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CONTENT

Introduction.....	3
1. Mechanism of implementation of comprehensive constitutional reform	3
1.1. Potential procedural scenarios for constitutional reform.....	3
1.2. Principles of comprehensive constitutional reform.....	5
2. Content of comprehensive constitutional reform	6
2.1. Structure of the Constitution of Ukraine	6
2.2. Human rights	7
2.3. Sources of law.....	8
2.4. Form of state government.....	9
2.4.1. General comments	9
2.4.2. Constitutional design of semi-presidentialism in Ukraine: some issues	10
2.5. Principles of direct democracy	12
2.6. Form of the state organization	14
2.7. Local and regional self-government.....	14
2.8. Procedure for amending the Constitution of Ukraine	15

Introduction

After Ukraine wins the war, it will have to find more efficient forms of public governance and a new configuration of interaction between the state and the society which will eventually lead to the need to adapt the Constitution to the new realities of the state-building processes. Consistent deepening of Ukraine's current Euro-Atlantic integration course will require introducing appropriate amendments to the Constitution of Ukraine to adapt the national legal system to the EU legal space and NATO security standards. Moreover, since 2014, after the Revolution of Dignity, a constitutional reform of the power triangle has not been carried out to balance the branches of government and complete the reform of local self-government and territorial organization of power at the constitutional level.

The current Constitution adopted back in 1996 when Ukraine was at an early stage of its democratic development, no longer meets modern realities and the society's requirements in many aspects. In particular, numerous Soviet anachronisms in the Constitution, inconsistency of its formal provisions with actual social and geopolitical realities, as well as insufficient and contradictory regulation of certain important issues related to the constitutional order and human rights, point to a serious need for the constitutional reform which can become a tool for strengthening democracy and the rule of law in Ukraine.

This concept aims to provide a systematic vision of a potential constitutional reform and mechanisms for its implementation in order to establish European standards of democratic governance in Ukraine after the victory.

1. Mechanism of implementation of comprehensive constitutional reform

1.1. Potential procedural scenarios for constitutional reform

From a procedural point of view, the reform which envisages comprehensive update of provisions of the Constitution of Ukraine, can take place in accordance with one of the following scenarios:

1. Comprehensive amendments to the sections of the Constitution of Ukraine referred to in Article 155 of the Constitution (the so-called 'unprotected' sections) and to the sections referred to in Part 1 Article 156 of the Constitution (the 'protected' sections) by adopting individual laws on amendments to the Constitution in accordance with the provisions of Section XIII of the Constitution of Ukraine. In this case, the initiator of amendments to the Constitution has to submit simultaneously two separate (but substantively related) draft laws on amending the Constitution of Ukraine. Each of the draft laws has to be examined and adopted separately by the Parliament in accordance with the

provisions of Articles 155, 156 and 159 of the Constitution, while the draft law on amending Sections I, III, XIII adopted by the Parliament has to be approved separately at an all-Ukrainian referendum. Both laws on amending the Constitution of Ukraine should contain provisions that provide for their combined and coordinated entry into force and according to which, in case if one of them is not adopted by the Parliament or not approved at the all-Ukrainian referendum, the other law related to it does not enter into force.

2. Amendments to the Constitution of Ukraine by adopting a new version of the Constitution of Ukraine. Although such law would state the legal body of the 1996 Constitution of Ukraine in a new textual wording, it would still be considered a law amending the Constitution of Ukraine, not a new Constitution. However, the provisions of Articles 157 and 158 of the Constitution should apply to this law. The Parliament has to provide a preliminary approval of the draft law, and at the next regular session adopt the law on amendments to the Constitution of Ukraine by a qualified majority, which is then has to be approved at an all-Ukrainian referendum.

3. Adoption of a new Constitution of Ukraine to replace the 1996 Constitution. In order to implement this scenario, the Parliament has to adopt the Law of Ukraine *On the Procedure for Drafting and Adopting the Constitution of Ukraine*, which would regulate establishment and a procedure for formation of a special constituent body (constituent) that would draft and adopt the new Constitution of Ukraine. The constituent will then be formed by election as an *ad hoc* body that drafts, examines and adopts the new Constitution of Ukraine to be finally approved at an all-Ukrainian referendum.

