

# EaP Think Bridge

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Eastern Partnership monthly analytical digest

## Can Ukrainian courts break the curse of the least trusted institution?



The judicial reform in Ukraine, which began after the Revolution of Dignity is the most comprehensive in the history of modern Ukraine, and it is for a reason.

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EaP Think Bridge is a platform uniting expert communities in the countries of Eastern Partnership region to fill the gap in distributing analytical products for stakeholders

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## And who's the judge?

**Court is the least trusted Ukrainian public institution. The situation is far from unique for other countries of the Eastern Partnership. In the five years after the Revolution of Dignity there have been tremendous changes in the judicial system of Ukraine, key laws have been adopted, new bodies are being formed. Nevertheless, experts believe that out of all the “20 deliverables of the Eastern Partnership until 2020” the progress is the most modest in this particular sphere.**

Why the European experience does not work well in the Ukrainian context and what alternative recipes independent experts have to offer, Mikhail Zhernakov analyzed.

The lessons of Ukraine will be useful for other countries in the region where the reform of the judicial system also stumbles over the old schemes or is only being planned. For example, in Georgia heated debates around this topic in February led to the collapse of the constitutional majority in the parliament.

In Armenia the judicial systems will soon be able to demonstrate all its glory, when high-profile criminal cases against the former ruling elite come to trial. In February new charges were pressed against the Ex-President Robert Kocharian, his son Serdak and the brother of another ex-President Alexander Sargsyan.

In Moldova, meanwhile, another state system - the electoral one - was tested. Experts believe that in many respects precisely because of the new mixed electoral system the parliamentary elections in the country did not bring the long-awaited peace. Neither single party won a majority, and no matter what the coalition will look like, Moldova remains in a precarious position.

The Belarusian president is still preparing for the upcoming elections, again openly relying largely on security forces and offering citizens a simple social contract: independence in exchange for loyalty.

In Ukraine, the elections are already around the corner. This time they will be held without Russian observers. The respective law to ensure it was adopted in February. In the meantime, before voting for the president of the country, the authorities received a powerful blow to their reputation: journalists unveiled corruption in defense. Whether this information will influence the choice of Ukrainians will become clear at the end of March.

These and other, only the most important events of the month in the Eastern Partnership analyzed in short and essence in our Digest.

**Olga Chizhova**

Editor-in-Chief of the EaP Think Bridge Digest



# Contents

## February in review

<b>“New Armenia” nears one-year mark</b> .....	<b>4</b>
Richard Giragosian, Regional Studies Center	
<b>Azerbaijan: Inflation rate on the rise</b> .....	<b>7</b>
Sevinc Aliyeva, The Baku Academy of International Law and Human Rights	
<b>Belarus: Preparation for elections and “freezing” of integration with Russia</b> .....	<b>9</b>
Yuri Tsarik, Center for Strategic and Foreign Policy Studies	
<b>Georgia: \$17 mn banking scandal</b> .....	<b>12</b>
Lasha Tughushi, Liberal Academy Tbilisi	
<b>Moldova: Elections are over, what’s next?</b> .....	<b>14</b>
Sorin Scleruc, Foreign Policy Association of Moldova	
<b>Ukraine: Economic calm and political storm</b> .....	<b>16</b>
Serhiy Herasymchuk, Domestic Policy Council, Ukrainian Prism	

## Analytica

<b>Major trends in Moldova’s parliamentary election</b> .....	<b>18</b>
Natalia Stercul, Foreign Policy Association of Moldova	
<b>Can Ukrainian courts break the curse of the least trusted institution?</b> .....	<b>21</b>
Mykhailo Zhernakov, DEJURE Foundation	

# “New Armenia” nears one-year mark

Richard Giragosian, Regional Studies Center (Yerevan, Armenia)

**Criminal investigations against former Armenian officials are in the full sway. While the main issue on the domestic agenda is economic reforms, foreign policy focuses on cooperation with Russia in different spheres.**



Armenian parliamentary delegation visits Moscow.  
Photo parliament.am

## DOMESTIC POLICY

### Indicted brother of former president pays cash settlement

Officials from the Armenian National Security Service (NSS) confirmed on February 21 that a cash settlement of \$18.5 million was transferred to the state from the frozen bank account of Aleksandr “Sashik” Sarkisian, the brother of former President Serzh Sarkisian. This was the result of negotiations conducted since his indictment on fraud charges which stem from an anti-corruption investigation. Sarkisian has also agreed to pay another \$11.5 million to

settle an outstanding tax debt. While neither payment will impact the pending charges against him, it may help with the judicial consideration of his possible sentence if convicted.

### Parliament adopts government program

After three days of debate, the Armenian parliament formally ratified the government’s five-year program by a vote of 88 against 40 on February 14. Although the pro-government “My Step” party of Prime Minister Nikol Pashinyan

holds an overwhelming majority of seats, the opposition 18-seat “Bright Armenia” party, a former “Yelk” (“Exit”) coalition partner of Pashinyan in the previous parliament, criticized the seventy-page program during the debate as being “too vague” and lacking “concrete socioeconomic targets”. The second largest party, “Prosperous Armenia,” also joined in the criticism, although with only 26 MPs in the 132-seat parliament, was never able to defeat the program. The criticism triggered an emotional rebuke from Prime Minister Pashinyan, who noted that his former “Bright Armenia” allies failed to support him when he first launched his campaign to overthrow the former Sarkisian government in March 2018.

The government program is based on an underlying assumption of five percent annual growth through 2023 and seeks to spark a “popular economic revolution” that aims to create a “competitive and inclusive” Armenian economy, with added promises of significantly improving tax administration, reducing business regulations, ensuring fair competition, attracting foreign investment, and stimulating exports. It further aims to “substantially” decrease unemployment

**Armenia deployed some 83 army medics, sappers and other personnel servicemen to Syria**

and reduce the official poverty rate of around 30% by some 12 percentage points by 2022.

## **Former president faces new criminal charges**

Former Armenian president Robert Kocharian faced new corruption-related criminal charges of bribery on February 12, beyond an earlier indictment for violating the country’s constitutional system. The new charges were brought after incriminating testimony from businesswoman Silva Hambartsumian who alleged that she was coerced to pay a \$14 million bribe to then-Environment Minister Aram Harutyunian in 2008. The former minister is believed to have fled the country after an arrest warrant was issued in January. Kocharian still faces the first set of charges, which led to his arrest and detention in July, related to his ordering to forcibly disperse demonstrators on March 1-2, 2008 in which eight civilians and two policemen died. Kocharian’s son Sedrak also faces separate criminal charges over money laundering and tax evasion allegations in excess of millions of dollars.

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## **ECONOMY**

### **Armenia to receive new IMF loan**

Following a successful two-week mission to Armenia, a senior delegation from the International Monetary Fund (IMF) announced on February 26 the conclusion of a “staff-level agreement” on a new \$250 million loan for Armenia. According to comments by the head of the IMF mission, Hossein Samiei, in a meeting with Armenian Prime Minister Pashinyan, “the agreement is subject to approval by the IMF Executive Board, which is expected to consider it in May 2019”. But reflecting the IMF’s approval of the Armenian government’s macroeconomic policies and “ambitious” reform agenda, the “precautionary stand-by arrangement” would be disbursed in several installments over three years in order to “support the new government’s reform plans and strengthen resilience against external shocks”. The loan follows the conclusion of a previous \$115 million aid package from the IMF for 2014-2017.

