

Ukraine should double down on reform in 2018

Why tough love from international partners and pressure from Ukrainian society is necessary

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Ukraine has come a long way since the Revolution of Dignity (Maidan) in 2013-14. The country is going through a long-term transformation under difficult circumstances, fighting a war on two fronts. First, the conflict in Eastern Ukraine, and second the fight against those both inside and outside government that strongly resist change, not least the deeply embedded oligarchic interests in the country. Significant pressure needs to come from both Ukrainian society and Ukraine's international partners to sustain the reform momentum.

In 2017, Ukraine's reform record was a mixed bag. A number of positive steps took place in a variety of areas, including decentralisation, energy, public administration, and healthcare reform. Ukrainian citizens also received visa free travel to the Schengen area. However, these success stories were overshadowed by several negative developments, including serious attacks on Ukraine's new anticorruption bodies. An effort at the end of 2017 to remove Artem Sytnyk, the Head of the National Anti-Corruption Bureau of Ukraine (NABU), was a particularly dark moment. It raised serious concerns from Ukraine's international partners over the commitment of the authorities to seriously crackdown on corruption, implement real rule of law, and carry out reform.

In 2018, Ukraine needs to double down on reform, otherwise Kyiv risks waning Western support. The reform agenda should not become hostage to populist policies in the run-up to the 2019 Presidential and parliamentary elections.

Corruption needs to be defeated, not managed

According to a January poll by the Razumkov Center, some 80% of Ukrainians consider the fight against corruption to be unsuccessful. In January 2017, Ukraine ranked 131st on Transparency International Corruption Perception Index. While the post-Maidan period has seen the most serious efforts to root out corrupt officials and practices in Ukraine's history, significant resistance both inside and outside the corridors of power continue to seriously hamper progress. This includes serious attacks against anticorruption bodies, along with independent journalists and NGOs. The decision to have anticorruption activists and other NGOs submit asset declarations was a particularly shameful step.

The setting up of a High Anti-Corruption Court (HACC) should be a top priority, especially as it is a requirement set by international donors. Yet, throughout 2017 Ukraine's leadership resisted this step, dragging out the process. In addition, at the end of 2017, President Poroshenko presented to the Ukrainian Parliament (the Rada) a draft law on the HACC that fell short of the Venice Commission's (VC) recommendations. On 11 January 2018 a letter from the International Monetary Fund (IMF) voiced the organisation's "serious concerns" over the draft law, stating that it will not be able to support it in its current form and urging Ukraine's Presidential Administration to revise the draft law in line with the VC's recommendations. This should be done as soon as possible.

Today, it is crucial to put an end to the harassment of Ukraine's anticorruption bodies, which has included arresting NABU investigators and searching the organisation's offices. The establishment of NABU was a key condition of international assistance and ensuring its ability to carry out its mandate properly is paramount. By failing to do so Ukraine's leadership is not only undermining its own credibility, but also risking the freezing of its visa free agreement with the European Union (EU) as establishing an independent anticorruption body was a key condition for visa liberalisation.

Judicial reform

There remains zero public trust in Ukraine's judicial system. Demands for the rule of law and an independent judiciary were at the heart of the Maidan protests. However, despite the Maidan death toll, reportedly only one person is currently serving a prison sentence for crimes against Maidan activists. Ukrainians need to believe that those who commit a crime will be punished if the judiciary is ever to gain credibility.

While the establishment of a new Supreme Court in 2017 has been a positive development, with civil society taking part in the process, some concerns remain. Integrity issues emerged during the selection of judges. Ukraine's Public Integrity Council, which scrutinised the new judges, concluded that 25 out of 114 candidates had shortcomings such as possessing unjustified assets. Yet, they were all appointed... In the end, the proof of the pudding is in the eating. Thus, the court's effectiveness and independence will be revealed through its rulings. For sure, civil society along with Ukraine's international partners will have to closely monitor the court's work and address any discrepancy.

Electoral reform

Ukraine needs to adopt a new comprehensive election code with a proportional system and open lists of candidates, something civil society has long been calling for. The current mixed voting system, which elects half of the members of parliament through geographical districts and the other half from closed party lists has encouraged voter bribing in single-mandate constituencies.

Reform of the Central Election Commission (CEC) is also urgently required. The Commission is staffed by the same team that was *in situ* pre-Maidan, many of whom have shady reputations. Their terms of office are also outdated.

In November 2017, the Rada passed an electoral bill in first reading. However, getting it passed the second reading is likely to prove more difficult given the significant opposition to change. In the past few weeks, many alternative drafts have been circulating. This is almost certainly part of a political game aimed at slowing down the process. Significant pressure needs to come from both Ukrainian society and Ukraine's international partners to adopt a new electoral code.

Ukraine needs tough love

Ukraine has received unprecedented economic and political support from the international community including the EU, US and international organisations such as the IMF. The EU provided almost €11 billion during 2014-17, although a large share of the assistance constitute loans rather than grants. This has given the West significant leverage over Kyiv. It needs to be fully utilised to not only keep pressure on the Ukrainian authorities to push ahead with reforms, and prevent backsliding but also to ensure the full implementation of reforms already adopted. Several important reforms, which were key requirements of a \$17.5 billion International Monetary Fund (IMF) programme, were adopted in 2017 including healthcare, education and pension reform. These reforms now need to be quickly implemented as they can bring tangible and long awaited benefits for Ukrainian society.

To build a resilient and prosperous state, much greater efforts are needed to fight corruption, particularly at the highest level and among the oligarchs who continue to have way too much sway over Ukrainian politics which undermines the rule of law. Without proper rule of law reforms mean very little. In 2017, both EU and IMF financing was stalled following Ukraine's failure to meet the anticorruption and economic criteria it had agreed to. This tough love approach needs to continue because the positive steps that have been taken, not least in key areas such as the rule of law, are not irreversible.

Ukraine should not be allowed to take western support for granted. With the 2019 elections on the horizon and no single party dominating the polls, there is a risk that crucial reform, including land reform, will be put on the backburner, with populist policies taking precedence.

Ukraine needs to listen and take on board the advice of international bodies and the civil society. The Ukrainian people sacrificed a lot in the hope of having a future beyond their difficult past. Many of Ukraine's political elite still need to demonstrate their readiness to walk the walk of reforms.

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