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## **Draft Concept Paper on the "End to End" Legislative Process**

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## **Introduction**

Analysis of laws registered and adopted during the 4th and 5th sessions shows that during this period 1,506 draft laws were registered, of which the total of 187 (12%) were passed. Thus, MPs registered 1,224 draft laws and passed 95 acts (8). I.e. it can be argued that almost a year after adoption of the Resolution "On measures to implement recommendations on the internal reform and increase of institutional capacity of the Verkhovna Rada of Ukraine" (March, 17 2016), the situation remains unchanged. The Parliament remains hostage of the "legislative tsunami" of parliamentary initiatives, while the President continues being the most effective subject of legislative initiative (29 of the 30 registered initiatives adopted). While the governmental efficiency is 25% (63 of 252 registered drafts approved). At the same time, 50% of all approved draft laws are those of MPs.

This indicates that the constitutional reform of 2004 did not ensure complete transition to the parliamentary-presidential form of governance, preserving the bicephalous executive branch at the constitutional level. The government has never turned into a central policy-making body, and a set of legal and political factors (the traditionally high respect for the President as the head of state, the parliamentary majority's focus on the President, not on the Prime Minister, the President's right to categorize draft laws as urgent; the positive nature of the President's veto) have led to a high degree of the President's influence on the legislative process.

Moreover, the ease with which MPs of Ukraine can enter draft laws, regular violations of parliamentary procedures, lack of an established practice of long-term planning or streamlined communication among actors of the legislative branch condition the general chaotic nature of policymaking. Initiating completely different - often inconsistent among themselves or with the government's program - legislative initiatives a priori cannot ensure stable and gradual development of Ukraine in any certain direction.

Thus, development of an effective system for policy formulation, coordination, approval, evaluation, and revision remains an extremely important challenge both for political leadership, and for the Ukrainian society in general.

The proposed document contains an analysis of current practices, a review of international experience, and proposals for the legislative process reform concept "From End to End" with an emphasis on strengthening coordination among subjects of legislative initiative. This is what is discussed in the first recommendation of the Roadmap on the Internal Reform and Enhancement of Institutional Capacity of the Verkhovna Rada of Ukraine, prepared by the European Parliament need assessment mission chaired by Pat Cox.

Thus, this study does not cover certain powers of legislative initiative subjects (personnel matters) and does not analyze the problem of regulating the status of the coalition and the opposition. Moreover, the study does not include issues regulated under a special procedure (amendments to the Constitution and adoption of the state budget).

Thus, in the scope of this document, based on findings of the analysis and international experience, we suggest alternative options of changing the legislative process "end to end", which can be provisionally called "government-centered" (based on the experience of France), "parliament-centered" (based on the US experience), and "the concept of minimum necessary changes" (based on analysis of existing practices in Ukraine).

### **The issue of separation of powers of legislative initiative subjects**

One of key issues of the decision-making system in Ukraine is separation of powers of subjects of legislative initiative and the gradual outbalancing of the construction stipulated in the Constitution. As a result, uncertainty regarding the center of policy-making aggravates.

The Constitution of Ukraine establishes the scope and extent of powers of the Verkhovna Rada, the President, and the Government, but there actually remains an unsolved issue of delineation between legislative and regulatory rule-making. Thus, under the legal design proposed in the Constitution, presidential decrees are by-laws issued by the President based on and pursuant to the Constitution and laws of Ukraine. They regulate various fields of activity (economic, social, cultural, etc.) within the powers defined by the Constitution of Ukraine. Decrees are individual (personnel) or rule-setting, if they regulate certain social relations. The problem arises at the time when they try to determine the scope of legal regulation: where the legislative scope ends and where the scope of regulatory rule-making starts.

Analysis of Article 92 of the Constitution of Ukraine brings to the conclusion that in most cases laws determine **fundamentals** or **principles** for different sectors of public regulation, i.e. certain starting points. But it is not clear how it is practically possible to distinguish fundamental from secondary provisions. This leads to the situation where in different cases two opposing trends can be observed. On the one hand, laws contain a lot of so-called blanket regulations that require further specification at the level of executive regulations, and this may distort the original intent of legislators. On the other hand, the Parliament often demonstrates its intent to interfere into matters that can hardly be considered a sphere of legislative regulation. A striking example is the electoral law: if one considers texts of the laws On Elections of Members of Parliament of Ukraine of 1997, 2001, 2004, and 2011, it can be seen that the text volume keeps growing, and thus the electoral law is gradually being transformed into guidelines for the election commission. However, the increasing amount of regulatory material may not lead to better quality regulation of the respective processes.

Currently, there is no functional delineation of laws and regulations, because the Law On the Law and Law-Making Activities or the Law On Regulatory Acts, which could resolve the issue, have not been adopted. Moreover, such acts of legislation could establish rules for drafting legislation, rules of their coordination among stakeholders, the procedure for interaction among subjects of legislative activity, for enactment of laws, implementation, monitoring, and evaluation of implementation of laws, and so on.

Another example in this context is the situation regarding the right to formation, reorganization, and liquidation of ministries assigned to the government. Since formation of a ministry requires amending the state budget to ensure relevant financial and material support, there is a conflict, since the initiative to establish a ministry is assigned to the government, while decisions on allocation of funds are adopted by the Parliament. Given this, it appears that the role of the Parliament in this matter is crucial, because in the end the ministry established is the one for which the parliament allocates funds from the state budget.

The situation in the area of budget management is also exacerbated with the trend where certain issues are decided on by the government and the budget committee directly, bypassing the session hall. Thus, 2017 Budget Law stipulates a number of issues that the budget committee decides on directly in interaction with the government. For example, in compliance with Article 24 of the Law of Ukraine On the State Budget of Ukraine for 2017, the balance of funds in 2017 "in the special fund of the state budget, the source of which were revenues in the framework of assistance programs of the European Union, foreign governments, international organizations, donor agencies, shall be distributed by the Cabinet of Ministers of Ukraine in coordination with the Budget Committee of the Verkhovna Rada of Ukraine for activities associated with implementation of such programs."

A similar situation is seen in the practice of expanding presidential powers (the full scope of whose powers is exclusively established in the Constitution of Ukraine) by means of laws. For example, the Law of Ukraine On the National Energy and Utilities State Regulation Commission stipulates additional powers of the President in this sector.

The above practices are not only contrary to the Constitution of Ukraine, but also unbalance the already imperfect constitutional structure. As a result, instead of trying to define a certain model for a decision-making center (the Government, Parliament, President) and moving in this direction by reinforcing constitutional provisions by means of laws, the legislator resorts to chaotic and ad hoc decisions.

### **Collaboration of subjects of legislative initiative during policy making (the legislative process)**

One of key issues of policy making in Ukraine is communication among subjects of legislative initiative in the policy making process, as convincingly evidenced by the extremely low coefficient of efficiency of governmental draft laws - 25% passed of the total number of registered ones.

However parliamentary and governmental procedures foresee several mechanisms designed to ensure interaction among subjects of legislative initiative in the policy making process. Thus, the parliamentary procedure envisages that upon its registration a copy of the draft law shall be submitted to the government. Moreover, committees often ask relevant ministries to issue their opinions on draft laws. Besides, line ministries track draft laws registered, at which stage specific initiatives are, what kind of changes a draft may undergo in preparation for its second reading, and so on.

Analysis of interaction at the level of the Cabinet of Ministers suggests that the Parliament is often not involved into development of draft resolutions. Although the Rules of Procedure of the Cabinet of Ministers stipulate that "to ensure interaction with the Parliament, heads of central executive authorities shall from among their deputies appoint officials responsible for execution of the relevant functions", in practice such interaction is not systematic. For example, MPs or representatives of relevant committees are not actually

involved into drafting of governmental laws. Partly this can explain the rather low efficiency coefficient of governmental laws.

Speaking of the low level of the Parliament's support of governmental initiatives, it should be noted that this may not only be a sign of ineffective cooperation between the government and the parliament, but also an indicator of low quality of legislative initiatives coming from the government. The best example of this is budget and tax legislation, which is amended virtually on the monthly basis.

