474c-a3a9-ef86a1c34191&title=766-DerzhpidpriemstvPogodzhenoMinekonomikiNaPrivatizatsiuu>.

by the government in 2020 is UAH 12 billion (though smaller compared to 2019, it still remains unrealistic).

One of the main obstacles to large-scale privatisation is corruption interests.<sup>59</sup> Of course, **one can hardly hope for positive outcome without political will**. If in 2020 the government succeeds in fulfilling the current privatisation plan at least partially, this will be a positive signal for investors. On 11 January 2020, the State Property Fund of Ukraine made one of the first steps towards this goal by introducing new standards for disclosure of information on privatisation objects. These standards simplify the process of obtaining information in **virtual data rooms** – online repositories of all documents, financial statements and contracts. The idea is to simplify access to information, increase transparency in the privatisation process and eliminate the corruption component in information retrieval.

Now let us focus on the **specific (systemic) needs of agricultural sector**, related not only to land reform but also to economic development in general. Inseparable from the land market is the development and prompt implementation of projects for the **formation of rural infrastructure** adapted to present-day realities and its inclusion in European infrastructure networks, promotion of rural lifestyle and development of personality in the countryside. Naturally, this suggests search for sustainable sources of funding to cover the increasing costs of job creation in rural areas. However, the government has not yet decided on these issues, instead “minimising” the resources for agrarian support and local development. Therefore, it is **likely that 2020 will be “lost” in terms of scaling up and improving rural infrastructure**, thus impairing the effectiveness of land reform in general.

From the first days of 2020, there have been extensive debates in society regarding the **new Labour Code**. According to experts, the main downside of this document is the imbalance in the rights and obligations of employers and employees in favour of the former, which can lead to protests (see the *Social Sector* for more detail).

Against the backdrop of tensions regarding the rights of hired workers and employers, the government’s promise to raise the average nominal wage by 10% in 2020 looks somewhat surprising. This denotes either the government’s lack of awareness about the dynamics of wages in recent years,<sup>60</sup> or its inability to step up

the country’s economy and ensure a proper level of remuneration. Either way, restraining of wage dynamics will hardly contribute to the improvement of people’s wellbeing.

Under these circumstances, ending the outflow of workers from Ukraine is unlikely. In addition to socio-economic consequences, this will also have a serious socio-political effect. To this end, the new **state programme “Come Back and Stay”**<sup>61</sup> for Ukrainians living abroad, announced for 2020, received broad publicity. It builds on the promise of affordable loans (interest rates of 5-9%) for starting own business.

However, this initiative is yet to gain support from people. *First*, the interest rate is by no means key factor in making migration decisions. *Second*, **protection of property rights**, property and personal protection from abuses of administrative and tax authorities, as well as clear legislative framework are **much more important**. *Third*, it is hard to judge about affordability of promised “cheap” loans until relevant legislative acts regulating and implementing these plans are actually presented. Therefore, in the event of failure to address key shortcomings in the near future, **the efficiency of this programme will be extremely low**.

According to the government, the **establishment and operationalisation of the Entrepreneurship Development Fund**<sup>62</sup> is one of important first steps in support of business start-up. Relevant draft law was specifically designed to implement the programme for the state support of small businesses and entrepreneurship development, increased production and exports (including high-tech). An interesting idea in the bill was to **include money of the Deposit Guarantee Fund** received from early repayment of bills **as one of the funding sources**. It could be promising if there was confidence in the long-term macroeconomic and financial stability of the country, which, regrettably, is unlikely in the coming years. The absence of such stability may deepen the imbalance of the financial and banking system in case of withdrawal of individual banks from the market and the need to repay money to the clients of “bankrupt banks”. Therefore, using the DGF money to support risky business projects (such as business start-ups) **does not seem rational and acceptable**.

<sup>59</sup> See, for example, Shapoval K. Everything’s for sale. Will Ukraine be finally able to successfully complete large-scale privatisation? – NV Business, 18 January 2020, <https://nv.ua/ukr/biz/economics/velika-privatizaciya-shcho-zavazhaye-derzhavi-vdalo-prodati-veliki-pidpriyemstva-novini-ukrajini-50064716.html>.

<sup>60</sup> The average nominal wage in the period from November 2017 to November 2018 (November salaries are the most economically representative, as December pay-outs are “distorted” by annual premiums, bonuses, “thirteenth salaries”, etc.) has increased by 22.5%, and in November 2018 to November 2019 – by only 16.6%. At the same time, the level of wages has been growing faster than the nominal GDP.

<sup>61</sup> “Come Back and Stay”: Zelenskyy announced the start of the state programme for Ukrainians living abroad. – UNIAN, 3 December 2019, <https://www.unian.ua/politics/>.

<sup>62</sup> The Draft Law “On Amendments to the Law of Ukraine ‘On the State Budget of Ukraine for 2020’ concerning the Entrepreneurship Development Fund” No.2589 dated 12 December 2019. Adopted in principle on 20 December 2019 and passed on 14 January 2020.

## Key Peculiarities of the Budget 2020

As noted above, at the end of 2019 Ukraine has reached a preliminary agreement with the IMF on the new cooperation programme (\$ 5.5 billion for 3 years). A detailed review of the programme is to be completed during Q1 of 2020, while its approval and the first tranche is expected in March-April, if Ukraine will be able to demonstrate the undeniable reform progress, verified by international experts.<sup>63</sup> An agreement with the IMF means that Ukraine can also count on the EU macro-financial assistance (€ 0.5 bn in first 6 months of 2020).<sup>64</sup> Of course, this will have an effect on the country's development.

Meanwhile, fiscal reforms are still being outlined, as the new ruling team seems to have only a "general idea" of rational tax transformations. It should be reminded that the introduction of urgent, important tax changes was "expected" during the preparation of the State Budget for 2020, and the Cabinet even promised to make significant adjustments to the document after the first reading. However, **no profound changes to the main financial document** have been made between the first and second readings. Therefore, the budget for 2020 was calculated based on the old tax base, which, on the one hand, minimised the struggle of different financial-industrial groups for "benefits", but prevented the structural changes that could have been supported with the government money on the other.

Thereby, the approved budget for 2020<sup>65</sup> is essentially no different from the budget for 2019: it should be regarded as a plan of "cosmetic changes"<sup>66</sup> rather than the tool for accelerating development and improving the socio-economic environment. **In the current situation of political uncertainty, this may be considered appropriate** as it limits high economic and social risks associated with possible rapid ill-considered changes and the confrontation between oligarchic groups.

A closer look at some characteristics and peculiarities can give some idea about the government's possible priorities.

The State Budget revenue for 2020 is estimated at UAH 1,094 trillion; and expenditure – at UAH 1,180 trillion (an increase by just under UAH 70 billion compared to 2019, which correlates with the expected inflation rate). At the same time, the revenue and expenditure growth will be slightly behind the growth of nominal GDP. Therefore, **the level of GDP redistribution through the budget system will decrease**,<sup>67</sup> which should be welcomed when it comes to gradual reduction of government's involvement in GDP formation and use. However, given the marked decline in budget revenues in 2019, **attempts to increase tax levies** from a broader range of economic agents are likely, creating fiscal imbalances instead of stabilisation.

The State Budget deficit is estimated at just 2.1% of GDP (UAH 94 billion), which is probably **conditioned by the upcoming programme of cooperation with the IMF**. However, the need to maintain low deficit – a traditional IMF requirement – becomes a limiting factor for increased financing of the economy's needs. Other **IMF programme approval requirements** include the strengthening of anti-corruption and anti-oligarchic legislation, prevention of money laundering and non-return of banks that went bankrupt in 2014-2017 to former owners<sup>68</sup> (this primarily concerns PrivatBank). The latter demand seems clearly politicised, but since the **IMF has been directly involved in the NBU's processes against PrivatBank**, this issue will draw a particular attention. Oddly enough, but the IMF seems to have removed a complex and controversial land issue from the list of its urgent and unconditional requirements to Ukraine.

At the same time, there are **serious doubts about the expedience of unconditional following of the IMF guidelines and recommendations**. The new ruling team claims that the Programme is critical for Ukraine's economic policy, but not all experts share this view.<sup>69</sup>

Back to the Budget for 2020: it should be noted that, **although revenue and expenditure by sectors have**

<sup>63</sup> For more detail, see: Ukraine: strengthening reforms with IMF help. – J.P.Morgan Europe Emerging Markets Research, 9 December 2019.

<sup>64</sup> For reference: the IMF resources are usually channelled to the NBU to increase foreign exchange reserves. The EU funds focus on budget (financing of deficit or external payments).

<sup>65</sup> The State Budget for 2020 approved: Key indicators. – LIHA:ZAKON. Business, 14 November 2019, [https://biz.ligazakon.net/ua/news/190937\\_derzh\\_budzheth-2020-priynyato-osnovn-pokazniki](https://biz.ligazakon.net/ua/news/190937_derzh_budzheth-2020-priynyato-osnovn-pokazniki).

<sup>66</sup> Bohdan T. The country's financial plan for 2020: figures, facts, comparisons. – Business Censor, 2 December 2019, [https://biz.censor.net.ua/columns/3162822/fnansoviyi\\_koshtoris\\_derjavi\\_na\\_2020\\_rk\\_u\\_tsifrah\\_faktah\\_porvnyanniah](https://biz.censor.net.ua/columns/3162822/fnansoviyi_koshtoris_derjavi_na_2020_rk_u_tsifrah_faktah_porvnyanniah).

<sup>67</sup> The State Budget revenue in 2020 is estimated at 24.2% of GDP (compared to 25.6% in the targets for 2019), and expenditure – at 26.2% (in 2019 – 27.7%). Of course, following verification of nominal GDP and budget execution in 2019, these correlations will be properly adjusted. (Preliminary GDP results are expected in mid-March 2020).

<sup>68</sup> According to some politicians, relevant Draft Law "On Amendments to Certain Legislative Acts of Ukraine on Specific Issues of Functioning of the Banking System" No. 2571 dated 11 December 2019, violates the Constitution in terms of property rights; The Cabinet's anti-constitutional law No.2571: gross violation of depositors' rights and creation of new corruption schemes at the DGF. – Interfax-Ukraine, 16 December, <https://ua.interfax.com.ua/news/video/630609.html>.

<sup>69</sup> See, for example: Kushch O. Do not believe smoke and mirrors: Myths and reality of the IMF-Ukraine cooperation. – 112.UA, 13 December 2019, <https://ua.112.ua/mnenie/ne-virte-okozamyliuvanniu-mify-i-realist-spivpratsi-ukrainy-i-mvf-518527.html>.



**somewhat changed, these changes are not fundamental to the budgetary structure.**

Since Ukraine's tax legislation has not changed<sup>70</sup> to the extent to affect the country's consolidated budget, the revenue structure in 2020 is very similar to that included in the Budget for 2019. Some targets look overly optimistic, which may materialise in increased deficit. One of them is the growth of revenues from corporate income tax (by almost a quarter compared to 2019) and the personal income tax (by more than 20%) against the planned increase in nominal GDP of 10-12%.<sup>71</sup> The only significant **"new" increase** is linked to (projected) increase in the special fund revenue from gambling licences (by UAH 3 billion).<sup>72</sup>

The areas of the **largest State Budget expenditure** include:<sup>73</sup>

- security and defence – UAH 245.8 billion (5.45% of estimated GDP, a 14% increase compared to the 2019 budget);
- public debt management – UAH 141.5 billion (12% of the State Budget expenditure). Additional UAH 282 billion are needed to finance settlement of obligations;
- financing (subvention) of the Pension Fund (UAH 173 billion from the State Budget).

It is highly likely that the **mentioned major expenditures will require more resources**. This primarily concerns financing of the Pension Fund, given the trends in the country's pension system. This, of course, creates **additional risks of increasing deficit** of public finances.<sup>74</sup>

Another feature of the budget process – 2020 is its frequent revisions and adjustments. Already in the first half of January, the Parliament passed a number of legislative acts (both in the second reading and in whole) aimed at "adjusting" the State Budget 2020 by "... Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2020". These amendments, for example,

concerned sources of funding for the Entrepreneurship Development Fund<sup>75</sup> and financial support for Ukraine's road sector.<sup>76</sup> This practice will obviously continue.

Moreover, some of the budgetary changes are already being programmed, since the President instructed the Cabinet to divide the previously integrated Ministry of Economy, Ministry of Culture and Ministry for Veterans Affairs on the basis of unspecified "new approach".<sup>77</sup> However, it is clear that structural changes of this kind will require significant changes in overall expenditure for (newly created) ministries, key spending units, programme funding, and much more.

## Public Finances and Fiscal Restrictions

The government announced the **"deep" tax reform** (starting in spring of 2020 and taking effect from 2021) to reduce tax pressure and increase social justice of the fiscal system. However, apart from general references to "justice", the essence of "deep reform" remains unknown.

Unfortunately, there are reasons to believe that **fiscal innovations** are mainly linked to the government's intention to raise taxes and levies for business "to replenish budgets". However, given the complexity of tax changes and poor qualification of new parliamentarians, it is **doubtful** that any significant tax-related changes will occur in 2020. In the meantime, intentions to **reduce tax level** or even abolish some taxes have already been announced, although **they do not seem realistic**, given the substantial under-performance of the 2019 budget and particularities of some taxes.<sup>78</sup>

There are also plans to change taxation of individuals. For example, **in case of over-performance** of the 2020 budget, the Ministry of Finance **sees grounds** for reducing the personal income tax, which can become a significant drive for accelerating economic growth and improving the household wellbeing.<sup>79</sup> However, given the insufficient economic dynamics, **one should not expect any budget "overachievements"**.

<sup>70</sup> Some discussions around the State Budget for 2020 concerned the excise tax. For example, it was decided that excise returns from locally produced and imported fuel should remain in the local budgets, even though the sectoral Parliamentary committee argued that it would unbalance the State Budget and lead to a "reduction of the Road Fund's revenue and expenditure by UAH 7.7 billion". – The Law of Ukraine "On Amendments to the Budget Code of Ukraine" No.2144 dated 16 September 2019.

<sup>71</sup> For more detail, see Bohdan T. The country's financial plan for 2020: figures, facts, comparisons, – <https://biz.censor.net.ua/columns/3162822/>.

<sup>72</sup> ...relevant law on the legalisation of gambling is yet to be approved.

<sup>73</sup> ...more than half of all State Budget revenue will be allocated to these three sectors.

<sup>74</sup> See the *Social Sector* on the peculiarities of financing of social expenditure.

<sup>75</sup> The Law of Ukraine "On Amendments to the Law of Ukraine 'On the State Budget of Ukraine for 2020' concerning the Entrepreneurship Development Fund" No.2589 dated 12 December 2019; adopted on 14 January 2020.

<sup>76</sup> The Law of Ukraine "On the State Budget of Ukraine for 2020", No.2660 dated 20 December 2019; adopted on 16 January 2020.

<sup>77</sup> Zelenskyy believes it is necessary to separate some ministries and expects the structural concept from the Prime Minister. – Interfax-Ukraine, 17 January, <https://ua.interfax.com.ua/news/political/636213.html>.

<sup>78</sup> It is likely that the government will initiate the abolition (or continuation) of a military levy in the context of a comprehensive tax reform, if developed. However, administering of this tax introduced in 2014 at a rate of 1.5% of taxable income is simple; moreover, its abolition does not seem feasible, given high defence spending and ongoing Russian aggression. It is more about the rate differentiation (from 0.5% to 10%) depending on the taxpayers' income. – Military levy: rate differentiation or abolition? – Intelektualniy Servis, 30 October 2019, <https://intelserv.net.ua/news/material/id/738>.

<sup>79</sup> It is about reducing the current personal income tax rate from 18% to 15%. – The Minister of Finance admits the possibility of reduction of personal income tax rate in case of over-performance of the 2020 budget. – Interfax-Ukraine, 3 December, <https://ua.interfax.com.ua/news/economic/628128.html>.

It is likely that the main areas of discussion regarding the individual (household) income tax will include:<sup>80</sup>

- another **reduction in the number** of taxes, particularly related to payroll fund and sources of its replenishment. This may include changes in the format and rates of personal income tax (PIT) – with the rise of non-taxable level and restoration of progressive taxation rate (higher rate for higher salaries).<sup>81</sup> The main idea is to combine PIT,<sup>82</sup> single social contribution the military levy into a single tax. Instead of currently applied single PIT rate at 18%, they plan to introduce a basic, a raised and a reduced rate, with the minimum at 15%.<sup>83</sup>
- transformation of the existing **personal income tax** system to enhance equity in income sharing by shifting from taxation of individual's income to taxation of the **total income of a family**, taking into account the minimum social security (e.g. excluding the costs of meeting the minimum needs, housing, childcare and the like). However, such proposals **will not be adopted** in 2020;
- redistribution of the personal income tax between local budgets based on the place of origin and the place of residence (registration) of a taxpayer.<sup>84</sup> However, such proposals are also **unlikely to materialise**, as some parts of local budget revenues are be redirected to the State Budget anyway.