### **Armenian economy reports growth for 2018**

Despite a wave of protests and the subsequent change of government, the Armenian economy posted an annual increase of 5.2% for last year, according to the official statistics released on February 20. Driven largely by improvements in the service sector, increased industrial output and most notably, a 19% expansion in financial and related services, the figure marks a decline from the 7.5% growth for

2017, mainly due to 14% decline in the mining sector and a contraction of 8.5% in agriculture. While growth in 2018 matches the official estimate of the World Bank, there is a concern by the Bank that Armenia will suffer a decrease in economic growth this year.

### **Armenian official refutes fears of gas price rise**

Armenian Energy Minister Garegin Baghramian announced on February 15 that consumers would not have to fear any price rise for natural gas, allaying concerns after Russia’s Gazprom imposed a 10% increase effective as of 1 January 2019. Although the price for Armenian imports of natural gas from Russia rose from \$150 to \$165 per thousand cubic meters, the Armenian government was able to prevent any change in retail prices by the country’s Gazprom-owned gas distribution network, at least through 2019.

### **Ministers ordered to bolster Armenia’s “Economic Revolution”**

Armenian Prime Minister Nikol Pashinyan issued orders to his cabinet on February 15 to more aggressively adopt measures to “stimulate the economic revolution” in Armenia. The command follows the passage of his government’s five-year program by parliament and includes a set of 15 largely economic directives to various state agencies and government ministries. As the prime minister noted, it

was intended to be different from the program as specific “measures to stimulate the economic revolution”. The directives consisted of infrastructural projects which focused on the agricultural sector, including agricultural export promotion, easier and cheaper credit to small business and hiring of seasonal workers by commercial farmers, as well as measures to retrain unemployed workers and support

for potential entrepreneurs in the areas of “business skills and financial literacy”. The premier also added that the government should also “review all investment proposals” submitted by both domestic and foreign investors, explaining that senior official would adopt stricter approach priorities, meeting with serious investors with a “proven track record of major entrepreneurial”.

## **FOREIGN POLICY**

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### **Armenia set to procure advanced Russian fighter aircraft**

After a series of separate announcements, on February 18, Armenian Defense Minister David Tonoyan provided a detailed summary of the decision to acquire four Sukhoi Su-30SM advanced fighter aircrafts. The minister disclosed that the purchase of the four aircrafts was a part of a larger plan to procure a full squadron of 12 multi-role fighters. The costs for the aircraft remained undisclosed, on national security grounds, but other such sales were significant, suggesting that Armenia will seek yet another loan from Russia to finance the procurement. The Su-30SM is a modernized version of a heavy fighter jet commissioned in 2012 based on the Sukhoi design first developed in the late 1980s.

### **Armenian Foreign Ministry defends deployment to Syria**

Armenian Foreign Ministry spokeswoman Anna Naghdalian stated on 14 February that although the Armenian government “took note of the statement” by the U.S. State Department that it does not support “any engagement with Syrian military forces” or “any cooperation between Armenia and Russia for this mission”, the decision to deploy some 83 Armenian army medics, sappers and other personnel servicemen to Syria last week was solely a “humanitarian” mission. In an additional clarification, Ruben Rubinian, the chairman of the parliamentary committee on foreign relations, added on February 15 that “sending a team of specialists to Syria is very important for us

because it is, first of all, aimed at ensuring the physical security of our compatriots living there and, second of all, the security of peoples living in Syria”, which represented “a purely humanitarian move”. The statements defending the deployment also followed talks between Armenian Defense Minister David Tonoyan and his Russian counterpart, Defense Minister Sergey Shoygu, to coordinate Russian logistical support for the Armenian deployment to the city of Aleppo as a part of broader Russian operations in Syria.

### **Armenian parliamentary delegation visits Moscow**

On the first foreign visit by an Armenian parliamentary delegation, the speaker of the parliament, Ararat Mirzoyan, and a group of deputies arrived in Moscow on 24-25 February. The parliamentary delegation held meetings with Russian Federation Council Chairman Valentina Matvienko and other senior Russian legislators. In comments to reporters in Moscow, Ruben Rubinian, the chairman of the parliamentary committee on foreign relations, noted that the Armenian delegation was focusing on strategic relations with Russia, but added that “official Moscow assures that there is no tension in the Armenian-Russian relations, despite the fact that Russian state TV channels regularly broadcast anti-Armenian programs”, which he admitted was “a problem that we have to solve”. And in his address in the Russian upper house of parliament, the Federation Council, on February 27, Armenian Parliamentary Speaker Ararat Mirzoyan strongly criticized Russian MPs for participating in what he termed “anti-Armenian actions” and demonstrations in the Azerbaijan capital Baku.

# Azerbaijan: Inflation rate on the rise

Sevinc Aliyeva, The Baku Academy of International Law and Human Rights

In February, the Azerbaijani government decided to increase the minimum wage and pensions; however, this decision along with the changes to the Tax Code and higher excise taxes for imported goods caused higher inflation rates. On February 14, the country introduced its simplified e-agriculture system. The report from UK-based “London Loves Business” newspaper showed that Azerbaijan rates second in the growth rate of high-tech exports. The foreign policy agenda of the country was dominated by Aliyev’s meeting with Georgian President.



Pensions raise and prices follow.

## DOMESTIC POLICY

### Higher pensions - higher prices

Azerbaijan Center for Economic & Social Development has conducted an analysis of the price escalation, which was especially observed in January, with nearly 3%, [intensi-](#)

[fying in the last few days](#). The interesting point is that along with imported products, domestic products also experienced a rise in prices.

According to the report, the first reason for the price

escalation is the changes to the Tax Code of Azerbaijan. Now trading partners are paying more taxes, thus they try to offset extra costs through price escalation. Secondly, higher excise taxes have been introduced for some imported goods such as tobacco products and alcoholic beverages, which led to the price increase. Last but not least, recently, the government has decided to increase

## ECONOMY

### Introduction of e-agriculture system

Recently, Azerbaijan has paid much attention to simplifying different operations through online systems. The introduction of ASAN service and the promotion of online payments are two well-known examples of this phenomenon. Now the spotlight is on the agriculture sector, which accounts for 6% of overall GDP and provides jobs [for 37% of the population](#). On February 14, the presentation of the Electronic Agricultural Information Systems was held at the Agrarian Research Center [under the Ministry of Agriculture](#).

Introduction of the e-agriculture system will save farmers' time by eliminating the need for document submission. Instead, they will enter the data electronically. The data will be analyzed collectively, thus it will be easier to predict which crops and how many of them will be grown in the country. Moreover, the e-agriculture system considers providing consulting service to the farmers. Since the electronic system will be transparent, it will allow [for effective control and monitoring mechanisms](#).