The government, despite its formal approval of the government's action plan, has no strategic vision of the specific policies, which leads to ad hoc responses to current challenges and threats. Thus, an adequate assessment of problems not always takes place, which entails proposals for dubious (in terms of efficiency and feasibility) solutions to these problems. As a result, ineffective actions lead to the need of adjustment by means of submitting legislative initiatives, which in turn fills the parliament with draft laws consuming the parliament's time and resources.

For the purpose of "preliminary preparation and consideration of organizational aspects of operation of the Verkhovna Rada", the Coordination Board is set up. This is a mechanism supposed to ensure coordination of positions of subjects of legislative initiative in planning of legislative work. The composition of the Coordination Board includes the Speaker of the Verkhovna Rada of Ukraine, the First Deputy and Deputy of the Speaker of the Verkhovna Rada of Ukraine, heads of parliamentary factions (heads of parliamentary groups) with the right of decisive vote, and heads of committees in their advisory capacity. The draft weekly agenda considered at Coordination Board sessions is formed by the Parliamentary Secretariat based on proposals of committees, temporary special investigation commissions, and temporary investigative commissions. Due to this, the Coordination Board combines political and professional components through the mechanism of formation of the Board composition and drafting the agenda enshrined in the Rules of Procedure of the Parliament.

In practice meetings of the Coordination Board are always attended by the Permanent Representative of the President and government representatives at the vice prime minister level. I.e. the Coordination Board is a mechanism supposed to ensure coordination of positions of subjects of legislative initiative in planning of legislative work. During the sessions, the government can influence drafting of the agenda, express their opinion, and insist on priority consideration of certain draft laws. Although, unlike the President, the government cannot define certain draft laws as urgent ones, the practice of the 8<sup>th</sup> convocation, at least, shows that the government's initiatives can be considered as a priority.

At the same time, the practice of operation of the Coordination Board demonstrates that this platform is rather a place for presenting political positions than for professional discussion of whether drafts are ready to be adopted, which is also stated in the Road Map on the internal reform and development of institutional capacity of the Verkhovna Rada of Ukraine.

On the one hand, the Coordination Board should be about dialog of professionals, on the other - it is also necessary to ensure political decision-making. However, monitoring of the Board's sessions shows that the voting process often just does not happen. I.e. it is rather hard to form an opinion on what the session week's agenda is going to be after sessions of the Coordination Board.

Another important aspect of interaction is the question about how effectively the Parliament makes sure that laws are effectively implemented after their adoption. This is the issue of creating financial, organizational, informational, personnel, and other conditions for the law's real execution, because a law works where regulatory possibilities enshrined in the law become realities.

An example of this is final provisions of multiple laws. Statistics show that implementation of the laws is generally ignored by MPs, who are at the same time the most massive supplier of draft laws to the parliament. A striking example is that 64% draft laws passed during the 5th session come into force on the day following their publication. Thus 55% of the laws include instructions to the Cabinet of Ministers of Ukraine in their final provisions (e.g. that within 3 to 6 months they submit amendments, ensure harmonization, develop regulations to implement, etc.). So, the laws a priori include provisions undermining the enactment process: the law is in force, but it does not work.

This situation regarding communication is one of the causes of laws amending laws, which are often initiated by the government, which in the process of implementation faces law implementation challenges.

### **Planning in the policy making process (planning legislative activity)**

Planning remains one of the greatest problems in the decision-making system in Ukraine. Currently, there are several mechanisms designed to ensure a planned and predictable nature of the decision-making process (the Governmental Action Plan, the Plan of Legislative Support of Reforms, the agenda of sessions

of the Parliament, planning law-drafting work in the government), but none of them performs its function fully.

The Action Plan of the Cabinet of Ministers of Ukraine is a long-term planning document. It should identify areas of activities of the government formed for the next several years. Any long-term planning must be based on relative stability in the state. However, in the conditions that have developed over the past 3 years, long-term planning turned out a challenge hard enough, as responsible authorities have to react to circumstances that may change dynamically. While the Plan should guarantee that there is a certain vector, vision in place. However, the Constitution provides for a possible situation where there is no Action Plan, which fundamentally undermines the status of this document. Thus, the Plan directly relates to legislative support of the steps that the government plans to implement during their term of office. In the absence of the Governmental Action Plan, it is unclear what outcomes to expect as a result of its actions and what legislative initiatives should be based on. Moreover, in many countries of the world at the constitutional level they fix a mechanism for the government's resignation in case its plan is not supported.

Another problem about the Government's Action Program is a practical one. Lack of effective mechanisms for policy analysis and evaluation results in that this document is declarative rather than guidelines to act on. The true plan is the State Budget of Ukraine, which is executed and monitored. There are cases when activities stipulated in the Plan are not reflected in the budget or obtain less funding, resulting in adjustments of the planned activities. In particular, this was the situation about the state social program "Youth of Ukraine" for 2017.

The insufficiently high profile of the Governmental Action Plan and the practice of its drafting and execution lead to the fact that the existing document does not directly impact legislative initiatives, which as a result are submitted to and approved by the Verkhovna Rada of Ukraine.

Besides, the Constitution stipulates that the President of Ukraine shall address the parliament and the people of Ukraine with annual and special messages to the Verkhovna Rada of Ukraine, where he/she suggests certain visions, public policies. However, there were occasions where the addresses just did not occur.

Another planning mechanism is the Plan of Law-Drafting Activities of the Verkhovna Rada of Ukraine, which in June 2015 was passed by the Parliament as the Plan for Legislative Support of Reforms. It includes ensuring implementation of the Sustainable Development Strategy "Ukraine-2020", the Association Agreement with the EU, and other components. As a result, the document appeared extremely large in size and if one compares the number of planned regulations with calendar schedules, it will be clear that processing of one issue should happen within an unrealistic period of time. As a result, a very small portion of this plan was implemented by the end of 2016.

Thus, out of the practice of functioning of three non-imperative elements of long-term planning we definitely get unscheduled legislative activities based, at best, on the agenda of the session.

The agenda of the session is adopted either at the end of the previous session or, in extreme cases, at the beginning of the current session. However, if we compare the approved agenda of the session and actually passed laws, it will appear that this document does not guarantee predictability or the planned nature of policy making. In particular, during the 5th session 34% of the adopted laws were on the agenda approved at the beginning of the session, 19% of the adopted laws were included during the session, and the mechanism of how 47% more were found on the agenda is difficult to determine.

Moreover, unplanned initiatives are often considered before than those submitted six months or a year earlier. I.e., there is no sequence of passing legislation that would be harmonized with the time frame. It is absolutely unclear how such draft laws are preferred over the documents that were considered by the relevant committee and got positive opinions from expert units of the Parliament's secretariat.

The mechanism of planned review of draft laws in the Parliament stipulated in the Rules of Procedure also stipulates that those scheduled drafts that were not considered during the session day shall be postponed till the next day. However, monitoring of draft law consideration in their dynamics shows that this procedure is often not respected either.

Another example of unpredictability of the legislative process is the cases where MPs receive an agenda in advance, while at the beginning of the session it already includes new legislative initiatives or contains no initiative planned before.

Given the above practices, it could be argued that the legislative process in Ukraine is often unpredictable and chaotic.

### **Compliance with the procedures for handling draft laws**

Drawbacks of the legislative process in the part of draft law consideration are the most visible ones at all stages of the legislative process. In particular, the widespread practice of draft law consideration under the simplified procedure (which according to the rules of procedure is an exception) in the first reading leads to a lower level of discussion of legislative initiatives. Moreover, the case may be that at the suggestion of the initiator of a draft law or the Speaker of the Parliament there is no discussion of a draft law at all, i.e. even the shortcut procedure is not complied with.

Thus, reduction of the first reading as the key stage of draft law consideration takes place. After all, the logic of the Parliament's Rules of Procedure is that the first reading stage should ensure comprehensive discussion of the issue, its relevance, the proposed solution, expected results. Problematic aspects of draft laws are discovered during further revision for the second reading, which by virtue of its nature does not allow for correcting the philosophy of the draft but only makes possible occasional and technical amendments.

So, trying to address large-scale problems of draft laws during the second reading with the help of a huge amount of proposals gives rise to further problems. Provisions of a draft law may change significantly, resulting in that the government is not ready to implement the entire law. This is accompanied by the problem of communication between the government and the parliament, since during consideration of draft laws speeches of ministers or ministry representatives to offer support or raise concerns regarding a particular initiative are very rare (unless these are governmental initiatives).