The government's ability to undertake such steps largely depends on the IMF position, which keeps a close eye on fiscal changes in partner countries and may well "adjust" their intentions.

The IMF mission has already presented a **number of recommendations** regarding reformation of the tax and financial environment in Ukraine.<sup>85</sup> In particular, the IMF has **warned the Cabinet against introducing zero tax rates on individual capital transactions**. Instead, it suggested introducing a mechanism for capital amnesty (voluntary filing of information with disclosure of assets abroad) with a base tax rate of 9%, which will allow expanding the tax base. It also recommended not to impose zero rates on repatriated assets and on their reinvestment in government bonds, but to introduce a preferential 5% rate on repatriation of capital instead.<sup>86</sup>

In the past two years, the idea of introducing the **so-called capital transfer tax instead of a corporate income tax** has been widely discussed in Ukraine. The IMF mission considers it "a bad tax policy that could harm the country". First of all, it is about significant losses in tax revenues, which, according to conservative estimates, can amount to 1.7% of GDP in 2020-2021 due to the absence of reliable compensatory mechanisms and the complexity (rather than simplicity) of administering this tax.<sup>87</sup> At the same time, there is no evidence that such changes will increase the investment inflow. More effective is the **modernisation of income tax** and its administering in line with international tax practices, also taking into account the mitigation of foreign currency controls recently introduced in Ukraine. It is likely that these reservations are good for Ukraine and will help **reduce the "amateurish experiments"** of the new government in the tax system.

Another controversial area of budget financing is the **redistribution of tax revenues between central and local budgets**. There are grounds to believe that Ukraine's fiscal policy will evolve – at least in practical terms – towards **centralization**, although the government continues to declare decentralisation.<sup>88</sup>

<sup>80</sup> For more detail, see: Yakymenko Y. et al. Ukraine after Elections: Public Expectations, Policy Priorities, Prospects of Development. – The Razumkov Centre, 2019.

<sup>81</sup> If it is fair for non-taxation of small income, then the introduction of a broad progressive scale is doubtful. Different forms of progressive taxation have already been tested in Ukraine, and virtually all of them failed, including for budget replenishment.

<sup>82</sup> It should be noted that personal income tax has become a major source of revenue growth in the public finance system. In 9 months 2019, PIT accounted for almost UAH 200 billion, primarily due to raising the minimum wage and increasing the interest rate on household deposits.

<sup>83</sup> Tax reform 2020: PIT, SSC and military levy can be united into a single tax. – Ekonomichna Pravda, 28 December, 2019, <https://www.epravda.com.ua/news/2019/12/28/655394/>.

<sup>84</sup> Part of revenues from the personal income tax will be paid to the budgets in the place of workers' residence (and not at the place of work).

<sup>85</sup> The IMF warns against zero tax rate in capital amnesty in case of its reinvestment in government bonds. – Interfax-Ukrayina, 26 November 2019, <https://ua.interfax.com.ua/news/economic/626812.html>.

<sup>86</sup> Of course, tax rates for different transactions may vary, but zero rates for capital flows related to amnesty or repatriation, may not be considered fair.

<sup>87</sup> "Distributed income tax is no easier. In fact, it creates some complications, as the expected distribution of dividends has to be verified – transaction after transaction – with links to transfer pricing..." – See footnote above "The IMF warns against..."

<sup>88</sup> State funding of the socio-economic development of the regions amounting to UAH 7.5 billion is to be implemented through the Regional Development Fund via subventions to local budgets on development of united territorial communities (UAH 2.1 billion); measures of socio-economic development of individual territories (UAH 2.0 billion); projects under the Emergency Credit Programme of Ukraine Recovery (UAH 1.3 billion). However, these amounts are **significantly lower** than those the regions would like to have at their disposal. Moreover, when forming local budgets for 2020, most cities in Ukraine report cuts in all expenditures, which has led to a significant reduction in funding compared to 2019. – Didenko S., Budget for 2020 is signed: has the "era of poverty" ended for ordinary Ukrainians? – UA.NEWS, 13 December 2019, <https://ua.news.ua>.

Therefore, there exist two important requirements to ensure proper local governance:

- clear legislative distribution of functional and expenditure powers of central and local authorities, as well as of the local self-governance system,<sup>89</sup> which should define **the areas of exclusive powers of local self-government bodies** and eliminate the duplication of functions of central and local authorities;<sup>90</sup>
- setting the upper limit of local budget contributions to the revenue equalisation system, so as not to remove from local budgets additional revenues generated by the development of the economy of respective territories.

Although decentralisation is a dictate of the times (also to preserve social cohesion), **such changes, however, are unlikely**, as this will significantly limit the Ministry of Finance's ability to freely transfer funds, especially at the end of the year, when budget gaps are particularly wide and deep.

## Monetary Policy

Although the National Bank of Ukraine is likely to continue its tough monetary policy in 2020,<sup>91</sup> we believe that in order to revive economic growth (and not just stabilise the consumer price index), **the country needs wider access to financial resources and the introduction of a stimulating monetary policy**. Therefore, the NBU will be forced to partially mitigate its monetary instruments and measures, but the cost of credit resources will only reduce by 5 to 7 percentage points.

Despite significant strengthening of hryvnia in 2019, this does not “cancel out” **high sensitivity of Ukrainians to exchange rate fluctuations in 2020**. In the event of clear “turn” of the exchange rate dynamics from strengthening to weakening of the national currency, the population will immediately respond to such changes, which will also intensify negative inflation expectations. In other words, the risks of unwinding the **inflation-devaluation spiral may well emerge** in reality, most likely in the autumn and winter of 2020.

In terms of the exchange rate dynamics, the **nominal weakening of hryvnia in 2020 seems inevitable** given:

- significant foreign trade deficit,
- high external debt burden,

- gradual loss of OVDP attractiveness for non-residents,
- increased geopolitical confrontation and the need to stop trade with some countries,
- reduction of transfers from abroad from Ukrainian migrant workers.

At the same time, **there are reasons to believe** that the NBU in 2020 will be able to prevent the exchange rate collapse, while following the course of managed (moderate) devaluation. This will be also due to Ukraine's support by international financial institutions (IMF, World Bank) and the EU in the total amount of \$3.5-4.2 billion. As a result, the competitive positions of Ukrainian exporters will not change.

Also important is the fact that the NBU will have to undergo **a number of institutional changes** that should strengthen its responsibility for the country's economic development.

*First*, it includes legislative recognition of the **National Bank's responsibility for economic growth** – shifting the focus of monetary policy from pursuing the so-called “inflation targeting” towards ensuring economic growth and development through increased access to credit resources for the national economic agents.<sup>92</sup> Despite **considerable NBU's resistance to this innovation**, this area of activity will be legally formalised one way or another, as harmful effects of long-lasting monetary restrictions are already clear. Such an extension of the NBU's mandate is likely to be criticised by the IMF<sup>93</sup> but **become one of positive developments for Ukraine in 2020**.

*Second*, in view of the considerable criticism of Ukraine's central bank, including for its disregard of the need to revise previous mistakes and omissions, the NBU will still have to perform an **in-depth analysis** of the banking sector in the near future, taking into account actions aimed at strengthening / weakening the banking system as a result of withdrawing more than a third of the banks. In our opinion, this will enhance the confidence of economic agents in the banking system as a whole and may also serve as an additional factor of economic acceleration.

Although at the end of 2019 the NBU began **reducing key interest rates** (refinancing and certificate of deposit), such a reduction in 2020 should be more “aggressive”, thus becoming a monetary policy “hallmark” of 2020.

<sup>89</sup> ... functional powers are determined by the Law of Ukraine “On Local Self-Governance”; Expenditure Powers – by the Budget Code of Ukraine.

<sup>90</sup> The distribution of expenditure powers across different types of budgets has to be consistent with the distribution of functional responsibilities of relevant local authorities, which means clear responsibility of the authorities at different levels for the performance of specific functions in providing public goods and services and for the effectiveness of relevant budget expenditures, and hence – for ensuring proper control over their activities.

<sup>91</sup> In recent years, the government have practiced various restrictions on the money and credit markets. We believe that **further money restriction** in 2020 will be **detrimental for Ukraine**.

<sup>92</sup> For more detail, see: Yakymenko Y. et al. Ukraine after Elections: Public Expectations, Policy Priorities, Prospects of Development. .

<sup>93</sup> ...although the IMF shies away from such criticism at the central banks of developed economies, which have a dual mandate. In modern settings, the central bank's independence does not imply its withdrawal from responsibility for economic growth and development. See, for example: Jallil P. Is central bank independence an obsolete concept? – Jacques Delors Institute, Policy Paper No.246, December 2019.



and **adding stability to the banking system**. For reference: reduction of the NBU rate means lower attractiveness of high-yielding arbitrage transactions, which wash away resources and accumulate interest profits and exchange premiums outside the real sector.

**Increasing the value of insured deposits** from current UAH 200 thousand to UAH 350-400 thousand will be essential for improving public confidence in the banking system. The same is true for the inclusion of legal entities – entrepreneurs and small businesses – in the deposit guarantee system. In addition to receiving additional deposit resources by banks, this will help increase the money supply without inflationary pressure.

However, we have to admit that monetary weakening and increase in money supply in 2020 will still be moderate (Table *Monetary Aggregates*). Only in case of **successful combination** of monetary incentives, increased deposit resources and improved wellbeing the population, one can expect that by next year (2021) Ukraine will be able to implement monetary stimuli more effectively.

**Monetary aggregates,**  
at the end of the period (unless stated otherwise)

	2018	2019*	2020 (forecast)
Monetary Base, UAH billion	436	447	510
Money Supply M2, UAH trillion	1.27	1.33	1.50
Money velocity	2.9	3.1	3.1
Loans issued by deposit corporations, UAH billion	1 073	1 050	1 070

\* indicators as of the end of November 2019. The December monetary statistics became more “attractive” (encouraging). Specifically, the money stock has been growing slowly throughout the year, reaching UAH 447 billion by the end of November. During December alone, it increased by UAH 30 billion. Similarly, the M2 money stock reached UAH 1.33 trillion at the end of November, increasing by 7.7% in December (to UAH 1.44 trillion). These **statistical “adjustments” do not change the nature** of restrictive monetary policy in 2019. As already noted, increasing of money supply in 2020 will take place in a more consistent manner.

## Balance of Payments

As it is known, Ukraine is a small open economy with strong domination of imports of goods. In view of the expected persistence of global protectionist measures to protect the “national security” in 2020,<sup>94</sup> the prospects of **improvement of the foreign trade balance do not look encouraging** for Ukraine. The situation is further aggravated by some “internal” complications of the balance of payments. *First*, a substantial strengthening of hryvnia in 2019 weakened the competitive position of some domestic exporters (first of all, metallurgy). *Second*, while the country was able to continue transit of

Russian gas, the declared volumes are much smaller than in previous years, and we do not rule out complications with the fulfilment of contractual obligations. *Third*, there are significant risks to Ukraine’s exports to Arab markets (where the exports growth was particularly dynamic) due to the military escalation around Iran, Syria and others (including those under trade sanctions).

At the same time, the estimates for the **exports of services** look more **optimistic**. One should expect positive dynamics in the expansion of exports of IT and transport services (primarily, aviation).

In such circumstances, **the foreign trade balance** (separately for trade in goods and for trade in goods and services), and thus the current account balance (CAB) balance will remain **deficient** (Table *Some components of Ukraine’s balance of payments*). Of course, resources received by Ukrainians from abroad will have a major positive impact on CAB. Although their volumes will somewhat decrease compared to the record-setting 2019, these funds can finance almost half of the foreign trade deficit.

At the same time, given the continued growth of the US dollar equivalent of nominal GDP, the deficit-to-GDP ratio decreases only slightly (3.9% vs 3.5% in 2018). And given some increase in FDI (including due to resumption of the privatisation processes), balance of payments will need to attract resources in the amount of 1.9% of GDP (which correlates with indicators for the previous two years) (Table *Some components of Ukraine’s balance of payments*). Therefore, even if access to the external financial markets is restricted, the cost of financing the balance of payments from international reserves will be insignificant (see the Section on *Foreign Debt*).

**Some components of Ukraine’s  
balance of payments**

	2018	2019 (estimates)	2020 (forecast)
Balance of foreign trade in goods and services, \$ billion	-11.3	-13.4	-14.7
Current account balance (CAB), \$ billion	-4.6	-4.9	-6.7
CAB, % of GDP	-3.5	-3.1	-3.9
CAB + FDI, % of GDP	-1.7	-1.7	-1.9
Exports-Imports ratio	84.0	82.6	82.0

The continued “natural” spread of the foreign trade deficit draws a **particular attention to FDI**, as its importance increases not only as an economic development factor, but also as a key source of financing the deficit in the current account of the balance of payments. Therefore, reaching the target of FDI inflow at

<sup>94</sup> Although at the end of 2019, the United States and China managed to somewhat mitigate their trade disputes and even reach some new agreements, the risks for international trade and international economy will remain high, also affecting the domestic economy.

2% of GDP in 2020 could be a good signal for investors in terms of country's improved investment environment.

In the face of increasing global confrontation, Ukraine's interaction with its main political and economic partners, especially with the United States, Canada, and Japan, becomes critical. Let us point at **two important directions of Ukraine's foreign economic policy**, which will facilitate both the expansion of Ukrainian exports and the attraction of FDI, especially from the EU and other developed economies.

**The first is about trade.** The Ukrainian government has already announced a number of ambitious plans for 2020 regarding relations with the EU, including revision, "updating" or "modernisation" of some provisions of the Association Agreement. In addition to aforementioned "customs visa-free regime", Ukraine would also like to conclude **an agreement on the "industrial visa-free regime"**,<sup>95</sup> which would facilitate the domestic economy development and strengthen the economic relations between Ukraine and the EU as a whole. Upon prior agreement, in Q1 of 2020 the EU will deploy a preliminary assessment mission to Ukraine tasked to review the country's industrial potential.

Such intentions and actions of the government deserve high appreciation. In turn, the EU is not against revising the Association Agreement, but, as practice shows, there has to be **a clear and rational basis for this**. This is likely to become one of the central themes in Ukraine-EU relations in 2020.<sup>96</sup>

At the same time, given the UK's departure from the EU, the intensification of the dialogue between the United Kingdom and Ukraine would be appropriate and important, especially towards deepening of economic cooperation (the first step was taken in December 2019, when the parties discussed the possibility of signing the Political and Trade Agreement).<sup>97</sup>

**The second concerns direct investment.** Its inflow in Ukraine is substantially limited today by the weak investment protection. To address this problem, the government of Ukraine may apply to international financial institutions, United States, Japan and the EU **to jointly set up a \$ 5-7 billion Direct Investment Fund**.

These resources will be available for designated use only, e.g. to finance infrastructure and integration commercial projects in Ukraine based on the best international practice for similar projects, including with favourable cost of resources and capital. It is clear that the existence of such a fund, administered by large developed

nations, will in fact remove any political and economic risks to investment in Ukraine.

## Foreign Debt and International Reserves

Ukraine's current debt position was formed by previous governments, mostly as a result of expensive foreign borrowings (at 8-10%), including for government loans. We should note that during 2019 the yield on borrowings has declined substantially, without any IMF resources (tranches). This is to confirm that some "disobedience" of Ukraine in terms of IMF requirements is not critical. And conditions for obtaining new loans (including private ones) in 2020 will be determined by the government's understanding and ability to undertake systemic transformations.

Although the total external debt payments amount to \$15-17 billion (including payments by the government and the NBU at more than \$6 billion) (Diagram *External debt payments to non-residents...*), they do not seem excessive, because, *first*, the government will be able to maintain at least weak but positive economic dynamics, and *second*, Ukraine will be able to attract \$2-2.5 billion in the external financial markets.