Each of the above scenarios has its advantages and disadvantages. In particular, development of separate draft laws (*Scenario № 1*) is in line with constitutional and legislative provisions, but implementation of this approach may entail the risk of unsystematic and inconsistent amendments to the Constitution. Another risk of introducing radical changes to the Constitution of Ukraine, especially those related to Section 2, (*Scenarios №1 and №2*) is the need to obtain a preliminary opinion of the Constitutional Court of Ukraine on compliance of the draft law with the requirements of Articles 157 and 158 of the Constitution of Ukraine. And here, especially with regard to Part 1 Article 157, there is already a rather ambiguous practice of previous decisions. Adoption of a new Constitution (*Scenario № 3*) is the most difficult and time-consuming option, and it also carries the risk of diminishing the significance of the 1996 Constitution as the constituent document that finally enshrined the independent sovereign state of Ukraine at the constitutional level. It should also be added that from a regulatory point of view, a significant number of fundamental norms of the constitutional legal order enshrined in the 1996 Constitution are unlikely to be significantly revised, which is why this approach is not justified and raises the most objections. According to the CPLR experts, the best way to

carry out this reform is to adopt a law of Ukraine on amendments to the 1996 Constitution of Ukraine by stating it a new wording (*Scenario № 2*).

However, regardless of which scenario is chosen for implementation, it should be emphasized that the constitutional reform should be carried out exclusively in a legitimate manner. In any case, the mechanism of comprehensive constitutional reform must include a stage envisaging an open and inclusive dialogue between representatives of the government, civil society, and the expert community on development of a draft law on amendments to the Constitution of Ukraine (see the *Principles of comprehensive constitutional reform* below).

1.2. Principles of comprehensive constitutional reform

One can specify the following crosscutting principles that should be taken into account when implementing a comprehensive constitutional reform:

1. *Legitimacy* – any amendments to the Constitution should be adopted in accordance with the legally defined and clear legal procedures envisaged in the Constitution and laws.

2. *Inclusiveness* – all stakeholders (political parties, academic institutions, civil society organizations, etc.) should be involved in the process of discussing and approving decisions on the constitutional reform.

3. *People's power* – any amendments to the Constitution that define or change the constitutional order in the state must be approved by the people at an all-Ukrainian referendum.

4. *De-Sovietization/decommunization* – Soviet and post-colonial names, terms and concepts have to be removed from the Constitution.

5. *Modernization* – the Constitution should reflect the current realities of the Ukrainian state and society, international legal order, and technological progress.

6. *Optimization of the constitutional design* – the Constitution should correct the existing errors and contradictions in the way public authorities are organized and function, update the system of administrative and territorial structure, and strengthen local and regional self-government.

7. *Rule of law (supremacy of law)* – the Constitution should enshrine the rule of law in the society, respect for human dignity and human rights, and all activities of the public administration should be based on a human-centered approach to governance.

8. *Priority of human dignity as a constitutional value* – the Constitution should recognize human dignity as a fundamental value of the constitutional order, guarantee human rights as inviolable and inalienable, establish the basic rules of correlation between human freedom and the extent of state interference with private autonomy.

9. *Euro-Atlantic course* – the Constitution should lay the foundation for further

adaptation of the national legal system and governance practices to the EU and NATO standards, create a legal basis for mutually beneficial cooperation between Ukraine and the EU and NATO member states in the economic, political, social, cultural and security spheres.

10. *Priority of the international legal order* – the Constitution should reflect Ukraine's attitude to the international legal order, according to which the fundamental principles and norms of international law should form the basis for Ukraine's foreign policy, whereas Ukraine has to recognize and guarantee implementation of its international commitments.

11. *Values-based approach* – the Constitution should be perceived as a quintessence of the values prevailing in the society, not as a detailed instruction that sets out the rules of behavior for all occasions.

