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ADMINISTRATIVE REFORM IN UKRAINE: WILL IT BE POSSIBLE TO BREAK THE CLOSED CIRCLE?

Ukraine inherited separate administrative structures from the USSR which were not united into a coherent system. Since 1991, the state authorities have gone down a complex road of maturation, but failed to create a balanced, reliable and effective state machinery. Numerous attempts to start administrative reform were inconsistent and did not achieve the desired result.

Longstanding opposition between the legislative and executive branches of power has been ruining the country's governance. Constant delays in adopting the budget led to "manual" control of the economy. Not a single budget was implemented within the 1991-1999 timeframe. The critical mass of managerial mistakes created a potent negative inertial force, pulling the country into a deadlock of degradation and the population's further impoverishment. Ukraine faces the threat of remaining a second-class country on the periphery of international progress. According to the President of Ukraine, "the present bureaucracy is unable to ultimately overcome the remains of the former administrative system. Its constructive potential is fully exhausted"¹.

UCEPS experts suggest that after the approval of the Concept of Administrative Reform in July, 1998, the process of reorganising the state administration system slowed down. The programme for implementing administrative reform has never been worked out, nor were the sources and amounts of its funding defined².

Administrative reform received new impetus only at the end of 1999, after the presidential elections. A chance appeared for improving the situation, and this chance should not be lost, since Ukraine has fallen too far within the last 10 years.

¹ Ukraine: a move into the 21st century. The strategy of economic and social development for 2000-2004. Address of the President of Ukraine to the Verkhovna Rada. — *Uriadovyi Kuryer*, February 23, 2000, p.7.

² Implementation of comprehensive administrative reform is connected with significant financial and organisational expenditures, and requires significant amounts of time to perform. According to the head of Administration of the President of Ukraine V.Lytvyn, "it will be a great blessing if reform is completed within the period of powers of the present President". See: Interfax-Ukraine, December 15, 1999.



Administrative reform is an element of a wider process of transformation of social relations in Ukraine. It is performed simultaneously with other reforms: constitutional, judicial and legal, economic, etc.

Constitutional fundamentals must be provided for reforming the branches of power, division of authority and responsibilities, taking into account the results of the April, 2000 referendum.

Administrative reform is also closely related to judicial and legal reform. Transformation of the executive branch of power is impossible without the creation of a new system of administrative law. A background Law "On Judicature", and Administrative and Civil codes should be adopted, as well as a system of administrative justice (administrative courts) formed.

An important element of the administrative system is the reform of local self-government and administrative-territorial division. This provides for the division of powers and areas of responsibility between executive bodies and local self-government bodies.

The effective market transformation of the economy is a precondition for the successful implementation of administrative reform. Administrative reform is also closely related to the transformation of political processes, providing for the establishment of a system of answerability along the line of "public — political parties — parliamentary majority — Government — public servants".

Out of the set of problems to be resolved within the framework of administrative reform in Ukraine, this analytical report concentrates on the problems of reforming the *executive branch*. UCEPS experts express their view of the problems related with administrative reform in Ukraine, as well as the basic reform guidelines and some urgent measures. The report consists of three sections.

The first section analyses the reasons that condition the need of administrative reform in Ukraine.

The second section reviews the main results achieved in the previous stage of administrative reform.

The third section defines strategic goals of administrative reform, some concrete measures and the necessary preconditions of the successful implementation of the reform.



1. REASONS THAT CONDITION THE NEED FOR ADMINISTRATIVE REFORM IN UKRAINE

A system that performs certain functions will act regardless of needs, or changed conditions. Systems themselves create their own targets and pursue them, in the first place.

(The law of systems inertia)

Apart from solving global tasks (ensuring national sovereignty, defensive capability, pursuing foreign policy, etc.), the executive structures should perform their key functions — rendering quality services to the population in the economic, legal, social, cultural, and other spheres. The main indicators of the quality of those services include the high standard of living, reliable protection of human rights and freedoms, favourable conditions for business and foreign investments, and the effective management of state property. Citizens expect effective administrative decisions, competence, and predictability of actions from the authorities. The system of state administration must be transparent and under society's control.

The analysis performed by UCEPS experts proves that the present system of state administration in Ukraine remains inefficient, does not meet the challenges of the times, and is unable to solve the problems facing the country.

In this section we present indicators of the inefficiency of the executive branch, and analyse the factors that condition the low efficiency of the system of executive authorities, proceeding from some basic indicators.

1.1. INDICATORS OF THE INEFFICIENCY OF THE EXECUTIVE BRANCH

This subsection presents an assessment of the effectiveness of the executive authorities' actions in the socio-economic sphere, the quality of state property management, regulation of economic processes, and protection of human rights and freedoms. The performed analysis makes it possible to draw the following general conclusion: **the state machinery in Ukraine is becoming more and more overstuffed and costly, while the social indicators of the population's life are deteriorating.** This conclusion is backed by the data presented below.

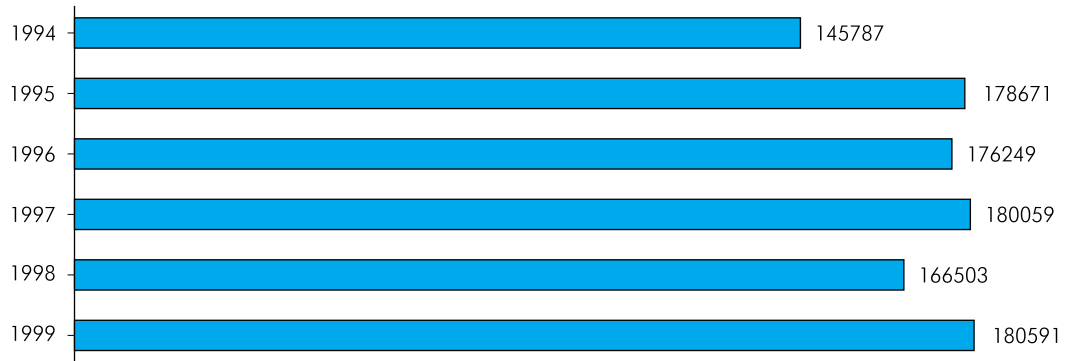
As compared to 1994, the number of employees at the central executive bodies rose by 34.8 thousand persons, and in 1999, reached 180.6 thousand (*Diagr. "The number of employees within the central executive bodies"*).

The share of budget expenditures on maintaining those bodies in 1996-1999 more than doubled: from 1.5% to 3.1% of the total amount of state budget expenditures³. One should keep in mind the additional funding of the executive branch at the expense of the Government's Reserve fund, which makes actual expenditures on their maintenance higher still. For instance, in 1996-1999, more than UAH 117 million were

³ The analysis of expenditures on maintenance of state administration bodies in Ukraine in 1994-1999. Issue No.4. — Kyiv: Counting Chamber of Ukraine, 2000, pp. 12-17.



The number of employees within the central executive bodies⁴



allocated from the Reserve fund for those purposes⁵. Unfortunately, despite the increase in the numerical strength of the apparatus and expenditures on its maintenance, the socio-economic situation in the country deteriorated rather than improved. The indices presented below demonstrate this.

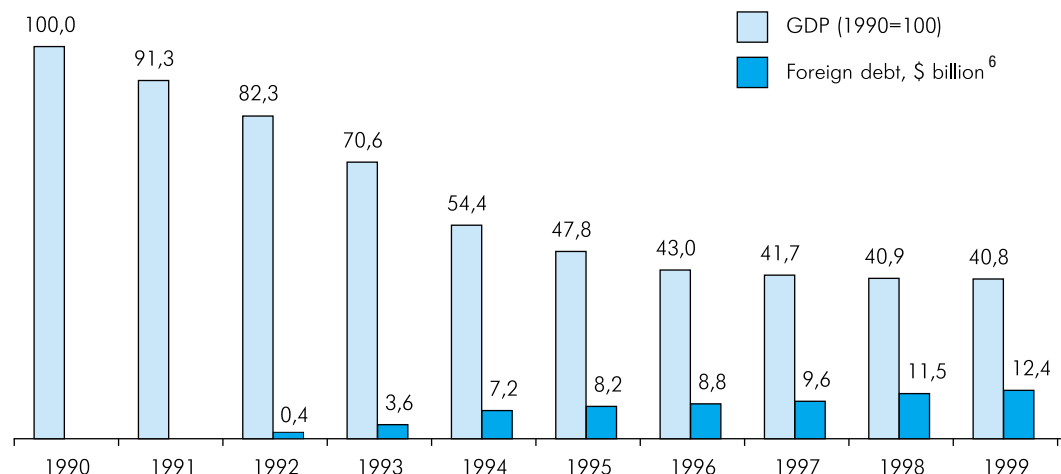
Economic sphere

Within the last decade, the volumes of GDP, industrial and agricultural production have been in a state of decline in Ukraine. As the Diagram below makes clear, between 1990 and 1999, Ukraine's real GDP dropped almost 2.5-fold. At the same time, in 1993-1999, the coun-

try's foreign debt rose from \$400 million to \$12.4 billion, or more than 30 times (*Diagr. "Ukraine's GDP and foreign debt"*).

The economic situation in Ukraine is seen as one of the worst among CIS countries. For example, IMF experts in their World Economic Development Report (April, 2000) noted that among all CIS countries, in 1999, economic decline was observed only in Moldova (-5%) and Ukraine (-0.4%). It is namely Ukraine's economic situation that is assessed by IMF experts as "complex", while the forecasted growth rate is one of the lowest in the CIS⁷. Today, nearly one-half of all enterprises in Ukraine is accumulating losses; with every year, the payment crisis deepens⁸.

Ukraine's GDP and foreign debt



⁴ The term encompasses the Cabinet of Ministers, apparatuses of ministries, other central executive bodies and their local structures (without taking employees of local state administrations into account). See: Administrative reform in figures, facts and propositions of the Counting Chamber of Ukraine. — *Ekonomichni Reformy Siohodni*, 2000, No.29, p.50.

⁵ The analysis of expenditures on maintenance of state administration bodies in Ukraine in 1994-1999. Issue No.4. — *Kyiv*: Counting Chamber of Ukraine, 2000, pp.12-17.

⁶ As of the end of current year.

⁷ ITAR-TASS, April 13, 2000.

⁸ The amount of credit indebtedness exceeds annual GDP one and a half times.

Social sphere

Over the recent years, the standard of living of the overwhelming majority of the population has reached a critical limit. Today, there are more than one million families in Ukraine, whose monthly average per capita income is less than UAH 50 (less than \$10); in more than 100 thousand families, they does not exceed UAH 20 (nearly \$4)⁹. Wage arrears are on the rise: as of March 10, 2000, they reached UAH 6.5 billion. In 1999, the level of real salary in Ukraine (with price hikes taken into account) comprised less than one-third of real salary for 1990¹⁰. According to different estimates, currently, nearly 70% of the population stand teetering on the poverty line.

The rapid decline in the population's standard of living does not always affect salaries and pensions of public servants. Mid-level employees, such as those working on the staff of the National Security and Defence Council, or Ukraine's special services, receive pensions at a level of UAH 600-700, while the country's average pension does not exceed UAH 60. Such a huge difference (10

times and greater) is inadmissible, and must be controlled by the state¹¹.

Unemployment is constantly on the rise: in 1997-1999, the total number of **officially registered unemployed only**, rose from 350 thousand to 1.2 million people. As of January, 2000, 4.3% of Ukraine's employable population were jobless¹². According to expert estimates, 35-40% of the able-bodied population, or 7-8 million people, can be considered unemployed in Ukraine¹³. The negative dynamic of social indicators is illustrated by the Diagram "The level of registered unemployment and real wages".

At the Government meeting on April 19, 2000, President L.Kuchma said that the monthly average salary in Ukraine fell critically low to \$35, and "the state has completely lost its regulatory functions in the field of labour remuneration"¹⁴.

Against the background of the population's total impoverishment, the level of social stratification between the poor and the rich is reaching a dangerous level. In 1999, when average annual per capita income was equal to \$318, the State Tax Administration reported that over 5000 Ukrainian citizens acquired prestigious cars of the "Mercedes-600" class that cost \$100-300 thousand¹⁵. An average Ukrainian must refrain from any expenses, even on food, and save money for 300-900 years in order to buy such a car.

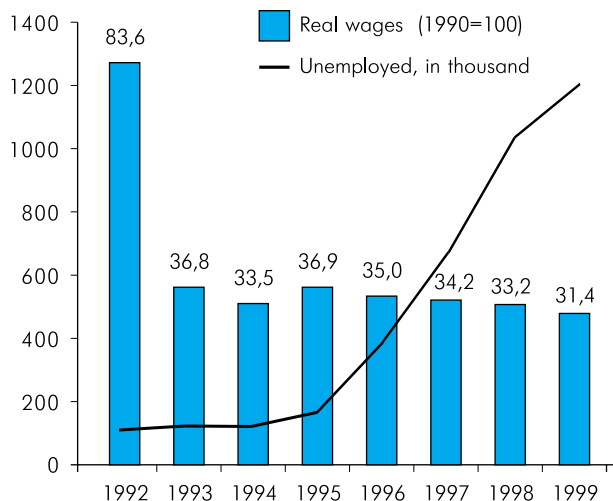
Over the last three years, the human development index has been consistently low: Ukraine occupies 91st place among UN member states¹⁶.

All-in-all, the humiliating (as for a European country) indicators of Ukraine's social and economic development establish grounds for discussing the inefficient activity of the authorities in general, and the executive branch in particular¹⁷.

Protection of human rights and freedoms

The situation with the protection of human rights and freedoms in Ukraine may be described using sociological survey data. According to the results of a poll conducted by UCEPS in January-February, 2000, only 0.9% of respondents suggested that human rights were fully

The level of registered unemployment and real wages



⁹ Realities and prospects of social policy. — *Uriadovyi Kuryer*, March 4, 2000, p.10.

¹⁰ Tendencies of the Ukrainian economy. — Ukrainian-European Policy and Legal Advice Centre, December, 1999, pp.8,36.

¹¹ In Soviet times, when an average pension amounted to 60-80 rubles, personal pensions for certain categories of public servants were set at a level of 160-180 rubles; army officers received pensions of up to 250 rubles, that is, the gap in citizens' pension was not as large as today.

¹² Information bulletin of the State Statistics Committee of Ukraine "Labour market in December, 1999", p.2.

¹³ Kornievskiy O. Unemployment in Ukraine: estimates and forecasts. — *National Security and Defence*, 2000, No.3, p.27.

¹⁴ Interfax-Ukraine, April 20, 2000.

¹⁵ Crime in Ukraine corresponds to its economic basis. Extract from a speech of the head of the State Tax Administration M.Azarov. — *Krok*, 2000, No.8, p.7.

¹⁶ Trofimova N. "Zero" dynamics of human development. — *Den*, May 5, 2000, p.6.

¹⁷ When administrative reform was conducted in Argentina, the main criterion for the assessment of the efficiency of public servants was their ability to defeat mass poverty and unemployment. See: Kaminskyi Ye. The Argentinean lesson for Ukraine's Government. — *Den*, February 11, 2000, p.4.



observed in Ukraine; 18.4% agreed that they were observed only in part; the largest share — 75.9% of those polled — said that human rights were not observed at all, or mostly not observed¹⁸.

The judicial branch actually depends on the executive branch, which is illustrated by the funding of the judicial structures through the Ministry of Justice.

Noticeable pressure on mass media demonstrates the limitation on the freedom of speech. Executive authorities resort to different forms of influencing "disobedient" mass media: termination of leases, extraordinary inspections by taxation bodies or fire departments, refusing accreditation at state institutions, attempts to control mass media where executive bodies are among the co-founders¹⁹. The authorities also apply the lever of judicial suits to the press: in 1999, 2258 claims were brought against Ukrainian mass media, totalling over UAH 90 billion, which is three times higher than Ukraine's state budget, and **in 55% of the cases, the claims were initiated by state officials**²⁰.

According to the results of an expert poll conducted by the Centre of Social Technologies in December, 1999, 76% of respondents stated that there were no independent mass media in Ukraine; 46% noted a deterioration of the situation with the freedom of speech, and 50% of those polled predicted the complete subordination of domestic mass media to separate financial-political groups as a precondition for their survival²¹.

Management of state property

Ukraine's industrial sector of the economy operates some 5000 state-owned enterprises. The principles of their management have basically remained unchanged since the Soviet times, thereby making state-owned enterprises least suited for the market economy. Executive authorities (authorised to manage state property) unite the functions of economic activity and state administration. This promotes inefficiency within the state sector of the economy, and cre-

ates the preconditions for its "shadow" operation.

More than half of state-owned enterprises is loss-making, budget arrears of such enterprises are increasing. During the last year, debts of state enterprises to the budget rose 2.5 times, and at the beginning of 2000, amounted to UAH 10.5 billion. Wage arrears in the state sector were close to UAH 2.2 billion, or 35.8% of the total amount of wage arrears in Ukraine.



In contrast to non-state structures, state-owned enterprises are ineffective²². As the Diagram below makes clear, in 1999, state enterprises (employing some 11 million people, or 75.4% of the population employed by the economy) accounted for only 45% of the general amount of production (*Diagr. "The number of employed at enterprises of different forms of ownership and their share in the total volume of production"*). In the first half of 1999, the share of state enterprises in aggregate budget revenues (from all legally operating economic entities) was only 26%²³.

The low efficiency of state-owned enterprises is confirmed by the results of a comparative analysis of balance indices for 9000 Ukrainian enterprises²⁴, conducted by experts of the Harvard Institute of International Development. **First**, the increase in long-term investments (per Hryvnia of sold produce) at non-state enterprises is 15 times higher than in the

¹⁸ Ukraine's international image: myths and realities. Analytical report of the Ukrainian Centre for Economic and Political Studies. — *National Security and Defence*, 2000, No.3, p.26.

¹⁹ Lemysh A., Lihachova N. Does the Ukrainian press need freedom? — *Den*, May 5, 2000, pp.1,2.

²⁰ Mostova Yu., Rakhmanin S. The unrealised necessity. — *Zerkalo Nedeli*, May 6, 2000, p.4.

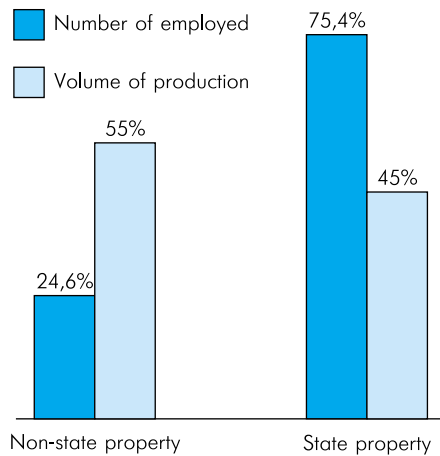
²¹ There is no independent press in Ukraine. — *Silski Visti*, January 27, 2000, p.2.

²² In almost all branches (with the exception of the fuel and energy complex), privatised enterprises occupy leading positions. Their share in ferrous metallurgy and light industry is 77-78%, in the food and timber industry — 74%, in the chemical industry, machine-building, metal-processing industry, and production of construction materials — 59-68%.

²³ Bondar A. With figures in hand — on the positive results of privatisation. — *Zerkalo Nedeli*, April 22, 2000, p.8.

²⁴ Ibid.

The number of employed at enterprises of different forms of ownership and their share in the total volume of production



state sector. **Second**, the amount of long-term credit resources accumulated in the non-state sector is three times higher. **Third**, debit indebtedness of private enterprises is seven times less, and tax arrears (per Hryvnia of produce) — 200 times less than in the state sector.

The state-owned share of property in over 5000 joint-stock companies is used very inefficiently. On the one hand, this may be attributed to the fact that draft law on the procedure of appointing trustees of state-owned corporate rights has not been adopted by the Verkhovna Rada since 1996. On the other hand, the state does not ensure the proper control over the operation of enterprises: only at one-fifth of such enterprises, trustees were appointed to manage their activities on behalf of the state.

The value of state-owned corporate rights in 1999 amounted to UAH 10.6 billion, of that amount, the value of rights registered as state property was UAH 4.4 billion²⁵. In 1999, the state received a miserable amount of dividends from enterprises established with state participation: only UAH 54.5 million. Therefore, dividends paid in 1999 accounted for only 0.5% (!) of the

value of state property. And in the first quarter of 2000, only UAH 17 million were received²⁶. **Such poor “management” led to the actual freezing of many billion worth of state assets.**

Market relations regulation methods

President L.Kuchma called the system of management existing in Ukraine “an administrative-managerial hybrid, that increasingly sharply contradicts the practice and tasks of democratisation of state and public life, and establishment of market relations”²⁷. The old approaches in management²⁸ created a situation where the economic and legal environment is unfavourable for manufacturers for the following reasons.

First, an awkward licensing system for opening private business has formed in Ukraine. A businessman needs to collect more than 15 documents and certificates for different services, and at the same time to pay fees to various extra-budgetary funds, with their amount far exceeding the official registration fee.

Second, entrepreneurial activity is overly regulated. At present, it is governed by 150 documents. Licensing is regulated by 650 different



acts. As the Diagram makes clear, in 1999, tax payments were regulated by 500 regulatory acts; compared to 1991, their number rose nearly 25 times²⁹ (*Diagr. “The number of regulatory acts that define tax payment procedures”*).

The regulatory basis is extremely unstable: in recent years alone, 33 amendments on licens-

²⁵ According to the results of the last inventory, held on April 7, 1999.

²⁶ In the absence of efficient control on the part of the Government, state-owned enterprises became accustomed to distributing profits at their discretion. Even at large joint-stock companies (“Ukrnafta”, “Kyivenergo”, “Turboatom”), 30-50% of net profit goes to material incentive and social development funds under the budget item “miscellaneous”.

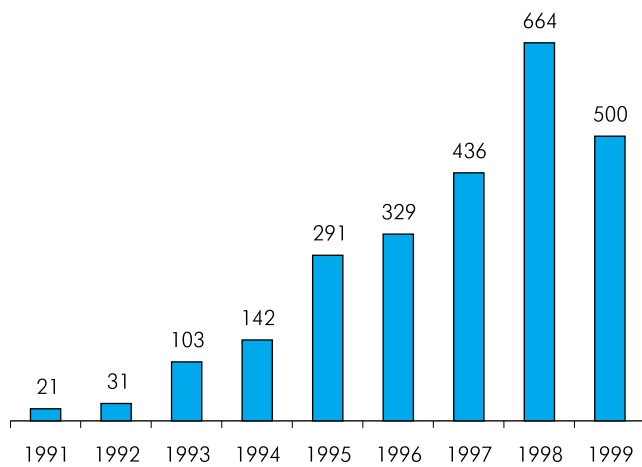
²⁷ Intarfax-Ukraine, November 30, 1999.

²⁸ At a meeting of the National Security and Defence Council of Ukraine on April 11, 2000, the situation at the railways was strongly criticised. One of the conclusions was that their financial standing is deteriorating due to an obsolete management system. See: Potential for the acceleration of reforms. — *Uriadovi Kuryer*, April 21, 2000, p.4.

²⁹ The regulatory policy of the state in the field of entrepreneurial activity. Analytical report of the International Union of Ukrainian Businessmen. — Kyiv, 2000, p.24. According to the calculations made by experts of the Harvard Institute of International Development, the official tax burden in Ukraine is 1.5 times higher than in other countries with the same GDP level.



The number of regulatory acts that define tax payment procedures



ing business activity were introduced to the Law "On Entrepreneurial Activity"³⁰.

Third, during the course of a year, businessmen are inspected several times by numerous control bodies. According to the International Centre for Policy Studies, in 1999, up to 100 different institutions had the right to inspect enterprises, and 61 of them were entitled to close their accounts, revoke licences, etc.

Fourth, the executive branch continues establishing state-controlled structures that monopolise some segments of the market, which restricts the ability of other competitors, and revives ineffective mechanisms of market operation. For instance, a number of insurance companies were established with the participation of the state ("Ukrinmedstrakh", "Ukreksimstrakh", "Interpolis"), that monopolised some segments of the insurance market³¹.

Furthermore, **some business entities are granted unjustified preferences**, which does not encourage the establishment of a competitive environment and higher budget revenues, either. At a Government meeting on May 5, 2000, 259 previously adopted resolutions and orders, granting preferences to business entities, were cancelled. The overwhelming majority of the can-

celled preferences was related to customs clearance procedures. Among others, over 150 Government resolutions were cancelled, that had granted import duty and customs tax relief in 1999. The Government granted budget payment deferments amounting to UAH 130 million for the period of 6-36 months. As of January 1, 1999, the total amount of deferred payments totalled UAH 3.6 billion³².

Fifth, the state is attempting to improve financial discipline at the expense of an increase in the number of financial and fiscal institutions. However, under conditions of an unbalanced tax policy, and the non-transparency and instability of economic legislation, this failed to produce the desired effect.

In 1994-1999, the number of employed in financial and fiscal bodies increased by 20.4 thousand (23%), and their share in the total number of executive branch employees reached almost one-half³³. During 1996-1999, budget allocations on maintenance financial and fiscal bodies rose 2.2 times; they exceed expenditures on apparatuses of ministries and other central executive bodies and their local branches by 2.4 times³⁴.

However, a corresponding increase in the amount of budget revenues has not occurred. And if revenues of the consolidated budget are estimated in real terms (taking inflation into account), a steady downward tendency is observed. 1999 has not become an exception, either: that year, budget revenues decreased 8%. (*Diarg. «Budget revenues and the number of employees in financial and fiscal bodies»*).

In the first quarter of 2000, budget payment arrears rose by 11.7%, reaching UAH 13.2 billion³⁵. Evidently, what matters is not the number of fiscal bodies; more important is the problem of overly strong tax pressure on producers. According to President L.Kuchma, the present tax burden exceeds its optimal parameters by 25%³⁶.

Conditions for foreign business

The level of foreign capital's presence in Ukraine is clearly inadequate. According to the State Statistics Committee, the amount of foreing

³⁰ Shlapak Ya. With relief. — *Kompanion*, 2000, No.10, p.12.

³¹ Reform of Ukraine's insurance system: conceptual background. Analytical report of the Ukrainian Centre for Economic and Political Studies. — *National Security and Defence*, 2000, No.4, pp.14-15.

³² UNIAN, May 5, 2000.

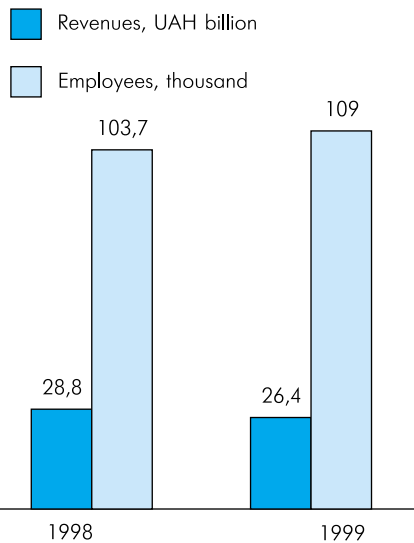
³³ Interfax-Ukraine, February 4, 2000.

³⁴ Administrative reform in figures, facts and propositions of the Counting Chamber of Ukraine. — *Ekonomichni Reformy Siohodni*, 2000, No.29, p.52.

³⁵ Potential for accelerating reforms. — *Uriadovyi Kuryer*, April 21, 2000, p.4.

³⁶ Interfax-Ukraine, April 19, 2000.

Budget revenues and the number of employees in financial and fiscal bodies



direct investments as of January, 2000, totalled \$3.2 billion; experts believe that this figure is only 7% of Ukraine's total investment requirements.

Factors unfavourable for the involvement of foreign business in Ukraine include imperfect tax system³⁷, corruption among officials, and an excessive number of controlling bodies. This is confirmed by the results of UCEPS' polling of foreign experts who have been working in Ukraine for a long time (*Diagr. "Negative factors that impede foreign business in Ukraine"*)³⁸.

As the Diagram makes clear, most negative factors impeding the attraction of foreign investments in Ukraine are directly related to the executive branch.

Therefore, separate key indicators of the state activity prove the low efficiency of Ukraine's executive structures. This fact is conditioned by a number of factors reviewed in the following subsection.

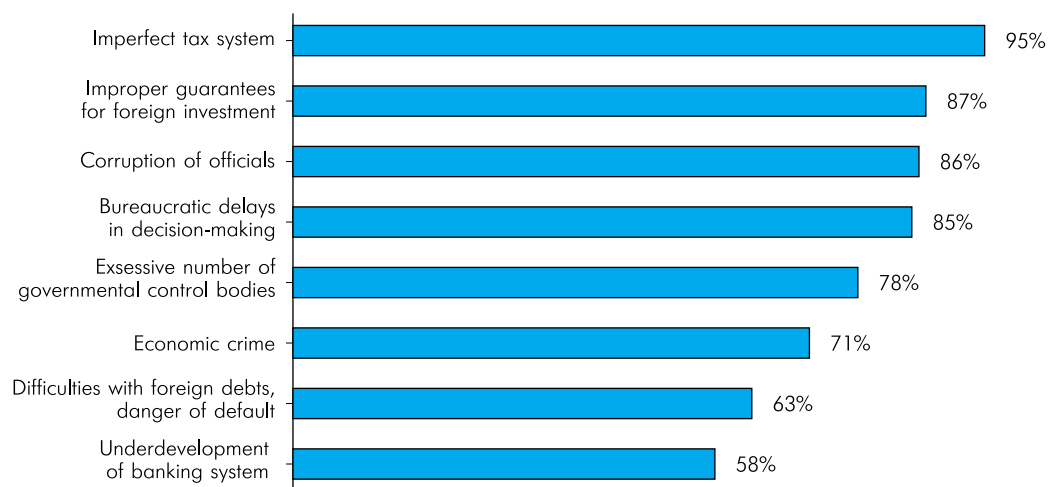
1.2 REASONS FOR THE LOW EFFICIENCY OF THE EXECUTIVE BRANCH

This subsection presents an analysis of factors impeding the effective operation of the executive power bodies in Ukraine. They include the poor co-ordination of actions on the part of different executive structures, inconsistency and the contradictory nature of decisions; low executive discipline; duplication of similar functions performed by different bodies; excessive concentration of administrative functions at the highest levels of the executive branch; unbalanced regional policy; inaccessibility of the executive power bodies to public control; corruption and economic crime within the state structures, and the low prestige of public service in Ukraine.

Poor co-ordination of actions of different executive structures, inconsistency and the contradictory nature of decisions

Until recently, some ministers (heads of military structures, ministers of foreign affairs and information) have been subordinated directly to the President of Ukraine. Under such con-

Negative factors that impede foreign business in Ukraine, % of respondents



³⁷ For foreign investors, Ukraine's legislative basis remains unstable and contradictory: foreign business is governed by more than 130 legislative acts.

³⁸ Ukraine's international image: myths and realities. Analytical report of the Ukrainian Centre for Economic and Political Studies. — *National Security and Defence*, 2000, No. 3, p.13.



ditions, strategic decisions in foreign policy, law enforcement and defence spheres were prepared within the presidential structures. This significantly limited the competence and responsibility of the Government, and brought a lack of conformity to the authorities' actions. Formally, the scheme of subordination of the above-mentioned ministers was changed in December, 1999, but the situation did not essentially change. For example, the Government's Programme of action "Reforms for Wellbeing" does not touch upon the strategic directions for the development of foreign policy, law enforcement and defence spheres at all; likewise, no priority goals were set, and no terms, mechanisms and resources for their achievement were defined³⁹.

In the field of foreign policy, the new Government's strategy is confined to EU integration. (*This is indeed a priority, but for 2000, the President of Ukraine set two more priorities: strategic partnership with the U.S. and the Russian Federation. The issues of co-operation with NATO, UN, and other international organisations also remained beyond the framework of the governmental programme*). Furthermore, even the strategic target of the Government — Ukraine's integration with the EU — was not backed with corresponding organisational measures: not long ago, the separate National Agency for Development and European Integration was liquidated, and its functions were transferred to the Ministry of

Economy. For comparison: in Poland, there is a separate Ministry for European Integration. As the Diagram "Structure of the regulatory-legal initiative of Ukraine's Government" makes clear, experts of the UN Development Programme also noticed the absence of the above-mentioned important directions in the Government's Programme of action⁴⁰.