**Eternal debt payments to non-residents,  
in foreign currency in 2020  
\$ billion (as of 1 October 2019)**

	Q1	Q2	Q3	Q4
<b>Total</b>	<b>5.42</b>	<b>3.41</b>	<b>5.24</b>	<b>3.00</b>
Including				
Public administration sector (excluding OVDs owned by non-residents)	1.18	1.44	3.12	0.35
The National Bank of Ukraine (NBU)	0.38	0.05	0.37	0.05
IMF loans (public administration sector + NBU) (principal + interest)	0.61	0.07	0.61	0.07

Other sectors other than the government and the NBU – slightly less than \$2 billion, quarterly

For more accurate measurements of foreign debt payments and reserves, *first* it is necessary to take into account possible currency payments to non-resident owners of OVDs. In order to **"neutralise"** this situation, it seems appropriate during the next budget process **to determine the share or volume of government bonds** available to non-residents in subsequent budget cycles. In addition, it is necessary to **determine governmental currency resources** for OVDs, owned by non-residents, that are needed for securing the proceeds from repayment.

<sup>95</sup> "Industrial visa-free regime" stands for the adoption of an Agreement on Conformity Assessment and Acceptance (ACAA), which would allow Ukraine to trade industrial products with the EU under the same conditions as the EU members trade with each other. The problem is, however, that Ukraine offers a very narrow niche of competitive industrial products. – See: Kachka has declared arrangements with the EU on customs and industrial visa-free regime. – DW, 19 November 2019, <https://www.dw.com/uk/качка-заявив-про-домовленості-з-єс-щодо-митного-і-промислового-безвізу/a-51322215>.

<sup>96</sup> How Ukraine wants to change the Association Agreement and what do they think about it in the EU. – DW, 8 November, <https://www.dw.com/uk/україна-ініціює-зміни-угоди-про-асоціацію-з-євросоюзом/a-51158111>.

<sup>97</sup> In particular, the meeting participants discussed simplification of the procedure for obtaining British visas by Ukrainians, Britain's support for Ukraine to become NATO's Enhanced Opportunity Partner, as well as the other areas of cooperation, including by providing technical assistance (tax and customs reforms, strengthening government strategic communications, health reform, anti-corruption reform, etc.). – See, in particular: Ukraine and the United Kingdom plan to conclude a new Political and Trade Cooperation Agreement in the near future. – Yevrointehratsiyniy Portal, 10 January, [https://eu-ua.org/novyny/ukrayina-i-velyka-brytaniya-planuyut-uklasy-novu-ugodu-pro-politychne-ta-torgovelnе?fbclid=IwAR2Den\\_gpQOEsXv4nGMX\\_WHLqHn41UQN28x3sSdiwfoQeeUOjCioypVTIU](https://eu-ua.org/novyny/ukrayina-i-velyka-brytaniya-planuyut-uklasy-novu-ugodu-pro-politychne-ta-torgovelnе?fbclid=IwAR2Den_gpQOEsXv4nGMX_WHLqHn41UQN28x3sSdiwfoQeeUOjCioypVTIU).

*Second*, in case of increasing devaluation trends (as mentioned, moderate devaluation is likely in 2020), some of the resources should be spent on currency interventions to prevent **currency shocks** or sharp decline in exchange dynamics (such events are possible in cold season). In this situation, given the significant increase in reserves (\$25.3 billion at the end of 2019), we consider it useful to spend \$5-6 billion on external payments and interventions. Although some decline in gross reserves seems inevitable during the year, by the end of 2020 **Ukraine should have \$20-21 billion in gross international reserves** obtained without disturbing of the macroeconomic environment.

In conclusion, we should reiterate that despite having the internal potential for improving its economic dynamics, **Ukraine has not yet been able to realise it properly**. And we can only hope that in 2020 Ukraine, thanks to rational institutional changes, will **start shaping the basis** for the introduction of new economic model of growth and development.

## ENERGY SECTOR

The country's energy sector in 2020 should be developing pursuant to goals and objectives of Ukraine's Energy Strategy until 2035. In particular, it is anticipated that reforms and improvements will continue in two key energy markets – the electricity and the natural gas markets. **However, in the event of poor implementation of the country's energy policy, there is a risk that the said reforms may be significantly distorted**, thus affecting the interests of both consumers and investors.

The electricity market transformations in 2020 should continue in the light of gradual weakening of state's administrative restrictions and levers, such as the imposition of special responsibilities (SRs), and transition towards predominantly market-based price-setting.

Under an optimistic scenario for the natural gas market, it is expected that in 2020, the SR mechanisms and cross-subsidisation will finally become a history. A 30% increase in tariffs for natural gas distribution introduced in early 2020 may facilitate some stabilisation of distribution system operators but will not fully address the problem of financing the modernisation of gas distribution infrastructure or even its maintenance in a proper technical condition.

As for the state regulation of subsoil use, in 2020 the government of Ukraine is expected to sign production sharing agreements with a number of hydrocarbon producers, thus introducing new business models for Ukraine to attract investment and the cutting-edge production intensification technologies.

**Natural gas transit through Ukraine in 2020 will reduce by more than 20%** compared to 2019 – to 65-70 bcm – because of the launch of TurkStream bypassing the territory of Ukraine; an increase in LNG supply to the EU; and significant gas reserves in Europe at the beginning of the year. **Oil transit will slightly increase** to 14 million tonnes following clean-up of the effects of organic chlorine contamination of the pipeline system in 2019.

Ukraine will move forward to the implementation of European energy legislation. In particular, the Ministry of Energy and Environment Protection will continue developing the concept of “green” transition until 2050. Relevant action plan is expected to be approved in September 2020.

The scenario for “green” energy transition is expected to include both economic and environmental components. The law on the introduction of “green” bonds in Ukraine is likely to be adopted,<sup>98</sup> seeking to reach three key objectives – energy supply, economic development and environmental protection.

**In 2020, Ukraine will see further development of renewables (RES), making it possible to partially replace gas and coal and attract more than €4 billion in investment.** The RES capacity will increase to 7.7 GW and will only include power stations with already established “green” tariff. The share of renewables in the country's generation (excluding large hydroelectric stations) is projected to reach 7%, compared to 4% in 2019.

Rapid development of renewables under the deficit of power maneuvering capacities will inevitably lead to the use of dispatch restrictions. Significant restrictions may apply to “Energoatom” – up to 3 GW, which will significantly increase the financial burden on consumers.

To create competitive environment for production and to reduce the cost of RES energy, it is planned to conduct “green” auctions in April 2020 in accordance with the applicable law,<sup>99</sup> which provides for the allocation of new RES capacities on a competitive basis (at the lowest electricity tariffs in the investment proposal). The government will continue its efforts to reach a joint position with RES producers concerning voluntary restructuring of the “green” tariff and setting clear auction quotas.

Qualitative development of nuclear power is impossible without the improved and economically justified tariff policy. **It is projected that NNEGC “Energoatom” will increase its share of electricity in the day-ahead market from 10% to 15%** and improve

<sup>98</sup> The draft law on amending certain legislative acts of Ukraine to facilitate attraction of investment and introduce new financial instruments. Registration No.2284, 17 October 2019, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=67117](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67117).

<sup>99</sup> The Law on Amendments to Certain Laws of Ukraine on Ensuring Competitive Conditions for Generation of Electricity from Alternative Energy Sources.



its financial situation due to newly adopted amendments to the Law on the Electricity Market.<sup>100</sup>

To improve “Energoatom” efficiency, the company’s reformation will continue, as it is the main prerequisite for attracting credit resources both for its operations and capital construction.

Particular emphasis will be placed on using the newest technologies to improve the efficiency and safety of operating units. Holtec International (USA) will continue working within the framework of the “Ukrainian Module Consortium” to implement a small modular reactor technology that will help in power maneuvering and RES balancing.

**Fuel diversification aimed at reducing the risks of fuel supplies from Russia is also critical.** The government will continue issuing permits for industrial use of Westinghouse fuel (the third unit of the Yuzhno-ukrayinsk NPP, followed by the fifth unit of the Zaporizhzhya NPP).

A research will be made into the possibilities of using the existing raw material and technological base for domestic production of uranium and constructing the centralized storage of spent nuclear fuel (SNF). This will help to avoid financial costs associated with sending SNF to the Russian Federation.

**Improving energy efficiency is one of key trends in green energy transition.** It is expected that the Energy Efficiency Fund (established in 2019) will shortly become fully operational. To this end, as many as UAH 6.8 billion may be accumulated in cooperation with the International Financial Corporation to support condominiums. Also, 10 Ukrainian cities will be identified for implementing energy efficiency improvement pilots.

## SOCIAL SECTOR

In 2020, the wellbeing of most Ukrainians is unlikely to improve. Pursuant to the IMF recommendations, the State Budget for 2020 was developed by the previous government, providing for very insignificant increases in social standards. According to the plans, the country’s economy will grow at the expense of consumption, that is, increases in household spending and cash transfers. The budget foresees a 3.7% reduction in real expenditure of the state, excluding the price factor: **this is the smallest percentage of public expenditure for the period of 2013-2020.**

Reducing the State and consolidated budget expenditure, including social spending, relative to GDP points at the reduction in the state’s share in total consumer spending, which limits the government’s ability to deliver quality public services and social guarantees to particularly vulnerable populations.<sup>101</sup>

Expenditure on the social sector is to be reduced by UAH 7.8 billion. According to the consolidated budget expenditure, the largest reduction compared to 2019 will apply to social protection (8.3% of GDP to 7%), health care (3.2% to 2.9%), and education (6.2% to 5.6%).

**Reduction of expenditures on social protection and welfare** is primarily linked to reduction of social benefits (the level of guarantees will reach minimum values): the new State Budget of Ukraine reduced the financial support for the payment of pensions, extras, pension raises and coverage of the deficit of the Pension Fund<sup>102</sup> by 5.3% (from UAH 183 billion in 2019<sup>103</sup> to 173 billion in 2020<sup>104</sup>) (increase in payments to pensioners and state employees is limited by the size of the budget revenue); as well as the size of housing subsidies (from UAH 55.1 billion to UAH 47.6 billion<sup>105</sup>).

The key sectors responsible for human capital development – education and health care – are at the periphery of budget allocations. Comparison of budgeted amounts for these sectors in 2020 with actual figures for 2013 points at significant reductions (by 1.7% of GDP in education; by 1.3% of GDP in health care, and by 3.0% of GDP in social protection).

Increasing the minimum wage from UAH 4,173 to UAH 4,723 will provide additional tax revenue and reduce the number of persons in need of subsidies.

**The State Budget for 2020 does not envisage an increase in the subsistence minimum to actual minimum,** so one should not expect improvements in social standards.

The government secured in legislation a much lower size of the basic social standard than the one calculated based on current methodology, which does not take into account the depreciation of cash income and savings of citizens due to the high price inflation. This will reduce the purchasing power of the population (and hence the GDP formation) and lead to further deterioration of living standards and social protection, creating conditions for further impoverishment of the most vulnerable populations, in particular for those for whom pensions, and other types of social benefits and assistance are the main – and usually the only – source of existence.

<sup>100</sup> The Law on Amendments to the Law of Ukraine ‘On the Electricity Market’.

<sup>101</sup> On the preparation of the Draft Law on the State Budget of Ukraine for 2020 for the first reading of (Reg. No.2000 of 15 September 2019). – The Committee on Budget, <http://budget.rada.gov.ua/fsviiew/75975.html>.

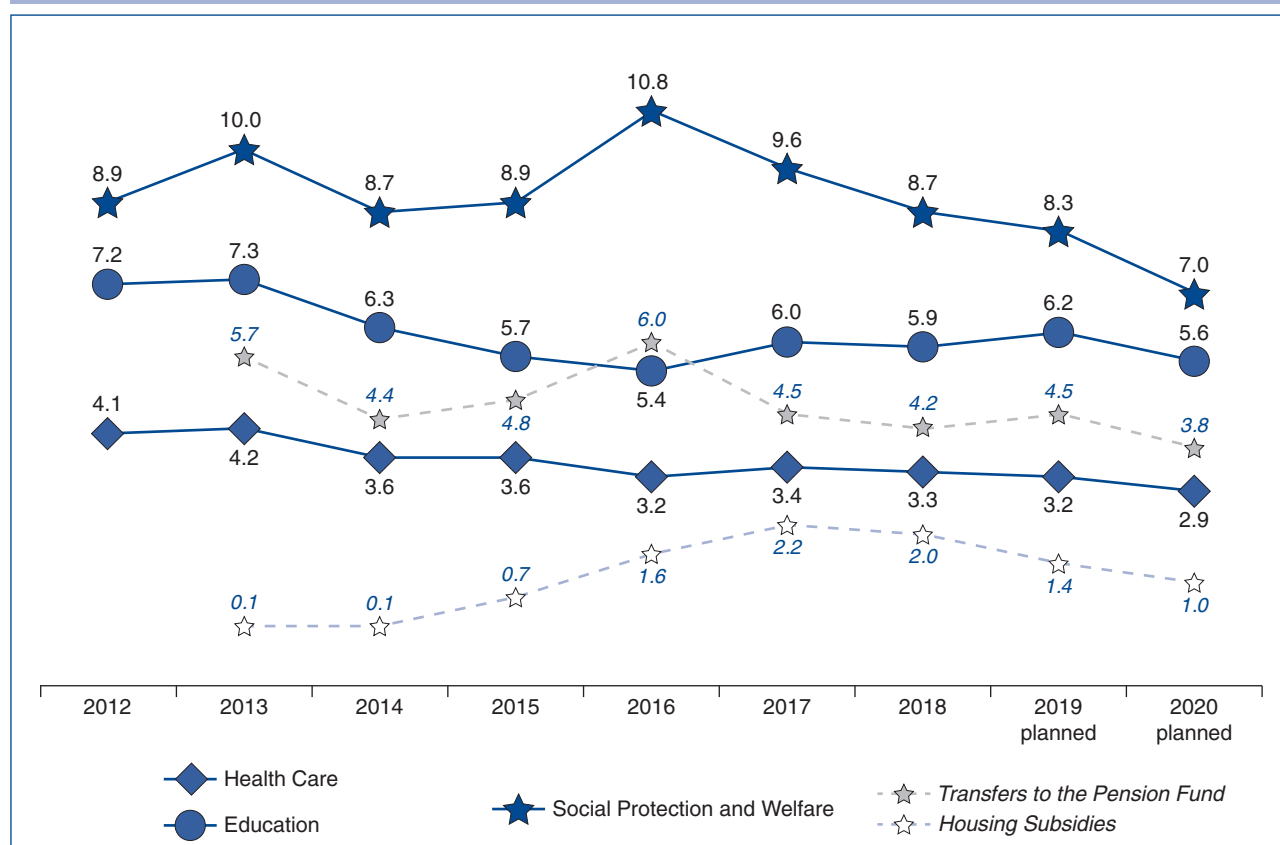
<sup>102</sup> The deficit is likely to be further adjusted upward, because in order to reduce the PF’s deficit, either significant increase in the number of SSC payers or a significant increase in official wages is necessary.

<sup>103</sup> The Pension Fund budget was UAH 438 billion, including UAH 182 billion (or 41%) from the State Budget. The Cabinet of Ministers of Ukraine Resolution No.14 dated 16 January 2019 “On Approval of the Budget of the State Pension Fund of Ukraine”, <https://zakon.rada.gov.ua/laws/show/14-2019-%D0%BF>.

<sup>104</sup> The Law of Ukraine “On the State Budget for 2020”.

<sup>105</sup> Ibid.

**Dynamics of the consolidated budget expenditure by functional classification.**  
% of GDP



The Cabinet of Ministers has been tasked to take “decisive steps” in 2020 to approximate the size of the subsistence minimum to its real value,<sup>106</sup> which can be estimated at UAH 4,251 with an appropriate adjustment of its size for the main social and demographic groups.<sup>107</sup> However, such a provision is rather declarative, especially given that the phrase “decisive steps” is rather judgemental and may be interpreted differently by different actors, thus violating the principle of legal certainty.

In addition, the Parliamentary Committee on Budget has recommended the Cabinet to consider including a “compromise” subsistence minimum of UAH 4.1 thousand in the 2020 budget. As Ukraine joined the International Labour Organisation’s conventions, it cannot ignore the need for setting real subsistence minimum any longer. In addition, the establishment of artificially low official subsistence minimum has been repeatedly challenged in courts.<sup>108</sup>

If this level is included into budget, all social payments should increase drastically, although the government still has no money for that. Therefore, a simple solution was found – to change the formula, that is, to detach social benefits from the subsistence minimum.<sup>109</sup> **If this decision materialises, nothing will depend on the subsistence minimum any longer, and the government may budget a subsistence minimum of any size.**

**The increase in payments to budget sector employees is limited by the size of the State Budget revenue.**

The Cabinet of Ministers submitted two bills<sup>110</sup> to the Parliament, suggesting to detach wages in the public sector from the subsistence minimum and to make payments “taking into account the financial capacity of the State and local budgets”. As stated in the explanatory note, “The draft was developed by the Ministry of Social Policy of Ukraine on its own initiative, taking into

<sup>106</sup> Ibid.