12. *Conciseness and autonomy* – the content of the Constitution should be limited to the most important principles, forms and procedures pertaining to organization of the constitutional legal order, that, according to the Constitution, should be further formalized in normative acts of lower legal force, while validity and/or application of the Constitution should not depend on the presence or absence of such acts.

13. *Clarity and legal certainty* – provisions of the Constitution should be clear and unambiguous, which fact should exclude its unequal application or arbitrary interpretation in law enforcement practice; the number of ideological provisions of the Constitution should be minimized.

14. *Staged implementation of the constitutional reform* – the Constitution should envisage a staged process of re-launching respective public authorities after its entry into force.

2. Content of comprehensive constitutional reform

2.1. Structure of the Constitution of Ukraine

It is necessary to preserve general approaches to structuring the Constitution of Ukraine while finalizing its content. The Constitution should consist of a preamble, sections and articles. Articles of the Constitution should consist of numbered parts, clauses and sub-clauses (if necessary). Within some large sections, separate sub-sections should be singled out, within which homogeneous provisions will be grouped. For example, in the *Parliament* section, the following subsections can be identified: *Parliamentary Elections and Term of Office, Status of Members of the Parliament, Organization and Activities of the Parliament, Legislative Process*, etc.

Model structure of the Constitution of Ukraine:

- Preamble.

- Section I Constitutional Order in Ukraine (will include provisions on the administrative and territorial structure)
- Section II Rights, Fundamental Freedoms and Duties of a Human and Citizen
- Section III Principles of Direct Democracy
- Section IV Local and Regional Self-Government
- Section V Parliament
- Section VI President
- Section VII Government. Public Administration
- Section VIII Justice
- Section IX Public Finance (this section may contain general provisions on budgetary, tax, and emission relations in Ukraine)
- Section X Extraordinary (Special) Regimes (this section may contain general provisions on the legal regime and methods of introduction of martial law, state of emergency, epidemics, and other extraordinary legal regimes that envisage restrictions of the constitutional rights and freedoms)
- Section XI Constitutional Court of Ukraine
- Section XII Revision of the Constitution of Ukraine
- Section XIII Final and Transitional Provisions

2.2. Human rights

When drafting provisions of the Constitution of Ukraine related to human and civil rights and freedoms, it is necessary to take into account the current trends in the sphere of development and protection of human rights at the international level. In particular, the Constitution should envisage implementation of international and European human rights standards, including the latest environmental (related to climate change), information (related to the Internet resources), bioethical (related to reproductive issues), and other rights and freedoms, as well as approaches to combating discrimination in all possible forms, in Ukrainian judicial proceedings and administrative practice.

The Constitution should strengthen the guarantees of human and civil rights and fundamental freedoms, primarily by taking into account the international and European standards for development and regulation of civil and political rights. At the same time, the constitutional regulation of socio-economic rights requires a more concise approach using the experience of European countries, as well as relevant recommendations of the Venice Commission. On the other hand, when using the international and European experience of regulating human rights issues, it is necessary to take a balanced approach to implementation of these recommendations, which do not always correspond to the realities and social expectations of the Ukrainian society.

In order to overcome systemic violations of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols by Ukraine, the Constitution should guarantee that individuals and legal entities have:

- unimpeded access to the use of all national legal remedies, as well as a possibility to apply for the protection of their rights and freedoms to the relevant international judicial institutions or bodies of international organizations, of which Ukraine is a member or participant;
- functioning system of bodies whose activities are aimed at ensuring actual implementation of decisions of national and international institutions on restoration of violated rights.

The Constitution should also strengthen the institution of constitutional complaints as an effective tool for protecting violated rights and freedoms. In particular, the mechanism of examination and decision-making by the Constitutional Court of Ukraine in these cases should be improved in such a way that the Constitutional Court is able to examine respective cases within a reasonable period of time, and decisions made by the Constitutional Court must be mandatory for implementation.

