

# THREE YEARS AFTER EUROMAIDAN

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FIIA BRIEFING PAPER 208 • December 2016



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## IS UKRAINE STILL ON THE REFORM TRACK?



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FIIA Briefing Paper 208  
December 2016



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- The Euromaidan Revolution of 2014 created unprecedentedly favourable conditions for breaking a vicious circle of bad governance and predatory corruption in Ukraine, and for the transformation of Ukrainian politics and society. Yet the results have been mixed and inconsistent. Some progress in reforms has been achieved, but the change could still be reversed.
- There are definite attempts to devalue the major gains post-Maidan as, for instance, the ongoing struggle between the newly created National Anti-Corruption Bureau and the President-controlled Prosecutor's Office illustrates. The main obstacle to reform stems from within the system because the newly-emerged status quo benefits the reshaped elites.
- Factual evidence shows that Ukraine can be reformed but, from now on, pushing forward the progress will be an uphill struggle. As time passes, the danger increases that key elements of the old system will be preserved.
- In order to continue the reform process, Ukraine will require external support. Ukraine's Western partners must be prepared to increase the level of conditionality, while ensuring that they will keep their promise in full when conditions are met. In this regard, the delay over granting Ukraine visa-free travel by the EU constitutes a negative example that should not be repeated.

## Introduction

The Euromaidan Revolution of February 2014 in Ukraine created a unique chance for the country's transformation. Despite a precarious domestic situation, catastrophic economic and financial conditions and a full-scale war in Donbas, hopes ran quite high that Ukraine would be able to break with the legacy of the dysfunctional and corrupt system that the country had developed since independence.

In the first post-revolutionary months the country persevered largely thanks to the mobilization of society and the sacrifice of the people. The volunteer movement reached previously unseen heights. But as the situation in the conflict zone in the east stabilized (spring 2015) and the power transition took place in the course of the presidential (May 2014), parliamentary (October 2014), and local elections (October 2015), the government was supposed to take the lead in pursuing the change. In the words of President Petro Poroshenko in October 2015, "immediately after the [local] elections we will have four years without elections, without populism, when we will be finally able to demonstrate decisive steps for the development of our country".

The context was extremely favourable for the reforms. First, the population demanded and welcomed the change, and was ready to endure the economic hardship to see it materialize. Second, this pro-reform consensus brought to power a governing coalition that had originally enjoyed a constitutional majority in the parliament. Third, Ukraine received unprecedented external support. Western countries and institutions, through bilateral and multilateral channels, pledged massive economic assistance amounting to \$40 billion, and provided expertise. Fourth, pro-Russian opposition within Ukraine was weakened, which seriously limited Moscow's ability to intervene.

Yet, at the moment, three years after the start of the Maidan Revolution and with half of Poroshenko's term in office behind him, the reforms do not appear to have passed the point of no-return. Furthermore, they are up against strong resistance from within the system. It can be argued that the moment for swift transformation has already passed and that Ukraine may remain caught up in a vicious circle of predatory corruption, unaccountable governance, and a rent-seeking oligarchy. The widespread

reforms that were initiated, and especially those few that were successfully implemented, may become mere temporal victories and tactical gains in the Ukrainian society's struggle against the old system. The reforms are starting to follow the logic of the so-called partial reform equilibrium, whereby the new winners block further reforms that would threaten their initial gains.<sup>1</sup>

No doubt the change will take time, and in historical terms, three years is not long. The reforms are still ongoing in a number of sectors. Furthermore, there is no overlooking the fact that the conflict in the east is an enormous drain on Ukraine's resources. Nevertheless, some worrying trends are too evident to be dismissed or ignored: people are growing impatient, the original governing coalition has shrunk from five to two parties, and the anti-reformist former party of power has recovered.

This briefing paper analyzes how Ukraine is addressing its fundamental challenges. Particular attention is paid to the core areas that are vital for the emergence of a new Ukraine and that constitute a major part of the programmatic presidential document "Ukraine-2020"<sup>2</sup>, unveiled in September 2014, as well as the international reform agenda for the country. These issues are anti-corruption reforms, the reform of the judicial system, political reforms, economic reforms, and European integration.