The poor co-ordination of the actions of different executive structures could be observed during the privatisation process: there were cases when the State Property Fund announced a tender to sell a block of shares of an enterprise, and at the same time, the National Agency for Management of State Corporate Rights⁴¹ transferred this enterprise in trust.

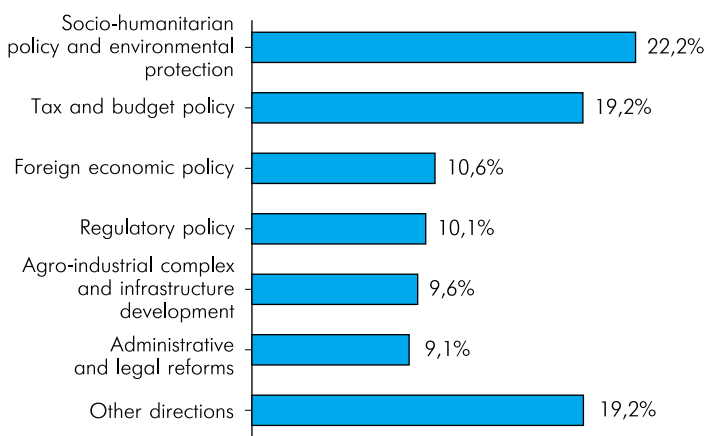
Some ungrounded decisions by the Government were cancelled by presidential decrees. A similar fate was met by the Cabinet of Ministers' Resolution No.153 of March 30, 2000, approving the project of the construction of a branch from the Toliatti-Odesa main ammonia supply pipeline to the "Dniproazot" joint-stock company. In fact, this Government resolution granted *state* funds for improving the conditions for the *commercial* activity of the joint-stock company, more than half of whose shares belonged to three legal entities registered in *off-shore* zones.

The poor co-ordination of the executive structures' actions and the poor substantiation of decisions taken lead to managerial mistakes. The accumulation of such mistakes and lack of personal responsibility for their consequences decrease trust in the bodies of executive power⁴².

Low executive discipline of the state apparatus

Every third presidential assignment given to ministries (agencies) in December, 1999 (at a meeting of the Co-ordination Committee for fighting corruption and organised crime), remained unaccomplished after four months⁴³. The President believes the main reason for this to be the "absence of basic responsibility, and an inadmissibly low level of executive discipline"⁴⁴. Of 34 items of the presidential decree relating to measures within the energy sector, 30 remained unimplemented. Neither did ministries and agencies implement the measures intended to ensure the fulfilment of the presidential decree on legalising shadow capital.

Structure of the regulatory-legal initiative of Ukraine's Government



³⁹ See: Grytsenko A. Government programme: does anything like this exist? — *Zerkalo Nedeli*, March 18, 2000, p.7.

⁴⁰ 1999. Ukraine. Human Development Report. — Kyiv: the UN Development Programme, 2000, p.70.

⁴¹ The Agency was liquidated in accordance with the Decree of the President of Ukraine No.1573 of December 15, 1999.

⁴² See UCEPS expert's article: Bychenko A. "Administrative reform in Ukraine: sociological survey of the population". The article is published in this issue of the magazine.

⁴³ Interfax-Ukraine, April 20, 2000.

⁴⁴ Kuchma L. The country entered a qualitatively new stage of its life and development. — *Krok*, 2000, No.8, p.2.



The degradation of executive discipline constrains administrative reform as well. As First Vice-Premier Yu.Yekhanurov put it, "some heads of ministries understand the decentralisation of the Government's functions as a right not to fulfil governmental assignments"⁴⁵.

Duplication of similar functions performed by different bodies of the executive branch

The structure of state administration in Ukraine is far from being optimal, which is demonstrated by the duplication of certain functions by different bodies of power.

The structure of power, fixed by Ukraine's Constitution, is causing the duplication of functions of presidential and governmental structures. Unlike in other countries, the President of Ukraine does not head the executive branch — he is the head of state. The President of Ukraine appoints the Prime Minister and the Government, which is accountable to the head of state. At the same time, it is the President of Ukraine, and not the head of Government, who is responsible for ensuring state independence, national security, foreign policy, etc. Therefore, the division of powers and responsibilities, fixed by the Constitution, to a certain extent lead to the duplication of functions of different state structures. As the Table shows, some bodies of the Administration of the President of Ukraine and the Secretariat of the Cabinet of Ministers perform similar functions.

Personnel and Interaction with Regions of the presidential Administration also exists, and a similar directorate operates within the Cabinet of Ministers' Secretariat.

The task of removing the duplication of functions of separate ministries by the Secretariat of the Cabinet of Ministers was not completely solved. For example, within the Secretariat, a directorate of Expertise and Analysis of the Agro-Industrial Complex has been created, which partly duplicates the activity of the Ministry of the Agro-Industrial Complex.

There is also a duplication of functions between separate ministries and between different bodies within ministries⁴⁶. For instance, the Ministry of Public Health partly duplicates the work of the Ministry of Labour and Social Policy in issues of attestation of executives and engineers employed within the labour safety and working place (labour conditions) attestation system.

Regulations on the Ministry of Defence⁴⁷ defines its 30 functions, and at least 16 of them are in part, or to a large extent, exercised through the General Staff. In fact, the General Staff remained an element of the Ministry of Defence, and the declared division of their functions has not taken place⁴⁸. The overwhelming majority of draft laws, regulatory acts, and directives, issued by the Ministry of Defence is drafted within the General Staff (or co-ordinated

Administration of the President of Ukraine	Secretariat of the Cabinet of Ministers
Main Directorate of Economic Policy	Economic Policy Department
Main Directorate of Administrative Activity, Personnel and Interaction with Regions	Directorate of Expertise and Analysis of Territorial Development
Main Directorate of Internal Policy	Internal Policy Department

Duplication also exists in the work of the Main Directorate of Foreign Policy of the Administration of the President of Ukraine and the Ministry of Foreign Affairs. Another demonstrative example: simultaneously with the Main Directorate of Public Service of Ukraine, the Main Department of Administrative Activity,

with the latter). The transfer of documents to the Minister of Defence for signing simply overly burdens the ministry's head, and does not encourage personal responsibility for the preparation of concrete decisions. The need for parallel structures (of personnel, armaments, operational control, etc.) within headquarters of mili-

⁴⁵ Potential for accelerating reforms. — *Uriadovi Kuryer*, April 21, 2000, p.4.
⁴⁶ The analysis was performed prior to the adoption of new regulations of the ministries.
⁴⁷ Approved by the Decree of the President of Ukraine No.888 on August 21, 1997, along with the Regulations on the General Staff of the Armed Forces of Ukraine.
⁴⁸ Ukraine lags behind leading countries where responsibilities are divided as follows: the Ministry of Defence is vested with political and administrative functions; the functions of strategic and operational planning rest with the General Staff.



tary services and headquarters of the three operational commands is causing doubt. In the experts' opinion, those structures often duplicate one another.

The duplication of similar functions performed by different bodies complicates the system of executive power. Furthermore, it leads to a greater number of personnel within the administrative apparatus and higher budget funding for its upkeep.

Excessive concentration of administrative functions at the highest levels of the executive branch

The absence of a fundamental Law "On the Cabinet of Ministers" makes it impossible to clearly define the powers of the Government and the list of issues falling under its competence⁴⁹. Today, the Government's activity is regulated by 250 laws, and the Premier's powers and responsibilities — by over 440! Such vagueness is causing the critical overloading of the Government with minor issues which should be passed down to lower levels of decision-making (ministries, local executive authorities).

During 1999, the Government approved 3879 directives and resolutions; therefore, Government members were adopting 70-80 documents a week. If the review of each decision took at least 20 minutes, the Government must have held meetings three full working days a week. It is clear that most decisions were adopted practically without discussion.

Among governmental decisions adopted in 1999, there were such resolutions as "On Ensuring the Operation of Housing and Communal Services of the Settlement of Serhiyivka", "On the Establishment of the Nadvirna College", directive "On Permitting the State Customs Service to Issue Customs Clearance for Two 'Caterpillar D&R' Bulldozers", "On the Transfer to the National Academy of Border Troops of Computers, Printers and Scanners", "On Measures for the Provision of Seed and Food Potatoes". The Prime Minister was solving such issues as the appointment of a member of the Supervisory Council of the National Botany Garden, and similar matters.

The consideration of numerous secondary issues interferes with the solution of truly urgent problems. For instance, among Government reso-

lutions adopted in the 4th quarter of 1999, honours documents comprised 23%; at the same time, important issues (of industrial policy, finances, fuel and energy complex, agro-industrial complex) were touched upon in only 17% of the total number of Government resolutions adopted within that timeframe⁵⁰.

Of late, there has been a tendency towards a more rational planning of the agenda of the Government's meetings: while in 1999, the Government was adopting 320-330 documents a month on average, in March, 2000, only 214 were adopted (33% less).

The excessive concentration of administrative functions⁵¹ at the upper levels of the executive branch leads to a lack of preparedness and a low quality of administrative decisions, and to the downgrading of the role of executive structures at the lower level.

Unbalanced regional policy of the executive branch

The relations between the centre and the regions, as well as between local executive authorities and local self-government bodies are characterised by a number of points of concern.

First, the effectiveness of management along the line "Government — regions" is weakened by the absence of effective levers of the Cabinet of Ministers' influence on personnel appointments in the regions. The Government has no right to dismiss heads of regional state administrations, or even initiate applications for their dismissal — these powers are vested in the head of state. For instance, in 1999 alone, the President of Ukraine replaced 16 heads of regional state administrations and 61 of their deputies; 144 heads of district state administrations (28% of their total number) were also fired⁵². In the experts' opinion, this had something to do with political factors. It is clear that the Government's influence on personnel appointments in the regions should be strengthened.

Second, the functions of state administration are presently excessively centralised. Ministries are performing functions that might well be performed by district state administrations or even local self-government bodies. For example, the Ministry of Public Health today drafts vacation schedules for rectors of higher medical institutions, deals with granting housing and communal services to medical personnel in rural areas, etc.

⁴⁹ To the mind of Ex-Government Plenipotentiary for the Systemic Reform of the State of Republic of Poland M.Kulesza, the Government should transfer up to 80% of the powers not intrinsic to it to the local authorities. See: Siruk M. By the way. — *Den*, February 11, 2000, p.4.

⁵⁰ Power. Off-stage. — *Kompanion*, 2000, No.1, p.16.

⁵¹ The problem of overloading exists within other state structures, too. For instance, in 1999, the Administration of the President of Ukraine received nearly 80 thousand documents and 150 thousand applications from citizens.

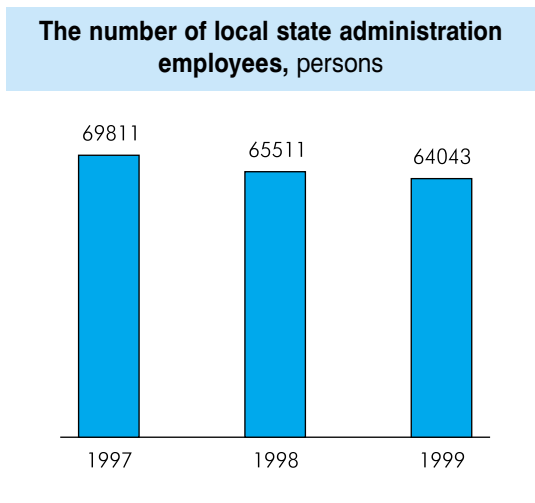
⁵² A nation is glorified by great targets and deeds. President Kuchma's speech in the Verkhovna Rada of Ukraine on February 22, 2000. — *Uriadovi Kuryer*, February 23, 2000, p.3.

Third, the effectiveness of the executive branch is affected by the absence in district state administrations of real instruments for influencing the socio-economic situations in their districts. For instance, issues of land allocation are decided not in districts, but on the village council level. In contrast, management of state property within districts is effected in the higher echelons of power (by regional state administrations or Ukraine's Government)⁵³.

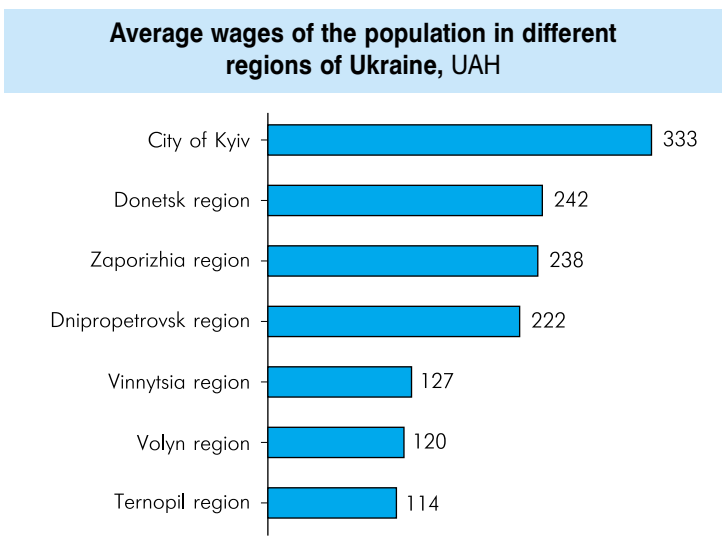
Fourth, the functional operation of local authorities is not backed with proper funding and organisational arrangements. Local budgets finance important national social programmes, such as the programme of housing subsidies, granting privi-

leges to war and labour veterans, assistance to families that have minor children, etc. Local authorities are obliged to implement those programmes, but presently, they are not provided with funds.

A deficit of administrative personnel remains a problem for the regions. As the Diagram "The number of local state administration employees" shows, between 1997-1999, the number of employed at local administrations decreased by about 5800 persons.



The lack of co-ordination between different budgets provokes conflicts between the centre and regions. For instance, revenues of the Crimean budget approved by the Verkhovna Rada of the Crimean autonomy (VAT included) is UAH 779 million. However, the 2000 state budget, approved by the Verkhovna Rada of Ukraine, envisages the transfer of value added tax to the centre in full volume. Therefore, revenues of the Crimean budget were cut to UAH 550 million⁵⁴. The Verkhovna Rada of the Crimea applied to the Constitutional Court of Ukraine for verification of the constitutionality of the Law "On the State Budget for 2000". Opposition with respect to budget matters between regions and regional centres is also acute. For example, the 13th session of the Dnipropetrovsk city council, in defiance of the Dnipropetrovsk region council decision, increased the city budget by UAH 83 million. And this example is far from being unique⁵⁵.



Fifth, the low efficiency of regulatory functions of the state is demonstrated by significant differences in the levels of the socio-economic development of regions. Per capita expenditures of local budgets differ exceedingly: in the Kyiv region, they amount to UAH 505, while in the Chernivtsi region — only UAH 202⁵⁶. As the Diagram "Average wages of the population in different regions of Ukraine" shows, the difference in labour remuneration between regions is also significant: as of the beginning of 2000, average monthly wages in Kyiv amounted to UAH 333, while in the Ternopil region — close to one-third of that sum (UAH 114).

The difference between regions in the level of registered unemployment is still higher: while in the Lviv region at the end of 1999 it was 7.4%, in the Odesa region — only 0.9%, or eight times lower!

The unbalanced regional policy of the executive branch makes it impossible to remove the significant disproportion in regional development,

⁵³ Furthermore, the re-distribution of property managed by the Government, ministries and local administrations has not been completed.
⁵⁴ Interfax-Ukraine, March 15, 2000.
⁵⁵ Kharkiv city budget, established by the regional finance department to equal UAH 262 million, covers only 30% of the minimum requirements of the city (according to the Kharkiv City Council Secretary M.Petrenko). See: Maznitsa A. Everything but the social sphere must be forgotten? — *Zerkalo Nedeli*, April 29, 2000, p.7.
⁵⁶ UNIAN, May 5, 2000.



and provokes conflicts between different budgets. The state needs a qualitatively new regional policy. If its implementation requires a separate body within the executive branch, this should be done. For example, in some countries seeking EU membership, ministries of regional and local policy have been formed, and under those ministries there are agencies of regional development coordinating the economic development of the regions.

Inaccessibility of the executive power bodies to public control

An important precondition for the efficiency of state administration is the publicity and transparency of the activity of executive authorities, and their accountability to society. Unfortunately, in Ukraine, this problem remains rather painful for the authorities.

First, the policy of appointments remains non-transparent. High state posts in Ukraine were often occupied by individuals with improper professional or moral qualities. This conclusion is proved by endless personal changes on all levels of the executive branch. The same is confirmed by judicial practice: in 1999 alone, nearly 400 executives at different levels, among them — deputy ministers and heads of district state administrations, were charged with corruption and economic crimes⁵⁷.

UCEPS experts suggest that this situation has formed, to a large extent, due to the absence of obligatory, legislatively backed, public review of candidates for high state posts by special services in Ukraine. In this respect, the American experience of nominee checking by the FBI could be useful for Ukraine⁵⁸.

Ukraine has not implemented a competitive system of candidate selection for high-ranking state posts. After the reorganisation of ministries and agencies that began in December, 1999, no competitions were held in any of the newly-formed bodies for filling vacant (new) posts. For comparison: in Japan, the competitiveness of selection is provided by the system of tests for candidates for public service.

Second, the high rate of flow of administrative personnel is also not conducive to the transparency of the administration. In 1992-1999, 14 first vice premiers and 28 vice premiers were replaced; heads of some ministries were changed

6-8 times. Some government officials remained in their positions for 2-3 months only. Permanent personnel changes create a situation where current management is performed by unknown officials at the mid-level. On the other hand, among those who retired from public service due to a change in government teams, there are many experienced professionals (within several years, hundreds of top and mid-level executives were replaced, among them — some 280 deputy ministers). However, no efficient mechanism for their involvement in state governance after retirement has been created.

Third, there is no practice of final government reports: none of the retiring governments accounted for the implementation of the programme proposed by it. And the Programme of action of the V.Pustovoitenko Government, which worked for two years, was never approved. According to First Vice Premier Yu.Yekhanurov, the accountability of public servants so far exists only in the form of quarterly reports of the Government to Parliament and the Verkhovna Rada hearings on some directions of activity. Other procedures are unavailable⁵⁹.

Fourth, state bodies insufficiently use new information technologies. Only 40% of ministries and regional state administrations support their own WEB-sites; information placed on those sites is rather limited, rarely renewed and, therefore, gives only a very approximate impression of the activity of relevant state structures. The project of creating the information analysis system "Administrative System of Ukraine" has not been implemented, and its basic designed functions were monitoring the efficiency of the administrative activity of executive bodies, the creation and support of a databank of those bodies, and providing executive structures access to international information networks. In 1998-1999, no resources were allocated for the creation of a single national computer database "Personnel".

It is perfectly clear that under such conditions, citizens are assessing the activity of executive bodies in Ukraine as "closed". According to the results of the UCEPS sociological survey⁶⁰, only 16% of those polled called the activity of Ukraine's Government transparent; only 17% of respondents thought this about local authorities.

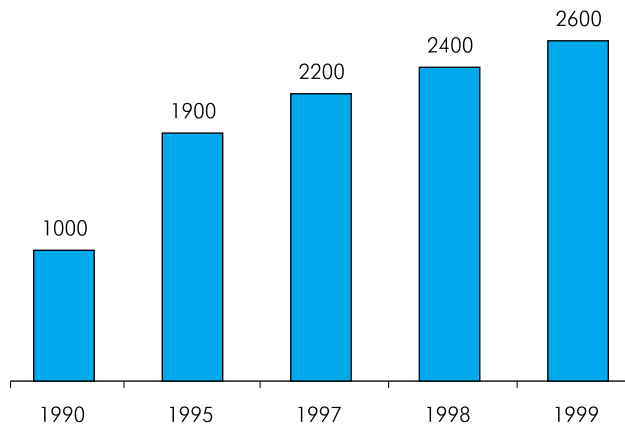
⁵⁷ Korytska L. Criminality "in the honour". — *Chelovek i Zakon*, 2000, No.2, p.15.

⁵⁸ In the U.S., they often conduct special tests ("professional diagrams"), in order to establish the professional and other qualities of engaged persons, including those employed in public service.

⁵⁹ Interfax-Ukraine, April 13, 2000. Attempts to introduce the practice of direct lines of communication between Government officials and the people have not become wide-spread; neither are they popular at the local level.

⁶⁰ Between January 25 - February 5, 2000, 2010 citizens were polled in all of Ukraine's regions.

The number of registered bribery cases



Corruption and economic crime within the state structures

Between 1990 and 1999, the number of registered cases of bribery rose 2.6 times (*Diagr. "The number of registered bribery cases"*). According to Ukraine's General Prosecutor Office, in 1999, over 2600 cases of bribery were revealed; 768 criminal cases were sent to the courts, with 200 of them being bribery cases involving high-ranking Government officials⁶¹.

These statistical data do not reflect the whole picture. In 1998 alone, in accordance with the Law "On the Fight against Corruption", 5162 administrative protocols were executed, involving public servants⁶²; in 1999, 4300 public servants were involved. And in the 1st quarter of 2000, more than 2000 protocols of offences related to corruption were sent to the courts⁶³. The scale of corruption is demonstrated by the fact that, according to different estimates, Ukrainian businessmen spend up to 6.5% of their average annual incomes to bribe officials. World Bank experts estimate that the yearly amount of bribes in Ukraine to be equal to two month's worth of the country's trade turnover⁶⁴.

Ukraine's population is also mainly of the opinion that corruption is widespread. Results of UCEPS polls showed that only 2% of respondents suggested that "almost no one is taking bribes in the country". The majority believe the contrary to be the case: "almost everyone takes bribe, abusing his service position" — 12% of respondents gave this response. 49% said that "many do it", while "some do it" was the response of 29%.

Citizens are forced to give bribes even for the realisation of their legitimate rights. According to the results of a poll held by UCEPS in March, 2000, this fact was reported by 60.5% of respondents; 47.5% of those polled are aware of cases of bribery when decisions running contrary to the law need to be taken.

Corruption is closely related to crime in the economic sphere, which is rising at a dangerous rate. In 2000, 18.3 thousand economic crimes were revealed, which is 34% more than in 1999⁶⁵. Criminality in the banking sector is on the rise: in 1999, violations were discovered in 713 Ukrainian banks, and 88 criminal cases were commenced. In the 1st quarter of 2000, 37 criminal cases were initiated against bank employees⁶⁶. According to expert surveys, organised crime controls up to 85% of the banks, and no less than 40-50% of private enterprises in Ukraine⁶⁷.

The spread of corruption is encouraged by the misuse of budget funds for other than their designed purposes, so prevalent of late. In 1999, UAH 500 million were used for other than their designed purposes (this amount is equal to the Cherkasy regional budget). In the 1st quarter of 2000 alone, UAH 200 million were misused. According to President Kuchma, this was enough for maintaining the Ministry of Internal Affairs for a year⁶⁸. If this negative tendency is not overcome, the amount of misused budget funds will attain the level of costs for maintaining almost all of the executive bodies in Ukraine!

Embezzlement remains a serious problem. Only within three months of 2000, the amount

⁶¹ Ukraine's statistical yearbook for 1998. State Statistics Committee of Ukraine. — Kyiv: *Tekhnika*, 1999, p.482.; Sek A. Draconian methods in the year of Draco? — *Ukrayina Moloda*, January 12, 2000, p.4.

⁶² Hryshchuk M. The practice of the application of legislation by executive bodies in Ukraine for defeating corruption. — Courts in Ukraine: fighting corruption, organised crime, and protecting the human rights. Scientific Research Institute "Human problems". — Kyiv, 1999, p.261.

⁶³ Potebenko M. Law enforcement bodies must firmly abide by the principle of law and the requirements of the President. — *Krok*, 2000, No.8, p.5.

⁶⁴ Korytska L. The end of the ostrich policy? — *Chelovek i Zakon*, 2000, No.2, p.4.

⁶⁵ The following fact is demonstrative: in April, 2000, a criminal case was initiated against a head of a department of the Ministry of Economy who, together with other persons, took a bribe of UAH 50 thousand for the concealment of penalties (valued at UAH 3 million).

⁶⁶ Desiatnykova I. Last year, our compatriots acquired over five thousand prestigious cars of the "Mercedes-600" class that cost \$100-300 thousand. — *Fakty*, April 22, 2000, p.4.

⁶⁷ Halysia I. Some aspects of economic policy at the present stage. — *Ekonomika Ukrainy*, 2000, No.4, p.41.

⁶⁸ Interfax-Ukraine, April 20, 2000.



of revealed shortages and theft of public funds and property exceeded UAH 280 million. For instance, the acting director of the Sevastopol state enterprise "Atlantika" was arrested for the concealment of currency proceeds valued at \$670 thousand⁶⁹. In April, 2000, a criminal case was initiated against a group of employees of the Rivne regional branch of "Oshchadbank", who embezzled over UAH 160 thousand from the Chernobyl fund⁷⁰. Recently, the former head of a directorate of the Ministry of Finance of Ukraine was detained in the Czech Republic; he stole \$500 thousand allocated toward a humanitarian programme⁷¹.

Corruption in privatisation is also a painful problem. The President suggests that the non-fulfilment of investment obligations after privatisation creates favourable conditions for corruption⁷². At present, almost one-third of privatisation agreements is not fulfilled. It was namely the non-execution of privatisation provisions (with respect to investing \$300 million for modernisation), which sidetracked the "Mykolaivtsement" enterprise from economic development for many years⁷³. Over UAH 10.5 million were stolen during the privatisation of the Kyiv factory of plastics and rubber articles⁷⁴.

Corruption in the energy sector can lead to this strategically important branch getting out of the state control. Power engineering is one of the most criminally effected sectors in Ukraine. In the 1st quarter of 2000, 600 crimes were revealed in this sector, with damages totalling UAH 60.4 million.

Without co-ordinating with the Antimonopoly Committee, off-shore companies were admitted to take part in tenders for the preferential sale of shares of regional energy distributing companies (Oblenergo). The results of such actions of the executive branch are rather dangerous for the state, since over 80 non-resident companies became Oblenergo owners. As of the beginning of 2000, the majority of privatised energy companies refused to make agreements for energy supplies with "Ukrenergo". As President L.Kuchma put it, the Fuel and Energy Ministry

"has practically no" influence on those privatised enterprises⁷⁵. According to the Minister of Internal Affairs Yu.Kravchenko, their profits "settle en masse in off-shore zones, in other countries"⁷⁶. State Tax Administration head M.Azarov predicts that in 2000, nearly UAH 4.5 billion will be transferred from Ukraine's oil and gas market to "virtual companies" in off-shore zones (*recently, Ukraine's Security Service has discovered the illegal re-export of gas in the amount of \$100 million by fictitious structures in off-shore zones*).

Corruption undermines the economic fundamentals of the state, blocks the inflow of investments, impedes reforms, provokes public mistrust in the authorities, and brings Ukraine to a deadlock of degradation and decline.

Officials' abuse of powers for personal enrichment

A typical fact was revealed at the State Scientific-Expert Centre of Medicines attached to the Ministry of Public Health. In 1999, its management raised the fee for registering medicine several times. This was done, among other reasons, for raising employee wages and bonuses. In February, 2000, the Centre's director obtained different payments worth UAH 57 thousand, the chief accountant — UAH 55 thousand, her daughter (secretary) — UAH 35 thousand, drivers — UAH 26 thousand. In all, the Centre's managers and their relatives increased their personal incomes by approximately \$27 thousand within a month⁷⁷. This sum would be enough to pay one-time allowances to 1000 war disabled.

Low prestige of public service

Most public servants are getting comparatively low salaries, much lower than in some branches of the economy⁷⁸. As a result, qualified personnel is leaving public service.

Salaries of public servants at the Administration of the President of Ukraine, Secretariat of the Verkhovna Rada, and Secretariat of the Cabinet of Ministers barely exceed UAH 600 (close to \$100). For instance, the head consultant in the presidential administration is paid UAH 350-450.

⁶⁹ Potebenko M. Law enforcement bodies must firmly abide by the principle of law and the requirements of the President. — *Krok*, 2000, No.8, p.5.

⁷⁰ UNIAN, April 24, 2000.

⁷¹ An official at the Finance Ministry stole nearly \$500 thousand. — *Segodnia*, April 18, 2000, p.2.

⁷² Interfax-Ukraine, April 20, 2000.

⁷³ Korytska L. The end of the ostrich policy? — *Chelovek i Zakon*, 2000, No.2, p.5.

⁷⁴ Rubber articles "absorbed". — *Kievskie Vedomosti*, April 24, 2000, p.2.

⁷⁵ Interfax-Ukraine, April 20, 2000.

⁷⁶ Ibid.

⁷⁷ Potebenko M. Law enforcement bodies must firmly abide by the principle of law and the requirements of the President. — *Krok*, 2000, No.8, p.5

⁷⁸ For example, in December, 1999, the average salary at state administration bodies was equal to UAH 275, while in sea transport, it amounted to UAH 565, and at banking institutions — UAH 665. See: Interfax-Ukraine, January 30, 1999.



The salary of a department head at a regional state administration is almost UAH 450, and that of a leading specialist — UAH 220-280. At the same time, their duties are becoming more difficult as a result of the reduction in executive bodies. For example, the number of employed at the Kharkiv regional state administration fell by almost 25% over the last two years, and the further liquidation and merger of some departments is expected in connection with the transition from the branch to the functional principle of governance⁷⁹.

The salary of a head of a district state administration is close to UAH 600. On average, district state administrations employ 20-25 people,

whose work is very hard.

After the December (1999) increase, the salary of the President of Ukraine became UAH 2600 (\$500) a month, that of the Chairman of the Verkhovna Rada of Ukraine, Prime Minister, heads of the Constitutional Court, Supreme Court and Highest Arbitration Court — UAH 2400 (\$450)⁸⁰.

In Ukraine, a man's salary has traditionally been the main source of family income; the wife's salary presented an additional source of revenues. The fact that today, of 244 thousand public servants, women comprise 72.8% of that number, also indirectly proves the low prestige of public service.

CONCLUSIONS

The system of executive power in Ukraine remains inefficient and unable to overcome negative tendencies within the country. It meets neither the level of problems facing the nation, nor the contemporary standards of governance.

The low efficiency of the executive branch is witnessed by social indicators, above all — the level of unemployment and the population's real incomes. State property is also managed inefficiently and, as a result, the huge production potential actually does not work to the nation's benefit.

The legacy of the old, administrative-command management system is seen in the actions of executive bodies, the state still unjustifiably interferes in the activity of business entities, which impedes the development of business in Ukraine.

Duplication of similar functions performed by different bodies complicates the system of executive power. Furthermore, this leads to more numerous administrative staff and higher budget expenditures for its maintenance.

Excessive concentration of administrative functions at the upper levels of the executive branch leads to the lack of preparedness, the low quality of administrative decisions, and to the downgrading of the role of executive structures at the lower levels.

The poor co-ordination of actions by different executive structures, low executive discipline, inadequate substantiation of decisions being taken — all of this leads to managerial mistakes. The accumulation of such mistakes and lack of personal responsibility for their consequences decrease trust in the bodies of the executive branch.

The unbalanced regional policy of the executive branch makes it impossible to remove the significant disproportion in regional development, and provokes conflicts between different budgets. The state needs a qualitatively new regional policy. If its implementation requires a separate body within the executive branch, it should be created.

The administrative staff is mainly working within a closed mode. There is no system of efficient public control over the activity of the executive branch.

The prestige of public service remains low in Ukraine, the level of its remuneration does not encourage responsibility and doesn't attract qualified personnel to public service.

Corruption undermines the economic fundamentals of the state, blocks the inflow of investments, impedes reforms, provokes public mistrust in the authorities, and brings Ukraine to a deadlock of degradation and decline.

In Ukraine, there is no obligatory, legislatively backed, public review of candidates for high state posts by special services. The American experience of checking candidates by the FBI could be useful for Ukraine.

The radical reform of the executive branch (as well as other branches of power) is an urgent task. Without the creation of an efficient system of state governance, Ukraine has no future as a developed, civilised state.

⁷⁹ Interfax-Ukraine, January 30, 1999.

⁸⁰ The Cabinet of Ministers' Resolution of December 13, 1999.

2. THE RESULTS OF IMPLEMENTING ADMINISTRATIVE REFORM IN UKRAINE: 1997-2000

When too many mistakes pile up, you are face to face with inevitably correct actions.

