



Roadmap for Reforms for Civil Society

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"Modernisation of Ukraine: Reforms
Priorities Define"*



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The National Civil Society Reform Support Network is an independent self-governing movement of the civil society organisations in Ukraine aiming to develop a strategy for the modernisation of the country and to define the priorities of reforms for their promotion at all levels of public authorities, as well as to involve civil society organisations into national and regional reform implementation campaigns. The Network intends to unite the leading Ukrainian think tanks and individual experts in order to streamline the definition of national and regional reform priorities, to reconcile the modernisation policy for Ukraine, to reform the key areas of the social life, public administration, and organisation of the political process. In addition, the association is aiming to enable numerous national networks and individual civil society organisations from different regions of Ukraine to find their place in the promotion and support of reforms.

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More detailed information on the project and the full list of the documents developed thereby can be found on the following web-sites:

Agency for Legislative Initiatives	www.parliament.org.ua
International Renaissance Foundation	www.irf.kiev.ua
Institute for Economic Studies and Political Consultations	www.ier.kiev.ua
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Project materials should be used with a reference to the Reform Support Network.

Introduction

This study is based on the assumption that Ukraine has already passed over its fundamental development stage – establishment of the independent state, initial formation of democratic institutions and market economy. At the same time, at the background of the transformations that occurred in other countries (including in Central and Eastern Europe, former Soviet Republics), the political and economic system developed in Ukraine appears to have low efficiency. This primarily concerns creation of proper conditions for the dynamic development of the society on the basis of democratic principles and getting over the backwardness (in particular in the area of technology) as compared to the developed countries of the world.

Such state of affairs cannot be explained only by objective internal factors, which traditionally include the unbalanced economic and political model, weakness of the democratic traditions and the national elite. A reference to the negative external factors, like unclear and unstable relations with key strategic partners, would also be a weak argument. Despite of the sufficient importance of these factors, the main problem seems to lie in the lack of institutional and structural reforms that would complete the substantial transformation of the political and economic system. This is why Ukraine needs large-scale modernisation today.

Even though this term, modernisation, is rather widespread today in Ukraine's social and political discourse, there is, however, no integral understanding of this process either in terms of its content, or operation. The steps proposed herein on practical implementation of the modernisation project should not be seen as an innovation panacea. Due to the recent years' crisis, multiple various projects, ideas, and visions have been proposed to Ukraine, and therefore we see our primary role in the systemic presentation of the necessary transformations.

The *Modernisation of Ukraine: Defining Reform Priorities* Project is a unique attempt to unite more than forty leading Ukrainian independent analysts in order to present the most integral picture of key reforms needed by the state. We are convinced that the civil society sector of Ukraine has accumulated a considerable expert potential, and hereby we declare our readiness to cooperate for the sake of reforms.

Why modernisation?

In the Soviet technocracy tradition, modernisation is often understood in the narrow meaning of the scientific and technical progress – development of science and applied studies for the upgrade of the production means on the basis of the most modern technologies alongside with the penetration of the state-of-the-art research and development achievements into the communications area (information society) and other areas of life (education, medicine, everyday life etc). We believe that any potential success of technical upgrade is produced by complex institution reforms, since it is not possible to modernise the research and development area without dynamic growth of economy, which, in its turn, cannot be reorganised without drastic changes in politics. It is impossible to eradicate corruption without the judicial reform. The way to transparency and responsibility of public institutions and leaders of all levels lies through the development of efficient civil society. Decline of science and education, technical backwardness of medicine, improper organisation of the housing and municipal economic, and other urgent problems can be solved only through decisive and drastic reforms.

Thus, without going deep into the terminology research, we understand modernisation as a complex reform of the existing and creation of new political, legal, economic, and social institutions and practices in order to ensure standards and to implement the values that are shared by the developed democratic countries. At the same time, modernisation cannot be considered only as a simple combination of certain programmes in various areas of political, economic, and social life of the country – we see it as a certain ideology that can be used for development of specific reforms that will result in large-scale qualitative changes.

Structure of the Roadmap for Reforms

I. Modernisation of Public Authorities

Rational organisation of public institutions is an important element of such modernisation, in particular, in term so of radical change of the format of state-citizen relations. Such rationalisation should ensure the conditions, when the society will get realistic possibilities to influence the functioning of public authorities, thus improving public policies. Therefore, reform of the institutional organisation of the state and territorial self-governance is seen as the basic instrument for the implementation of Ukraine's Modernisation Strategy.

II. Modernisation of the Social and Economic Area

In terms of its content, the social and economic modernisation includes three interrelated components, i.e. modernisation of the state economic policies, upgrade of the production and technical basis of the economy, and improvement of the social protection in its broad understanding. Social and economic modernisation can be achieved through implementation of a number of reforms aiming at the introduction of the most efficient principles, mechanisms, and formats to manage the social and economic processes in the state. Practical implementation of the sustainable development model should become an unconditional imperative in this case in order to ensure integral combination of economic efficiency, social justice, balance of resources, and environmental safety.

III. Modernisation of Foreign Policy

Ukraine's foreign policy lacks efficiency that would be recognised by the society, experts, and international partners. Redirection of policy vectors, caused by the change of political elites and leaders, leave the question of foreign policy efficiency unsolved. Inconsistency, swinging between priorities, failure to fulfil declarations – this is what Ukraine's policies are known for in the international arena. The problem of efficiency is also pertinent to the security issues. Ukraine makes a rather essential contribution into the international security efforts, but this has not helped Ukraine to secure its own interests in this area. Foreign policy activities and specific priorities of the foreign and security policy cannot be separated from the country's development strategy, selection of a certain political and economic model, definition of the system of values and fundamental guidelines for the most influential participants of social, economic, and political processes in the state.