There are also cases where at the request of the MP who initiated the draft certain amendments supported by the committee are voted and MPs do not adopt such amendment. Thus, the balance of the draft law prepared by the committee for the second reading is disturbed. An example is the situation regarding the draft law on the Constitutional Court, where part of the amendments were voted for, while some were not. The result was an unbalanced law, which was expressly stated by the chairman of the committee, which eventually led to rejection of the draft.

MPs also systematically ignore opinions of expert units of the Parliamentary Secretariat (CAEU and CLU), consideration of which is required under the Parliament's Rules of Procedure, during consideration of draft laws in the first and second readings (and during the last 5 years draft laws have never reached the third reading). During the 4th and 5th sessions, most draft laws were adopted in the first reading and as a whole - 65% and 59%, respectively. Thus during the 5th session, counter to the opinion of the CAEU, out of 53 drafts 2 (2%) were passed in the first reading, and despite comments from the CAEU - 25 laws or 42%.

### **The role of committees**

In line with Article 93 of the Rules of Procedure, each registered draft law shall be submitted to the committee that "in line with subjects of committees is determined as the main one for preparation and preliminary consideration of the draft law, a draft of another act; to the committee the competence of which includes the budget - for examination on its impact on budget indicators and compliance with laws governing budget relations; to the committee dealing with fight against corruption for it to prepare an expert opinion on its compliance with anti-corruption legislation provisions; and the committee dealing with assessment of conformity of laws with international legal commitments of Ukraine in the field of European integration for it to prepare an expert opinion."

However, the Parliament's Rules of Procedure include some controversy, because the required opinions on a draft law must be obtained from the anti-corruption, European integration, and budget committees, while the grounds for returning a draft law to the subject of legislative initiative are, in accordance with Article 94 of the Rules of Procedure, opinions of the legal, procedural, and budget committees. This design is contrary to the policy enshrined in a number of regulations and in the Association Agreement with the EU.

Implementation of provisions of the Rules of Procedure is also accompanied by violations. Thus, monitoring of data on laws adopted as a whole proves that in most cases there are only opinions of the anti-corruption committee for 52% of laws adopted during the 4th and 5th sessions. Opinions of the European integration committee are in place only for 3 out of 187 laws, and no budget committee opinions are available. Moreover, according to monitoring of VRU committee websites, the budget committee was the busiest one during those sessions: 487 draft laws where the committee is not the main one during the 4th session, and 336, respectively, during the 5th one.

Besides, three draft laws were in the designated period adopted contrary to opinions of the committees. Plus, the practice of holding sessions also demonstrates that opinions of the committees above are often not mentioned when discussing draft laws.

It is also worth noting that MPs, the President, and the government a priori face institutionally unequal positions in terms of submission of draft laws and preparation of support documents to them. The Cabinet includes powerful units ensuring financial and economic background for any draft law. The President of Ukraine also has the necessary resources, because the structure of the Presidential Administration includes the appropriate departments. Moreover, the President can pass the respective instruction to the government.

The situation of MPs is different, because they have the individual right of legislative initiative. In any case, preparation of a financial feasibility study is responsibility of the initiator/initiators, who are not institutionally equipped with the adequate resources. Sure, this can be done by assistants of MPs, but their capacity is not commensurate with the capacity of the Cabinet and the President.

### **Control, monitoring, evaluation, and review of decisions made**

According to the Rules of Procedure of the Cabinet, structural units of the government should analyze implementation of laws and evaluate the governmentally implemented policy as a whole. The government also has the necessary resources, unlike parliamentary committees performing the oversight function. However, in practice, such an analysis, if it happens, is not comprehensive. Moreover, the formats for the government's reporting to the parliament available (the hour for questions to the government, presentation of the annual report on activities of the government) do not require systematic analysis of effectiveness of adopted laws. Information on the implementation status is submitted to the committees in an unsystematic way and often by third parties (civil society).

One problem in this respect is that the Constitution of Ukraine assigns the priority legislative function to the committee, although the Law On the Verkhovna Rada of Ukraine contains provisions defining organizational and control functions, among other things.

The oversight function of the committees is that they by force of sectoral specifics of their work should track implementation of provisions, development of which is attributed to jurisdiction of another committee. It is clear that a committee is not an executive authority and it has no information about how a legislative provision is implemented in activities of various business entities, civil society organizations, or other private or public law entities. Therefore, in order to assess implementation of a law, the committee must receive comprehensive information from the executive authorities the jurisdiction of which covers implementation of the law. The logic of the law on the committees is that every committee should interact with one or more central executive authorities responsible for implementation of a law.

Moreover, the obligation of periodic reporting to the parliament and committees is envisaged by the Laws On Central Executive Authorities, On the Cabinet of Ministers of Ukraine, and On the Rules of Procedure of the Parliament. However, in practice we do not often see detailed reports of a certain ministry or department in the work flow of a committee. However, it is clear that depending on implementation or a failure to implement a law there may be problems in functioning of the authorities responsible for implementing the mentioned laws into practice. Often there are cases where these executive authorities try to resolve shortcomings of these laws' enforcement by adjusting the laws' provisions. Thus, such adjustment and such attempts are sometimes rather chaotic.

A classic example is the tax code, amendments to which are being made virtually on the monthly basis, and sometimes – to the same articles.

Attempts to address shortcomings and enforcement failures by initiating further legislative amendments lead to the parliament's being overwhelmed with secondary legislative initiatives, which consumes time and resources of committees and expert units of the Parliament's Secretariat. Thus, during the 5th session 74% of laws adopted as a whole were secondary laws (amendments).

Moreover, frequent amendments in regulations do not allow for tracking policy effectiveness in any way. For example, in stable democracies policy evaluation may take place 3 to 5 years after enactment of legislation. In the Ukrainian reality, it is quite difficult to imagine the possibility of such analysis, since business conditions here may change virtually on the monthly basis.

Thus, it can be argued that there is no holistic law enforcement monitoring or evaluation in Ukraine. The first and most obvious reason for that is too many draft laws under consideration of the parliament. I.e. the Parliament (and committees in particular) had just no opportunity to deal with the oversight function against the background of the giant mass of legislation. Review of parliamentary committees' websites showed that among the issues that were on the agenda of the committees during the 4th and 5th sessions, only 3% were those within the oversight function.

Thus, under the existing practice of constant amending of legislation, regulation of various spheres of public relations, evaluation of enforcement effectiveness seem impossible. Another reason for that is very poor communication among central executive authorities and respective committees in the aspects of monitoring and policy analysis.

### **Other issues**

Another issue could be defined as domination of the sector-based approach: too fragmented issues and responsibilities, which make it difficult to ensure consistency of policy-making among various entities and institutions. In particular, this relates to committees of the Verkhovna Rada of Ukraine. The problem of passing draft laws is also due to the fact that committees have an unbalanced number of draft laws. There are committees having 580 issues under consideration (Committee on Legal Policy and Justice during the 4th session), while some committees consider 33 issues (Committee on Culture and Spirituality).

This raises the question of possible reduction in the number of committees and its legislative implementation. According to Article 16 of the Rules of Procedure of the Parliament, at its first session a newly elected parliament, among other issues, considers that about committees. Thus, the Cabinet is excluded from the list of priority issues. I.e., the number of committees and their scope of responsibilities are determined prior to forming the government.

Following this logic, it seems questionable whether it is possible to determine the number of committees based on the number of ministries. Thus, stipulating in the Law On the Cabinet of Ministers of Ukraine the number of ministries would be contrary to Article 116 of the Constitution of Ukraine, for creation, liquidation, and reorganization of ministries are assigned to the mandate of the government.

### **Conclusion**

A brief conclusions of this section may be that the problems of the legislative process in Ukraine are largely due not so much to imperfect regulatory framework, but rather to improper implementation practices. Thus, the key issues are the following:

- Lack of strategic planning in the policy-making process;
- Dominance of political expediency over the principle of the rule of law;
- Dominance of the "legal" paradigm in the policy-making process;
- Actual lack of a system for monitoring, evaluation, and revision of decisions made.