2.3. Sources of law

The Constitution should set forth general principles of regulation of the sources of law in Ukraine. In particular, the Constitution should envisage unambiguous regulation of relationship between national and international law, ratification and denouncement of international treaties, and the differentiation between laws and bylaws.

In addition to this, the Constitution should envisage a distinction between the subjects of regulation, the procedure for adoption, the rules for applying the presidential veto, and specific features of the constitutional control over *constitutional*, *organic* and *ordinary* laws. In particular, constitutional laws will include acts amending and supplementing the Constitution of Ukraine (see below). It is proposed to define organic laws as the laws that are directly referred to in the Constitution of Ukraine and whose normative stability is particularly important for development of the state and the society, while ordinary laws are adopted on other issues provided for by the Constitution. Organic and ordinary laws will also differ in terms of their adoption procedure: organic laws will be adopted by an absolute majority of the total number of MPs in the Parliament (the presidential veto on such laws can be overridden by two thirds of the total number of MPs), while ordinary laws will be adopted by a relative majority of MPs (majority of those present), and the presidential veto can be overridden by an absolute majority of the total number of MPs in the Parliament.

The Constitution may also envisage special rules for submission, examination and adoption by the Parliament, as well as for signing by the President of ordinary laws on ratification and denunciation of international treaties, on approval of the State Budget, on introduction and abolition of extraordinary (special) constitutional regimes, etc.

2.4. Form of state government

2.4.1. General comments

Ukraine must remain within the framework of a mixed (semi-presidential) form of government, as the implementation of the so-called ‘pure’ forms of government – a presidential or parliamentary republic – carries a number of potential risks for preserving sustainable democracy in Ukraine and ensuring efficient governance.

Implementation of the presidential republic scenario in Ukraine could lead to:

- imbalance of the mechanism of checks and balances;
- threat of presidential dictatorship;
- public governance crisis – if the president and the parliamentary majority have different positions as to the directions of the state’s domestic and foreign policy.

Implementation of the parliamentary republic scenario in Ukraine could lead to:

- usurpation of power by one political force or oligarchic group;
- a prolonged political crisis – if political forces fail to reach a consensus on formation of the government;
- significant management difficulties under the conditions of war or a threat of war.

Given specific Ukrainian political and socio-economic realities, one should mention that the dualism in the executive branch, typical for a semi-presidential republic, is more of a positive sign than a disadvantage in terms of organization of the power mechanism in Ukraine, since it promotes development of democratic traditions of interaction between the supreme authorities, prevents usurpation of power by both the parliamentary majority and the President, introduces elements of mutual control of political actors, which, ultimately, should make the authorities more accountable in their activities.

Of the two types of semi-presidential systems (presidential-parliamentary and premier-presidential), the premier-presidential model is more optimal for Ukraine, as it is more balanced in practice and carries fewer risks of usurpation of power by the President. Within the chosen mixed form of governance, it is necessary to divide power between the

Parliament (the only legislative body functioning in the form of a mono-chamber legislature), the President (the head of state elected by popular vote), the Government (the highest executive body responsible for development and implementation of the state policy), central and local executive authorities, independent institutions (the Central Election Commission, the National Bank of Ukraine, independent regulators accountable to the Parliament, and the High Council of Justice), the judiciary (which includes a separate system of prosecution bodies), and the constitutional control body (the Constitutional Court of Ukraine).

The role of the President of Ukraine in the state power mechanism should be controlling and arbitration, while the Government should have the decisive powers to formulate and implement the state policy. The powers of the President and the Government in the areas of national security, defense, and foreign affairs should be clearly delineated. The Constitution should strengthen the role of the Prime Minister in forming the Government, as well as his/her responsibility for formulating, coordinating and analyzing the state policy in the areas of competence defined by organic law.