<sup>107</sup> The government approved a bill that will allow raising the subsistence minimum in the future. – The Government Portal, 11 December 2019, <https://www.kmu.gov.ua/news/uryad-shvaliv-zakonoproekt-yakij-dozvolit-v-podalshomu-pidvishchiti-prozhitkovij-minimum>.

<sup>108</sup> The court found the Cabinet’s actions in setting the subsistence minimum for 2019 illegal. – Kyiv District Administrative Court, <https://adm.ki.court.gov.ua/sud2670/pres-centr/news/830505/>.

<sup>109</sup> The Ministry of Social Policy proposed detaching more than 150 benefits from the subsistence minimum. – Business Censor, 11 October 2019, [https://biz.censor.net.ua/news/3153464/minsotspolitiki\\_predlozilo\\_otvyazat\\_bolee\\_150\\_vyplat\\_ot\\_projitochnogo\\_minimума](https://biz.censor.net.ua/news/3153464/minsotspolitiki_predlozilo_otvyazat_bolee_150_vyplat_ot_projitochnogo_minimума).

<sup>110</sup> Draft law on amendments to certain legislative acts of Ukraine on creating conditions for the increase of the subsistence minimum, No.2720 of 13 January 2020, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=67852](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67852), and “On amendments to Section VI “Final and Transitional Provisions” of the Budget Code of Ukraine on creating conditions for the increase of the subsistence minimum, No.2721 of 13 January 2020, [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=67853](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67853).

*account the provisions of Objective 3.3. of the Action Programme of the Cabinet of Ministers of Ukraine*".<sup>111</sup>

These bills stipulate changes to the transitional provisions of the Budget Code, according to which the Cabinet will be able to manually set salaries "taking into account the financial resources of the State and local budgets", **without automatic indexation by raising the subsistence minimum**, for the following categories of employees:

- employees of institutions and organisations of certain sectors of the budget sphere;
- employees of the state bodies, public prosecutor's offices, courts;
- servicemen, members of the rank and file and commanders.

Such innovation in the face of the state and local budget deficit may lead to setting of different salaries for different categories of workers and thus unreasonable differentiation of wages in the public sphere. For example, it is proposed to determine new salaries annually, depending on the budget capacity, and **effectively eliminate the ban on setting a minimum wage not lower than the subsistence minimum**, which violates the provisions of the Constitution and the Law "On the State Social Guarantees".

There are also risks that low basic salaries of public sector employees will be "frozen", as in the case of scholarships.<sup>112</sup> At the same time, the bill preserves the norm for the extra-budgetary sphere, according to which the minimum salary should be at least 50% of the minimum wage.<sup>113</sup>

The introduction of two approaches to determining basic salaries – for employees of the budgetary and extra-budgetary sectors – will lead to discrimination in the workplace, violating the right of citizens to equal pay for equal work. Moreover, the lack of criteria for determining basic salaries of the public sector employees will create difficulties in forming budget requests for the next year.

The Prime Minister agrees that the overall wellbeing of Ukrainians is far from great, as over 10 million of

them live below the poverty line and have income below the subsistence minimum. To improve the situation, the government needs an estimated UAH 140-150 billion, which it expects to find over the next 5 years.<sup>114</sup> However, the head of government does not answer the question where to get this money.

**One should not expect the increase in pensions:** the minimum pension will only rise by UAH 131 – to UAH 1,769, which is a standard indexation. However, the reduction of budget financing of the Pension Fund deficit questions the automatic indexation of pensions.<sup>115</sup> The Budget for 2020 includes an additional increase for pensioners over 80 years of age by UAH 400-1,100,<sup>116</sup> having earmarked UAH 13 billion for this purpose. It is unclear how this extra pension will be paid – once or on monthly basis. From the viewpoint of most pensioners, this decision looks discriminatory.<sup>117</sup>

**Labour migration is associated with medium- and long-term risks**, which in the context of deteriorating demographic situation and population ageing, affects the financing of the Pension Fund, deprives Ukraine of its potential for economic growth and development, and reduces its attractiveness to investors due to the lack of manpower. Unlike its EU neighbours, participating in the common labour market and thus able to compensate labour shortages through positive labour migration, Ukraine cannot rely on such replacement of the lost labour resources. The lack of manpower creates budget deficits and shortage of funds for social programmes, health care, education, disability support and the like.

**The State Budget for 2020 limits opportunities for the development of secondary education.** Pursuant to the Ministry of Finance's proposals,<sup>118</sup> the government cancelled funding for schools with less than 40 (in rural areas - 20) students, and funding for grades 10 - 11 with less than 20 students, from the state educational subvention. The teaching rate has increased from 18 to 20 hours, while each class has to have no less than 15 and no more than 30 students.<sup>119</sup>

As a result of cancellation of the state educational subvention for rural schools with less than 20 students from 1 January 2020, these educational establishments

<sup>111</sup> Draft law on amendments to certain legislative acts of Ukraine on creating conditions for the increase of the subsistence minimum, No.2720 of 13 January 2020.

<sup>112</sup> The Ukrainian State Budget for 2020 does not envisage funds for raising scholarships. – ESPRESSO.TV, 11 December 2019, [https://espresso.tv/news/2019/12/11/ministerka\\_osvity\\_rozkazala\\_pro\\_stypendiyi\\_studentam\\_v\\_2020\\_roci](https://espresso.tv/news/2019/12/11/ministerka_osvity_rozkazala_pro_stypendiyi_studentam_v_2020_roci).

<sup>113</sup> With the minimum wage of UAH 4,723, this is UAH 2,360.

<sup>114</sup> Honcharuk agrees that it is impossible to live on UAH 2,000. – 112.ua, <https://112.ua/ekonomika/goncharuk-soglasen-chto-na-prozhitochnyy-minimum-na-urovne-2-tys-grn-prozhit-nevozmozhno-509372.html>.

<sup>115</sup> Made annually – 50% of inflation rate and 50% of the minimum wage growth.

<sup>116</sup> Announced by the President in the "1+1" programme. – Slovo i Dilo, 12 December, <https://www.slovoidilo.ua/2019/12/12/novyna/polityka/zelenskyj-anonsuvav-pidvysshennya-pensij-lyudej-starshe-80-rokiv>.

<sup>117</sup> According to the UkrStat, there are 1,687 pensioners aged 80+ living in Ukraine.

<sup>118</sup> The Ministry of Finance proposals, letter No.07010-04-3/19654 of 31 July 2019, [http://auc.org.ua/sites/default/files/sectors/u-137/1378215-blank\\_mfu\\_vyhidnyy\\_34920.pdf.pdf](http://auc.org.ua/sites/default/files/sectors/u-137/1378215-blank_mfu_vyhidnyy_34920.pdf.pdf).

In addition to proposals regarding higher education and science, the Ministry of Finance proposes an algorithm aimed at significant savings in the field of general secondary education. The need for that emerged following the Cabinet's decision to increase teacher salaries.

<sup>119</sup> Currently, the minimum acceptable number of students in the class is 5.



will be maintained at the expense of local budgets. It should be noted that the budget year does not concur with the academic year (2019-2020). Therefore, the school network optimisation should be planned as appropriate during the summer holidays.

Raising of teaching load from 18 to 20 hours is contrary to the Law of Ukraine “On General Secondary Education” and requires appropriate overtime compensation to teachers from the State Budget; it cannot be justified by the general increase in wages. As estimated by the Trade Union of Education and Science Workers of Ukraine, these initiatives will lead to a reduction of 44 thousand teachers,<sup>120</sup> as well as salary cuts for those who remain in schools, deterioration of their working conditions, increased workload, and decline in the quality of education along with disruption of educational process. In fact, the Ministry of Finance of Ukraine assumes full political responsibility for the closure of general secondary schools and significant reduction of schoolteachers.

The social implication of this “reform” goes far beyond the reduction of schools and teachers. In practice, it is about the liquidation of “unpromising” villages, followed by the disappearance of villages as such. Another issue is the functioning of educational institutions in mountainous areas with remote villages, which implies serious problems for local students concerning school access. This will further reduce the already low level of education in Ukraine.

**Proposals of the Ministry of Finance of Ukraine to improve the efficiency of budget spending in the sphere of education and science:**

- increasing teachers' salaries only with simultaneous reduction of their number;
- developing schedules for optimisation of small-size schools in each region (MoES jointly with oblast state administrations);
- terminating funding of schools (other than primary) with less than 40 students and funding of educational process in grades 10-11 (12) with less than 20 students from the state educational subvention starting from 1 January 2020;
- increasing a teacher's workload from 18 to 20 hours;
- increasing an estimated maximum students number per class rate in calculating the educational subvention for rayons and united territorial communities by 2 points;
- reviewing the existing pay conditions for teaching staff to optimise salary increases, allowances and extras;
- reviewing approaches to the formation of a hub school network; developing a network of hub schools through financial incentives, including by priority channelling of capital costs to these schools provided the optimisation process fulfilment;
- introducing mandatory retirement of teachers after reaching retirement age or contracting.

**Health reform was identified as one of the priorities for 2020.** In line with to Article 5 of the Law of Ukraine “On State Financial Guarantees on Medical Services to the Population”, the amount of the State Budget funds allocated for the implementation of the medical guarantees programme should be no less than 5% of GDP. However, according to the Ministry of Finance calculations, the volume of expenditure in the consolidated health care budget for 2020 will amount to only UAH 131.8 billion, or 2.9% of GDP.

In 2020, the government intends to focus on building an effective health care system<sup>121</sup> (estimated at UAH 1.9 billion). The budget includes funds for the purchase of 470 ambulance cars and for opening of 25 new Emergency Rooms with modern equipment. The funding of Affordable Medicines programme tripled from UAH 1 billion in 2019 to UAH 3.2 billion in 2020. UAH 9.7 billion is earmarked for the procurement of drugs (UAH 6.4 billion in 2019). The government will also spend UAH 1.09 billion on the treatment of Ukrainians abroad (UAH 689 million in 2019). However, out of UAH 72 billion for the medical guarantees programme, 19 billion was allocated to the primary tier and 14 billion – on medical subventions for three months, January to March. Therefore, over the next nine months, the second tier of the health system will only have UAH 39 billion<sup>122</sup> at its disposal. In other words, starting from 1 April, the government will face a total underfunding of institutions working under the “money follows the patient” model.

The procedure for realisation of the state guarantees on provision of secondary (specialised) care and tertiary (highly specialised) outpatient and inpatient care, emergency and palliative care and medical rehabilitation, as well as lists and volumes of health services and medicines, covered by the State Budget, have not been determined for 2020. Also unsettled remains the cost of services for these types of medical care, while planned expenditures for 2019 on the pilot project for realisation of the state guarantees on public health care under the medical guarantees programme for outpatient secondary (specialised) care were not carried out during that year, thus creating risks and possible problems with the financial security of certain health facilities.

Reduction of social obligations and of entire social sphere can produce significant challenges and threats for many strategically important areas, including the effectiveness of human and social capital formation, macroeconomic development and possibility of Ukraine's

<sup>120</sup> The trade union expresses its resolute protest! – The Trade Union of Education and Science Workers of Ukraine, 14 September 2019, <https://pon.org.ua/novyny/7244-profspilka-poperedzhaye-kozhen-10-vchitel-mozhe-buti-skorocheniy.html>.

<sup>121</sup> Pursuant to the Law of Ukraine “On State Financial Guarantees on Medical Services to the Population”. – The Ministry of Health, 5 November 2019, <https://moz.gov.ua/article/news/bjdzhet-moz-ukraini-2020-prioriteti->.

<sup>122</sup> The Law of Ukraine “On State Budget for 2020”.

full-scale European integration. The actual rejection of a socially oriented model in Ukraine will lead to deterioration in the standard and quality of life of larger parts of society.

The lack of unity within the ruling team along with continued policy for dramatic reduction of social expenditure from the budget and extra-budgetary funds, as well as new socio-economic reforms announced by the government, not only prevent the implementation of adequate policies and deprive the state institutions of resources for development, but also pose risks for preserving the model of a social state as enshrined in the Constitution of Ukraine.

## HUMANITARIAN POLICY

In 2020, the government's humanitarian policy will be carried out in the settings and under the influence of several domestic and international processes.

*First*, it is the ongoing Russian hybrid aggression against Ukraine, which includes a powerful humanitarian component implemented via information, socio-cultural and religious channels.

*Second*, this year marks the 75th anniversary of the end of World War II. The anniversary refreshes the past with its traumatic experience, raises questions about the role, particularly of the European states, in unleashing war and their contribution to the defeat of Nazism. These issues are currently very sensitive because of Russia's efforts to monopolise victory on the one hand, and because of reinterpretation of the course and results of that war and the Yalta-Potsdam system of international relations by the members of former socialist camp on the other. These processes also affect Ukraine – its internal disputes linked to different perception of WWII events by regional communities, and its external relations with neighbours.

*Third*, local elections in Ukraine will take place in October 2020. One can easily predict that just like in the 2019 election campaigns, there will be an active use and politicisation of the language issue, ethnic and church/religious affiliation and socio-cultural orientations of individual citizens, local communities and national minorities.

All these events and related problems will overlap with still unfinished organisational restructuring and

staffing of the system of state humanitarian policy, thus significantly complicating its formation and implementation, especially with regards to information policy, historical memory and state-church relations. Additional (if not critical) difficulties may arise in the event of division of the Ministry of Culture, Youth and Sports (MCYS) into several separate ministries.

The above-mentioned staffing presents a peculiar problem, as the competitions for certain executive positions in the MCYS institutions create an impression that the leadership is trying to attract not so much professional as loyal performers for activities, initiated by the Ministry.<sup>123</sup> This situation creates the risks of de-professionalisation of institutions on the one hand, and (partially) deprives the MCYS of the support of relevant professional communities on the other. Moreover, in the context of freedom of conscience and ethnic policy, the Ministry may lose support of religious organisations and/or organisations of national communities living in Ukraine.

These circumstances make it difficult to accomplish the President's call to abandon the rash rhetoric in information and humanitarian discourse and to "speak calmly".<sup>124</sup> At the same time, they require a clear and transparent policy, broad communication and timely information for the public about the goals and intentions of the government, as well as about specific measures and specific content that state actors enclose in the complex concepts of humanitarian sphere.

For example, the intention of the new UINR director "to make the official memorial policy in Ukraine more prudent and liberal, and the institution not to be perceived as an agitation, ideology or propaganda outlet, but as a handy tool for citizens to promote public dialogue and to strengthen a healthy identity"<sup>125</sup> not only raises questions about the definition of a "healthy identity", but may also run into strong resistance from both political forces and active, patriotic parts of society – as it already happened with attempts to involve the UOC-MP in peacekeeping activities.<sup>126</sup>

The new ruling team places a significant emphasis on identity. One of the key tasks of the MCYS set forth in the Cabinet's Action Programme is Goal #1: "Achieving conditions, in which *"citizens of Ukraine feel their affiliation to a single Ukrainian cultural space"*. The performance indicator for this goal is called the *"Identity*

<sup>123</sup> See, for example: Horyevoy D. How the new government appoints "own people" to official positions. – Glavkom, 13 January 2020, <https://glavkom.ua/columns/dmytrogorovoy/yak-nova-vlada-priznachaje-na-derzhavni-posadi-svoji-lyudey-52244.html>.

<sup>124</sup> While attending the Unity Forum in Mariupol on 30 October 2019, President Zelenskyy described Ukraine's information field as "mine studded" and added the following: "In addition to fakes and manipulations, we see anger, aggression and rhetoric full of hatred. In my opinion, all of us – entire society – need to take a deep breath and talk quietly". See: Crimea missing in major media, the Donbass is only mentioned in the context of war. – Zelenskyy. – Detector Media, 30 October 2019, <https://detector.media/infospace/article/171982/2019-10-30-krim-vidsutni-u-velikih-zmi-a-pro-donbas-zgaduyut-lishe-v-konteksti-viini-zelenskii>.

<sup>125</sup> What waits for UINR. Express dialogues with the candidates. Exclusive. – Istorychna Pravda, 20 November, 2019, <https://www.istpravda.com.ua/columns/2019/11/20/156576>.

<sup>126</sup> Horyevoy D. War and peacekeeping by the UOC-MP: what Serhiy Syvokho, the advisor to the NSDC Secretary, have forgotten? – Radio Svoboda, 25 January 2020, <https://www.radiosvoboda.org/a/30396219.html>.