## Anti-corruption reforms

Corruption is the "lifeblood" of the old system, in which control over the state institutions provided the elites with an opportunity for fast enrichment, the creation and maintenance of patronage networks, and a rent-seeking oligarchy. US Vice President Joseph Biden said that corruption eats

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1 See Joel Hellman, "Winners Take All: The Politics of Partial Reform in Post-Communist Transitions", *World Politics* 50 (2), 203-234.

2 President of Ukraine, On the Strategy for Sustainable Development "Ukraine-2020", 12 January 2015, <http://zakon2.rada.gov.ua/laws/show/5/2015>, last accessed 7 Dec 2016.

Ukraine “like a cancer”.<sup>3</sup> Anti-corruption reforms were viewed as a self-evident priority for the government. However, up to now the results have not been convincing. Transparency International’s 2015 CPI index evaluated Ukraine’s achievements in 2015 with a mere one-point increase, which left the country with 27 points out of 100. In fact, only two positive examples – the creation of the National Anti-Corruption Bureau of Ukraine (NABU) and e-declarations – can be identified.

NABU was formed from scratch as an independent agency with the goal of preventing and investigating corruption at the top government level. E-declarations are enacted as a major tool to make transparent the income and wealth of officials. Both reforms have already yielded some results, but they are also up against strong resistance from the system.

First, NABU is engaged in a permanent conflict with the General Prosecutor’s Office (GPO) headed by Poroshenko’s close ally, Yuri Lutsenko. The GPO constantly strives to strip NABU of its key powers, putting pressure on NABU’s leadership and detectives. The GPO, which is one of the most corrupt institutions in Ukraine, also exerts influence over the newly created Special Anti-Corruption Prosecutor’s Office (SAP), which is tasked with assisting and supervising NABU, and the National Agency on Corruption Prevention.

The reform of the prosecution itself has effectively stalled. The law “On Prosecution”, adopted on October 14, 2014, created two special and supposedly independent bodies – the Council of Prosecutors as well as the Monitoring and Disciplinary Commission of Prosecutors, which were formed to supervise new appointments in open competition. Yet the presidential control of the agency and these new bodies through his political appointees minimizes changes

by retaining the old personnel and systematically dismissing reform-minded prosecutors. As a result, 84% of the appointed local prosecutors have held these positions before,<sup>4</sup> while according to the first deputy of General Prosecutor Anzhela Strizhevskaya, almost none of the 3% that were new to this system remain in their positions at the end of 2016.

NABU also faces strong resistance from parliament, which delays key legislation (for instance, on giving NABU the right to wiretap) and prevents it from functioning properly. The government is resisting an extension of NABU’s powers and resources. NABU has only managed to create its regional office in Lviv so far. The head of NABU, Artem Sytnik, is under criminal investigation by the GPO, while members of the Verkhovna Rada are trying to take away the Ukrainian citizenship of his first deputy director, Guizot Uhlava, a former Georgian national who was previously granted Ukrainian citizenship by presidential decree and who is in charge of the investigative department of NABU.

The anti-corruption investigations have started to yield their first results. By November 2016, more than 40 cases had been referred to courts by NABU, 9 judges had been arrested, and resonant cases against a few top officials were underway. However, at the same time, the investigation by a group of journalists from “Nashi Groshi” showed that in the period from July 2015 to July 2016 overall an anti-corruption fight resulted in only 952 court cases, a mere three of which were against high-level officials. Out of 153 prosecuted mid-level officials (prosecutors, judges and local-level officials), 92 were acquitted, and only 4 guilty verdicts returned in a country where e-declarations uncovered enormous wealth in the hands of the 50,000-strong army of public officials, in the form of jewellery, art, property and cash. According to the calculations by Ukrainian NGO activists from “Opora” 410 Ukrainian MPs declared \$470.3 million in cash and bank accounts.

