

**THE RULE OF LAW IN UKRAINE**

**STATE AND WAYS OF IMPLEMENTATION**

Themes of analytical report \*

By the results of public monitoring in 2014-2015

**1. GENERAL PRINCIPLES**

**According to the Constitution** (Art. 1), Ukraine is a democratic, social, law-based state. This officially proclaimed status has to be ensured with the appropriate eligible organizational and legal mechanisms, institutions and relationships.

Historically the rule of law is much broader than the idea of ​​the supremacy of law. Unlike the law, it does not depend on the will of the legislator and goes beyond formal legitimacy, but justice based on the recognition and full acceptance of the highest values ​​of the human individual.

**The concept of human rights** describes the legal status of the human to the state, its opportunities in economic, social, political and cultural spheres. Human rights are inalienable and has natural character. Free and effective implementation of human rights is one of the main characteristics of civil society and state of law.

According to the annual **Rule of Law Index**, in 2015 Ukraine found itself on the 70th place among 102 countries, ahead of Russia, which took 75th place.

**2. ASSESSMENT OF COMPLIANCE AND IMPLEMENTATION basic rights**

***2.1. Creating conditions for the development of civil society in Ukraine***

According to the Unified State Register of Enterprises and Organizations of Ukraine, as of October 1, 2015 in Ukraine there were **86 123** associations, charity organizations, community organizations and creative unions (compared to 90,259 as of 1 January 2013). By number of NGOs per 10 000 inhabitants Ukraine is inferior to post-Soviet EU Member States in 4-22 times.

According to the Razumkov Center, 25.3% of citizens in 2014 prefered public organizations to represent their interests in social processes, and it is a significant growth compared to the 13.8% that took place in 2007.

If the level of the development of volunteering Ukraine ranked 43 place in the world in 2014, the level of private donations is only 123 (World Giving Index, 2014), which indicates both adverse general economic and socio-cultural conditions and the ineffectiveness of tax incentives and weak protection of private donors.

The main **internal problems** of Ukrainian CSOs is **lack of funding**, low qualified staff and poor cooperation with the authorities. The main **external challenges** for CSOs are low interest in their activities by the public authorities.

In 2012, the Presidential decree approved Strategy of state policy for promoting the civil society in Ukraine and priority measures for its implementation, and established the Coordination Council for development of civil society in Ukraine, including representatives of central and regional executive authorities, local self-government and CSOs.

However, this Coordinating Council was eliminated by presidential decree signed on 04.28.2015. We must note that in 2012-2014 in difficult times for Ukrainian democracy this institution has done a lot for the development of civil society, particularly for creating preconditions of Dignity Revolution in Ukraine.



**Propositions:**

To support the initiative of Ukrainian civil society organizations that are working on the new **Strategy** of policy for 2016-2010 years in the partnership with the Administration of the President of Ukraine and with the support of United Nations Development Program (OSCE).

We are sure that it is time to create a **comprehensive System for civil society development assistance**, which should include:

*- strategy* of State Policy for Civil Society Development assistance for 5 years, approved by the President of Ukraine;

*- annual plans* for the implementation of the Strategy prepared by the Government on the basis of annual reports about the state of implementation of the Strategy for CSO participation and approved by the Cabinet*;*

*- national Coordination Council* for Civil Society Development assistance consisting of representatives of the Presidential Administration, Parliament, Government and CSOs, created by presidential decree*;*

*- regional programs* for the development of civil society assistance for 3-5 years with reference to the specific area and consideration of capabilities of each region*;*

*- regional coordinating councils* for civil society development assistance consisting of representatives of Odessa State Administration, regional council, CSOs, which personal composition is formed at the regional level and approved by the heads of State Administration and Regional Council joint order*.*

**2.2. Compliance and implementation of the human rights to social security**

The main causes of social and economic rights violations, which emphasized by citizens in their appeals, are inequality in access to public goods and resources, poverty, social injustice and corruption.

According to the Swiss bank Credit Suisse, in 2015 Ukraine led the ranking of the **poorest** countries in Europe. The welfare of the population is 1,437 dollars per person per year.

Ensuring of Human rights to social protection is provided under the Art. 46 of the Ukrainian Constitution. However, according to the Parliamentary Commissioner for Human Rights (2014) a tendency of high poverty families with children (32.7%), large families (61.7%), households without children which have unemployed persons (36.9%) and also rural population (34.8%) and small cities (28.2%) are still remain in Ukraine.