The Constitutional Court should act as a real guarantor of the Constitution and an arbiter between the supreme bodies of state power, and therefore the CCU should exercise both preliminary and subsequent constitutional control in cases envisaged by the Constitution. The scope and limits of the CCU's constitutional control should be determined by the Constitution of Ukraine and cannot be expanded by an organic law. In addition to this, the Constitution must stipulate the number of votes of the CCU judges required for adoption of any CCU decision, as well as the number of judges for the CCU to have the power to hear cases.

The Constitution of Ukraine should unambiguously establish the scope and limits of powers of the supreme state authorities; in particular, the possibility of expanding such powers at the level of organic law should be specifically avoided.

Instead of listing public authorities by their name, the Constitution should provide for an organizational and legal 'taxonomy' of public authorities, i.e., the types of bodies that can be created in general (rather than listing them by name), as well as a distinction between public authorities and advisory (consultative) or auxiliary bodies that are not subjects of power (e.g., the Office of the President of Ukraine).

2.4.2. Constitutional design of semi-presidentialism in Ukraine: some issues

It is necessary to improve the interaction between the Parliament, the President, the Government, and other executive bodies making sure that the Constitution ensures legal

regulation of the following issues:

- *Formation of the Government.* The President of Ukraine, having consulted with representatives of political parties that have received mandates in the Parliament, submits a nomination to the Parliament on appointment of the Prime Minister. The Parliament appoints the Prime Minister by an absolute majority of votes. Within the time envisaged by the Constitution, the Prime Minister shall submit to the Parliament the Government's Program of Action and members of the Government who will be responsible for its implementation. The Parliament appoints the Government and approves the Government Program by voting, which will be a vote of confidence in the newly formed Government.

- *Powers of the President and the Prime Minister. Counter-signature.* The Constitution should clearly define the areas, in which the President, the Prime Minister and the Government are authorized to issue normative and individual acts independently. In addition to this, the Constitution should require mandatory counter-signatures of presidential decrees by the Prime Minister and orders of the Prime Minister by the President (primarily on personnel issues).

- *Early termination of the Parliament's powers.* The Constitution should envisage an exhaustive list of grounds for mandatory and discretionary early termination of powers of the Parliament by the President within a clearly defined period.

- The procedure for *impeachment of the President* of Ukraine should be simplified significantly, and it should include no more than two or three steps. At the same time, a balance should be maintained between protection of the President from politically motivated attempts to remove him/her from office and a realistic procedure for removing the President if there are appropriate grounds. The President shall be deemed removed from office if a respective decision is adopted by at least two thirds of the constitutional membership of the Parliament by secret ballot, and if a respective opinion of the Constitutional Court of Ukraine has been rendered. It is also proposed to add violation of the Constitution by the President to the grounds for impeachment.

- *Limited functional parliamentary immunity.* The Constitution should envisage a certain scope of parliamentary immunity to protect MPs from unjustified political persecution, but at the same time prevent them from abusing their political influence.

- *Interpellation.* The Constitution should envisage a traditional form of parliamentary oversight of the Government's activities – the institution of interpellation (a request to a minister or the Prime Minister on implementation of the state policy with a mandatory following discussion of the answer in the Parliament), which is directly related to collective political responsibility of the Government to the Parliament as provided for in the Constitution.

- *Right to initiate legislation.* It is advisable to envisage an exclusively collective right to initiate legislation for Members of Parliament. The President may have the right to initiate legislation only on those issues that are attributed directly to his/her competence by

the Constitution. The government may submit draft laws on any issue.

- *Veto power over laws adopted by the Parliament.* The president should have the right of suspensive veto, which can be overridden by an absolute majority of votes in the parliament (simple majority). If a hierarchy of laws is introduced, the rules for applying the veto to different types of laws should be explicitly stipulated in the Constitution. In addition to this, the Constitution should provide for safeguards against the President's failure to sign laws within the time limit established by the Constitution. We propose to extend the promulgation period from 15 to 21 days, and after overriding the veto, to reduce the period for the President to sign the law from 10 to 3 days. At the same time, it is necessary to differentiate between the specific features of the presidential veto over organic and ordinary laws.