*Index*”, which is defined as “citizens’ sense of belonging to Ukraine while preserving their ethnic, religious and cultural diversity”.<sup>127</sup>

If the goal itself is perfectly reasonable, then “preserving... diversity” now looks quite problematic, given the aforementioned conditions of hybrid warfare and regionally localised differences between communities, including religious and socio-cultural ones, as well as differences in historical memory, which will be actively used this year.

There are reasons to expect certain complications in state-church and inter-denominational relations. This is evidenced by the increasing number of conflicts and escalations in the Orthodox communities over the change of jurisdiction; tense relations between the OCU and the UOC-KP, which seeks to restore its legal status and influence; refusal of the UOC-MP to change its name, and the like. Meanwhile, hierarchs appeal to the government demanding to support their position,<sup>128</sup> while attempts to settle disputes, including in courts, are complicated by imperfection of the relevant legislation.<sup>129</sup>

The continuing absence of the Concept of State Ethnic Policy, the laws on indigenous peoples and national minorities, on the procedure of use of languages of indigenous peoples and national minorities may negatively affect the situation of ethnic minorities and inter-ethnic relations.

Quite debatable are draft laws proposed by the MCYS. For example, the draft Law “On Amendments to Certain Legislative Acts of Ukraine on Ensuring National Information Security and the Right to Access to Reliable Information” (the notorious disinformation bill) raised a strong wave of criticism from both domestic and international media community and human rights organisations. It is clear that regulation in media sphere is necessary, especially since the experts predict the ever-increasing use of false information (fakes), particularly in social media. Therefore, members of the media community put forward many alternative proposals

for the protection of the information space, however, it seems that the bill’s authors in the MCYS have no intention to consider them.<sup>130</sup>

Many issues in the content, activities and means of the new government’s humanitarian policy could have been easily removed from public discourse if the long-promised programmatic document – *the State Humanitarian Strategy* – was presented to the public. The delay in its development and adoption, as well as some public discussions involving new members of the legislative and executive branches, may suggest that there is no common, agreed vision of the ways of achieving the humanitarian policy goals, set out in the Government’s Action Programme. This situation “sentences” the ruling team to solving purely tactical tasks at best and to managing the humanitarian sphere by responding to isolated external challenges. In the worst-case scenario, it will be “doomed” to prove endless explanations about the reasons of possible failures.

In general, the available documents, as well as statements of the leaders and spokespeople of the MCYS and its institutions, suggest that the government has set a course towards the liberalisation of its humanitarian policy, in particular, towards the formation of a political nation and departure from its ethnically accentuated meanings,<sup>131</sup> initiation of a real *dialogue* in the society about complex issues and promotion of critical thinking;<sup>132</sup> popularisation of heroes and events that unite society,<sup>133</sup> shift in language policy from *prescription* to encouragement along with promotion of the state language and motivation to use it.<sup>134</sup>

Some of these goals and objectives are relevant and requested by the society, others look debatable. However, judging from the current staffing policy of the new ruling team, the lack of communication with professional communities, NGOs and the public at large, and the lack of proper coordination, it will be very difficult to attain these goals, especially given the challenges outlined above.

<sup>127</sup> The Cabinet of Ministers of Ukraine Action Programme, <https://program.kmu.gov.ua/meta/ukrainci-vidcuvaut-svou-prinaleznist-do-edinogo-ukrainskogo-kulturnogo-prostoru>.

<sup>128</sup> See, for example, the statement of the Primate of the OCU CCU Metropolitan Epiphanius: “... the previous government treated church with more responsibly; now we also have good relations with the Ukrainian authorities, there is no interference, but sometimes there is also no assistance and support on the ground.” See: The first test of the Orthodox Church of Ukraine and confrontation with Russia: big interview with Metropolitan Epiphanius. – Telekanal Pryamiy, 6 January 2020, <https://prm.ua/pershi-viprobuvannya-pravoslavnoyi-tserkvi-ukrayini-ta-protistoyannya-z-rosiyye-velike-interv-yu-z-mitropolitom-epifaniyem/?fbclid=IwAR0lhrWqhfqTcDRVezSR44XJg6KddAauwZObN8rTnXycvTWSGQSSusc83p-E>.

<sup>129</sup> It primarily refers to the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Subordination of Religious Organisations and the Procedure for State Registration of Religious Organisations with Legal Entity Status” of 17 January 2019.

<sup>130</sup> See, for example: Lihachova N. Reversing won’t help. We need to sew a new one. Once again about the disinformation bill. – Detector Media, 2 February 2020, <https://detector.media/blogs/article/174417/2020-02-02-perelitovka-ne-pomozhet-nado-shit-novyi-eshche-raz-pro-zakonoproekt-o-dezinformatsii>.

<sup>131</sup> See: What waits for UINR. Express dialogues with the candidates. Exclusive.

<sup>132</sup> First press conference of Anton Drobovych, the new director of UINR. – Istorychna Pravda, 23 December, <https://www.istpravda.com.ua/short/2019/12/23/156776>.

<sup>133</sup> Verhelis O., Konstantynova K.: Volodymyr Borodyansky and the ministry of critical thinking propaganda. – Dzerkalo Tyzhnya, 29 November 2019, [https://dt.ua/interview/volodymyr-borodyansky-i-ministerstvo-propagandi-kritichnogo-mislennya-331392\\_.html](https://dt.ua/interview/volodymyr-borodyansky-i-ministerstvo-propagandi-kritichnogo-mislennya-331392_.html).

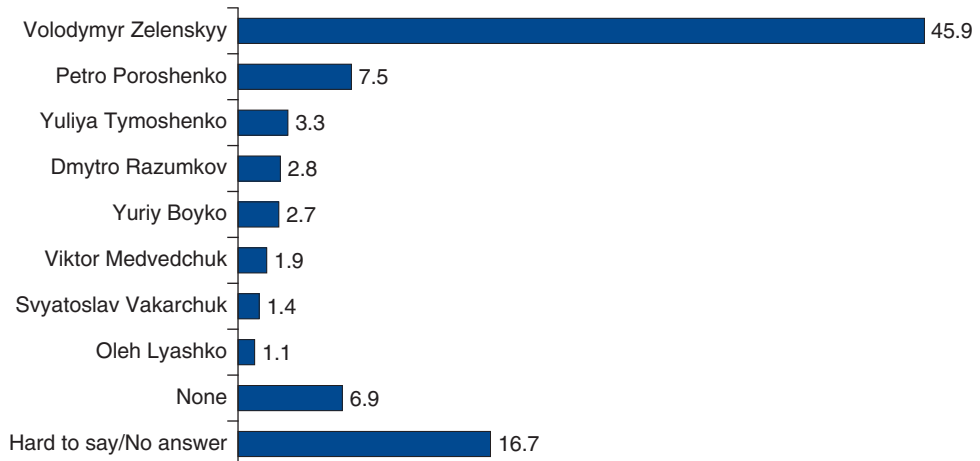
<sup>134</sup> Tetyana Monakhova. The State Language Ombudsman: Preconditions must be put in place for learning Ukrainian for us to avoid fines. – Ukrinform, 16 December 2019, <https://www.ukrinform.ua/rubric-politics/2837945-tetana-monahova-upovnovazena-iz-zahistu-derzavnoi-movi.html>.



PUBLIC OPINION ON THE RESULTS OF 2019<sup>1</sup>

## Which Ukrainian political figure would you call a politician of 2019?\*

% of respondents

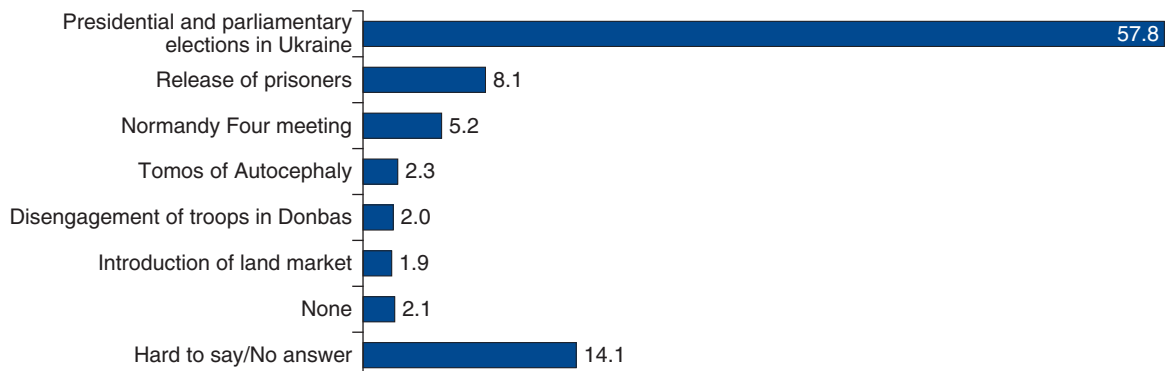


December 2019

\* This was an open question, and the respondents had to provide their own answer. Answers presented are those given by over 1% of respondents.

## Which political event in Ukraine would you call the event of 2018?\*

% of respondents

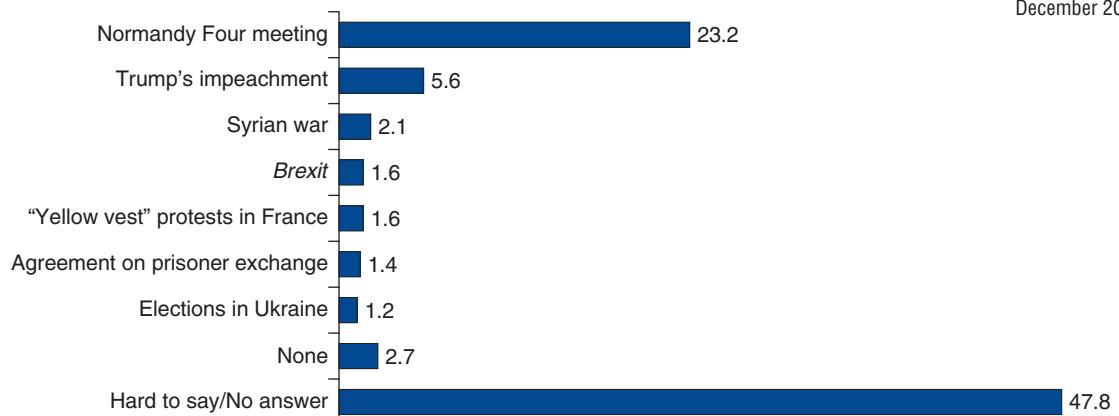


December 2019

\* This was an open question, and the respondents had to provide their own answer. Answers presented are those given by over 1% of respondents.

## Which global political event would you call the event of 2018?\*

% of respondents

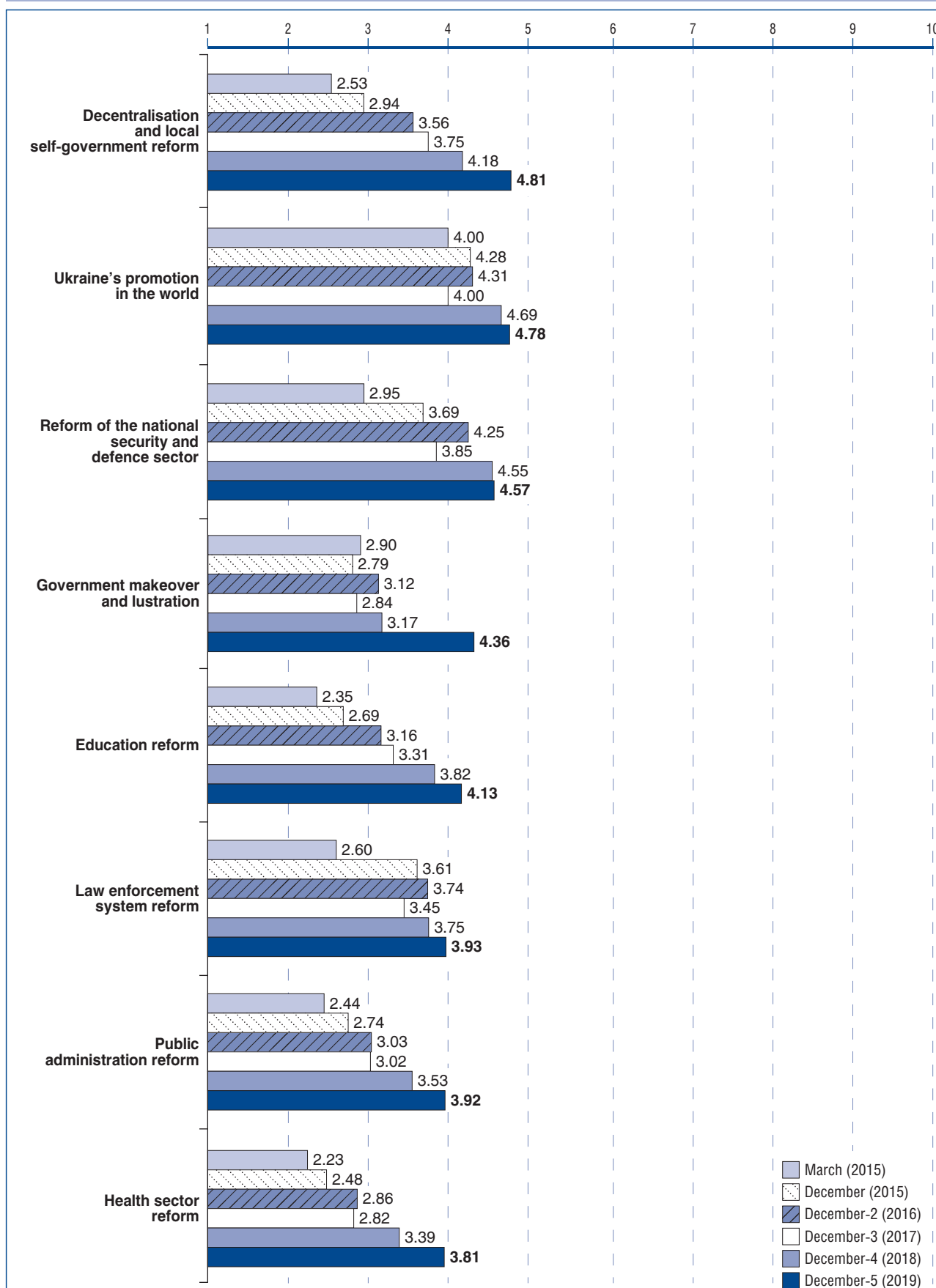


December 2019

\* This was an open question, and the respondents had to provide their own answer. Answers presented are those given by over 1% of respondents.

<sup>1</sup> This material presents the results of sociological studies conducted by the Sociological Service of the Razumkov Centre independently: on **6-12 March**, **6-12 November** (marked in diagrams and tables as November-2), **18-24 December** (marked in diagrams and tables as December) **1-7 November** (marked in diagrams and tables as November-3) and in cooperation with Ilko Kucheriv Democratic Initiatives Foundation: on **14-22 November** (marked in diagrams and tables as November), **16-20 December 2016** (marked in diagrams and tables as December-2), **15-19 December 2017** (marked in diagrams and tables as December-3) and **19-25 December 2018** (marked in diagrams and tables as December-4) and **13-18 December 2019** (marked in diagrams and tables as December-5). All surveys were conducted in all regions of Ukraine with the exception of Crimea and the occupied territories of Donetsk and Luhansk oblasts. In each survey, there were over 2,000 respondents aged from 18 y.o. Theoretical error of each sample does not exceed 2.3%.