IV. Fundamental Values of Democratic Changes

The necessity to build a modern dynamic economy to ensure the wellbeing of the population is frequently seen as Ukraine's main priority. Therefore, we often believe that there is a need for responsible politicians, an efficient political system, and proper functioning of public institutions. Political and economic reforms, however, should be accompanied by and be based on the fundamental social values: public dignity based on the respect to human rights, social morality, the freedom of thought and expression, high level of education and culture, careful attitude to the environment etc. These are the main values to accumulate the social capital – the national unity and mutual trust between people, which is exactly what Ukraine currently needs to become a really modern country.

Part I.

Institutional organization of state and local self-government

Status

At the moment, Ukraine lacks a reconciled strategy of national development, which results in the absence of an integral state policy, alienation of political elite from the interests of the society, numerous institutional and personal conflicts, unprofessional and corrupted politicians, civil servants, and judges. This approach to the public administration may bring down any potential possibilities of the state. Here it is important to understand that it is impossible to replace all unprofessional and corrupted representatives of public authorities overnight – only rational organisation of public institutions creates conditions for gradual qualitative development of the political, administration, and judicial elite, promoting improvement of the public policy and administration and restricting corruption. Without institutional reforms, it is impossible to achieve success either in economic, or humanitarian, or any other sectoral reforms.

Strategic Prospects

The prospects lie in the creation of efficient public authorities in Ukraine. The efficiency of state mechanism is defined the ability of the Parliament, the President, and public authorities to cooperate with each other in order to develop and implement the integral public policy aiming to achieve strategic objectives in the area of human rights, development of the country, and defence of national interests. The Cabinet of Ministers Programme, drafted to implement the election programmes of the parliamentary majority and the President and approved by Parliament, should become the main document to establish the public policy priorities. Its provisions should be developed and specified in concepts, strategies, and other documents, officially approved by top public authorities.

The Parliament should serve as a representative body, with its political and personal composition formed by voters. It should aim to provide legislative support to the reforms and priority development programmes, as well as to oversee the public authorities in order to prevent inefficiency, abuses, or deviation from the aims of the public policy.

The President, as the nationally elected head of state, should use its authority to promote consolidation of the power and opposition forces, the Parliament and the Government in order to achieve the objectives of the public policy, as well as to represent the state in foreign relations, and to ensure national security and integrity.

The Cabinet of Ministers – the Government of Ukraine – should become the body of political management of the country in charge of the policy-making and implementation. Ministries should effectively serve the ministers in the development of public policies in relevant sectors and in control of their implementation. The subordinated governmental agencies should efficiently implement all administrative functions established by law in order to provide public services, to ensure public order, and to develop the society infrastructure, while independent regulators in the area of natural monopolies should prevent abuses and guarantee the proper quality of service to the consumers at the economically grounded process.

The public power should be as decentralised as possible, so that local communities, and later the regions, would be able not just to survive, but also to develop successfully.

The main local self-governance bodies – councils and community mayors – should be elected personally by voters and should be responsible for all powers that can be exercised at the local level, in particular as concerns the community development and provision of the majority of public services to the community members. In this case, the territorial basis and the local budget proceeds should get them the economic means to exercise their powers and to ensure equal access to public services both in the urban and rural areas. At the regional level, there is a need for gradual development of the regional self-governance, making its bodies responsible for the socio-economic and cultural development of the relevant regional territories.

The courts should efficiently solve all legal conflicts on the basis of legality and justice. The judges should be professional, independent, and responsible, justice – accessible, the judicial process – competitive and open, justice should be exercised within the reasonable terms, while the judicial awards should be strictly implemented. The Constitutional Court should serve as an efficient arbitrator in the disputes between the top public authorities as to the constitutionality of their actions.

All above should be guaranteed by the Constitution and laws of Ukraine, which, in their turn, should be interpreted and applied in accordance with the principles of the rule of law and other derivative democratic principles by all politicians, officials, judges etc.

Necessary Reforms

The reforms, necessary to achieve such prospects should cover the institutional organisation, selection of staff, operation content and procedures for all public authorities and territorial self-governance bodies. The priority steps should include the following:

1. Improvement of Parliamentarism:

Proportional representation system should be introduced with preferences, when the citizen votes for a candidate from one of the political parties in a regional constituency (8-12 mandates), while the order in which candidates get into the parliament are defined by the number of votes that they get; the internal party democracy should be strengthened at the legislative level (in particular, as concerns the formation of election lists), and annual state funding of political parties should be introduced on the results of parliamentary elections (a detailed Parliamentary Reform Concept has been developed in 2010).

2. Administrative Reform of the Central Executive Authorities:

New tasks of the Government should be taken into account when its personal composition is formed; separation of political and administrative ministerial functions and offices should be completed; the status and organisation of other central executive authorities should be defined alongside with their relations with ministries; new public policy making and decision making procedures should be introduced; provision of administrative services and exercise of inspection and oversight powers should be separated at the institutional level in various governmental agencies; requirements to the competitive selection to all civil servant posts should be strengthened at the legislative level, in particular such offices should be divided into three or four categories, the High Civil Servant Council should be established; observance of the professional ethics rules by civil servants should be ensured.

3. Administrative Reform of the Local Self-Governance:

Viable communities should be established on the basis of economic growth centres; their bodies should be endowed with the maximal powers related to the territory development and provision of public services to the population; the majority election system with multi-seat constituencies should be introduced for the local elections; own and fixed local budget proceeds should be defined at the legislative level to be sufficient to cover average expenses necessary to exercise local self-governance powers. Rayons should be enlarged as the territorial basis for the subsidiary level of local self-governance (rayon councils and their executive committees in charge of specialised medicine and secondary education) and rayon state administrations with inspection and oversight powers.

4. Judicial Reform:

Implementation of the Concept for Improvement of Justice Administration for Fair Court in Ukraine Based on European Standards (approved by the President of Ukraine in 2006); introduction of the competitive and transparent access to the judicial positions with mandatory training at the Academy of Judges; strengthening of the judges' liability; restriction of powers of the chief justices; legislative empowering of the reformed judicial self-governance bodies to appoint chief justices; completion of the State Register of Judicial Awards and Their Enforcement; full-extent funding of the judicial needs.