Unemployment rate, calculated by the ILO methodology, increased in Ukraine in 2014 from 7.1% to 8.9% among the economically active population. According to various sources, now in the national economy sections over **4.5 million citizens** areworking without registration of labor relations, about **145** billion UAH of annual payroll rotates in the "shadow". The annual loss of budget and social funds from illegal employment exceeds 90 billions USD. The Ombudsman’s monitoring indicates the presence of systemic problems in ensuring the working man rights to proper wages. Most social benefits do not provide adequate living standards, that is not lower than the statutory minimum of subsistence level.

In the remuneration area there is a discrepancy in the amount and complexity of executed work and the pay level. Most of social benefits, the main source of livelihood for socially vulnerable people, do not provide quality of life.



The actual pensions increase for the main part of pensioners in the years of 2014-2015 did not happen. And today the current pension legislation **does not promote the interest** of able-bodied persons in their own pensions.

Most of the current legislation and practice in the area of Disability Rights ​​compliance and implementation aimed at providing people with disabilities social assistance, rather than on the rights compliance and ensuring their normal life and full participation in society. Most provisions in this area remain purely declarative as much of these persons rights in practice **is** **not fully realized**.

There are no precise data on the number of homeless people in Ukraine. Depending on the sources, their number ranges from 30 thousand to 500 thousand people. Most of them are in working and reproductive age, a third of the homeless are women.

The main reason for violations of citizens' rights to social protection is inequality in access to public goods and resources, poverty, social injustice and corruption. All this factors led to obtaining Ukraine the status of the poorest country in Europe.

**● *Propositions*:**

- to adopt new Labor Code of Ukraine with the requirements of the European Social Charter (revised) and the conventions of the International Labor Organization;

- to adopt a new national strategy for economic development, particularly in the area of ​​labor rights compliance;

- to create a Guarantee Fund for satisfaction of employees as a result of the employer's insolvency (Declaration of Bankruptcy);

- to intensify the work of the Commission on the elimination of wage arrears to implement the constitutional right to timely payment for labor and monitoring the timely payment of wages;

- to review mechanism of calculating pensions and procedure indexing social security prisoners;

- to establish a single procedure for using of legislative provisions by local authorities towards privileged category of the population;

- to ensure the right to social protection of persons serving sentences in prisons;

- to ensure the right to adequate aid for compulsory state social insurance of persons engaged in entrepreneurial activity and while working under an employment contract;

- to review mechanism of calculating pensions and also interest of every working person in their own pensions;

- to review the state building codes in terms of the universal design principle, including suitability for people with special needs;



- to take awareness-raising measures to form tolerance and respect for people with disabilities and people who live with HIV and preventing discrimination against them;

- the Ministry of Healthcare of Ukraine to work out changes to the list of contagious diseases which constitute grounds for refusing a permit for immigration into Ukraine to eliminate discrimination based on HIV status;

- to expand social dialogue to active involvement of civil society organizations to review and make decisions on improving legislative mechanisms for social protection;

- to ratify ILO Convention number 181 on private employment agencies and the third part of the ILO Convention number 173 on the protection of workers' claims in the event of insolvency of the employer;

- to harmonize labor legislation with the requirements of the European Social Charter (revised), the International Labor Organization conventions, in particular to increase the notice period for termination of employment for workers who have worked for ten years or more.

- to develop legislative proposals for establishing legal mechanisms of solving the problem of legalization of labor relations and wages;

- to establish a guarantee fund for ensuring the protection of employees' claims in the event of insolvency of the employer;

- to strengthen the administrative and criminal penalties for employers delay payment of wages to their employees;

- to improve the functions of supervision and control over compliance with labor legislation by amending the Law of Ukraine "On Principles of State Supervision (Control) of economic activity";

- To consider implementation of the Law of Ukraine "On the basis of social protection of homeless people and street children" at CMU level by local executive authorities and local governments and together with the Ministry of Social Policy of Ukraine and CSOs take additional measures of social protection of homeless people and their reintegration.