(Postulate of inevitability)

This section offers an analysis of the current state of administrative reform in Ukraine, its results and mistakes. UCEPS experts believe that three periods can be conditionally distinguished in the process of conducting administrative reform in Ukraine. **The first period lasted from July of 1997 through July of 1998**, and covered the development of a strategy of transformation, the preparation and approval of the Concept of Administrative Reform in Ukraine. **The second one covered the period from July, 1998 through December of 1999**, which saw a loss in the momentum of conducting structural changes caused by political factors, in particular, the presidential elections. **The third period began in December, 1999**, and gave a new impetus toward reform after the signing of the decrees of the head of state on December 15, 1999.

After July, 1997, the Concept of Administrative Reform in Ukraine was approved, and the first steps were taken directed at the formation of a more rational structure of the central bodies of the executive branch, the reorganisation of the work of the Government and its apparatus, and the deregulation of the activity of economic entities. This period saw the approval of the laws "On Local State Administrations" and "On the Capital of Ukraine — the Hero City of Kyiv". Nevertheless, achievements, to date, are rather modest, and reform of the apparatus of state governance is only in its initial stage.

It was not possible to avoid mistakes while reform was being conducted. The time for administrative reform was chosen inauspiciously. The reorganisation (liquidation) of ministries, and other central bodies of the executive branch, was done prior to their functional examination; the number of public servants was defined in terms of a directive, rather than based on the need for attaining concrete functions; separate structural changes were not sufficiently grounded. It was not possible to ensure the proper methodological and informational support for reform.

The time has come for solving the problems of reforming the state apparatus in a more systemic way, and supporting the declarations and the first practical deeds through diligent, consistent and co-ordinated work by all the branches of power.

2.1 PRINCIPAL MEASURES FOR REFORMING THE EXECUTIVE BRANCH

The need for administrative reform was announced on a high state level back in July, 1997. At that time, the State Commission for

Administrative Reform in Ukraine was created⁸¹ (hereinafter — State Commission) and its personnel composition was approved. Ukraine's ex-President L.Kravchuk was made head of the State Commission. The State Commission drafted a Concept of Administrative Reform in Ukraine,

⁸¹ Decree of the President of Ukraine No.620 of July 7, 1997 "On the State Commission for Administrative Reform in Ukraine".

and its main provisions were "made the basis for reforming the system of state governance"⁸².



The Concept of Administrative Reform in Ukraine (hereinafter — the Concept) generally defined the strategy and the organisational-legislative basis for reforming the system of state governance, and the stages of administrative reform. The State Commission managed to prepare the document that envisaged the creation of a more effective apparatus of state governance, and laid down the fundamentals for reforming public service and the administrative-territorial system of Ukraine. At the same time, the Concept contained a number of shortcomings. In particular, it did not define the profound reasons for the systemic crisis of governance in Ukraine, nor did it establish the functions of separate ministries and agencies. **UCEPS experts believe that the Concept could become the basis for conducting administrative reform in Ukraine after it has been developed more thoroughly.**

It is understood that the Concept defined only general measures for reforming state governance. Its provisions were supposed to become reality through the subsequent practical steps of the President and Government of Ukraine. Conducting administrative reform was truly announced to be one of the priorities of state policy from time to time⁸³. Nevertheless, **the analysis conducted demonstrates that in the period from July, 1998 through December, 1999, insufficient attention was paid to reforming the state apparatus — this led to a loss of time and momentum in conducting reform.**

It is during this period that the Decree of the President of Ukraine was approved, which concerned the reorganisation of the bodies of the executive branch⁸⁴. The subordination system and the status of separate central bodies of the executive branch were changed, and a number of state departments were liquidated. The status of separate ministries (for example, the Ministry of Family and Youth, the Ministry of Information) were lowered to the level of state committees; a number of departments and state commissions were also renamed. However, the system of the organisation of the executive branch as defined by the Decree did not completely correspond to the earlier approved provisions of the Concept: neither central bodies of the executive branch with a special status were defined, nor the difference between ministries and state committees, etc. This complicated the scheme of interaction of the central bodies of the executive branch, and led to duplication in their work.

Later, seven amendments were introduced to this Decree, intended to increase the number of central bodies of the executive branch. In particular, three state departments were created on the issues of the energy complex with the status of legal entities. This demonstrates the inconsistency of the actions of the authorities at the stage of implementing the Concept.

UCEPS experts believe that the provisions of the indicated Decree only very approximately could be held to have been directed at implementing administrative reform, because they did not solve the tasks formulated by the Concept, and even contradicted earlier approved conceptual foundations.

It is important to note that during this period, certain positive steps were taken in the direction of deregulating the activities of economic entities.

❖ A number of presidential decrees were approved which allowed simplifying the procedure for registration and licensing of business entities⁸⁵. As a result, the registration period for economic entities decreased from 30 to 14 days, the period for issuing state registration certificates — to 3-4 days, and the average period for the licensing process — from 35 to 14 days.

⁸² The Decree of the President of Ukraine No.810 of July 22, 1998 "On Measures for Implementing the Concept of Administrative Reform in Ukraine".

⁸³ One example is the statement of Prime Minister V.Pustovoytenko: "Every time, we approach administrative reform, and then we stop. I think that an end should be put to this, and [we should] conduct such an administrative reform that will work for a long time." See: Interfax-Ukraine, November 18, 1999.

⁸⁴ The Decree of the President of Ukraine No.250 of March 13, 1999 "On Changes in the System of the Central Bodies of the Executive Branch in Ukraine".

⁸⁵ Decrees of the President of Ukraine No.79 of February 3, 1998 "On Removing Restrictions that Impede the Development of Business Activity", and No.539 of May 25, 1999 "On Introduction a Licensing System in the Sphere of Business Activity". The draft law "On Introducing Amendments to Certain Legislative Acts of Ukraine on Issues of Licensing System in the Sphere of Business Activity" has been worked out by the Licensing Chamber of Ukraine and is being reviewed by the concerned ministries, in pursuance of the decrees. The draft law "On Licensing Types of Activities" (now in the Verkhovna Rada) and the draft law "On the System of State Registration of Subjects of Business Activity" (reviewed by the concerned ministries and agencies) are being worked out with the goal of systematising the organisational structure of the system of state registration bodies, simplifying the process of entrepreneurial entity licensing, systematising the licensing system with respect to business activity, and removing the departmental nature of licensing.



❖ Presidential decrees⁸⁶ introduced changes to the normative-legislative acts with the goal of reducing tax pressure on enterprises and simplifying the accounting and reporting system of small businesses. As a result, 14 types of taxes and duties were replaced by a single tax (*Table "Simplification of the tax system for individual businessmen"*). Over 37 thousand individual businessmen, employing another 27 thousand persons, over a one-year period switched to the simplified system of taxation, accounting and reporting; payments into the budget from individuals-payers of the single tax also increased. It

became possible to systematise the mechanism for paying market duties owed by citizens trading on consumer goods and foodstuffs markets⁸⁷.

❖ An attempt was made to systematise the number of inspections by control bodies, and to arrange their frequency⁸⁸.

❖ A decision was approved for the publication and discussion of drafts of regulatory acts which significantly influence the market environment and affect the interests of businessmen⁸⁹, and a number of other measures were taken.

Simplification of the tax system for individual businessmen

1. Value added tax.
2. Individual income tax (for individuals-subjects of small business).
3. Tax on land used for business activity.
4. Duty for use of natural resources.
5. Duty to the Chornnobyl fund and Fund for the social protection of the population.
6. Duty to the State innovation fund.
7. Duty for obligatory social insurance.
8. Deductions and duties for construction, reconstruction, repair, and the upkeep of general use motorways.
9. Communal tax.
10. Tax on homecrafts.
11. Duty for obligatory state pension insurance.
12. Duty for issuing permits for the placement of trade and service outlets.
13. Contributions to the Ukrainian fund for the social protection of the disabled and the State employment fund.
14. Payment for a trade patent.

Single tax
in the amount
of UAH 20-200
a month.

⁸⁶ Decrees of the President of Ukraine No.727 of July 3, 1998 "On the Simplified System of Taxation, Accounting and Reporting for Small Businesses", and No.746 of June 28, 1999 "On Introducing Amendments to the Decree of the President of Ukraine No.727 of July 3, 1998 "On the Simplified System of Taxation, Accounting and Reporting for Small Businesses".

⁸⁷ Decree of the President of Ukraine No.761 of June 28, 1999 "On the Systematisation of Market Duty Payment Mechanism".

⁸⁸ Decrees of the President of Ukraine No.456 of May 12, 1998 "On State Support of Small Business Activity", No.817 of July 23, 1998 "On Certain Measures regarding Deregulation of Business Activities", No.89 of January 22, 2000 "On Implementing a Uniform Regulatory Policy in the Sphere of Business Activity", the Cabinet of Ministers of Ukraine Resolution No.112 of January 29, 1999 "On the Procedure for Co-ordinating Scheduled On-site Inspections of Financial-Economic Activity of Subjects of Entrepreneurial Activity by Controlling Bodies".

⁸⁹ The experience of reforms demonstrates that their results to a large extent depend on the involvement of experts and practitioners in the preparation of decisions. For example, in Great Britain, the draft of any reform strategy is made public in mass media and in the Internet, which makes it possible for citizens to participate in its discussion.

Therefore, positive developments have been noticed in the direction of simplifying the process of registration for economic entities, lessening tax pressures on them, and systematising the number of inspections. In substance, these were important steps aimed at filling administrative reform with concrete, practical matters.

Results in the sphere of legislative support for administrative reform are more modest. The constant conflict between the legislative and executive branches of power interfered with their constructive interaction. Co-operation among working groups of the Verkhovna Rada, the Government, and the President of Ukraine at the stage of draft law (draft presidential decree) preparation was virtually absent. As a result of this, almost every law approved by the Verkhovna Rada was vetoed by the President several times; likewise, the Verkhovna Rada blocked draft laws introduced at the initiative of either the Government, or the President of Ukraine.



In this way, the President of Ukraine repeatedly applied his veto right to the Law "On Local State Administrations" prior to the Law finally being approved (the Law "wandered" between the Administration of the President of Ukraine and the Verkhovna Rada for two years). Drafts of the Law "On the Cabinet of Ministers" were prepared separately by the Verkhovna Rada and the head of state. The President of Ukraine applied his veto right to this Law as many as six times. To date (from 1997) the Law has not been approved, despite the efforts of a joint commission of conciliation⁹⁰.

To date, the Administrative Code, the Administrative-procedural Code and the Code of Administrative Practice, as well as the Code of Public Servant Conduct, and other legislative acts important for conducting administrative reform have not been approved.

Until now, the principles of budget funding have not been legislatively defined, and the responsibility for misuse of funds has not been envisaged. The procedure for the governing of state corporate rights and state-owned enterprises is still legislatively unregulated.

Only in April of 1999 the Law "On Local State Administrations", which defines the organisation, powers and procedure of the activities of local state administrations, was approved. The Law "On the Capital of Ukraine — the Hero City of Kyiv" was also approved. This Law regulates particular aspects of the organisation of the executive branch and local self-government in the city of Kyiv⁹¹.

Analysis shows that the Verkhovna Rada was unable to completely define the legal basis for the functioning of the executive branch. An integral, co-ordinated legislative base, which would ensure the success of administrative reform, does not exist today. The priority task is the adoption of the Law "On the Cabinet of Ministers".

Generally speaking, the executive branch did not experience any serious structural changes up to the end of 1999. Most of the "priority measures" with respect to implementing the Concept of Administrative Reform in Ukraine, envisaged by the Decree of the President of Ukraine as early as November 1998⁹², were not implemented, although the period by which they should have taken place ended in the second quarter of 1999. For example, in the end, the state budget did not make allowances for financing administrative reform; the head of state (already in 2000) also had to issue a repeated directive with respect to the development of a draft law regarding the introduction of changes to the Law "On Public Service", taking into account the corresponding provisions of the Concept of Administrative Reform in Ukraine.

Political factors interfered with taking decisive steps during this period, including those related to administrative reform. The first of these factors was the 1999 presidential campaign. This complicated the approval of unpopular decisions. As a result, the process of transformation lost momentum, and the reform of the bodies of power was, in fact, running idle. Administrative reform in Ukraine needed a new impetus. The political will of the President of Ukraine, which was demonstrated in December of 1999, provided that impetus. The initiative with respect to conducting reform is left with the presidential team — reform ideology is being worked out in the Administration of the President of Ukraine.

⁹⁰ At the beginning of January, 2000, the head of state submitted to the Verkhovna Rada a new draft law "On the Cabinet of Ministers", which took into account the main provisions of the Concept of Administrative Reform in Ukraine. The fact that a majority has been formed in the Verkhovna Rada gives hope for its approval.

⁹¹ In 1994, the Law "On Public Service" was approved; in 1997 — the Law "On Local Self-government". Both laws need significant changes and amendments.

⁹² The Decree of the President No.1284 of November 20, 1998 "On Priority Measures for Conducting Administrative Reform".



On December 15, 1999, the President of Ukraine signed three decrees at once, directed at conducting administrative reform⁹³. UCEPS experts point out the following novelties among the main provisions of these documents.

The constitutional status of the Cabinet of Ministers has been more fully and effectively integrated into the power structure's framework as a higher organ within the system of Ukraine's executive branch. First, the Government's composition has been clearly defined, and its members from now on are only the Prime Minister, the vice prime ministers, and the ministers⁹⁴. Second, the direct subordination of the ministers of internal affairs, foreign affairs, defence, and information to the President of Ukraine has been cancelled. This should increase the Government's influence on issues of the country's defence, foreign policy, protection of law and order, and information policy. However, significant changes in political practice have not taken place, as it was demonstrated in Section 1.

Furthermore, having disposed of the direct subordination of the indicated ministers, the President of Ukraine with another decree⁹⁵, in fact, made the Main Directorate of State Service directly subordinated to himself, while earlier it was subordinated only to the Government. This can lead to decreasing the role of the Cabinet of Ministers in the selection and appointment of personnel.

Separate provisions of the decrees of the President of Ukraine are directed at increasing the political role of the ministers. It has been established that from now on, the ministers are responsible for working out and implementing the Programme of the Cabinet of Ministers; they are to direct and co-ordinate the activities of other bodies of power in their respective spheres by defining a strategy of activity and fundamental tasks of these bodies. This will encourage the formation of mechanisms of political responsibility of Government officials, and increase their influence over other central bodies of the executive branch⁹⁶.

UCEPS experts believe that establishing the political role of the ministers by the decrees of the head of state is an important but, nevertheless, a formal act. Public political responsibility is established, above all, through the mechanism of appointment to the post. Ministers will truly become political figures only when a political party (the parlia-

mentary majority) recommends them to the Government and bears responsibility for the results of their activities before the voters (and for the results of the Government's actions, in general).

The above-mentioned decrees of the head of state also forbade equal status of any post within the bodies of the executive branch with the post of minister. Unfortunately, the factor of consistency was missing here as well: by April, 2000, the head of the State Tax Inspection (ex officio) was given equal status to that of a minister⁹⁷.

In pursuance of the decrees of the President of Ukraine, measures were taken to reorganise the work of the Government and its apparatus. A Resolution of the Cabinet of Ministers⁹⁸ created four Government committees. From now on, all Government draft acts are reviewed at their meetings, and afterwards submitted to Cabinet of Ministers' meetings. Government committees are the working bodies of the Cabinet of Ministers. The principal task of the committees is the formation and implementation



of state policy in a certain sphere according to the strategy defined by the Government, as well as approving the Government's draft acts.

As "*The scheme for approving Government decisions*" shows, the procedure of preparing and passing documents approved at Government meetings was changed. Earlier, Government draft acts, agreed to with the concerned ministries (the drafts were normally initialised by deputy ministers), were further coordinated with the relevant subdivisions of the *apparatus* of the Cabinet of Ministers; after this, the document was initialised by the correspon-

⁹³ Decrees of the President of Ukraine No.1572 of December 15, 1999 "On the System of the Bodies of the Executive Branch", No.1573 "On Changes in the Structure of the Central Bodies of the Executive Branch", No.1574 "On the Composition of the Cabinet of Ministers of Ukraine".

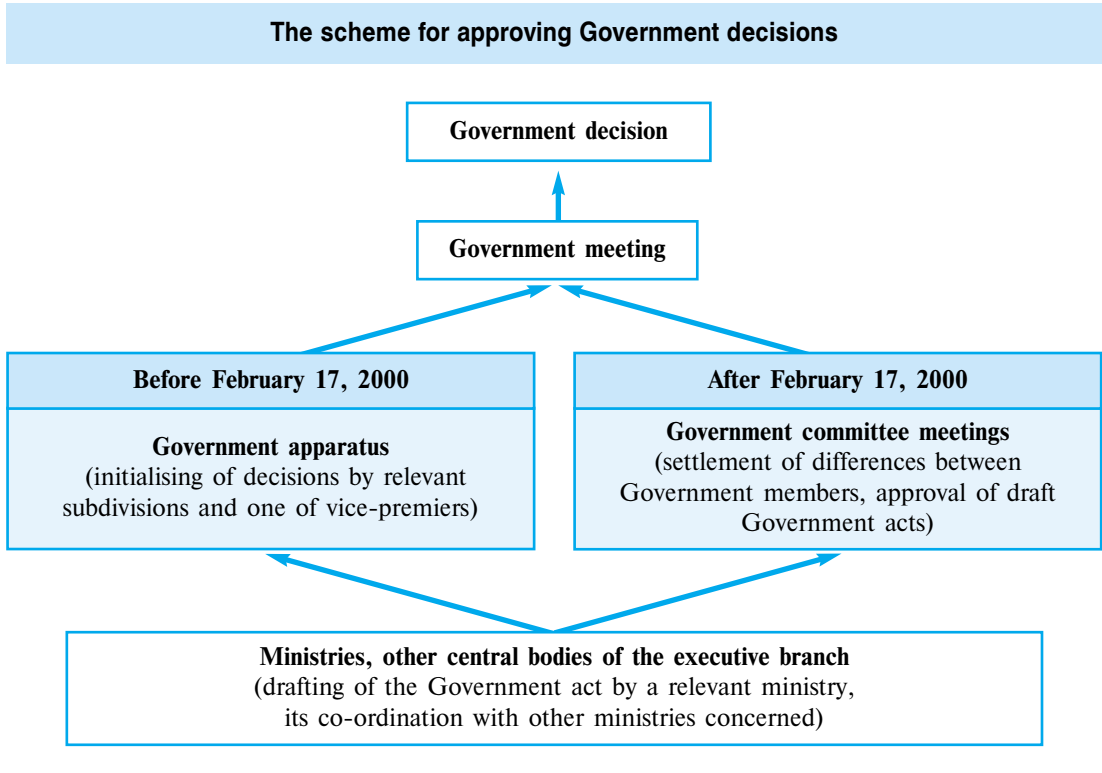
⁹⁴ Earlier, the Government also included the heads of state committees and other bodies of the executive branch. At various times, the number of Government members reached 40-60 people, which decreased the effectiveness of the work of the Cabinet of Ministers.

⁹⁵ Decree of the President of Ukraine No.208 of February 11, 2000 "On Raising the Effectiveness of the Public Service System".

⁹⁶ The legal status of ministries, state committees, and other central bodies of the executive branch possessing special status has been defined with this goal in mind, as well as the leading role of the ministries as the principal bodies ensuring the implementation of the state policy.

⁹⁷ Decree of the President of Ukraine No.605 of April 20, 2000 "On Introducing Amendments to Certain Decrees of the President of Ukraine".

⁹⁸ Resolution of the Cabinet of Ministers of Ukraine No.339 of February 17, 2000 "On Government Committees".



ding vice premier, and then submitted at a Government meeting. Now, a Government committee reviews a Government draft act with the participation of the *ministers*, and takes an agreed decision. If the issue is worked out, agreed to, and does not have a great significance, then it is approved by the Prime Minister; in other instances, the Government has the final word.

It is worth noting that only Government members comprise the structure of the Government committees, while the latter are headed by the concerned vice prime ministers. Therefore, the role played by the *ministers* in the formation of state policy has been increased, while the influence of the *apparatus* over the approval of decisions decreased, which is a positive factor. On

the other hand, the creation of the Government committees increased the load placed on the ministers. In particular, this concerns the Minister of Finance I.Mitiukov, and the Minister of Economy S.Tihipko, who are members of every Government committee (Table “Composition of Government committees”); the ministers' limited time budget is not used very effectively. **In the view of UCEPS experts, it is worth granting Government committees the right to make final decisions on separate issues, and not just prepare draft acts for Government meetings — this is a prospective path toward de-concentration of governance.**

The fact the ministers of foreign affairs, defence and internal affairs, unlike other ministers, are not part of any Government committee

Composition of Government committees

Government committee for economic development	Government committee for social and humanitarian development	Government committee for reforming the fuel-energy complex	Government committee for reforming the agricultural sector and on environmental issues
Yu.Yekhanurov	M.Zhulynskiy	Yu.Tymoshenko	M.Hladiy
L.Kostiuchenko	V.Kremen	I.Mitiukov	V.Durdynets
I.Mitiukov	I.Mitiukov	S.Tihipko	I.Kyrylenko
S.Tihipko	V.Moskalenko	S.Tulub	I.Mitiukov
	I.Sakhan		S.Tihipko
	B.Stupka		I.Zayets
	S.Tihipko		



draws one's attention. Once more, this confirms the thesis regarding the "special status" of the indicated ministers in their relations with the President of Ukraine and the Prime Minister.

According to Government Secretary V.Lysytskiy, as a result of the reorganisation of the Government and its apparatus, it was possible to reduce the turnover of documents by 35%, "to free Government political figures from involvement in matters that were not theirs, and raise the effectiveness of the work of the Cabinet of Ministers"⁹⁹.

The next important step involved the reorganisation of the structure of the Secretariat of the Cabinet of Ministers. Its principal tasks were defined as ensuring the organisational, expert-analytical, legal, information, material-technical, and other support for the Government¹⁰⁰. The creation of branch divisions has been prohibited, which will make it possible for the Secretariat to avoid duplicating the functions of various ministries, and reduce the number of apparatus personnel. However, the provisions of the Decree of the President of Ukraine prohibiting the creation of a branch structure of the Secretariat of the Cabinet of Ministers were not fully implemented: for example, as indicated earlier, the Department of Expertise and Analysis of the Agro-industrial Complex operates within the Secretariat.

The post of Government Secretary was introduced, who heads the Secretariat, is not a member of the Cabinet of Ministers, and is not a political figure, but a public servant. This will provide continuity in the activities of the Government in the event of changes in the governing team.

The first step was taken towards defining a more rational structure for the bodies of the executive branch. The President of Ukraine assigned¹⁰¹ the Cabinet of Ministers and the heads of the central and local bodies of the executive branch with the task of studying the issues regarding the duplication of functions (by the bodies of the executive branch), both horizontally and vertically, to make a functional examination of their apparatuses, and on this basis, work out the organisational structures of the bodies of the executive branch¹⁰².

"Hotline" telephone communications between members of the Government and citizens were organised — a unique feedback that increases the transparency of Government activities. It is worth keeping in mind that practice of citizens appealing directly to ministers demonstrates the imperfect nature of the system of state power, and the impossibility of (or lack of interest in) solving issues on the local level. Unfortunately, reports on fulfilling assignments which were given as a result of communicating with Government officials on the telephone "hotline" were not made public. According to experts, it is more worthwhile taking such measures at the local level¹⁰³.

As far as public service reform is concerned, the results in this sphere are more modest. For purposes of co-ordinating policy in the sphere of public service, in February of 2000, a Co-ordination council on issues of public service was created¹⁰⁴. The results of its work are little known to the general public.

The Government's efforts regarding the improvement of public servants' remuneration did not produce the intended results. According to calculations of the Ministry of Finance, close to UAH 300 million of budget funds are needed to fulfil Government decision on increasing salaries and removing privileges¹⁰⁵. It is worth noting that the corresponding Government resolution had a contrary effect: the salaries of public servants did not increase, but actually decreased as a result of lowered premiums (from 33% to 25% of the basic salary), and the removal of separate bonuses to the basic salary. The issue of increasing the specific weight of basic salaries in the earnings of public servants is currently being examined.

Another Decree of the President of Ukraine¹⁰⁶ approved the Strategy of Reforming the System of Public Service in Ukraine. However, this did not result in any breakthroughs in this area. The reason is because the fundamentals of the public service reform were defined back in 1998 in a separate section of the Concept of Administrative Reform in Ukraine. The Strategy of Reforming the State Service duplicates by 80-90% the indicated section both in its text, and conceptually, as well.

⁹⁹ Administrative reform — this is, above all, a redistribution of powers. — *Uriadovyi Kuryer*, February 15, 2000, p.3. By the end of April, 2000, draft Regulations of the activities of Government committees were prepared, which are now being agreed to with the ministers.

¹⁰⁰ Decree of the President of Ukraine No.1574 of December 15, 1999 "On the Composition of the Cabinet of Ministers".

¹⁰¹ Decrees of the President of Ukraine No.207 of February 11, 2000 "On Improving the Activity of State Bodies, the Work of Public Servants, and Raising the Efficiency of the Use of State Funds", and No.208 of February 11, 2000 "On Raising the Effectiveness of the Public Service System".

¹⁰² Such tasks were assigned earlier, too. In 1999, a functional examination was undertaken in the ministries of economy and public health. Nevertheless, the leadership of the Ministry of Public Health did not respond in any way to the proposed re-distribution of functions (among other ministries) for purposes of removing their duplication.

¹⁰³ The practice of regular television reports on the fulfilment of people's requests to the head of the Vatutynskiy district state administration of Kyiv deserves attention.

¹⁰⁴ Decree of the President of Ukraine No.208 of February 11, 2000 "On Raising the Effectiveness of the Public Service System".

¹⁰⁵ *Interfax-Ukraine*, December 15, 1999.

¹⁰⁶ Decree of the President of Ukraine No.599 of April 14, 2000 "On the Strategy of Reforming the System of Public Service in Ukraine".

Measures with respect to increasing the responsibility of the state apparatus are currently being taken in the form of assignments. Again, an attempt is being made to introduce strict control over budget funds spending. All local bodies of the executive branch (including the apparatus of the Council of Ministers of the Autonomous Republic of the Crimea, regional, and Kyiv and Sevastopol city state administrations) were assigned to create structural subdivisions for controlling the fulfilment of the acts of the President of Ukraine, the documents of the central and local bodies of power, and undertake a review of the fulfilment of the acts of the President of Ukraine by July 1, 2000.

Changes to the Law "On Public Service" are being prepared, which are directed at increasing the criminal, administrative and disciplinary responsibility of public servants. The draft law also envisages the improvement of the classification of posts, and defining the legal status of the heads of the bodies of state power and local self-government.

On the legislative level¹⁰⁷, the bodies of state power were prohibited from creating extra-budgetary funds. Funds received for providing services to the population must be remitted into the state budget. If these provisions are fulfilled, this will reduce abuse in the budget sphere. The above measures are the first steps towards creating a system of viable control over the management of state property and increasing budget revenues.

With the goal of improving the management of state property, the Government is reviewing the



observance of provisions of the contracts made with managers of state enterprises (organisations), and agreements entered into with individuals authorised to manage state corporate rights. In the event that the provisions of a contract are not fulfilled, it is planned to resolve the issue of terminating the contracts and bringing charges against

the guilty parties. Introducing these measures will increase budget revenues.

The conducted analysis shows that after the development of the Concept of Administrative Reform in Ukraine, the momentum for conducting reform was lost. This was caused by political factors, in particular, by presidential elections. Administrative reform received a new impetus with three presidential decrees signed December 15, 1999. However, it is still too early to discuss tangible results in the fulfilment of the approved decisions.

2.2. MISTAKES MADE DURING THE ADMINISTRATIVE REFORM PROCESS

Unfortunately, it was not possible to avoid mistakes while conducting administrative reform. Approval of the presidential decrees namely in December of 1999 had a definite political resonance, but in general, the time chosen for the implementation of changes was not altogether auspicious (and not without pressure from Ukraine's influential foreign partners).

The logic of conducting administrative reform was also moved out of place: the liquidation and reorganisation of ministries, and other central bodies of the executive branch were conducted without prior determination of their functions; reduction in the number of public servants was directive-based, and not based on real needs in their numbers. Sufficient methodological and information support for administrative reform was not ensured.

The majority of dismissed employees were not offered realistic alternatives in the form of re-education, or re-qualification. The mechanisms of social adaptation were put to work only for the higher echelon of public servants.

An unbiased analysis of mistakes made and their account in the subsequent stages of administrative reform are the important preconditions for successful changes.

The time for conducting reform was not well-chosen

Implementation of the presidential decrees of December 15, 2000 was objectively complicated by a number of important factors.

It was namely during this period necessary to form a new Government staff. At the same time, structural and personal changes in all bodies of power were taking place: the Administration of the President of Ukraine, the apparatus of the Cabinet of Ministers, the leadership of the National Security and Defence Council of Ukraine and its staff. A sharp parliamentary crisis (at the beginning of 2000) did not encourage legislative support for administrative reform.

¹⁰⁷ Law "On Sources of Financing the Bodies of State Power", approved June 30, 1999.



Furthermore, the new Government simultaneously needed to solve problems that could not be put off — approval of the Government's Programme of action and the budget-2000, the uninterrupted supply of energy during the winter period, the restructuring of external debt, etc. Solving these important problems did not give the Government a chance to solve the problems of administrative reform *on a priority basis*.

The logic of conducting administrative reform was distorted

The liquidation and reorganisation of the central bodies of the executive branch were conducted prior to the final determination and distribution (re-distribution) of their functions — this can lead to further repeated changes in the structure of the executive branch, decreasing the effectiveness of its work, and additional budget expenditures. Characteristic examples of insufficiently grounded decisions are presented below.

After the reorganisation of the Ministry of Economy (at the beginning of 2000), it turned into an overly complex entity, overweighed with functions and poorly directed, on top of being divided territorially. The status of the Ministry of Industrial Policy has been lowered to the level of state committee, which is hardly well-grounded if one considers that the enterprises of 34 industrial branches "close around" this organ, including the military-industrial complex.

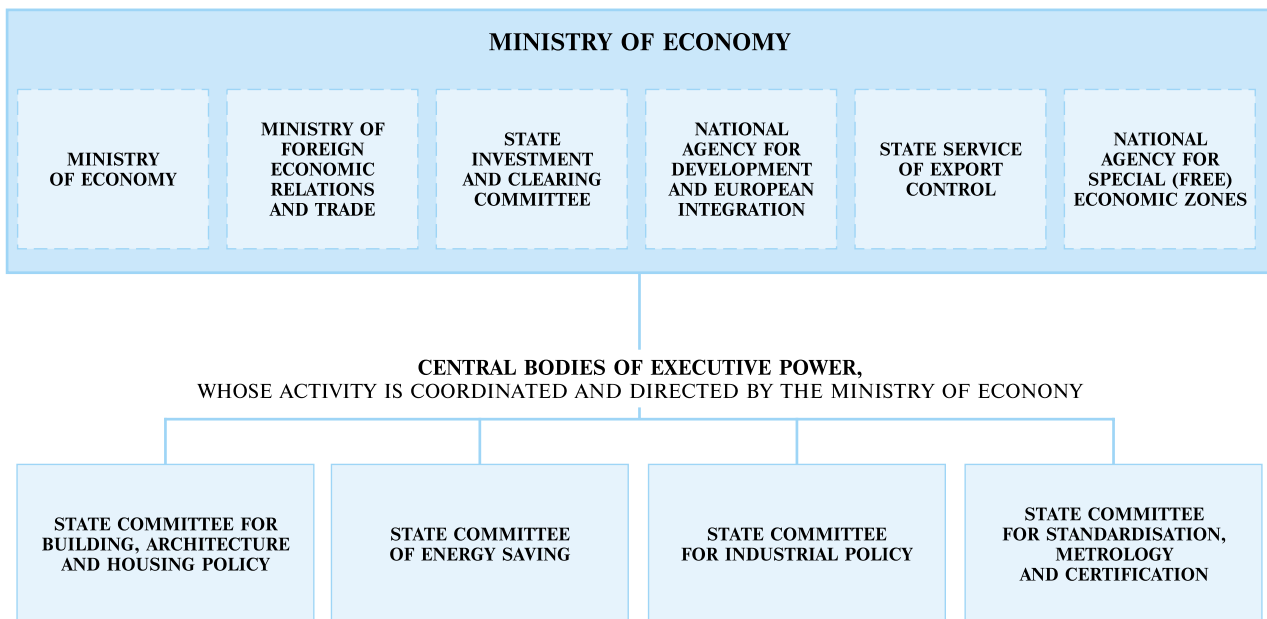
Strict limitation of the number of posts of deputy ministers to only four also cannot be

viewed as a well-grounded decision. For example, the apparatus of the Ministry of Economy counts 1250 employees, and if territorial bodies are taken into account — 2486; the Ministry took upon itself the functions of as many as five liquidated structures, and now directs and co-ordinates the work of four more state committees (see scheme). Nevertheless, the Minister of Economy is allowed to have only four deputies. For comparison: the Minister of Environment and Natural Resources (the apparatus employs 420 individuals) also has four deputies. **UCEPS experts believe that the number of minister deputies needs to be established dependant on the functions fulfilled by the bodies of power and the number of apparatus employees¹⁰⁸.**

The Ministry of Fuel and Energy was formed, whose area of responsibility covers all branches of the fuel and energy complex¹⁰⁹. However, the activity of the State Committee of Energy Saving is directed and co-ordinated not through the Ministry of Fuel and Energy, for some reason, but through the Ministry of Economy, which is hardly a favourable development.