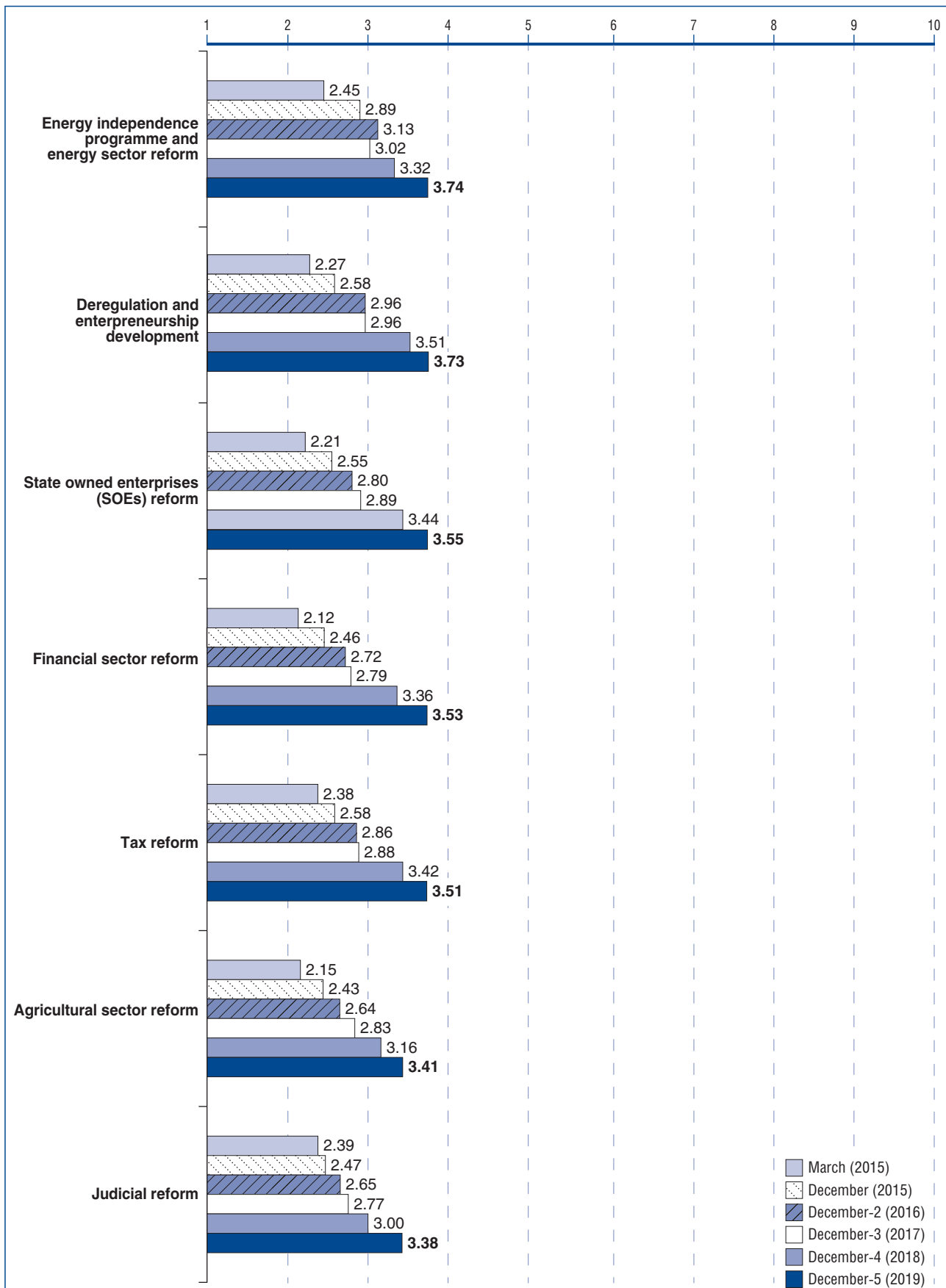
Assessment of Ukraine's reform progress and actions of authorities in different areas\*, average score



\*On the 10-point scale from 1 to 10, where "1" means no or almost no reforms, and "10" that reforms are being implemented with maximum success.

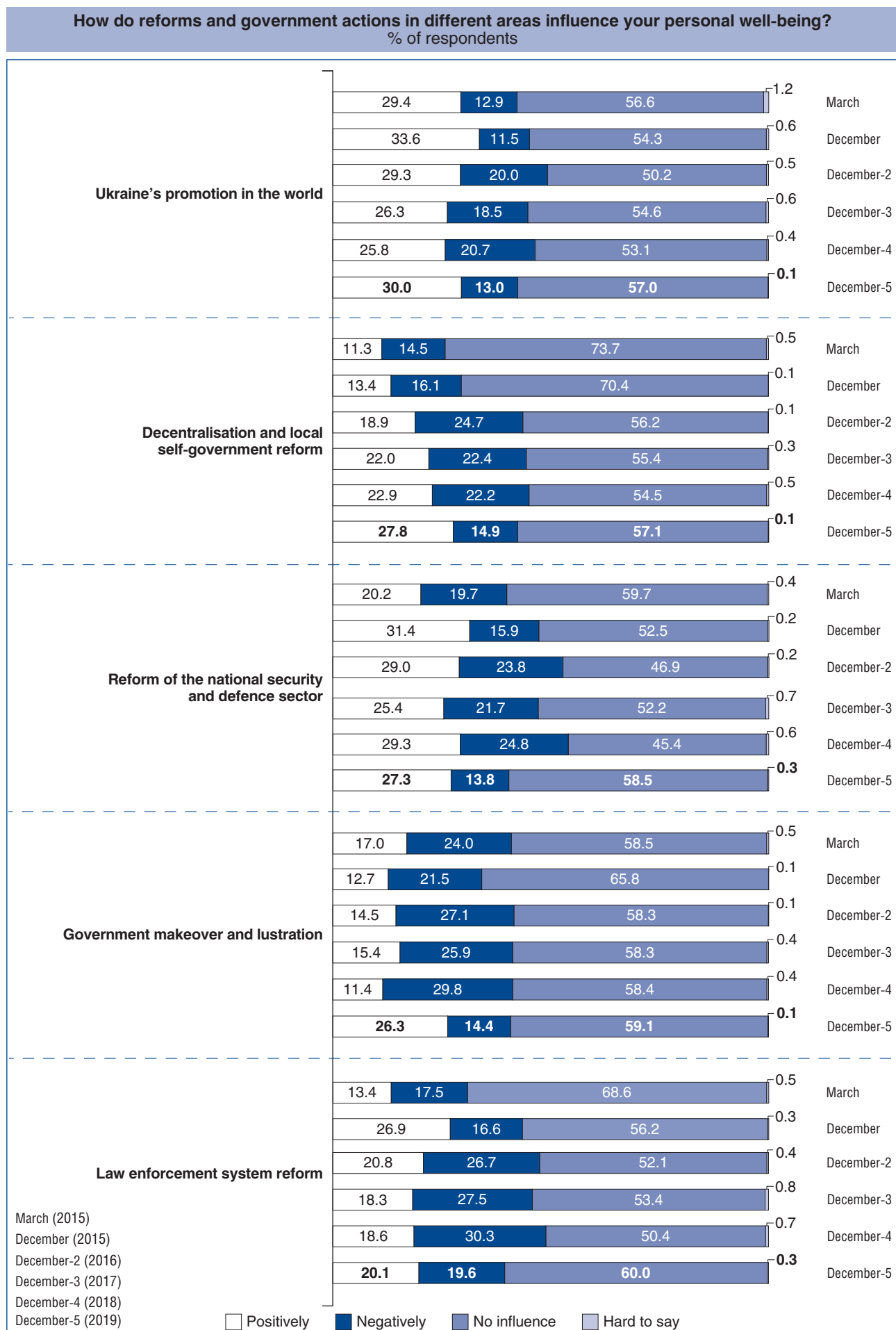
**Assessment of Ukraine's reform progress and actions of authorities in different areas\*,  
average score**

(continued)



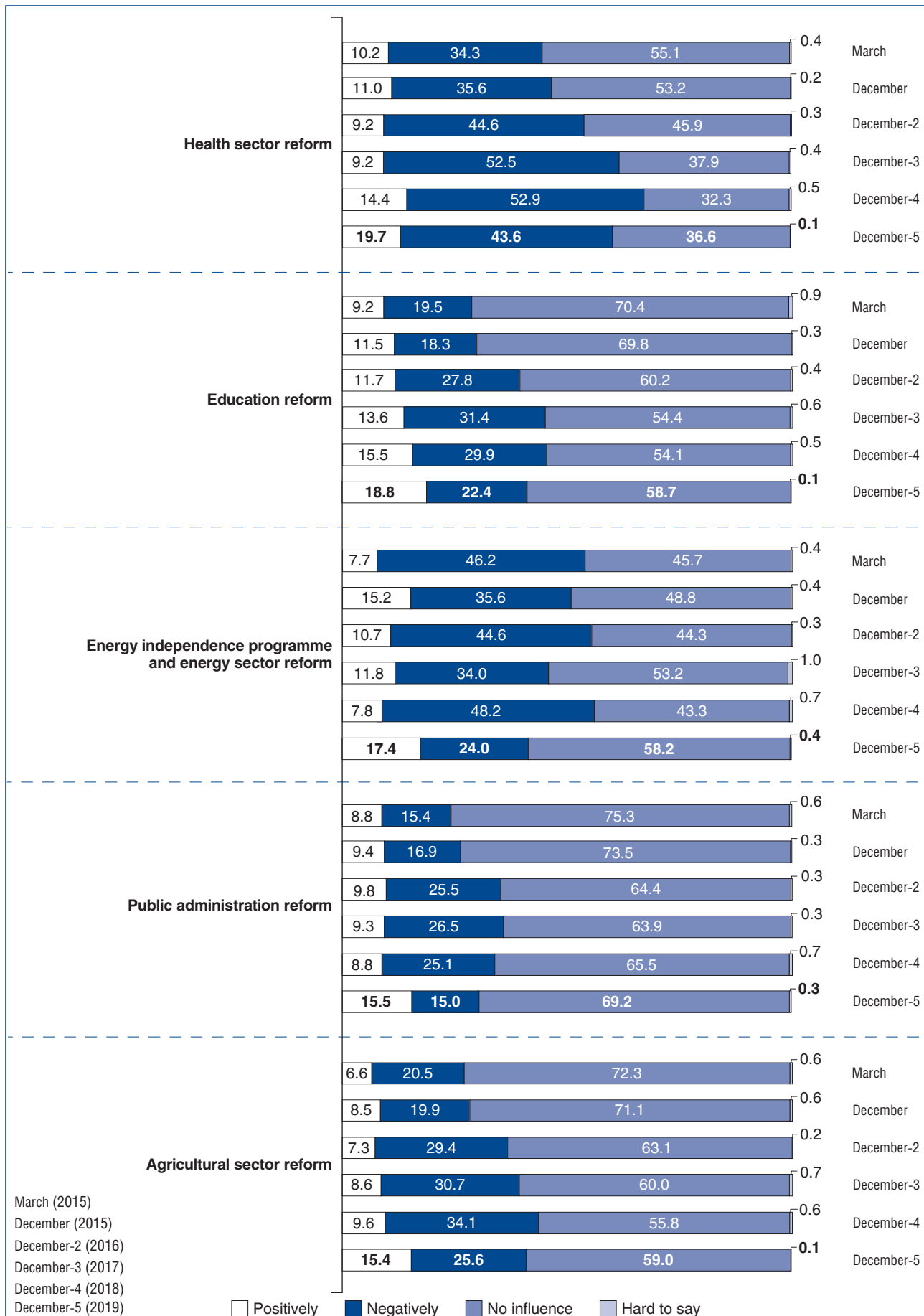
\*On the 10-point scale from 1 to 10, where "1" means no or almost no reforms, and "10" that reforms are being implemented with maximum success.





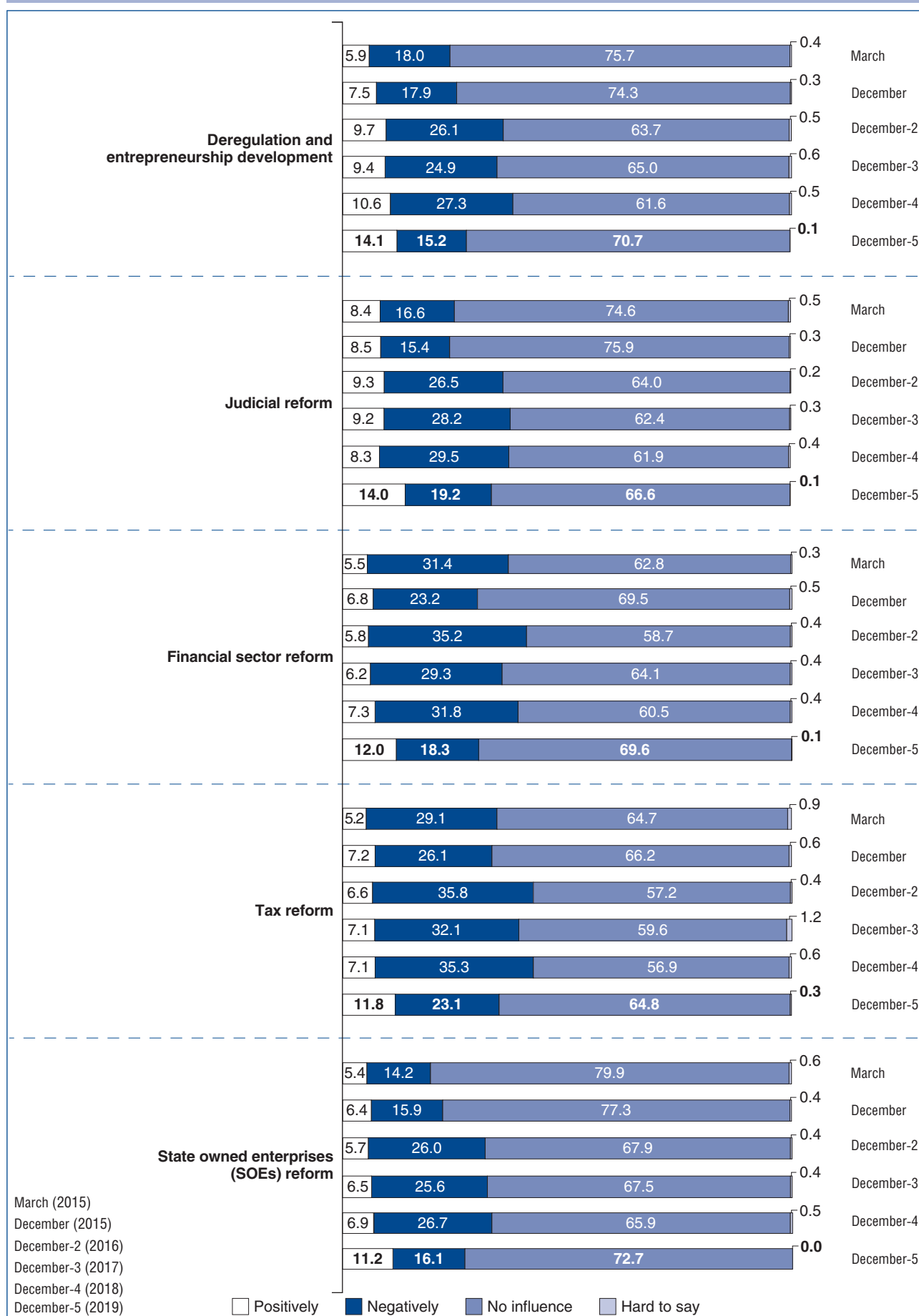
**How do reforms and government actions in different areas influence your personal well-being?**  
% of respondents

(continued)