**France: the Legislative Procedure, etc.**  
**("Government-centered" model of policy making)**

Parliament: 2 chambers

There may be only one plan – the action plan of the government.  
The agenda of the session is to be determined by the Government.

The legislative initiative – from the government or the opposition, because the opposition has no government of its own. However, these draft laws from the opposition cannot be supported by the majority unless they get a favorable opinion of the government (a check for compliance with the government's action plan is possible).

If the government says "no", particularly with reference to the opinion of the Ministry of Finance, the draft law cannot be considered.

Democracy – the majority forms the government, the majority agrees the agenda. Some time during the session week (half-a-day on Wednesday or Thursday) is allocated for consideration of opposition draft laws. During the second reading, the government must also have the right to express their position.

A special procedure must apply to the budget process. MPs should be as far from the process as possible. The budget law must only be drafted by the government.

MPs only say "yes" or "no." And if MPs do not approve the budget, the result should be resignation of the government. This is a very disciplining provision. It disciplines the government to work with the parliament, and **the parliament – with the government. Because otherwise - early elections.**

For the second reading, MPs should submit amendments. Not to the budget committee but to the government. The government is the only body that drafts amendments to the second reading. **This is the only law that cannot be voted on the article by article basis.**

## **POLICY MAKING**

**The action plan of the Government:** The government is appointed by the President, so there it is necessary that governmental initiatives are supported by the Parliament. To this end, the Government presents its program, for which the Parliament votes. If the program is not voted for, it is considered that the Parliament expressed no-confidence to the Government, and the Government is dismissed. (This procedure is not stipulated, but it has been a tradition since 1990s).

*Studies of 2015 indicate a major impact of the public in policy-making. An important role is also played by independent expert institutions with which the Government has consultations. Moreover, the Government monitors the local initiatives the experience of which could be used in policy-making.*

## **THE LEGISLATIVE PROCEDURE**

### **Areas of law**

The Constitution establishes a clear list of the areas that can be regulated by laws:

- civil rights and their guarantees
- restrictions imposed for the purpose of national defense on citizens in respect of their individuality and property
- nationality, legal status, and capacity of individuals, matrimonial regimes, inheritance
- definition of crimes and penalties
- the criminal procedure
- amnesty
- the judiciary
- taxes and the tax system
- the electoral system

- types of governmental agencies
- state and military service
- local governance
- national defense
- preservation of the environment
- education
- the property right, contractual obligations
- labor relations and social security
- freedom and independence of the media
- the system for election of representative bodies of French citizens living abroad
- long-term guidelines for use of public funds

This list is important, because every draft law initiated by a member of Parliament is tested for whether it meets one of the mentioned areas (legislative acceptability).

### The legislative initiative

Prime Minister: draft laws

Members of Parliament: law proposal

Prime Minister	Members of Parliament
draft law	law proposal
Governmental draft laws require consultations with the State Council, acting in these relations not as an administrative court, but as an advisor to the Government.	The office examines financial eligibility of the draft law (adoption of a draft law must not have the effect of decreasing public resources or increasing public spending) and legislative acceptability (the draft law must match the areas defined by the Constitution)
<p>Presentation of a draft law (arguments why it is necessary to change the existing law or to adopt a new one)</p> <p>The main part</p> <p>Impact assessment:</p> <ul style="list-style-type: none"> <li>● forecast of the impact of proposed changes</li> <li>● motivation for adoption of new legislation</li> <li>● the current regulation in the specific area</li> <li>● analysis of the draft law for its compliance with the legislative framework of the European Union</li> <li>● assessment of social, economic, financial, and environmental consequences</li> <li>● description of measures to implement</li> </ul>	<p>Presentation of a draft law (arguments why it is necessary to change the existing law or to adopt a new one)</p> <p>The main part</p>

the law if it is adopted	
If governmental draft laws are not accompanied with the respective rationale, the Board of Presidents may refuse to add that draft law to the agenda. (But the Government can challenge that to the Constitutional Council).	

### **Draft law preparation in the Government**

1. A department of the relevant ministry drafts the law.
2. Coordination with all ministries at inter-ministerial meetings. If there is no agreement, the decision on its relevance is made by the Prime Minister.
3. Consultations with all stakeholders.

But necessarily:

An opinion of the Council on social and economic issues, as well as that on environmental protection - for programmatic laws in the economic, social, and environmental fields.

An opinion of territorial assemblies of overseas units with a special status - on laws affecting them.

An opinion of the Local Finance Committee - for laws relating to funds of local communities.

These opinions must be attached to support documents of draft laws.

4. Impact study:

Compliance with the EU law;

Necessary implementation arrangements;

Economic, financial, social, and environmental impacts;

Impact on the employment rate;

Implementation of the provisions in overseas territorial units.

5. Obtaining an opinion of the State Council (not binding, but most likely if the opinion is ignored, the law will be canceled by the Constitutional Council).
6. Reconciliation of the draft law at a Council of Ministers session.

### **CONSIDERATION BY THE COMMITTEE**

After the draft law is submitted to the parliament, it is passed over to the committee. The main committee is decided by the chair of the respective chamber. Advisory committees may also be appointed (as decided by the chair or at the committees' own initiative). The chair, the Government, or the initiator of the draft law may request setting up a temporary committee to consider the draft law. This resolution must be voted for by the majority in the parliament.

#### **Consideration in the committee**

1. The committee appoints a rapporteur for each draft law. The rapporteur holds preparatory work for the draft law's consideration at a committee meeting.

Rapporteur

- examines the draft law;
- makes amends;
- organizes meetings with representatives of the relevant ministry or ministries;
- holds meetings, if he/she feels it appropriate, with representatives of various associations and socio-professional groups and experts;
- collects a wide range of documents on the topic of the draft law.

Based on results of the preparatory work, the rapporteur delivers a report.

2. Advisory committees must meet with the main committee and offer their opinion and amendments for the main committee meeting where the draft law is to be considered.

3. At the committee meeting:

- the rapporteur's report is heard;
- amendments made by the rapporteur, members of the committee, other committees, other parliamentarians, and the government are considered;
- one of the following decisions is made: to adopt the amendments, to adopt the original text, to reject the draft law.

4. Following the discussion, the committee develops the text of the draft law and the report on it.

The report includes:

- General analysis of the draft law, its context in respect of the law that it modifies along with international comparisons, as well as the overall political decision;
- Analysis of the content of each article and further discussion minutes (including the new articles that were introduced by the committee);
- A comparative table that in separate columns includes current legislation, provisions of the original draft law, and the text adopted by the committee;
- A list of amendments not adopted by the committee;
- If required, background annexes: on the European Union law, the list of laws to be amended or repealed if the draft law is adopted, the committee's comments in the course of studying relevant documents to the draft law.

#### **Terms of submitting amendments:**

- Amendments must be submitted in writing and accompanied with a brief explanation.
- The deadline for submitting amendments is 3 days prior to consideration of the draft law by the committee.
- They must relate to the proposed provisions, but there may be an indirect connection (no restrictions on the form, this may be another article, a new article); if the shuttle procedure between the chambers has already started, the amendment may only relate to the issues discussed.

#### **INCLUDING INTO THE AGENDA**

At least 6 weeks must pass from the draft law's registration till its consideration at a plenary session (there are exceptions + only the Government may request for an expedited procedure).

The Minister for relations with the parliament prior to opening of the session or after appointment of the Government passes to the Conference of Presidents governmental plans on the issues and draft laws to be included into the session's agenda. Two weeks are reserved for governmental draft laws. This part of the agenda can only be modified by the Government.

Then, the Conference of Presidents reserves one more day for opposition draft laws. The opposition submits its proposals on the agenda for that day.

1 week - the parliamentary week, the Conference of Presidents independently form the agenda for the week.

1 week - the monitoring week. Traditionally, in this week they hold an hour of questions to the Government and study activities by the Government. However, the Conference of Presidents may include parliamentary and government draft laws into the agenda of this week.

## **CONSIDERATION OF DRAFT LAWS**

1. General discussion - presentation of the draft law, its general idea.
2. Detailed discussion - every single article is discussed, amendments are considered.
3. Voting.

