Parliamentary Reform Concept

“Ukraine after the Victory”

Vision of Ukraine - 2030

Kyiv
2023

The preparation of this concept became possible within the framework of cooperation between the Centre of Policy and Legal Reform and the NGO "Internews-Ukraine" within the implementation of the USAID RADA: Next Generation (RANG) Program, which is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The content of the concept is the responsibility of the Center for Political and Legal Reforms and NGO "Internews-Ukraine" and does not necessarily reflect the views of USAID or the United States government.

This publication was funded by the UK government as part of the project «Ukraine after the victory: preparation and communication of reforms for the implementation of "Vision of Ukraine - 2030"», implemented by Centre of Policy and Legal Reform. The views expressed in this publication are those of the author(s) and may not coincide with the official position of the UK government.

CONTENT

General principles

The contemporary name of the Parliament of Ukraine and its members contains referrals to the Soviet statehood, when a system and hierarchy of councils and *People's Deputies* were envisaged. At the same time, the concept of a *rada* [council] as a representative body was also found during the Hetmanate. In order to modernize and harmonize national and European traditions of parliamentarism, the name of the Ukrainian Parliament should be changed, for example, to the *National Rada* [National Council].

The Parliament is the only legislative body and the only representative body of the Ukrainian people. Representative and legislative functions of the Parliament should be clearly stipulated in the Constitution.

The structure of the national Parliament in a unitary Ukraine should remain unicameral (the concept of a bicameral Parliament can potentially be considered). Such a structure ensures efficiency of law making, reduces the risks of unjustified strengthening of the President's power, unity in representation of the population of the whole country, and implementation of other functions of the Parliament. The Ukrainian Parliament is formed exclusively in direct, free, nationwide elections with respect to national and European principles of the electoral process based on a proportional system with preferences.

Taking into account the European practices and separation of presidential and parliamentary elections, the term of office of the Parliament should be four years.

To reduce the risks of a political and budgetary crisis due to early parliamentary elections in the future, regular elections to the Parliament elected in regular or early elections should be held on the last Sunday of March (instead of October) of the fourth year of the Parliament's term.

The principle of continuity of the Parliament's work can only be guaranteed by enshrining an unambiguous provision, according to which the powers of the Parliament will be terminated on the opening day of the first session of the newly elected Parliament, elected in both regular and early elections.

It should be envisaged that the Central Election Commission, within the period specified by the Constitution of Ukraine, calls:

- regular parliamentary elections (under normal circumstances);
- regular parliamentary elections that did not take place or were canceled due to introduction of a state of emergency or martial law.

Provisions of the Constitution of Ukraine on early termination of the Parliament's powers should be legally defined and be unambiguous, and for this purpose it is necessary to:

1. Stipulate mandatory and optional grounds for dissolution of the Parliament: for example, the President of Ukraine shall dissolve the Parliament if the Government is not formed in the manner and within the timeframe envisaged by the Constitution of Ukraine; the President shall have the right to dissolve the Parliament if plenary sessions cannot begin within thirty days of one regular session.

2. Envisage the grounds for early termination of powers in case the Parliament decides to dissolve itself (election or reduction of the number of Members of Parliament to less than two-thirds due to a failure of Members of Parliament to take the oath, resignation, etc., which is a pre-condition for its legitimacy). Eliminate from Article 90 of the Constitution of Ukraine the following ground for early termination of the Parliament's powers – a failure to form a coalition of parliamentary factions within one month. In general, given the negative political aspects, it seems inappropriate to have constitutional regulation of the process of formation, organization, operation and termination of the 'coalition of parliamentary factions' in the Verkhovna Rada of Ukraine as a state institution with its own functionality.

3. Define the term for calculating occurrence of any of the legal action that constitute the grounds for dissolution of the Parliament exclusively in calendar days (for example, instead of the word 'month', only the phrase '30 days' should be used).

4. The time period for prohibition of dissolution of the Parliament should be calculated in relation to the date of the next parliamentary or presidential elections in accordance with the Constitution of Ukraine (if the date of such elections remains to be determined in the Constitution), and not the last months of the term of office of the Parliament or the President (e.g., the President of Ukraine cannot dissolve the Parliament within six months before the next parliamentary or presidential elections).

