

COUNTRY PROFILE

Ukraine

I. BACKGROUND

Area:	603,628 sq. km
Population:	42,6 million (2015)
GDP:	USD 131.81 billion (2014)
GNI per capita:	USD 3,560 (2014)
HDI:	0.747; ranked 81 out of 188 countries (2014)
Life expectancy at birth:	69.14 years (2014)
Mean years of schooling:	11.3 (2013)

Sources: World Bank; UNDP HDI; National Agency of Ukraine on Civil Service (2015)

a. Indicators on Quality of Public Service:

Indicator	2000	2005	2010	2013	2014
Government effectiveness	24.88	34.15	25.36	30.62	40.38
Regulatory quality	29.41	34.51	33.97	28.71	28.85
Rule of Law	12.92	27.27	24.64	23.22	23.08
Control of corruption	7.80	29.76	17.14	11.96	14.90

Sources: World Bank (2015)

b. Political and Administrative Structure

According to the Constitution, as amended in 2014, Ukraine is a democratic republic with a parliamentary-presidential system of government¹. State power is exercised on the principle of a

¹ Constitutional reform of 2004 significantly reduced the powers of the President in favour of the Parliament. However, in 2010, those constitutional amendments were quashed, and the initial 1996 Constitutional provisions were reinstated giving the President the power to appoint and dismiss the Government.

division between the legislative, the executive and the judicial branches. The President is the head of state, elected by popular vote for a five-year term.

Legislative power is vested in the Parliament - the “*Verkhovna Rada*” of Ukraine. It consists of 450 members elected for a five-year term. Half is elected through a closed-list proportional representation system in a single nationwide district, while the other half is elected in single-member constituencies. The *Verkhovna Rada* is tasked with the following functions: it determines the principles of domestic and foreign policy; it introduces amendments to the Constitution; it may impeach the president; and it declares war and peace. The Parliament, moreover, appoints the Prime Minister, appoints or approves appointments of certain officials and appoints one-third of the members of the Constitutional Court. It also elects judges for permanent terms, ratifies and denounces international treaties and exercises certain oversight and control functions.

The Cabinet of Ministers is the highest authority of the executive branch of government. It is tasked to implement domestic and foreign policy of the State. The Cabinet of Ministers is responsible to the President of the Republic and the *Verkhovna Rada*, within the limits provided for in the Constitution. The Cabinet of Ministers is composed of the Prime Minister, the First Vice Prime Minister and other Vice Prime Ministers and Ministers. The Prime Minister is appointed by the *Verkhovna Rada* after receipt of the President’s proposal. The executive power at the local level and in the Cities of Kyiv and Sevastopol is exercised by a local state administration. The Heads of the local state administration bodies are appointed and dismissed by the President upon nomination by the Cabinet of Ministers.

The Supreme Court is the highest judicial body in the general jurisdiction court system. General jurisdiction courts are established in accordance with territorial and specialisation criteria. Judges are appointed by Parliament for permanent terms, except for judges of the Constitutional Court and judges appointed for the first time.

The administrative structure of Ukraine is based on the principles of unity and indivisibility of the state territory. Exercise of state power is both centralised and decentralised. Ukraine is administratively divided into the Autonomous Republic of Crimea, 24 regions (*oblasts*), 490 districts, 460 cities, 111 city districts, 885 towns, 10,279 village councils and 28,388 villages². The Cities of Kyiv and Sevastopol have special status and are directly subordinated to the Republic. The Constitution recognises and guarantees local self-government in Ukraine as represented by district and regional councils.

II. CIVIL SERVICE PROFILE

a. Legal basis of the civil service

Regulation of the civil service in Ukraine is founded on the Constitution, the Civil Service Law and other laws, international treaties, resolutions of the *Verkhovna Rada*, Decrees of the President, Acts of the Cabinet of Ministers and of the central bodies vested with executive power.

Consecutive Constitutional amendments of February 2014 again re-shifted the balance in the favour of the Parliament (OECD 2015, pp. 10–11).

² Verkhovna Rada website: <http://iportal.rada.gov.ua/en/news/11868.html>

Relations pertaining to civil service are regulated by the Civil Service Law of 2015 and those Provisions in the labour legislation, which are not covered by the Civil Service Law³. The Civil Service Law of Ukraine (3723/1993) governed relations in the civil service until May 2016. Following the dramatic events at the beginning of 2014, which resulted to a change in government and led to the signing of the Association Agreement between Ukraine and the European Union, public administration reform has become a key component of the process of Ukraine's integration into the EU. As part of these reforms, the National Civil Service Agency of developed a new Law on Civil Service. It was adopted by the *Verkhovna Rada* on 10 December 2015, (Law 889-VIII) and entered into force on 1 May 2016⁴. The Law was based on the European best practices (primarily those of Poland) and on SIGMA's recommendations regarding the principles of professionalism⁵. Rounds of consultation with public organisations and international or local experts also helped. The draft law was also supported by the President, as well as by both the executive and legislative branches. This demonstrated a consolidated stance towards civil service development⁶ by all the relevant stakeholders.