### Fitch Rating: BB+

Fitch, one of the big three credit rating agencies, has affirmed Azerbaijan's Long-Term Foreign and Local Currency Issuer Default Ratings (IDR) at 'BB+' with a Stable Outlook. According to the report, the country has "a strong external

the minimum wage and pensions, [which about 600,000 people receive](#). With the increase, Azerbaijan has ranked second in the CIS in terms of the level of the minimum pension. However, this decision came with a price. Thinking that now people can afford more some sellers raised the prices of their products.

*balance sheet and low government debt, stemming from accumulated surpluses in times of high oil revenues, with a heavy dependence on hydrocarbons, an underdeveloped and opaque policy framework, and a weak banking sector and governance indicators".* Fitch research indicates that the revenue from hydrocarbon resources comprises 42% of GDP and 63% of fiscal revenues. Lastly, Azerbaijan's economy is predicted to grow 3.5% in the current fiscal year.

### Second place for high-tech exports

UK-based online newspaper "London Loves Business" has analyzed 10 years of high-tech investment data for some European countries and published a report. According to the report, the volume of high-tech exports is the key indicator for technology investments.

Azerbaijan settled in the second place for the growth rate of high-tech exports "[with an average annual growth rate of 41.1% from \\$9,073,107 export value in 2006, to \\$9,132,464 in 2016](#)". In the report, high-technology exports are defined as all products

which require significant resources and research in order to develop and produce, including the aerospace, computer, pharmaceutical, scientific instruments, and electrical machinery industries.

**Azerbaijan has ranked second in the CIS in terms of the level of the minimum pension**

## FOREIGN POLICY

### Meeting with Zurabishvili

Georgian leader Salome Zurabishvili's official visit to Azerbaijan on February 27 further indicated the close cooperation of the two countries. She held a one-on-one meeting with Aliyev and then they were joined by their delegations for a meeting in an expanded format.

Aliyev congratulated Zurabishvili on her recent success in the presidential elections and stated his appreciation for the visit. Georgian leader, in her turn, talked about the history of close ties between the two countries and emphasized that the challenges [to both of the countries had been similar](#). The former Energy Minister of Georgia Kakha Kaladze called Azerbaijan and Georgia "[a](#)

[bridge between Europe and Asia](#)".

According to the National Statistics Office of Georgia, the trade turnover between Azerbaijan and Georgia [has reached \\$ 97.6 million last year](#). Thus, Azerbaijan, the strategic partner of Georgia, has become its second largest trading partner after Turkey. Moreover, Georgia's exports to Azerbaijan have increased by 70.4% in comparison with the same month of the last year. The two neighboring countries continue to cooperate economically, especially in the transit of goods. Azerbaijan and Georgia continue to implement the joint railway project Baku-Tbilisi-Kars, which allows for higher volumes of goods to transport.

# Belarus: Preparation for elections and “freezing” of integration with Russia

Yuri Tsarik, Center for Strategic and Foreign Policy Studies (Minsk, Belarus)

In February 2019, Belarusian leadership paid increased attention to the issues of information security. This is a strong signal of the key upcoming election campaigns in the country. The decisions made during this period are both opportunistic and strategic.



President Lukashenko in fact started campaigning at the Military Academy.

## DOMESTIC POLICY

### Upcoming elections and “enforced liberalism”

The January 31 meeting on “new approaches to improve national security” was followed by a decision to [establish](#) Belarusian Institute for Strategic Studies (BISS). It was established on the base of the Information and Analytical Centre under the Presidential Administra-

tion of Belarus which previously worked as the sociological service of the Presidential Administration. BISS will report directly to the President of Belarus and act as a sociological service and a service to monitor information (including social media). It will also have to do strategic analysis, i.e. evaluate the concepts, programs and strategies of development in various sectors drafted by different government authorities.

Oleg Makarov, Doctor of Law, formerly with the State Security Council and Deputy Chief of the National Security Institute (the key “talent hunter” of the KGB), [chairs](#) the BISS. Alexei Derbin, former KGB employee, headed the Information and Analytical Centre earlier. Therefore, the changes confirm the important role of the KGB in the Belarusian national security system. This role was accentuated by the [trip](#) of the State Security Committee Chairman Valery Vakulchik to the Munich Security Conference (MSC). BISS is likely to debut with the new National Security Concept of Belarus. The concept text [will be discussed](#) with President Alexander Lukashenko in March.

Meanwhile, the authorities have launched preparations for the elections both organizationally, and in terms of the content. Lukashenko’s [speech](#) at the Military Academy on February 22 was the first run-in of the president’s election program. As far as President Lukashenko’s

statement suggests, the main message of this program is that the state guarantees sovereignty and independence of Belarus as well as peace and safety to its citizens. In return it requires political loyalty and carrying out civic duties, such as army service, payment of taxes and more. In his other major “pre-election” event, The Great Conversation with the President [held](#) on March 1, Lukashenko added an economic component to this formula. He sees the creation of conditions allowing people to “work and earn”, i.e. to freely engage in entrepreneurship as the state’s duty to its citizens (as long as the individual complies with Belarusian laws under the supervision of the law enforcers).

According to the statements of Belarusian Central Election Commission, one of the elections, either parliamentary or presidential, is likely to [be held](#) on December 1, 2019.

## ECONOMY

### Looking for growth boosters with no structural reform

In line with the election program announced by Lukashenko, in February the authorities continued their search for ways to stimulate economic activity in Belarus without painfully reforming state enterprises. Belarusian leader made his first public [statement](#) about why he cannot take this step. In his opinion, mass privatization and closure of inefficient state-owned enterprises can lead to mass protests and civil unrest, which the authorities cannot allow to happen.

Therefore, the government continued its [criticism](#) of inefficient state managers and [announced](#) plans to completely cease directed lending for

**The state guarantees sovereignty and independence of Belarus as well as peace and safety to its citizens. It requires political loyalty and carrying out civic duties in return**

state-owned enterprises in 2020. Yet, the main focus of its efforts was to look for steps that would spur economic growth without excessively harsh measures against the public sector.

Meanwhile, the January economic statistics published in February showed further slowdown of Belarusian economy. Economic growth [amounted](#) to 0.7%, while foreign trade [shrank](#) by 4.3% (although it remained in surplus). Average wages immediately [shrank](#) by 12%. This, however, is a result of traditional seasonal fluctuations. Problematic access to lending in the Chinese market (Belarus’ sovereign rating is too low to be allowed to issue sovereign bonds) forced Minsk to [request](#) a \$600 million loan from Russian leadership to refinance its liabilities to Moscow.

## FOREIGN POLICY

### Ice Age in relations with Russia

Lengthy negotiations between Lukashenko and Putin held in February [fixed](#) a new status quo in the bilateral relations. Their contours became apparent after numerous unsuccessful meetings of two leaders in August–December 2018. In Sochi, the parties failed to find a compromise on the key issues. As a result, Belarus will not get any compensation for the losses caused by Russia’s oil tax move. At the same time, Belarus will not make political concessions to Moscow (“deeper integration”).