- *Organization of executive power. Status of the state (civil) service of Ukraine.* The constitution should specify what types of executive bodies can exist at the central level. The government should be empowered to appoint independently the heads of respective local executive bodies. Furthermore, it is advisable to specify the status and types of public service, as well as to establish the principle of separation of political and administrative spheres in organization of the executive branch at the constitutional level.

- *Status of the National Security and Defense Council.* The constitutional design of the NSDC should be substantially revised: membership of this body should be specified in the Constitution directly; the NSDC acts should be adopted by a majority vote of its members and come into force without a separate presidential decree; the NSDC's competence in the national security sphere should complement the Government's competence in this area, not replace it.

- *Status of the Constitutional Court of Ukraine.* The CCU consists of 15 judges, nine of whom are appointed by the Parliament and six by the President, all exclusively on the competitive selection basis. The term of office of the CCU judges should remain unchanged (nine years) without the right to be reappointed. If the Parliament fails to appoint a CCU judge within the term established by the organic law, this power is transferred to the President, and vice versa. The appointing entities cannot dismiss CCU judges. The CCU judges may be dismissed by the decision of at least 2/3 of the constitutional composition of the CCU or in exceptional cases by impeachment (with the involvement of a temporary investigative commission) declared by at least 2/3 of the constitutional composition of the Parliament.

2.5. Principles of direct democracy

The constitution should establish general principles of the electoral process and set forth general patterns of application of electoral systems in parliamentary and presidential elections.

It is recommended to change the term of office of the Parliament as well as local and regional self-government bodies: in particular, the President should be elected for five years, the Parliament for four years, and local and regional self-government bodies for three years. With regard to the President, it should be stated clearly in the Constitution should that the President cannot be re-elected for more than two terms.

The Constitution should enshrine a clear model for calculating the term of office of respective authorities elected at regular and early elections, in particular, it should envisage a fixed date for regular elections – for example, the last Sunday of a particular month of the Nth year of the respective authority's term of office.

It should be stipulated that the Central Election Commission should, within the timeframe established by the Constitution of Ukraine and the law, set the date of:

- regular elections of respective bodies (under normal circumstances);
- elections of respective bodies that did not take place as a result of introduction of a state of emergency or martial law;
- early elections of local and regional governments.

The dates of early parliamentary or presidential elections are determined by an act of the President or Parliament, respectively, in case of early termination of powers of these institutions. For example, a decree of the President of Ukraine on early termination of powers of the Parliament sets the date of respective parliamentary elections.

The constitution should guarantee both national (on the entire territory of Ukraine) and local referendums (in communities), which will function reliably as an instrument of democracy.

The subject matter of a national referendum must be expressly specified in the Constitution. In particular, a national referendum may be held only in one of four cases: approval of amendments to the Constitution; approval of a decision to change the territory of Ukraine; on a popular initiative on a single issue – repeal of an adopted organic or ordinary law (or individual provisions thereof); by decision of the Parliament – a consultative referendum on the most important issues of public life.

The Constitution should guarantee existence of a local referendum mechanism as a form of independent community decision-making on issues of exclusively local importance by direct vote. Legal regulation of the local referendum should be brought to the level of an organic law.

2.6. Form of the state organization

Ukraine should remain a unitary republic. Any scenarios of Ukraine's transformation into a federation, creation of administrative-territorial units with a special status withdrawn from the direct jurisdiction of the Government of Ukraine pose obvious threats to the national security and territorial integrity of the state.

The territorial structure of Ukraine (territorial organization of power) is based on the principles of unity and integrity of the state territory, decentralization of public power (powers). In accordance with the decentralization principle, in order to address local issues and provide quality services, local governments should have the closest possible contact with the population (ensuring the principle of subsidiarity).

The three-tier system of administrative and territorial structure of the state should be preserved: community – county – region. The Constitution should not set forth a list with the names of regions.

The city of Kyiv as the capital of Ukraine should be the only city guaranteed a special status by the Constitution of Ukraine. All other administrative-territorial units of Ukraine should have the same legal status.