5. **Public Administration Reform:**

Legislative regulation of the procedure for relations between officials and individuals in the area of administrative services, adoption of initiative decisions (which concern private interests), inspection and oversight activities, use of administrative penalties; regulation of payments in administrative relations on the basis of the sole administrative fee; establishment of legislative guarantees for the access to public information; establishment of administrative service supermarkets; development of e-governance.

6. **Criminal Justice Reform:**

Implementation of the Criminal Justice Reform Concept (approved by the President of Ukraine in 2008); reform of the legislation on criminal procedures; introduction of criminal torts; reform of the role and organisation of the public prosecution system and pre-trial investigation bodies; establishment of guarantees for citizens to get legal aid (including on a free-of-charge basis in the cases envisaged by law).

7. **Combat of Corruption:**

Implementation of the Concept for Combat of Corruption "Ukraine on the Way to Morality" (approved by the President of Ukraine in 2006); implementation of the Law on Principles for Prevention and Combat of Corruption (passed in 2009); establishment of the Anticorruption Bureau, a body for prevention and fighting of corruption among top officials.

8. **Constitutional Reform:**

Establishment of the rule whereby the majority of parliamentary decisions would be passed by the relative majority of votes, i.e. when more members of parliament vote in favour, than against, restriction of the parliamentary immunities and cancellation of the "imperative mandate"; efficient distribution of powers between top public authorities – the President, the Parliament, and the Government under the mixed form of government; change of the government formation procedure with preservation of the decisive role of the parliamentary majority (but providing for the possibility to form the governments of minority); introduction of the constructive vote of no confidence in the Government enabling the Parliament to dismiss members of Government only on the submission of the Prime Minister or on such member's own initiative (resignation); definition of constitutional mechanisms for the exercise by the President of its powers (the majority of them should be limited by the submissions done by the Government or a responsible minister or counter-signing of the President's acts in order to ensure integrity of the state policy); definition of the constitutional status of various types of central executive authorities – ministries, governmental bodies, independent regulators; establishment of powers and procedure for formation of the High Civil Service Council; establishment of the three-level administrative and territorial system – communities, rayons, and regions; strengthening of the local self-governance and introduction of the regional self-governance; separation of activities of local self-governance and local state administrations; improvement of the procedure for formation of the High Council of Justice and its entitlement to appoint judges; strengthening of the constitutional justice, change of the procedure for appointment and dismissal of judges, establishment of guarantees for the incessant operation of the Constitutional Court, entitlement of citizens to send their constitutional complaints to the on violation of their rights and freedoms to the Constitutional Court; establishment of a mechanism for the people to exercise their founding powers and adoption of the new Constitution through formation of a founding body with approval of the Constitution, adopted by such founding body, at a national referendum.

9. **Introduction of Regional Self-Governance.**

Priority Steps

1. To undertake a comprehensive reform of the parliamentary activities on the basis of the Parliamentary Reform Concept prepared by independent experts in 2010;
2. To pass the Law on Parliamentary Elections (new version) (8 bills are registered in Parliament, at least two of which can be taken as the basis) or the Election Code;
3. To amend the Law on Political Parties (such amendments were already passed in 2004, but then were cancelled in 2007);
4. To approve the Public Administration Reform Concept (developed by the Cabinet of Ministers in 2008-2009);
5. To set up a Governmental Commission for Administrative Reform chaired by the Vice Prime Minister for Administrative Reform;
6. To pass a law on ministries and other central executive authorities (developed by the Ministry of Justice in 2008-2009);
7. To pass the Law on Civil Service (new version) (developed by the Main Civil Service Department in 2005-2009 in a number of versions);
8. To introduce into the Parliament the bills on the local self-governance reform (the Law on Administrative and Territorial System, the Law on Local Self-Governance (new version), the Law on Local State Administrations (new version) (all developed by the Ministry for Regional Development and Construction in 2009), the Law on Local Elections, the Budget Code (new version), the Law on Real Estate Tax or the Law on Land Tax (new version);
9. To establish a working group to complete the drafting of the Law on Judiciary and the Status of Judges (passed in the first reading in 2007) for its subsequent adoption;
10. To pass the Law on Judicial Fees (adopted in the first reading in 2007);
11. To pass the Code of Administrative Procedures (considered by Parliament since 2008);
12. To draft and pass the Law on Administrative Fees;
13. To pass the Law on Access to Public Information (adopted in the first reading in 2009);
14. To submit to the Parliament a draft Code on Liability for Administrative Torts (developed by researchers and passed to the Ministry of Justice in 2009);
15. To submit to the Parliament a legislative package on criminal justice and legal aid reform (the Code of Criminal Procedures (new version) (approved by CMU for its submission to the Parliament); amendments to the Criminal Code on introduction of criminal torts; the Law on Public Prosecution (new version); the Law on Pre-trial Investigation (developed by working groups in 2008-2009);
16. To pass the Law on Attorneys (new version) (considered by Parliament for a number of years already) and the Law on Free Legal Aid (passed in the first reading in 2009);
17. To enact the Law on the Principles for Prevention and Combat of Corruption upon making certain specifying amendments to it (passed in 2009; enactment postponed until 1.04.2010) and to amend status laws on various public authorities and their officials for the implementation of the corruption law provisions (prepared by the Ministry of Justice);
18. To pass the Law on the Anti-corruption Bureau and to establish such institution;
19. To set up a commission to draft constitutional amendments; the commission should include representatives of all top public authorities, parliamentary factions, research institutions, think tanks and other civil society organisations; independent experts should make up more than half of the commission members;
20. To submit constitutional amendments or new version of the Constitution to the Parliament.

Part II.

Modernisation of Ukraine: Social and Economic Dimension

Status

The country needs to improve significantly the efficiency of the national industries as a basis of the stable social and economic development of the society in the long-term perspective, which will produce qualitative improvement of living standards. At the moment, the technology basis of the economy is not capable to provide adequate response to the climate and energy challenges. Thus, economic growth in Ukraine faces numerous restrictions, while the tasks of environmental protection remain unimplemented. The modern model of the Ukrainian state is grounded on the paternal ideology, which, in its turn, is based on the large-scale redistribution of resources, mainly in the form of various transfers and subventions, while practically no investments are done into the human development and the change of their living conditions.