Government bodies of administration (separate departments within the structure of the ministries) were also formed long before the review and approval of regulations of the corresponding ministries — this can lead to both the non-fulfilment of some functions, and to their duplication.

The creation of separate departments within the ministries with the status of legal entities is complicating the system of state governance,



¹⁰⁸ These problems are looked at in greater detail in the article by V.Olshevskiy "Administrative Reform: Defence Aspects". The article can be found in this issue of the magazine.

¹⁰⁹ This kind of reorganisation was proposed by experts as far back as five years ago.

decreasing personal responsibility, and involves the creation of unnecessary managerial bodies and posts. Within the structure of the Ministry of Fuel and Energy, four independent state departments have already been added with the status of legal entity. As President L.Kuchma said, "this kind of logic for the implementation of administrative reform is completely incomprehensible to me"¹¹⁰.

Distorting the logic of conducting reform can lead to repeat structural rebuilding of the bodies of the executive branch, and losses of time and budget funds. This creates good preconditions for establishing additional bodies of power, duplication (or non-fulfilment) of separate functions.

Reducing the number of personnel in the apparatus was conducted by directive, and not based on the need to fulfil definite functions

The President of Ukraine demands¹¹¹ that decreases in budget expenditures of no less than 40% for supporting the bodies of the executive branch take place throughout 2000, and that the number of employees working in the apparatus be decreased by 30%. However, already in the first stage of reduction, the Government approved a decision¹¹² on increasing the number of employees in the central bodies of the executive branch and their territorial bodies by 2800 persons. In explaining such an unexpected action, First Vice Prime Minister Yu.Yekhanurov stated: "When we were preparing the resolution on decreases, then with regard to some ministries and agencies, we overdid it, and now we are taking corrective measures"¹¹³.



UCEPS experts are convinced that such "corrective measures" will not be possible to avoid in the future either, unless the approach itself to the reform process is changed. The number of employees cannot be decreased proportionally in all the bodies of power. The issue needs to be resolved differently: the apparatus in separate ministries definitely needs to be made smaller, while in others, it is necessary to increase the number of employees; some structures are worth completely liquidating. The ungrounded decrease in the number of apparatus employees can lead to the following negative consequences:

- ❖ substitution of the goals of reform, which goes far beyond the bounds of reducing the apparatus, and targets to increase the effectiveness of the actions of the authorities, transparency, prestige of the public service, etc.;
- ❖ decrease in the efficiency of state governance, since the optimal number of employees for the fulfilment of definite functions will not be ensured;
- ❖ decrease in the general level of professionalism and competence of the representatives of the executive branch;
- ❖ creating the illusion of the easily achieved goals of reform.

Administrative reform has insufficient methodological and information support

As experience of structural changes shows, the Government was not able to work out basic methodological fundamentals of reforming the state apparatus. The absence of a common understanding of the tasks and mechanisms of conducting administrative reform (both among experts-practitioners and scholars alike) has also appeared at the stage of preparing UCEPS analytical report. Proposals regarding the formation of the programme "Scientific support of administrative reform in Ukraine"¹¹⁴ found no backing. Defining methodological background and a unified understanding of the goals and consequences of reform would increase positive results.

Conducting administrative reform should be accompanied by explaining its goals, tasks and results to Ukraine's citizens. Informing the pop-

¹¹⁰ UNIAN, April 19, 2000. The energy of the heads of liquidated bodies of power is often directed at the attempt to save their structures under different names. In particular, the head of the State Service for Export Control (being transferred to the sphere of administration of the Ministry of Economy) appealed to the President of Ukraine with a request that it be kept as an independent structure. A similar appeal was made by the directors of Ukraine's aviation plants regarding the State Aviation Administration.

¹¹¹ Decree of the President of Ukraine No.208 of February 11, 2000 "On the Improvement of the Activity of State Bodies, the Work of Public Servants, and Increasing the Effectiveness of Using Budget Funds".

¹¹² Resolutions of the Cabinet of Ministers No.471 of March 10, 2000 and No.557 of March 25, 2000.

¹¹³ Interfax-Ukraine, March 15, 2000.

¹¹⁴ Decree of the President of Ukraine No.1284 of November 20, 1998 "On Priority Measures for Conducting Administrative Reform".



ulation on the plans of the Government will increase the transparency of the process of approving important state decisions, and in the end result, will ensure general support of society for changes in the sphere of state governance.

Today, the population does not have a clear idea about the progress of reform and the activities of the authorities regarding the reform of the state apparatus. This was confirmed by the survey conducted by UCEPS between March 25-April 5, 2000: 48% of those polled have heard nothing about the contents of the presidential decrees regarding administrative reform; 44.4% of respondents have heard about these decrees, but are not familiar with their contents, while only 7.6% of citizens are familiar with the contents of these important documents.

The absence of an active information support for administrative reform decreases the population's trust towards the reform efforts of the authorities¹¹⁵.

Describing the goals and consequences of administrative reform is necessary for public servants as well. Unclear prospects (including their own) engender a subconscious fear in the minds of the officials, and do not encourage effective work and a result-oriented implementation of the necessary changes.

The mechanisms of social adaptation were introduced only for the higher echelon of public servants

The majority of dismissed officials were not offered realistic alternatives, such as re-

training (re-qualification). **For dismissed officials, the mechanisms of social adaptation, aimed at conducting reform with fewer losses for individuals, were not implemented to the fullest extent.** Care was shown only with respect to the higher echelon of officials. In this way, by a Government decision¹¹⁶ regarding former employees of its apparatus who were transferred to positions in other bodies of the executive branch, their salary, material, housing and medical services were retained on the level they had in their previous positions. Similar decisions were also approved regarding responsible employees who were transferred to other establishments from the apparatus of Ukraine's National Security and Defence Council. Unfortunately, the problems of lower level public servants were left beyond the Government's attention. **Now it is the time to take into account the mistakes that were committed and create the necessary mechanisms of social support of the dismissed employees.**

This is important from the point of view that (in addition to the 17 thousand public servants who were already cut at the beginning of 2000) it is planned to cut up to 300 thousand budget employees¹¹⁷.

An unbiased analysis of previous attempts at conducting administrative reform in Ukraine will make it possible to avoid repeating mistakes in the subsequent stages of reforming the bodies of state governance.

CONCLUSIONS

For purposes of conducting administrative reform in Ukraine, a generally accepted basis exists — the Concept of Administrative Reform in Ukraine, which defines the basic measures of reforming state governance. After it is fully developed, the Concept can become the basis for further actions.

In the period from July, 1998 through December, 1999, insufficient attention was paid to reforming the state apparatus, which led to a loss of time and momentum in conducting reform. It was not possible to fully define the legal terms for the functioning of the executive branch. A complete and well co-ordinated legislative base which would ensure the fulfilment of administrative reform does not currently exist.

At the same time, many important measures in the direction of deregulating the activities of economic entities were taken by the President and Government of Ukraine with respect to simplifying the reporting system of small businesses, and their registration, and an attempt was

¹¹⁵ Such assessments can be found in the article by A.Bychenko "Administrative Reform: Sociological Survey of the Population". The article can be found in this issue of the magazine.

¹¹⁶ Resolution of the Cabinet of Ministers No.292 of February 12, 2000 "On the Material and Housing Support for the Employees of the Former Apparatus of the Cabinet of Ministers of Ukraine".

¹¹⁷ Interfax-Ukraine, March 1, 2000.



made to systematise the number of inspections. In essence, these were important steps directed at filling administrative reform with concrete, practical matters.

The political will of the President of Ukraine, demonstrated in December of 1999, gave administrative reform a new impetus. Important decisions were approved directed at the creation in Ukraine of a more effective executive branch: the constitutional status of the Cabinet of Ministers as a higher body within the executive branch was defined more fully and accurately; a new scheme of the organisation of the work of the ministries was implemented, along with other central bodies of the executive branch and the Government apparatus.

The role of the ministers was enhanced — from now on, they are responsible for the development and fulfilment of state policy within the corresponding spheres of their ministries. However, ministers will truly become political figures only when a political party (the parliamentary majority) recommends them to the Government and becomes responsible to the voters for the results of their activities (and for the results of the activities of the Government in general).

The creation of Government committees will reduce the influence of the apparatus and enhance the role of the ministers in the decision-making process. It is worth giving a Government committee the right to make final decisions on separate issues, and not only to prepare draft acts for Government meetings — this is a prospective path towards a de-concentration of control.

Tasks were assigned with respect to the organisation of the system of control of the implementation of presidential decisions, increasing the effectiveness of state property management, and the utilisation of budget funds. It is necessary to ensure control over their fulfilment.

At the stage of implementation of the Concept of Administrative Reform in Ukraine, it was not possible to avoid mistakes. The time chosen for conducting administrative reform was not altogether auspicious. Large organisational changes in the structures of power, and other important problems, did not give the Government the opportunity to resolve the issues of administrative reform on a priority basis.

The logic of conducting administrative reform was disturbed. The reorganisation of ministries is being conducted without first defining their functions. Reduction of number of public servants is being undertaken on a directive basis, without the requisite differentiation, which does not encourage the quality fulfilment of important state functions. This can lead to repeat reorganisations on which time and resources will be expended.

Insufficient attention is being paid to the methodological and information support of administrative reform. The population is little familiar with the actions of the authorities in this area. Organisational measures are being accepted suspiciously by the public servants as well, since they are insufficiently informed about the goals and consequences of reform.

The majority of dismissed public servants were left without social support. The Government gave the necessary attention only to higher level officials.

As of today, administrative reform is being conducted in the centre, and has not yet been transferred to the regional level. The time has come to approach resolving the problem of reforming the state apparatus in a more systemic way; to back the declarations and first practical steps with diligent, consistent, and well co-ordinated work of all the branches of power.

3. CONCLUSIONS AND PROPOSALS

Not those decisions which are better should be taken, but those which were taken earlier and did not cause negative results.

(Postulate of administrative optimum)

The system of the executive branch in Ukraine remains ineffective and incapable of overcoming the negative tendencies in the country. It corresponds neither to the needs of Ukraine's citizens, nor the level of tasks facing the country, nor contemporary administrative standards.

The time has come to take into account the mistakes which have been made, and approach reforming the state apparatus more systematically. The fulfilment of the declared goals requires the long-term, diligent, consistent, and co-ordinated efforts of all the branches of power.

Administrative reform has a strategically important significance. To a large extent, the economic, political, social, and military security of Ukraine depend on the results of administrative reform, inasmuch as, without authorities capable of action, reforms in other areas will not be successfully completed.

The process of conducting administrative reform should lead to increasing the wellbeing of the population, the effective protection of the rights and freedoms of the country's citizens, and ensuring the stable socio-economic, political and humanitarian development of Ukraine according to European standards. Renewed structures of power should ensure effective governance not only in the civil sphere, but in the military sphere as well, both during war and peacetime alike.

Based on the results of the analysis presented in preceding sections, the following **strategic goals of administrative reform** can be formulated:

- 1) raising the efficiency of the actions of authorities in order to keep up with the tasks faced by the state at present;
- 2) ensuring the transparency of taking decisions by the state, and personal responsibility for their fulfilment;
- 3) closing the gap between the state apparatus and the needs of ordinary citizens;
- 4) removing the causes which lead to bribery and corruption within the state apparatus;
- 5) raising the prestige of public service in Ukraine.

Strategic goals need to be detailed in the form of a concise list of the principal directions and concrete measures whose fulfilment would ensure the reform of the public administration of Ukraine.

This section presents proposals with respect to the possible directions for conducting administrative reform; concrete measures directed at achieving its five strategic goals; an evaluation of required resources is presented, as well as the necessary preconditions for successfully completing administrative reform. In our view, these proposals are worth taking into account at the stage of preparation of the working programme (plan)¹¹⁸ for implementing administrative reform.

¹¹⁸ Given internal political situation, it is probably not worth discussing the development of national programmes for conducting administrative reform — this kind of programme under today's conditions is difficult to prepare, and it is still more difficult getting it through Parliament. It is important that officials responsible for conducting reform have a concisely developed (and co-ordinated with the presidential team) working programme of actions for the current year, and for the immediate mid-term period (up to 2005).

3.1 PROPOSALS FOR RAISING THE EFFICIENCY OF THE ACTIONS OF AUTHORITIES IN ORDER TO KEEP UP WITH THE TASKS FACED BY THE STATE AT PRESENT

This subsection presents proposals with respect to increasing manageability of social processes, reforming the central bodies of the executive branch, the relations between the centre and the regions, implementing administrative-territorial reform, as well as legislative and organisational support for administrative reform.

Increasing manageability of social processes

UCEPS experts propose forming an integrated, multilevel system of strategic planning and forecasting in Ukraine. Appropriate subdivisions should act within each ministry (or central body of the executive branch), since without this, it is difficult to conceive the formation of a well thought-out state policy in any sphere. Up until now, the nature of the process of such subdivisions has not been systemic; during the directive-based reduction in the number of apparatus personnel, some of them were abolished altogether, which demonstrates the insufficient understanding of the importance of this problem.

The absence of coherent system of strategic planning in Ukraine makes it impossible to time-

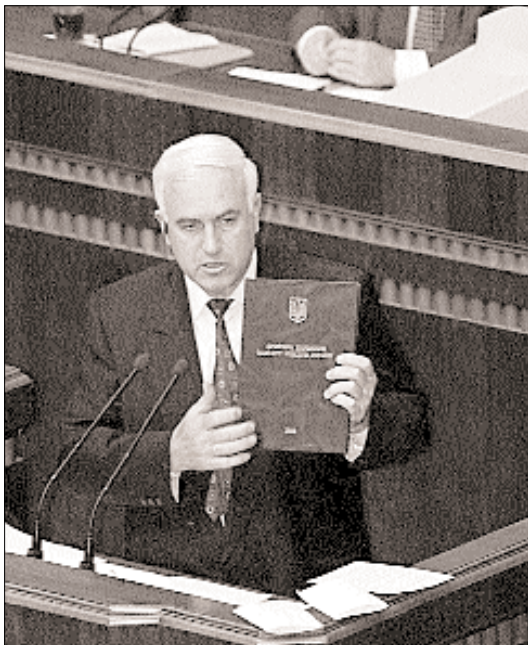
ly forecast the development of events in Ukraine, nor its surrounding environment, properly take into account (favourable and restrictive) factors that determine the result of approved political decisions, and undertake planning even for a mid-term period¹¹⁹. Any of the earlier developed programmes (Governmental — "Ukraine-2010", Parliamentary — "Ukraine-2015") was characterised by persuasive forecasts. As a rule, such documents contain a set of goals (slogans, declarations); however, they are insufficiently backed by fundamental analyses and calculations. So, plans simply remain plans, while manageability of socio-economic processes within the country continues to remain at a low level.

Proper attention should be paid to the methodological, information, and personnel support of the subdivisions of strategic planning and forecasting, as well as to the interagency co-ordination of their activities¹²⁰.

For purposes of increasing the quality of the preparation of important state decisions and control over their fulfilment, it is worth creating an information-analytical network — "The Administrative System of Ukraine". It would ensure the support of the database containing information on the activities of the executive bodies, provide operational monitoring of the results of concrete decisions implementation, and simultaneously give the bodies of the executive branch access to information networks.

The practice of state property management requires radical changes. The inspection of the execution of contracts by the heads of state enterprises and the effectiveness of state corporate rights management needs to be completed. The next step should involve the review of contracts and the establishment of criteria of effective management of enterprises. UCEPS experts believe that these criteria should include: the amount of profit received; the rate of growth in labour productivity; timely wage payments to workers; the growth in real wages, etc. It is worth envisaging property liability in the event that contract conditions are not fulfilled.

As Section 1 already pointed out, 80% of all enterprises where the state holds some shares to date do not have a trustee appointed to manage state corporate rights. Such appointment should be made within a tight time framework, and be done only on a competitive and transparent basis. The trustee appointed to manage state cor-



¹¹⁹ For purposes of supporting such a conclusion, we present examples from the two previous years. In 1998, no Government structure of Ukraine was able to forecast the "collapse" in neighbouring Russia, as a result of which the country suffered significant economic losses. In 1999, Ukraine's foreign trade turnover decreased by 14.2%, although the Ministry of Foreign Economic Relations and Trade forecasted an increase for this indicator by 3% (!).

¹²⁰ The first steps for improving the situation have already been made: on March 23, 2000, the President of Ukraine signed the Law "On State Forecasting and Development of a Programme of Economic and Social Development of Ukraine"; on May 7, 2000, the Government approved Resolution No.777, according to which the Government Commission on Issues of Reforming the Information and Analytical Support of the Activities of the Executive Branch bodies was created. The Commission is headed by the Government Secretary V.Lysytskiy.



porate rights should provide the necessary levers of influence on the distribution of enterprise profits. The fulfilment of the obligations of investors who took part in the privatisation of state enterprises should also be examined. If necessary, a decision should be taken to break off co-operation with bad-will partners.

Proposals regarding the reform of the central bodies of the executive branch

The system of the central bodies of the executive branch needs further improvement in the following directions: the rationalisation of the structure; the de-concentration of authorised powers; the transfer of the functions from the Government to the level of Government committees and separate ministries; the removal of duplicating functions. Conducting an "inventory" of functions will make it possible to distribute them more rationally, with the result that the system of governance is simplified, the apparatus' staff reduced, and budget funds are saved.

The newly created Government committees should be given the right not only to prepare draft acts for Government meetings, but also approve final decisions on separate issues, so that they could give the expected positive results, rather than being seen only as an additional burden on members of the Government.

Being burdened with issues of secondary priority lowers the effectiveness of the work of the executive structures. That's why at all points of the executive vertical hierarchy, starting with the Government, it is necessary to go through with the de-concentration of authorised powers; that is, their **transfer to the lowest decision-making level possible**. For example, it is inexpedient burdening the Government with solving issues regarding the transfer of property (whose value is at times not more than several thousand Hryvnias), approving numer-



ous organising committees for celebrating anniversaries of structures (organisations), etc. These decisions should be taken at the ministry level, their structural subdivisions, and local bodies of power.

The technology of preparing Government documents needs to be changed. Documents of a political nature should be prioritised (resolutions, concepts), where ministers make their "political orders", which are then later fulfilled by officials, as it is offered by O.Paskhaver. Otherwise, a minister-politician becomes the "hostage" of a document worked out by the apparatus.

UCEPS experts propose a gradual transfer to a scheme where a vice prime minister simultaneously heads a corresponding ministry — this would lead to the removal of conflicts between the vice prime ministers and respective ministers, and will increase the speed of decision-making. For example, the vice prime minister for the Fuel and Energy Complex could head the Ministry of Fuel and Energy; the vice prime minister for the Agro-industrial Complex — the Ministry of Agricultural Policy; the vice prime minister for economic reform issues¹²¹ — the Ministry of Economy (or the Ministry of Finance); the vice prime minister for social and humanitarian policy — the Ministry of Education and Science (or the Ministry of Culture and Arts).

State bodies which are responsible for strategically important complexes (branches), including military-industrial complex, need to be strengthened. **UCEPS experts believe that it is worth reviewing decisions with respect to liquidating the Ministry of Industrial Policy** — the State Committee level does not correspond to the amount and importance of the tasks which should be solved by respective state body¹²².

It is also necessary to review decisions with respect to the subordination of the **State Committee of Energy Saving**. Clearly, its activity should be directed and co-ordinated by the Minister of Fuel and Energy, and not by the Minister of Economy (as it is the case today).

The proposal regarding the creation of the **Ministry of European Integration**¹²³ deserves attention — aside from the need to complete important assignments whose volumes will grow, this decision would be another confirmation of the seriousness of the Ukraine's intentions to become an EU member in the future.

Inasmuch as from now on the ministers are responsible for the working out and implementa-

¹²¹ If such an area of responsibility of the vice prime minister is established.

¹²² If the liquidation (reorganisation) of the central bodies is conducted prior to the final definition and distribution (re-distribution) of their functions, this leads to further repeat changes within the structure of the bodies of the executive branch, a decrease in the effectiveness of their work, and additional budget expenditures. Serious reform of the ministries prior to the approval of at least the concept of the development of the relevant sphere seems premature — this can lead to repeat organisational measures, including those of a contradictory nature.

¹²³ On the basis of respective subdivisions of the ministries of foreign affairs, economy, and other bodies.

tion of state policy in respective area of responsibility, minister's posts should be filled exclusively by civilians. The same refers to the posts of the ministers of defence and internal affairs — a general cannot be a politician in a democratic and lawful country whose building was proclaimed by Ukraine. Furthermore, the fate of a military man who has entered the service for 25-30 years should not depend on factors of a political nature (dismissal of the Prime Minister, the non-approval of a Government's Programme by Parliament, a new re-distribution of political powers after parliamentary elections, etc.) — this important aspect of the social protection of military men and their families is a guarantee of their devoted service for the interests of the state.

It is necessary to continue work for delimiting the functions and areas of responsibility of the Ministry of Defence and the General Staff. The Ministry of Defence should be assigned the task of the development and implementation of state defence policy (the political and administrative functions of governance); and the General Staff — the functions of strategic and operational planning for the use of the Armed Forces.

Prepared decisions regarding separate directions of administrative reform should undergo a prior expert evaluation, taking into account defence requirements. This will make it possible to more effectively use the infrastructure and



limited material-technical and natural resources under extreme circumstances for the sustaining of the population and military formations¹²⁴.

The reform of the Secretariat of the Government should be completed as soon as

possible, and effective interaction between ministries should be established. The work of the Secretariat should be focused on the support of the activities of Government committees — this will ease the burden on members of the Government. It is worth liquidating branch division within the structure of the Secretariat (on issues of the agro-industrial complex).

It is necessary to amend the Decree of the President of Ukraine, which envisages the possibility of creating Government bodies of administration. The formation of such bodies leads to the creation of additional structures, and complicates the scheme of interaction.

The bodies of the executive branch should fulfil their functions effectively — this goal should be kept in mind, when determining their organisational structure, as well as the number of staff, and the amounts of financing. There should be no directive reducing in the number of personnel in the bodies of power. Ungrounded reduction in the apparatus of ministries and agencies does not lead to a stable system of governance. Attempts to save money by way of decreasing the number of key structures will have an opposite effect, and will cause damages that are greater than the expected economy of budgetary expenditures for supporting the apparatus.

The unification of the structures of various ministries cannot be the goal in itself; it is necessary to determine their structure (including the number of deputies, subdivisions) based on the scope of tasks and the number of staff of ministry apparatuses.

State bodies that co-ordinate interagency activities in the national security and defence spheres need to be strengthened. A significant reduction in the number of staff within the Apparatus of Ukraine's National Security and Defence Council¹²⁵, and decision with respect to the territorial (political?) distancing of this structure previously located on the Bankova Street away from presidential, governmental and parliamentary structures gives cause for concern. The lowering of the effectiveness of the Apparatus cannot but influence the quality of the work of only constitutional (!) body of interagency co-ordination — the National Security and Defence Council of Ukraine.

Reforming the relations between the centre and the regions

The state needs a qualitatively new regional policy which envisages: a clear distribution of powers between the central and local bodies of

¹²⁴ A more detailed examination of these issues is given in the article by V.Olshevsky "Administrative Reform: Defence Aspects". The article is published in this issue of the magazine.

¹²⁵ In January 2000, the number of staff in the Apparatus of Ukraine's NSDC was decreased by more than 30%. During reorganisation, the Analytical Service was liquidated, along with the Directorate of Information Security, the Directorate of the Socio-political Aspects of National Security. These subdivisions monitored threats to Ukraine's national security; forecasted the development of the situation in Ukraine and Ukraine's surrounding environment; evaluated the possible consequences of implementing important Government decisions.



power; strengthening of the role of the regional bodies of power, a broadening of their authorised powers and responsibilities; the participation of local bodies of power in the process of approving state decisions; the harmonisation of the development of the regions; ensuring the minimal social standards of living of the population.

For purposes of developing and implementing regional policy, **UCEPS experts believe that it is worth creating the Ministry of Regional Policy.** At the same time, as we have already proposed, it is necessary to create a Council of International Regional Co-operation under the aegis of the above-indicated ministry and the Ministry of Foreign Affairs, comprised of the heads of regional state administrations, and representatives of other central bodies of the executive branch. The Council should co-ordinate external economic contacts of the regions. It is necessary to work out the Concept of the State Regional Policy with the participation of the regions.

The levers of influence of the Government on regional personnel policy should be strengthened. The Government should participate in the approval of decisions with respect to the dismissal of the heads of regional state administrations from their posts (initiate the proposal for their dismissal). A clear system of responsibility within the executive vertical hierarchy should be established.



The transfer of functions from the centre to the regions should be undertaken through the appropriate re-distribution of the amounts of budget financing. Even now, the performance by the local bodies of power of their functions is not backed by the necessary resources. It should be fixed that local budgets are formed mainly at the expense of their own tax base. Three to five years of stable deductions into their budgets from national taxes and duties are needed for this purpose. The distribution of funds between regional and territorial communities (town, village, etc.) should be done on

the basis of holding to the norms of minimal budgetary protection and the minimal social standards.

One of the organisational measures proposed by UCEPS experts is **conducting a state-legislative experiment with the goal of defining a rational division of functions between the centre and regions.** It is necessary to sign a decree of the President of Ukraine with respect to conducting the state-legislative experiment which envisages delegating functions (powers) of state governance to one or two typical regions in Ukraine. Then, based on the results of the experiment, a model for the division of functions between the centre and regions should be worked out.

It is necessary to increase the role of local bodies of power in ensuring the rational development of the territories, and their responsibility, taking into consideration defence needs. At the state level, it is necessary to co-ordinate defence and administrative-economic approaches to zoning of the territory, and planning their development and utilisation for economic and defence activities. Planning the development and utilisation of the regional resource base should also be co-ordinated with the General Staff.

Administrative-territorial reform

Its goal is the establishment of a rational administrative-territorial system in Ukraine. According to UCEPS experts, it is necessary to approach these issues very cautiously and take into account the following factors. **First**, even at present, signs of economic separatism of region-donors exist; consolidation (uniting) of regions can provoke political separatism. **Second**, conducting a large-scale reorganisation of the administrative-territorial system in its first stage can lead to a deterioration of the quality of state governance, since the latter is connected to the re-division of authorised powers, the liquidation of separate structures, etc. **Third**, according to expert assessments, the qualifications and competence of public servants at the regional level is significantly lower than within the central apparatus. Increasing the scope of the tasks, which are to be resolved in the regions, should be accompanied with creating of a system of preparing administrative staff for work within the local bodies of the executive branch. Given these factors, **UCEPS experts believe that administrative-territorial reform in Ukraine is worth beginning not earlier than in 2003, having carefully prepared for its undertaking.**

Legislative support of administrative reform

Along with implementation of the presidential decrees and the decisions of the Government, another important issue is the legislative regulation of the executive vertical hierarchy. It

is necessary to prepare a detailed list of legislative acts which should be approved¹²⁶, define priorities, and co-ordinate the periods for their approval with the parliamentary agenda.

At the present stage of administrative reform, it is important to adopt the Law "On the Cabinet of Ministers". The absence of this fundamental Law makes it impossible to clearly define the authorised powers of the Government and the list of issues that it should decide on. Only after the approval of the Law "On the Cabinet of Ministers" can the delegation of Government powers to other bodies be discussed.

Within the context of a more rational division of the functions and powers in the system of state governance, **it is worth reviewing the possibility of introducing changes to the Constitution of**



Ukraine. We believe that it is worth envisaging the procedure of dismissing ministers, with the consent of the Prime Minister. It is also worth fixing in the Basic Law the principle of the formation of the Government by the Verkhovna Rada. Under these conditions, the motive behind dismissing Parliament would not simply be the inability of the deputies to form a majority (this is not difficult to ensure on paper), but a more concrete and important indicator — the inability of Parliament to form a Government.

The strengthening of the political role of a minister should also be ensured through an appropriate mechanism of his appointment. A minister will become a political figure only when a political party (parliamentary majority) recommends him to the Government and is responsible to the voters for the results of his activities and, in general, for the activities of the Government.

It is necessary to legislatively define the rela-

tions between the Government and the Administration of the President of Ukraine, in particular, that officials within the presidential administration don't have the right to give assignment to members of the Government. It is worth rejecting the practice when separate bodies of the executive branch are directly subordinated to the head of state — all bodies of the state executive branch should be subordinated to the Government.

Proposals of an organisational character

UCEPS experts believe it is expedient that the President of Ukraine appoints a Commissioner on issues of administrative reform. His main duties would be to plan and fulfil reform objectives. It is necessary to create the appropriate apparatus in order to ensure the activity of this Commissioner.

The Commissioner on issues of administrative reform appointed by the President of Ukraine, together with the Government and the local bodies of the executive branch, could perform the following functions: (1) define the directions and the principles of reform; (2) make "inventory" of functions which are fulfilled by the bodies of state executive branch, introduce propositions regarding their rational distribution; (3) define intermediate stages for conducting reform, and the list of appropriate measures; (4) define the volumes of organisational, material, and financial resources needed for conducting reform. It is worth integrating practical actions for administrative reform into the apparatus of the Commissioner. The activity of the State Commission for Administrative Reform should be focused on discussing the directions and separate important measures of reform; its powers should be used for broad public discussion and information support of administrative reform, enrolment of leading scientists and experts into the process.

3.2 PROPOSALS FOR ENSURING THE TRANSPARENCY OF TAKING DECISIONS BY THE STATE, AND PERSONAL RESPONSIBILITY FOR THEIR FULFILMENT

Ensuring the transparency in the preparation and approval of state decisions is possible only under conditions that fully-fledged institutions of civil society are formed, in particular, independent mass media; network of non-governmental analytical centres; and influential political parties that participate in the formation of the bodies of power, and bear public responsibility for their activities.

Bringing the preparation and adoption of decisions from the bureaucratic field into public politics, and the creation of a clear (and understandable for the population) system of the bodies of the executive

¹²⁶ Respective proposals have been worked out by UCEPS experts.



branch will lead to its transparency and responsibility.

UCEPS experts propose disseminating the practice of discussing drafts of presidential decrees, draft laws and Government acts, and the decisions of local administrations. It is necessary to make the texts of drafts of such acts and decisions public in both the central and local press, and to practice discussing planned state decisions on the radio and television. This will increase the level at which the public is informed about the possible decisions of the authorities.

Citizen councils should be created under the aegis of local state administrations; the actual problems of regional development and the means for their resolution should be discussed at their meetings. Representatives of political parties, citizens' organisations, scholars, businessmen, and mass media representatives can comprise Citizen councils — this will broaden the participation of the public in the state decision-making process¹²⁷.

It is necessary to spread the practice of the organisation of "telephone hotlines" in the regional and district state administrations, and publish reports on the fulfilment of measures applied based on citizens' appeals in the local press (similar reports on the deeds of the Government should be published in the newspaper "Uriadovyi Kuryer").