5. The constitutional provisions that describe the powers of the President of Ukraine to dissolve the Parliament and to call early parliamentary elections (Clauses 7 and 8 Part 1 Article 106) should be combined into one logical entirety as these are integral elements of the same power, and not two separate powers of the President.

6. Provide for a direct ban on dissolution of the Parliament during the period of martial law or a state of emergency in Ukraine or in some of its regions.

7. According to the principle of legal certainty, the period for early parliamentary and presidential elections should be set as 60 days. Early parliamentary elections should be called by the President, and early presidential elections – by the Parliament.

8. It is recommended to consider codifying parliamentary legislation.

9. In order to ensure implementation of the principle of legal certainty, in Article 46 of the Rules of Procedure a list of specific acts that are adopted by

the Parliament should be added. The respective provision should contain clear definitions of parliamentary acts, their nature, legal force, and the areas that they regulate.

Powers of the Parliament

Powers of the Parliament need to be systematized and should not be stated in a random order. The Parliament's powers have to be determined exclusively by the Constitution of Ukraine, but the limits and procedure for their exercise should be detailed in an organic law.

Regulation of personnel powers should be arranged in such a way that the formation of the Government (see the relevant part of the Concept) and other state executive bodies should take place first. Next block should envisage formation of the Constitutional Court of Ukraine, judicial authorities, bodies with special status, as well as powers, within the scope of which the Parliament forms a certain body in cooperation with other entities (e.g., with the President).

Furthermore, the Constitution should set out the Parliament's personnel powers regarding similar bodies (e.g., competition commissions, etc.) in order to reduce the need to introduce frequent amendments to the Constitution of Ukraine when new bodies will have to be created in the future. In this case, the Constitution should stipulate that the status of such bodies and the procedure for appointing their heads (members) has to be determined by an organic law (see below).

Building effective parliamentarism and improving interaction among the highest state authorities leads to strengthening of parliamentary oversight. To this end, it is recommended to establish the limits of parliamentary oversight in the Constitution of Ukraine, while the method, forms and procedures of such control should be detailed in organic laws, taking into account the following provisions:

- a weekly hour of questions for the Prime Minister (on a specific day) and ministers (on a rotation basis) should be introduced in Parliament;
- not later than the mid-day preceding the day of an hour of questions for the Government, MPs have to notify the government (government officials) in writing on the content of the questions to be answered (Part 6 Article 229 of the Rules of Procedure);
- a system of departmental (sectoral) and functional parliamentary committees (see parliamentary committees) should be established;
- mandatory reporting by the Minister of Finance in the middle of the budget year on the current status of implementation of the state budget;
- reporting by the minister leaving office on his/her own initiative regarding the state of affairs in the area under his/her jurisdiction;
- mechanisms should be introduced to ensure that executive authorities comply with instructions of the parliamentary oversight bodies, and liability

should be established for non-compliance with oversight instructions of the parliamentary oversight bodies;

- the issue on formation of a provisional investigatory commission should be removed from the resolution on the agenda, as there is a conflict – the resolution has to adopted by 226 votes, while the PIC is formed by 150 votes.

A vote of no confidence in the Prime Minister can be passed only if his/her successor is appointed (constructive no-confidence vote). In order to reduce unfounded accusations against government officials and to avoid excessive politicization of the constitutional and legal responsibility, a mandatory written form of a proposal should be required at a legislative level for a vote of no confidence in the Government with appropriate justification. At the same time, the minimum and maximum time periods that should elapse between the submission of a no confidence motion and its discussion and voting should be defined (Part 5 Article 231 of the Rules of Procedure).

In order to discuss issues of great public importance, a traditional form of parliamentary oversight over the Government's activities should be introduced – the **institution of interpellation** (a request to a minister or the Prime Minister regarding implementation of the state policy, the answer to which must be discussed in the Parliament), which is directly related to collective political responsibility of the Government to the Parliament as envisaged in the Constitution of Ukraine.

According to the procedure, the Head of Government and other members of Government are obliged to respond to interpellations from MPs within 21 days.

An interpellation has to be initiated by at least one fifth of the constitutional membership of the Parliament.

An interpellation to the same member of the Cabinet of Ministers cannot be initiated more than once every six months (for one regular session).

An interpretation should provide for a clear mechanism of establishing constitutional and legal sanctions to be applied to members of Government in the event of improper performance of their duties or abuse of their powers.