Ukraine's economy needs to be adapted to the competition on the regional and global markets, which means enhanced efficiency of production, adjustment of the national economy structure to the global competition, increase of the science-intensity of economy through massive introduction of innovations, support to the establishment of new types of businesses, introduction of the highest environmental standards into the production industries.

Strategic Perspective

In terms of its content, the social and economic modernisation includes three interrelated components, i.e. modernisation of the state economic policies, upgrade of the production and technical basis of the economy, and improvement of the social protection in its broad understanding. Social and economic modernisation can be achieved through implementation of a number of reforms aiming at the introduction of the most efficient principles, mechanisms, and formats to manage the social and economic processes in the state. Practical implementation of the sustainable development model should become an unconditional imperative in this case in order to ensure integral combination of economic efficiency, social justice, balance of resources, and environmental safety.

As the end result of economic modernisation, Ukraine should decrease the gap with the developed market economies. In particular, Ukraine's success should be demonstrated by the getting closer to the developed countries in terms of the GDP per capita and by higher human development index. The country's economic policy should be based on two initial conditions. Firstly, in view of the deep impact of the economic crisis on Ukraine, the content of the economic policy and in the short- and mid-term perspective should be defined by the necessity to have an adequate response to the crisis (including both through the overcoming of fiscal and other disbalances caused by the crisis and anti-crisis economic policies, as well as reaction to the new crisis related problems, which may emerge in 2010-2011). Secondly, in purely strategic sense the country should lay modern grounds to the stable economic development in the long-term perspective.

Necessary Reforms

1. Fiscal Policy:

Revision of the current obligations of the state, envisaged by law, in terms of their financial support in order to bring such obligations into compliance with financial possibilities of the country, introduction of the mid-term budget planning, adoption of the Tax Code and introduction of moratorium on the amendment of the tax legislation for the subsequent 5 years, or, alternatively, any tax-related amendments should be passed by the constitutional majority; clear separation of corporate taxes (taxes paid by a company) from the taxes and charges paid by individuals (employees), gradual transition to the personal payment of income taxes and social contributions.

2. Monetary Policy:

Transition to the regime of inflation targeting in the mid-term perspective, whereby NBU, with the help of its discount rate, can actually regulate the cost of money in economy and influences the level of inflation and the economic growth rates through the monetary transmission mechanisms;

Strengthening of NBU independence from political influences – for this purpose, the NBU Board should be reorganised on other than quota principles in order to turn it into a more technical body; strengthening of NBU's responsibility for the efficiency of the monetary policy.

3. Regulatory Policy, Privatisation, and Protection of Property Rights:

Establishment of equal conditions for the functioning of the state and private companies, final introduction of the notification principle for the registration of business operators, streamlining of the market access mechanisms, in particular the procedure of business closure without bankruptcy and essential improvement of the insolvency procedures;

Reduction of the list of facilities not subject to privatisation; better information support to the pre- and post-privatisation activities of the government and the privatised facilities;

Regulation of the information on the possession of material and non-material assets (land plot survey with clear geographic coordinates, developed and reliable system of depositary institutions, credit story bureau, registers of companies and entrepreneurs); establishment of the national register for mortgage information, regulation of rules and procedures for access to the above information.

4. Social Area:

Unconditional introduction of the principle whereby social obligations of the state should be formed only on the basis of budget possibilities, while social aid should be provided only on the targeted basis and mainly in the monetary form; such aid should be provided only to the households with the incomes below the established poverty line;

Social categories entitled to various social privileges should be regulated on the basis of a completed privileged individuals register; in the future, no privileges should be provided to the representatives of certain professions, while privileges should rather be given only to the individuals that have been granted the privileged status;

Introduction of the sole social contribution through adoption of a special law;

Continuation of the pension reform (revision of the system of pension provision to the privileged pensioner categories in order to establish the maximum pensions and to pass to the payment of high pensions to individual professional groups at the third level of the pension systems, gradual increase of the pension age for men and women, as well as gradual increase of the pension age for individual professional groups; introduction of the second level of pension security development of the regulation environment for the third level of pension security).

5. Public Health Care:

Change of the administration structures: the Ministry of Public Health Care should establish norms and standards for the sector, while it is the specially set up Social Medical Fund that should finance medical institutions, collect information etc;

There is a need to establish the main list of medical treatment and medical services free provision of which to each individual should be guaranteed by the state; in the funding of the public health care system, the maintenance of health care institutions should be replaced by the principle of payment for the services provided;

Establishment of an efficient system for prevention and early detection of diseases, combat of epidemics and security of high quality and safety of pharmaceuticals on the Ukrainian market.

6. Infrastructure:

Creation of the maximally beneficial conditions for investments into basic infrastructural sectors, adequate regulation of the state, comprehensible for all market actors and easy for implementation.

7. Agrarian Policy:

Establishment of the full-fledged agricultural land market; drastic reformation of the public policy of support to agricultural sector; modernisation of the system of research and education which should meet modern market conditions of the functioning of agriculture.

8. Environmental Protection:

Improvement of the information, institutional, legal, regulatory, and economic mechanisms of environmental management and its integration into all spheres of public policy and management; unconditional introduction of the polluter-shall-pay principle (pollution or injurious treatment of natural resources shall become unprofitable due to progressive fines and high payments for pollution and use of natural resources); stimulation of establishment of the green economy model.