Other aspects of bilateral cooperation remain uncertain as well. After Russia has repeatedly pointed to

the schemes for re-export of sanctioned products from the EU allowed by Belarus, the authorities of Belarus launched an [investigation](#) against Beltamozhservice, one of the major players in the “sanction file” founded by the State Customs Committee of Belarus. However, this and other investigations by Belarusian law enforcers seem to have had little effect on the position of Russian authorities so far. Restrictions of Belarusian goods imported to the Russian market remain in place, and when cancellation of these restrictions happens, it is [nominal](#) (stricter laboratory control still applies).

No solution has been found on the border issue. Russia [signed](#) the agreement that allows into its territory the

citizens of third countries entering Belarus visa-free for the 2<sup>nd</sup> European Games. A more long-term solution [was not](#) reached, however.

In the context of difficult relations with Russia, Minsk is conducting intense negotiations to sign an agreement on [liberalization of the visa regime](#) with the European Union and on its [priorities for partnership](#) with the EU within the framework of the Eastern Partnership program. The latter is blocked by Lithuania's position on the Belarusian

Nuclear Power Plant, while the visa liberalization talks are blocked as a result of Russia's position on readmission (it is linked to the agreement on the liberalization of visa regime). Still, the EU, European and [international financial institutions](#) continue to [increase](#) funding for Belarus, which is an additional motivation for a more solid position of the Belarusian authorities in negotiations with the Russian partners.

# Georgia: \$17 mn banking scandal

Lasha Tughushi, Liberal Academy Tbilisi (Georgia)

The scandal around the judiciary reform dramatically undermined the positions of the ruling party. Meanwhile, the largest bank in the country found itself in the middle of a new high-profile investigation. As for Russia, unambiguous threats are voiced regarding the planned joint Georgia-NATO drills.



Civil activists protest against dependency of the court on political influence in Tbilisi

## DOMESTIC POLICY

### Lacking constitutional majority

As expected, “Georgian Dream” lost its constitutional majority. It is not so crowded now in the ruling party and its “peeling” is still in process. The rebellious MPs disagree on promoting in the top judicial hierarchy those judges whose cases were the main reasons for criticizing Saakashvili’s judicial policy. The point is that nobody likes the key citadel of discredited judges – the Council of Justice, which has been dubbed as a clan for a long time now. Many repre-

sentatives of both parliamentary opposition and civil activists demand to disband this institution. However, taking such a step requires constitutional changes, which is a serious challenge in terms of a complicated and time-consuming procedure.

The political opposition accuses authorities of being well-adjusted to vicious schemes within the judicial system instead of implementing real reforms. Despite some progress the court has become an issue of bitter political infighting. The rebellious politicians have a leader, a female

MP, a former attorney Eka Beselia, who, as a result of her popularity, can become an influential figure for a new conservative political power that is gradually coming into light.

## ECONOMY

### Money laundering allegations threaten \$2,5 bn project

In February two parliamentary committees failed to investigate the scandalous case of the largest Georgian bank TBC. Last August the Main Prosecutor's Office of Georgia already launched a criminal investigation of money laundering. According to the Prosecutor's Office, it has to do with a suspicious operation of \$17 ml originating in TBC. The Prosecutor's Office explained that there are signs of money laundering and other illegal actions in 2018 TBC activities. This case features TBC founder and supervisory board chairman Mamuka Khazaradze and his deputy Badri Japaridze.

On February 13, the National Bank of Georgia deprived both of them of signature authority and the TBC Bank's shareholders' meeting was tasked to recall them from the supervisory board within 2 months. Khazaradze and Japaridze resigned. According to Khazaradze's statement, TBC international stakeholders suffered significant losses of \$200 ml in only one month because of the "attack".

The interest is triggered by the fact that Khazaradze is

**According to many, the judicial reform is the main obstacle on the way to democratic Georgia**

With 2020 parliamentary elections looming, the campaigns are being launched on the threshold of the court.

connected to the "project of the century" – Anaklia deep sea port project that is to become the gate between Asia and Europe. Large-scale dredging works in order to build the port started in November 2018, with the total project cost being \$2,5 bn. The port is to start operating in 2021.

Building the deep sea Anaklia port is carried out by Anaklia Development Consortium under the relevant agreement with the government of Georgia signed in October 2016. The Consortium includes: TBC Holding (Georgia), Conti International LLC (USA), SSA Marine (USA), British Wondernet Express (Central Asia) and G-Star Ltd (Bulgaria).

The main issue is the fact that the scandal around TBC

bank and the figure of Khazaradze may cause fear among the investors and therefore the development of the project will slow down, according to the forecast of Fady Asly, Chairman of the International Chamber of Commerce. Another risk factor is that the port that is of interest not only to Georgia, but also to the West, is being built only several kilometers away from the borderline between Abkhazia controlled by Russia and

the rest of Georgia, which dramatically undermines Kremlin's position in the region.

## FOREIGN POLICY

### Georgia preparing for joint NATO drills

The expansion of NATO military potential and participation of Ukraine and Georgia in the drills destroy the existing global security system and force Russia to strike back. Such a statement was made by Russia's Minister of Defense Sergey Shoygu at the recent meeting in the Russian defense ministry.

The statement of Russian Minister of Defense was made against the backdrop of the negotiations between Georgian Prime Minister's Special Envoy for the relations with Russia Zurab Abashidze and Russian Deputy Foreign Minister Grigory Karasin held in Prague. Mr. Karasin himself caught up with his colleague and unambiguously warned Georgia of possible mistakes and "unpleasant surprises". He did not specify what exactly he had in mind in front of the cameras, however, it is certain that he addressed his message to the former Georgian prime-minister and incumbent chairman of the ruling party Bidzina Ivanishvili, as Abashidze suddenly had a meeting with him prior to his trip to Prague. This statement was perceived as a threat in Tbilisi.

This time Russia's dissatisfaction was formally triggered by the joint NATO-Georgian command-and-staff drills that will take place in Georgia in March 2019 involving 22 NATO member states as well as North Atlantic Treaty partners. The main aim of the drills held under the command of NATO-Georgian Joint Training and Evaluation Center (JTEC) is enhanced cooperation and better compatibility of Georgian military forces with NATO standards. It is worth noting that for the first time ever these exercises will be held under the command of Georgian military forces.

In summer 2019 other large-scale drills under the auspices of NATO are to take place in Georgia. This time Agile Spirit, international and multinational command-and-staff drills, are set to be located in Western Georgia. Over 3000 military personnel from NATO member-states and partner-states of the North Atlantic Treaty are to take part in the drills under the joint command of Georgian military forces and the United States European Command.

It is obvious that Kremlin statements did not come as surprise, however, it is still unclear what it has in store for Tbilisi.

# Moldova: Elections are over, what's next?

Sorin Șclearuc, Foreign Policy Association of Moldova (Chișinău)

The most long-awaited February development in the Republic of Moldova was undoubtedly the day of parliamentary elections. Many hopes were invested, but the new parallel voting system turned out to be a disappointment. A fog of uncertainty is covering Moldovan politics and the main haunting question now is 'what's next'?