The Civil Service Law of 2015 defined the legal principles and organisational basis for a professional, politically impartial, effective and citizen-oriented civil service, which functions in the interests of both the state and society. It also defined the right to equal access to the civil service on the basis of personal competencies and merit. Furthermore, the Law included a distinction between political and administrative positions, thus ensuring the independence of the civil service from political party influence. Finally, it declared the political impartiality of civil servants⁷.

Provisions of this Law apply to: The Secretariat of the Cabinet of Ministers of Ukraine; ministries and other central bodies of executive power; local state administrations; bodies of the Prosecutor's office; bodies of military management; and foreign diplomatic institutions of Ukraine. The Law does not apply to the President of Ukraine; the head of the Presidential Administration and his deputies, members of the Cabinet of Ministers of Ukraine, first Deputies and Deputy Ministers; people's deputies of Ukraine and deputies of local councils⁸. Furthermore, the Law envisages the introduction of the post of state secretaries in ministries responsible for the management of its personnel. It also introduces a range of innovations, including an open and competitive selection for all civil service posts, a simplified and comprehensive system of position classification⁹ and a modified remuneration model¹⁰. Changes in the system of civil service management will also be implemented. A Senior Civil Service Commission¹¹ will be established to

³ The OECD has expressed its concern in relation to this Article, stating that *"The law should establish explicitly that provisions on recruitment and promotion, but also with disciplinary procedures, demotions and dismissals are regulated solely by the Law on Civil Service and not by the Labour Code"* (2015, p. 92).

⁴ Except the norms requiring knowledge of English and French by the Senior Civil Servants (planned to come into force on 1 January 2018) http://lb.ua/news/2016/05/01/334298_vstupil_silu_revoljutsionnij_zakon.html

⁵ New civil service – the European model of good governance for Ukraine. 2 March 2016, <http://www.center.gov.ua/en/component/k2/item/1875-new-civil-service-%E2%80%93-the-european-model-of-good-governance-for-ukraine>

⁶ This also led to a positive evaluation of the draft law by SIGMA experts.

⁷ Civil servants of A category are prohibited to join political parties, while civil servants of B and C categories may not be involved in the activities of executive boards of the political parties.

⁸ Article 3 of the Law provides a full list of the positions regulated by the Law and, as well as exceptions from the Law.

⁹ The classification of 7 categories with 15 ranks is replaced by classification of 3 categories and 9 ranks.

¹⁰ Providing additional two monthly salaries for seniority and rank.

¹¹ The composition of the Senior Civil Service Commission is defined by Article 14 of the Civil Service Law of 2015. It is a collegial body working on a voluntary basis.

coordinate the selection and recruitment process for senior civil service positions, based on professional competencies and merit.

b. Definition of civil servant

The Civil Service Law of 2015 defines the civil service as a public, professional and politically impartial activity for implementing the objectives and functions of the state. Specifically, these functions include the following:

- Analysis of public policy at the state, sectoral and local levels and preparation of proposals for further elaboration, including the development and provision of expert drafts on programmes, concepts, strategies, laws, legal acts and international treaties;
- Implementation of state policy through national, sectoral and local programmes and the enforcement of laws or other legal acts;
- Provision of quality administrative services, accessible to all;
- Compliance to legislation by executive and administrative officers;
- Prudent management of public assets and finances and effective control of their usage;
- Civil service human resources management;
- Performance of other duties of state agencies, as defined by legislation.

According to the Civil Service Law of 2015, a state civil servant is *“a citizen of Ukraine, who holds a remunerated civil service position in a state agency or its secretariat and performs the duties as are defined for this post in accordance with the agency’s mandate and in adherence to the principles of civil service”*. Chapter II of the Law defines civil servants’ legal status together with their rights and obligations. Article 6 of the Law stipulates that civil service positions are classified in accordance to the order of appointment, nature and scope of responsibilities and the professional competencies which civil servants ought to possess to optimally perform the functions of a position. Accordingly, the law establishes the following classification:

- **Category “A”** is the highest level of the civil service (state secretary of the Cabinet of Ministers and his/her deputies; state secretaries of ministries; heads of the central executive bodies that are not members of the Cabinet of Ministers and their deputies; heads of offices of the Constitutional Court, Supreme Court judges, higher specialised courts and their deputies; chairpersons of the local state administrations, heads of civil service of other state agencies with nationwide jurisdiction;
- **Category “B”** includes heads of divisions in the Secretariat of the Cabinet of Ministers and their deputies; heads of divisions in the ministries, other central executive bodies and other state agencies and their deputies; heads of territorial bodies of the state agencies and their divisions and their deputies; deputies of the chairpersons of the local state administrations; heads of the offices of the courts of appeal and local courts; heads of divisions in the courts’ offices and their deputies; deputy heads of civil service of other state agencies with nationwide jurisdiction;
- **Category “C”** includes other civil service positions which do not belong to categories “A” and “B”¹².

c. Civil servants’ profile

Eligibility criteria

According to the CSL of 2015 (Article 19), a Ukrainian citizen of legal age, who possesses good knowledge of the Ukrainian language and holds an educational degree no lower than a Masters for categories “A” and “B” positions and a Bachelor’s level for category “C” positions has the right

¹² The total number of civil service positions of the “A” and “B” categories in a state agency cannot exceed one third of its total staff members.

to apply for a civil service position. Citizens older than 60 years of age may not enter the civil service. The Law further stipulates general and special requirements related to professional competencies that individuals intending to enter civil service should possess. Accordingly, applicants for positions in “A” category should have no less than seven years of experience including service at the “A” or “B” categories’ positions or management positions no lower than head of division of local self-government, or management positions in the relevant area for no less than three years. They must also have full proficiency of the national language and of a foreign language among those of the Council of Europe. Applicants for positions of the “B” category should have work experience in positions of categories “B” or “C” or previous experience of working for the local self-governance bodies or working in management positions in any organization, regardless of its ownership type, for no less than two years, as well as possess knowledge of the national language. Applicants for the positions of category “C” must possess a Bachelor’s degree and have knowledge of the national language.

Total number of civil servants

In 2015, the total number of civil servants and local self-government officers was 380,257. Of these, 26.27% were in managerial positions and 73.72% in specialist positions.

Number of civil servants as proportion of the total population and of the labour force¹³

The total population of Ukraine is 42,600,000 people; hence the number of civil servants, in proportion to the total population is 0.88%.

Gender and age distribution of civil service

The civil service of Ukraine is largely female in composition. In 2015, male civil servants accounted for 25% (95,014), while female civil servants for 75% (221,096) of the total of both civil servants and local self-government officers.

d. Civil servants’ remuneration structure

According to the CSL of 2015, a civil servant’s remuneration consists of a basic salary, seniority pay, a fixed supplement for rank, payment for substitution of a temporarily absent civil servant (50% of the latter’s basic salary), payment for performing the added duties of a vacant position and bonuses¹⁴. The Law sets nine remuneration groups based on civil service positions¹⁵. The basic salary scheme is defined by the Cabinet of Ministers on an annual basis during preparation of the state law titled “On the State Budget of Ukraine”. The CSL of 2015 also specifies that the minimum basic salary of a civil servant cannot be less than the sum of two minimum monthly labour wages. In addition, the Law envisages some non-monetary incentives in recognition of

¹³ Parrado (2014) notes that “Civil service employment [in Ukraine] constitutes a very low proportion of public sector employment. In 2013, there were 335 270 civil servants, which represented 12.3% of public sector employment (2.7 million). Public sector employees constituted 13.3% of the whole private and public sector employment (20.4 million)”.

¹⁴ Bonuses include: annual performance evaluation bonus, monthly or quarterly bonus based on a civil servant’s contribution to the state agency’s overall performance. Total amount of all bonuses paid to civil servants cannot exceed 30% of their total compensation for the year.

¹⁵ These groups are specified in the Article 51 of the CSL of 2015.

merit including the expression of gratitude, certificates of honour, advancement to a higher rank and recommendations for government and state awards as some way of acknowledging a civil servant's achievements.

III. BODY RESPONSIBLE FOR HR POLICY AND IMPLEMENTATION

Chapter III of the Civil Service Law specifies that the system of civil service management encompasses the Cabinet of Ministers - the central executive body responsible for formulation and implementation of state policy for the civil service - the National Agency of Ukraine on Civil Service, the Senior Civil Service Commission and Competition Commissions, Heads of Civil Service in state agencies and human resources management units. The head of the central executive body is appointed and dismissed by the Cabinet of Ministers. The term of service is five years with the possibility of an extension for one more term.