The unity of state policy and proper interaction between the Parliament and the Government should be ensured by increasing the role and importance of the Government Program. In the European practice, such document is supposed to be a driving force of reforms and a roadmap for their implementation.

To this end, the following can be recommended:

- approval of the program of action of the Cabinet of Ministers on a mandatory basis for the Government's entire term of office as a vote of confidence in the newly formed government (by one vote);

- regulation at the level of the Constitution of the timelines for submission of the Government's program of action and its approval by the Parliament;

- legislative requirements for the content of the program, establishing the Government's obligation to develop specific measures for its implementation in the long, medium and short term;

- compliance of the tasks defined in the program with those set in the strategic acts of the Parliament and the Head of State;

- availability of a clear and reasonable strategy for their implementation;

- identification of specific draft laws that need to be adopted, including those to be drafted by the Government, etc.;

- enshrining of the Parliament's powers to adopt resolutions recognizing the Government's work as unsatisfactory with the possibility of granting a deadline for elimination of shortcomings and subsequent reconsideration (resolution of disapproval as a preventive measure);

- within three months after the Parliament approving the Government's program of action, the latter should develop and approve specific measures to implement this program.

The Parliament together with the Government should develop a unified format and structure for annual reports of ministries on the results of implementation of the relevant program documents. These reports have to be submitted to the Parliament and form the basis for oversight of implementation of the policy in a respective area.

An important step towards strengthening interaction between the Parliament and the Government should be a possibility established by law for combining the mandate of a Member of Parliament with the position of a minister. Such arrangement will reduce the risks of influence from the President, increase independence and political responsibility of ministers.

The quality and efficiency of parliamentary oversight will not be complete without improving the Parliament's oversight institutions in the areas of public finance (the Accounting Chamber) and human rights (the Parliamentary Commissioner for Human Rights).

The Accounting Chamber should be defined as a separate audit body of parliamentary oversight, whose organization, powers and procedure are determined by the organic law. The following areas of improvement of the Accounting Chamber's work should be:

- defining the Accounting Chamber as the supreme audit institution;

- granting the powers to audit not only state budget funds, but also to audit all public finances of the country in accordance with the requirements for the EU member states, including the audit of local budgets;

- defining frequency and timelines for implementation of the state external financial control measures;

- there is a need for specifying the procedure for organization of a competition for the position of a member of the Accounting Chamber;

- for ensuring more thorough preparation of the budget, it is proposed to provide an opinion of the Accounting Chamber to the Parliament at all stages of the budget process, for example, regarding the draft law on the state budget for the second reading;

- improving the monitoring of implementation of the Accounting Chamber's recommendations and introducing trend analysis to identify systemic problems in the public sector;

- granting coordination and organizational functions to the Accounting Chamber. Dispersion of financial oversight bodies and measures requires coordination and interaction, which can be achieved by establishing a focal point of the state financial oversight system in the person of the supreme audit institution;

- introducing the practice of more thorough discussion of the Accounting Chamber's audit reports, conclusions and recommendations at the meetings of parliamentary committees.

A comprehensive picture of the parliamentary oversight will be incomplete without improving activities of the Ukrainian Parliament Commissioner for Human Rights. In this regard, it is necessary to provide that the status, powers and activities of the Ombudsperson as a body exercising parliamentary oversight of observance of the constitutional rights and freedoms of a person and a citizen, as well as the status and activities of his/her sectoral and regional representatives are determined by an organic law. In addition to this, legislative changes are needed in order to:

- engage civil society in the process of electing the Commissioner, including nomination of candidate(s), and verification of compliance of the proposed candidates with the requirements established by the Law;

- establish the procedure for holding secret voting instead of open voting for the candidate for the position of the Commissioner in order to reduce political influence;

- establish regional offices of the Commissioner for ensuring effective and prompt response to human rights violations;

- establish a clear regulation of the procedure for interaction between the Commissioner and the authorities, which will provide specific certainty regarding the timing and procedure for responding to the Commissioner's submissions or instructions;

- ensure impossibility of withdrawing constitutional submissions of the previous Commissioner (the current rules allow withdrawal of constitutional submissions of the Commissioner whose term of office has expired).