Priority Steps

1. Adoption of the law on state aid to define the content and types of state aid, principles and procedures of its provisions, and responsibility of the aid recipients;
2. Extension of the taxation basis through introduction of new taxes (in particular, the real estate tax); in the mid-term perspective, there is a need to see if there is a need to reduce the taxation of the salary fund and the rates of the main budget-forming taxes;
3. Development of the small business taxation policy for the next 5-7 years and its establishment at the legislative level;
4. Completion of the Law on the National Bank;
5. Adoption of the Law on the State Property Fund, which would empower the Fund to manage state property facilities and to ensure efficiency and transparency of the privatisation process; the Fund should also oversee fulfilment of investment obligations;
6. Adoption of a special law on regulation of the information on the possession of material and non-material assets, rules and procedures for the access to such information;
7. Establishment of a special national mortgage information register;
8. Completion of the register of privileged citizens as a tool to optimise privileges;
9. The Single Social Contribution Law, which should establish a single system for collection and registration of contributions, and empower one institution to control and inspect contribution payments; the individuals, which have chosen the simplified taxation system, should pay the minimal contributions;
10. The Land Market Law, which should offer principles and basics of (expert) monetary assessment of land plots, regulate clearly all possible ways to acquire land titles, establish conditions for the acquisition of land plots by foreigners, establish liability for violation of the land purchase legislation, regulate the land function issues etc;
11. Adoption of the legislation necessary to introduce the second level of pension security;
12. Development of the Integrated Environmental Management Concept.

Part III.

Foreign Policy and National Security

Status

Low efficiency of Ukraine's foreign policy is caused first of all by lack of internal consensus on Ukraine's identity and understanding of the basic national interests, which could be used for integral and non-contradictory foreign policy. An important problematic factor is Ukraine's geostrategic conditions – the country, due to its geographic location, finds itself in the area of strong geostrategic competition aiming at the value choice of the development model, causing increased conflicting atmosphere in any consistent international policy. Since these problems are of objective nature, their solution will take quite some time. At the same time, there is a number of problematic issues that can be removed in a short-term perspective through specific actions, reforms, and reconsideration of the tactical tasks. Such problems include lack of high-quality coordination of the foreign policy activities, the need for the diplomatic service reform, the necessity to decrease the role of foreign policy as a factor of internal political fight, insufficient funding, and lack of high-quality planning.

Strategic Prospects

The optimal foreign and security policy has a number of components: (1) it is maximally oriented towards the development objectives of the state, implementation of its strategic priorities; (2) it promotes mobilisation of external resources for the positive changes in the political and economic system; (3) it is based on the general support of the most representative and dynamic social groups; (4) it is grounded on the clear value choice and comprehension of the strategic national interests; (5) it promotes establishment of the most progressive social and political practices; (6) it is based on the sufficient legitimate mechanisms and distribution of functions; and (7) it involves the potential of non-state actors (business and civil society).

In the future, successful foreign policy will mainly depend on the essential reconciliation of its practical instruments with internal needs of the state and the society. There is a need to intellectualise foreign and security policy, to introduce the modern European planning culture, information circulation, and stimulation of the diplomats' carrier growth. Strategic planning should be done with involvement of independent experts under the conditions of maximal depoliticisation. Strategic aims (main principles) of foreign and security policy should not be revised due to the change of governments or presidents. Politicians should publicly agree on the consensus positions that is not opposed to and will not be repeated revised in the future.

Necessary Reforms

Strategic priorities should include the following: integration into the European economic, social, and humanitarian space; formation of the maximally non-conflicting relations with the Russian Federation, without rejecting the basic national interests of Ukraine; integration into the renewed format of transatlantic relations and establishment of productive relations with new regional leaders (China, India, Brazil).

Practical priorities envisage the following:

1. Diplomatic Service Reform (up to 2 years)

Such reform aims to pass from the existing linear to more functional management system when more powers are transferred to the middle and lower links of the diplomatic service. The MFA structure should be based on the subject criteria. MFA should be divided into general directorates, the key one of which should be political, security, economic, legal, consular etc departments. There is a need to introduce the practice of the MFA's proactive coordinating role in the system of public authorities. In the area of foreign policy of the state – there is a need to use the potential of public diplomacy. The state support can change the public diplomacy into a serious foreign policy resource. The public expert analysis should become an integral part of the assessment of the quality of foreign policy.

2. **Practical Content of the Associated Relations with the EU** (3-4 years)

EU-Ukraine association relations cover all socially important areas of political, economic, and social relations, therefore they should be formed without waiting for the official signature and ratification of the EU-Ukraine Association Agreement. Such possibility is already envisaged through an intermediary practical instrument – the Association Agenda – which contains really important priorities, the implementation degree of which should be measured and monitored. There is a need to focus on the formation of deep free trade area; to master new instruments of EU technical and financial support (ENPI) and to use the constructive potential of Eastern Partnership. More diplomatic attention should be paid to the relations with key EU Member States.

3. **Cancellation of Visa Regime for Ukrainian Citizens Visiting the EU** (4-5 years)

Establishment of the integrated border management system should be sued to ensure efficient border protection, continuation of demarcation, reform of the border guard services and strengthening of cooperation with FRONTEX. Ukraine should introduce a new standard of foreign travel passports with biometric data which should meet ICAO standards. There is also a need to pass new migration legislation, compliant with European practices, and to establish a single migration body (which currently exists only on paper); a cooperation agreement with EUROJUST should be concluded; Ukraine's Interior Ministry should establish systemic cooperation with its counterparts in EU Member States and EUROPOL; the Law on Protection of Personal Data should be approved.

4. **Settlement of the Pending Issues in Ukraine's Relations with Russia** (2-3 years)

There is a need to study the consequences of introduction of the Customs Union between Russia, Belarus, and Kazakhstan for Ukraine, primarily as concerns the access of Ukrainian products and services; to promote Russia's accession to WTO; to complete the delimitation of the sea border and to start demarcation of the land border; to postpone the contentious issues which cannot be settled in the near future (humanitarian issues, interpretation of the historic past, and the Black Sea Fleet).

