

PROPOSALS CONCERNING PRIORITY MEASURES TO BE IMPLEMENTED DURING WARTIME AND IMMEDIATELY AFTER THE END OF WAR (TENTATIVELY FOR 1-2 YEARS)

3.1 During the war, the law enforcement system should focus on maintaining its institutional capacity to function at the internal security level, i.e., to continue working on community security, preventing and combating general criminal offenses. In addition to this, the National Police and other agencies under the Ministry of Interior of Ukraine face new challenges dictated by the liberation of settlements, dynamic front line, and ingress of dangerous objects as a result of constant air attacks by the enemy armed forces.

3.2 At the same time, the wartime requires careful attention to the issue of countering threats for national security, so the reform of the military justice system and security agencies should be put on hold until the end of the armed conflict. Investigators of the State Bureau of Investigation, the Military Law Enforcement Service, and the Security Service of Ukraine play the key role for ensuring order in the Armed Forces of Ukraine regarding crimes against the military service procedure, as well as countering saboteurs, fire correctors, collaborators, and other threats to the combat capacity to repel the aggression of the Russian Federation.

3.3 Ultimately, the war crimes justice system should ensure active documentation of war crimes, work to collect evidence, and bring perpetrators to justice. Currently, more than 75 thousand criminal proceedings have been registered that are qualified as war crimes, and after liberation of the south and east of our country, the number of these crimes will increase many times, and each new day of the armed conflict increases this number significantly. However, we are talking not only about establishing the facts and creating the basis for further litigation, but also about collecting information for the system of compensations for property damage caused by the war. Restoring justice for victims of the armed aggression should be considered a priority today, while at the same time this system should take into account that these activities will require a lot of resources for many years to come.

3.4 These spheres should be protected from reforms that change the functions, reduce the powers or have negative implications for the funding of these law enforcement agencies. Furthermore, if necessary and possible, other law enforcement agencies can either join performing the functions that are vital in the armed conflict context or take over some of the secondary (less important) functions currently performed by these agencies.

3.5 The priority steps towards changes (reforms) in the law enforcement system should be:

3.5.1 During the war, work on the *Concept of Comprehensive Law Enforcement Reform*, which will include both the public security sector and the criminal justice component, should be finalized. This Concept should become a common basis for all law enforcement agencies operating in this sphere to develop their own action plans for its implementation.

3.5.2 During wartime, a plan can be developed to draft legislative proposals for their subsequent adoption by the Verkhovna Rada of Ukraine (after the end of the armed conflict). Joint coordination

between different law enforcement agencies should take place at this stage, and not later, as the legislative proposals are related and affect interaction of all law enforcement agencies with each other.

3.5.3 After the war, gradual reform of law enforcement agencies should begin in accordance with the action plans developed for implementation of the Concept.

1) *Ministry of Interior*. The agency should be depoliticized and the powers/functions of the ministry and the minister should be reduced to those of an agency that formulates the state (public) policy in the law enforcement sector, and coordinates activities of other executive bodies that implement it;

2) *Security Service of Ukraine*. The number of crimes against the foundations of Ukraine's national security increased from 332 offenses to 10, 400 (31 times more, but the number of criminal proceedings sent to court with an indictment increased only five times); therefore, until the end of the armed conflict, the SSU should focus on pre-trial investigation of criminal offenses and not undergo any reforms. In the future, the end of the armed conflict will unblock the reform of the Security Service of Ukraine, i.e., its exclusion from the system of law enforcement agencies by transforming the Service, which has the function of pre-trial investigation and operational search activities, into a classic counterintelligence agency in the national security system. Until then, respective legislative amendments and a plan for the step-by-step reform of this body should be developed;

3) *National Police of Ukraine*:

- leadership of the National Police should be depoliticized;
- a transparent and clear procedure for selection and promotion of police officers was introduced; disciplinary procedures were updated to increase the independence of disciplinary commissions and reduce the scope of discretion of the police chief in relation to the subordinate being prosecuted;
- a new system for evaluating performance of a police officer, taking into account quantitative and qualitative indicators and using the 360 methodology, was introduced;
- funding of police should be increased, and the salaries, social and medical insurance of police officers should be protected from political assessments of the National Police work.

4) *pre-trial investigation agencies (National Police, State Bureau of Investigation, National Anti-Corruption Bureau, Bureau of Economic Security)* – the first step should be to unify the status of investigators (detectives) and operatives of pre-trial investigation agencies. A framework law on law enforcement agencies with pre-trial investigation (criminal prosecution) functions should be adopted to ensure this status and further staffing to meet the wartime requirements. At the same time, investigators who investigate war crimes and military crimes should be protected from any changes during the armed conflict as well as during the nearest time after its end.

5) *law enforcement agencies involved in performing public order functions (providing security services)* – the *Safe Community Concept*, which is being developed by the Ministry of Interior together with the Ministry of Community and Territorial Development of Ukraine (Minregion), should be adopted for defining the areas of responsibility of law enforcement agencies in the public security sphere taking into account new challenges dictated by the war – the presence of dangerous objects (shells, mines, etc.) in public areas, the need to work with the population in liberated territories to identify the dangerous consequences of the war, etc. The Concept also envisages regulation of involvement of public formations that on a voluntary basis ensure security in territorial communities, which should replace temporary war-time volunteer formations of territorial communities (VFTC) – an integral component of Ukraine's post-war reconstruction, in which socially active citizens will be willing to participate on a voluntary basis.

This publication was funded by the UK government as part of the project «Ukraine after the victory: preparation and communication of reforms for the implementation of "Vision of Ukraine - 2030"», implemented by Centre of Policy and Legal Reform. The views expressed in this publication are those of the author(s) and may not coincide with the official position of the UK government.