The global processes of informatisation of society require new technologies. It is necessary to **create WEB-sites within all central bodies of the executive branch and regional state administrations.** The WEB-sites should contain information on the structure, composition, and principal kinds of activity of the bodies of power, the "telephone hotline" number that can be referred to for assistance, texts of normative acts approved by the establishment, urgent information, important notices, document forms, etc. Obviously, nowadays the majority of Ukraine's citizens has no access to Internet. However, the creation of such WEB-sites will make it possible for mass media (who have similar technology at their disposal) to inform citizens about the activities of the bodies of power more completely and promptly.

Increasing the responsibility of public servants will be encouraged by the delimitation of political, patronage, and administrative posts. For the latter, it is worth establishing limits regarding their

participation in political activities, since this kind of activity (especially during elections) does not allow state bodies to work effectively, and often leads to violations of the law and abuses. The indicated limits will also increase the protection of the public servants themselves (from their division based on their party membership).

3.3 PROPOSALS FOR CLOSING THE GAP BETWEEN THE STATE APPARATUS AND THE NEEDS OF ORDINARY CITIZENS

It is necessary to change the executive branch in Ukraine from an authoritative-repressive mechanism into an organisation controlled by society, and create an effective system of state governance on this basis, which would offer citizens quality services. Human rights and freedoms should be protected regardless of the place of residence; the state should also guarantee that the population enjoys at least the minimum social standards.

Defining the list of administrative services that the state offers to citizens will lead to bringing the state apparatus closer to the needs of an ordinary citizen¹²⁸. The system of services should be convenient for the citizens. The number of certificates, payment for services and expenditures of time spent should be brought to a minimum level for the public.

If the state establishes additional requirements that apply to all citizens, then the service should be offered by the state bodies free of charge. In other instances, services should be paid



¹²⁷ Similar councils of businessmen, scholars and citizens already exist under the aegis of the President and Government of Ukraine.

¹²⁸ Increasing the quality of administrative services would allow for the creation of a system of administrative justice. However, at present there are no favourable preconditions for its implementation: the Civil Code, the Administrative Code and the Code of Administrative Practice, as well as the Law "On Judicature" have not been approved; issues regarding personnel and financial support have not been resolved either. In the first stage in the regional courts, it is worth envisaging the specialisation of the judges in administrative matters; create boards of administrative affairs in the regional courts and the Supreme Court.

for. **It is worth transferring the rights to offer such services to private firms (organisations) on a competitive basis.** In fact, such a system already exists¹²⁹; it is necessary to regulate its activity.

The state overly numerous permits and regulatory authorisations should be cancelled. Limiting the state interference in the activity of economic entities will lead to an increase in production, and the creation of additional jobs. The principal directions of deregulating economic activity could possibly be the ones listed below.

❖ **Continue the work with respect to simplifying the system of business registration.** A future businessman should not have to visit ten different places — the registration of economic entities should begin and end "in one cabinet". It is desired that conditions are created whereby it would be sufficient for a citizen to submit (send by mail) the documents indicated by the law, and receive a certificate of registration over a period of no more than two weeks. The activities of various development funds under regional state administrations, to which people are often made to contribute "additional fees" for registration, need to be stopped.

❖ **Unify tax legislation, ensure its stability.** Instead of hundreds of normative-regulatory acts, it is necessary to approve a single, comprehensive Tax Code which contains a straightforward procedure for paying taxes. In the event that changes are introduced to the tax legislation, their contents should be published in mass media not less than



two months in advance, along with the new forms of documents, certificates, etc. The payment of taxes should be regulated by laws, and not by departmental instructions, letters, and the like.

❖ **Introduce a uniform document for the right to engage in a separate type of business activity** (a license, or patent); decrease and unify payments for its receipt; clearly define the procedure for its revocation. Limit the number of types of business activity which is subject to licensing (patenting).

❖ **Limit the number of controlling bodies and their inspections.** According to experts, conducting a single planned inspection per year is sufficient to determine the extent to which a business abides by the tax law.

❖ **Forever reject the practice whereby state bodies obtain additional financing from penalties and deductions that they impose.** This artificially stimulates increasing the number of sanctions, which are at times completely unjustified. Fiscal bodies should be financed only out of the budget; all additionally acquired funds should be deposited in the State Treasury.

❖ **Envisage the criminal responsibility of officials (including employees of the State Tax Administration) for illegal interference in business activity, and establish material sanctions for damages suffered by business**¹³⁰. Material damages caused by illegal decisions (acts, or omissions of individuals in office when performing their official duties) should be paid for by the state. The state, in its turn, should have the right of recourse (remedy) with respect to such an official or body of the executive branch which caused the damages, in the amount and according to the procedure defined by legislation.

The regulatory role of the state in the spheres of social protection, education, work and healthcare should be increased, while the significant disproportion in the development of the regions should be removed. The first step should lie in determining minimum social standards that the state guarantees for all levels of society, regardless of place of residence.

For example, in the area of labour remuneration, the Government (with the participation of trade unions and employers) should determine the minimum hourly wage. The state should also guarantee the right of citizens to timely receive their earned wages. **Criminal and material responsibility should be established for wage arrears**, which has already been discussed earlier.

¹²⁹ Travel agencies assist in the preparation of international passports; consulting agencies under regional state administrations assist in the registration of businesses; private structures complete the preparation of customs documents, etc.

¹³⁰ Work in this direction has already begun by the Ukrainian Association of Businessmen and Producers together with the State Tax Administration. See: UNIAN, May 12, 2000.



State bodies need to push their activities in the direction of solving the unemployment problem. In the regions, it is necessary to work out the **programmes of public (seasonal) jobs**¹³¹.

3.4 PROPOSALS FOR REMOVING THE CAUSES WHICH LEAD TO BRIBERY AND CORRUPTION WITHIN THE STATE APPARATUS

Corruption is a threat to the national security and social order in Ukraine. It influences the formation and activity of institutions of power, undermines citizens' trust in the authorities, and complicates Ukraine's relations with foreign partners.

The political will of the higher state leadership, and the openness of the authorities are obligatory and principal conditions for counteracting corruption; their absence makes such counteraction worthless. The fight against corruption and bribery is related to the resolution of the following principal tasks:

- ❖ reducing the number of so-called "bribe-tempting" functions of state governance (the issuance of permits, licenses, certificates, etc.);
- ❖ a precise legislative definition of the procedure for approving administrative decisions;
- ❖ ensuring the transparency of decision-making by competitions, tenders, and the like;
- ❖ increasing criminal responsibility for corrupt activities. It is worth applying the following measures for accomplishing these tasks.

On the legislative level, it is necessary to approve the **Code of Conduct of Public Servants**, which should contain a system of principles and values of public service, and models of conduct for the public servant in specific situations. The Code should contain, in particular, recommendations regarding the correct actions of an official in the event that material interests arise, attempts to bribe him are made, etc. It is worth appointing an official within the state bodies responsible for ethical issues regarding public servants.

It is necessary to legally define and create a transparent procedure for granting credits under the guarantee of state bodies, and also for the use of budget funds, and attain the implementation of already approved laws.

Government guarantees regarding foreign credits received by enterprises (establishments, organisations) should be granted as an exception, and only if agreed to by Parliament. It is worth

introducing obligatory, public reports of the head of the Government on the effectiveness of using such credits (including from the parliamentary rostrum) with detailed information being made public through mass media.

Legislation should clearly define the conditions and limitations regarding planning expenditures from the Reserve fund of the Cabinet of Ministers, and introduce regular reports on the use of this money.

With respect to leaders guilty of **misuse of budget funds**, it is necessary (among other things) to apply fines in the amount of 5-10% of the sum of budget expenditures which were not used for the intended purpose.



It is necessary to introduce the obligatory declaration of gifts (with a value of over \$10, for example) — this will limit the possibility for the illegal enrichment of public servants. **UCEPS experts propose making public the lists of officials that have been sentenced for corrupt acts, abuse of power, embezzlement, etc., in mass media. It is worth prohibiting such individuals from holding public service posts for life.**

3.5 PROPOSALS FOR RAISING THE PRESTIGE OF PUBLIC SERVICE

Raising the prestige and effectiveness of public service is a complex task. UCEPS experts propose some measures that could be taken in this field.

Salaries of public servants should ensure normal living conditions and, to some extent, depend on the quality of services that they ren-

¹³¹ Public jobs do not require high technology, the special preparation of people, or significant additional funds. The efforts of the Government aimed at decreasing the social tension in Ukraine would be supported by Western partners — financial aid could be counted on, especially if these jobs are in the environmental protection sector.

der to the population. According to a poll of Ukraine's population, conducted by UCEPS between April 15-25, 2000, the desired amount of average monthly per capita income in Ukraine is around UAH 800. This should probably be the target salary of mid-level public servants. Given the extremely high workload and personal responsibility, it is worth considering setting ministers' salaries at a level of \$1000-2000.

The increase in public servant salaries should correspond to the higher level of responsibility for their work, and depend on its effectiveness. For instance, the basic criteria of effectiveness of the work of regional (district) state administration heads should be:

- ❖ **the number of new jobs created after an appointment to a post;**
- ❖ **the amount of domestic and foreign investments attracted over the same period for the development of the region;**
- ❖ **increases in the population's real incomes.**

Administrators unable to achieve success in those fields should be replaced, as their activity provokes social tension in the regions, and distrust in the state authorities.

The system of categories and ranks of public servants requires reforming, including for the purpose of stimulating their promotion. Their qualification requirements, and the division of posts according to categories should be formulated in detail.

More attention should be paid to the further training of public servants, the creation of up-to-date system of manager training (re-training). It seems that it would be expedient to develop a special programme of personnel training abroad¹³². In this way, the education level of future officials could be raised. The programme's principal conditions should be transparency and the selection of future trainees on a competitive basis. Training should begin from the lower levels: district state administrations and local self-government bodies that are in direct contact with the people. **Contracts should be signed** with persons nominated for training abroad, providing for their obligatory public service for 5-7 years after completing training abroad, and the mechanism for reimbursing damages in the event that this requirement is not fulfilled.

Within the limits of the existing items of ministry budget expenditures and other executive bod-

ies, a certain share (2-3%) should be fixed for the retraining and further education of public servants.

UCEPS experts propose creating a single nation-wide system of public service employment¹³³.

Its elements could include: (1) training of students in higher educational establishments within bodies of power, beginning from the third year of study; (2) introduction of a national examination for enrolment in public service; (3) testing candidates for their professional competence level, ability to work with people, reliability, responsibility, etc; (4) holding official positions based solely on competition results (presently absent), creation of mechanisms that would guarantee transparency in this process, as well as the unbiased selection of personnel; (5) obligatory prior background check of candidates for important public positions by law enforcement bodies.

An information analysis system "Ukraine's Personnel" should be developed. It should contain objective information regarding public servants (their qualifications, education, previous experience, etc.), including those being held in reserve. This will help improve personnel management, quickly find candidates for the new (vacant) positions, foresee demands for specialists, and on this basis, define the state procedure for their training. We should consider the mechanisms for employing former public servants, and retired high-ranking politicians who possess valuable experience and unrealised potential.

The mechanisms for the social adaptation of public servants subject to dismissal needs to be created immediately — this will make it possible to conduct administrative reform measures with individuals suffering minimal losses.

Achieving the aforesaid five strategic administrative reform goals requires proper financial support. Furthermore, preconditions should be created for the successful completion of administrative reform. These issues are reviewed in the next two subsections.

3.6 FINANCING ADMINISTRATIVE REFORM

During the 1999-2000 period, no additional budget funding was envisaged for implementing administrative reform measures. At the same time, it is clear that the terms and stages for implementing the planned measures depend on the availability of resources¹³⁴. In the absence of funds, there could be no fundamental scientific, organi-

¹³² Such a project is proposed by Germany; the question is whether Ukraine will provide 10% of its funding. Furthermore, there is an agreement on training 2400 Ukrainian students in the U.S., reached during President L.Kuchma's Washington visit. See: Interfax-Ukraine, December 15, 1999.

¹³³ The training system could be created on the basis of the Academy of State Administration under the President of Ukraine and its branches.

¹³⁴ The required level of expenditures is demonstrated by Poland's experience. According to Ex-Government Plenipotentiary for the Systemic Reform of the State M.Kulesza, \$10 billion were allocated for its accomplishment (including expenses for altering the administrative-territorial system, which accounted for a significant share of the expenditures). See: Siruk M. By the way. — *Den*, February 11, 2000, p.4.



sational and personnel support for reform. Cost evaluations of administrative reform in Ukraine were never made public; Government structures



are unlikely to have such assessments either. UCEPS experts believe that the structure of expenditures on administrative reform should be formed taking into account the following factors:

- ❖ undertaking organisational changes within the executive branch structure;
- ❖ raising public servant salaries;
- ❖ effecting payments to dismissed employees. **Even if the reduction of public servants is taken into account, expenditures on apparatus upkeep at the initial stage will increase**, since dismissed personnel should be paid (three basic salaries to be paid to dismissed officials, and 2-5 basic salaries — to retired personnel);
- ❖ structural changes in the economy aimed at reducing the state-owned share of the economy. This item of expenditures appears to be the most costly, since it provides, among other actions, for the closing of ineffective enterprises, and the social support of dismissed personnel;
- ❖ reform of the system of administrative-territorial division, etc.

The possibility exists for gaining foreign assistance to finance the administrative reform course. For example, the World Bank places emphasis¹³⁵ on the need for negotiations between Ukraine and international financial organisations for allocating assets towards administrative reform. The World Bank is ready to allocate \$100 million to encourage the undertaking of local self-government reform.

3.7 CONDITIONS FOR THE SUCCESSFUL IMPLEMENTATION OF ADMINISTRATIVE REFORM

It would not be possible to successfully implement administrative reform without a favourable environment. Presented below is the list of preconditions the absence of which could adversely impact the results of reforming the state structures in Ukraine.

Without the political will at the highest leadership level of the state, which must be demonstrated on a continuous, rather than an occasional basis, administrative reform will not be completed — half-measures won't bring about qualitative changes in the system of state power. Over the recent years, efforts of the country's leadership, organisational and staff resources were, to a large extent, directed towards joining political battle; proper attention was not given to the issues of administrative reform. Unfortunately, the development of the internal political situation in Ukraine demonstrates that significant amounts of political trust (after the elections) can be wasted amidst new waves of fierce political conflicts. Today, political parties, parliamentary factions, and individual influential politicians are more concerned with preparing for the scheduled (or unscheduled) elections, rather than with solving the urgent problems of nation-building.

Reforming the state's administrative system requires a long period for its implementation. Therefore, the present Government's continuous efforts, at least for the next two years, present an important prerequisite for successful reform. Permanent changes within the Government's team do not encourage continuity, including with respect to undertaking administrative reform. Ukraine's present Government is often called "the government of last resort". Prior experience demonstrates, that against a background of strong presidential powers, one should not overestimate the influence of personalities within the governmental team¹³⁶. However, there is one more thing that should not go unnoticed: the population's belief in the possibility of Ukraine's conflict-free exit out of the crisis has been substantially undermined; it is becoming increasingly difficult to mobilise people to new "actions". It is probably as a result of this that great expectations are associated with the V.Yushchenko Government both in Ukraine and abroad. The implementation of the Government's plans requires time and staff stability — if

¹³⁵ A letter from the World Bank's management to First Vice Premier Yu.Yekhanurov and the Head of the Administration of the President of Ukraine V.Lytvyn of February 28, 2000.

¹³⁶ The majority of the members of the V.Yushchenko Government previously worked in the Government headed by V.Pustovoitenko.

the Government is under the constant threat of dismissal, its work will be paralysed.

Co-ordinated action on the part of the President, his Administration, and the Government are needed. If national interests require this, compromises should be sought, and perhaps some powers should even be shared — the country's fate cannot depend on the ambitions of its leaders. The Constitution of Ukraine vested the President with relatively broad powers with respect to executive authority (the power to personally appoint the Government, create ministries, other central bodies of the executive branch, appoint their heads, as well as the heads of local state administrations). The head of state forms the policy (in particular, the ideology of administrative reform is being worked out within the Administration of the President of Ukraine), while the Government is responsible for its implementation. Given the absence of noticeable changes, governments are regularly dismissed, which works as a lightning-rod protecting the President of Ukraine. With such a division of roles, the presidential administration inevitably becomes the second (and, as far as the undertaking of administrative reform is concerned — in effect, the first) in importance centre of executive power after the Cabinet of Ministers. Therefore, successful administrative reform cannot be expected without the co-ordinated actions of these two centres of influence¹³⁷.



One cannot rule out that, in the near future, the issue of early parliamentary elections will arise. If the President of Ukraine takes the path of dissolving the Verkhovna Rada, legislative support for administrative reform will remain in the

background for a long time; political struggle will become the priority.



The creation of a parliamentary majority, adoption of the 2000 budget, and parliamentary approval of the Government's Programme of Action demonstrate the *potential for legislative support of administrative reform*. Experts, however, believe that the majority in the Verkhovna Rada does not have stable prospects for its existence. **First**, the majority is, to a large extent, created on the principle of political and business survival; one of the factors uniting Parliament is the threat of dissolution it is faced with. **Second**, majority representatives are at present actually not represented in the Government; some of its factions did not support the Government's Programme of Action. **Third**, the Government has set a course for limiting the influence of monopolists, and cancelling preferences for some businessmen represented within the parliamentary majority who supported the head of state in the 1999 presidential elections. Therefore, the consistent support of resolute actions, including unpopular ones, of V.Yushchenko's Cabinet by the parliamentary majority in its entirety is doubtful. **Fourth**, the majority is not homogeneous, but contains internal contradictions. A demonstrative example of this was the struggle for the post of the vice premier responsible for the fuel and energy complex, coveted by representatives of various factions. **Finally**, latest events¹³⁸ have shown that support for proposals submitted by the head of state is also conditional. **UCEPS experts believe that, despite the above factors, today, President L.Kuchma has the most favourable conditions (as compared with other periods in Ukraine's recent history) for organising fruitful co-operation with Parliament. This opportunity for conducting administrative reform should be exploited.**

¹³⁷ At the preparation and implementation stage of administrative reform, the possibilities for Ukraine's National Security and Defence Council, as a body of interdepartmental co-ordination in the field of national security, are not used to the fullest extent. An examination of the most urgent problems and possible directions of administrative reform conducted at a meeting of Ukraine's National Security and Defence Council will make it possible to co-ordinate the actions of different bodies of power.

¹³⁸ On May 11, 2000, 304 People's Deputies (including majority representatives) voted to submit to the Constitutional Court the presidential and alternate draft laws on amending the Constitution of Ukraine on the basis of the results of the referendum. The draft parliamentary resolution on submitting to the Constitutional Court only the presidential draft law merely failed to win the required number of votes.



There should be a common understanding between different authorities, of the goal, targets and tasks of administrative reform. Even after the adoption of the Concept of Administrative Reform in Ukraine, fundamental differences remain regarding the strategy and tactics of transformation. In the first place, it is important to ensure a uniform understanding of the targets and tasks of administrative reform by the Government and the presidential administration, since these two bodies play the key roles in the reform process¹³⁹. Among public servants, a clear understanding of the strategic goal of reform, and their place within the new system of state power, is also lacking. The majority of officials associate reform with a reduction in the number of administrative staff. This causes apprehension as to their fate and a passive attitude toward their work.

Successful implementation of administrative reform is possible on the condition that there is support for reform efforts at all levels of state power. On the central level, this must be demonstrated through the consistent, co-ordinated effort of all bodies and branches of power. Support at the local level is important, since it is here that authorities are closest to the people, are seen as concrete figures, and where their actions are observed.

The implementation of administrative reform must become a priority task for executive authorities, but this is unlikely given the present situation. Priorities are allocated not as a result of declarations but, above all, based on the amount of resources (such as time, money, organisational resources, personnel) allocated toward accomplishing a specific task. The 2000 State Budget provided no funds whatsoever for administrative reform. The Government also faces some urgent problems: the repayment of wage and pension arrears, dealing with unemployment, restoring manageability to the fuel and energy complex, repaying foreign debts, etc. It is for these reasons that **the planned organisational and structural changes within the bodies of power cannot objectively be the first priority task of Government. This does not at all mean that administrative reform is being impeded;** the topic of discussion

should be imparting it with a new quality — easing tax pressure on producers, simplifying the procedure for registering business entities, reducing the number of inspections, etc. Actions in this direction will allow the Government to simultaneously solve other priority tasks.

For the successful achievement of administrative reform, proper organisational and personnel support is needed. Foreign experience demonstrates the expediency in the head of state appointing an official for whom administrative reform would be his principal task, rather than an additional assignment, and he would be personally responsible for planning and implementing that reform¹⁴⁰.

No matter how upsetting this admission is, but the implementation of administrative reform depends on the amount of pressure exerted on Ukraine by influential foreign partners. Some decisions aimed at accelerating administrative reform were stimulated by a tough stance taken by the U.S. and IMF¹⁴¹. Clearly, this pressure won't be eased¹⁴². One positive factor is the possibility of attracting foreign economic assistance for administrative reform in Ukraine.



UCEPS experts believe that it is premature to confidently discuss the irreversibility of the administrative reform course (and even regarding the existence of a distinct course). The success of administrative reform depends on many important conditions; not all of them are favourable today.

If current negative tendencies in the development of the internal political situation in Ukraine are not reversed, then the momentum of reform (despite pressure from the West) will once again be lost. According to the most pessimistic scenario, the next wave of reform efforts can be expected after the 2004 presidential elections.

¹³⁹ Some differences are already clear. For example, the Government and the Administration of the President of Ukraine have different views of the role and place of central bodies of the executive branch (state committees, agencies) whose activity is directed and co-ordinated by ministers. See: Address of the President of Ukraine to the Verkhovna Rada. — *Uriadovyi Kuryer*, February 23, 2000, p.2.

¹⁴⁰ For example, in Poland there was a separate ministry in charge of reform, headed by M.Kulesza. In the U.S., a special body called "Reform of State Functioning" was created, headed by Vice President A.Gore. Its employees examined the work of all ministries and agencies, held public hearings, enlisted hundreds of experts. Their report contained 384 recommendations, proposed reducing 12% of administrative personnel (252 thousand positions) over a five-year term, which made it possible to save \$108 billion.

¹⁴¹ The implementation of administrative reform is an important precondition for granting Ukraine EFF credits.

¹⁴² The World Bank Mission that visited Ukraine in February, 2000, admitted that the decrees of the President of Ukraine on reforming state governance, issued in December, 1999, were vitally important. However, Mission members were concerned about the ability of the head of state and the Government to implement the declared reforms.



ADMINISTRATIVE REFORM IN UKRAINE: AN EXPERT VIEW

How can the state be made to serve the interests of its citizens? How can the authorities be made responsible, and their activities — transparent and answerable to society? How can the conditions that provoke corruption and abuse of the state power apparatus be removed? The initiated administrative reform in Ukraine has been called upon to solve these problems. But the question is whether such reform will lead to the intended results, whether sufficient preconditions exist today for effectively conducting such reform, and if its strategic goals and the set of priority measures will be defined to their optimal extent. While analysing various aspects of this problem when preparing the report "Administrative Reform in Ukraine: Will It Be Possible to Break the Closed Circle?", with the goal of colating the obtained conclusions and the proposals with other points of view, we turned to representatives of the authorities and independent experts with a request to elaborate their view of the problem.



Yuri Yekhanurov,
First Vice Prime
Minister of Ukraine



Viktor Medvedchuk,
First Deputy Chairman
of the Verkhovna Rada
of Ukraine



Oleksandr Yakovenko,
Deputy Head of the
Administration of the
President of Ukraine —
Director of the Main
Department of
Personnel Management
and Interaction with
Regions



Oleksandr Paskhaver,
President of the
Centre for Economic
Development



Michal Kulesza,
Ex-Government Plenipotentiary for the
Systemic Reform of the State and a
Secretary of State in the Chancellery of the
Prime Minister of the Republic of Poland.



UCEPS experts proposed that the participants answer the following three questions:

1. **Do the necessary preconditions exist for conducting and successful completion of administrative reform in Ukraine?**
2. **What should be the end goals of administrative reform in Ukraine and the strategic directions for its undertaking?**
3. **What are the priority steps that need to be taken with the goal of planning and conducting administrative reform in Ukraine?**

The answers to these questions are presented below, along with the conclusions obtained by the results of this round table by correspondence. In our view, they deserve attention, since they contain proposals regarding the priority steps and strategic directions for implementing administrative reform in Ukraine.

DO THE NECESSARY PRECONDITIONS EXIST FOR CONDUCTING AND SUCCESSFUL COMPLETION OF ADMINISTRATIVE REFORM IN UKRAINE?

Yuri Yekhanurov. The necessary preconditions for the implementation and completion of administrative reform exist in Ukraine. And as far as the degree of its success is concerned, I think it's premature to speak about it today.

First of all, a strong conceptual basis for reform has been laid. Its ideology, tasks and goals have been established by the Concept of Administrative Reform in Ukraine and a number of decrees of the President of Ukraine, that demonstrated the political will of the state's top leadership to radically reform the public administration system.



Political preconditions are available: presidential elections were held, which showed public support for the reformist course of Leonid Kuchma. A parliamentary majority has been formed, which opens the prospects for constructive co-operation between the branches of power, including on issues of administrative reform. Finally, today the Government enjoys the people's confidence, which lays the grounds for counting on public support for reform.

There is also support for reform from international organisations, with which Ukraine co-operates. For example, the World Bank's financial contribution to the administrative reform project was approximately \$300 thousand, where these monies are used to obtain consulting services, study the foreign experience of administrative system reform, and train Ukrainian public servants. Among other examples, we have thoroughly examined the experience of administrative reform in Poland, whose socio-economic situation at the time of reform resembled Ukraine's present situation. I personally familiarised myself with the organisation of the activity of many ministries, and spoke with Mr. Balcerowicz.

I think, the most important precondition is the experience of reforming the state administration system, which we have already gained. This experience is both negative and positive. One can say that, having inherited from the former USSR what was actually a decorative, non-independent and ineffective state machinery under new conditions within a short time, we managed to build quite a workable system of state power, capable of ensuring both the external and internal security of society. At the same time, it requires perfection, and foremost — its redirecting from the "ideology of administration" inherited from the past towards the technology of management. This requirement is another prerequisite for reform.

Viktor Medvedchuk. In my view, beyond a doubt, the need exists for effective and thought-out administrative reform in Ukraine. Perfect planning of the reform process itself, its interim stages and end goals is among the preconditions for its implementation, as well as the political will of the Cabinet of Ministers of Ukraine as the highest body of state executive power. **Administrative reform is not a popular process, but it is vitally important.** The Government has all the levers for conducting administrative reform. Unfortunately, I do not as yet see either perfect plan, or demonstration of political will on the Government's part. And, to be honest, I'm afraid that there will be more just discussions regarding administrative reform rather than actions.

Oleksandr Yakovenko. There are sufficient preconditions for the successful implementation of administrative reform in Ukraine.

The creation of a State Commission for Administrative Reform in Ukraine and its two working groups, the approval of the Concept of Reform and priority steps toward its achievement, the establishment of a number of working bodies with specific reform directions (the Co-ordination council on local self-administration, the Co-ordination council for state service, etc.) — these are but a few steps which can be viewed as organisational preconditions for administrative reform.

The preconditions for a legislative support of implementation the reform include adoption of the laws of "On Local State Administrations", "On the Capital of Ukraine — the Hero City of Kyiv", the preparation of draft laws "On the Cabinet of Ministers", "On Ministries and Other Central Bodies of the Executive Branch"; amending the Law "On State Service", "On the Code of Conduct of Public Servants", "On the Bodies of Self-government of the Population" and many others, as well as the working out of the Programme of state support for the development of local self-government and the Concept of State Regional Policy.

A positive role in making administrative reform a reality should be played by the Decem-



ber (1999) presidential decrees regarding conceptual backgrounds for reforming the Government (defining the composition of the Cabinet of Ministers), its apparatus (creating a Secretariat headed by the Government Secretary), and the system of central bodies of the executive branch (defining approaches to forming a system of the central executive bodies and approval of the new structure of such bodies).

Of decisive importance among the preconditions for successful administrative reform is political will, which is constantly being demonstrated by President L.Kuchma. This is demonstrated by the issuance of a number of important acts directed at getting administrative reform started and deepened.

Today, it can be said that the Verkhovna Rada shares the President's will, as it has demonstrated that it knows how to work constructively (with the creation of a majority), including toward implementing reforms.

From this point, priority task is a continuation of the process of consolidating the society and all of its progressive forces for the implementation of the single strategy and tactics for reforming state governance.

Oleksandr Paskhaver. The main problem with administrative reform in Ukraine lies in that the Communist political bloc, which controlled the country for many years, ceased to exist, while the democratic political bloc, a typical phenomenon for leading countries, is only being formed, and that's why the position of the political bloc remained spare. Bureaucracy filled that vacant position and turned from a mechanism of power, as it should have been, into the power itself. Without either its own ideology or means for political governing, it transformed the system of governance into a tool serving its own interests. I would emphasise that **it is not worth accusing the bureaucracy for committing all the sins, it is only necessary to help it occupy its proper place.**

The governing elite's awareness of this fact is the main precondition for reform. I think, this awareness is already present. In his pre-election campaign, the President indicated that administrative reform is a priority of Government policy, and starting from December of 1999, he issued a number of decrees, which became the first serious step toward reforming the administrative apparatus. Not a few changes took place over this period. The parliamentary majority was formed, which is a necessary precondition for the bureaucracy to become subordinated to the politicians. This Government appointed by the President behaves in a fundamentally different way from the previous one. The issue is not



whether the Prime Minister, or a minister is a good manager, but whether he understands the society not as a technical, but as a social system. Many conflicts which arise with relation to the country's leadership are not only connected with the Government just learning to govern, but with many members of Parliament and other influential figures who don't understand the changes in the methodology of governing that envisage the change over to governing the country as a social organism, which is what politics actually is.

Another important change in state governance appeared in the creation of Government committees. These are not just the improvement of the technology of management. Within them, the process of coming to political consensus has replaced that of arriving at a bureaucratic consensus. Finally, a procedure is being implemented whereby the political consensus-reaching process is in agreement with all documents. That is, the old practice is becoming outdated, whereby it was possible to merely "come by" the Prime Minister's office and resolve a certain issue.

I have consciously not included the transformation of the structure of state authority bodies in the category of key steps. I believe that the change in structure is not a one-time deal. The structure of these bodies is dynamically related with the functions of the state, and that's why they can change constantly. What is fundamentally important is that the entire structure of authority should be developed in such a way that public servants do not impose their decisions, but only help the ministers.

Finally, the Cabinet of Ministers' meetings ceased being gatherings of Soviet-style party activists. They have become what they should be — that is, closed meetings of a small group of responsible politicians who collectively manage the country. And the results of their work should be made as public as possible.

Michal Kulesza. Public administration reform per itself is not a "goal". It is only a tool to achieve goals needed by the state and society under transformation. Thus amongst main preconditions of the public administration reform in Ukraine is rather clear definition of what are the main administrative problems of Ukraine and then — what are the goals of public administration reform.

Another preconditions are:

1. Improvement of general knowledge and understanding of the needs of the public administration reform in the society.

2. A general debate considering what is to be achieved and how to do it. Also local leaders should take part in the debate.

WHAT SHOULD BE THE END GOALS OF ADMINISTRATIVE REFORM IN UKRAINE AND THE STRATEGIC DIRECTIONS FOR ITS UNDERTAKING?

Yuri Yekhanurov. Administrative reform is in no way confined to reducing the number of administrative bodies and state officials. This is a simplified perception of administrative changes which, unfortunately, exists not only in mass consciousness, but also among the public servants themselves. The essence of reform is to ensure the new quality of administration, and effective state governance. A form of governance must be provided that encourages the creative, constructive forces of society, public initiative, entrepreneurship, and the ability of self-organisation and self-regulation. The state only works out, establishes, and guarantees the observance of the uniform "rules of the game", which are equal for everyone.

Therefore, the radical change of relations between the state, society, and the citizens may be assumed to be the ultimate goal of reform. First of all, we should clearly establish the functions, powers and, above all, the responsibility of the state, define the limits of its interference in the economy and public life. Second, **state authorities must become transparent, controllable by and answerable before society.** Mechanisms of



public influence on the state must be created. The transparency and answerability of the state apparatus will make it impossible to take decisions behind closed doors. Officials will lose the possibility of conducting business in the name of the state for their own benefit. In this way, the factors that provoke corruption on the part of the authorities will be removed.