There may be limited time for detailed consideration, in this case unlimited amount of time to discuss the draft is allocated to the main committee and the Government, others have limited time (of which 60 percent goes to the opposition). However, this procedure does not apply if the decision was made to resort to the expedited committee consideration procedure (less than 6 weeks between registration and consideration at the plenary session).

The Rules of Procedure also provide for other forms of consideration:

A simplified procedure: without general discussion;

Forced voting: the Government asks to vote the whole text or a part of it without discussion;

Adopting a draft law expressing confidence to the government: the Government may request this procedure at any time. After such a request, discussions terminate. There are 24 hours to submit a procedure disagreement resolution, it must be signed by a tenth of the parliament and voted by the majority. If the majority votes, the Government resigns. If not, the draft law is considered adopted.

## **PROMULGATION**

First submitted to the Constitutional Council. The Constitutional Council may declare the law unconstitutional.

Signing by the president.

### **The role of the committee in the law's implementation**

The committee appoints two rapporteurs (the one who wrote the first report and an opposition member of the committee) to prepare a report on the law's implementation 6 months after its adoption. The report contains all the acts that were adopted to implement the law, opinions on efficacy, and so on. It is read out at a meeting in the presence of a representative of the government in the position to offer the necessary explanations. If no regulations to implement the law were adopted, the procedure is repeated after 6 months.

### **The Parliament's oversight of the Government's activities**

1. No-confidence;
2. An hour of questions to the Government;
3. Debate on governmental issues during the monitoring plenary week.

(Can be initiated by parliamentarians, including based on committee opinions on implementation of laws, the Committee for Assessment and Monitoring of Public Policies may propose items for the debate).

### **Committees' oversight of the Government**

1. Hearing – standing committees can initiate a hearing for any official.
2. Special missions to prepare a draft law or monitoring of laws' implementation. The output is a report.
3. Monitoring of governmental expenditures during the year + drafting a report.

Besides, the structure of the Parliament includes three standing committees that monitor public spending:

- the Assessment and Monitoring Mission (MEC) established on the basis of the Finance Committee. Oversight effectiveness of public spending.
- The Commission for Assessment and Monitoring (CEC). Monitors cost-effectiveness, also offers its assessment of documents accompanying governmental draft laws in the part of impact assessment.
- The Assessment and Monitoring Mission for the Laws Governing Social Security Financing Laws (MECSS). Follows implementation of laws in the part of social security, determines effectiveness.

**USA: the Legislative Procedure, etc.  
("Parliament-centred" model of policy development)**

Parliament: 2 chambers

The President does not need to have the right of legislative initiative. The veto power is enough.

**Ideas for legislative initiatives**

The areas within which Congress approves legislation are clearly limited to trade regulation; taxation; declaration of war; creating courts; currency regulation; and creating mail service institutions. However, it is also authorized to approve laws "which shall be necessary and proper for carrying into execution" the powers vested in it by the Constitution. This provides a wide field for legislative initiatives.

Although the right of legislative initiative is vested exclusively in members of Congress, the sources of ideas for legislation are unlimited.

- Members of Congress: legislative initiatives often derive from election campaigns.
- Citizens or NGOs – by filing petitions.
- "Memorialization" of state laws.
- Communication with the executive branch. Communication usually occurs in the form of messages or letters from members of the Government, heads of independent agencies or the President, whereby the proposed draft law is passed to the Speaker of the House of Representatives or the President of the Senate.
- The Constitution requires that the President should report periodically to Congress on the measures the President considers necessary and appropriate. These presidential reports are sent to the appropriate Committee, where they are considered. Then Chairman of the Committee or its members often submit the draft law either the way it was received from the President or with the desired changes. This practice is not enshrined in legislation but it is common.
- The annual budget message of the President is a significant source of legislative initiatives. The budget proposals of the President, together with the reports of executive power officials to the Appropriations Committees of the House and Senate make up the basis for adoption of budget draft laws developed in the House of Representatives and the Senate.

There is a special parliamentary office helping in drafting laws: the Legislative Counsel of the House or the Senate + Congressional Research Service.

**Signing draft laws**

Primary sponsor – the first signatory

Cosponsor – other signatories

Additional sponsor – signatories after registration

In the Senate, a Senator can insert the words "upon request" after all signatories. This means that the proposal is supported or initiated by another person or entity (usually the President or a minister).

**Legislative initiative**

Only House members, this is why presidential proposals are introduced only via MPs.

## **WORK IN COMMITTEES**

### **Determining the main committee**

The Speaker entrusts the **Lawmaker service** with the responsibility to study draft laws with regard to their acceptability in terms of rules and regulations and determine the committees of jurisdiction. The Speaker decided to delegate in order to protect the procedure of submitting documents for consideration from charges that it is applied in a manner that gives a certain political bias to the agenda. The **Lawmaker service** is politically neutral and works for the entire institute of governance rather than a particular party.

### **Committee employees**

In standing committees, up to 30 people are employed to assist members of Congress. Two-thirds of the committee staff are elected by a majority of the total members of the committee of the majority party and one third of the committee staff is elected by a majority vote of the committee members of the minority party. (This is important because, in fact, these are these employees who prepare committee reports).

### **Committee gathering information about draft laws**

The Committee sends requests to the authorities to report on the need for the draft law. Before entering the Committee, the reports are evaluated by the Office of Management and Budget<sup>1</sup> (namely the Legislative Reference Division). *(There draft laws are analyzed to ensure their compliance with the President's policy).*

Often the Committee also refers bills to the Government Accountability Office to provide opinion on the expediency of the draft law and its impact on the budget.

### **Work procedure in the Committee**

When a draft law is submitted to the Committee it is usually (but not necessarily) forwarded to one of the sub-committees. (If the draft law is very important, the Committee can skip its consideration in a subcommittee and proceed directly to hearings and "editing" at its plenary session).

### ***Scheduling hearings***

Regular hearings – at least once a month. The Chairman of the Committee may initiate additional hearings. The agenda is established by the Chairman. However, three or more members of the Committee may submit a written request to the Chairman to initiate a special session on the necessary bills. If the Chairman does not hold such a session, it is held automatically after 7 days after submission of the written request.

### ***Summoning stakeholders to the session***

The Committee votes on who must be present at the session. This can also be initiated by the Chairman or s/he delegate this right to another member of the Committee.

### ***Hearing***

If the committee (or subcommittee to which the draft law was forwarded) decides that the draft law deserves the attention or support of the public, it appoints a hearing. To the hearing, "witnesses" (experts and stakeholders) are invited. After the "witnesses" called by the Chairman of the Committee finish answering questions, the MPs from the minority party who are unsatisfied with data and materials of the

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<sup>1</sup> Office within the Executive Office of the President of the United States. Its most prominent function is to produce the President's budget, but it also measures the quality of programs, policies and procedures to make sure that they comply with the President's policies.

hearing may demand that hearing be scheduled for another day so that other special witnesses identified by the minority could be called.

### ***Mark-up session***

The subcommittee or Committee may decide to meet to markup a bill. Amendments may be proposed by members of the Subcommittee or Committee. Congressmen who are not Committee members may not propose amendments. After this process is over, the proposal of submitting the bill for consideration by the entire House is put to the vote, but only including agreed amendments. Rejected amendments are not submitted to the House. Amendments that were not considered or were rejected by the Subcommittee and Committee are never considered at the plenary session of the House, unless the majority of the House members resort to their right to discharge the committee from the obligation to consider the bill.

### **Report of the Committee based on consideration results**

If the Committee decides to send the bill to the House, the Committee prepares a report.

Content:

- (1) overview of results and recommendations;
- (2) (financial estimates) form required by the Budget Law if the bill creates new budget powers or increases/decreases budget expenditures or revenues;
- (3) estimate of the cost of implementation prepared by the director of the Congressional Budget;
- (4) description of the general goals and objectives to be achieved by the bill.

Each report accompanying the bill concerning employment or access to public services or housing should include a description of the impact on the legislative branch.

In addition, it should contain information on all changes in the current legislation needed to implement the bill. ("Ramseyer" rule for the House of Representatives, "Cordon" rule for the Senate).

The report should also reflect communication with the executive branch (answers to requests for opinion).

It should also contain the results of a vote in the committee.

Committee reports make up an important element of legislative activity. They are used by courts, the public, and government agencies as a source of information on the purpose and meaning of the law.