5. **Security Sector Reform** (2-3 years, short-term objectives)

Improvement of the national system for strategic planning and administration; introduction of modern resource management into the operation of the Ministry of Defence and the Armed Forces Headquarters; the army should be stripped of the unusual functions, priority support should be given to the maintenance of the fighting capacity of the anti-aircraft defence, special operations forces, on-duty forces, and military intelligence means; strengthening of the combat against piracy in the sea and in ports. There is a need to improve the general level of professionalism of the experts of the Security Service, Interior Ministry, the State Border Guard Service, and other agencies, as well as to ensure their full depoliticisation; it is also important to counteract corruption insistently in the law-enforcement and security area, as well as penetration of business interests into the special services.

Priority Steps

1. **Diplomatic Service Reform.** The Minister for Foreign Affairs should be appointed in the same way as other members of the government, and should be a member of the coalition. The MFA political and diplomatic positions should be separated. The MFA structure should be based on the subject criterion. General directorates should include directorates and sections; directorates should become the main structural units with sections as the main working units. Each section, directorate, and general directorate should have their own budget, and the funds should be allocated not only for the support of the secretariat, but also for the implementation of specific function.

It is important **to transfer the weight of decision making** and administration to the level of desk officers in charge of specific priorities who should get powers to prepare and to disseminate documents and information with their electronic signature.

A new system for preparation and circulation of information should be introduced as an internal closed electronic network for circulation of information and documents. Documents should circulate directly among the implementing diplomats. Each diplomat should have proper computer network access both to the letters, telegrams, and information materials circulating inside the MFA and between the MFA and Embassies, as well as to the general database of the materials prepared by the MFA and foreign service over a certain period of time.

2. European Integration Driven Policy:

- Political association and free trade area;

Completion of negotiations on the Association Agreement; implementation of the Association Agenda; the Agreement should contain no provisions that would be considered by the EU as Ukraine's indirect obligation to abstain from submitting a formal membership application until the expiry of this long-term agreement;

Efficient use of EU programmes and instruments open to Ukraine (Eastern Partnership, ENPI etc): improvement of the ability of state institutions to use the funds allocated by EU in an efficient way;

Adaptation of legislation and implementation of regulatory reforms, primarily in order to get maximum benefits from the established model of deep free trade area;

- Policy for the achievement of visa-free regime with EU: drafting and conclusion of a cooperation agreement with EUROJUST, EU agency combating organised crime; drafting and conclusion of a cooperation agreement with EUROPOL; strengthening of cooperation with FRONTEX, as well as bilateral cooperation with border guard services of neighbouring countries; adoption of the law on protection of personal data and beginning of issuance of biometric passports for Ukrainian citizens; establishment of a single migration body; completion of contractual and infrastructural equipment of borders; ratification of the following priority documents (the list is not exhaustive): Council of Europe Convention on Action Against of Trafficking in Human Beings, 2005 (signed by Ukraine on 17.11.2005); European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, 1981 (29.08.2005); Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data Regarding Supervisory Authorities and Transborder Data Flows, 2001 (29.08.2005); Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, 2001 (08.11.2001); Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 2005 (29.11.2005); UN Convention Against Corruption, 2003 (11.12.2003).

Part IV.

Fundamental values of the democratic Changes

1. Civil Society¹ as the Driving Force of Democratic Transformations

Status

No leading political force in the history of independent Ukraine has yet proposed a consistent strategy for the development of civil society as the foundation for building democracy. No political party, which has participated in government, has expressed practical and efficient interest in creating conditions for civil society development. No government body, apart from local self-governance bodies, has managed to establish real and systemic dialogue with the civil society. The dialogue with the civil society, active civil society organisations of Ukraine, of which there are thousands in Ukraine, are replaced by political populism.

Strategic Prospects

Civil society organisations aim to protect private, but also collective, public interest in a law-abiding way accountable to the society. In all modern developed countries, functioning of the democratic system is impossible without everyday, free and open self-organisation of people. A democratic society mainly means a developed civil society which cooperates with public authorities, and not just makes them responsible for the state of affairs in the country. The government should establish level and material conditions for the self-organisation of the people, as well as openness of the power. The civil society uses the rule of law principle to request transparency in the activities of elected governmental officials at all levels of decision making. Citizens have an indispensable right to vote and have access to all publicly-important information dealing with private and public interests. Openness and transparency of the governmental actions is an instrument to measure accountability and responsibility of all branches of power, the drawbacks of which should have clear legal consequences.

The government should create legal and material conditions for the dialogue with the civil society. Defence of human rights helps the civil society to ensure that citizens can exercise their social and economic interests. Social justice, acceptable for the society is achieved only through massive participation of the civil society members in the public control of the distribution and use of the public wealth by the government.

Necessary Reforms

1. Simplification of the process of NGO establishment/registration and making this process less expensive; bringing of the Ukrainian legislation into compliance with the Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe;
2. Introduction of efficient and transparent mechanism for state funding of NGOs on the competition basis and establishment of beneficial tax regime for charity;
3. Transparent involvement of NGOs into the provision of social services to citizens at the expense of the state and local budgets;
4. Introduction of mechanisms for information transparency of public authorities and procedures of public involvement into the decision-making;

¹ Civil society is area of citizens' self-government which is established independent of public institutions as a result of everyday relations between people. It is based on various voluntary citizens' associations, independent of public authorities. These associations include a broad circle of both the NGOs registered with justice authorities (excluding political parties), and unregistered collective initiatives: from rural communities and meetings of building residents to trade unions and broad public movements united to solve vitally important issues.

5. To achieve the above objectives, public authorities should (a) modernise the law on NGOs and the practice of cooperation with them; (b) increase the volume and transparency of state funding provided to NGOs and the targeted use of resources by NGOs; (c) establish a target state fund to promote development of civil society with independent (public) management which will make it possible to support initiatives aiming at civil society development on a competition basis and with participation of and monitoring by representatives of various NGOs.

2. Human Rights in Ukraine

Status

The main precondition for the observance of human rights is the strong, independent, and competent judiciary. Lack of these qualities turns legal defence into illusion. Politicians, however, ignore the reputation of the court. This year, the Supreme Court expressed lack of respect to justice, when its criminal chamber ignored the award of the European Court of Human Rights in the case of Oleksandr Yaremenko.