The National Civil Service Agency of Ukraine (NAUCS) was established, in 1994, to develop and implement a coherent policy on administration of the civil service¹⁶. The Agency is supervised and coordinated by the Cabinet of Ministers, through the Secretariat of the Cabinet. In July 2011, the Agency was reorganized into an independent body with special status. Under the new Law on Civil Service of 2015, NAUCS' main functions include:

- Development and implementation of state policy on the civil service;
- Draft laws and regulatory acts pertaining to the civil service;
- Clarifications and interpretations of CSL provisions and other relevant legal acts;
- Monitoring enforcement of the CSL;
- Conduct of civil servants' professional training needs-assessment and organisation of trainings;
- Facilitation of capacity building for educational organisations that provide professional training for civil servants;
- Equitable terms and conditions for the recruitment and promotion processes of categories "B" and "C" civil servants;
- Ensuring that a unified list of vacant civil service positions is duly compiled and published promptly, as well as a list of successful candidates of a competitive selection process;
- Technical support to the HRM units of state agencies;
- Monitoring vacant positions in the Senior Civil Service and initiating recruitment procedures to fill them;
- Developing standard qualifications / competencies' requirements for the Senior Civil Servants (Category "A") to be approved by the Cabinet of Ministers, in consultation with the Senior Civil Service Commission;

Under this Law, Heads of service of state agencies assume the following responsibilities (Article 17, Clause 2 of the CSL):

¹⁶ The National Agency's Structure includes: Department of Organizational and Analytical Support of the Head and HR Management; Government and Local Self-Government Officials Department; Civil Service Policy Analysis and Strategic Development Department; Legal Department, Civil Servants and Self-Government Officials Training Department; Control and Audit Department; Organizational, Record-Keeping and Control Department; Administrative Department. It also has 27 regional branches and such subsidiary institutions as the Centre for Adaptation of Civil Service to the Standards of the European Union and the School of Senior Civil Service (National Agency of Ukraine on Civil Service, 2015).

- Oversee, plan and manage a state agency's personnel, including the organization of competitive examinations to fill vacant positions for the civil service categories "B" and "C", as well as appointment to, and dismissal from, these posts;
- Manage career planning and provide incentives for promotion;
- Ensure placement of qualified specialists in filling civil service positions;
- Assign ranks to civil servants of the categories "B" and "C"; and
- Provide professional training of civil servants, etc.

Depending on the number of personnel employed in a state agency, either an HR service or a position of an HR specialist is established, which is directly subordinate to the head of the agency (Article 18 of the CSL). HR related tasks could also be assigned to any civil servant serving in a state agency. Personnel management units are responsible for the implementation of the state policy on civil service and other HR related issues, provision of analytical and organisational support to personnel management, staff development and career planning and drafting regulations concerning the civil service and labour relations.

a. Organisation of the selection and recruitment process in civil service

The CSL of 2015 stipulates that an open selection process to fill vacant civil service positions should be applied in line with the Regulation for conducting a competitive recruitment to fill vacant positions in the civil service¹⁷, as approved by the Cabinet of Ministers. According to Article 23 of the Law, a vacancy announcement is published on the official website of the hiring state agency and the NAUCS. The hiring agency submits a request for an announcement of a competition to fill specific vacancies to the NAUCS. The latter checks the compliance of the request with the relevant legislation and, if this is approved, proceeds with publication of the announcement.

The selection process consists of three stages: [i] verification of the professional qualifications of applicants based on documents submitted by the HR service of the hiring agency; [ii] testing; and [iii] interview or other evaluation method of the short-listed candidates. Interviews are conducted by the Selection Commission¹⁸, which selects the first and second best candidates¹⁹ by majority vote. The Law requires that a new entrant into the civil service undergoes a six-month probation period. The CSL also provides for additional competitive processes if the competition procedure was violated affecting the selection results or no candidates were selected or, finally, if the first candidate did not pass a special check and there is no second-best candidate.

b. Promotion and transfer processes in civil service

¹⁷ This Regulation defines the terms for competition, requirements for announcing vacancies, composition and duties of selection committee, application and review of documents, procedures for conducting tests, interviews and other types of evaluation of candidates. Competitive selection to the civil service positions in judicial bodies are set out in the relevant law. Restricted competition could be used for civil service positions dealing with classified information, state security and defence issues.

¹⁸ Composition of the Selection Commission varies depending on the categories of the civil service positions. The CSL envisages participation of representatives of public associations, civil servants from other state agencies, relevant experts, as well as trade unions' representatives.

¹⁹ The second-best candidate can be appointed to the position within a year if the position becomes vacant or the selected winner rejects the job offer or s/he does not pass the special check (Article 29 of the CSL of 2015).

Promotion in the civil service is primarily based on the position, category and rank of the staff concerned. According to Article 39 of the CSL of 2015, a rank is assigned on appointment to the civil service. Those who enter into the civil service for the first time are assigned to the lowest rank. Civil servants move to the next rank every three years based on their performance evaluation results. The Civil Service Law also stipulates that civil servants are promoted to a higher position after consideration of their professional competencies and following a competitive procedure, in accordance with the Law.