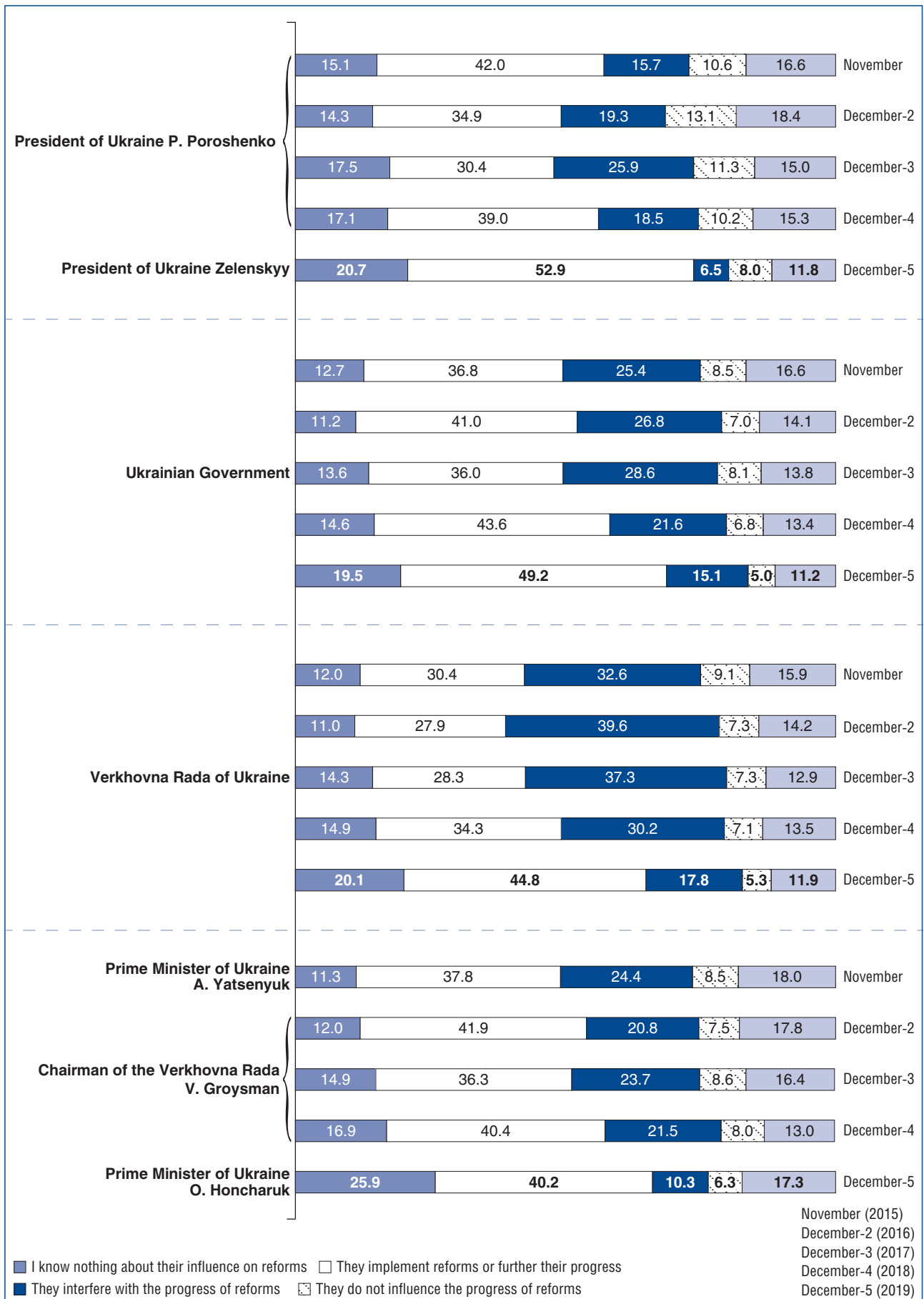
How do reforms and government actions in different areas influence your personal well-being?  
 % of respondents

(continued)



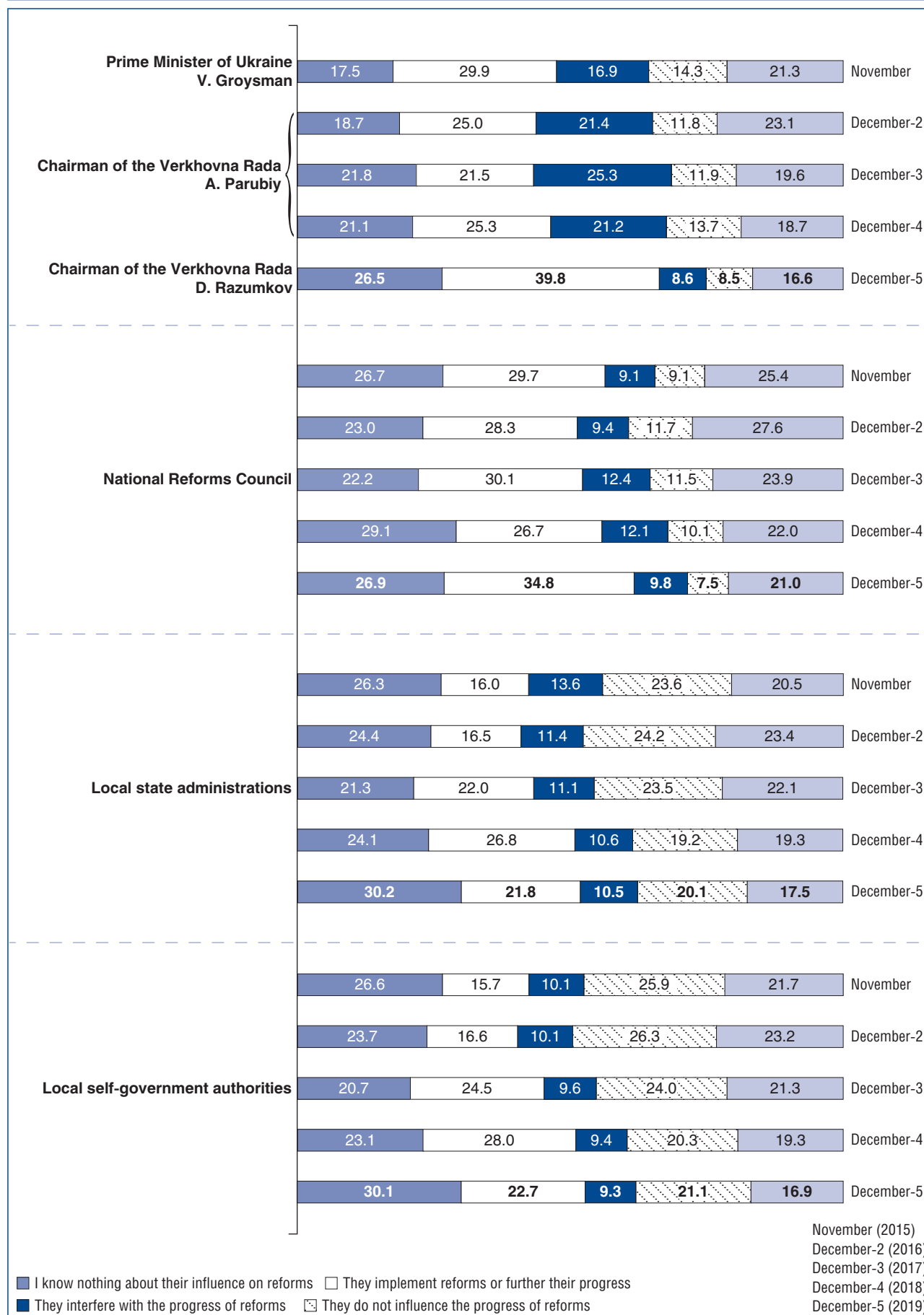


**Actions of which authorities and politicians facilitate reforms, or hamper reform goals?**  
% of respondents



Actions of which authorities and politicians facilitate reforms, or hamper reform goals?  
 % of respondents

(continued)

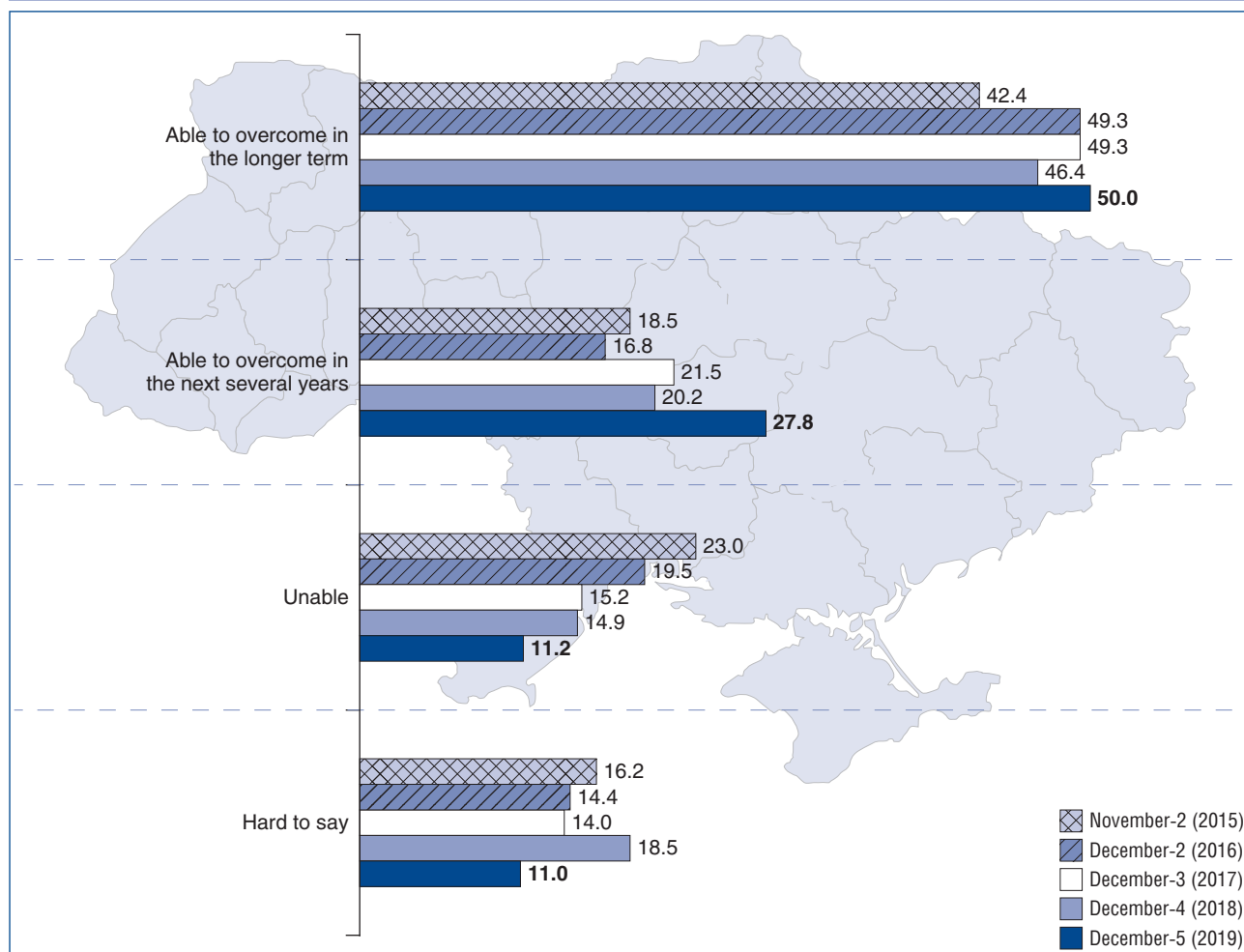


**How have the following areas in Ukraine changed over the past year?**  
% of respondents

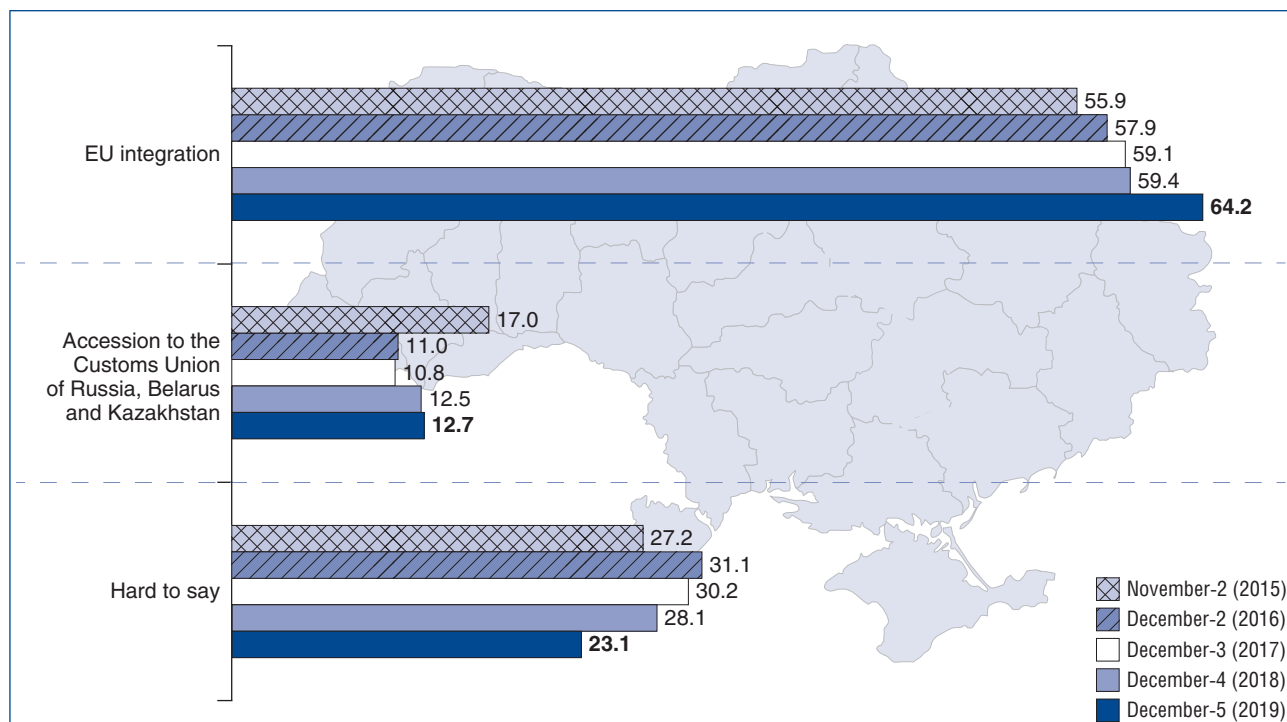
	Changes for the better				Changes for the worse				No change				Hard to say				Balance*			
	2016 (December)	2017 (December)	2018 (December)	2019 (December)	2016 (December)	2017 (December)	2018 (December)	2019 (December)	2016 (December)	2017 (December)	2018 (December)	2019 (December)	2016 (December)	2017 (December)	2018 (December)	2019 (December)	2016 (December)	2017 (December)	2018 (December)	2019 (December)
Ukraine's international image	27.4	24.0	32.3	<b>30.8</b>	32.0	34.5	28.1	<b>20.9</b>	27.0	27.7	27.8	<b>37.5</b>	13.6	13.8	11.9	<b>10.8</b>	-4.6	-10.5	4.2	<b>9.9</b>
Country's defence capacity	39.8	38.9	40.9	<b>30.6</b>	21.3	21.3	24.5	<b>14.5</b>	25.8	25.6	21.4	<b>43.8</b>	13.1	14.1	13.2	<b>11.1</b>	18.5	17.6	16.4	<b>16.1</b>
Citizens' attitude towards government	2.4	3.7	4.2	<b>19.9</b>	72.4	68.9	64.8	<b>25.3</b>	17.3	20.7	23.6	<b>44.4</b>	7.8	6.8	7.4	<b>10.3</b>	-70.0	-65.2	-60.6	<b>-5.4</b>
Relations between nations	15.9	13.4	17.4	<b>18.8</b>	23.6	30.5	29.7	<b>14.6</b>	46.1	42.6	40.1	<b>54.4</b>	14.4	13.6	12.9	<b>12.2</b>	-7.7	-17.1	-12.3	<b>4.2</b>
Government's treatment of citizens	2.8	4.2	4.8	<b>17.7</b>	58.9	59.9	59.2	<b>23.8</b>	29.0	27.4	28.1	<b>49.2</b>	9.2	8.5	7.9	<b>9.3</b>	-56.1	-55.7	-54.4	<b>-6.1</b>
Freedom of speech	11.7	11.8	11.0	<b>14.7</b>	30.4	36.9	38.1	<b>19.8</b>	48.8	43.9	43.1	<b>58.2</b>	9.1	7.4	7.8	<b>7.3</b>	-19.4	-25.1	-27.1	<b>-5.1</b>
Overall situation in the country	3.1	3.8	5.4	<b>14.1</b>	73.4	69.3	67.0	<b>29.3</b>	17.0	18.8	22.0	<b>47.0</b>	6.5	8.1	5.6	<b>9.5</b>	-70.3	-65.5	-61.6	<b>-15.2</b>
Education	4.9	7.6	13.9	<b>13.4</b>	36.4	42.3	38.9	<b>25.5</b>	43.4	38.4	32.9	<b>46.3</b>	15.3	11.8	14.3	<b>14.7</b>	-31.5	-34.7	-25.0	<b>-12.1</b>
Democracy	10.8	9.4	10.1	<b>13.0</b>	31.8	37.9	39.7	<b>17.8</b>	45.8	44.4	41.6	<b>61.5</b>	11.6	8.3	8.6	<b>7.7</b>	-21.0	-28.5	-29.6	<b>-4.8</b>
Citizens' confidence in the future	2.2	3.6	3.9	<b>12.6</b>	73.9	67.5	65.1	<b>35.6</b>	16.3	21.0	23.9	<b>42.2</b>	7.6	7.9	7.0	<b>9.5</b>	-71.7	-63.9	-61.2	<b>-23.0</b>
Stability	2.1	2.9	4.2	<b>12.1</b>	75.0	71.8	67.4	<b>32.5</b>	16.1	19.5	22.8	<b>47.0</b>	6.7	5.8	5.6	<b>8.4</b>	-72.9	-68.9	-63.2	<b>-20.4</b>
Healthcare	3.6	4.6	9.1	<b>11.2</b>	53.6	61.3	57.3	<b>45.7</b>	35.9	26.9	26.2	<b>37.2</b>	6.9	7.2	7.3	<b>6.0</b>	-50.0	-56.7	-48.2	<b>-34.5</b>
Observance of civil rights and freedoms	8.1	8.1	8.9	<b>10.5</b>	32.5	39.2	39.4	<b>18.4</b>	46.5	40.1	41.5	<b>58.4</b>	13.0	12.5	10.2	<b>12.7</b>	-24.4	-31.1	-30.5	<b>-7.9</b>
Civil servants' compliance with the law	5.9	4.9	7.9	<b>9.8</b>	43.2	46.8	44.0	<b>22.8</b>	36.9	33.4	34.5	<b>54.7</b>	14.0	14.9	13.6	<b>12.8</b>	-37.3	-41.9	-36.1	<b>-13.0</b>
Economic situation in the country	3.6	4.1	6.4	<b>9.7</b>	77.0	71.8	67.6	<b>27.5</b>	15.9	20.2	23.0	<b>57.8</b>	3.4	3.9	3.0	<b>4.9</b>	-73.4	-67.7	-61.2	<b>-17.8</b>
Labour remuneration	3.4	14.7	7.4	<b>9.7</b>	54.5	48.9	58.4	<b>30.6</b>	34.3	26.9	26.7	<b>50.2</b>	7.8	9.5	7.5	<b>9.4</b>	-51.1	-34.2	-51.0	<b>-20.9</b>
Your family's welfare	3.5	4.6	7.0	<b>8.0</b>	73.0	63.1	59.2	<b>30.6</b>	20.5	29.4	30.9	<b>58.5</b>	3.0	2.8	2.9	<b>2.9</b>	-69.5	-58.5	-52.2	<b>-22.6</b>
Pension provision	3.9	22.5	7.6	<b>8.0</b>	49.5	39.1	56.0	<b>32.5</b>	38.0	26.1	25.8	<b>48.4</b>	8.6	12.3	10.6	<b>11.0</b>	-45.6	-16.6	-48.4	<b>-24.5</b>
Social protection (social benefits, assistance, subsidies, etc.)	11.6	14.7	7.7	<b>7.9</b>	48.7	49.9	60.5	<b>43.5</b>	30.0	26.5	24.6	<b>40.0</b>	9.6	8.9	7.2	<b>8.5</b>	-37.1	-35.2	-52.8	<b>-35.6</b>
Crime situation	6.2	6.0	7.0	<b>7.7</b>	61.7	61.4	52.5	<b>29.3</b>	23.6	26.1	32.5	<b>53.4</b>	8.5	6.5	8.0	<b>9.6</b>	-55.5	-55.4	-45.5	<b>-21.6</b>
Situation of the Ukrainian-speaking population	5.7	6.9	7.9	<b>7.3</b>	15.6	19.7	20.3	<b>10.2</b>	69.6	64.1	62.2	<b>74.0</b>	9.1	9.2	9.5	<b>8.5</b>	-9.9	-12.8	-12.4	<b>-2.9</b>
Prices and tariffs	1.2	2.0	2.8	<b>5.6</b>	88.5	86.6	85.0	<b>60.9</b>	7.7	8.3	9.8	<b>29.4</b>	2.5	3.0	2.4	<b>4.0</b>	-87.3	-84.6	-82.2	<b>-55.3</b>
Ethnic and religious minorities' situation	2.6	3.4	5.8	<b>5.2</b>	14.7	19.7	23.6	<b>7.9</b>	64.0	58.8	57.5	<b>72.3</b>	18.7	18.1	13.0	<b>14.6</b>	-12.1	-16.3	-17.8	<b>-2.7</b>
Situation of the Russian-speaking population	1.8	2.3	3.3	<b>4.9</b>	17.1	24.0	26.2	<b>11.4</b>	68.9	59.8	60.0	<b>72.7</b>	12.3	14.0	10.5	<b>11.0</b>	-15.3	-21.7	-22.9	<b>-6.5</b>