Reports approved by the Committee are immediately sent to the House by the Chairman. If the Chairman fails to do this, by the decision of the majority members of the Committee the report can be submitted through the chief clerk of the Committee.

### **Agenda**

After the Committee's consideration and submission to the House, the bill is put on one of the calendars of the House:

Union calendar: it schedules bills involving financial issues to be considered by Committee of the Whole House;

House calendar: other bills;

Private calendar: calendar for private bills;

Calendar of Motions to Discharge Committees: for motions to discharge committees from consideration of a bill.

There are calendar lists where bills are included in the course of their consideration by committees. However, there are mechanisms to move the bill directly from the calendar list to the Agenda.

### **Special procedures**

**Unanimous consent procedure.** After considering a bill, Chairman of the Committee may tell the management that nobody is against this legal measure. Party leaders of both major parties conduct an informal survey of their party members. If it is obvious that no one opposes it, the bill may be put on the

agreed Calendar List, and then Congressmen know that this legislative measure may be submitted for consideration from the list. Under this procedure, bills are submitted in the order in which they are listed. If nobody objects, they immediately undergo the third reading and are adopted.

**Mechanism of the Committee on Rules.** This committee is the only of its kind in the House of Representatives. Its main function and the subject of activity is the development and submission to the House of resolutions on “special orders for the consideration of legislation”. These resolutions establish the basic rules of consideration of the bill and give it priority. Bills processed by other 18 committees aren’t formally submitted to the Committee on Rules (unless they affect the matter within the legislative competence of the committee). The Committee on Rules has almost complete discretion in developing their procedures, formulating them so that all the members of the House could hear the bill, accompanied by an exhaustive explanation during the debate and had the opportunity to influence the most important issues through the amendment process. This special procedure of consideration is developed by the **Lawmaker**, considered by the Committee on Rules, sometimes changed to meet the special conditions, the need for which became apparent during the consideration by the Committee on Rules, and then sent to the House.

- “The regular procedure” sets the number of hours for debate, makes the second reading at a plenary session unnecessary, and makes it possible to propose any relevant amendment during the reading when it comes to the corresponding clause. It could be described as an “open rule”. The “closed” rule limits the number and content of amendments. Many amendments may relate to one subject; the Committee on Rules can select some of them to be proposed and dismiss the rest.

- “Closed” rules allow only the amendments recommended by the standing committees of the relevant jurisdiction. If amendments to some articles of the bill contradict each other, the rules may determine the procedure for their consideration. Important bills may require four to five days of plenary sessions.

**The procedure of discharging the Committee from consideration** is used infrequently, but if it is obvious that the committee decided to “shelve” a bill that has strong support in the House, this procedure can be a strong incentive to act. After a bill has been in the committee for 30 legislative days, any congressman can file a Motion to Discharge the Committee to the Speaker of the House. S/he will inform the House about this event. His/her colleagues who support the bill will be invited to the table to sign the motion. To discharge to committee from consideration, a majority vote of the House is necessary. As news of the event spread among congressmen and the number of signatories grows, the committee is getting nervous. If it is discharged from consideration, the Committee will lose control over the procedure at the plenary session of the House. Therefore, it often happens that when the number of signatures approaches half of the total, the Committee starts considering the bill. If the Committee does not respond, the bill is considered by the House without consideration of the Committee.

### **Suspension of Rules**

On certain days, the Speaker may propose to suspend the Rules. Members of the House must agree such a motion with the Speaker in advance. Two-thirds vote of the House is necessary for such a proposal. In this case, the discussion of the bill is limited to 40-minute debate (20 min. for the Coalition, 20 min. for the Opposition). For the bill to be adopted, a two-thirds vote of the House is required. Therefore, this procedure is usually applied to non-controversial bills that are supported by all political forces in the House.

### **Committee Statement**

Once a week, each committee may initiate consideration of any bill by unanimous consent or by a vote of two-thirds of each House. This procedure is rarely used, mainly in cases where the Committee on Rules refused to set a special order.

## **DISCUSSION**

For financial legislation, consideration in the House is mandatory, when the House is acting as the Committee (Committee of the Whole House). Such cases require the presence of 100 congressional

representatives in the House. For each of such consideration the Committee on Rules establishes a separate order.

Stages:

1. The House decides to work as a committee;
2. General debate;
3. Submission of amendments, their voting and sending the bill to the House for adoption;
4. Approval of amendments by the House and vote on the bill.

If the discussion takes place immediately in the House, amendments are discussed in the format of amendment hours.

After the discussion, the final text of the bill is put to a vote.

Apart from that, it is possible to initiate a submission to return it to the Committee for consideration.

### **Amendments**

There are three options for the consideration of amendments:

“In the House” – takes place in the form of “hours of amendments”. Amendments are announced in any order.

“By the Committee of the Whole House” – amendments are announced gradually, section by section. The first to be considered are the Committee’s amendments, and then those of other members of the House. “Five-minute rule” is usually applied (5 minutes for presentation, 5 minutes for objections).

In the House and in the Committee (hardly ever used).

Amendment rules

***Germaneness rule*** – one of the main rules of the House:

- amendments must address the same subject matter as the underlying bill;
- amendments and the underlying bill must share the same fundamental purpose;
- the amendment must be within the jurisdiction of the committee that prepared the report.

### **Consideration in Senate**

The same structure, but more informal rules.

1. Processing by the Committee;
2. Consideration in the Senate;
3. In case of discrepancies in the text of the bill, the Senate initiates a joint conference to formulate an agreed text;
4. Then the bill is voted on again in both Houses and forwarded to the President;
5. Before signing, the Legislative Reference Division prepares a report on the bill for the President;
6. Veto can be overridden by a two-thirds vote.

### **Legislative control of standing committees**

Each standing committee on a regular basis examines the application and effectiveness of laws relating to the jurisdiction of the committee.

Objective: oversight of the government’ and state agencies’ implementation of laws and programs in compliance with the intentions of Congress.

In addition, committees have the authority to investigate the conditions and circumstances that may indicate the need for new or additional legislation.

Committees also study the impact of tax policy on the jurisdiction of the committee.

Within these functions, committees prepare reports.

In addition to these general powers, some legislative acts establish the obligation to consult with Congress on matters of general policy. For example, the Government Performance and Results Act of 1993 (P.L. 103-62) requires public agencies to consult with Congress on strategic plans and report annually on performance, objectives and results. Inspectors General (IGs) give their opinion on the facts of embezzlement, fraud, etc., as well as recommendations to improve policies. Since 2000, they have prepared an annual report on the general state of public administration, problems and ways to overcome them in the executive authorities.

In addition, Congress creates commissions to study and make recommendations for specific policy areas, which may also include oversight of activity of executive authorities.

## **“Concept of Minimum Necessary Changes”**

### **The right of legislative initiative**

**The President** has the right of legislative initiative. In this context, the reasonability of the right to establish priority laws is questionable.

It is necessary to simplify the procedure for impeachment of the President, as in the present form it cannot be effectively implemented under any circumstances with any majority. Because, having even little support in Parliament, the President may block any initiative on impeachment.

It should be noted that the President of Ukraine exercises most of his powers in cooperation with Parliament. Problems begin when a presidential coalition is formed in Parliament. In this case, the President, having the right to appoint six of the 18 judges of the Constitutional Court, actually appoints 12 of them. This can affect the impartiality and objectivity of the opinions and decisions issued by the Court. The same applies to the appointment of the Prosecutor General. The threats are real, but they occur for political reasons, rather than due to constitutional regulation.

### **Government has the right of legislative initiative**

#### **Individual MP’s legislative initiative**

The Constitution of Ukraine contains provisions on the subjects of legislative initiative but does not define the essence of such initiative. It is exclusively at the level of laws (On the Status of the People’s Deputy of Ukraine, On the Rules and Regulations of the VRU) that the ways the MPs exercise their right of legislative initiative are defined. This design does not make it impossible to set at the level of parliamentary procedure rules the demand for group introduction of legislative initiatives from a certain number of MPs. Statistics on approved MPs’ initiatives shows that the number of signatures varies from 1 to 19. Furthermore, 20 of 95 (21%) of draft laws that were adopted as a whole have more than 10 signatures. Therefore, it is worth considering the option of enshrining in the Parliamentary Procedure Rules of a set number of 20 signatures for the registration of draft laws. Then again, such changes may fail to reduce the number of legislative initiatives from MPs due to the fairly widespread practice of “fractional” solidarity. This option can work only if the quality of draft laws is closely monitored by the public.