The CSL of 2015 also provides for the transfer of civil servants subject to their consent. This is implemented without a mandatory competitive procedure but based on their professional fitness and competencies. A civil servant can be transferred to the equivalent or a lower civil service position in the same or another state agency by decision of the head of the relevant state agency. A civil servant, who has been appointed to a position on a non-competitive basis cannot be transferred to a higher position without participation in a competitive selection process. In case of reorganisation or liquidation of a state agency, transfers of civil servants are carried out, without an obligatory competition, to the equivalent or lower position subject to their consent to a state agency taking over the functions of the former.

c. Performance evaluation, training and career development

Performance evaluation:

The Law requires that civil servants' performance be evaluated annually in order to assess its quality and help determine: [i] the size of their bonus; [ii] their needs for professional training, and [iii] their career development plans. The civil servants' performance is assessed on the basis of a set of performance criteria and indicators measuring the effectiveness and quality of functions and duties performed, as well as degree of compliance with ethics rules, anti-corruption legislation and practice. Performance evaluation of Category "A" civil servants is conducted by the appointing official, whereas civil servants of Categories "B" and "C" are evaluated by their immediate supervisor and the department head. Civil servants are informed of the results of their evaluation within three calendar days. Performance evaluation results may be rated "negative", "positive" or "excellent". Justification, however, must be provided for each rating²⁰. A civil servant receiving an "excellent" evaluation is entitled to a bonus and may enjoy significant career promotion prospects.

Training and professional development:

The CSL of 2015 guarantees the civil servants' right to professional training, career advancement and promotion based on their professional competencies and successful execution of their duties. The Law provides professional training opportunities to civil servants on a regular basis, with the intention to improve their professional skills. Professional training is financed from the State Budget and from other financial sources authorised by legislation. The Cabinet of Ministers approves the Regulation regarding the system of training, re-training, specialization and the enhancement of civil servants' qualifications in line with NAUCS's recommendations. The National Academy of Public Administration, under the President of Ukraine, provides technical and methodological support.

The civil servants' immediate supervisors, together with the HR units in their organisations, identify the training needs based on performance evaluation results. Civil servants, in cooperation

²⁰ A civil servant who receives a "negative" performance evaluation rating can appeal such a decision. A civil servant who receives a negative performance evaluation undergoes an additional assessment not earlier than three months after the initial evaluation. If two consecutive performance evaluations are rated "negative", civil servants are dismissed from the position they hold.

with the HR units in their organisations, develop an individual programme for improving their professional competencies. This plan is then cleared by their direct supervisor and approved by the head of the government department (Article 49 of the Law). The CSL ensures that civil servants are provided with career-long improvement of their professional competencies. Advanced professional training to enhance qualification levels must be provided at least once every three years. The Law also provides for civil servants to undergo off-the-job training for up to six months by serving at another state agency or abroad²¹.

IV. ETHICS AND ANTI-CORRUPTION STRUCTURES

A recent regional study by Transparency International on the status of corruption (2015) indicates that corruption is a major issue in Ukraine *“threatening economic development and political stability, as well as the credibility of the government”*. According to the *“TI Corruption Perception Index 2014”*, Ukraine ranked 142nd among 174 countries²². In its *“Global Corruption Barometer 2013”*, Transparency International reported that *“95% of citizens believed that corruption levels had either worsened or stayed the same over the intervening two-year period, with the judiciary and the police perceived as the two sectors most affected by corruption”*.

The Anti-Corruption Strategy, developed in 2014, explained that such high perceptions were the result of ineffective anti-corruption reforms. It also noted that Ukraine has not succeeded in implementing the recommendations provided by the Council of Europe Group of States against Corruption (GRECO)²³, following its first and second assessment rounds²⁴. Moreover, it was claimed that the Anti-Corruption strategy of 2011 was ineffective due to lack of clear performance indicators and monitoring and evaluation mechanisms. Thus, in 2014, Parliament adopted the Law *“On Prevention of Corruption”* and a new strategic document detailing the top priority measures to prevent and counter corruption²⁵.

The Law on Prevention of Corruption provides for a comprehensive reform of the anti-corruption framework to be developed in line with international standards and best practices. It defines the legal and organizational basis of the corruption prevention system in the country, its content and procedures for implementing measures to prevent corruption, as well as remedial measures for corruption offences. The Law also provides for the establishment of a National Agency for the Prevention of Corruption. It further introduces a new terminology, including such notions as *“anti-corruption due diligence”*, *“potential conflicts of interest”*, *“real conflicts of interest”*, *“personal interest”*, *“corruption offence”* and *“gift”*. Furthermore, it sets out regulations for prevention and resolution of conflicts of interest and provides rules of ethical conduct for public officials serving in local self-government bodies. The Law also sets limits to the value of gifts, as well as for the total worth of gifts, which may be obtained from a single source within a year and stricter rules for monitoring income and expense statements of civil servants and other public officials. Additionally, the Law makes it obligatory for companies subject to the public procurement

²¹ A civil servant’s position and salary are maintained during such traineeship period (CSL of 2015, Article 48/8).