Prime Minister Pavel Filip launched the construction of the Ungheni-Chisinau pipeline.

## DOMESTIC POLICY

### What's next?

On February 24, 2019 parliamentary elections took place in Moldova alongside a republican non-binding two-part referendum on whether the number of MPs should be reduced from 101 to 61 and whether MPs should be open to recall.

Candidates from 4 parties were elected to the new parliament. Under a parallel voting system, the Moldovan citizens voted as following: the Party of Socialists (PSRM) – 31,15%, the ACUM bloc – 26,84%, the Democratic Party (PDM) – 23,62% and the ȘOR party – 8,32%.

As for single-member constituencies, the results were

as following: the Party of Socialists and the Democratic party ended up with 17 seats, the ACUM bloc - with 12, the ȘOR party – with 2, while independent candidates won in three constituencies.

Summing up these two components, the future parliament should consist of the following: the Party of Socialists - 35, the Democratic Party – 30, the ACUM bloc - 26, the “ȘOR” party – 7, and 3 seats will be taken by independent candidates.

Preliminary figures indicate the turnout of 49,22% and that is the lowest turnout in the history of modern Moldova since declaring country’s independence.

As for the Moldovan diaspora, over 75 thousand [voters voted against](#) 138 thousand that voted in the previous elections. The fact can be explained by the pro-European orientation of the diaspora members while the authorities

not being keen on opening more polling stations abroad in this respect.

One of the most scandalous incidents was widespread transportation of voters from the left bank of the Dniester to the polling stations on the right bank of the river. Both democrats and socialists accused each other of [arranging](#) votes and vote buying.

It is yet to be seen how exactly the coalition will be coming together in the new parliament. In any case, following the elections, one of the ACUM bloc leaders Andrei Nastase when replying to the question about potential alliance with the Democratic party,

stated that he will [“never negotiate with a bandit”](#) and also ruled out the possibility of forming a coalition with the Party of Socialists.

**According to the preliminary conclusions of the OSCE/ODIHR Election Observation Mission, the elections were “competitive and fundamental rights were generally respected”**

## ECONOMY

### Moving forward

For the first time since 1998 monthly revenues to the country’s budget administered by the State Tax Service (STS) exceeded the revenues from the Customs Service (CS). This was reported by Moldova’s Minister of Finance Ion Chicu [in one of his social media](#) on February 1.

According to specialists, higher STS revenues can be explained by better tax administration and harsher punishment for tax evasion.

On February 18, work was launched on the construc-

tion of Ungheni-Chisinau pipeline. Moldpress news agency [reports](#) that Prime Minister Pavel Filip who was present at the event made a statement that the gas pipeline with a length of 120 km will be able to provide Moldova with the needed volume of natural gas. “It’s the second step for energy security of the Republic of Moldova. Many years after the time when the gas price was used as intimidation by those who supplied it to Moldova, we are approaching the day when this won’t happen anymore (...) Romania connects Moldova with Europe”, Pavel Filip stated.

## FOREIGN POLICY

### “You should have listened to us ...”

In the light of parliamentary elections, the European Union [affirmed](#) the necessity to address the Venice Commission recommendations and stated that post-electoral situation is going to be closely followed.

According to the preliminary conclusions of the OSCE/ODIHR Election Observation Mission, the elections were *“competitive and fundamental rights were generally respected”*.

However, shortcomings were noted throughout the campaign and on the Election Day, notably *“allegations of pressure on public employees, strong indications of vote buying and the misuse of state resources”*.

The Mission also noted that *“control and ownership of*

*the media by the political actors limited the range of viewpoints presented to voters.”*

“These were the first elections conducted under the newly introduced mixed electoral system. As already expressed in the Council Conclusions of 26 February 2018, **most of the significant amendments made to the Electoral Code in 2017 were not in line with some of the key recommendations of the Council of Europe Venice Commission and OSCE/ODIHR.**”

“The conduct of the latest elections confirmed the need to address these recommendations and continue efforts to bring the electoral legislation and its implementation in line with international standards”, according to the EU press release.

# Ukraine: Economic calm and political storm

Sergiy Gerasymchuk, Foreign Policy Council “Ukrainian Prism” (Kyiv, Ukraine)

Looming elections frequently intensify political processes quite dramatically in any country. Ukraine was not an exception. The last winter month was full of significant political events, radical statements and resonant discussions. The society is facing a difficult choice and fighting for electorate is getting more acute.



Donald Tusk, the President of the European Council, gives a speech at Verkhovna Rada in Ukrainian.

## DOMESTIC POLICY

### Fundamental decisions shadowed by corruption scandals

On February 7 the Verkhovna Rada of Ukraine (during the second reading and in general having 334 “for” votes) made amendments to the Constitution regarding Ukraine’s strategic course to become an [EU and NATO member](#). Almost all parliamentary factions voted for

these changes though time will show if these novelties in the Constitution will prevent Ukraine from turning back to the East.

Another significant and resonant development happened on the same day. The Ukrainian Parliament voted for the law on observers during Ukrainian elections. The document banned the observers from the aggressor-state and occupant from [monitoring Ukrainian elections](#).<sup>232</sup>

MPs voted for this move. The law was [criticized by the OSCE](#). Yet the decision of the Ukrainian Parliament was received with sympathy in the USA as the decision to ban Russian observers from the elections is believed to be [well-grounded](#).

Some progress has been made in improving anti-corruption mechanisms. In particular, on February 22 the State Judicial Administration of Ukraine registered the [Supreme Anti-corruption court as a legal entity](#). It is clear that this fact is an important step taken by the authorities; however, finishing the development of the entire anti-corruption vertical in Ukraine has been a rather time-consuming process that frequently was incomplete despite being under scrutiny both from Ukrainian society and international partners.

As for the developments in the last week of February, they clearly proved that there is still much work to be done in fighting corruption. Ukraine's media space burst when the news of the corruption scandal in the top government echelons appeared. A high-profile journalistic investigation revealed the fact

**The parliament adopted the law on banning Russian observers from the elections**

of illegal operations when purchasing spare parts for military hardware from the aggressor state. The investigators connect the reported facts with corruption schemes involving some officials close to [the circle of the incumbent president](#). This undoubtedly leads to Petro Poroshenko's reputational damage, with the presidential elections looming in the near future. The National Anti-Corruption Bureau of Ukraine (NABU) launched its own investigation into the fact [reported by the journalists](#).

The reputation of the authorities was further undermined when on February 26, the Constitutional Court of Ukraine declared unconstitutional Article 368-2 of the Ukrainian Criminal Code which deals with criminal liability [for illegal enrichment](#). The NABU has already stated that striking down the article on illegal enrichment by the CCU is a step back in [Ukraine's anti-corruption reform](#). The Constitutional court decision is to be thoroughly [examined by the EU](#), while EUACI, Anti-Corruption Initiative of Ukraine, has already made a statement that more ground should be given in order to declare Article 368-2 [unconstitutional](#).