In this case, the introduction of the institution of MP’s legislative proposals may be used as an additional mechanism. It existed in the Rules of Parliamentary Procedure of the VRU in the version of 1996. This proposal as a concept or White Paper must necessarily contain:

- current state of regulation in the given area;
- expected effects of the proposed changes;
- analysis of the draft law for compliance with EU legislation;
- assessment of social, economic, financial and environmental consequences;
- description of measures to implement the law if it is adopted;

It is important to clearly define the mechanism for consideration of and passing decisions on the proposal. For example, an MP’s proposal is sent to the specialized committee in accordance with jurisdiction. The MP can expect the specialized committee to consider, handle the legislative initiative and provide a response within a certain period (3 months).

The Committee shall decide on the need to develop a draft law (or several draft laws) based on the legislative proposal or dismiss the proposal with reasonable rationale. Under the Constitution, committees so far are not subjects of legislative initiative, however eventually they have this right under the Rules of Parliamentary Procedure of the VRU.

**Alternative options** to limit the right of individual MP’s legislative initiative can involve regulation of the issue within the coalition. That is, the coalition agreement should include self-restrictions on parliamentary initiatives. Apart from this, it should be obligatory to get a positive opinion of the government with regard to compliance with the approved Government Action Program.

It is also advisable to consider limiting the right of legislative initiative of MPs in financial and economic matters, because it is the Government’s responsibility to ensure the balance of macroeconomic indicators included into the document.

### **Planning and developing the agenda**

When correcting constitutional provisions, the status of the Government Action Program must be revised. The absence of such a document should entail the resignation of the government (introduction of the practice of the constructive vote of confidence). The agenda of sessions is drawn based on and for fulfillment of the Government Action Program. The session agenda should be realistic in view of the ability of committees and expert divisions of the VRU structure.

As new legislative initiatives appear, the priority in the work of committees and Parliament should be given to the draft laws included in the session agenda. This will help ensure a gradual reduction of the “legislative tsunami”, which, as the analysis of adopted laws revealed, is primarily manifested in the preoccupation of the VRU committees and divisions with new bills.

The coalition and the government have to agree on a limited number of bills to be submitted for discussion during the week (for example, 10 bills). The priority should be given to government initiatives aimed at the implementation of the Government Action Program.

The principle of the conciliation council has to be revised: the “expert” and “political” components should be separated. In this context, the issues of political expediency must be agreed first. This algorithm has to ensure economy of the resources of VRU staff and Committees, so that they could prepare only the initiatives agreed upon by parliamentary factions and by Parliament and Government.

It is advisable to consider providing some time during the session week (1 day) to review initiatives from opposition factions, provided that such initiatives received a positive opinion with regard to their compliance with the Government Action Program.

### **Procedure for consideration of draft laws**

It is necessary to ensure the **full procedure discussion of bills in the first reading**. It is at the first reading stage that certain initiatives that do not comply with the legislative priorities of the Government and Parliament should be filtered out. The report must be fundamental and must include:

- current state of regulation in the given area;
- expected effects of the proposed changes;
- analysis of the draft law for compliance with EU legislation;
- assessment of social, economic, financial and environmental consequences;
- description of measures to implement the law if it is adopted.

It is also necessary to ensure full-fledged consideration of bills under the procedure of three readings.

### **Ensuring the effective implementation of adopted laws**

It is necessary to ensure that the Government should prepare bylaws to implement the law before the adoption of the law as a whole, and that the Government provides a reasoned explanation as to why drafting such bylaws is unnecessary. Such bylaws should be coordinated with the relevant committees and drafted as additional materials to the bill that will be considered under third reading procedure. The bylaws must take effect simultaneously with the law.

This procedure certainly takes time, but it should significantly improve the quality of the legal regulation of social relations.

### **Control, monitoring and evaluation of adopted laws**

Any initiative should be based on the conclusions of monitoring and evaluation of the implementation of this or that law or the state of legal regulation of a sphere of social relations. Otherwise “artificial” initiatives are submitted (of questionable relevance and unpredictable consequences), which results in an increase in the number of registered draft laws. This, in turn, leads to wastage of resources of VRU committees and expert divisions.

It is necessary to introduce a system of monitoring and evaluation of policy implementation at the level of the Government. Any legislative initiative must be accompanied by:

- current state of regulation in the given area;
- expected effects of the proposed changes;
- analysis of the draft law for compliance with EU legislation;
- assessment of social, economic, financial and environmental consequences;
- description of measures to implement the law if it is adopted.

Monitoring and Evaluation Plan should include the following components to answer the following questions:

- Did the law tackle the problem it was supposed to address, or did it achieve the expected results?
- What changes did the implemented the law bring?
- To what extent do the revealed changes result from the implementation of this particular law, rather than another act adopted in a related field?
- Was the mechanism set out in the law the most efficient in terms of costs?
- Did the mechanism inherent in the law meet the expectations and needs of stakeholders?
- Didn't the implemented law run contrary to other initiatives in related areas?
- Were any unexpected results of the law implementation detected?

The Monitoring and Evaluation Plan should include a timeframe for expected results that can be evaluated. For each specific law, the relevant ministry should identify a responsible person who will report to the relevant committee under the Monitoring and Evaluation Plan. The Monitoring and Evaluation Plan should be coordinated with the main committee during the consideration of the draft law in Parliament.

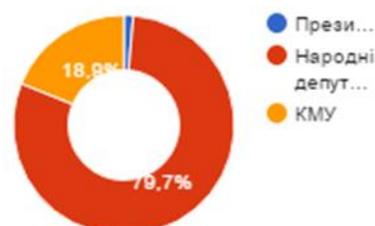
## --- Session 4 ---

**Timeframe:** February 2, 2016 – July 15, 2016

Registered total: 1752

**Registered** draft laws: **943**, of these:

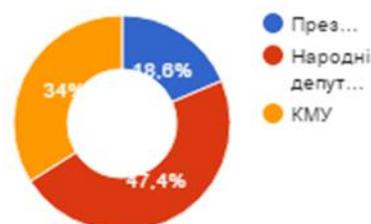
subject	Number	percent
President	13	1%
MPs	752	80%
CMU	178	19%



**Withdrawn:** 191 draft laws.

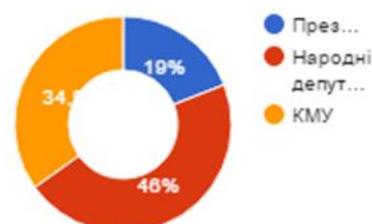
**All in all 97 draft laws adopted during the session as a whole**, of these:

subject	number	percent
President	18	19%
MPs	46	47%
CMU	33	34%



Draft laws adopted **in the first reading and as a whole**: 63 or **65 %**, of these

subject	number	percent
President	12	19%
MPs	29	46%
CMU	22	35%



### President

6 or   % draft laws were recognized by the President as **urgent**.

3 or   % draft laws **were returned with proposals**.

### Session agenda

	number	percent
Session agenda	41	65%
Included	27	43%
Unclear how come they were included in the agenda	29	46%

Note: almost all draft laws concerning ratification were included in the agenda in an unclear manner.

### Opinions of auxiliary committees

Committee	number	percent
Opinions of the Budget Committee	0	0%
Opinions of the Anti-Corruption Committee	42	43%
Opinions of the Committee for European Integration	0	0%

### Adoption contrary to the opinion of committees and structural divisions

Contrary to the opinion of **the Central Scientific Experts Office** for 63 draft laws adopted in the first reading and as a whole: 7, or **11%**. Contrary to remarks of CSEO: 17, or **27%**.

Contrary to the opinion of the **Main Law Office** for 34 draft laws adopted in the second reading: 3, or **9%**. Contrary to remarks of MLO: 24, or **71%**.

Contrary to the opinion of **the specialized committee** adopted: 2, or **2%**.