**2.3. Compliance and implementation of housing rights**

According to the State Statistics Service, in early 2015 on the housing register in Ukraine there were 657.2 thousand families, persons including residents of the dormitory make 107.4 thousand (16.3%) and young families make 68.1 thousand (10.4%). In 2014 tree thousand families and single citizens received dwelling and improved their living conditions but only **0.4%** of all families and single citizens who were registered and it is 2 times less than the previous year.

As in previous years, in 2014 the state authorities have not taken **any** targeted policy document aimed at implementing the Law of Ukraine "On Social Housing". In 2014 the Cabinet of Ministers of Ukraine, Ministry of Regional Development, Ministry of Finance of Ukraine due to improper legal, organizational and financial support **did not achieve** improvements in solving problems at the state level related to the providing of constitutional housing right to socially disadvantaged groups.

The obstacles, which public authorities and local governments do in obtaining information about free land, violate the rights of citizens to realization of their constitutional right to obtain the ownership of land.



● **Propositions:**

- to amend the land laws to ensure transparent mechanisms for government in implementing of constitutional rights of citizens on land title, in particular, will promote self-solving housing problems by the citizens without assistance from the State;

- to adopt the National Strategy for the further development of housing in the medium and long term plans on the basis of regional economic development and building of houses for social purpose determining the real mechanism and funding sources;

- to provide financial support of the National Target Program of transferring dormitories to ownership of local communities for 2012-2015 through appropriate amendments to the Law of Ukraine "On the State Budget of Ukraine for 2015" and to settlement mechanisms of housing rights realization for dormitories residents, which categories were not defined in the Law of Ukraine "On ensuring realization of housing rights of dormitories residents";

- to determine the procedure for providing cash assistance and reparation to victims during ATO in Donetsk and Luhansk regions and ways of its implementation;

- to identify and legislatively fix the mechanism of restructuring consumer loans in foreign currency.

**2.4. Compliance and implementation of economic rights of citizens**

According to the Index of Economic Freedom (Wall Street Journal), in 2015 Ukraine took only **162** place among 186 countries in the world and the last place among 43 countries in Europe. Reasons: the tax burden on business in Ukraine is almost 40 percent of domestic income, government spending is about 50 percent of GDP and public debt exceeds 40 percent of domestic production.

So, an analysis of the situation in Ukraine in compliance and implementation of economic rights of citizens and expert opinion shows that Ukraine's economy remains "repressed", the supremacy of law in this area is especially weak, investment regime remains closed, rigid labor market and business bureaucratic rules hamper dynamic development of the private sector.

● **Propositions**:

- to adopt the National Strategy for economic development based on formation and implementation of active policy in the labor market;

- to make changes in legislation that will ensure human rights to judicial protection, the unconditional implementation of court decisions and compliance with the European Convention on Human Rights by amending the Law of Ukraine "On enforcement proceedings";



- to create Guarantee Fund for satisfaction of employees requirement as a result of the employer's insolvency (Declaration of Bankruptcy);

- to intensify the work of the Commission on the arrears of wages, pensions, scholarships and other social benefits to implement the constitutional right on timely payment for labor and monitoring the timely payment of wages.

**2.5. Compliance with and implementation of the rights of internally displaced persons**

On account of the occupation of the Crimea and Sevastopol and the armed conflict in the East, for the first time in Ukrainian history it faced the problem of a large number of internally displaced persons (IDPs). In October 2015 the actual number of IDPs in the country exceeded 1.5 million.

Our country really was not ready for occupation of the territory and its opposition to large-scale actions of terrorist organizations. For a long time volunteers and public served the state partly by helping IDPs. But more than a year has passed since the start of these events, and it is time to adopt comprehensive, balanced decisions by public authorities on the basis of a clearly formulated policy regarding IDPs and ensure its implementation.

Despite the fact that state authorities and local authorities take legislative and organizational measures to solve many problems connected with the protection and rights of IDPs, many issues of legal and economic nature remains unsolved. They require legislative regulation and coordination efforts of all public and private institutions, which deal with the problems of IDPs including state agencies, local government services, commercial entities and non-profit community organizations, volunteers and IDPs themselves on the basis of their self-organization and social adaptation.