## ECONOMY

### “Safe-haven assets”

Unlike Ukraine's political front, its economy provides some peace and quiet. In fact, according to Oksana Markarova, Ukraine's Minister of Finance, Ukrainian economy continues to grow 12<sup>th</sup> quarter in a row while

the inflation rate is less than 10 %. Ukraine's gold and foreign currency reserves reached a peak within the last 5 years.

As for the country's export, both President and Prime Minister quote promising figures: export of goods and services to the EU member states makes up [almost 43%](#).

## FOREIGN POLICY

### UN General Assembly and Kerch crisis sanctions

Just as in previous months the Russian aggression draws attention to Ukraine on the international arena. On February 20 at the UN General Assembly meeting the President of Ukraine made a statement that “Donbas literally became a production line for Russia's killing machine”, providing significant figures of Russian armored combat vehicles, launch rocket systems etc. deployed at the temporarily occupied [territories of Donetsk and Luhansk regions](#). The Ukrainian issue is not forgotten by European partners as well. EU foreign-policy chief Federica Mogherini announced that there is a political consensus on some further measures to be taken - personal sanctions in response to a naval clash in the Sea of Azov,

Russian aggression against Ukrainian sailors, in [November 2018](#). Lithuania's Foreign Minister Linas Linkevičius is even more radical stating that EU sanctions in response to Russian actions against Ukraine are “[sometimes too little, sometimes too late](#)”. And credit is due as the minister's statement is supported by actions. Already in December 2018 Lithuania introduced national sanctions against 20 people involved in the attack and capture of Ukrainian sailors.

In his turn Donald Tusk, the President of the European Council, made an emotional address to the Verkhovna Rada of Ukraine in February 19, by his very appearance affirming the unchanging support of EU institutions for Ukraine. He also declared his support for Ukrainian people and stated that the EU will not tolerate the Russian aggression [in the Azov Sea](#).

# Major trends in Moldova's parliamentary election

Natalia Stercul, Foreign Policy Association of Moldova (Chisinau)

The 2019 parliamentary election in the Republic of Moldova was the first vote under the mixed system in the country's history. Will this eliminate systemic flaws in electoral processes? Will this help the key stakeholders of Moldova's political landscape to find compromise, or will it bring more conflict into the system of governance? Will this system ?not? create favorable conditions for turning Moldova's foreign policy towards rapprochement with Russia?



## Cornerstones of the mixed election system

Although much is known about the benefits and flaws of the mixed election system in international legislative

practices, it was difficult to predict the impact of this system on the balance of political powers in Moldova. Broad criticism of the switch to the mixed system from the extra-parliamentary opposition and European partners aggravated concerns. The election is over, but tensions in the country remain. The key question is what the

post-electoral scenarios will bring.

Building a well-balanced election system that can implement democratic principles is only possible with a range of factors in the political model and system of power taken into account. That was not done in Moldova. Socio-political nuances, institutional development of the state were not taken into account, and recommendations of the Venice Commission were blatantly ignored. There was no consideration of the criticism from civil society. By contrast, both the Democratic Party and the president, the initiators and supporters of the mixed election system bill, repeatedly justified the need for this step and spoke about its direct contribution to overcoming systemic flaws of election processes. Reality is completely opposite, leaving Moldova in a deep political crisis for a long time to come.

The turnout threshold was cancelled for the 2019 parliamentary election. Fewer than 1.45 million voters cast their votes. Young people [aged 18 to 25 delivered](#) the lowest turnout (8.5%) compared to the previous election. This points to the need to improve electoral awareness and cultivate an active civic position among the young voters.

While the fundamental requirements for organization of elections were met and international observers were present, this electoral process was not completely transparent or open. The Central Election Commission looked at complaints about the registration of candidates, violations of the election procedure, and the involvement of people with no Moldovan citizenship. According to the Promo-LEX supervisory mission, numerous violations were recorded on the election day. These included restricted access of observers to polling stations, pressure on the voters, attempts to pay out monetary reward near the voting units, organized transportation of the voters, violations of the secrecy of voting [and many more](#). The use of black PR, dirty campaigns and mutual accusations in public speeches, including in mass media, are especially noteworthy. Still, the election was declared valid.

## The impact of external factors on the election result

Moldova's choice in the election affects its agency on the international arena. As a country positioned on the East-West divide line, Moldova has traditionally found itself at the crossroads of geopolitical interests from potentially pow-

**While the fundamental requirements for organization of elections were met and international observers were present, this electoral process was not completely transparent or open**

erful international players. The 2019 parliamentary election was viewed as a test of resilience for the foreign policy vector Moldova has chosen. Fear of a turn towards Russia was not ungrounded. Russian influence still plays an important role, using tra-

ditional instruments of soft power, political propaganda, disinformation, fake news, as well as financial resources to feed certain political parties, leaders, representatives of the establishment and a fifth column that seriously intensified its activity in the run-up to the election. All this created additional destructive impulses that further destabilized the difficult situation in the country.

The influence of the Russian Federation is not the only problem. Moldova's authorities are a major factor as they put their political interests and ambitions above the country's national interests. Allowing the *Our Party* to run in the election after the notorious banking fraud (it gained 8.32%) is one example. The participation of the *Our Party*, an opposition force led by Biliex-mayor Renato Usatyi with financial support from Russia, is another case. The Russian laundromat, the scam to launder Russian money through Moldova, affected many well-known politicians in the country, including the leader of the Democratic Party who is now on international wanted list for fraud and violations. This does not stop him from essentially controlling all institutional entities in the country. As one of the most influential politicians and richest people in the country, he has repeatedly managed to adjust the political game to his interests.

The changes in the political platform of the Democratic Party refocusing on pro-Moldova policy have cooled down relations with the EU and raised the question of the party's ability to maintain Moldova's European course of development. Still, the technological tool of the mixed system allowed the ruling party to stay in power despite the unimpressive result of 23.62%. Even this was mainly possible due to the victory of the party's candidates in single-mandate constituencies structured to minimize the success of the Party of Socialists. All this once again proves the political nature of the changes in the electoral

legislation; corruption in Moldova's top echelons; democracy as window dressing, and the poor quality of political culture. Conducted under the guise of a struggle between pro-Russian and pro-European interests, this is in fact political double play in favor of personal interests

**Russian uses traditional instruments of soft power, political propaganda, disinformation, fake news, as well as the financial resources to influence the elections**

that helps Moldova balance between East and West.

The Party of Socialists has openly declared its favor of the pro-Russian course. Its ex-leader, President Igor Dodon harboured great hope in winning parliamentary majority with his Russia-re-approach policy. His statements were backed by demonstrative rebuilding of the Moldova-Russia dialogue and the aspiration to strengthen bilateral relations at all levels. As the electoral reserve of pro-Russian forces, Transnistria played a serious role in helping the Party of Socialists get a leading position with 31.15%. More than half of Transnistria residents voted for the Party of Socialists.