Organizational structure of the Parliament

The Conciliation Council being the main dialogue platform between the management of the Parliament and the leaders of political factions, needs to adjust its work, in particular a follows:

- meetings of the Conciliation Council should become a platform for effective interaction between the parliamentary majority and the opposition, rather than a place for proclaiming political slogans (this provision will become relevant during peacetime) ;
- meetings of the Conciliation Council should be held without involving a wide scope of the mass media (this provision will be relevant during peacetime);

A strong system of **parliamentary committees** being the main working bodies of the Parliament should be formed. Taking into account, among other things, the international practice, parliamentary committees should become, on the one hand, the main entities that exercise comprehensive oversight of parliamentary institutions, the executive branch, and other public authorities in accordance with their sectoral and functional areas, and on the other hand, committees should form a kind of buffer for legislative and organizational work. In order to implement the above, it is necessary to:

- change the norms of the rule of procedure to ensure that committees have enough time to review draft laws (only 30 days are envisaged to review a draft law and issue a conclusion on it, which is usually not enough for conducting an in-depth analysis). Furthermore, some committee secretariats lack a sufficient number of qualified staff members to assist MPs in the expert review of draft laws. Depending on the type, volume, and complexity of the draft law, it is necessary to determine certain gradation of terms);
- envisage development of short-, medium- and long-term plans for the committees' work. The planning procedure should take place in the context of political discussions of the committee's priorities for a specific period;
- the staffing needs of the committees and the need for expertise should be subject to regular review and be accompanied with provision of necessary resources (increasing respect for the work in the committee secretariat, the Parliamentary Secretariat);
- envisage formation of committees on the basis of departmental, sectoral and functional areas, taking into account the Government structure. Ensure that the oversight competence of the committees corresponds to the powers of specific ministries; ensure a systematic approach, envisage annual development and approval of a work plan for exercising control over the executive branch;

- determine at a legislative level the maximum number of committees as 20-22, and in order to eliminate imbalances in the number of members, set the maximum number of MPs in the committee as 14-22 people;

- when forming the personal composition (membership) of committees, take into account education, competencies and professional skills of the MPs. For candidates for the leadership positions in committees (as well as in sub-committees), availability of organizational and administrative skills and management experience should be also taken into account;

- introduce institutional mechanisms for collecting and analyzing information on the practice of implementation and efficiency of adopted laws in the area under respective jurisdiction, in particular, consult with stakeholders (create structural units in committees or secretariats responsible for monitoring the adopted laws);

- add ineffective work of a committee, changes in the system of ministries or directions of the state policy to the grounds for termination of powers of the committees (reduction of their number). A committee should be eliminated only when it is impossible to restore its proper functioning, ensuring that the rights and interests of the committees, their leadership and members, parliamentary factions and groups are respected;

- establish scientific and expert councils at committees that will involve leading experts from research institutions, higher education institutions in the respective field and area of knowledge, linguists, legal experts, and representatives of the public;

- actualize committee hearings, which should become more efficient than parliamentary hearings. Regulate the procedure for preparing and holding hearings in parliamentary committees, in particular, on the issues of the committees' exercising oversight functions;

- consider transforming the week of committee work into an additional combined plenary-committee week. This will improve the level of attendance at committee meetings, and increase the overall productivity of the Parliament;

- include adoption of 'white papers' (project concepts) in the law-drafting process.

Legislative regulation of activities of the **opposition** is a feature characterizing developed parliamentarism, so parliamentary reform should include the following aspects:

- regulation of the status, guarantees and organizational capacities of the opposition through amending the Rules of Procedure rather than by adopting a separate law;

- regulation of procedural aspects of formation of parliamentary bodies by representatives of the opposition (e.g., assignment of leadership positions in certain committees, temporary commissions, and management to the opposition);

- definition of the frame for interaction between representatives of the opposition and public authorities;

- actualization of the issue of forming a shadow government;

- convocation of an extraordinary session of the Parliament, if a respective request is supported by at least one third of the constitutional membership of the Parliament;

- holding an additional plenary session of the Parliament, if a respective request is supported by at least one third of the constitutional membership of the Parliament;

- a guaranteed right to have its representative speak for five minutes when the Parliament discusses issues related to: the principles of domestic and foreign policy of Ukraine; the program of action of the Cabinet of Ministers of Ukraine; the status of implementation of the State Budget of Ukraine; responsibility of the Cabinet of Ministers of Ukraine; national programs of economic, scientific, technical, social, national and cultural development, and environmental protection;

- granting the priority right to choose positions of first deputy chairs in the committees, the positions of chairs in which, in accordance with the principle of proportional representation of parliamentary factions in the committees, belong to the coalition's quota.

