

# UKRAINE HAS THE LEADING RATES OF “LEGISLATIVE INFLATION” IN EUROPE



## PARLIAMENTARY EXPERT GROUP ON EUROPEAN INTEGRATION

Parliamentary Expert Group on European Integration is an independent expert community established by the Open Society Foundation NGO to promote implementation of the EU — Ukraine Association Agreement by improving the quality of lawmaking processes.

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Ukrainian lawmaking demonstrates some odd tendencies. On the one hand, Ukraine is a leader of lawmaking in Europe by the number of bills submitted to parliament. The same goes for the number of changes to the existing laws. On the other hand, relatively few basic bills, which are essential for country's European integration, remain to be approved.

Every day, the Verkhovna Rada (Ukrainian parliament) receives a dozen of legislative initiatives, operating seemingly at an unbelievable pace. The European parliamentarians, at the same time, are comparatively slow — it may take a year to develop and discuss one basic draft law and abandon it at the end if there are serious arguments about negative consequences for the labor market or economic competition, supported with figures, forecasts and statistics. Under the latter procedure, however, an adopted policy will likely avoid hurried changes, which are customary to Ukrainian practice.

Ukrainian parliament annually registers more than 2,000 bills, which is two times more than does Polish parliament. This demonstrates eloquently that the national legislature should not serve as a storage for poor quality projects, even well-intended ones. Perhaps, it would be better if Ukrainian parliamentarians stopped chasing the quantity indicators and instead concentrated on quality by considering only the bills necessary for the proper functioning of the state, the needs of society and business.

In the EU countries, for example, there is a certain logic to the legislative process, guiding why, when and what bills should be developed and adopted. In a way, it resembles a «planned economy», where every businessman, a lawyer or an “ordinary citizen” can easily learn three years ahead about specific law to be adopted and the changes it envisages. In this example, the citizen will also find out why such policy is planned in Brussels or at the national level. Isn't it enough time to learn about the coming changes and prepare accordingly?

In Ukraine things are fundamentally different: the Verkhovna Rada registers all legislative initiatives coming from the MPs, the government and the president. Thus, both the priority bills for European integration and rather odd legislative initiatives (for example, on reading the Lord's Prayer after the opening of the plenary session, or on honoring the 655th anniversary

of the liberation of Ukrainian (Ruthenian) lands from the yoke of the Golden Horde) are in one queue for consideration.

This leads to the first problem: the implementation of the EU-Ukraine Association Agreement may go lose, as the consideration of a single European integration law now takes as long as one year. Unlike in the European case, while the bill stays in parliament no one examines it's the economic feasibility, it just lies waiting. In 2015-2016 the consideration of one draft law took six months, given the authors of the document (mainly the government) demonstrated the "iron will", attended the committee meetings and urged the MPs to vote for the bill. Today the pace of European integration is twice as slow, which is a disturbing trend, as the experts of Parliamentary Expert Group for European integration had noted.

Ukraine needs an effective legislative system, independent of the communication skills of individual politicians. The Association Agreement obliged the country to implement over 170 EU directives during the first three years. To date, Ukraine has adopted just over 60 European integration laws, that is only a third of its three-year commitments. Interestingly, after the adoption of the legislative changes (some directives require fundamental innovations to dozens of systemic laws, the adoption of new industry regulations and standards), we still have to (!) prove the European Commission officials that these changes do comply with the EU law.

The second problem concerns a huge array of outdated regulations which continue to operate. For example, since the 1970s, there is a provision that all employees working in front of the monitors should be provided with a separate room to rest. This may be a good provision for the health protection authorities, as they can immediately fine all Ukrainian employers, including the state itself, for non-compliance. The planned deregulation foresees abolishment of 300 out of 1,200 of such regulations (these apply to health and safety, fire protection and health standards). Moreover, about 50 of such documents are available in restricted access only. As a result, the employers are often unable to get acquainted with the mandatory provisions. Within the last three years, the good intentions to eliminate obsolete and obscured regulatory acts have not been fully implemented.

One of the greatest threats to the normal development of society and business in Ukraine is the enormous "legislative inflation". Out of 109 laws passed by the Verkhovna Rada in 2017, 75 are amending the existing legislation. The experts

of the project «Enhancing the capacity of parliament in European integration by improving the quality of legislation and accelerating legal approximation based on the EU-Ukraine Association Agreement» (the project is supported by the British Embassy in Ukraine) had found that majority of the legal innovations were unsystematic, inconsistent and highly variable. It is difficult to follow the legislation even for a professional lawyer. For example, Article 2 of the Law on Principles of State Supervision (Control) of Economic Activity, which established a list of such state supervision bodies, alone underwent (!) 16 changes over the past six years. Every six months the MPs granted the right for inspection to the tax authorities, and then suspended it. Needless to say, such actions may have fatal consequences for business.

Unlike Ukraine, the EU has introduced clear procedures that allow the legislation to be effective, transparent and predictable to citizens. Ukraine should immediately implement such rules, otherwise even the best innovations will drown in a stream of unpredictable actions, the disputes between the subjects of legislative initiative and personal interests.

What should we strive for? The preparation of systemic legislation must be accompanied by substantial public discussion (and not the present 'box-ticking' approach), identifying both positive and negative effects of the policy, supported with facts and figures, analytical and statistical data. An anti-corruption expertise is important as well: every bill, even that addressing the changes to a single article of the existing law, should contain clearly defined and standardized procedures (especially regarding permits and licenses) without unnecessary regulatory requirements and excessive powers of state bodies. Needless to say, if the policy does not comply with the EU law it cannot be adopted. These are the main filters that Ukraine needs. The lack of clear rules and procedures slows down the European integration progress, which creates global risks for the country and its prospects to bring national legislation closer to the EU law.