Implementation of judicial awards remains a big problem in Ukraine: annually, over 70% of judicial decisions in civil cases remain unfulfilled. Other systemic violations of the rights to fair justice include far too lengthy duration of the processes; lack of the judges' professional responsibility; violation of the presumption of innocence and the right to defence; insufficient grounding of the judicial decisions; almost full absence of acquittals; and lack of independent non-state expert analysis.

Ungrounded detentions and systemic use of tortures and other forms of ill treatment by law-enforcement bodies in order to get confessions in crimes raises serious concerns. According to surveys, in 2008 more than 600,000 suffered from violence. Lack of efficient investigation by public prosecution, proper judicial control on the attempts to force confessions and information, as well as sufficient judicial powers to reject the evidence received in an illegal way, promotes the atmosphere of impunity, when tortures turn into a routine practice.

There have been attempts to use law-enforcement authorities as an instrument of political struggle. Indirectly, this is confirmed by essential increase of the number of permits to tap information from the communications channels: 15,000 in 2005, more than 25,000 in 2008. The tax identification number is more and more used as a universal identification code, which, contrary to the law, is used in all transactions.

Lack of information openness, transparency and accountability of the government to the society, ungrounded classification of the information and restriction of the freedom of information exchange are extremely dangerous.

In 2008-2009, the National Commission for Social Morality started its activities. Its decisions were ungrounded and disproportional to the restrictions of the freedom of expression; such interventions did not meet any urgent social need. In general terms, necessity for such body in a democratic society is rather doubtful.

Brutal violations of the property rights continue, in particular illegal captures of lands and other property contrary to the law, will and decisions of local territorial communities and owners. Criminal cases have been falsified against village mayors, which opposed the illegal land capturing.

Economic crisis has particularly hit primarily low-income population. The gap between the rich and the poor is growing. Like in 2007, the government again suspended the exercise of economic and social rights in the budget for 2008 and 2009, despite of the decision of the Constitutional Court prohibiting the suspension of rights.

Necessary Reforms

In conclusion, it can be said that, apart from a number of exceptions, the country lacks an integral systemic policy on human rights. The general attitude to them, as to something secondary and insignificant, does not make it possible to implement systemic changes for the better. At the same time, activities of law-enforcement organisations and conscious efforts of numerous civil society organisations in the majority of Ukrainian regions have created conditions for subsequent reforms and changes in this area.

Implementation of such changes needs first of all to strengthen constitutional guarantees of human rights and fundamental freedoms, to approve the new Code of Criminal Procedures, to reform the systems of judiciary and criminal justice in accordance with the concepts approved by the presidential decrees, to change the priorities of information policy, having passed the laws on access to public information, on information, on public radio broadcasting, on civil society organisations, and to review the legislation on protection of social morality and the practice of its application.

The laws on free legal aid, on peaceful gatherings, the draft labour code need to be improved as currently they essentially violate human rights.

Public policy on human rights and freedoms should envisage extension of national institutions defending human rights and encouraging their protection in public authorities, like the Department for Monitoring Observation of Human Rights by Law-enforcement Authorities at the Interior Ministry, establishment of Ombudsman's regional office, as well as introduction of specialised ombudsmen to counteract tortures and ill-treatment, to combat discrimination, to protect freedom of information and personal data, as well as for children rights.

3. Professional Journalism as the Basis for Open Society

Status

Today, Ukrainian media can be called independent and professional only in a conventional sense, which is due to a number of essential reasons.

In general, during almost two decades, the media have not managed to become a self-sufficient business in Ukraine, but are rather considered by their oligarchic owners as instruments of political influence. The country still preserves a big number of state and municipal media. The government, represented by a number of specific officials, still cannot get rid of the totalitarian custom to control their editorial policy.

The extent of hidden advertising has become threatening. In addition, the budget does not get millions in the form of taxes from advertising, while the public is deceived by the advertising disguised as journalist materials. The National TV Broadcasting Council is not doing anything on the issue, while law-enforcement authorities are unwilling to investigate such fact, which enables the media owners and managers to continue their practices distorting the purpose of the media in the eyes of journalists and the society.

Lack of strong non-commercial media – in particular, public TV and radio broadcasting – which would demonstrate the examples of professional and responsible journalism, and would force commercial media and journalists, working for them, compete with the high quality product, struggle for the well-educated and solvent audience, attractive for the advertisers.

Main Ukrainian journalists still remain rather unprofessional.

Necessary Reforms

The most necessary steps that need to be done by public authorities after 2010 presidential elections include the following:

1. Expression of the new President's political will to complete the establishment of the system of public broadcasting in the state;
2. Consolidation of the government and parliament's efforts in the search for the format to decrease the number of state and municipal media;
3. Expression of the political will to decisive steps to fight corruption in the media in all its forms;
4. Encouragement of the National TV and Radio Broadcasting Council members to the proper exercise of their powers in terms of distribution of frequencies for various types of broadcasting (with due regard of the society needs) and in the oversight of the observance by broadcasters of the licensing requirements, the advertising legislation, and the election law;
5. Ensuring that all branches of power observe the Council of Europe recommendations on the functioning of the media during the election campaign, in particular as concerns respect to the media and understanding of their social mission;
6. Support to the improvement of the education and training of journalists able to observe the ethic rules of journalism; for this purpose the state should reform the system of journalist education on the basis of the efficient world models;
7. Rejections of the attempts of state regulation of the media sector on the issues where the world practice has proved the expedience and efficiency of self-regulation;
8. Support – through state programmes implemented on the competitive basis – of the creation of the information products aiming to solve the most acute social problems; support to the dissemination of the Ukrainian language, encouragement of the publication of books and circulation of printed media in Ukrainian;
9. Bringing the Law on Protection of Social Morality and the activities of the National Expert Commission for the Protection of Social Morality into compliance with the requirements of the Council of Europe and the practice of the European Court of Human Rights;
10. Introduction of the mandatory written reconciliation of the legislative amendments regulating the media activities with the profile unions, and
11. Introduction – first at the pilot level – of the system to study the basics of the media-literacy in secondary schools.