Finally, we should ensure the personal responsibility of each public servant for his job, from top-level Government officials to employees within local self-government bodies. This will require a clear definition of functions, powers, and procedures for each element of the state administration system, as well as for each public servant.

For example, German citizens know what, and within what limits, functions are performed by each separate ministry or agency, where and to whom they should apply to resolve different issues. They have clear-cut "rules of the game", a thoroughly defined procedure for the functioning of the authorities in general, and regulations for each of their bodies, and for every public servant in particular. We want this to be the case with us, as well. Each Ukrainian citizen has the right to know where to apply for the solution of every issue, what to request, and how his request must be satisfied. So that Ukrainian citizens feel that it is not they that exist for bureaucrats, but that bureaucrats present a specific form of service, a system of public services. Such relations between citizens and the authorities (officials who represent the authorities in the eyes of the people) present an important element of the ultimate goal of administrative reform.

Viktor Medvedchuk. The goal of administrative reform is not only the mechanical reduction of the number of public servants but, in the first place, enhancing the effectiveness of the power structure, as such. **There will be no sense in this, if public servants, reduced somewhere, quickly start warming the seats in other state bodies. This is known as pulling the wool over someone's eyes.** Here, it is necessary to take into account that we did not inherit from the Ukrainian SSR, as part of the former Soviet Union, quality public servants in numbers necessary for an independent country. In building a state, we have to bring up experts. But as far as their number and quality are concerned, it is not worth "re-inventing the wheel". It is only necessary to look at the system of state service of our Western neighbours: the Poles, Slovaks, Hungarians. And to understand what number of what quality of public servants Ukraine needs.

Oleksandr Yakovenko. Based on the requirements of the Concept of Administrative Reform in Ukraine approved by the Decree of the

President of Ukraine No.810/98 of July 22, 1998, the goal of administrative reform is "the creation of a modern, effective system of governance", which will meet two requirements. First, it should ensure the establishment of Ukraine as a highly developed, lawful, and civilised European state with a high standard of living, social stability, and democracy. Second, it must be in line with the needs and demands of the people, having as its goal serving the nation and national interests. In other words, as a result of administrative reform, it is necessary to acquire a completely new integral subject of state governance adapted for effective action within the context of the new social environment.

With respect to strategic directions of administrative reform, it is possible to categorise them according to the following tasks:

- ❖ the formation of an effective executive branch for both the central and local levels of governance;
- ❖ the formation of a self-sufficient local self-government;
- ❖ the development and implementation of a rational administrative-territorial system;
- ❖ the implementation of a new ideology of functioning of the executive branch and local self-government directed toward ensuring the rights and freedoms of citizens, and offering them administrative and community services;
- ❖ the organisation of state service and service within the bodies of local self-government on new fundamentals;
- ❖ the creation of a modern system of preparing and retraining administrative personnel.





The ways toward making administrative reform a reality are: the creation of a new legislative base which would regulate state administration in Ukraine; the formation of new institutes, organisational structures and institutes of state administration; ensuring the availability of personnel for the new system of state administration; the strengthening and formation of new financial-economic fundamentals for functioning of state administration; ensuring the scientific and information support for the system of state administration; the formation of the mechanisms of scientific and information monitoring of this system's functioning.

Oleksandr Paskhaver. A concise definition of the contents of administrative reform is that it means the transformation of the state machinery in so that it becomes subordinate to society. In order to understand the technology of this infrastructure subordination, it is necessary to imagine the links in the political chains of developed countries. The first link in this chain is the civil society, that is, the society of free, active and responsible citizens who consider it their duty to influence the state and control it. Second is political parties that reflect the interests of the citizens in the political process. Third is the representative bodies: for us, this is Parliament and the President. Fourth is a politically responsible Government. And fifth is the state machinery, which includes the bureaucracy, organisational structures of this machinery, and the technology of governing. When we speak about administrative reform, we often mostly mean the last link in the chain, although it is necessary that all of the elements were "ripe" and worked toward a common goal, utilising society's influence on the state machinery. That's why **being limited to only the transformation of the state machinery means dooming administrative reform to a failure.** This gives rise to the strategic direction of reform whose significance lies in achieving the mature development of all the elements of this chain.

It is not worth complaining about the new institutions' inefficient work. This is an integral part of our society's adaptation to developed

democracies. The process of society's adaptation to new institutions is long, especially with regard to the formation of a civil society. But this does not mean that reformers cannot speed up its pace. There is a number of steps concerning, for example, humanitarian education, privileges for non-governmental organisations, and the implementation of the technology of openness of the Government itself. It is not coincidental that I stopped at this point, since this is the least controlled part of reforming our society, and maybe that's why it is the most difficult.

Michal Kulesza. In general there are four main factors to introduce such a large, comprehensive public administration reform:

1. Expertise (knowledge) of those who will prepare general outline and will draft and implement administrative reform. So, there must be a circle of people deeply involved and engaged in this process.

2. There must be a political leadership, or at least political support for the experts, because **public administration reform is purely a political issue; this is a question of power and who and how will take over and execute it.**

3. Third factor is a general (public) support and acceptance, or at least consent for the reforms. It is important to add that all of the existing bureaucratic milieus and structures will be of course against public administration reform because it will touch their interests and often will destroy their existing position. **Friends of public administration reform are only amongst experts, intellectuals and top-politicians. Because of that the reformers must create a new supportive group of those who will be benefited by the reform.** In Poland, there were local elites but I am not sure how far public administrative reform in Ukraine should have a democratic approach. Public administration reform ought to be strongly conceded with the general understanding of power in your country and how it does function.

4. And last but not least — the reformers also must have luck, just luck.

WHAT ARE THE PRIORITY STEPS THAT NEED TO BE TAKEN WITH THE GOAL OF PLANNING AND CONDUCTING ADMINISTRATIVE REFORM IN UKRAINE?

Yuri Yekhanurov. The priority measures are defined by the reform's goal, its ideology and concept. If we declare that the authorities must serve to satisfy social demands, that they should be closer to society, be transparent, controllable by and accountable before society, the set of priority measures for reforming the state administration system stems from this.



First, state administration should be decentralised. Decentralisation is the process of delegating the functions of the centre to the regions and districts. Locally, bodies of power must be created that are functionally capable and provided with funds, since all talk of transferring functions is, in the end, confined to the ratio between the state budget and local budgets. Measures aimed at delegating some central functions to the local level are already being prepared: in particular, the Concept of State Regional Policy is being drafted, which will serve as a basis for the concrete measures aimed at decentralising power.

Decentralisation also means that political decisions are separated from administrative ones. **The bureaucratic apparatus must become a team of specialists, performing their functions regardless of political processes. It is the higher leadership that will define the strategy and the direction of actions of the executive branch; the apparatus duty will be to execute everyday technical work.**

Along with decentralisation, we must provide for a clear definition (above all, a legislative one) of the powers and functions of the bodies of power. For this purpose, the Law "On the Cabinet of Ministers" is being drafted and, later on, a law on ministries and other central executive bodies will be adopted; furthermore, over 250 amendments to the effective legislative acts are being prepared.

Work on the Procedures of the Cabinet of Ministers is also ongoing. The Procedures will limit document circulation time, define the circle of performers and the limits of their responsibilities. And the main thing is that the functions and procedures of officials' work will become transparent public documents. This will encourage both a higher level of responsibility on the part of each official, and openness, as well as transparency in the work of each body of power.

Viktor Medvedchuk. First, everything has to be planned, and afterwards — implemented. We have already determined that Ukraine should become a civilised, European, and social, and market-oriented country. This means that we have not taken the way of reanimating the command-administrative economy, which traditionally requires a larger number of public servants. **Once the state is deprived of a number of unnecessary permissive, regulating powers, this will remove the need for numerous personnel who service such a gigantic state machine.** State service should be reformed, with the goal of improvement of the system of selection and training of personnel, raising the prestige of state service, and the social and political protection of a public servant.

Oleksandr Yakovenko. The most important issue is the working out of a plan of measures regarding the further implementation of administrative reform, since its first stage is by and large completed.

This need in such a plan is also conditioned by "Priority Measures for Administrative Reform in Ukraine", approved by the Decree of the President of Ukraine No.1284/98 of November 20, 1998. The plan should be worked out with account of the following.

1. Administrative reform cannot move forward without a clearly defined organisational-legislative basis. **The absence of a comprehensive list of legislative and normative-legislative acts on the one hand, and their overly slow (and at times chaotic, or unsystematic) preparation and approval on the other, create a significant braking mechanism in the implementation of administrative reform.** In connection with this, the issue of the preparation of a comprehensive list of acts should be included in the plan on whose basis reform is to be conducted, and the ones that require legislative support should be co-ordinated with the Verkhovna Rada.

2. Proper funding of this process is important for moving the reform of state governance forward. Without financing, it is not possible to provide fundamental educational, organisational and personnel support for reform.





3. A priority issue today is the distribution of powers among the central and local bodies of the executive branch, the bodies of regional self-government, the implementation of an active mechanism for participation of local authorities and self-governing bodies in the process of national-level decision-making.

4. The short-term task is the working out and implementation of a clear system of control over the reforming of state governance. Without the creation of such a system, it is not possible to expect steady progress in this work.

5. The public servant is the moving force and an immediate subject of reform. A very important priority task arises from this — the improvement of the system of state service, in particular, the review of the mechanisms of personnel management, improvement of the payment system for public servants with the goal of ensuring their competitiveness on the labour market and raising the quality of work, improvement of the system of evaluation of the professional activity of public servants.

Oleksandr Paskhaver. We find ourselves at the early stage of administrative reform. This stage is comprised of changing the Soviet system of administration into a democratic one. But we should understand that we are creating institutions that only have the appearance of being democratic, while they will be acquiring contents for a long time to come.

Priorities are being determined in line with the goal set. The most important of these are the steps connected with strengthening the influence of politicians on the state machinery. In this way, a minister should become the body of authority, while the ministry and its staff — only the minister's mechanisms in achieving the Government policy. The formation of relations between politicians and the staff is taking place within the process of this changeover, where the politician is the main player, while the staff is subordinate, as a ministry is a totality of executives.

Within the technical aspect of processing state documents, it is important that political documents precede them, where such documents can be named political resolutions, or concepts in which politicians define the contents of the

documents that are to be worked out. Afterwards, staff would work on those documents, while politicians would only need to review whether the prepared documents are in line with what they ordered. Without this, a politician becomes a hostage of the document worked out by the staff.

Another step is connected with the implementation of strategic planning at all levels of state governance. Our country lacks this kind of technology. **Special bodies of strategic planning are needed, as well as the implementation of the technology of strategic planning for every executive.**

And finally, the last point is the implementation of a new technology of personnel management at state service, which provides for the education and renewal of the bureaucracy. Executives should be able to creatively utilise the axioms of democratic administration and make each their step fall in line with these axioms.

Michal Kulesza. My knowledge about existing Ukrainian administration is too small to draft the goals and ways of implementation of public administration reform in Ukraine.

First what you need is a profound diagnosis of existing state of things. Without that there is no real possibility to look for solutions. I am sure, however, that structure of Ukrainian administration ought to be consolidated and simplified. For sure, it is impossible without dereg-



ulation. **You have too much of administrative measures and to little of economic liberty and ownership rights.** Such a deregulation and simplification of the administration will effect with serious reduction of existing personnel of state



administration. This factor should be taken into consideration from the very beginning as well as an education factor. **The new top-officials have to be well prepared when take over their functions.**

Another important question is democratic issue and question about real self-government in Ukraine, in Western meaning of this word. Then, it is impossible to introduce a real self-

government without installing real ownership rights for future local governments.

There is a large piece of work to be done in Ukraine before a real public administration reform would be safely introduced. So, I would like to wish you all the best in this long and difficult, but of course necessary process of reforming public administration in Ukraine.

According to the questioned experts, preconditions for administrative reform exist today in Ukraine. There are no doubts as to the social need of such reform. Among the main preconditions, the experts named the political will of the top leadership of the state — the President of Ukraine, the Government and the Verkhovna Rada, where a parliamentary majority has been formed. They pointed to the existence of conceptual, legislative and organisational preconditions necessary for the initial stage of the reform process.

According to the questioned experts, the main goals of reform should be the structural and functional rebuilding of the state apparatus for purposes of creating a modern, effective, and transparent system of governance controlled by society, aimed at ensuring the rights and freedoms of the citizens, and offering them quality services on the part of state institutions.

UCEPS experts express their deep gratitude to the politicians and professionals who took part in the discussion on the issues of administrative reform in Ukraine. Their opinions and concrete proposals are rather actual — they have been taken into account in the process of final preparation of UCEPS analytical report.

ADMINISTRATIVE REFORM: SOCIOLOGICAL SURVEY OF THE POPULATION



*Andriy BYCHENKO,
Director, Sociological Service,
Ukrainian Centre for Economic and Political Studies*

A new stage of administrative reform is beginning in Ukraine. Former attempts at reforming the state structures did not produce tangible results. It is difficult to conceal the ineffectiveness of state governance even from an unprofessional observer.

The mechanisms and technologies of the apparatus used within the bodies of state power are little understood to the average Ukrainian, making it difficult for the population to evaluate their work. Nevertheless, every citizen of the country, without exception, experiences the effects of this work. The result of it is the humiliating socio-economic situation in which these citizens have been living over the last years.

Despite the country's evident economic, industrial, scientific, technical, intellectual potential and resources, Ukraine has appeared among Europe's outsiders by many social indicators, including the human development index. Clearly, it is not worth blaming the state apparatus for all of the negative social indicators. But it is also clear that the quality of governing the state and, therefore, that of the life of its citizens, depends on the state apparatus' activity.

That's why experts of the Ukrainian Centre for Economic and Political Studies (UCEPS) assumed it necessary to determine what the attitude of citizens is to administrative reform initiated by Ukraine's leadership, and its prospects. With this goal in mind, UCEPS sociological service conducted a large-scale poll of citizens in all of Ukraine's regions between March 25 - April 5, 2000; in course of the poll, 2012 respondents were questioned (over 18 years of age). The results of the sociological survey are presented below.

WHAT DO CITIZENS KNOW ABOUT ADMINISTRATIVE REFORM?

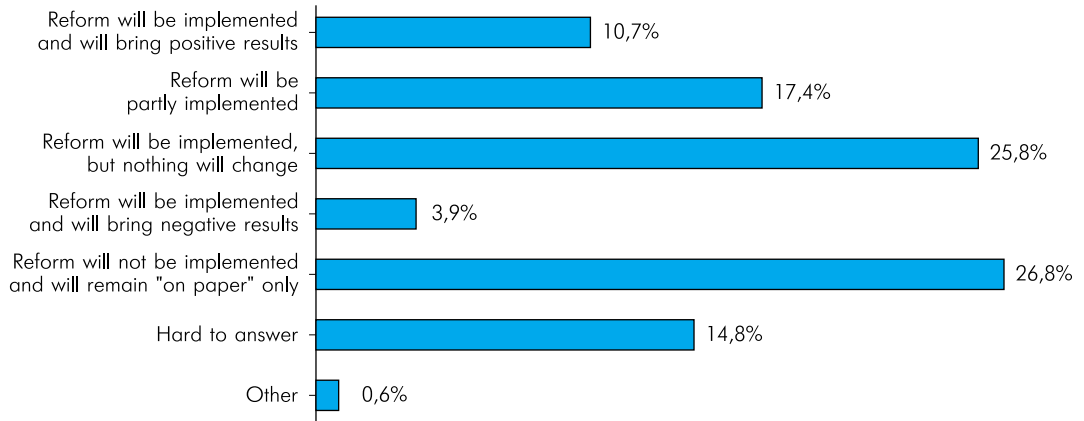
The results of the poll show that **nearly half of all citizens (48%) have heard almost nothing about the decrees issued by the President of Ukraine on the administrative reform; 44.4% of those polled heard about these decrees, but are not familiar with their contents, and only an insignificant number of respondents (7.6%) said that they were familiar with the contents of these**

documents. Basically, this kind of poll result was not difficult to forecast, since only 8.9% of respondents polled in prior UCEPS surveys confirmed that they were very interested in politics.

DO CITIZENS BELIEVE IN THE SUCCESS OF ADMINISTRATIVE REFORM?

The survey confirmed a generally sceptical attitude of Ukraine's citizens regarding the prospects of administrative reform (*Diagr. "Pro-*

Prospects of administrative reform in Ukraine, % of respondents



spects of administrative reform in Ukraine”). **Only 10.7% of respondents expressed their confidence that reform will be implemented and will bring positive results.**

Instead, 26.8% of respondents believe that administrative reform will not take place, but will remain "on paper" only. Another one-fourth of those polled (25.8%) thinks that even if reform takes place, it won't change anything. If the 17.4% of those who believe that reform will be only partially conducted, and the 3.9% of respondents who are convinced about its negative results are added, then the general conclusion that can be drawn from this is rather unfortunate: **three-fourths of Ukraine's population are sceptical about the possibility of obtaining positive results from administrative reform.**

This kind of pessimistic attitude correlates to the low assessment of the population regarding

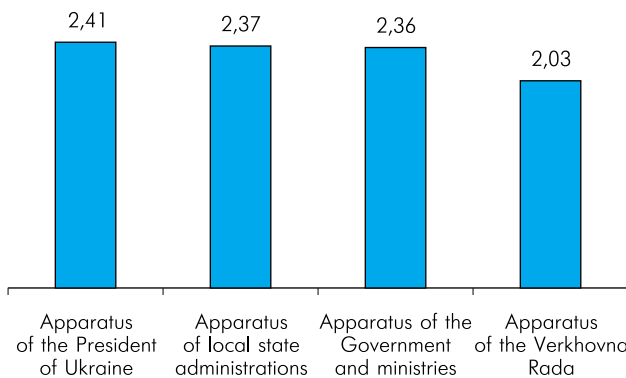
the ability of the authorities to work out an optimal programme of action and its achievement. Thus, in one of UCEPS prior polls¹ that posed the question "Are Ukraine's present authorities capable of developing a programme of action and consistently implementing it?", only 22.5% of respondents gave an affirmative response.

CITIZENS' ASSESSMENT OF THE EFFECTIVENESS OF THE STATE APPARATUS

The research shows that Ukraine's population gives a generally poor evaluation of the effectiveness of its work. According to poll results, the least effective was the work of the apparatus of the Verkhovna Rada. Only 4.4% of respondents evaluated the work of the parliamentary apparatus as effective² (average score: 2.03). Of those polled, 10% believe the work of the Government and ministry apparatus to be effective (average score: 2.36); that of the President of Ukraine — 11.9% of respondents (average score: 2.41), of local state administration — 12.9% (average score: 2.37). As the following Diagram makes clear, the average score on a five-point scale for the apparatus of all the branches of power was between a "2" and a "3"; **that is, Ukraine's population does not give the effectiveness of the work of the state apparatus even a "three"**³. **Only around 10% of those polled believe its work to be effective, which correlates with percentage of those who believe in the success of administrative reform (10.7%).**

An assumption can be made that the low score given by the population to the work of the state apparatus to a large extent engenders the above-mentioned scepticism regarding the

Citizens' evaluation of the effectiveness of apparatus of state bodies



¹ UCEPS sociological service conducted a survey of 2010 citizens over the age of 18 in all of Ukraine's regions between January 25 - February 5, 2000.

² Giving a score of "4" and "5" on a 5-point scale, where "1" is the lowest score, and "5" is the highest.

³ It is interesting that in the city of Kyiv and the Crimea people gave significantly lower scores for the effectiveness of the apparatuses of various institutions of power than in other regions, and in Ukraine in general.



prospects of administrative reform. Possibly, **Ukrainians have simply got used to the fact that between the higher authorities (with their decisions) and the people there is a significant layer of officials — a unique buffer that damps all movement both from above and below, alike. People don't believe that the army of bureaucrats will allow for the realistic implementation of any decisions, especially those that relate to the officials themselves.**

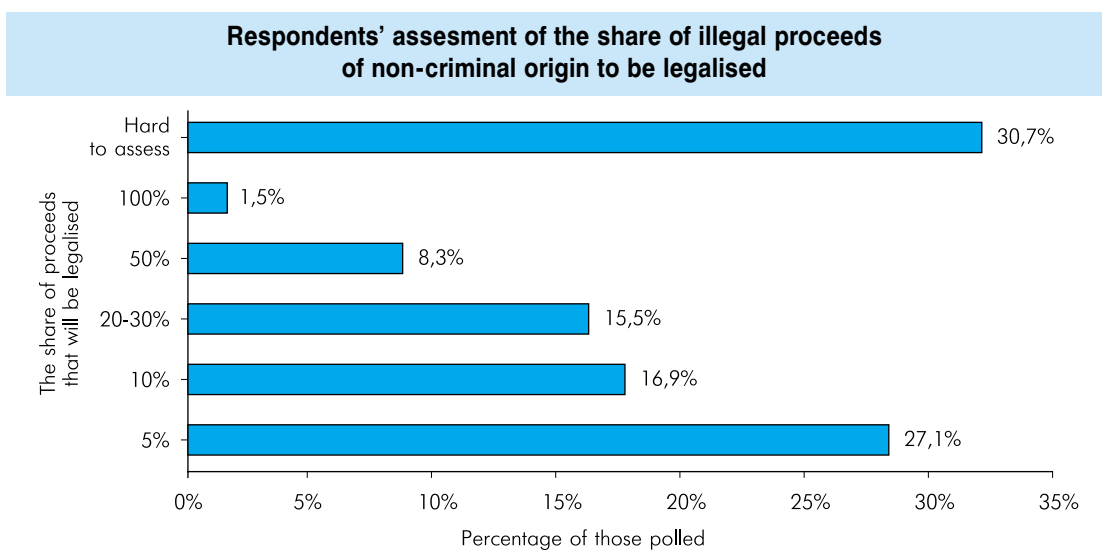
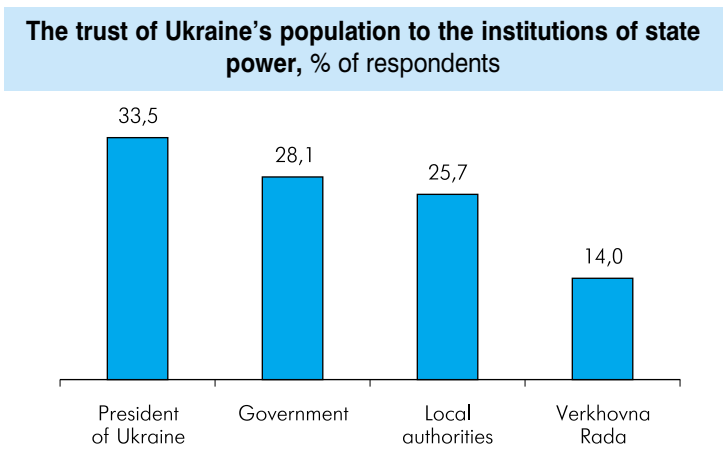
THE POPULATION'S TRUST IN THE AUTHORITIES

Administrative reform is a complex problem. Its implementation requires long, diligent and well-coordinated work on the part of all the branches of power, and the central and local bodies of state management. A legislative base for conducting reform needs to be created, together with approval

of the requisite acts of the Government, and proper funding of all measures. The main purpose is to raise the quality of the work of the state machinery, improve the population's wellbeing, and ensure the rights and freedoms of the country's citizens. That's why an important condition for success is the population's trust in the authorities.

Nevertheless, the data of the sociological survey demonstrate that the **level of trust of the population in the authorities is actually pretty low:** 33.5% of respondents indicated that they trust the President of Ukraine; 28.1% trust the Government; 25.7% — local authorities. The lowest level of trust is enjoyed by the Verkhovna Rada, with only 14% of respondents giving an affirmative response⁴ (*Diagr. "The trust of Ukraine's population to the institutions of state power"*).

The level of trust to the authorities can also be judged based on the population's attitude towards separate actions of the power bodies. For example, recently, the President of Ukraine signed the Decree "On Measures for the Legalisation of the Income of Individuals on Which Tax Has Not Been Paid". During UCEPS sociological survey⁵, respondents were asked to evaluate what portion of illegal proceeds (from non-criminal sources of activity) they thought would be legalised as a result of the implementation of that Decree. According to the respondents, there is a possibility that close to 18-20% of those funds will be brought to light out of the shadow. The answers to this question are given as percentages in the Diagram below (*Diagr. "Respondents' assesment of the share of illegal proceeds of non-criminal origin to be legalised"*).

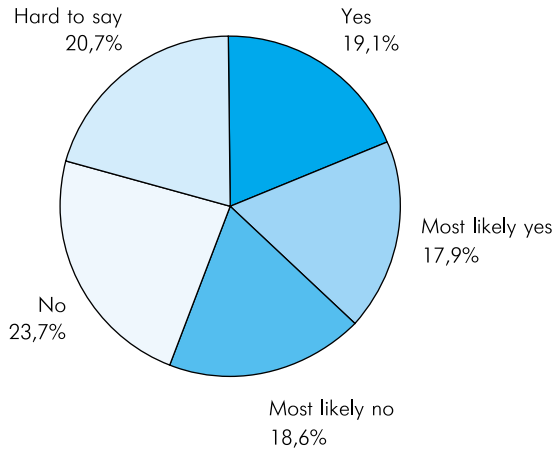


⁴ If the level of trust in the Verkhovna Rada is equally low in all regions, then the level of trust in the President and the Government shows noticeable regional differences. The level of trust in the President in the Western regions is higher than Ukraine-average (trust — 50.6%, don't trust — 36.5%). Instead, in the East the trust in the President is significantly lower than the average for the country (trust — 24%, don't trust — 65%). A similar correlation can also be found in the attitude towards the Government. In the Western regions, a larger percentage of respondents trust the Government — 37.3% (versus a distrust level of 38.7%), than in the East — 22.4% (versus a distrust level of 59.2%). However, in contrast to the attitude of the regions towards the President, the Crimean case is also different. Here, the level of trust to the Government is even lower than in the East — 19% (level of distrust — 62%).

⁵ The survey was conducted between April 15-24, 2000. 2000 citizens over the age of 18 in all of Ukraine's regions were polled.

As the following Diagram makes clear, 37% of those polled said that they were prepared to legalise previously undeclared income of a non-criminal nature⁶; however, a larger percentage of citizens (42.3%)⁷ have no intention to legalise their illegal income (*Diagr. "Readiness of citizens to legalise undeclared proceeds of non-criminal origin"*).

Readiness of citizens to legalise undeclared proceeds of non-criminal origin, % of respondents



It is not difficult to note that the percentage of respondents ready to abide by the presidential decree generally coincides with the indicator of citizens' trust in the head of state (33.5%). It cannot be said with certainty that among these citizens are those "new Ukrainians" who truly have billions that are hidden from taxation.

WHAT IS THE POPULATION'S IDEA OF AN IDEAL AND CURRENT GOVERNMENT OF UKRAINE?

One of the tasks of the survey conducted by UCEPS sociological service between January 25 - February 5, 2000 was to determine what citizens thought Ukraine's authorities should be like. A unique portrait of the ideal authority arose based on the results of the survey. In the first place, **the authorities must be responsible** — 98.1% of those polled believe that responsibility is an important or very important trait. Nearly as many definitely wanted the authorities to be **honest** (97.6%) and **competent** (96.7%). There was a somewhat lower, but also very high requirement that the

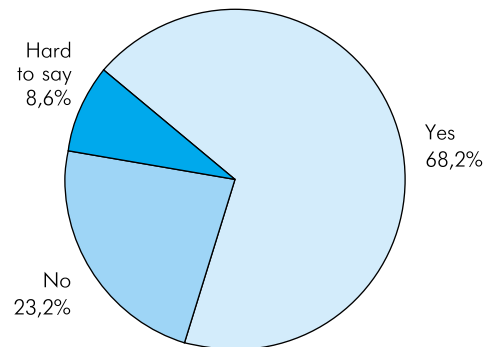
authorities be **democratic** (83.9%) and **predictable** (82%). In this way, citizens created a very high standard that the power structure should attain.

At the same time, the population's evaluation of today's power demonstrates that Ukraine's authorities are still very far from achieving the ideal. Thus, **15.2% of respondents gave the Government a high score⁸ for responsibility; 20.5%, for competence; and for honesty — only 8.8%. Of those polled, 17.8% believe the Government to be democratic, while 13% — predictable.**

However, despite such unpromising general characteristics, it can be concluded that the new Government received a considerable score where the population's trust is concerned — 52.6% of respondents voiced their trust in V.Yushchenko. This is indirectly demonstrated by the desire of two-thirds of those polled (68.2%) to familiarise themselves with the Government's Programme of action⁹ (*Diagr. "Desire of citizens to get familiar with the Government's Programme of action"*).

Of interest are **citizens' thoughts as to what**

Desire of citizens to get familiar with the Government's Programme of action, % of respondents



impedes V.Yushchenko in his work as head of the Government. The corresponding percentages are given in the Diagram "*Factors impeding V.Yushchenko's work as a Prime Minister*". According to respondents, **the willingness of officials to take bribes** is the greatest factor impeding the new Prime Minister in his work — 63.3% of those polled believe that this factor impedes V.Yushchenko "very much". The fact that bribery is the dominant factor evidently results from citizens' experience in dealing with public servants

⁶ The percentage of "yes" (19.1%) and "most likely yes" (17.9%) responses.

⁷ The percentage of "no" (23.7%) and "most likely no" (18.6%) responses.

⁸ "4" and "5" according to 5-grade system.

⁹ It should be noted that, on the one hand, the population's trust is, without a doubt, a significant precondition for the successful implementation of the Government's Programme of action. However, on the other hand, the more expectations arise in connection with the new Prime Minister, the more negative can be the socio-psychological results in the event that the Programme of action of his Government fails.



(60.5% of those polled indicated that they have had personal experiences with giving bribes to state officials in order to be able to exercise their legal rights).

In general, this is a relatively demonstrative indicator of the work of the state machinery in its present form. If the fact that 47.5% of respondents came up against the situation where they had to pay a bribe in order to achieve a result which was a violation of the law or normative act is taken into account, then the conclusion can be made that **"the rules of the game" of the state are, to a large extent, created by the bureaucrats regardless of the law.**

Without in any way excusing the officials who take bribes, it should be noted that the level of legal awareness is low not only for officials, but for the population in general as well. According to the survey results, less than half of the respondents (44.6%) worry about making sure that every step that they take on a daily basis is in line with the law. However, 88.2% of those polled indicated the strong influence of their obligations to people close to them on their behaviour. On this basis it is possible to draw a conclusion that officials differ little from average citizens. After all, a bribe is nothing but a demonstration of one giving oneself and those he is close to higher priority than to his duty before the law.

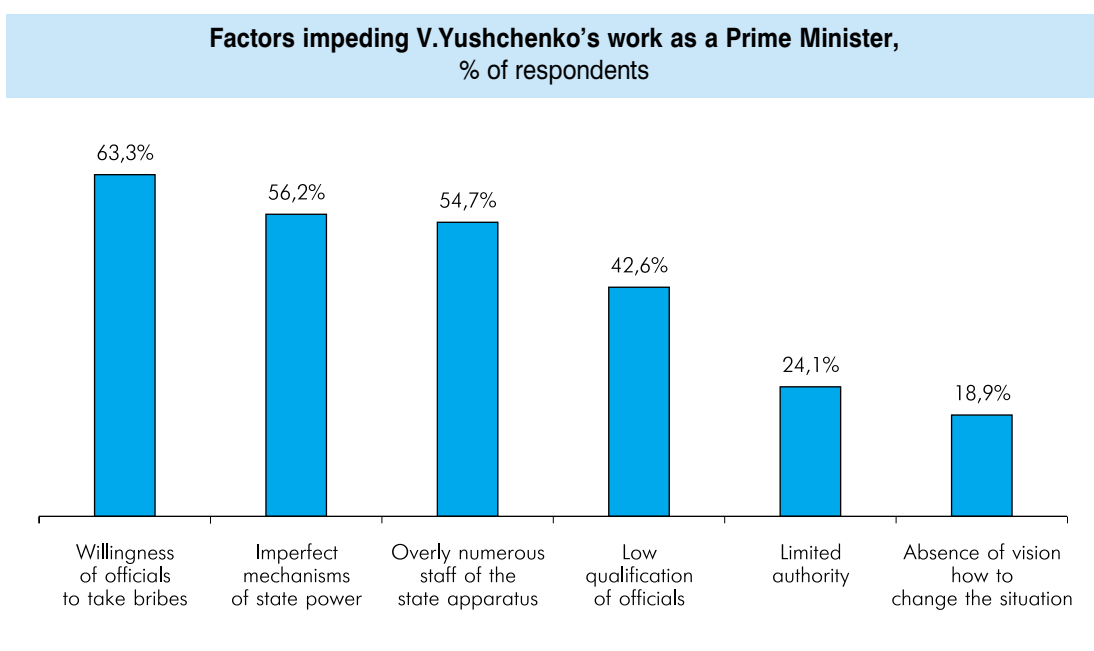
The citizens believe that the second greatest impediment for the Prime Minister is the **imperfect mechanisms of state power** (56.2%). In third place — **the overly numerous staff of the state apparatus** (54.7%). Not a few respondents (42.6%) believe that V.Yushchenko is strongly impeded by **the low qualification of the officials**. Among other reasons —

limited authority (24.1% of respondents believe this), as well as **the absence of vision on the part of the Prime Minister himself how to change the situation**, which 18.9% of respondents are certain about.