#### **Expert recommendations:**

- *Adopt in principle the bill 2046a amending the Law on the Rules of Procedure of the Verkhovna Rada of Ukraine on improving the mechanism of approximation of Ukrainian legislation to the EU law;*
- *The Cabinet of Ministers of Ukraine should further provide an opinion to own «Euro-integration» bills on their compliance with the Association Agreement and the EU law.*

## EUROPEAN INTEGRATION BILLS CONSIDERED CURRENTLY BY THE VERKHOVNA RADA OF UKRAINE (II QUARTER 2017)

No	Registration number	Title	Stage
1.	0906	On the government control to observe the compliance with laws on safety and quality of food and animal feedstock, on animals' health and welfare	Signed by the President and returned to Parliament
2.	2009a-A	On Environmental Impact Assessment with the proposals of the President of Ukraine as of 28.10.2016	Signed by the President and returned to Parliament
3.	2431	On amending legislation on protection of economic competition regarding establishment by the Antimonopoly Committee of Ukraine the size of penalties for violations of the competition laws	Handed for additional second reading (26.01.2016)
4.	2845	On Animal Feedstock Security and Hygiene	Released by the Committee to be approved in principle (30.06.2015)
5.	3445	On amending legislation on protection of flora and fauna under international agreements	Prepared for the second reading (29.11.2016)
6.	4126-1	On Consumer Information on Food	Received the Committee submission for revision (14.03.2017)
7.	4493	On the Electricity Market of Ukraine	Signed by the President and returned to Parliament
8.	4571	On amending Article 5 of the Law on Distribution of Copies of Audiovisual Works, Phonograms, Videograms, Computer Programs, Databases to combat piracy and improve the investment climate	Received the Committee submission for consideration
9.	4577	On amending Article 31 of the Law on Employment on regulating public works	Declined
10.	4578	On amending legislation on employment of disabled persons	Released by the Committee to be approved in the first reading (17.06.2016)

№	Registration number	Title	Stage
11	4579	On amending certain legislative acts of Ukraine to acquire, exercise and protect the copyright and related rights	Being studied by the Committee
12	4584	On amending certain laws of Ukraine that regulate government statistics	Received the Committee submission for consideration (31.05.2016)
13	4589	On amending certain food safety laws of Ukraine	Released by the Committee to be approved in principle (06.12.2016)
14	4591	On Business Ombudsman	Endorsed in the first reading (31.05.2016)
15	4593	On Rail Transport of Ukraine	Returned for revision to the introducing body (21.02.2017)
16	4611	On Requirements to Food Contact Items and Materials	Released by the Committee to be approved in principle (20.09.2016)
17	4614	On amending the Customs Code of Ukraine to protect intellectual property in the movement of commodities across customs borders of Ukraine	Not included onto the agenda
18	4615	On amending the Customs Code of Ukraine to comply with the EU – Ukraine Association Agreement	Not included onto the agenda
19	4619	On amending the Tax Code of Ukraine (in regard to tobacco products taxation)	Voted as an amendment (06.12.2016)
20	4629	On amending certain legislative acts of Ukraine to protect the copyright and related rights in the Internet	Being studied by the Committee
21	4644	On amending certain legislative acts of Ukraine to harmonize them with the EU legislation on transportation of dangerous goods	Declined
22	4646	On amending the Law of Ukraine On Accounting and Financial Reporting in Ukraine to improve certain provisions	Considered while revising the bill 4646-A
23	4683	On amending certain automotive transport acts of Ukraine to harmonize them with the EU regulatory acts	Returned for revision to the introducing body (21.02.2017)

№	Registration number	Title	Stage
24	4685	On Electronic Trust Services	Additional second reading postponed
25	4775	On amending certain laws of Ukraine related to European groupings of cross-border cooperation	Received the Committee submission for consideration (07.02.2017)
26	4776	On amending the Tax Code of Ukraine regarding peculiarities of taxation of import of goods to Ukraine by authorized economic operators	Received the Committee submission for consideration (11.07.2017)
27	4777	On amending the Customs Code of Ukraine regarding authorized economic operator and simplified customs formalities	Received the Committee submission for consideration (11.07.2017)
28	6229	On Ensuring Transparency in Extracting Industries	Included onto the agenda (25.05.2017)
29	4901	On Commercial Accounting of Utility Services	Signed by the President and returned to Parliament
30	4941-А	On the Energy Efficiency of Buildings	Signed by the President and returned to Parliament
31	5448	On the basic principles and requirements for the organic production, handling and labeling of the organic products	Received the Committee submission for consideration (14.03.2017)
32	5548	On amending legislation on protection of consumer rights	Being studied by the Committee
33	5598	On the Energy Efficiency Fund	Signed by the President and returned to Parliament
34	5627	On amending the Customs Code of Ukraine to bring transit procedures in line with the Convention on a common transit procedure and Convention concerning the simplification of formalities in trade in goods	Received the Committee submission for consideration
35	6106	On Strategic Environmental Assessment	Endorsed in the first reading, prepared for the second reading
36	6016	On the Audit of Financial Statements and Audit Activity	Returned to the Committee for revision

№	Registration number	Title	Stage
37	6023	On amending certain legislative acts of Ukraine to improve the legal protection of geographical values	Received the Committee submission for consideration
38	6085	On amending legislation on cross-border cooperation	Endorsed in the first reading
39	6598	On amending legislation on implementation of provisions of certain international agreements and EU directives on protection of flora and fauna	Being studied by the Committee
40	6602	On amending the Law on Waste regarding the implementation of EU directives on waste management	Being studied by the Committee