The ACUM, the extra-parliamentary pro-European opposition, got 26.84%. In fact, it was the only political force with no serious political power, administrative leverage or financial support. It focused its efforts on dialogue with the EU and fight against corruption and oligarchy. Importantly, the ACUM received a lot of support from the civil society which has played a serious role in its electoral success.

The post-election changes in parliament include the disappearance of some political forces, such as the Communist Party, the Liberal Democratic Party and the Liberal Party from the political scene. It has an entirely new balance of power now.

**Once again, Moldova remains in the grey zone of balancing between the East and the West**

## Post-electoral scenarios: Decoding the political mystery

The new parliament will be comprised of the Party of Socialists, the Democratic Party of Moldova, the ACUM and the or Party. The election outcome makes it obvious that political parties are the key interested parties in the mixed electoral system. Still, none has gained a majority which creates ground for a new intrigue: will they manage to form a coalition? If they don't, Moldova will

face early parliamentary election. This would probably be the best option in the current context. But that scenario will hardly materialize. Despite of the possible post-electoral scenarios, one thing seems obvious: in any coalition, regardless of who strikes an

agreement with whom or what reasons push them to seek an agreement, the Democratic Party will retain its mechanisms of control. Any coalition will face constant internal disagreements. As a result, decisions will be blocked and status quo scenarios will prevail. Once again, Moldova remains in the grey zone of balancing between the East and the West.

# Can Ukrainian courts break the curse of the least trusted institution?

Mykhailo Zhernakov, DEJURE Foundation (Kyiv, Ukraine)

The judicial reform in Ukraine, which began after the Revolution of Dignity, or the Maidan Revolution, is the most comprehensive in the history of modern Ukraine, and it is for a reason.



The rule of law and justice are among the key priorities of cooperation between Ukraine and the EU.

Article 14 of the EU-Ukraine Association Agreement states: “In their cooperation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation will, in particular, aim at strengthening the judiciary, improving its efficiency, safeguarding its independence and impartiality, and combating corruption. Respect for human rights and fundamental freedoms will guide all cooperation on justice, freedom

and security”.

Particular emphasis on the judiciary is given in the framework of [20 Deliverables](#) for the Eastern Partnership countries, providing that the implementation of key judicial reforms will be supported through essential measures strengthening the independence, impartiality, efficiency and accountability of the judiciary, and identifying these concrete measures.

**Ukraine’s judiciary was the least trusted public institution - in 2014, right after the Maidan, less than 1% of the population [trusted courts completely](#), whereas only 8% [trusted courts somewhat](#).** The reasons for such low confidence were also clear: more than 94% of the pop-

ulation think corruption is the principal issue, while the vast majority also recognizes that political dependence and impunity are the key problems of the system.

The Coalition Agreement of the Verkhovna Rada of the VIII convocation, the Government Action Plan, and the Strategy of Judicial Reform by the President were adopted. Each of these documents provided for specific steps in the direction of the judicial reform. These were aimed at three major directions:

- 1) making judiciary independent (ensuring that the process of appointment, disciplinary proceedings and the dismissal of judges is clear of political influence);
- 2) making judiciary less corrupt and more publicly accountable;
- 3) significant renewal of the judiciary (cleansing the system from the old untrustworthy judges and hiring the new, better ones).

The main goal of the judicial renewal was to bring [people with new mindsets](#) into the system. The vast majority of the current judges were trained and appointed either during Soviet times or shortly thereafter. Many of them still rely on the old positivist approach to understanding the law, which is based on absolute supremacy of the written law with little to no regard for human rights. The arbitrary and corrupt selection procedures of judges also did not attract people with proper mentality or motivation. Finally, for many years judges were subject to political influence, and many of them grew so accustomed to it that they do not believe the system can function otherwise.

However, the results came out different.

## First attempts

The first legislative act regarding judicial reform after the Revolution of Dignity, the Law “On the Renewal of Trust in the Judiciary”, was adopted in April 2014. It aimed at cutting connections of the judiciary to the Yanukovich regime and investigating the wrongdoings of so-called Maidan judges who illegally prosecuted peaceful protesters. The law dismissed all presidents of the courts, through whom political pressure was administered and gave the judges the right to elect the presidents of the courts on their own. It also renewed the judicial governance bodies responsible for the judicial career - the High Qualification Commission of Judges of Ukraine (HQCJ) and the High Council of Justice (HCJ). The law was only marginally effective. The HQCJ and the HCJ were completely re-staffed, but it did not lead to a significant increase in the quality of decision-making on judicial careers which remained heavily politically influenced.

80% of the courts reappointed the same presidents who administered pressure on judges, to their administrative positions. This showed that the majority of the judiciary was comfortable enough under the previous system and [preferred to be controlled](#). The investigations on “Maidan judges” was not very effective either. **The special Commission created to investigate the wrongdoings of more than 300 judges failed to do so due to the obstacles from the Parliament and the High Council of Justice.**

Another law of 2015 “On ensuring the right for a fair trial”, developed and submitted by the President, did not improve the situation either. The qualification assessment of all the judges it established was not effective under the constitutional provisions. At the time it did not even require that the judges explain the origins of their assets. For this and other reasons, in order to achieve progress in the reform, the section of the Ukrainian Constitution regarding judiciary had to be changed.

## Legislative breakthrough

From the point of view of legislation Ukraine has made significant progress. After the adoption of the two first laws in 2014 and 2015, the Constitutional amendments regarding judiciary were adopted.

Many of the constitutional amendments concern institutional building of the judiciary as a whole, including courts and judicial governance bodies. To address the issue of judicial independence, a number of European standards were implemented. That included lifetime appointment of judges; limitation of the political (the President’s and the Parliament’s) authority to decide on judges’ careers; the introduction of the new High Council of Justice with judges elected by their peers constituting the majority. All these measures were supposed to contribute to increasing judges’

independence, shifting the decision-making powers on judicial careers from political establishment to judicial self-governance bodies. However, back then the experts [warned](#) that the self-governance rule of “the majority of judges elected by judges” for judicial councils, which was adopted following the recommendations of the Council of Europe bodies, bears great risk to public accountability of the judiciary in itself.

The provisions of the amended Constitution stipulated the possibility of transition to the simplified three-tier court system in compliance with the numerous recommendations of the Venice Commission. This contributed to the system becoming more efficient since the final ruling is delivered faster.

**Ukraine’s judiciary was the least trusted public institution - in 2014, right after the Maidan, less than 1% of the population trusted courts completely, whereas only 8% trusted courts somewhat**

The big debate arose when different actors involved in the judicial reform developed different approaches to the matter of the renewal. The Judicial Reform Council and the Constitutional Commission were sticking to the vetting procedure provided for by the presidential 2015 law. The expert community, however, proposed to gradually create the court system from scratch with a competitive selection procedure for each judicial position, starting with the creation of the new Supreme Court. This suggestion was based on the successful examples of two law enforcement agencies: the National Anti-Corruption Bureau and the Patrol police, where new bodies were created with the new legislative framework, new principles, new equipment, and most importantly, new people.