²² Ukraine scored 26 on a scale from 0 (highly corrupt) to 100 (very clean); Transparency International, 2015, p. 25.

²³ Ukraine joined GRECO in 2006.

²⁴ In particular, until 2014, the GRECO’s key recommendations to establish anti-corruption institutions, reform the prosecutor’s office and civil service, introduce control systems to prevent conflicts of interest and ensure integrity of officials remained unimplemented. Only 13 out of 25 recommendations were fulfilled during the past six years.

²⁵ Law *“On the Principles of State Anti-Corruption Policy in Ukraine (the Anti-Corruption Strategy) for 2014–2017”*.

procedures under the Law of Ukraine "On Public Procurement", to introduce anti-corruption compliance programmes and appoint compliance officers to be in charge of such programmes.

In 2015, the OECD considered that the Anti-Corruption Strategy, adopted in the form of a law for the first time could facilitate the better implementation of the anti-corruption framework²⁶. The Strategy, developed in close collaboration with civil society²⁷, clearly defines priorities. It includes indicators measuring its implementation effectiveness. It also provides a framework for further anti-corruption reforms in the country. Specifically, it targets the following:

- Development and implementation of the state anti-corruption policy, i.e. establishment of a special independent state anti-corruption authority;
- Enforcement adherence to conflict of interest legislation;
- Increase of public participation in the fight against corruption and public access to information;
- Prevention of corruption by establishing transparency in political parties' financing²⁸ and the adoption of a comprehensive legal framework for political lobbying;
- Establishment of corruption prevention mechanisms in central executive authorities and the operations of state-owned enterprises;
- Reduction of corruption in public procurement by introducing new public procurement legislation that will increase transparency in the procurement processes;
- Reduction of corruption in the judicial system;
- Helping the prosecution of corruption, through the establishment of an independent agency to deal with corruption-related offences among top-level officials; introduction of positions for specialized anti-corruption prosecutors; definition of corruption-related offences (including the introduction of a new criminal offence for submitting false information in asset declarations);
- Promotion of public intolerance to corruption. This envisages adoption of an action plan developed in collaboration with civil society representatives and implementation of information dissemination campaigns to raise public awareness;
- Evaluation of anti-corruption strategy effectiveness²⁹.

Noting Euromaidan's significant effect on the country's anti-corruption policy direction, the OECD pointed out that the new administration "*pledged to eradicate corruption but has so far failed to deliver convincing results going beyond the revision of the legal framework. However, there are*

²⁶ Although, OECD stresses the fact that "... the new Strategy is not based on in-depth study and analysis of corruption situation. It refers to several perception studies, which confirm that corruption is seen as one of the key problems and it is widespread. No evaluation of the implementation of the previous strategy was conducted as a basis for the new Strategy. However, the monitoring team agrees that the main directions established in the Strategy may be sufficient at a time of rapid changes in Ukraine" (OECD, 2015, p. 24).

²⁷ It should be noted that civil society have become the most active driving force in anti-corruption reforms: NGOs and experts formed the so-called Reanimation Package of Reforms, proposing a detailed action plan for immediate reforms in the anti-corruption field (OECD, 2015; see also Transparency International, 2015).

²⁸ The OECD Monitoring Report of the Istanbul Anti-Corruption Action Plan emphasises that "*Ukraine should also reinforce rules on integrity and corruption prevention for officials holding political offices. In particular, it should establish special regulations and enforcement mechanisms on tackling conflicts of interest for members of Parliament and for members of the Government.*" (2015, p. 7).

²⁹ This includes conducting broad statistical surveys and analyses of the effectiveness of the adopted anti-corruption legislation annually; determining the level of implementation of international standards in the field of anti-corruption policy; and publication of an annual report on the status of corruption and implementation of anti-corruption policies.

some promising signs, notably regarding the radical overhaul of the anti-corruption institutional landscape” (OECD, 2015, p. 5)³⁰.

According to the Strategy, two new institutions are due to be established: the National Agency for Corruption Prevention (the Agency) and the National Council for Anti-Corruption Policy acting as an advisory body under the President³¹. The latter represents “a high-level forum for the coordination of anti-corruption measures” (OECD, 2015).