● **Propositions**:

- to establish cooperation between the state, volunteers and benefactors, to ensure an active involvement of civil society to review and making decisions on improving legislative mechanisms for social protection of IDPs;

- to amend the existing legislation and develop new legislation provided by the part four of Article 20 of the Law of Ukraine "On the rights and freedoms of internally displaced of persons." In this regard those who did business activities on now controlled territory should be added to the category of IDPs;

- to amend the Law of Ukraine "On the rights and freedoms of internally displaced persons" about: opportunities of proving grounds for registering IDPs documents confirming business activity on an appropriate territory; procedure of registration of children, who move without their parents or legal representatives;

- to bring the principles of the Cabinet of Ministers decree of 01.10.2014 № 509 in accordance with the Law of Ukraine "On the rights and freedoms of internally displaced persons" on the documents that can prove residence in the area of ​​ATO;

- to develop and adopt a comprehensive State program for support and social adaptation of Ukraine citizens who have come from temporarily occupied territory of Ukraine and the area of ​​ATO to other regions of Ukraine with clearly defined sources of funding for adaptation and the needs of this category of persons;



- to develop recommendations to the government regarding the potential use of IDPs, which provide the opportunity to develop their creativity, labor and economic potential; to develop a policy document on the creation of additional jobs for IDPs;

- to resolve the issue of paying material support to insured persons in case if the employer accepted a medical certificate and the procedure of financing launched together with the Fund;

- to develop legislative proposals that will resolve the issuance of civil status IDPs on the base of the information contained in the documents issued by the authorities of Crimea or authorities operating in uncontrolled territory, as well as proposals to resolve the matter of making citizens of Ukraine heritage which is located at ARC temporarily occupied territory, ATO territory or uncontrolled by Ukrainian authorities territory.

**2.6. Compliance and implementation of the right to freedom of peaceful assembly**

Article 39 of the Constitution of Ukraine guarantees the right to assemble peacefully without arms and to hold meetings, rallies, marches and demonstrations, which notified in advance with the bodies of executive power or local authorities.

Regulations that govern organization and peaceful assembly on national level and establish responsibility for violations in this area are the Constitution of Ukraine, the Code of Ukraine on Administrative Offences, the Criminal Code of Ukraine and a separate section of the Code of Administrative Procedure.

The right to peaceful assembly also guaranteed by Article 11 of the European Convention on Human Rights and Fundamental Freedoms, which is the part of national law in accordance with Article 9 of the Constitution of Ukraine.

But today **there is no** even registered draft basic law that regulates the organization and holding of peaceful gatherings of citizens. Any coercion of a person to participate in peaceful assembly and persecution for taking part in a peaceful assembly is a violation of freedom of assembly, which entails responsibility under the law.

The absence of a law that would guarantee the protection of peaceful assembly causes and will cause further individual regulation of these guarantees with local regulations by local government of the provisions of the Decree of the Presidium of the Supreme Soviet of the USSR №9306-XI of 07.28.1988.

● **Propositions**:

In order to create conditions for free realization of freedom peaceful assembly in Ukraine in accordance with Article 39 of the Constitution of Ukraine, Article 21 of the International Covenant on Civil and Political Rights, the Article 15 of the Convention on the Rights of the Child, Article 11 of the European Convention on Human Rights Guidelines OSCE on freedom of assembly, the OSCE/ODIHR and the Venice Commission of the Council of Europe should urgently consider and adopt a law which have to protect the participants and organizers of peaceful assembly. This law should also:

- establish notification rather than authorization procedure of peaceful assembly;



- prohibit local governments to restrict rallies, demonstrations, pickets and other peaceful assembly;

- allow spontaneous peaceful assembly in a situation where citizens should be able to instantly react to violations of their rights or interests;

- establish a clear and comprehensive list of reasons when courts may restrict peaceful assembly. Such restrictions may be imposed only by the court only in exceptional cases and only when they are necessary in a democratic society;

- Establish mediation - oblige authorities to consult and negotiate with the organizers of peaceful assembly to resolve the issue which will be given to peaceful assembly;

- set minimum term for notification of peaceful assembly;

- ensure the right to appeal against the injunctions of peaceful assembly.

**2.7. Compliance and implementation of elderly people rights**

It is about national policy towards elderly people that according to existing official criteria do not require state social assistance, but cannot realize their rights and meet their professional, creative, spiritual needs and interests. The analysis showed that the number of such people in Ukraine reaches **10-11 million**.

The analysis of socio-economic development strategies in all regions of Ukraine as for the presence of an active longevity assistance among their priorities showed that the latter is reflected only in the strategy of *Khmelnitsky, Volyn and Rivne regions*.