The decision was a compromise. The new edition of the Constitution allowed for the possibility of the dismissal of the judges if the new courts were created or the courts were reorganized, as well as in the case of the mismatch between the income and the assets of the judges. The obligation to prove the legality of the assets was also put on the judges. However, the new edition of the Constitution did not set any definite action nor offered a timeframe for the creation of the new courts.

The new edition of the Law “On Judiciary and Status of Judges” was proposed and adopted simultaneously with the constitutional amendments. It provided for the creation of the new Supreme Court from scratch instead of the old Supreme Court of Ukraine and three High specialized courts, as well as the creation two new courts - the Anticorruption (AC) court and the Intellectual property (IP) court. Therefore, the suggestions of the civil society experts were taken on board only partially and concerned an important, but a very small part of the judges. More specifically around 200 new judges would have to be selected to the new Supreme Court and several dozen more to the AC and IP courts. The rest of the system (around 8000 judges at the time) had to be screened through the qualification assessment procedure. No new competitions to any of the appeal or first instance courts were provided for.

The new edition of the law, however, had two more novelties proposed by the civil society: 1) the declarations of integrity and family relations of the judges and 2) the creation of the Public Integrity Council. The latter is a 100% civil society body responsible for the integrity checks of the judges, a sort of the screening procedure and a “veto right” to judicial career by the public. This idea originated after the first unsuccessful attempts at the qualification assessment of the judges who passed the qualification assessment with ease despite the obvious

## The special Commission created to investigate the wrongdoings of more than 300 judges failed to do so due to the obstacles from the Parliament and the High Council of Justice

mismatch between the property and the income or other facts that prove their lack of integrity. The Council consists of 20 people (lawyers, legal scholars, journalists, human rights activists) and has a mandate to issue respective conclusions if the judges or a judicial candidate does not qualify with the integrity criteria. However, the Council does not have any decision-making power on its own. The conclusions are later considered by the High Qualification Commission of Judges of Ukraine and can be overruled by its  $\frac{2}{3}$  majority.

## Global Solutions, Local Damages

The [article](#) under the same name by the two Czech experts, Michal Bobek and David Kosar, examines why, how, and with what results have judicial councils spread under the influence of European institutions throughout Central and Eastern Europe in the last twenty years. It traces back how “the judicial councils, themselves just one possible form of administration of courts, have emerged as the recommended universal solution Europe-wide and internationally”. It is suggested that in the countries in transition, such as Hungary or Slovakia, the impact of the implementation of the judicial councils under the self-governance rule of “the majority of judges elected by judges” on further judicial and legal transition has been either questionable or outright disastrous.

Unfortunately, Ukraine did not become an exception here either. While the judiciary in Ukraine is still the least trusted public institution, both judicial councils it has, the High Qualifications Commission of Judges (the HQCJ) and the High Council of Justice, have now more than a half selected by the Assembly of Judges, with the HQCJ having  $\frac{2}{3}$  of judges in its composition. Instead of giving judges more independence and becoming the agents of change, these bodies became the main obstacle to the effective reform implementation.

The main process of the reform - the Creation of the new Supreme Court - has failed.

Almost 80 per cent of new Supreme Court (SC) judges have been judges before, even though the process was highly advertised as the way of attracting “new blood” from the Bar and the academia to the highest judicial authority. At least 30 “new” judges did not meet the basic integrity criteria (based either on the property or declaration requirements or connection to human rights abuse or other improper deeds), but were selected as winners of the competition by the HQCJ and greenlighted by the HCJ as the new SC judges. Civil society thoroughly analyzed this process and called for more transparency and objectivity, as well as higher standards for the assessment, but to no avail. As a result, out of 119 judges appointed to

the Supreme Court, at least 30 severely lack integrity, and the Court itself is managed by the same people who headed the notorious High courts that were liquidated.

The second round of the competition to the Supreme Court where 78 judges have to be selected had the same problems, with at least 16 untrustworthy judges recommended for the appointment.

In the qualification assessment of the lower courts, the HCCJ significantly lowered standards and jammed hundreds of interviews into a few months. As a result, out of roughly 2000 judges the HCCJ examined, only about 8% were found not qualified for the position. The Public Integrity Council called this “fake” and “window dressing,” and suspended its participation in the qualification assessment.

What is even more staggering is that the few righteous judges who actively oppose corruption are prosecuted by the same governance bodies that were supposed to protect them. Judge Larysa Holnyk, who filmed and revealed an attempt to bribe her by a representative of the mayor of Poltava, was not only physically attacked, but was disciplined by the HCJ that barred her from taking part in the competition to the Anticorruption Court. Judge Vitaliy Radchenko, who gave permission to search the luxurious mansion of the notorious head of the District Administrative Court of Kyiv, Pavlo Vovk, was also disciplined, and his wife, also a judge, was dismissed as a result of a disciplinary proceeding by the HCJ shortly after the warrant was issued.

But this is hardly a surprise, given that a lot of the HCJ members’ integrity is questionable. Palvo Hrechivsky was accused of trying to settle a case in a court for \$500,000 with the then president of the High Commercial Court of Ukraine (and now Deputy Head of the “new” Supreme Court Bohdan Lvov), but still serves as an HCJ member. The Rada’s appointment of Oleksiy Malovatskiy, a Poroshenko Bloc nominee, was allegedly based on bribery, as a recent investigation revealed. The head of the HCJ, Ihor Benedysiuk, appointed by Poroshenko, still cannot prove he gave up his Russian citizenship after

**What is even more staggering is that the few righteous judges who actively oppose corruption are prosecuted by the same governance bodies that were supposed to protect them**

being a judge in Russia before 1994, and was awarded a state award by the President in the direct contradiction to the Law. These facts did not bar him from winning the second round of competition to the “new” Supreme Court, however.

This all proves that the “the majority of judges elected by judges” rule for judicial governance in Ukraine only leads to the

preservation of problems in the judicial system, such as corruption and dependence on political power. As a result, the level of confidence and support of the judiciary remains critically low - [at 8%](#).

## What’s next?

In order to overcome these problems, the composition of the judiciary bodies needs a substantial revision. A greater number (50% or more) of civil society representatives in these bodies is required with the simultaneous extension of the mandate of the Public Integrity Council. The latter was recently [supported](#) by the Ambassador of the US to Ukraine Marie Yonanovitch.

Another way to improve judicial governance and hence the results of the reform would be to expand the mandate of the Council of International Experts who did an [exceptional job](#) vetoing the bad candidates to the Anticorruption Court which has a good chance to become a counter-example of judicial selection. Both ideas are largely supported by the Ukrainian public. When [asked](#) “whom would you entrust the renewal of the judiciary?”, 47% say “the representatives of the public”, and around 30% say “independent international experts”. Only 8% would trust judges from judicial governance bodies.

Obviously, the judicial vetting has to be restarted, at least in the cases where the judges had the negative review by the Public Integrity Council, but easily passed the interview with the fellow judges. These ideas, as well as some others, are reflected in the “[Justice reforms agenda](#)”, developed and supported by the 24 leading NGOs and already supported by a number of presidential candidates.

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