Ensuring the Parliament's work

In the first place, for the sake of ensuring a regulatory balance and harmonization of legislation, the name and status of supporting/apparatus bodies should be the same, namely the **Secretariat** of the Parliament, the President, the Government, the Constitutional Court of Ukraine, and other supreme state authorities.

Efficient work of the Parliament is impossible without proper support of its activities. Therefore, in order to improve the work of the Parliament's secretariat, it is recommended to consider the following.

The legal, scientific, organizational, documentary, informational, expert-analytical, financial and logistical support for activities of the Parliament, its bodies and MPs has to be vested into a standing body, the Secretariat, which should be established by the Parliament in accordance with the organic law. In addition to this, the Parliament has to determine the structure of the Secretariat and, if necessary, may form, reorganize, and eliminate its structural units with the appropriate advisory, consultative and other support functions.

A special department should be created within the Secretariat of the Parliament, whose functional responsibility would be to check all draft laws for compliance with regulatory requirements before their official registration.

The newly created department should become an independent expert center on application of the Rules of Procedure whose employees will act

without fear or favor, be independent in the exercise of their powers, provide advice to the Speaker within the scope of their competence, and have the right to appeal to the Committee on Rules of Procedure and Organization of the Parliament's Work. Activities of such department on compliance with the rules of procedure should be of an expert rather than political nature.

For efficient analysis of implementation and application of laws, it is advisable to check how the law and its provisions actually work in practice. For example, which provisions of a particular law are most often challenged in court, and how the case law is developed. First of all, such information can be obtained from the legal department of the Secretariat of the Parliament or a research service.

The regulatory framework of documents governing the work of the Secretariat should be consolidated into a single set of internal rules, including those on personnel policy.

Individual issues related to the legislative process

The right of legislative initiative

It is necessary to envisage an exclusively collective MPs' right of legislative initiative (for example, the right of a legislative initiative can be exercised by at least ten MPs), as well as an individual and collective right to propose amendments (proposals) to the draft laws adopted by the Parliament in the first reading (except for draft laws on ratification or denunciation of an international treaty of Ukraine).

The right to initiate laws should be granted to Ukrainian citizens (e.g., at least 100,000 Ukrainian citizens eligible to vote). Such draft laws should be examined by the Parliament according to an extra procedure.

The Constitution should specify that the Cabinet of Ministers (and not the President of Ukraine) may define certain draft laws as urgent.

Legal nature of the Rules of Procedure of the Verkhovna Rada of Ukraine

It is necessary to return to the Constitution of Ukraine the provision, according to which organization and procedure of the Parliament's activities is established by a resolution of the Verkhovna Rada of Ukraine (if all key principles of the Parliament's activities are regulated by the Parliamentary Code or other laws).

The Rules of Procedure are the main source of law on parliamentary procedure, which should detail the procedure of the Verkhovna Rada and the

rules of the legislative process contained in the Constitution and laws of Ukraine. The Rules of Procedure should not regulate issues that do not arise from parliamentary procedures.

Adoption of laws by the Parliament

Establish that, as a general rule, decisions should be adopted by a relative majority of votes (more votes in favor than against) with the mandatory observance of a quorum – as in most European parliaments. A decision on ordinary laws will be considered adopted if a majority of the MPs participating in the meeting voted for it, but the meeting is considered legitimate if at least half of the total membership of the Parliament is present.

The Constitution should also provide for exceptions when decisions are made by an absolute and qualified majority. In particular, it is advisable to adopt amendments to the Constitution of Ukraine by a qualified majority of votes, and to override the President's veto by an absolute majority.

As a general rule, laws should be adopted in three readings: 1) first reading – discussion of the basic principles, provisions, criteria, structure of the draft law, and its adoption as a basis; 2) second reading – article-by-article discussion and adoption of the draft law in the second reading; 3) third reading – adoption of the draft law as a whole. In addition to this, the parliamentary Rules of Procedure should allow for the possibility of repeated first or repeated second reading of a draft law, as well as for the Parliament to decide on the final adoption of a draft law as a law immediately after the first or second reading in exceptional cases.