  None of the regions has targeted regional programs on active longevity assistance for elderly people. Although the subject of ALA socio-economic development programs of Ukraine regions for 2010-2015 period is reflected in certain sections of six regions of Ukraine: Zakarpattya, Lviv, Rivne, Kherson, Khmelnytsky and Chernivtsi.

Analysis of **municipal programs** of regional centers showed that none of them has specific city programs on active longevity assistance for elderly people.

The absence of effective policies to support elderly people in Ukraine is confirmed by both survey results and statistics.

Thus, the survey "Senior men and women in Ukraine" conducted in 2013 by the "Social Monitoring" center showed that **78%** of elderly men and women do not experience the implementation of public policy for the elderly in Ukraine. Also, 42.5% believe that the state is not sufficiently attentive to the needs of elderly people, while 29% believe that the government ignores their needs.

At the regional level active longevity assistance state policy for elderly people is reduced mainly to the Universities of the Third Age (ratified). But in most territorial centers in Ukraine conditions for UTA **service are not established**: absence of premises, poor infrastructure, lack of teachers who are forced to work on a volunteer basis, the lack of state and local education programs, and lack of incentives for renting premises for UTA. Public and authorities collaboration in this area is rarely observed.

Therefore, the government does not consider the social policy for active older people **as a social resource of society**, do not pay much attention to the implementation of constitutional rights and freedoms of the majority of elderly citizens and does not set this issue at the state and regional policy level as well.



**● Proposition**

- to acknowledge the policy on active longevity of elderly people assistance as a priority of governmental social policy and secure it in the National Action Plan on senior population, developed by interagency performing group established on the basis of Social Policy Ministry;

- To recommend regional councils and regional administrations to provide their annual socio-economic programs on developing strategies with specific sections or even individual programs devoted to promoting the active longevity of older people;

- at the Institute of Gerontology and the Institute of Demography hold annual scientific conferences and other interaction events on the use of the potential of active elderly people with the participation of public and private educational institutions, representatives of socially responsible businesses, employers' organizations, trade unions, civil societies and media;

- to establish close business contacts with international organizations and donor agencies for which an issue of the active longevity of elderly people has been a priority for a long time, stimulate the implementation of grant projects for NGOs in Ukraine.

**The main idea** is ​​formation of a new policy towards elderly persons; they must be transformed from "ballast" of the society to the primary resource of its development. Moreover, this policy priority must be given to maintaining active elderly people.

Formation and implementation of policy on active longevity assistance towards **active** elderly persons should include the medical aspects of geriatrics, gerontology, healthy lifestyle; leisure, cultural, creative development; professional growth, employment, training, retraining, entrepreneurship, economic activity, mentoring; psychological adaptation to the new stage of life, social integration, the formation of positive thinking and positive public perception of elderly people; spiritual development of elderly persons, joining faith, search for the meaning of life, the comprehension of consciousness, patriotism; social activities, volunteerism, self-organization, promotion of the idea of ​​solidarity and responsibility between generations.

**2.8. Compliance and implementation of the human right to appeal**

The study of compliance with human rights in Ukraine to appeal focuses on operational phone appeals. Public monitoring of the quality of telephone "hot lines" (THL) of central executive bodies (CEBs) was held in Ukraine in 2014-2015 by the coalition of NGOs led by Odessa Institute of social technologies and social “Association for community self-organization assistance” organization.

As a result of the monitoring some **shortcomings** of the current system of citizens’ telephone appeals were discovered:



- deficient legal framework for support of the CEB requests by telephone and via the Internet;

- absence of common standards of work with public on using THL by CEB, a weak system of control, including public control over the quality of work;

- Lack of modern hardware and software to simplify the procedures of appeals on the activities of executive bodies on the principle of "single window";

- Almost no feedback between citizens seeking to THL CEB, and these authorities on the response to this appeal;

- absence of integrated approach to the analysis of public opinion and supply of information and clarification on important issues of public policy to the public, unclear interaction UCC with telephone "hot lines" CEB.

Therefore, Ukraine issues related to the functioning of the Government and THL of CEB are not regulated by law, although such "hot lines" should be considered as one of the instruments to implement the constitutional right to appeal. General regulation of THL work carried out so far at the level of secondary regulations what is insufficient.