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3 “Ukraine’s Unyielding Corruption”, *New York Times*, 1 April 2016, <http://www.nytimes.com/2016/04/01/opinion/ukraines-unyielding-corruption.html>, last accessed 7 Dec 2016. To give just one example to illustrate the extent of the problem, Mykola Martynenko, a former MP and the then deputy head of the Popular Front Party (former Prime Minister Arseniy Yatseniuk’s party, and a key member of the governing coalition since 2014), is under investigation by Swiss prosecutors for allegedly receiving a bribe to the tune of 29 million US dollars.

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4 Alya Shandra, “How Ukraine’s old guard killed the prosecution reform”, *Euromaidan Press*, 14 May 2016, <http://euromaidanpress.com/2016/05/14/how-ukraines-old-guard-killed-the-prosecution-reform/#arvlbdata>, last accessed 7 Dec 2016.

## Judicial reform

No anti-corruption measures will be able to exert a meaningful impact unless the judiciary is reformed. President Poroshenko, who is formally in charge of this reform, promised to launch a ‘deep cleansing and upgrade’ of the judiciary from September 2016 onwards. Yet preliminary findings indicate the unwillingness of the government to do that.

The core of the judiciary reform is to guarantee its independence from political and oligarchic influence and increase the accountability of judges, including the removal of corrupt members of the corps who violated their oath and participated in Yanukovich crimes. The first part of the reform comprises the amendments to the Constitution and the new Law “On the Judiciary and the Status of Judges”, adopted by the Verkhovna Rada on June 2, 2016. The law came into force on September 30, making the appointment of judges permanent, increasing their salaries, and removing their immunity. But it also allows their detention only in the event of particularly serious crimes, and stipulates that judges can no longer be prosecuted for violating an oath or making deliberately unjust rulings.

The second core part of the judicial reform is the creation of the High Council of Justice (HCJ), which is duly responsible for the dismissal, appointment and promotion of judges, as well as their detention and prosecution. It also requires the creation of the new Supreme Court. These new laws seemingly increase the independence of the courts by removing the right of the president and parliament to dismiss judges and by allowing the president to appoint judges only upon the submission of the High Council of Justice. The president can no longer create, re-organize or liquidate courts. Yet the reform does allow the president to potentially maintain control over the HCJ through its members.

The law on the HCJ was heavily criticized by some members of parliament and by the media for lacking transparency, accountability, and mechanisms of public control. The law also provides for judges’ almost complete unaccountability, making it impossible to hold a judge responsible for his unlawful actions. Any judge of the Constitutional Court, which approved the dictatorial laws of Yanukovich in 2014, can no longer be fired unless a decision is taken by two-thirds of the same court members.

As in the case of prosecution reform, according to the Reanimation Package of Reforms, a major NGO coalition in Ukraine, it would allow the formation of an HCJ in 2019 composed of unqualified judges that have not undergone the necessary professional reviews. Furthermore, the reform’s direct consequence is the re-appointment of “Yanukovich” judges without the necessary qualification re-assessment.

There is a lack of lustration or prosecution even of those judges that committed massive violations. The new laws allow most of them to keep their seats. The law on lustration, which created legal and procedural grounds for removing corrupt judges, prosecutors, law enforcement and officials, failed from the very start.<sup>5</sup> For instance, Petro Poroshenko re-appointed 28 top judges selected during Yanukovich’s presidency; the Verkhovna Rada refused to send more than 700 Yanukovich judges for the new attestation, as the new laws required.

There are another two important judicial reforms that are yet to be adopted – on the Supreme Court and the Anti-Corruption Courts. If the creation of the new Supreme Court is underway despite the lack of transparency and procedural clarity, the future of the Anti-Corruption Courts (ACC) is more doubtful. The ACCs are a crucial element of the anti-corruption system, since NABU cases are not processed properly or are sabotaged in the courts. However, there is as yet no draft law that would state the provisions and guarantee the proper functioning and independence of these courts.