In order to establish uniform approaches, a unified methodology for drafting legislative initiatives should be developed and implemented.

Signing laws. The right of veto. Legal acts coming into force

The Constitution of Ukraine should specify that if the President of Ukraine does not sign the law adopted by the Parliament or does not return it for revision within the period established by the Constitution of Ukraine, such law has to be officially promulgated by the Speaker of the Parliament with his/her signature.

Specific features should be differentiated as to application of the President's veto regarding constitutional, organic, and ordinary laws, as well as the possibility to provide for the specific features of signing and entry into force of certain ordinary laws in an organic law.

The period for the President to sign the draft law should be extended to 21 days.

The terminology used in the Constitution regarding the promulgation/publication of normative legal acts and their entry into force should be harmonized.

Status of a Member of Parliament

Quantitative composition of the Parliament

The war has re-opened a relevant issue of the quantitative composition of the Parliament. However, any change in the number of Members of Parliament, first, must comply with the requirements of systematic adjustment of the content of the Constitution, i.e., all provisions relate to the quantitative characteristics of the Parliament must be consistent with each other; and, second, it is necessary to take into account the population trends in Ukraine, and therefore, it is advisable to adjust the quantitative composition of the Parliament based on the results of the all-Ukrainian population census to ensure proportional representation of the Ukrainian people.

Clarifying the requirements for a Member of Parliament

In order to strengthen the role and status of the Parliament and its members, it is necessary to tighten the requirements for candidates for Members of Parliament. In particular, the requirement concerning residence in Ukraine for the last five years should be excluded, given its outdated nature, and replaced with the requirement of having only Ukrainian citizenship, i.e., absence of any other citizenship. Although multiple citizenship is prohibited by the Law of Ukraine *On Ukrainian Citizenship*, this in no way ensures that MPs do not hold citizenship of another state. Thus, there is a need to create mechanisms to control the MP's citizenship of third countries. It is quite logical that the Ukrainian people should be represented only by Members of Parliament who have legal connection exclusively with the state of Ukraine. This, in turn, is clearly in line with Clause 4 Part 2 Article 81 of the Constitution of Ukraine, which envisages early termination of powers of a Member of Parliament as a result of termination of his/her Ukrainian citizenship.

A new requirement for a Member of Parliament should be established, namely the state language command, which has to be confirmed by a document on proficiency in the state language in accordance with the level determined by the National Commission on State Language Standards.

Specification of compatibility requirements

The requirement concerning incompatibility of MP's activities with other types of activities needs to be clarified to comply with the principle of legal

certainty. To this end, it is necessary to amend Article 3 of the Law of Ukraine *On the Status of a Member of Parliament of Ukraine* to provide a complete and exhaustive list of activities that do not meet the incompatibility requirement, and to bring this provision in line with other legislative acts.

It is recommended to improve the procedure for early termination of powers in case of violation of the incompatibility requirements, which will make this requirement effective and ensure that MPs comply with it. The following should be stipulated:

- obligation of the Speaker to send materials related to violation of the incompatibility requirements by MPs to the relevant committee, and to make a decision on suspension of activities of such MP until a court decision is made in the case;
- the time limit, within which the committee on the rules of procedure must provide an opinion to the Speaker regarding violation of the incompatibility requirements by MPs.

Expanding the grounds for early termination of powers of MPs

With the outbreak of a full-scale war on the territory of Ukraine, the issue of functioning of representatives of pro-Russian forces in state authorities, including the Parliament, has become relevant. However, the ban of anti-Ukrainian political parties in court does not constitute a constitutional ground for termination of powers of Members of Parliament elected on the lists of such parties. It is recommended to amend Part 2 Article 81 of the Constitution of Ukraine in order to include an additional ground for early termination of powers of Members of Parliament when a court bans activities of the political party.