The order of interaction of executive and GCC adopted by the government in Ukraine, initiated the creation of an integrated system of interaction between the executive authorities and state institutions "Government contact center" for resolving problems which stakeholders seek at the governmental THL.

Most of CEB has not the one telephone "hot line" and not even two of them, some of them have several phone numbers, which confuses business applications, especially in situations where represent areas of specialization THL are unclear.

Information about THL of CEB is at unsatisfactory level. Only in a half of cases, information about the THL online on a GCC sites and most of CEB sites is the same.

Control phones appeals to these "hot lines" have shown that the system of THL kept low compliance with the rules of civilized communication and ethics in relation to clients.

**● Propositions:**

*To the Cabinet of Ministers of Ukraine*:

- to initiate at the legislative level the consolidation status of telephone "hot lines" of public authorities and appeals coming through them, shortening the term review of the appeals that require an immediate response from the authorities, to determine the criteria on which the appeal is subject to immediate consideration and adoption of urgent measures to solving the raised issues in them;

- to approve the CMU enactment of "The establishment and functioning of THL authorities" which should fix common standards and norms of dialogue between officials of executive power and citizens; adopt "Standard regulations on the organization of the “hot line” of CEB";

- to conduct quantitative and qualitative analysis of all THL of CEB, in particular on the number of calls, conduct their accounting responses to them by the relevant central executive bodies, etc., and decide regarding the necessity of THL separately in each CEB;



- to introduce regular hearings at meetings of the CMU (at least annually), information on the status of telephone "hot lines" of executive bodies and of responding to issues raised in the appeals;

- To consider the functioning of telephone "hot lines" of all CEB at the base “0-800- ...” to enable the applicants appeal both from fixed and mobile phones for free.

*To the state institution "Governmental contact center":*

- to make complete online list of THL of all CEB, their names and working hours, as well as give information about the list of issues that are the responsibility of each of CEB, including the areas of specialization of every "hot lines" to ensure regular updating of the information;

- to introduce online GCC section which would give an opportunity to the client on government telephone "hot line" to monitor the status of each stage of the application for its registration number;

- to provide regular (annual) publication of information about the collection and analytical activities in Ukraine of THL analysis of the current status, information about changes in the regulatory framework and guidelines for the organization of certain activities of telephone "hot lines".

*To CEB, which have their own telephone "hot line":*

- to approve the “Regulation on the telephone "hot line” on a base of the governmental Model Regulations on the organization of "hot lines" CEB;

- to provide information about their telephone "hot lines" on the main pages of official CEB sites to simplify search for such information for interested persons;

- to increase the duration of THL work for better access and more rapid response to appeals, to provide an opportunity to appeal to THL 24 hours long (out of working hours - using audio).

- to provide an audio recording of all calls to THL for continuous quality control of the applicants, as they must be notified;

- to disseminate information about numbers THL of CEB among all employees of relevant authorities;

- to conduct interviews with operators of THL, and if it’s necessary to unscheduled certification for compliance with professional, including ethical standards in the performance of their professional (official) duties;

- to adopt function “assessment of service on the “hot line” on a 5-point scale, to evaluate its work at citizen’s request.

*To local executive authorities:*

- to give the information about the existing THL of CEB system in Ukraine on their official websites with telephone numbers and their working hours, as well as the phone numbers of Governmental THL;

- if possible, to increase the number of materials covering information on the impact of the Government THL and CEB telephone "hot lines".



*To Civil Society Institutes:*

- to Step up activities to inform target groups whose interests are NGOs about the possibility of appealing to a THL of executive bodies, the corresponding coordinates and the algorithm of usage of this form of communication;

- NGOs involved in the implementation of public monitoring are supposed to continue cooperation with the relevant services of the Government and GCC in terms of implementation of proposals to improve the system of THL;

- national and local public organizations, self-organization are recommended to take control of THL activities at the national and local levels, using the available tools for public participation in governance.

**2.9. Compliance and implementation of human rights as consumers of goods and services**

According to Article 42 of the Constitution of Ukraine, the state protects the rights of consumers, exercises control over the quality and safety of products and all kinds of services and activities, and promotes the activity of public consumer. But researches show that the current state of the rights of consumers in Ukraine **cannot be** considered satisfactory.