\* Difference between answers "changes for the better" and "changes for the worse".

**Is Ukraine able to overcome the existing problems and difficulties?**  
% of respondents

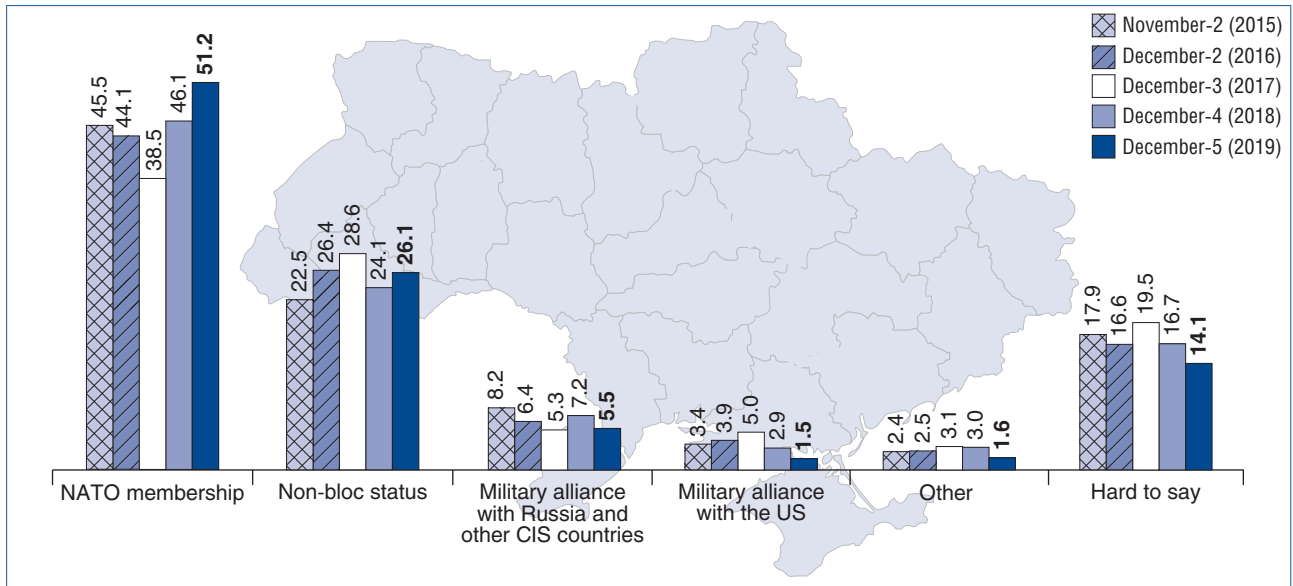


**Which integration path should Ukraine take?**  
% of respondents

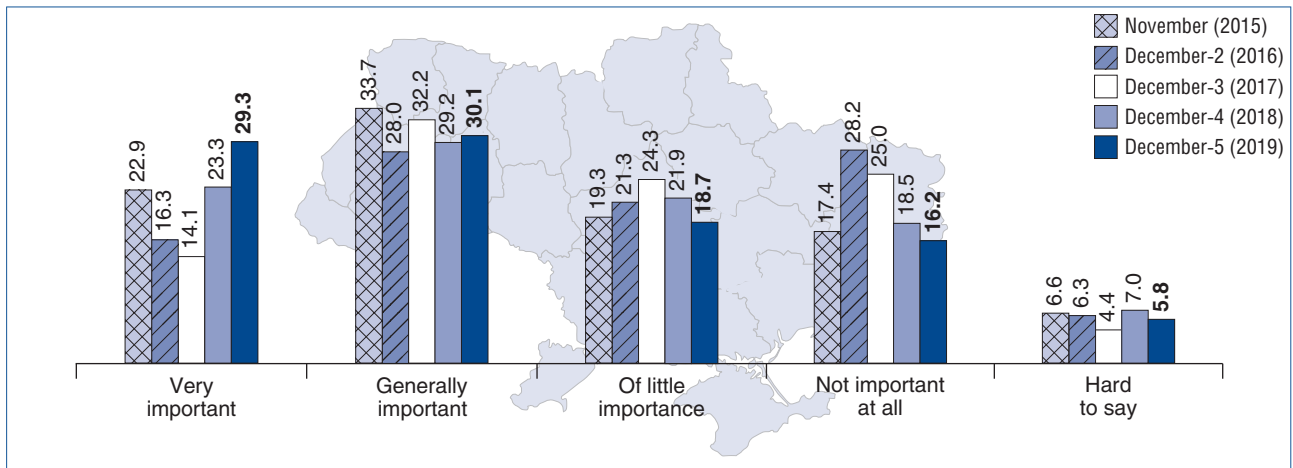




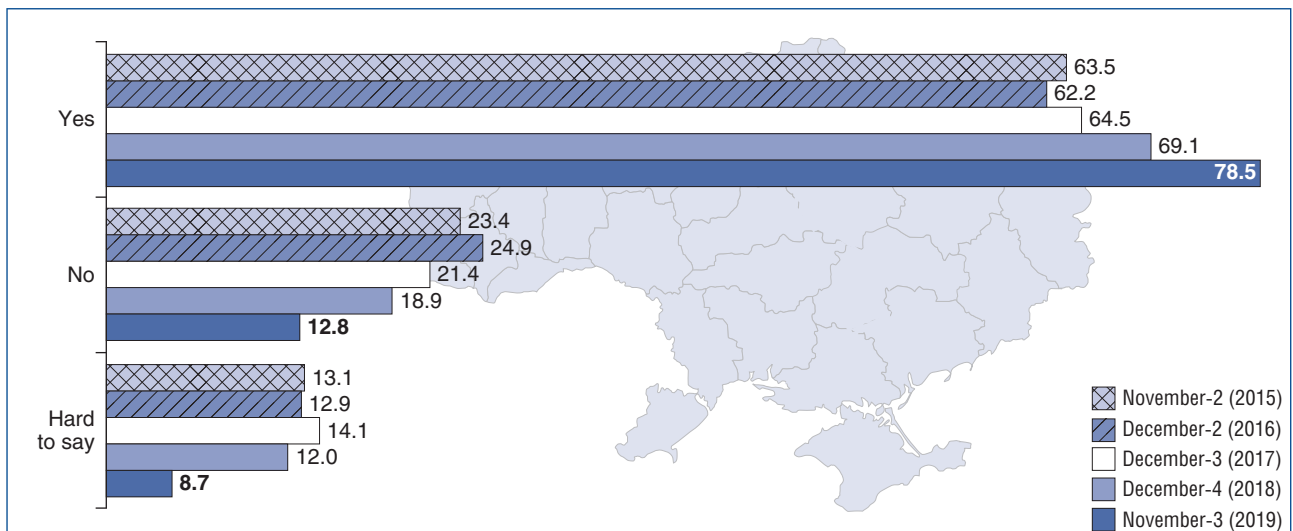
### Which security guarantees option is the best for Ukraine? % of respondents



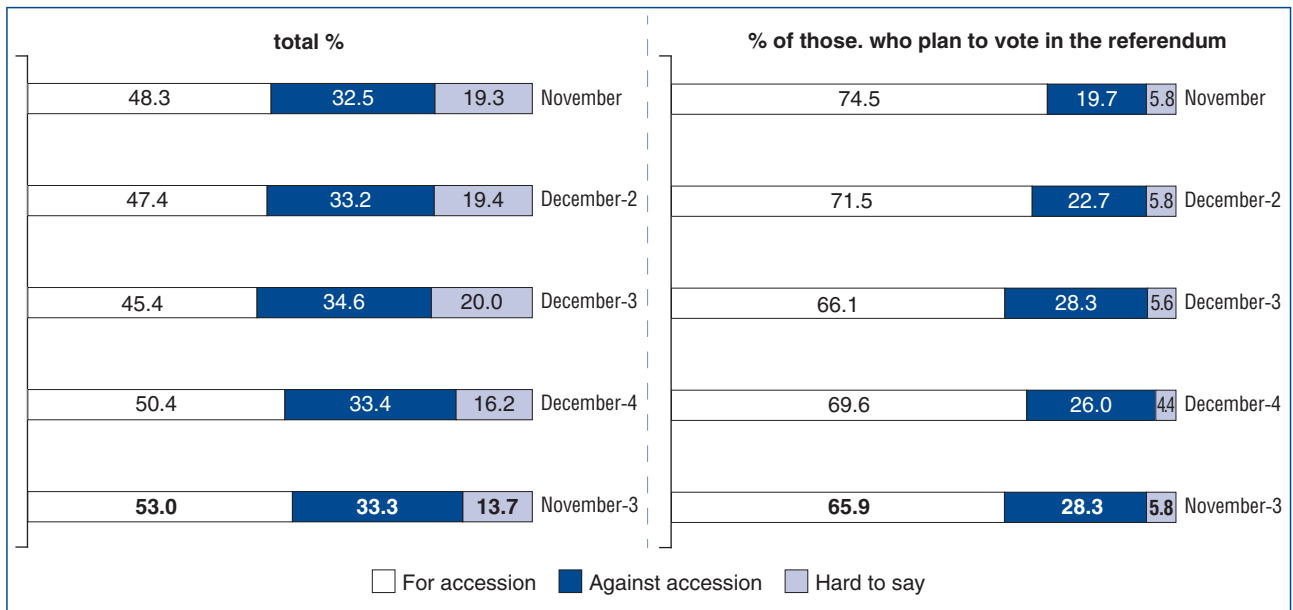
### In your opinion, how important is the introduction of visa-free travel with the EU? % of respondents



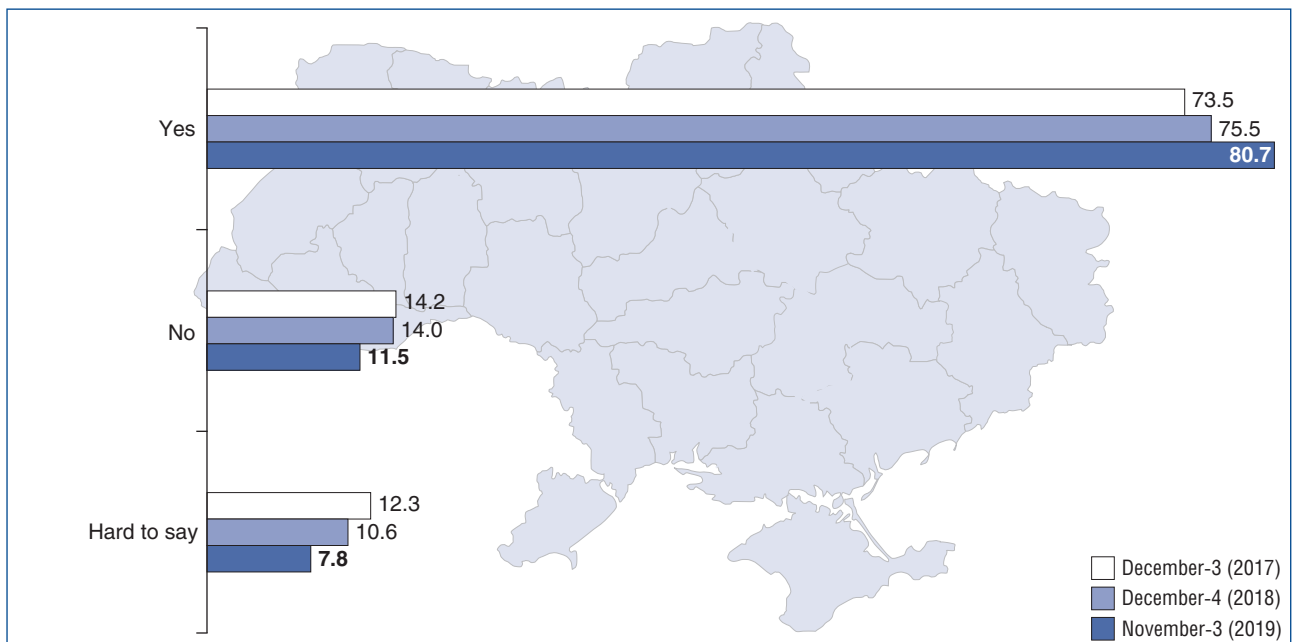
### If in the near future there was a referendum on Ukraine's accession to NATO, would you vote? % of respondents



**If you were to take part in a referendum on Ukraine's accession to NATO, how would you vote?**  
% of respondents



**If in the near future there was a referendum on Ukraine's accession to the EU, would you vote?**  
% of respondents



**If you were to take part in a referendum on Ukraine's accession to the EU, how would you vote?**  
% of respondents

