



Ukraine's unimplemented anti-corruption reform

Hrant Kostanyan

Almost three years after the Euromaidan revolution, Ukraine's leadership has fallen woefully short in delivering on its promises to fight against corruption within the judiciary, clean up political party financing and decentralise government functions. The customs service has yet to be reformed, property rights are far from being ensured and state-owned enterprises have not been privatised. Major reforms aimed at combating corruption have consistently been resisted, delayed, manipulated or appear on paper only. The country's elite must produce more tangible results in order to earn the trust of the citizens and ease the growing fatigue among Ukraine's international partners.

Over the last decade, Ukraine has rarely had a problem with accepting and institutionalising European norms and rules, in theory, but successive governments have been selective in implementing them. In the post-Euromaidan period, Ukraine has introduced several institutional modifications in the name of combating corruption, the most important being the adoption of an Anti-Corruption Strategy for 2014-2017, covering the three branches of government (executive, legislative and judiciary). Other institutional modifications include the launch of an open competition for the new Supreme Court, setting up the Public Integrity Council, the Asset Recovery and Management Agency, the National Agency on the Prevention of Corruption, the National Anti-Corruption Bureau and the Specialised Anti-Corruption Prosecutor's Office and establishing an electronic system for the disclosure of assets.

A little progress has been made in the fight against corruption through the setting up of a public e-procurement system. For example, the procurement of medicine via international organisations reduced corruption in the field. The raising of energy prices and cleaning up the banking sector have also indirectly contributed to the reduction of corruption in these areas.

Yet, these small wins do not add up to the comprehensive, systemic change that the country needs. It is therefore not surprising that these reforms did little to convince both insiders and

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outsiders of the government's commitment. As seen through the eyes of international organisations, Ukraine made scant progress in fighting corruption in 2016. For example, in Transparency International's Corruption Perceptions Index, the country improved by merely 2 points and ranks 131th out of 176 countries, accompanied by Kazakhstan, Russia, Nepal and Iran. Ukraine slipped one point in the Global Competitiveness Report, two points in The Economist's Intelligence Unit's Country Risk Ratings but went up by one point in the World Bank's Doing Business Index.

Ukraine's weak state institutions were never a match for the powerful domestic elites consisting of oligarchs and their political allies, who successfully obstructed the implementation of crucial reforms. Safeguarding one's personal business interests takes priority over the demand to strengthen the Ukrainian state and the confidence of its citizens in it.

The institutional changes have done little to change behaviour and attitudes. For example, the goal of the independent National Anti-Corruption Bureau is to investigate high-level officials suspected of corruption, but its work has been seriously obstructed since its establishment. The unreformed Prosecutor General's office, which retains its Soviet-style powers of coercion, undermines the work of the National Anti-Corruption Bureau, whose detectives even got into fist-fights with members of the General Prosecutor's Office in the course of performing their duties. Moreover, when the Bureau asked Rada to remove the immunity granted to one of the parliamentarians who was under investigation, Rada delayed the process so much that the parliamentarian in question slipped out of the country before he could be prosecuted. Furthermore, the corrupt courts routinely delay hearings for those who have been charged with crimes of corruption. Although the National Anti-Corruption Bureau and the Specialised Anti-Corruption Prosecutor's Office have made some progress, the commitment they show in carrying out their responsibilities is extremely low (out of 63 indictments sent to the courts, only four people received a prison sentence), and no high-level official has been convicted to date.

The National Agency on the Prevention of Corruption is another stark example of a new institution whose work is undermined by the elites. The composition and the mandate of the National Agency on the Prevention of Corruption are impeccable on paper, but in practice, even its establishment was marred by delays and manipulations on the part of the government in almost every step.

One of the major requirements imposed by the EU on Ukraine was the setting up an electronic database for officials to declare their financial assets. The positive outcome is that over 100,000 Ukrainian politicians and senior civil servants, including the President and the Prime Minister, have publicly declared their wealth. The actual implementation of the system was delayed, however, and when the declarations were finally submitted, they confirmed what Ukrainians had suspected for a long time: the members of their government are much richer than the average citizen. In fact, a Ukrainian who earns an average salary has to work about 125 years to make as much money as an average member of the government. The future of the e-

declaration is now under challenge by a group of Rada members who filed a case in the Constitutional Court charging that it is unconstitutional.

Corruption is pervasive in Ukraine not only at the national level, but also at the regional and local levels. By shifting powers to regional and local authorities, the aim was to bring government closer to the people. Although a body of legislation was adopted to facilitate decentralisation, the administrative capacity of the regional, district and local communities has yet to be built. By simply shifting more power and more money from the national to the local level, the risk of corruption is also transferred – an unfortunate reality that has not been adequately tackled. As a result, some businesses are now facing difficulties not only at the hands of national but also some local and regional authorities.

Regulating the funding of political parties in Ukraine also remains a daunting task. Most of the parties are paid for and controlled by oligarchs. By having parliamentarians on their payroll, oligarchs secure a role in the politics of the country and thus safeguard their business interests. Rada passed a new party financing law in July 2016, which is another fine piece of legislation on paper, but one that has yet to be enforced despite a massive number of alleged violations.

The EU is now pushing for the establishment of specialised anti-corruption chambers to function inside the existing court system in Ukraine. In itself, this is a good idea and if done properly it is likely to help Ukraine's vibrant civil society in its fight for a better future for the country. Yet once again, the formation of one more institution will not save the country. Arguably, some of the instruments recently introduced in Ukraine to fight corruption have an even greater reach than those deployed in Georgia, but the post-Euromaidan era has not ushered in the kinds of dramatic practices Georgians witnessed following the Rose revolution.

The lesson for the EU is clear. Progress on paper in Ukraine should not be rewarded. Having a government that calls itself pro-European is not an excuse for leniency on corruption. In fact, the EU ought to do everything in its power to avoid a repeat in Ukraine of the sad saga that played out in Moldova. Despite the fact that the latter country has been greatly supported by the EU politically and economically, its leadership failed to address corruption and damaged not only its own credibility but that of the EU as well. The EU's assistance should go to those who fight for a corruption-free European Ukraine and not to those who merely declare themselves as European but act as a 'wolf in a sheep's clothing'. It is important that the EU continues to support the dynamic civil society of Ukraine and improves its strategic communication. To this end, the new EU initiative against corruption, led by the Danes, is an important step.

The EU should not accept the assertions of high-level Ukrainian officials that the country has made huge strides in the last three years, compared to the decades following independence. Such logic is flawed for two reasons. Firstly, as Georgia's experience demonstrates, efforts to fight corruption are most effective if done in the very first years after a revolution. Secondly, being rated better than the Yushchenko or Yanukovich administration should provide little cause for celebration.

The EU must firmly insist that the Ukrainian elite engages in genuine state-building by tackling the corruption that has consistently undermined the country's foundations. And if the authorities do not respond appropriately, the EU should be ready to withdraw its support from Ukraine and at an earlier stage than was done in the case of Moldova. More importantly, no one else should be more concerned about the lack of the progress in tackling corruption than Ukraine itself. It is only through reform that Ukraine will provide counter evidence to the Trump administration's narrative of Russia and make it easy for the EU to maintain the sanctions against Russia and continue improving Ukraine with much-needed financial support and technical assistance. After all, if Ukraine does not increase its resilience, it will have a hard time enduring continued Russian intervention. As shelling in Eastern Donbass persists and yet another human tragedy unfolds on the European continent, the fight for a stable, well-governed and democratic Ukraine remains the prerogative of the day.