The Autonomous Republic of Crimea should be transformed into an autonomous region having national-territorial autonomy, or, alternatively, into an ordinary region, in which national and cultural autonomy of the indigenous peoples of Crimea will be guaranteed.

The Constitution should envisage a special procedure for governance in all territories that were occupied by the Russian Federation for a transitional period.

2.7. Local and regional self-government

Provisions of the Constitution on local and regional self-government should be set out in a fundamental way providing for legislative regulation of formation, organization and activities of local and regional self-government bodies in accordance with an organic law.

The Constitution should envisage functioning of communities (residents of villages, towns, cities or their associations) as new administrative-territorial units that form the territorial basis for local self-government and are its primary subjects. Communities should be guaranteed the right to resolve on their own the issues of local importance that the Constitution does not refer to the competence of state authorities directly, as well as through representative and executive bodies of local self-government. The state should not interfere

in the competence of communities, unless otherwise envisaged by the Constitution. Communities should be guaranteed, in accordance with European standards, the right to sufficient financial resources and the real ability to manage such resources within the scope of their competence.

Legal regulation of the procedure for interaction between local executive authorities and local and regional self-government bodies should be left at the level of an organic law.

The Constitution of Ukraine should also recognize and guarantee regional self-governance, which is essentially the ability of residents of a region to implement independently, under their own responsibility, a part of public affairs determined by law in accordance with the principle of subsidiarity. Regional self-government bodies should represent interests of the region, not common interests of territorial communities. In addition to this, regional self-government bodies (oblast councils) should have their own executive bodies, and the Constitution should state that representative and executive bodies of regional self-government may not be headed by the same person at the same time.

The Constitution should envisage establishment of prefect offices that will carry out administrative oversight functions on behalf of the state. Prefects will supervise compliance with Ukrainian legislation by both local and regional self-government bodies. The powers of prefects should be described separately in the section of the Constitution on executive bodies and public administration.

2.8. Procedure for amending the Constitution of Ukraine

Constitutional laws are laws on amendments and additions to the Constitution of Ukraine, which, after their coming into force, become an integral part of the Constitution of Ukraine (the legal body of the Constitution). The entities entitled to submit a constitutional draft law are:

- Members of Parliament, who are also authorized to make amendments and proposals to the constitutional draft law;
- at least one million citizens of Ukraine who have the right to vote (provided that signatures for the constitutional draft law are collected in at least two-thirds of the regions of Ukraine with minimum one hundred thousand signatures in each of them).

The Constitution should preserve the logic of differentiating between the procedures for adopting a constitutional law on revision of ‘protected’ and ‘unprotected’ sections of the Constitution of Ukraine. In particular, it is advisable to establish a general procedure for amending all sections of the Constitution of Ukraine, except for the sections that are related to the principles of the constitutional order of Ukraine and determine the procedure for

amending the Constitution of Ukraine. The general procedure will consist in the adoption by the Parliament of a constitutional law in an unchanged version at two consecutive regular sessions of the Parliament not earlier than six months and not later than twelve months from the date of the previous approval of such constitutional draft law, each time by two thirds of MP votes the from the total composition of the Parliament.

The special procedure for amending the Constitution of Ukraine should envisage introducing amendments to the so-called ‘protected chapters’ (chapters that deal the principles of the constitutional order of Ukraine and determine the procedure for amending the Constitution of Ukraine). This procedure will consist in the adoption of a constitutional law by the Parliament in accordance with the general procedure (two votes at two consecutive regular sessions) with mandatory subsequent approval of the constitutional law adopted by the Parliament at an all-Ukrainian referendum to be called by the Parliament.

It would be advisable to retain the prohibition on amending the Constitution if the relevant constitutional laws envisage abolition or restriction of human and civil rights and freedoms, if they are aimed at eliminating independence or violating the territorial integrity of Ukraine. However, a respective conclusion of the Constitutional Court of Ukraine should be advisory in nature. The prohibition of constitutional reform during martial law or a state of emergency also seems reasonable.