In Ukraine **there is no legislative act** which would have contained an exhaustive list of violations of the undertakings on legislation on consumer protection.

Thus, despite of the presence of public services and non-governmental organizations in Ukraine which deal with the protection and the judiciary and the presence of several dozen of legal acts regulating these issues it’s hard to say that our country achieved the **system of consumerism**, because all mentioned components of the system are quite weak, and their activities are uncoordinated.

Ukrainian realities today have such a negative phenomena, as uncontrolled market, counterfeit goods, the sale of low-quality goods and services and shortchanging kit, the dominance of advertising, difficulty redress and more. Therefore, national legislation, including the Law of Ukraine "On Consumer Rights Protection", "On the safety and quality of food", "On housing services," Code of Ukraine on administrative offenses require further improvement in this area.

● **Propositions**:

- to make development networks of consumers one of the main directions of development of consumerism in Ukraine;

- to include questions about consumer education in the curricula of higher educational institutions that train teachers of economics, law, etc.;

- to introduce consumer examination of draft acts of public authorities relating to consumer needs and interests of the population as well as organizational and legal documents used in relations between providers of utilities and other public services by experts of relevant executive authorities and non-governmental organizations;

- to continue implementation of standards ISO 9000-2001 in the activities of public authorities and pay particular attention to the role of integrated quality management systems in enhancing consumer protection;



- to create a special coordinating council for monitoring the implementation and assistance of appropriate programs on a base of State Committee for Technical Regulation and Consumer Policy and its territorial divisions;

- to create appropriate conditions for the operations on consumer protection in a local government structural divisions;

- to ensure the creation of educational curricula on consumer education;

- to adopt local programs to protect the rights of consumers, providing them cooperation of executive authorities of local governments and public organizations of consumers;

- to provide civil organizations of consumers, financial support from the public authorities.

Proposed to delete the rule, depriving customers of the guaranteed right to free defense in court their rights from the new Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine regarding payment of court fee". This right is provided for in Article 22 of the Law of Ukraine “On Protection of Consumers' Rights”.

**2.10. Compliance and implementation of the public right to participate in governance**

According to Article 38 of the Constitution of Ukraine, citizens have the right to participate in public affairs, in national and local referendums, to elect free and be elected to state and local governments. Mechanisms for implementation of this law are in the areas of **representative democracy and participatory democracy**.

But the current legislation of Ukraine, which provides certain rules regarding public participation in the governance, does not provide appropriate mechanisms such participation and therefore declared constitutional provisions on the possibility of public participation in governance (Art. 38) remain largely declarative. Thus, participatory democracy in our country is still just a **declaration**. It is more the exception than the rule of public relations.

If we add to this flawed legislation in sphere of representative democracy, especially those that regulates the local elections and the lack of legislation on local referenda, it must be admitted that the practical implementation in Ukraine the provisions of Article 5 of the Constitution, which provides that “the people use their power directly and through public authorities and local governments” **is impossible**.

At the level of local authorities and local governments the necessary organizational and legal conditions have not been created for public participation in formulating and implementing of local policy and the practice of responsible for this services and officials is insufficient and ineffective. In addition, the public is very poorly motivated and insufficiently trained for such participation.

This is eloquently may indicate at least the fact that the statutes of local communities, which actually should be spelled out mechanisms of participatory democracy, adopted in **less than 20% of the communities**, and those which approved, are duplicate standard laws and don’t create a basis for practical usage of these norms.



Development of public participation in governance of local affairs is also hindered with lack of understanding between the authorities and the community and weak motivation of the parties to establish their effective interaction.

●**Propositions:**

- generally initiate development of Statutes in communities where they don’t have it and make necessary changes to existing Statutes using models proven in practice, as well as the adoption of regulations that regulate procedures for application of mechanisms for public participation. We must also adapt the regulations of the local councils and executive bodies with the terms of expanding public participation in the preparation, adoption and implementation of management decisions;

- modernizing the current Constitution, not to refuse standards in the field of local democracy, which proved themselves in practice and provide the necessary level of local democracy, particularly in the establishment and operation of self-organization community organs, and to make only those amendments which agreed by a wide range of public experts and leaders of public institutions who able to improve the situation in the implementation of human rights;

- one of the *main tasks* of the community should be the implementation of a systematic, comprehensive and professional public monitoring of the implementation of all proposals to expand public participation in the formulation and implementation of local policies for active, creative participation of civil society experts, CSOs and community councils in the process of modernization of public participation mechanisms.