### Types of draft laws

Type	number	percent
New	6	6,%
Introducing amendments	69	71,%
Ratification	22	23%

By subjects:

	New		Introducing amendments		Ratification	
	number	percent	number	percent	number	percent
President	4	4%	5	5%	9	9%
MPs	0	0%	46	47%	0	0%
CMU	2	2%	18	19%	13	13%

### Final provisions

Final provisions **available in 77, or 79%**.

### Term of enactment

Term	number	percent
The next day after publication	66	68%
Not specified	20	21%
Other	11	11%

## Instructions for the CMU

Instructions	number	percent
None	56	58%
Non-specific	35	36%
Specific	6	6%

*Note: No direct relationship between the nature of available instructions to the Government and term of enactment was detected.*

## Supervisory functions of committees

Issues related to the control of the implementation of laws	100	2%
Draft laws concerning which committees play the leading role	1083	26%
Draft laws concerning which committees don't play the leading role	1952	48%
Total questions considered	4107	100%

*Note: Only the issues relating to monitoring the implementation of laws were addressed. Also communication with the executive authorities regarding the plan of legislative initiatives of the Government was taken into account.*

By committees:

Committee	DL leading	DL non-leading	control	Total
Special Control Commission of the Verkhovna Rada on Ukraine for Privatization	0	0	0	14
Committee on Transport	9	10	0	41
Committee on European Integration	11	587	1	689
Committee of Communications and Informatization	12	9	2	58
Committee on Financial Policy and Banking	17	2	6	34
Committee on Freedom of Speech and Information Policy	19	15	3	62
Committee on Foreign Affairs	21	7	0	84
Committee on Culture and Spirituality	21	1	1	33
Committee on Science and Education	24	6	4	75
Committee on Human Rights, National Minorities and International Relations	24	6	5	48
Committee on Rules of Parliamentary Procedure and Support to Work of the Verkhovna Rada of Ukraine	24	6	0	67
Committee on Family Matters, Youth Policy, Sports and Tourism	24	5	2	62
Committee on Veterans, Combatants, ATO Participants and Disabled People	29	11	5	61

Committee on Public Health	33	34	11	131
Committee on Economic Policy	40	0	4	59
Committee on Corruption Prevention and Counteraction	43	102	5	186
Committee on National Security and Defence	44	24	0	96
Committee on Construction, Urban Development, Housing and Communal Services	45	8	4	95
Committee on Environmental Policy, Nature Resources and Elimination of the Consequences of Chornobyl Catastrophe	46	101	2	179
Committee on Agrarian Policy and Land Relations	50	20	3	105
<b>Committee on Budget</b>	<b>53</b>	<b>487</b>	<b>2</b>	<b>668</b>
Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety	54	6	1	80
Committee on Industrial Policy and Entrepreneurship	59	0	2	77
Committee on State Building, Regional Policy and Local Self-Government	66	11	3	119
Committee on Legal Policy and Justice	70	419	24	580
Committee on Taxation and Customs Policy	75	14	2	107
Committee on Legislative Support of Law Enforcement	82	0	0	109
Committee on Social Policy, Employment and Pension Provision	88	61	8	188

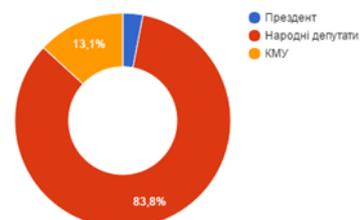
## --- Session 5 ---

**Timeframe:** September 6, 2016 – January 20, 2017

Registered total: 1040

**Registered** draft laws: **563**, of these:

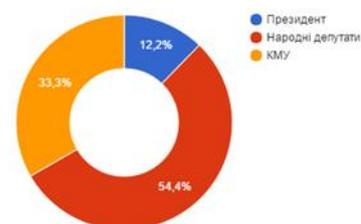
Subject	number	percent
President	17	3%
MPs	472	84%
CMU	74	13%



**Withdrawn:** 37 draft laws.

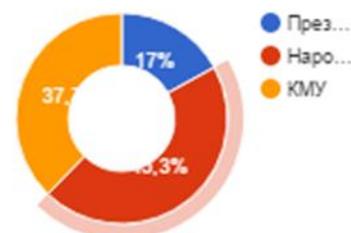
**All in all, 90 draft laws adopted during the session as a whole**, of these:

subject	number	percent
President	11	12%
MPs	49	55%
CMU	30	33%



Draft laws adopted **in the first reading and as a whole:** 53, or **59 %**, of these

subject	number	percent
President	9	17%
MPs	24	45%
CMU	20	38%



### President

3 or 3% draft laws were recognized by the President as **urgent**.

0 or 0% draft laws were **returned with proposals**.

### Agenda

	number	percent
Session agenda	31	34
Included	17	19
Unclear how come they were included in the agenda	42	47

## Opinions of auxiliary committees

Committee	number	percent
Opinions of the Budget Committee	0	0%
Opinions of the Anti-Corruption Committee	56	62%
Opinions of the Committee for European Integration	3	3%

## Adoption contrary to the opinion of committees and structural units

Contrary to the opinion of **the Central Scientific Experts Office** for 53 draft laws adopted in the first reading and as a whole: 2, or **2%**. Contrary to remarks of CSEO: 25, or **42%**.

Contrary to the opinion of the **Main Law Office** for 37 draft laws adopted in the second reading: 3, or **8%**. Contrary to remarks of MLO: 25, or **68%**.

Contrary to the opinion of **the specialized committee** adopted: 1, or **1%**.

## Types of draft laws

Type	number	percent
New	8	9%
Introducing amendments	67	74%
Ratification	15	17%

By subjects:

	New		Introducing amendments		Ratification	
	number	percent	number	percent	number	percent
President	1	1%	4	3%	7	8%
MPs	5	6%	44	49%	0	0%
CMU	2	2%	20	22%	8	9%

## Final provisions

Final provisions **available in 76, or 84%**.

## Term of enactment

Term	number	percent
The next day after publication	58	64%
Not specified	15	17%
Other	17	19%

## Instructions for CMU

Instruction	number	percent
None	40	45%
Non-specific	39	43%
Specific	11	12%

*Note: No direct relationship between the nature of available instructions to the Government and term of enactment was detected.*

## Supervisory functions of committees

Issues related to the control of the implementation of laws	5,29%
Draft laws concerning which Committees play the leading role	35,05%
Draft laws concerning which Committees don't play the leading role	44,46%

By committees:

Committee	DL leading	DL non-leading	control	Total
Special Control Commission of the Verkhovna Rada on Ukraine for Privatization	0	0	6	9
Committee of Communications and Informatization	10	20	6	45
Committee on Culture and Spirituality	14	5	1	28
Committee on Public Health	14	17	22	96
Committee on Science and Education	16	12	8	50
Committee on Financial Policy and Banking	18	0	5	29
Committee on Human Rights, National Minorities and International Relations	18	3	6	33
Committee on Foreign Affairs	18	2	5	79
Committee on Transport	19	6	0	33
Committee on State Building, Regional Policy and Local Self-Government	19	1	9	40
Committee on Veterans, Combatants, ATO Participants and Disabled People	19	4	8	41
Committee on Family Matters, Youth Policy, Sports and Tourism	19	15	0	44
Committee on Freedom of Speech and Information Policy	22	11	2	49
Committee on Rules of Parliamentary Procedure and Support to Work of the Verkhovna Rada of Ukraine	22	9	0	52
Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety	25	3	5	39

Committee on Industrial Policy and Entrepreneurship	26	0	0	28
Committee on Budget	27	336	11	380
Committee on Economic Policy	28	0	3	39
Committee on Corruption Prevention and Counteraction	28	156	2	219
Committee on National Security and Defence	32	20	2	63
Committee on Taxation and Customs Policy	33	1	2	40
Committee on Agrarian Policy and Land Relations	33	12	0	56
Committee on Construction, Urban Development, Housing and Communal Services	33	18	3	62
Committee on Legal Policy and Justice	45	96	0	146
Committee on Environmental Policy, Nature Resources and Elimination of the Consequences of Chornobyl Catastrophe	48	56	5	118
Committee on Social Policy, Employment and Pension Provision	55	33	4	100
Committee on Legislative Support of Law Enforcement	68	0	2	78
Committee on European Integration	73	156	1	235