## Political reforms

The transformation of Ukraine will not be possible without a reform of its political system, in particular of party funding and electoral reforms. Otherwise political parties will continue promoting the interests of their sponsors. Traditionally in Ukraine, parties lack coherent ideologies and organizational structures, and are centred around a leader, which

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5 Olena Makarenko, “Old faces endanger all Ukrainian reforms”, *Euromaidan Press*, 3 May 2016, <http://euromaidanpress.com/2016/05/03/old-faces-in-courts-endanger-all-ukrainian-reforms-uareforms/>, last accessed 7 Dec 2016.

makes parliamentary politics prone to secret deals and ad hoc coalitions. At the moment, it is highly likely that this state of affairs will prevail at least until the 2019 elections.

First, the government delayed the priority bill N 1068-2 on electoral reform, which should establish an open proportional list system. Registered in the Rada in late 2014, it is still “being reviewed” in the respective committee. Reluctance to do away with the single-mandate majoritarian districts is worrying, as they often become an arena of manipulation.

Second, the party funding reform, necessary for the emergence of new self-sustainable parties, turned into a problem. The regulations were amended to postpone until 2019 the provision of state funding for parties which are not currently represented in the Rada but which received more than 3% of the votes in 2014. In its current form, the law mainly benefits the governing Popular Front and Petro Poroshenko Bloc. It also decreases transparency, since no penalties for not disclosing correct amounts and sources of non-state funding and for the incorrect disclosure of how money is spent are provided.

Third, in the absence of any meaningful signs of de-oligarchization, the tycoons maintain their influence over the parties and key political institutions in general. The oligarchs were significantly weakened in the aftermath of the Maidan Revolution: some left the country, losing their assets and sources of rent, while others became engaged in the struggle with the new authorities, which only added to the post-Maidan pluralism. However, after the conflicts of 2014-2015 ended, the oligarchs and the president expressed greater willingness to seek compromises and find a mutually agreeable accommodation.

Big business continues to dominate the economy, the main political parties and key media resources. For instance, the oligarch Igor Kolomoisky, who has a large stake in state-owned oil companies, and owns Privatbank, Ukraine’s largest commercial bank, and the “1+1” TV channel, allegedly controls the political parties “Ukrop” and “Vidrodzhenne”, and a group of MPs in the Verkhovna Rada as well as in local assemblies in several cities in Ukraine’s

south-east.<sup>6</sup> President Poroshenko, for his part, in his declaration for 2015, declared ownership of over 100 companies in Ukraine, Cyprus, the British Virgin Islands, Russia and other countries, an annual income of \$2.5 million, and \$26 million in bank deposits and cash.<sup>7</sup> In the meantime, in April *Forbes* stated that despite the deep crisis, the president had managed to increase his wealth in 2015 by \$100 million, while the estimated wealth of Rinat Ahmetov, Ukraine’s richest oligarch, had decreased from \$4.6 billion to \$2.3 billion.<sup>8</sup>

Finally, decentralization is still in the making through a highly centralized process. The reform envisions an overhaul of relations between the centre and regions, including the formation of new territorial units, and strengthening local governments, providing them with more revenues and new powers. The 159 newly amalgamated territorial communities were able to form their own budgets and are currently electing their new heads. Yet decentralization has slowed down significantly in 2016 due to the absence of the necessary legislation, resistance from regional assemblies and lack of capacity and funds. There is an ongoing clash between the central government, regional assemblies and Rada deputies for allocation of resources and responsibilities. There is a risk that corrupt local clans will benefit from the reform by getting their hands on more resources. On top of that, decentralization became a hostage of the Minsk agreements.<sup>9</sup> The constitutional amendments that are necessary to define the powers of the new local self-government are linked

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6 On Kolomoisky, see, for instance, Oksana Grytsenko, Alyona Zhuk, Oleg Sukhov, “Ihor Kolomoisky: Still Throwing His Weight Around”, *Kyiv Post*, 28 October 2016, <https://www.kyivpost.com/ukraine-politics/ihor-kolomoisky-still-throwing-his-weight-around.html>, last accessed 7 Dec 2016.