- it is also advisable to adopt at the level of regions, cities, special districts and local targeted programs aimed at creating conditions for the expansion of public participation in the management of local affairs;

- to implement measures aimed at raising the professional level of officials of local public authorities, including local councilors in matters expanding public participation in governance;

- it is necessary to provide use of modern information technology, particularly the Internet, for the development of different forms of e-democracy. It is also proposed to start at the official sites and public media of certain category and individual programs aimed at promoting various forms of public participation;

- to strengthen government and community joint responsibility for the situation in the territory by particulate delegation of authority to address these issues by citizens and CSOs who have to solve it on the principles of self-organization, self and mutual assistance.

**2.11. Compliance and implementation of citizens' rights in the process of local government reform**

During the reform of local government there have been found numerous violations of human rights including the right to information, to participation in governance, to respect for human dignity and other constitutional rights.



The scenario of reform does not provide staged, or voluntary, or logic changes. Because at first it should have been adopted the law on local referendum, the general meeting (conference) of local initiatives and other mechanisms for expression of interest and protect the rights of citizens who would provide the legal basis for real, free and responsible participation public.

Then it had to be social and economic expert-diagnosis of communities to prepare their association. On this basis conduct a thorough information campaign and explain to people the meaning and prospects for reform.

Then stimulate cooperation of community based on opportunities offered by the Law "On cooperation of local communities", to conduct a voluntary association of community and then implement decentralization with the transfer of state renewed system of local government more authority, resources and responsibility for solving huge number of problems that have accumulated on the ground.

Everything was done the same in reverse order and without proper information and educational activities. And now 159 joint communities that believe in reform and moved by it, stopped in confusion, without knowing:

- How to complete the reorganization of councils and their executive bodies, how to register the termination of some authorities as legal entities and create new ones;

- Which budgetary institutions, organizations and social infrastructure will now be financed from the budget of the incorporated community;

- which objects have to go to municipal ownership united community;

- what is the jurisdiction of land that was previously outside the settlements, and now find themselves within a united territory, and which part of the land tax as the main items of income will go to the budget of the united community;

- Which numerical composition and the staffing of management personnel should have each incorporated community?

Unfortunately, the Cabinet approved Methods of forming viable communities, which were intended to describe the step by step process of its creation, limited only the preparation of Policy plans and does not answer the question: how united communities complete the association and develop further.

**● Propositions:**

- to adopt the Law "On the organs for self-organization of the population" (Reg. № 2466) in the new version as soon as possible, which simplifies the creation of community organizations and improving their conditions of work and cooperation with local authorities;

- for legitimate consideration public opinion in addressing local issues, particularly in the absence of a law on local referendum, the Law of Ukraine "On general meeting (conference) of members of communities residence" (Reg. № 2467), which should expand powers of general meeting, to clearly define the principles and procedures to regulate their conduct and procedure of conferences;

- in uniting communities the establishment of safety self-organization community organ as violations of the rights of these communities should be promoted. It can help speedy establishment of joint life in communities and become stewards of public support, which under the current law, in fact, they are the only coordinators and facilitators life in villages that became part of united communities;



- instead of regional offices of reforms regional headquarters of reforms should be created to which first persons State Administration, Regional Council and representatives of civil society should enter; these structures should be responsible for the implementation in the area of ​​local government reform and other reforms envisaged by the Strategy of Sustainable Development "Ukraine - 2020", and the offices of reform experts can work in these headquarters;

- it should be considered the feasibility of introduction in all Regional Administration and Kiev city state administration as deputy head of the administration to implement reforms, responsible for the implementation of reforms in local government and in other areas;

- forming united communities it should be focused on the formation of joint strategies and plans of their socio-economic and cultural development using all the new features that makes this association; in particular, actively usage of the opportunities in 2014 adoption of the Law "On cooperation of local communities" for establishing close cooperation between the communities to unite and between united communities;

- to facilitate the successful completion of all phases of community associations and balance the interests of its members and to promote active public participation in the development of the reformed community NGOs advisable to establish a network of community support and technical support reforms.

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\* For full report, which contains all references to the original source, please visit our web-site: <http://samoorg.com.ua/vydanny>