4. Turning Public Policies and Social Consciousness More Environment-Friendly Requirement of the Time

Status

The critical condition of the environment is threatening for the public health and national security of Ukraine. Nevertheless, environmental policies remain to be out of priority, inefficient, and marginal both in the area of public administration, and in the society. The excessive exploitation of natural resources and their irrational use in Ukraine are among the initial reasons of the economic and environmental crisis, as well as decrease of the level of social standards. A fundamental threat to security is posed by the global climate change which is accelerating. The ubiquitous ignoring of the environmental rights raises social tension. The development progress is continued to be measured only by the production and consumption rates, while basic and universal environmental values are discarded. At the same time, the roots of the problem are in the failure to take the factor of the exhaustibility of the quantity and quality of the natural resources into account alongside with the sensibility of the ecosystems, as well as the related degradation of the individual and the society.

Strategic Prospects

Preservation of the natural wealth of Ukraine should become one of the basic principles of the society functioning. We should aim at the environmentally balanced/sustainable development, when all types of the society activities function within the capability of the natural environmental systems to get restored, to absorb pollution, and to support the live activities of the current and future generations. The mechanism of transition to such development lies in the integration of the environmental requirements into all sectoral policies, which is currently one of the provisions of the EU Treaty.

Necessary Reforms

The main environmental reform lies in the transition to the integrated environmental policy established by law, when environmental objectives become common for the entire society. Environmental policy based on the principles of sustainable development and observance of environmental rights should be recognised as one of the main priorities of the state. This reform should be transparent and should be implemented with involvement of the public. There is a need to launch the process of *Environment for Ukraine* in order to support the environmental policy reform and its cycle, which will ensure constant dialogue with the interested parties. First of all, there is need to reform the environmental fines, taxes, and payments in such a way that the polluter and the user pay the full price. Priority decisions: the President's decree on the priority of the environmental policy and its integration with other sectors; the Law of Ukraine on Approval of the National Environmental Policy Strategy; and the Law of Ukraine on Approval of the Sustainable Development Strategy.

In the process of consultations with all interested parties, there is a need to define a list of the priority measures aiming to improve the condition of the environment and health. It is important to take the stock of the hot environmental spots of Ukraine and to count the funds needed for their elimination. At the same time, in the environmental managements it is important to pass from the liquidation of disasters and their consequences to their prevention. The main mechanism here is risk management. One of the urgent tasks is preparation of the possible development scenarios based on the impacts of the climate change. Priority decisions: Law on Environmental Insurance; National Programme for Establishment of Acceptable Chemical and Biological Impact Risk Levels; State Targeted Programme for Elimination of Hot Environmental Spots in Ukraine; and State Programme for Adaptation to the Climate Change.

The list of the necessary steps should also include the need to introduce an integral environmental education system for sustainable development for all age categories and forms of training, as well as the proper environmental information, which should ensure the modern level of knowledge on environment and strategic development. Priority decisions: Law on Approval of the Strategy for Environmental Education for Sustainable Development; State Programme for Environmental Information and Public Awareness.

An important priority is also adoption of the UN Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Priority decisions: Law on Establishment of Environmental Ombudsman; Law on Approval of the Strategy for Implementation of the Aarhus Convention.

It is in particular important to strengthen control over the observance of the environmental legislation and to ensure unavoidable liability for its violation. Priority decision: establishment of environmental police.

Conclusions

Today, Ukraine faces a number of challenges, each of which can be called historic in terms of their scale and significance for the future of the state. The adequate response to these challenges will be determinative for the success of the Ukrainian modernisation project. At the same time, the challenge to the leadership and the intellectual potential of the society will form the basis for the further development. The leadership that the country needs today does not mean social presents; it rather envisages that political leadership should not just declare the necessity of the reforms, but rather start their implementation and bear the burden of responsibility. This is what the country has been lacking of many recent years.

Is there an alternative to modernisation?

We believe that there is no real alternative to the modernisation policy as a substantial renewal of the state. Priorities and mechanisms of such modernisation can be discussed in terms of specific reforms, but implementation of the modernisation project is the only tool that can help not just to solve the current problems, but also to ensure really dynamic development of the state. In view of sharp aggravation of many political, economic, social, and demographic problems, without the fear of exaggeration, it is degradation of the country seems to be the only alternative to modernisation.

Unfortunately, until now, the Ukrainian political elite has not managed to form its mission clearly in terms of the country's development. The events of the recent years have demonstrated that the behaviour of the politicians is defined by the situational interests and objectives, while power is considered as an instrument to lobby certain political interests. There is no feedback mechanism between the state and the society, which essentially weakens the efficiency of the social activities of public institutions due to lack of real responsibility on behalf of various level officials. Even though the current model can exist for quite some time with partial changes and improvements of the political system, as well as beneficial economic situation (like export oriented sectors, the possibilities to attract capital etc), in the mid- and long-term perspective it has no historic chances.

In such a way, it is independent experts and research community that should form the public opinion on the necessity and ways of modernisation, while civil society should pressure the authorities in order to prevent the devaluation of the very modernisation idea. It is also the internal potential of the state that should become the driving force of the modernisation, as its implementation is done under the conditions of tough competition on the world markets. There is hardly any sense in looking for external donors in this process, which does not mean rejection of the effective use of the possibilities provided by the international economic, political, and cultural cooperation in different formats.

We have not been trying to find a universal reply to all questions of the Ukrainian realities; we have rather made an attempt to present the vision of the modernisation as a process of substantial renewal of the state. Expressing respect to democratic values, in particular the plurality of political views and visions of strategic priorities of the state, we call on public authorities, political leaders, and the society to get consolidated around the idea of modernisation. We need to unite the expert efforts, pragmatic approach to the policy-making, and social support to the transformation processes with the understanding of limited resources and the necessity to prioritise.