The Agency is a central executive body with special status, established by the Cabinet of Ministers to ensure the development and implementation of a national anti-corruption policy and to monitor compliance with anti-corruption legislation³². The Agency’s main tasks are the following:

- Development of anti-corruption policy, as well as corruption research, analysis, coordination, implementation and monitoring of anti-corruption policy measures;
- Control of asset declarations (monitoring the declarations and lifestyles of persons authorized to perform functions in the state or local self-government, including verification and disclosure of declarations on a single web-portal);
- Protection of whistle-blowers;
- Methodological support of anti-corruption work of other state and local self-government bodies;
- Endorsement of anti-corruption programmes adopted by all public agencies;
- Public awareness raising activities and pursuance of international cooperation in the field.

The Agency is accountable to the *Verkhovna Rada*. Its work is also subject to public oversight exercised by a Public Council comprising 15 members.

Enacted in 2015, the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” (NAB) has led to the establishment of an independent national law enforcement agency³³ tasked with the prevention, detection, investigation and prosecution of corruption offenses. It focuses on corruption crimes committed by high-level public officials and corruption crimes involving significant bribes, even in cases where no high-level public official is involved³⁴. NAB is subordinate to the Government. The Director of the NAB is selected by a special commission on the basis of the results of an open competition. He/she serves a term of seven years. The

³⁰ At the same time, OECD notes that Ukraine has finally brought its criminal law on corruption in line with international standards – “All corruption offences and their elements are now criminalised, including the crime of illicit enrichment” (OECD, 2015, pp. 5-6). OECD calls for strengthening the capacity of law enforcement agencies, prosecutors and judges through trainings, guidelines and through the deployment of additional resources to ensure successful implementation.

³¹ “President Yanukovich established the National Anti-Corruption Committee (NAC) in February 2010. This institution, however, turned out to be dysfunctional. Since its establishment, it held only three meetings. The NAC was abolished by President Poroshenko on 14 October 2014 and replaced with the National Council on Anti-Corruption Policy” (OECD, 2015).

³² The Agency is established as a collegiate body consisting of five members, who are selected through an open competition and appointed by the Cabinet of Ministers for 4 years. The Chairman of the Agency is elected by its members for a 2-year term.

³³ According to the Law, the National Bureau consists of the central and territorial administrations that are legal entities under public law. The maximum number of staff of the Bureau (central and territorial bodies included) is 700, of which senior staff shall not exceed 200.

³⁴ The National Bureau also has “exclusive investigative jurisdiction on foreign bribery cases regardless of the amount of the bribe or number and rank of officials involved” (OECD, 2015, p. 80).

selection commission is composed of independent experts chosen by Parliament, the President and the Government. Each of these bodies appoints three of its members.

Rules of ethical conduct for civil servants were introduced by the Law “On Rules of Ethical Behaviour” of 2012, until this was superseded by the Law “On the Prevention of Corruption” of 2014. The new Law defines general requirements for civil servants’ conduct. The National Agency on Corruption Prevention approves the rules of conduct for state civil servants and local self-government officials and organises training, retraining and advanced training of state and local self-government employees. It provides clarifications, guidance and consultation on issues pertaining to ethical conduct-related legislation implementation, as well as on prevention and settlement of conflicts of interest issues.

The Law “On the Prevention of Corruption” also regulates the protection of whistle-blowers and reporting procedures. The Law stipulates that the National Agency, as well as other state authorities, notably the authorities of the Autonomous Republic of Crimea and local self-government authorities should create conditions that are conducive for their employees to report illegal behaviour by other persons anonymously, in particular through use of telephones, official websites and other means of communication. There is no special position of an officer in charge of ethics compliance within the ministries or civil service agencies.

V. CIVIL SERVICE REFORMS: PAST, CURRENT AND PLANNED

a. Past reforms

Ukraine began reforming its public administration system gradually in the early 1990s, upon gaining independence from the Soviet Union. It endeavoured to ensure a fast transition from the Soviet-type bureaucracy to a new public management system. Development of the civil service in Ukraine underwent several stages. The first stage was preceded by the adoption of the 1993 Civil Service Law - and subsequent Presidential Decrees³⁵ and resolutions of the Cabinet of Ministers. This includes the period between 1994 and 1999, when the principles for the development of a modern civil service were established and a specialised agency, dealing with civil service-related issues, was set up in 1994³⁶. Starting in the early 2000s, a strategy on the new civil service system in Ukraine defined and identified the directions of reform and civil service development. The strategy also amended the procedures on the personnel roster and competition rules for vacant positions. It further introduced the annual evaluation of civil servants and launched a research programme in the area of civil service development. During this phase, the concept of adapting standards of the European Union to Ukraine’s civil service laid the foundation for the rapid transformation of the civil service. In 2005, the Civil Service Development Programme (2005-2010) was launched and a multitude of activities were undertaken to bring the civil service in line with the European administrative law principles. In 2006, SIGMA experts conducted a public administration assessment in Ukraine. It identified key challenges in the national civil service system but these issues remained unaddressed and a new Civil Service Law, which was sponsored

³⁵ In particular, these include Decrees “On Measures to Improve the Work of Staff in the Executive Branch, with the Heads of Enterprises, Institutions, and Organisations”; “On the Position of the Council of the Staff”; and “On the System of Training, Retraining, and Advanced Training of Civil Servants”; as well as such Government Resolutions as “On the Formation of Personnel Reserve for Civil Service”; “On Approval of the Official Investigation”; and “On Measures for the Training of Civil Servants”.