Introduction of a free parliamentary mandate

Reducing dependence of MPs on the decisions of the governing bodies of the political party, on whose party list they were elected is an important issue for ensuring efficient and independent work of the Parliament. Therefore, it is recommended to exclude Part 6 Article 81 of the Constitution of Ukraine, which sets forth the grounds for early termination of powers of a Member of Parliament in the event of his/her failure to join or withdraw from the parliamentary faction (bloc) of the political party, from which they were elected. This will eliminate the feature of an ‘imperative’ mandate of a Member of Parliament and will contribute to adherence to the concept of a free parliamentary mandate as a sustainable European practice of democratic states. At the same time, exclusion of this ground from the Constitution of Ukraine will become a safeguard against possible destabilization of the Parliament’s work and creation of the grounds for actual cancellation of election results through mass withdrawal from factions, which will lead to the incompetence of the

legislature.

Introduction of limited (functional) immunity

Absence of immunity for Members of Parliament poses risks to the independence and efficiency of the Parliament, as it creates possibilities for the practice of influencing MPs by other branches of power. It is necessary to ensure unimpeded exercise of powers by Members of Parliament even in the conditions of unstable social and political situation. However, it is necessary to ensure clear regulation of the limits and scope of immunity of Members of Parliament and to create legislative mechanisms for guaranteeing their political independence. Limited (functional) immunity would be in line with the practice of most European countries and would protect MPs from arbitrary political persecution.

Improving the rules regulating parliamentary indemnity

Parliamentary indemnity guarantees protection of MPs from prosecution for their statements and votes during their performance of duties in the Parliament. However, its effect is general and does not take into account compliance with generally recognized moral and ethical standards. This, in turn, affects the status of MPs and the Parliament as a whole in the eyes of the society.

It is necessary to amend Part 2 Article 80 of the Constitution of Ukraine by expanding exceptions to the actions that are not covered by parliamentary indemnity. This means excluding from the scope of indemnity the statements that directly or indirectly call for violent change or overthrowing the constitutional order or for seizing the state power, changing the borders of the territory or the state border of Ukraine. Such actions should be subject to criminal liability.

Rules of parliamentary ethics

Establishing and adhering to professional ethical rules of conduct for MPs is a common practice in European democracies. The absence of such rules affects public assessment of the effective capacity and trust not only in an individual MP, but also in the Parliament as a whole. There is a justified need to adopt the rules of ethics for Members of Parliament. In particular, the principles of parliamentary ethics, the procedure for monitoring compliance with such rules, appropriate sanctions for their violation, and the procedure for bringing to disciplinary responsibility should be defined.

Institution of an MP inquiry

It is necessary to ensure clear regulation and distinction between the institutions of interpellation and an MP inquiry. Unlike interpellation, an inquiry is an individual or collective request of Member(s) of Parliament, which is submitted at a session of the Parliament to the President, the bodies of the Parliament, the Government, heads of other state authorities and local self-government bodies to give an official response on issues falling within their competence. Legislative regulation of the inquiry institution should be improved in such a way as to prevent abuse of this right by MPs to request information for purposes unrelated to their exercising of parliamentary powers. Among other things, the law should prohibit MPs from addressing their demands to courts, judges, and law enforcement agencies regarding specific proceedings. It is also necessary to specify what kind of information should be provided in response to the request. In addition to this, the Constitution should remove the provision that the decision to send an inquiry to the President of Ukraine at the request of Member(s) of Parliament must receive preliminary support of at least one third of the constitutional membership of the Parliament.

Strengthening transparency of material and financial support

Provisions on financial support for MPs should be clearly regulated. This will ensure a transparent and clear mechanism for MPs to receive budgetary payments for their activities. In particular, a salary linked to the subsistence rate as of January 1 of the calendar year should be established at the legislative level. The salary of Members of Parliament should correlate with the monthly salary of members of the Government. Other additional payments may be made in the amount not exceeding 30% of the salary fund of the Members of Parliament within a calendar year.

Liability of Members of Parliament

Liability of MPs for improper exercise of their powers and duties has to be preventive in its nature and should be applied within the limits and in a manner that does not contradict the Constitution. There is a justified need to amend the legislation to establish a mechanism and procedure for holding MPs accountable. This issue has already been finalized in the framework of the draft law on the Code of Ethics (Reg. № 8327). In order to ensure proportionality as an element of the rule of law, it is necessary to decriminalize liability of MPs for non-personal voting as this type of liability is not proportionate to the gravity of the offense. Thus such behavior of MPs should be subject to disciplinary liability.