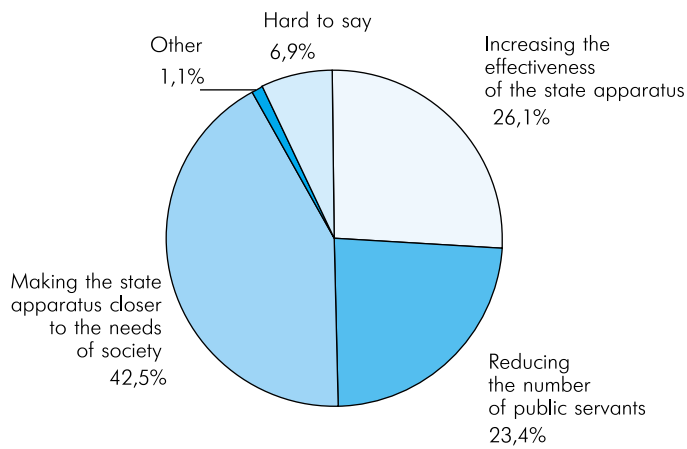
HOW DO CITIZENS UNDERSTAND THE GOAL OF ADMINISTRATIVE REFORM?

It is clear from the Diagram "Main goal of administrative reform" that the largest number of respondents (42.5%) believe that the main goal of administrative reform should be **making the state apparatus closer to the needs of society**. According to the citizens, the current state apparatus is not very concerned with their problems. 26.1% of citizens believe the main goal of administrative reform to be **increasing the effectiveness of the state apparatus**; another 23.4% of respondents believe it to be **reducing the number of public servants**. It is worth noting that the percentage of respondents that gave this response is noticeably lower among people with a higher and incomplete higher education (14-16%). Evidently, a higher educational level allows people to understand that the number of officials is not the most important problem of state management in Ukraine.

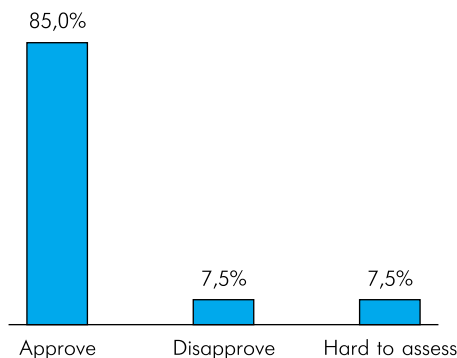
Despite all the understanding that an overly large number of officials is not the main impediment to the effective work of authorities, the overwhelming majority of citizens is convinced that it is worth making the state apparatus smaller: 85% of respondents welcomed the Decree of the President of Ukraine on decreasing the number of public servants by 30% (Diarg. "The attitude of citizens to reducing the number of public servants by 30%").



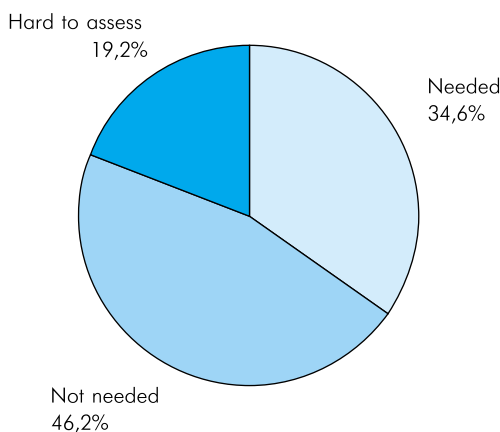
Main goal of administrative reform, % of respondents



The attitude of citizens to reducing the number of public servants by 30%, % of respondents



Public attitude to the introduction of lustration in Ukraine, % of respondents



As far as other provisions of the President's decrees (on administrative reform) are concerned, among those who are familiar with their contents, responses were divided in the following manner. 33.1% of respondents approve the provisions that envisage a **change in the role of the Cabinet of Ministers** (21.2% do not approve them, while 45.7% could not answer this question). **Strengthening the role of ministers as political figures** was approved by 28.3% of respondents, while 41.4% did not approve this measure, and almost one-third (30.3%) could not decide. It is possible that this indecisiveness is connected with a lack of information, the absence of a clear political orientation on the part of citizens, and their political passivity.

It is well known that one of the elements of administrative reform that took place in post-Communist countries (the Czech Republic, Estonia, and others), was the cleanup of personnel among public servants. This problem is also being discussed within Ukrainian political circles of a national-democratic orientation.

The question about public attitude toward lustration, or the cleanup of personnel was posed during the UCEPS sociological survey as well. The results of the survey demonstrate that **the public opinion in Ukraine remained unclear regarding the problem of personnel cleanup**: 34.6% of respondents indicated that it was worth going through with a cleanup, 46.2% did not think that was expedient, while 19.2% of those polled could not give any answer to this question (*Diagr. "Public attitude to the introduction of lustration in Ukraine"*).

The results of the sociological survey make it possible to draw an overall conclusion that Ukraine's population is rather sceptical about the actions of the authorities aimed at reforming state structures, and generally does not believe in their effectiveness.

Only reducing the number of personnel within the state apparatus is something that most citizens understand. But with respect to other measures, of the miniscule amount of those who are familiar with the contents of the presidential decrees on administrative reform, from one-third to nearly one-half of respondents cannot decide what their attitude is towards them.

The results of the survey demonstrate that the initiators of reform failed to ensure the necessary level of publicity, which resulted in an inability to garner the support of the society. Meanwhile, ignoring the thoughts of the country's citizens can lead to a further decrease in the level of trust in reforms engineered by the authorities, and in the authorities themselves.

ADMINISTRATIVE REFORM IN UKRAINE: STATE AND PROSPECTS



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Recently, many politicians, public servants and journalists often speak about "administrative reform", but, unfortunately, not everyone knows exactly what it is and why it is needed. One fairly widespread notion of administrative reform is its equation with a reduction of the number of state bodies and public servants. But this is not altogether accurate.

Administrative reform is a complex of political and legal measures involving structural, functional, and public service changes, above all, in the executive branch, with the goal of transforming the latter from an authoritative-repressive mechanism into an organisation that serves the society, and the establishment of an effective system of state management on this basis.

When giving a concise response to the question of why administrative reform is needed, it

should be said that, **without administrative reform, it is impossible to undertake other reforms in the country.** It is clearly necessary to create a political strategic centre for initiating and undertaking such reforms (the government takes on this role in developed countries), and an effective system for implementing political decisions, in order to bring about key changes in the economic and social security spheres.

And although Ukraine managed to build a vertical executive power structure relatively quickly after August 1991, the main shortcoming of the created system of state administration was its inability to generate and implement reforms which were vital for the state and society. Furthermore, the changeover from a totalitarian state to the building of a democratic state governed by the rule of law changes the priorities of state activities, as well as its ideology. The most important social value of a state must be the individual. This means that the state is created for the individual, and not the other way around. Therefore, **the bodies of state power and public servants should protect the rights of the individual, particularly by offering administrative services to citizens, rather than controlling them.**

But even today, the methods of governing have been left almost unchanged since the Soviet era. No one carries real responsibility for the state of affairs in the country, while the non-transparency of the state structure for the public and its totally corrupt nature have ultimately undermined the trust of the citizens in their Government and the state as a whole. It is necessary to carry out administrative reform in Ukraine namely in order to solve these problems.





This issue was first raised in 1996 by members of the Committee of the Verkhovna Rada on Issues of Legal Reforms. A working group established under this Committee drafted the first version of the legislative concept of administrative reform. At that time, all this work was carried out mostly by enthusiastic efforts of some people's deputies and scientists.

It was apparent that the issue of administrative reform should have taken on more particular urgency with the approval of the new Constitution on June 28, 1996. But it didn't happen exactly that way. On the contrary, new executive bodies were being created without any conceptual grounding. The constitutional requirement for legal regulation of the activities of executive branch was understood as an immediate call to action, but without proper preparation.

The President submitted draft laws "On the Cabinet of Ministers" and "On Local State Administrations". But as these drafts were attempting to legislatively "preserve" the existing state of affairs, alternative draft laws submitted by people's deputies were approved instead. The President, in his turn, vetoed the approved laws, and from that time forward (from the spring of 1997) a true conflict surrounding these laws arose between the Verkhovna Rada on the one hand, and the President and Government on the other.

This situation forced the President of Ukraine to form the State Commission for Implementing Administrative Reform in Ukraine in July, 1997. This Commission fleshed out the draft concept worked out by Parliament, and approved it on March 25, 1998. On July 22, 1998, a presidential decree made the provisions of the Concept of Administrative Reform in Ukraine the basis for reforming the system of state governance.

However, despite the Concept, the approval of laws that were key to administrative reform, above all, the Law "On the Cabinet of Ministers", continued to be blocked on the part of some officials within the Administration of the President and the Cabinet of Ministers. The ex-Prime Minister V.Pustovoitenko, ex-Minister of the Cabinet of Ministers A.Tolstoukhov, and his deputy V.Ivashchenko were especially active in this work. In particular, proposed amendments to the Law "On the Cabinet of Ministers" which, of course, were prepared within the apparatus of the Government, clearly contradicted the provisions of the Concept of Administrative Reform in Ukraine. Furthermore, the proposals themselves had the look of merely a re-edited version of the Law, and their contents demonstrated the clear unwillingness for even a minimal degree of progress with the approval of this Law. A similar

situation took place with respect to the Law "On Local State Administrations".

But it cannot be said that the Concept was completely ignored. On the contrary, the Concept's provisions played a key role in the preparation of all draft laws that were worked on by people's deputies — members of the Committee of the Verkhovna Rada on Issues of Legal Reforms and individual scholars¹.

The only body which was close to Government structures and carried out the Decree of the President, basing its proposals on the main provisions of the Concept of Administrative Reform in Ukraine, was the Secretariat of the Interdepartmental Council for the implementation of economic reforms in Ukraine under the Cabinet of Ministers, for whose activity Vice Prime Minister S.Thipko was responsible. However, he was able to work on the issue of administrative reform only in his free time which, of course, was not available. As to the other members of the Cabinet of Ministers, the problems of administrative reform either could not find any understanding on their part, or they preferred not speaking on the subject publicly given the attitude towards it on the part of the leadership of the Government.

It is particularly necessary to note the role of the World Bank in its support of administrative reform in Ukraine. It was namely international financial organisations, that shared the main ideas behind the Concept of Administrative Reform in Ukraine, and stepped forward as virtually the only client "placing orders" for changes in the system of state administration in our country (as unpleasant as this is to admit). It was namely under their pressure (and as a rule, prior to a scheduled visit for loans), at least cosmetic attempts were made to take some steps towards administrative reform.

One very good example of such "reforming" was the issuance by the President of Ukraine of the Decree No.250 of March 13, 1999 "On Changes in the System of the Central Bodies of the Executive Branch of Ukraine". In particular, this Decree envisaged reorganisation of the system of the central bodies of the executive branch. However, everything was being done without any prior functional examination. That is, this was merely a mechanical change. Furthermore, this Decree approved the scheme of organisation and interaction of the central bodies of the executive branch which, among other things, provided that the activity of individual central bodies of the executive branch should be directed and co-ordinated by the Government through other central executive bodies (we immediately note — not through its individual members). This Decree was complete-

¹ The vital role of Doctor of Law V.Averyanov in this process should be noted.



ly different from the initial draft. Its contents was completely distorted, which led to its having virtually no positive results. It was more likely to the contrary: because of the implemented scheme of subordination (and the correspondingly complicated scheme of initialising draft normative acts, along with other related problems), it was easier for everyone to simply forget about this Decree.

However, despite the efforts of the President of Ukraine to demonstrate his allegiance to administrative reform (something that echoed in many of his speeches), the fate of the Law "On the Cabinet of Ministers" was left "suspended" all the same. Parliament again approved the Law, while the President kept submitting the same propositions which contradicted the main provisions of the Concept of Administrative Reform in Ukraine, so that they could not be supported by the Verkhovna Rada.



The situation regarding the administrative reform improved after the 1999 presidential elections and the formation of a new Government. In the first place, it is necessary to take note of the issuance of three decrees by the President on December 15, 1999: "On the System of the Central Bodies of the Executive Branch", "On Changes in the Structure of the Central Bodies of the Executive Branch", and "On the Composition of the Cabinet of Ministers of Ukraine", which can be perceived as the first real step in conducting administrative reform in Ukraine. In particular, these decrees nearly halve the overall number of central bodies of the executive branch (to that time, there had been almost 90 of them), with number of ministries reduced to an optimal figure even by European standards — fifteen.

Conditions are being created which are meant to improve the work of the Government: first, the number of its members has been reduced to make the Government more productive and responsible; second, an attempt is being made to bring about order in the apparatus of the Cabinet of Ministers by way of its reorganisation

into a Secretariat with a corresponding decrease in the number of its working staff, and a prohibition to build the Secretariat structure on the branch principle. This is also meant to avoid duplication of the activities of the central executive bodies and the Government apparatus, and should also remove the latter, not responsible for anything, from the process of governing the state, which is what it did through its de-facto controlling of ministers.

The decrees made an attempt to increase the role of ministers both as members of the Government and as **ministry heads, as it is namely they who are made responsible for working out and implementing state policy in their respective spheres**. Furthermore, it is namely the ministers who have been given full authority regarding the co-ordination of the activities of the other central bodies of the executive branch.

For the first time the Ukrainian legislation made an attempt to give a normative definition to each central body of the executive branch and, above all, to define the differences between ministries that are established as the most important (leading) bodies implementing state policy, and other central bodies of the executive branch (state committees). A possibility for creating administrative bodies was envisaged, which, until now, have been beyond the reach of legislative regulation. **All of this makes the system of the executive bodies clear, understandable, and transparent.**

It is unfortunate, but yet another veto was placed on the Law "On the Cabinet of Ministers" in one day with these decrees, and the proposals to the Law again included the provisions that go completely against both the Concept of Administrative Reform in Ukraine and the signed decrees.

The issuance of these decrees has not brought about tangible results in increasing the effectiveness of the system of state governance. The new Government should play an important role at this stage, as it is the Government that should implement them. And the experience shows, that this proves to also be a rather complex task. In particular, today the problem has arisen related with the establishment of Government committees and simultaneous preservation of the mechanism of prior initialising of draft decisions. **Under these conditions, Government committees cannot produce the expected positive result (although information exists today that the process for approving Government decisions has improved), meaning that at the moment they will probably be an additional burden for Government members.** Furthermore, the automatic attachment of bodies being liquidated to ministries without reviewing their functions, and relevant adjustment of the structures of the newly created bodies will also hardly improve their functioning.

There is also a number of shortcomings in the decrees which could bring about unforeseen results. In particular, conflicts could occur in the regulation of the status of "the central bodies of the executive branch with a special status" (as they were defined in the presidential Decree No.1572): the resolution of staffing and establishment issues with respect to these bodies is regulated by the Constitution and laws of Ukraine. But the most important problem related to the issuance of these decrees is the non-observance of the requirement of the Constitution of Ukraine (in particular, paragraph two of Article 120), that the organisation, powers and procedures of the Cabinet of Ministers, and other central and local executive authorities, are defined by the Constitution and laws of Ukraine. Therefore, along with the proper implementation of these decrees, today, the **main remaining question is the legislative regulation of the executive branch.**

The new Government, unfortunately, was not able to define the role of the Secretariat of the Government. **The Secretariat should provide organisational, information and logistical support for the Government's activity.** However, branch departments are preserved within the Secretariat even now, and the influence of the Government apparatus on ministries remains significant; that is, the problem of duplication of powers is still unresolved.



The true reformation of the Government for ensuring its constitutional status as the highest body within the system of the executive branch (through empowering the Cabinet of Ministers the necessary staffing and establishing authority with regard to other bodies of the executive branch) has not been done. Neither is the political status of its members legislatively defined, nor the proper role of the Prime Minister in the formation of the Government is ensured.

Until the Law "On the Cabinet of Ministers" becomes effective, the problem of delegating authority of the Government to other bodies also remains unsolved. Unfortunately, there are also no legislative barriers to the practice of approving its acts by way of polling (including with regard to resolutions of a normative character), which creates conditions for manipulating the positions of individual members of the Government.

After the approval of the Law "On the Cabinet of Ministers", the Law "On the Central Bodies of the Executive Branch" should also be quickly approved, with provisions of the Concept

of the Administrative Reform in Ukraine taken into consideration. The most important task that should be resolved by this Law, along with defining the types and authorities of the central executive bodies, remains the problem of the internal organisation of the functioning of ministries. **As the main function of a ministry should be the formation of state policy within a given sector of state governance, the new ministry management structure is also conditioned by this.** In particular, it should be divided into the political management (to be carried out by the minister and the minister's political deputy), and the administrative management (to rely on a state secretary of the ministry and on heads of the departments, or deputy ministers — public servants).

Another strategic direction of administrative reform is the reformation of public service with the goal of staffing state bodies with highly professional and politically neutral personnel. It is necessary, above all, to clearly distinguish between political offices (that are not related to public service) and public service (administrative) offices. It is worth shifting to the new, widespread in Europe four-level categorisation of public service offices, as today's division of offices into seven categories is ungrounded. It seems unjustified to relegate offices with levels of authority and responsibilities of different characters to one category (for example: the office of a deputy minister and an assistant to the President of Ukraine).

A new system of public service management should be created. It should be headed by a Government Secretary who, along with the task of Government apparatus management, must ensure that proper human resources management is conducted within the bodies of the executive branch. The Government Secretary should be assisted by the Main Department of Public Service, while the function of personnel selection for higher offices within the public service should be performed by an independent body worth to be formed by all of the branches of power and the President.

One of the main tasks in the sphere of reforming public service should be ensuring unbiased selection of personnel. It is necessary to define clearly that positions in service offices are filled only on a competitive basis (which today is lacking), and to envisage proper mechanisms for guaranteeing the transparency and democratic nature of this process.

It is also necessary to change the approach towards the ranking of public servants. In particular, it is worth increasing the number of ranks so that flexibility in the qualification of servants and their salaries is ensured, as the fundamental instrument for encouraging the improvement in qualifications.

One of the key provisions of administrative



reform is the requirement of political neutrality of public servants. It is necessary to establish limitations as to their active participation in political activities; for today, servants on all levels are drawn into political struggles (especially during elections), which often leads to legislative violations, and does not allow for the effective work of state bodies. This requirement is also aimed at the protection of public servants themselves from their division based on the criteria of their political allegiances.

Among other urgent issues related with administrative reform is the creation of governmental bodies. Their specific nature lies in that key establishment and staffing issues with respect to these bodies should be resolved by the Government itself. Some governmental bodies should answer to the Cabinet of Ministers directly, while others — indirectly, through subordination to a certain ministry (or, as an exception, to a body of the executive branch possessing special status). These types of bodies should conduct governing of separate sub-branches or spheres of activity, exercise control and supervision, perform regulatory, licensing and registration functions with respect to individuals and legal entities.

As far as the relations between state authorities and individuals are concerned, it is namely the state's mission that determines one of the main tasks of these bodies: the provision of administrative services (such as registration, or licensing). That is, a **democratic state (which is what Ukraine is striving to become), as an organisation serving the public, should ensure the creation of conditions where citizens might enjoy their rights and freedoms.** The system of administrative services should be organised in a way as to make it convenient for citizens to take up a minimum of time, papers and money.

Given that, in today's depressed struggle against extra-budgetary funds, we should not go to the other extreme. In developed countries that are trying to make state administration less costly, the mechanisms of self-sustaining in the activity of bodies that provide administrative services have justified themselves. If a service is not demanded by all citizens (for example, receiving hunting licenses, or permits), then such services are provided for a fee which is directed toward financing this body directly, and not through the state budget. However, such extra-budgetary funds should never be formed through the collection of fines and other sanctions applied by state bodies (as today done by the tax bodies). And, of course, if receiving a given service is required by the state, then such service should be provided for free.

Therefore, at the current stage of administrative reform in Ukraine, the most important issue remains the finding of a compromise between the President and the Verkhovna Rada with the goal of making the Law "On the Cabinet of Ministers" effective, and afterward, practical implementation of other provisions of the Concept of Administrative Reform in Ukraine in the laws "On the Central Bodies of the Executive Branch" and "On Service in the State Power Bodies".

The number of deputy ministers should be determined based on the functions performed by authorities and the apparatus' staff structure. The approach to reforming is to be changed in such a manner, that the staff should not be reduced in proportions (on 20%, 30%) in all power structures.



THE AUTHORITIES AND CORRUPTION IN UKRAINE: WHO WILL TAKE THE UPPER HAND?



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Corruption is a social phenomenon that has a clearly defined political colouring. Historical experience demonstrates that the highest political echelons were attained with the help of corruption. At the same time, corruption often becomes the reason for the end of the political careers of politicians, statesmen, governments, changes of political regimes, or the decline of countries.

Over the last ten years, corruption has not only become a characteristic trait of today's politics in many countries. Some analysts believe that corruption is the main political problem for the end of the 20th century: "Every ten years bring at least one new area of political studies. In the '70s, this was terrorism, in the '80s — the ecology; in the '90s, it became corruption"¹. This assessment is supported by accusations of corruption against such internationally known politicians as B.Bhutto (Pakistan), P.Lazarenko (Ukraine), B.Netanyahu and E.Weizman (Israel), B.Yeltsin (Russia), H.Kohl (Germany), and others.

Corruption and authority are eternal antagonists: corruption is social corrosion that "eats away" state structures; state authority, in its turn, strives to destroy corruption. The political significance of corruption is conditioned by the fact that it affects the formation of power structures, their functioning, and the preparation and actualisation of political decisions.

CORRUPTION AND THE FORMATION OF STATE AUTHORITY

Corruption directly influences the formation of state authority. In the **executive branch of power** this usually takes place by way of payment for appointment to an office (the purchase-sale of posts), without considering the qualities of the individual, but depending on family ties or personal allegiance (according to the principle "it's not important who you are, but whose you are"). Corruption in human resources management is most dangerous when it appears on the highest

levels of executive power, inasmuch as the leaders at the highest level create an entire pyramid of corrupt relations which permeates all levels of power. As a result, it becomes impossible to occupy a certain post given only the experience and individual qualities of the candidate. The crucial moment is the payment for the appointment and family (close) relations with the leaders holding high office, as well as with other influential people. Often, appointments in the state structures themselves are made only formally; in fact, such decisions are taken outside the cabinets of authority — by influential businessmen, and

¹ Holmes L. Corruption and crisis in the post-communist countries. — Speech at international conference "Corruption in modern politics", Great Britain, November 14-16, 1996, p.3.



bosses of organised criminal groups that control a given region or sphere of activity. Both domestic and foreign mass media have reported such incidents, and state leaders, law enforcement bodies and well-known Ukrainian politicians have placed emphasis on this.

When assessing the level of criminality of state bodies in Ukraine, and turning to the heads of law enforcement structures, President L.Kuchma surmised at a meeting of the Co-ordinating Committee for fighting corruption and organised crime under the President of Ukraine that "Prior to today's meeting, I was given such materials: on the lists at the bodies of internal affairs there are close to two and a half thousand permanent criminal groups ... Just think about it, gentlemen: two and a half thousand armed and ready-for-everything groups! But you don't stop assuring the leadership of the state and the public that you know about them and their spheres of influence, that you control the situation"². By placing emphasis on the corruption of Ukrainian state bodies, People's Deputy of Ukraine O.Moroz noted: "It is not the official structures that exercise power, but the oligarchs and clans"³.

Fairly widespread is the collection of corrupt practices which can be used when forming the **judicial branch of power**. Above all, this is the bribery of the officials of state bodies who select candidates for the courts, prepare the documents for the appointment (election) of judges to their posts, and decide on appointing judges to administrative posts in the courts (qualification commissions of judges, judiciary bodies, the Higher Council of Justice, parliamentary committees). Among other practices — the falsification of documents, the concealment of compromising materials regarding candidates to the posts of judges, and the like.

It is also difficult to avoid the influence of corruption when forming **representative bodies of power**. In this case, the problem is the violation of fundamental principles of organisation and conduct of elections: the buying of candidates and representatives of authority and election commissions; illegal financing of election campaigns; abusing of authority when conducting campaigns; falsification of election results, impeding citizens in their right to vote, etc.

It is worth noting that many Ukrainian

politicians, international organisations, and foreign observers assessed the last election campaigns in Ukraine as conducted using non-democratic methods involving corrupt practices. Sociological research available prior to the last presidential elections showed that every second voter in Ukraine voiced his doubts as to the election campaign's honesty and the election's results even before the elections themselves. According to these voters, those who make the election procedure dishonest are the Central Election Commission (16% of those polled), the mafia and organised crime (12%), members of district election commissions (6%), the President of Ukraine, political parties, and business circles (5%)⁴.

According to data of the law enforcement bodies of Ukraine, in the 1998 elections a large number of individuals who were organisers (active participants) of organised criminal groups or committed crimes of a corrupt nature prior to their election were elected to representative bodies of power. For instance, according to the Public Relations Centre of the Main Department of the Ministry of Internal Affairs of Ukraine in the Crimea, nine deputies of the Kerch city council were organisers (active members) of organised criminal groups⁵. In 1999, four deputies of the Yevpatoria city council were arrested for committing crimes⁶.

Corruption in the formation of power bodies, in the first place, gives power into the hands of individuals to whom it is not truly delegated by voters, or who should not occupy state posts based on their experience and individual qualities (in fact, this means illegal appropriation of power); second, representatives of the criminal world come to power, including leaders of criminal groups; third, power formed in this way is criminal and will be used by its representatives for criminal purposes — for illegal personal enrichment, evading responsibility, persecuting opponents, etc.

CORRUPTION AND THE FUNCTIONING OF STATE POWER BODIES

Corruption involves the exploitation of public power in private interests. The state, in fact, loses that part of its power that was used by the corrupt official for his own interests. As Hegel said, "the share of state power appropriated by a separate individual is lost as power of the community"⁷.

² Kuchma L. This cannot go on any longer. Speech at the meeting of the Co-ordinating Committee for fighting corruption and organised crime under the President of Ukraine on February 16, 1998. — *Uryadovyi Kuryer*, February 19, 1998, p.4.

³ Read and compare, decide and vote. — *Khreshchatyk*, October 29, 1999, p.6.

⁴ The population does not believe in honest elections. — *Vecherniye Vesti*, August 4, 1999, p.2.

⁵ Budzhurova L. Pulp fiction with a horoscope. — *Stolichnyye novosti*, March 2, 1999, pp.1,5.

⁶ Another deputy of the Yevpatoria city council arrested. — *Fakty*, February 9, 1999, p.1.

⁷ Hegel. Constitution of Germany. — Political Works, Moscow, 1978, p.184.

Much has been said recently about the inappropriate use of power by state officials (politicians) at the highest level. For example, as a result of publication of the information regarding the connection of some People's Deputies to corrupt acts, society has formed a persistent belief in the spread of corruption within the walls of the Verkhovna Rada.

There was an especially intense dissemination of information regarding corruption among MPs in the spring-summer of 1998, during the election of the Chairman of the Verkhovna Rada. This process was very lengthy (it lasted for several months), which gave grounds for various assumptions. Information was disseminated more than once (including public presentations at plenary sessions in Parliament, in mass media) that some candidates, or the structures supporting them, were bribing individual deputies. The bribery of deputies was also discussed in connection with the formation of deputy groups and factions, and deputies changing factions⁸. All of this resulted in the Verkhovna Rada approving a special resolution on June 25, 1998 "On Statements of People's Deputies of Ukraine Regarding Bribery During Voting for Candidates for the Post of the Chairman of the Verkhovna Rada of Ukraine". A Temporary Investigative Commission for reviewing statements of deputies regarding bribery during voting was formed; the General Prosecutor's Office was involved for verification.

Neither the Temporary Investigative Commission, nor the law enforcement bodies were able to establish concrete facts of bribing deputies or individuals connected to this at that time. Nevertheless, this did not put an end to statements about bribing of deputies, including on the part of the deputies themselves. People's Deputy of Ukraine L.Kravchuk had this to say about how the bribery method is used in Ukrainian politics in general, and in parliamentary activities in particular: "Authority today is living according to the laws of trade — this is the most frightening! The post of the Chairman of the Verkhovna Rada was bartered. It was bartered, no voting took place, there was a sale of bulletins... The representatives of authority have begun living according to the laws of merchandising and trade: 'Scratch my back, and I'll scratch yours. You give me the votes and bulletins, and I'll give them to you'... Everything is

sold for money: a change from one faction to another, posts"⁹.



The words of this politician should be taken seriously, since at that time he was a contender for the post of the Chairman of the Verkhovna Rada, and therefore, well-informed with the political trading that went on in Parliament in 1998.

In 1998, the General Prosecutor's Office applied to Parliament for permission to criminally prosecute People's Deputies P.Lazarenko and M.Ahafonov for committing criminal acts of corruption. In March of 2000, the Security Service of Ukraine submitted for Parliament's consideration materials regarding six people's deputies of Ukraine in whose actions the Security Service saw signs of violations of the legislation as envisaged by the Law "On the Fight Against Corruption"¹⁰. Furthermore, the Security Service also informed about the violations of election legislation by one more People's Deputy of Ukraine (the use of falsified documents when registering the candidate)¹¹.

At a meeting of the Co-ordinating Committee for fighting corruption and organised crime under the President of Ukraine on April 20, 2000, information regarding the business activities of members of Parliament was made public. According to data of the State Tax Administration, 364 people's deputies of Ukraine have official incomes from commercial structures. Members of Parliament head 202 enterprises and

⁸ The first session of the Verkhovna Rada of Ukraine. Bulletin No.46, Part 1. — Kyiv: Publication of the Verkhovna Rada of Ukraine, 1998, pp.42,52.

⁹ Kravchuk L. "The most frightening, that authority is living today according to the laws of trade". — *Den*, February 3, 1999, pp.4,5.

¹⁰ In accordance with Article 1 of the Law "On Entrepreneurial Activity", participation in the establishment of subjects of entrepreneurial activity and possessing corporate rights are not assumed entrepreneurial activity and are not, therefore, violations of the Law of Ukraine "On the Fight Against Corruption".

¹¹ Primachenko A. The affair "of the Greens". — *Zerkalo Nedeli*, March 25, 2000, p.2.



are the founders of 473 enterprises. In general, people's deputies have either a direct, or indirect relation to the economic-financial activity of 3105 enterprises. In 1999, these enterprises imported raw materials commodities into Ukraine worth UAH 13.2 billion (25.3% of all Ukraine's imports), and exported UAH 5.2 billion worth of goods (10.1% of all Ukraine's exports). According to the results of 1999 economic activity, the above-mentioned enterprises have arrears before the budget in the amount of UAH 4.1 billion¹².

Despite the fact that some of the above-mentioned and other reports (made public by mass media) have either not been officially confirmed by law enforcement bodies, or are in the process of being examined (or need to be examined), it can be concluded that such information made public by members of Parliament and the heads of state power bodies actually serves as acknowledgement of corruption among high-level politicians.