³⁶ The Department of the Civil Service System under the Cabinet of Ministers.

in 2011, was never enacted. In this connection, Condrey et al (2013) in a UNDP report in 2011³⁷ noted that “*significant reforms still need to be conducted, notably to improve the operations and responsiveness of the civil service*”, while they also acknowledged the country’s progress achieved in stabilising the economy.

b. Current reforms

In this connection, the OECD in 2015 noted that civil service reform had been long overdue. Following the Euromaidan events, the Association Agreement between Ukraine and the European Union was signed in June 2014. It paved the way for large-scale institutional and structural transformations to take place in the country, including civil service reform. A number of OECD/SIGMA comparative studies on the professionalization of the civil service and anti-corruption efforts mapped all the relevant issues and development of human resources management policies in the civil service and the local government administrations, as well as on the anti-corruption front³⁸.

The State’s commitment to reform the civil service is highlighted in a number of such documents as: the “Contract for Ukraine” on the development of the state concluded by the Government jointly with the European Commission, in May 2014; the Coalition Agreement of the “European Ukraine” in November 2014; the Programme of the Cabinet of Ministers of Ukraine approved by the *Verkhovna Rada* in 2014; and the Sustainable Development Strategy “Ukraine 2020”, approved by the President in early 2015.

Preparation of a legislative framework that includes the new principles for the civil service - in line with those of European Union standards - is one of the tasks included in the Action Plan on implementing the Association Agreement for the period 2014 to 2017. Reforms, initiated under this framework, are envisioned to contribute to the optimisation of the functions of government authorities and the delineation of their responsibilities. In line with the above, the National Civil Service Agency of Ukraine developed a Reform Strategy of the civil service and local government in Ukraine to the end of 2017. The Strategy was approved by the Cabinet of Ministers in March 2015. The new Law “On Civil Service” and the Law “On Service in Local Self-Government Bodies” were both adopted in 2015, thus harmonising provisions of the two legal acts³⁹.

De-politicisation, delineation and identification of political and administrative positions and, finally, introduction of the Institute of State Secretaries in ministries are considered the major priorities of the reform effort. In addition, change in the senior civil service management system is planned with the establishment of the Senior Civil Service Commission. Reforms are planned to provide for a transparent competitive selection process for recruitment to all civil service positions, including senior management posts, with the introduction of a competency-based approach in HR management. Position classification has been simplified, comprehensively introducing three categories and nine ranks against seven categories and fifteen ranks existing in the past. It is hoped that these reform initiatives will assist in building a professional and merit-

³⁷ United Nations Development Programme Report “Support to civil service reform in Ukraine” (2011).

³⁸ The following issues were highlighted: [i] lack of clear distinction between the norms of private and public law; [ii] inefficient systems for civil service appointments and for career promotion; [iii] excessive politicization; [iv] ineffective human resources management system; [v] ineffective remuneration system; [vi] ineffective system of professional training, retraining and advanced training of civil servants and local government officials; [vii] inadequate systems of public and state control over the activities of public authorities and local government personnel; and [viii] insufficient measures for the purpose of implementing corruption prevention policy effectively.

³⁹ For instance, new legislation now allows for civil servants of the central government to move to the same or similar positions in local self-government bodies without a competition process.

based civil service adhering to European Union standards of good governance, thus helping raise the quality of public service delivery.

c. Planned reforms

According to information provided by the National Agency of Ukraine on Civil Service, adoption of the new Civil Service Law of 2015, elaboration of the Public Administration Reform Strategy 2015-2020 and the corresponding Action Plan for its implementation 2015-2017 will lead to implementing the following reform activities:

- Adoption of supporting regulations and further enforcement of the new CSL;
- Establishment of the Senior Civil Service Commission;
- Appointment of State Secretaries at the Cabinet of Ministers and ministries;
- Establishment of personnel management divisions in the ministries and civil service bodies to promote the introduction of modern HR management practices, under the supervision and coordination of the National Civil Service Agency of Ukraine;
- Introduction of integrated HRM information systems in the civil service;
- Structural optimisation of state agencies and rationalisation of the number of civil servants following a comprehensive functional analysis;
- Implementation of a revised remuneration system;
- Enhancement of the institutional capacity of the central executive body responsible for implementation of the national policy for the civil service.

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