7 Christopher Miller, *Assets On Parade: Ukraine Officials Made To Declare Their Bling*, Radio Free Europe, 31 October 2016, <http://www.rferl.org/a/ukraine-assets-declarations-bling-millions-poroshenko-hroysman/28086804.html>, last accessed 7 Dec 2016.

8 *Forbes presents a new list of Ukraine’s richest*, *Forbes Ukraine*, 31 March 2016, <http://forbes.net.ua/news/1413803-forbes-predstavlyaet-novyy-rejting-bo-gatejshih-lyudej-ukrainy>, last accessed 7 Dec 2016.

9 The Minsk agreements (September 2014 and February 2015) constitute a plan for resolving the conflict in the east of Ukraine.

to providing the separatist territories in Donbas with a special status.

### Economic reforms

A radical economic reform is an obvious precondition for everything else. The government faced a difficult task as the country experienced a contraction in GDP of more than 16 per cent in 2014–2015, the national currency had lost 70% of its value against the euro by February 2015, while inflation was 46% in 2015. The banking system was on the brink of default, while foreign trade shrank dramatically – primarily due to the collapse of trade with Russia, which was inevitable in times of conflict and mutual sanctions.

To stabilize the economy, the government introduced the most comprehensive economic reform in Ukraine's history. Besides debt restructuring, in 2015 Ukraine started banking, tax and energy reforms. The latter, alongside *Prozorro* – an electronic procurement system whose name sounds almost identical to the Ukrainian word for “transparent” – limited the opportunities for corrupt behaviour. The independence of the National Bank increased and almost half the banks were closed down. The budget and foreign account were balanced, inflation was curbed, and the currency was stabilized.

Energy reform, namely “unbundling” the main state gas company Naftogaz, eliminating energy subsidies and unifying energy prices, was a success. According to the IMF, the Naftogaz deficit was reduced from USD 10 billion in 2014 to less than USD 2 billion in 2015, while the share of subsidies in GDP went down from 10% in 2014 to 1%.<sup>10</sup> All in all, the

IMF expects Ukraine to produce a modest economic growth of 1% in 2016, and up to 2% in 2017.

However, arguably, the country has only been able to reap the low-hanging fruit. There has been very little shift in terms of deregulation, one of preconditions for major foreign investment to come. The government is postponing the reform of the pension system due to a large structural deficit, which entails increasing the retirement age. It is also delaying the land reform, which would allow the sale of agricultural land – a move resisted by the agro-oligarchs. The government needs to address the issue of the largest commercial bank, Privatbank, which has accumulated a UAH 25 billion debt to the National Bank of Ukraine (NBU) alone, alongside a large set of toxic assets and a shortage of capital.<sup>11</sup>

Finally, more fiscal reforms are needed, including a merger of fiscal and customs services.<sup>12</sup> Tax evasion remains a problem. According to the Ministry of Economic Development and Trade, the shadow economy represents 41% of GDP. Expert estimates show that, thus far, fiscal reforms have not served to redress the shadow economy issue where salaries are concerned.<sup>13</sup> The Taxpayer Compliance Surveys reveal little difference in tax awareness and the compliance of Ukrainians between 2012 and November 2015.<sup>14</sup> A staggering \$37 billion went through “tax laundries” in 2013 alone, with some ending up in offshore accounts. These ills seem to be commonplace among the new elites as well. Ex-journalists of

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10 For details, see Joss Meakins, “Revitalized and Re-Energized: Ukraine's Energy Reform Success”, *Euromaidan Press*, 5 May 2016, <http://euromaidanpress.com/2016/05/05/revitalized-and-re-energized-ukraines-energy-reform-success/>, last accessed 7 Dec 2016. Anders Åslund, *Securing Ukraine's Energy Sector*, Atlantic Council, April 2016, [http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/Securing\\_Ukraine\\_s\\_Energy\\_Sector\\_web\\_0404.pdf](http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/Securing_Ukraine_s_Energy_Sector_web_0404.pdf), last accessed 7 Dec 2016.