For the sake of fairness, it is worth noting that among other branches of power, *the legislative branch of authority objectively cannot be the most corrupt*. Potentially the most corrupt is the executive branch, since it is namely its representatives that have the possibility of controlling funds, real estate, material valuables, deciding on allocation of land parcels, leases, legal and financial liability, issuing permits, licences, loans under Government guarantees, etc. This is confirmed by the judicial practice of applying anti-corruption laws: the overwhelming majority of persons brought to account for bribe-taking, abuse of office, and violations of the Law "On the Fight Against Corruption" are representatives of the executive branch of power. The absence of officials of the highest level is most likely indicative of the high level of corruption of the executive structures rather than vice versa, since high-placed officials have more chances not only to abuse of authority, but to get clear away¹³.

As far as the *judicial branch of power* is concerned, the issues of abuse of office by judges appear infrequently. In the course of two years that the Higher Council of Justice has been

active¹⁴, only nine judges were dismissed for violating their oath upon the initiative of this body, while criminal charges for bribe-taking were brought against five judges¹⁵. Over the previous years, criminal charges against judges were also brought infrequently, and as a rule, only based on facts of bribe-taking¹⁶.

CORRUPTION AND THE POLITICAL STRUGGLE

The political realities of corruption also appear in the form of corruption being a tool in the struggle for power (or retention of power). On the one hand, bodies of power can use the slogan of the fight against corruption for achieving political goals, including dealing with political opponents (by using criminal-legal, repressive means, or discrediting opposition politicians). On the other hand, the political opposition can accuse the authorities of corruption also with the goal of achieving political ends. And although this may seem unusual, but the opposition may be interested in the corruption of the authorities (individual state officials), since bringing the facts of corruption to light and their publicity in mass media increases the chances of opposition coming to power. Typical ways of using the slogan of the fight against corruption for fighting political opponents are presented below.

1. The use of criminal-legal and other repressive means, provided by the law, against state officials and politicians (as a rule, the political opposition representatives) based on the existence of grounds for so doing, but not because of the existence of those grounds rather mainly for political reasons. That is, bringing charges against such individuals for committing violations of a corrupt nature is conducted not as a result of the systemic anti-corruption activity of the authorities, but based on the principle of political expedience. The process itself of bringing charges against a guilty party is accompanied by a broad propaganda campaign with the goal of convincing society and the international community that the indicated process is without any political subtexts and is directed only toward ensuring rule of law in the country¹⁷.

¹² Desyatnikova I. Last year, our fellow citizens acquired over five thousand prestigious, "Mercedes-600" series, cars at a price from \$100 to 300 thousand. — *Fakty*, April 22, 2000, p.4.

¹³ Cases of corruption of even the middle-level officials, in particular, the head of the consular department of the Ministry of Foreign Affairs of Ukraine V.Koval, the mayors of the cities of Kherson, Nizhyn, and Kremenchuk, present an exception to the general rule.

¹⁴ The Higher Council of Justice was created in 1998.

¹⁵ With respect to two judges, the Verkhovna Rada of Ukraine gave its consent to bringing criminal charges against them, and with respect to the other three, materials have not yet been examined by Parliament. See: Vaulina O. And who are the judges? — *Holos Ukrainy*, January 19, 2000, p.5.

¹⁶ For example, in 1995, criminal charges were brought against the head of the Leninskyi district court of the Autonomous Republic of Crimea V.Chernishov who was accused for bribe-taking and for demanding bribes in the amount of \$2150 (for non-sentencing the guilty party to imprisonment). In 1997, a case was brought against a judge of the Zhovtnevyi district court in the city of Luhansk Yu.Faratyev whom the procurator accused of bribe-taking in the amount of \$500 (for non-sentencing the guilty party to imprisonment).

¹⁷ According to many well-known politicians and experts, the appearance of the most famous corruption case in Ukraine — "the affair of P.Lazarenko" — was to a large extent caused by namely political conditions.

In such instances, the representatives of law enforcement bodies can apply the law with a clean conscience, even if they are aware of the political aspect of the situation. However, the situation can change dramatically if the emphasis is shifted to bringing charges against other officials (political figures) for similar crimes who are not part of the political opposition to the political leadership of the country or, moreover, are close to the ruling "Family". In such cases, representatives of law enforcement bodies who see their task not in defending law and order, but in servicing the existing political regime, violate the law, as not applying the law despite the existence of grounds for doing so is an abuse of office.

2. Settling scores with political opponents through bringing charges against them based on accusations of corruption (and other illegal acts) in the absence of legal grounds for this. The goal and means in such cases are the same as in the above-mentioned instance, except that here, there are no grounds for such actions.

It is in this way that in the countries of the former USSR, the authorities frequently dealt with politicians, in particular, with members of Parliament who disclosed facts of corruption regarding high level officials, and therefore presented a definite threat for the corrupt leadership. Some politicians and lawyers, who had the opportunity to familiarise themselves in detail with the materials of the case of abuse of office (later found to be ungrounded) brought against the Head of the Parliamentary Committee for Fighting Organised Crime and Corruption H.Omelchenko by the General Prosecutor



H.Vorsinov in April of 1997, see this case exactly this way.

In such instances, representatives of law enforcement bodies take illegal actions. Ungrounded criminal prosecution (and the use of other repressive measures) are criminal abuses of office, that is, it goes about the corrupt actions of the representatives of law enforcement bodies.

3. The use of repressive measures for those very motives against persons close to politicians, in whose discrediting the authorities are interested. As far as law enforcement bodies are concerned, their acts can be either lawful or unlawful, depending on the existence (absence) of grounds for applying the corresponding measures. However, this does not have a decisive meaning, since the moving force behind the application of legal measures in such instances is not the fight against crime, but political expedience¹⁸.

One of the most dangerous factors related with using the slogan of fighting corruption for political struggle is pulling law enforcement bodies into the process, that is, using them as a means to do political struggle.

The fight against corruption can also be declared with the goal of creating a positive image for certain representatives of the authorities in the eyes of the citizens and the world community in order to preserve (attain) office. Traditionally, announcements regarding toughening the fight against corruption are louder and occur more often just before elections.

For corrupt politicians, such acts are aimed at solving a two-pronged task: first, to hold on to power at any price; and second, in this way to avoid responsibility for crimes committed while in office¹⁹.

In connection with this, a better defined position needs to be described regarding parliamentary immunity. In the legal and political situation, when prosecution of MPs for political reasons is not excluded, it is necessary to look at parliamentary immunity, among other issues, as a means of defending democracy, inasmuch as the main reason for parliamentary immunity is to ensure legal guarantees for the requisite execution by members of Parliament of their duties. Clearly, provision for limited immunity can be seen as useful, if it helps fight against corruption²⁰. Removal (significant limitation) of parlia-

¹⁸ Melnyk M. The meaning of corruption. — Corruption and the fight against it. — Moscow: Russian Criminological Association, 2000, pp.218-219.

¹⁹ Ibid, pp.21-23.

²⁰ Aznar M. Proper raising by referendum. — *Den*, April 13, 2000, p.4.



mentary immunity based on political goals can turn into a sort of "immunisation" against oppositionist tendencies²¹, which will impede the development of democracy in Ukraine.

One cannot also exclude those instances when a corrupt people's deputy whose abuse of office and bribery are revealed tries to "write off" the accusations brought against him as political prosecution. As practice shows, this kind of political "defence" can be rather effective.

CORRUPTION AND THE IMPLEMENTATION OF STATE POLICY

The political aspect of corruption is seen in the fact that can also significantly influence the attainment of the objectives of the domestic and foreign policies of the state.

With respect to the latter, a high corruption level in the country (the corruption of individual high-ranking officials) can be used by other countries for purposes of putting pressure on the political leadership of the country with respect to decision-making on foreign and domestic political issues. That is, the political leadership of the country becomes politically dependent on the leaders of those countries (international organisations) who are informed as to the real situation regarding corruption of the country, individual politicians, or leaders at the highest level. As a result, problems arise in relations with other countries (international organisations) when negotiating international agreements, contracts, obtaining credits, foreign investments, and debt restructuring. It cannot be excluded that corrupt officials can become dependent on representatives of foreign countries (international organisations) and will be used by the latter in their own interests, including as "agents of influence"²².

The fact that the problem of corruption has taken on a political character in Ukraine and became an important factor in how the international community perceives the country is noted by experts as an indisputable fact, and is confirmed by many polls conducted among Western experts²³. This is witnessed both by the assessment of Ukraine by leading international organisations, which to a large extent determine the political image of our country in the eyes of the world, and by the facts

of pressure on Ukraine's political leadership.

Based on corruption indicators, Ukraine consistently makes it into the group of world "leaders". According to the international corruption index for 1999, Ukraine took 21st place (alongside with Kenya) on the list of the most corrupt countries in the world. According to the results of a poll conducted by The Economist, in 1998, Ukraine received the highest score for its level of corruption out of 97 countries. According to the assessments of experts of the World Economic Forum, in 1999, Ukraine took third place (after Bolivia and Columbia) among 59 countries with the highest level of political corruption²⁴.

Political pressure on the part of other states, conditioned by their concern over corruption in other countries, can take various forms, including diplomatic. For example, one can quote U.S. state officials and diplomats with respect to corruption in Ukraine just prior to President L.Kuchma's visit to that country in the fall of 1999. The U.S. Deputy Secretary of State S.Talbott, in characterising the state of corruption in Ukraine, pointed out that "corruption has become one of the worst impediments to Ukraine achieving economic prosperity and democracy... If Ukraine wants renewed investor confidence, which is the basis for economic prosperity, then success in the fight against corruption is vitally important"²⁵. The U.S. Ambassador to Ukraine S.Pifer sent rather clear message in this respect. He stated that the higher leadership of Ukraine "should break its ties with those persons that are drawn into corrupt activities, or have relations with criminal groups"²⁶.

According to mass media information, during President L.Kuchma's stay in the U.S., one of the main issues of the discussions held with the U.S. leadership was that of the need for real fight against corruption in Ukraine. Furthermore, mass media reported that during the meeting held between the President of Ukraine and the U.S. Vice President, they discussed specific Ukrainian politicians and businessmen who have ties to corruption. According to information of the "Zerkalo Nedeli" weekly, in April of 2000, President B.Clinton sent President L.Kuchma a letter which contained a recommendation to put in

²¹ Chemerys I. Dossier for voting. — *Den*, April 11, 2000, p.4.

²² Ben' A. Today — a bribe-taker, tomorrow — an agent? — *Holos Ukrayiny*, October 3, 1996, p.7.

²³ International Image of Ukraine: Myths and Realities (Analytical report of the Ukrainian Centre for Economic and Political Studies). — *National Security and Defence*, 2000, No.3, p.25.

²⁴ *Ibid*, p.10.

²⁵ Talbott S. "We are concerned about some problems in the present campaign". — *Zerkalo Nedeli*, October 23, 1999, p.1.

²⁶ Yurchuk A. A stalker in the parliamentary zone. — *Zerkalo Nedeli*, December 4, 1999, p.1

their place those forces "that are acting as a brake on the road to market reforms and pursuing their own interests in Parliament"²⁷.

Clearly, one of the conditions for fruitful co-operation between the United States and Ukraine, including granting the U.S. and IMF credits, that might be put forward by the U.S. leadership, is the need for the Government of Ukraine to undertake resolute anti-corruption measures, including with respect to specific persons from the Ukrainian political Olympus. And this, in its turn, could engender changes in the legal policy of Ukraine, and staff changes in the higher echelons of power in our country²⁸.

CORRUPTION AND SOCIETY

Corruption is one of the main factors that splits society, roughly speaking, into official and unofficial (partly criminal) parts. As a result of this, within the framework of society, two social sub-systems coexist simultaneously: one of them is directed toward lawful and moral norms, while the other, at using illegal means. As far as corruption is concerned, those means are bribery, abuse of office, unfair granting (obtaining) of privileges and preferences, use of power for unlawful control over property, etc. The subjects of corruption function within the unofficial system with its own system of values, goals and means for achieving them, where life is built not according to the rule of law, but (as it has become popular to say) "based on notions". Due to the illegal nature of their activities, they cannot bring their corrupt relations "to light" for society, since in that case, there will be a reaction (at the very least, according to the logic of things in a civil

society and a legal state, it should be so) on the part of the law with respect to their activities. At the same time, subjects of corruption cannot exist without an official sub-system. The latter for them is a necessary condition for establishing corrupt relations: in order to abuse authority, such an individual should have such authority, that is, occupy a requisite post within the state bodies (local self-government), be vested with certain powers, and have the possibility of using them in an official capacity. Furthermore, the official sub-system is a cover for the unofficial sub-system. First, the subjects of corruption use the authority vested in them by the law in order to achieve their unlawful purposes. Second, official status is used by them for avoiding responsibility which is envisaged by the law.

Completely getting rid of the system of unofficial, including corrupt, relations, will not be possible for any society. Statements about totally rooting out corruption, bribery and criminality are, at the very least, naive. A society's social-political climate depends on what place is occupied and role is played within society by each of the named sub-systems, and which of them is in the lead. Opposing corruption means localising unlawful relations, and curtailing the impact of the unofficial sub-system on the functioning of society.

If the state of affairs in Ukraine is judged from this position, then it is worth noting that the ratio between the official and unofficial sub-systems demonstrates the extremely dangerous situation. **The increased criminality of all spheres of economic and political life, mass corruption, including the higher echelons of state power, which places the future of Ukraine under threat — this is a fact noted by the state's legislative body**²⁹.

According to official statements of the state's leadership, the share of Ukraine's illegal economy actually equalled that of the official one and accounts for 45–60%. Millions of Ukraine's citizens are employed within the shadow sector of the economy. According to the "Intellectual Prospects" Fund, and the Centre of Social Expertise of the Institute of Sociology under the National Academy of Sciences of Ukraine, which polled Ukraine's citizens to inquire about the population's participation in the shadow sector, 45% of those polled work in "the shadow"³⁰. According to expert calculations, the total shadow capital of Ukraine's citizens now amounts to around \$40 billion³¹. Nearly half of all cash cir-



²⁷ Ibid.

²⁸ George Soros openly stated this the day before President L.Kuchma's visit to the U.S. The American businessman ties financial assistance to Ukraine with solving the problem of "cleaning the government stables".

²⁹ Resolution of the Verkhovna Rada of Ukraine No.12/98-VR of January 13, 1998. — *Holos Ukrayiny*, January 27, 1998, p.2.

³⁰ Dolzhenko H. Solo for a businessman accompanied by controlling and criminal structures. — *Uryadovyi Kuryer*, February 25, 2000, p.4.

³¹ Povolotskaya L. Ukraine awaits a tax amnesty. — *Fakty*, April 6, 2000, p.7.



culates outside of the banking system. According to expert assessments, the illegal internal currency circulation in Ukraine approaches \$12 billion. The minimal amount of hard currency illegally taken out of the country and placed on foreign bank accounts is valued at \$20 billion³².

This kind of situation is conditioned, on the one hand, by the excessive tax burden on domestic producers, and on the other hand, by the cultivation of corrupt relations within Ukrainian society. This is the result of the activities of those leaders (politicians) who did not hold back (or even encouraged) the transformation of corruption from a social anomaly into a social norm.

THE BASIS FOR COUNTERACTION CORRUPTION IS THE POLITICAL WILL OF THE STATE'S TOP LEADERS

The effectiveness of counteracting corruption above all depends on the stance taken by the state's top leaders with respect to this problem, and on their moral and judicial purity.

Political will is a decisive factor in countering corruption. Political will means application of the law to any individual, regardless of his office, political preferences, proximity to the state's political leadership, and other subjective factors. **In the absence of political will, the most perfect anti-corruption legislation will be doomed to merely a declarative existence, while the activities of the law enforcement bodies will only resemble an imitation of a fight against corruption³³.**

According to the assessments of foreign researchers, "not a single serious step has been taken in Ukraine for the fight against corruption. There have only been certain outward signs made for purposes of quieting Western critics as, for example, the creation of the state programme 'Clean hands'. The only ones who, to the minds of foreign researchers, have taken seriously fighting criminality and corruption in Ukraine are the law enforcement bodies of the United States, Switzerland, and Belgium"³⁴.

CONCLUSIONS AND PROPOSALS

Corruption is an extremely serious political problem in Ukraine. It directly impacts the formation of the institutions of power, the organisation of activities, and the functioning of the state authorities, and to a large extent defines the political and social essence of power.

Corruption is a real threat to the national security and social system in Ukraine; it complicates the relations of our country with foreign partners. The size and character of corrupt practices demonstrate that corruption has become a systemic element of state governance in Ukraine.

Corruption, as a social "illness" with a political character, requires, above all, political measures for its "treatment". Political will of the highest state leadership is an obligatory and principal element of the systematic counteraction of corruption, while its absence brings such counteraction to nothing.

Systemic administrative reform should ensure effective management of the state and society, remove the existing foundation for a completely corrupt state power. An important condition of success is ensuring the transparency of the state power. This will allow for the creation of unpleasant preconditions for the corruption of the authorities, renew citizens' trust in official authority, and ensure that Ukraine's citizens will be able to enjoy their constitutional rights and freedoms.

The ideology of state service should be formed and implemented into the activities of state power bodies; that is, ideological guidelines and a system of principles and values of state service should be defined. It is necessary to improve the normative-legislative regulation of the state service with the goal of clearly defining the norms of behaviour of public servants when taking administrative and other governing decisions, and to create a systematic and comprehensive anti-corruption legislative base.

³² Ibid; Kuchma L. The state will not be a donor of corrupt grabbers. — *Uryadovyi Kuryer*, December 16, 1999, pp.3,4.

³³ Melnyk M. Intellectual support for the anti-corruption activities in the state bodies. — Kyiv: Osnova, 1999, pp.19-20; Melnyk M. The meaning of corruption. — Corruption and the fight against it. — Moscow: Russian Criminological Association, 2000, p.220.

³⁴ Chiapka R. The gas market in Ukraine — a field of activity for criminals, bribe-takers, and other dishonest people. — *Svoboda*, April 3, 2000, pp.8,11.



ADMINISTRATIVE REFORM: DEFENCE ASPECTS



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Already in its first stage, administrative reform in Ukraine envisages the implementation of serious changes in the structure of governing. Its subsequent stages evidently can also see a change in the administrative division of Ukraine's territory. It is important that in the end, the new structure of the executive branch ensures the effective governing of not only the civil sphere, but of the military sphere as well, both in peacetime and wartime alike.

During critical periods for the state, such as war, large-scale natural disasters, or technogenous catastrophes, significant material, financial and human resources are spent in order to localise dangerous situations. Both world experience and Ukraine's experience demonstrate that these expenditures increase several times if the system of state governance acts ineffectively, and more so if the situation calls for the forced implementation of operational changes in its structure during critical periods.

Taking into account the above-indicated factors, administrative reform is of strategic importance — to a large extent, the economic, military and political security of the state depend on it. This makes it necessary to forecast the results of administrative reform, as well as to timely account for defence and other requirements, when implementing administrative reform.

This article names some defence requirements, which it would be worth taking into account at the stages of planning and implementing administrative reform. Furthermore, attention is paid to the structural changes (planned by the Government) whose implementation, in our view, will not lead to higher effectiveness of the executive branch of Ukraine, including in resolving defence related issues.

Unification of related functions of different structures under one body, removal of duplication

This makes it possible to concentrate organisational and economic resources in one body, and avoid the forced changes in the system of governance during critical periods.

The new Scheme for the organisation of co-

operation of the central executive bodies¹ approved by the President of Ukraine generally seems well grounded². It is undisputedly correct to remove the duplication of separate functions of the Ministry of Economy through such structures as the National Agency for Development and European Integration, and the Agency for Special (Free) Economic Zones. The disbanding of the National Guard and transfer of its func-

¹ Decree of the President of Ukraine of December 15, 1999.

² It includes proposals of the office of military-economic problems of the Council for Studying the Productive Forces of Ukraine, prepared in 1997 for the Government of Ukraine.



tions to the Internal Troops and the Ministry of Defence was expedient, too.

Study is required of the issue regarding the possibility of transferring to the Ministry of Defence the civil defence troops (of the Ministry of Emergencies) whose mobilisation is conducted by the Ministry of Defence. Besides, proceeding from the experience of liquidating the consequences of large technogenous catastrophes and natural disasters, it should be added that the civil defence troops are insufficient; in one way or another, it will be necessary to involve the forces of the Ministry of Defence and its logistical structures.



The number of administrative structures and the apparatus' staff should be sufficient for performing the required functions

The ungrounded reduction in the numerical strength of leading ministries and agencies does not lead to consolidation of the system of governance. In general, decreasing numbers is not the main goal of administrative reform, as it is often said to be. Attractive, but actually populist slogans should deceive neither the average citizen, nor personnel working in state structures. Ministries (agencies) and local authorities should perform their functions effectively — this is the point to start from, when defining their organisation, structure, the number of staff and the amount of funds.

An analysis of the personnel ceilings of the ministries' (agencies') staff and the subordinate local bodies³ gives grounds for forecasting certain negative results from the implementation of the changes indicated in the aforesaid presidential Decree. In our view, the attempt to save money through decreasing the number of key structures

will have an adverse effect, and the resulting damages will surpass the expected economy of budget expenditures on maintaining the apparatus.

The Ministry of Economy's overly broad sphere of responsibility can serve as an example. In addition to "traditional" powers, it has been given the functions of liquidated structures — those of the Ministry of Foreign Economic Relations and Trade, the State Investment-Clearing Committee, the National Agency for Development and European Integration, the State Service of Export Control, and the Agency for Special (Free) Economic Zones. Furthermore, the Ministry of Economy has been made responsible for the management of the State Committee for Construction, Architecture and Housing Policy, the State Committee for Energy Saving, the State Committee of Industrial Policy, the State Committee of Standardisation, Metrology and Certification.

The apparatus of the Ministry of Economy numbers 1250 persons, and if subordinate bodies are accounted for, that number becomes 2486. For this number of employees, the Minister of Economy is permitted to have only four deputies⁴. For comparison: the same number of deputies is approved for the Ministry of the Environment and Natural Resources (420 employees) and the State Committee for Construction, Architecture and Housing Policy (146 employees). In our view, the unification of the structures of different ministries cannot be an end in itself; when defining their structures (including the number of deputy ministers), it is necessary to proceed from the scale of tasks and the number of personnel at relevant ministries.

Strengthening state bodies responsible for strategically important complexes (branches), including those of a defensive character

Strategically important complexes and branches of Ukraine's economy are currently in a crisis state, and the state does not ensure the effective management of their activities⁵. This is very dangerous, since it is namely the strategically important complexes (energy, transportation, communications, military-industrial complex) that ensure the ability of society to live through crisis situations. Cut-offs of energy supplies to the population and industry occur in Ukraine even during peacetime. That's why the deep reform of the relevant state structures before working out and approving of at least the Concept for the

³ Resolution of the Cabinet of Ministers of Ukraine No.403 of February 26, 2000.

⁴ Until February, 2000, the Ministry of Economy had nearly 950 people working within its apparatus, with nine deputy ministers.

⁵ President L.Kuchma drew the attention of ministers to this point at a Government meeting on April 19, 2000.

Development of the Energy Sector in Ukraine seems premature — this can soon bring about another series of organisational changes (not excluding those of a contrary character).

Of special concern is the planned reduction in the number of executives that to date have been co-ordinating the activities of defence structures, including those which have been made joint-stock companies, or privatised over the last several years.

In our view, it was not worth liquidating the Ministry of Industrial Policy and creating on its basis a corresponding State Committee (with its subsequent inclusion into the Ministry of Economy). Lowering the status of this important state body will not lead to the steady development of the industrial complex, which has an overall importance to the state.



The existence in Ukraine of a significant number of enterprises of the military-industrial complex (foremost in the field of defence machine-building), leading sectors of civil machine-building engaged in the performance of defence orders, and the need to strengthen Ukraine's position on the world arms market, along with some other factors, demonstrate the non-expediency of even the previous reorganisation (the 1997 unification of the former Ministry of Machine Building, Military-Industrial Complex and Conversion with the Ministry of Industry of Ukraine, and the creation on their basis of the new Ministry of Industrial Policy). The bulky and ineffective structure then created, in our view, became one of the reasons for the deepening of the crisis in the machine-building sector, as one of the basic elements of economic and military security⁶. In this way, the cost savings expected turned into losses — instead of pulling domestic

machine building out of the crisis, the situation in that branch only worsened. It is not difficult to forecast that the proposed (and partly implemented) new structure of industrial management — *with the corresponding State Committee being subordinate to the Government not directly, but through the Ministry of Economy* — will lead to even greater centralisation, and will not enhance the effectiveness of industrial management.

Strengthening the staff of bodies that conduct analysis and long-term forecasting in the areas of responsibility of ministries (agencies)

It is not possible to take well-grounded and rational executive decisions without this. In our view, it is namely the *weakness of the structures that conduct long-term forecasting*, that is one of the most serious weak points of today's ministries' and regional authorities' personnel in Ukraine.

The above-mentioned functions have a particular significance with respect to solving defence problems (during both wartime and peacetime), and also for predicting possible emergency situations. This takes on a strategic meaning for the Ministry of Economy, the Ministry of Finance, the Ministry of Fuel and Energy, the Ministry of Transportation, the Ministry of Agro-industrial Policy, and also Ukraine's power ministries.

Strengthening of the bodies that conduct the interagency co-ordination in the defence sector

Unfortunately, there were some insufficiently thought-out decisions in this aspect. For instance, recently in the structure of the Ministry of Economy *a very important, in our view, post of deputy minister on defence issues has been liquidated*. This was the only post at such a high level within Ukraine's state apparatus; it was namely the deputy minister of economy on defence issues who was supposed to ensure co-ordination of efforts of different ministries (agencies), as well as those of the regional authorities, for solving complex military-economic problems. Given the absence of such co-ordination, one should not expect that Ukraine's defence sector will be brought out of its long and deep crisis.

Organisation of special training of executives of the central and local authorities and their defence subdivisions

Experience shows that special training of head officials and representatives of executive structures responsible for executing defensive tasks is vital. In Ukraine, due attention is not paid to this issue. Regular training of public servants on

⁶ The liquidation of the Ministry of Industrial Policy, against the background of strengthening the Ministry of Agro-industrial Policy, can be mistakenly understood as the Government's refusal to make the support of the development of high-tech production a priority, with a view to turn Ukraine into an agrarian state.



the basis of the National Defence Academy of Ukraine would make it possible to raise the level of the special preparedness of executive structures, planning and conducting mobilisation measures. This kind of training requires significant material and time expenditures, and that's why it will be effective only under conditions of reducing the flow of personnel as a result of permanent changes in the bodies of state governance.

Strengthening the role of the regional authorities, broadening their powers and responsibilities, and the harmonisation of the development of the regions

Administrative reform in Ukraine envisages new approaches to regional policy. The broadening of powers and responsibilities of regional authorities falls in line with defence requirements — in the event of a war, when links with the central authorities are partly broken, this will make it possible for regions to function independently for some time, thereby protecting national interests.

An important factor is the stability of the political-administrative division of the territory and its economic zoning, as ensuring the defensive capabilities of the country in wartime and peacetime takes place within a given economic-geographic and social-political environment. That's why it is necessary to co-ordinate on a national level military and administrative-economic approaches to zoning of the territory, as well as planning of regions' development and its use for economic and military purposes. It is necessary to increase the role of local authorities in ensuring the rational development of territories, as well as their responsibility for taking defence requirements into consideration.

In order to effectively utilise the resource potential of territories under wartime and peacetime conditions, timely account of defence needs when planning regional development, it is necessary to ensure close interaction between bodies of the military command and regional authorities regarding these issues.

From the point of view of the critical state of Ukraine's economy, it is worth creating conditions for the dual use of its resource base. This will make it possible to more effectively use the infrastructure and the limited material-technical (food, medicines, fuel, construction materials and equipment, transportation facilities, etc.) and natural (land, forests, water) resources in order to sustain the life of the population and military formations under extreme conditions. Planning of the development and use of the regional resource base should also be co-ordinated with the zoning of the country's territory and knots of territorial defence.

Studies of the office of military-economic

problems of the Council for Studying the Productive Forces of Ukraine demonstrate that it will be very difficult to achieve complete agreement in solving these problems, but it is possible to remove significant differences even under today's conditions. To a certain extent, the accomplishment of this task would be facilitated, on the one hand, by the future definition of the political-administrative division of the country's territory, and on the other, defining its military-strategic division.

Reliable provision of resources in the event of emergency situations in peacetime, and for the defence requirements in wartime

Insufficient preparation of privatisation processes, the large flow of executives in the centre and regions, and frequent reorganisations have led to the loss of control over many economic processes, foremost in the field of provision of resources.

The experience of military-economic preparation of other countries, particularly Germany and Great Britain, demonstrates the need to create conditions for permanent accounting and purpose-oriented use of all available economic resources (of all forms of ownership and throughout the country's entire territory). Naturally, primary accounting should begin in the regions — in every town, district and village. That's why, when planning administrative reform, it is necessary to envisage the structural conditions for its implementation, fix relevant obligations and powers, create a network of highly survivable dual-purpose emergency information-computing centres.

The basis for this accounting of resources in an emergency situation should be made by the state statistics bodies, but their current possibilities are insufficient. They don't always receive the necessary support from local authorities, production structures of various forms of ownership, ministries and agencies. Unfortunately, after privatisation, even in the defence and civil machine-building, nearly 25% of enterprises (organisations) don't provide departmental accounts.

The need to conduct systemic and comprehensive administrative reform requires working out and taking into consideration a number of defence requirements and, in the first place, those of dual purpose — for the development of both the country's civil and military spheres. Prepared decisions regarding separate directions of administrative reform should undergo prior expert analysis, taking into account defence requirements.



THE AUTHORITIES AND NON-GOVERNMENTAL ANALYTICAL STRUCTURES



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Administrative reform in Ukraine is not confined to reforming the state apparatus as such; it envisages deep qualitative changes in the relations between the authorities and citizens. An important precondition for successful administrative reform (and, at the same time, its ultimate goal) lies in the functioning of effective institutions of civil society. They include, above all, a significant stratum of the so-called middle class, strong political parties, free mass media, and influential non-governmental analytical structures. The active public position of those institutions, governed by national interests, will not allow the authorities to stop at half-steps, as occurred more than once in the past.

In my opinion, it is the non-governmental analytical centres, whose network is currently spreading throughout Ukraine, that will be able to effectively help the Government in conducting reforms. The executive branch must be interested in obtaining independent assessments, studies, proposals (especially if this does not require additional budget expenditures). The constructive co-operation between the authorities and non-governmental analytical centres will enable the latter to shift the accent of their activity, specifically in order to move from criticising administrative decisions proposed by the Government, to preparing those decisions. Under these conditions, public organisations can, in reality, occupy the niche given to them in a democratic society, and become intermediaries between citizens (taxpayers) and state structures (maintained at the expense of taxes thus paid). Co-operation between non-governmental organisations and the state is conducive toward taking fuller account of public opinion, and adopting balanced and well-grounded decisions.

In Ukraine, this co-operation is only at its initial stage. On the one hand, the authorities do

not have sufficient experience in such interaction; on the other hand, non-governmental analytical structures are unable to exert sufficient influence on the formation of state policy either; they are now undergoing a painful period of establishment, and require organisational, financial, and other support. Finally, let's be frank: the proposals of many public organisations do not possess the required level of professionalism which is needed to attract the Government's attention. It is all the more pleasant to note good examples of fruitful co-operation with non-governmental organisations.

On April 28, 2000, the Ukrainian Centre for Economic and Political Studies prepared an analytical report "Reform of the Insurance System in Ukraine: Conceptual Background". Among the participants in the report's discussion were People's Deputies of Ukraine, representatives of the Cabinet of Ministers, the apparatus of Ukraine's National Security and Defence Council, ministries and agencies, Ukrainian and foreign experts, and managers of leading insurance companies. The proposals submitted in the analytical report were highly praised by specialists. Prime Minister V.Yushchenko familiarised himself with them. His resolution is aimed at working out of a State Programme for the Development of the Insurance Market for 2000-2005. This work will be completed within a month; it also involves non-governmental organisations, along with the ministries and agencies concerned: the League of Insurance Companies of Ukraine and the Ukrainian Centre for Economic and Political Studies. I believe that this work presents quite a good example of co-operation between the authorities and public organisations — constructive co-operation between the authorities and non-governmental organisations will benefit both the Government and all of society.