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11 Juriï Doschatov, “Kak Poroshenko Dogovoril'sya s Kolomoyskim: Natsbank bez Obyasneniy Prostil Dolgi Privatbanku”, *Apostrophe*, 5 April 2016, <http://economy.apostrophe.ua/article/finansy-i-banki/2016-04-05/kak-poroshenko-dogovoril'sya-s-kolomoyskim-natsbank-bez-obyasneniy-prostil-dolgi-privatbanku/4132>, last accessed 7 Dec 2016.

12 For more, see *Ukraine*, IMF Country Report No. 16/319, September 2016, <https://www.imf.org/external/pubs/ft/scr/2016/cr16319.pdf>, last accessed 7 Dec 2016.

13 Dmitrii Serebrianskii and Artem Vdovichenko, “ESV I detenizaciia: Falstart ili Nachalo Strukturnykh Izmenenii”, *Zerkalo Tyzhnia*, 4 June 2016, <http://gazeta.zn.ua/finans-es/esv-i-detenizaciya-falstart-ili-nachalo-strukturnykh-izmeneniy-.html>, last accessed 7 Dec 2016.

14 Marc P. Berenson, *Trust, Governance & Citizenship in Post-Euromaidan Ukraine*, King's Russia Institute, Policy Paper, 27 June 2016.

the president's TV Channel 5 confirmed that a major chunk of their salary was paid off the books.<sup>15</sup> At the same time, in April 2016 President Poroshenko himself was identified in the "Panama Papers" as the sole shareholder of a British Virgin Islands company, set up in August 2014 by the infamous law firm Mossack Fonseca.<sup>16</sup> The same source shows that a company owned by NBU chief Natalia Gontareva received a \$10 million offshore loan from Russia's VTB bank a few months before her appointment.<sup>17</sup>

Finally, approximately 1,900 state-owned enterprises (SOE) remain a key source of rent for oligarchs and politicians. The privatization of the most lucrative SOEs has in all likelihood been delayed as their management has been taken over by Poroshenko's allies. The oligarchs have also largely maintained control over a number of state-owned companies. Monopolism is strong in key sectors from power generation to airlines.

## European integration

Progress towards incremental integration with the EU is a major expectation of the people. After all, it was the refusal by former President Viktor Yanukovich to sign the Association Agreement with the EU that triggered massive anti-government protests in 2013. The government declared European integration a cornerstone of its reform efforts. "Strategy

2020" was presented as a tool for accelerating the approximation with EU legislation, and for "achieving European standards of life and preparing for the application for EU membership in 2020".

The government has achieved noticeable results in the last two years. It signed the Association Agreement with Brussels. The Deep and Comprehensive Free Trade Agreement (DCFTA) is provisionally functional. Ukraine completed the Visa Liberalization Action Plan, although visa freedom has not yet been granted.<sup>18</sup> After Ukraine signed a crucial \$17.5 billion agreement with the IMF in spring 2015, the EU, for its part, pledged to provide up to EUR 11 billion in grants and macro-financial assistance programmes.

Major domestic reforms were made an integral part of external assistance programmes. The EU is focusing in particular on the fight against corruption, while the IMF is guiding the implementation of key economic reforms. The EU's latest effort includes a 16 million euro package to be spent on creating anti-corruption courts and developing existing anti-corruption agencies in 2017–2019, as well as support for decentralization through a 97 million euro programme.<sup>19</sup> An additional 100 million euro was earmarked to promote the energy reform. In September 2016, the EU unilaterally extended its trade preferences for the next three years and increased export quotas even though Ukraine found the increase insufficient.

However, legal approximation with the EU is seriously lagging behind. A package of 21 mandatory laws identified by Ukrainian civil society as necessary for compliance with the Association Agreement,

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15 Oleg Sukhov, Oksana Grytsenko, Alyona Zhuk, "All In The Family: The Sequel", *Kyiv Post*, 7 October 2016, <https://www.kyivpost.com/ukraine-politics/540626.html>, last accessed 7 Dec 2016.

16 Anna Babinets and Vlad Lavrov, *Ukraine: The President's Offshore Tax Plan*, Organized Crime and Corruption Reporting Project, 3 April 2016, <https://www.occrp.org/en/panamapapers/ukraine-poroshenko-offshore/>, last accessed 7 Dec 2016. Luisa Kroll, *Panama Papers Fallout: Iceland's PM Resigns, Ukraine's President Pressured, Billionaire Responds*, *Forbes*, 5 April 2016, <http://www.forbes.com/sites/luisakroll/2016/04/05/panama-papers-fallout-icelands-pm-resigns-ukraines-under-pressure-russian-billionaire-responds/#7658c736abad>, last accessed 7 Dec 2016.

17 Denys Bigus and Roman Shleynov, *A high-profile Russian partner of Ukraine's top banker*, Organized Crime and Corruption Reporting Project, 5 April 2016, <https://www.occrp.org/en/panamapapers/high-profile-russian-partner-of-ukraines-top-banker/>, last accessed 7 Dec 2016.

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18 The delay is caused by the inability of the European Parliament and the member states to reach a compromise on the mechanism to suspend a visa waiver programme for any country.

19 *Ukraine: EUR 97 million from EU to support decentralization and local governance*, EU Neighbourhood Info Centre, 25 April 2016, [http://www.enpi-info.eu/maineast.php?id=44800&id\\_type=1&lang\\_id=450](http://www.enpi-info.eu/maineast.php?id=44800&id_type=1&lang_id=450), last accessed 7 Dec 2016.



has been under review in the Rada for over a year.<sup>20</sup> Yet only one law was recently passed, and even that was immediately vetoed by the president.

It should be mentioned that Western conditionality has been very successful on occasion, and without it certain important results would not have been achieved. When the government attempted to stall major reforms, for instance by not disbursing budget funding to NABU in 2015, by trying to launch e-declarations without the necessary certification in August 2016, or by delaying the law on the energy regulator in September 2016, the IMF and/or the EU effectively used their leverage to prevent that. Similarly, the notorious General Prosecutor Viktor Shokin was fired on 29 March 2016 after the US threatened to withhold a \$1 billion assistance package.

## Conclusion

The success of Ukraine's reforms cannot and should not be taken for granted. The risk is significant that the new ruling elites will be simulating major reforms and allowing at best a partial change that does not threaten their hold on money and power. A few positive reforms that were implemented can still be reversed or hollowed out.

But Ukraine can be reformed, if the coalition of internal reformist forces and international actors continues to work in tandem. Western, and primarily European involvement may be key in accomplishing this mission. When acknowledging that no country can be reformed against its will, Ukraine's Western partners should not shy away from exerting very strict conditionality when needed. Geopolitical factors, and the thinking that "Ukraine is too big to fail", should not lead to indulgence in the event that it does not fulfil its reform commitments. Only if the country has a modern economy and a modern functioning state will it be able to defend its independence and sovereignty in the long run. In turn, the EU should be ready to keep its promises in full when conditions are met.

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20 *Open Call for legal approximation with the EU*, National Platform of the Eap Civil Society Forum, 25 May 2016, [http://eap-csf.org.ua/wp-content/uploads/2016/05/vidkrite-zvernennya\\_NP\\_25\\_05\\_161.pdf](http://eap-csf.org.ua/wp-content/uploads/2016/05/vidkrite-zvernennya_NP_25_05_161.pdf), last accessed 7 Dec 2016.

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ISBN 978-951-769-514-5

ISSN 1795-8059

Language editing: Lynn Nikkanen.

Cover photo: Jose Luis Orihuela/Flickr.

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