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**ISSUES OF ETHICAL AND PROFESSIONAL  
STANDARDS OF THE CIVIL SERVICE IN  
THE SECRETARIAT OF THE VERKHOVNA  
RADA OF UKRAINE: SITUATIONAL STUDY**

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The information and views expressed in this report do not necessarily reflect the official opinion of the Konrad Adenauer Stiftung Ukraine.

The mission of the Agency for Legislative Initiatives is to strengthen democratic values, to develop political culture and the legal awareness of citizens and politicians, to disseminate best international practices in order to create effective public institutions, and to support the Eurointegration vector of Ukraine's development.

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## LIST OF ABBREVIATIONS

APU – Presidential Administration of Ukraine	CJO – Central Judicial Office of the Secretariat of the Verkhovna Rada of Ukraine
VRU – Verkhovna Rada of Ukraine	MinFin – Ministry of Finance of Ukraine
VR – Verkhovna Rada	NACS – National Agency of Ukraine on Civil Service
CMU – Cabinet of Ministers of Ukraine	CSCS – Commission on Senior Civil Service
EU – European Union	CCU – Constitutional Court of Ukraine
NAPC – National Agency for Prevention of Corruption	NGO – Non-governmental organisation
PU – President of Ukraine	SCMU – Secretariat of the Cabinet of Ministers of Ukraine
CEB – Central executive bodies	MESU – Ministry of Education and Science of Ukraine
CSEO – Central Scientific Experts Office of the Secretariat of the Verkhovna Rada of Ukraine	

## АНОТАЦІЯ

Дослідження присвячено оцінці рівня інтегрованості принципів державної служби в Апараті ВРУ. Метою було ідентифікувати проблемні аспекти роботи парламентської служби та розробити максимально ефективні підходи для посилення Апарату як інституції. Задля цього у дослідженні було розглянуто критерії якості державної служби згідно із Законом України «Про державну службу», проаналізовано відповідну нормативно-правову базу, оглянуто результати інтерв'ювання державних службовців Апарату та порівняно український і міжнародний досвід ствердження етичних та професійних стандартів парламентської служби. «

## ABSTRACT

The research is devoted to assessing the level of civil service's standards integration into The Verkhovna Rada of Ukraine Secretariat. The goal is to identify problematic aspects of parliamentary administration and to develop the most effective ways of reinforcing the Secretariat institutional capability. To accomplish this objective, we interpreted quality criteria of civil service in accordance with the Ukrainian Law «On Civil Service», reviewed relevant legislative framework, examined the results of Secretariat civil servants' interviewing and compared Ukrainian and international experience in the implementation of ethical and professional standards of the parliamentary service.

# INTRODUCTION

The review of the professional and ethical standards of the civil service is particularly relevant in view of the process of integrating European values into the civil service system of Ukraine. The new version of the Law of Ukraine “On Civil Service”<sup>1</sup> declares the civil service principles that are in line with the similar principles of the European Union in terms of values. For instance, the European Ombudsman, on the basis of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (1961),<sup>2</sup> set forth the principles of civil service applicable to all employees of EU institutions<sup>3</sup> and declared the basic principles such as serving the EU and its citizens, integrity, objectivity, and transparency. Establishment of these values, both at the institutional and individual levels, is a difficult process that requires a lot of attention and hard work on the part of the entire society. Integration of these values at the level of the parliamentary administration is a major step towards the adoption of the principles of “good governance” in Ukraine.

The purpose of this report is to assess the level of integration of the principles of civil service in the VRU Secretariat. This review will help us identify the problematic aspects of the work of the parliamentary service and develop the most effective approaches to improving the institutional capacity of the Secretariat.

In the Ukrainian academic environment, the topic of the characteristics of the work of the parliamentary

secretariat is not very common, but it is worth noting the PhD thesis by N.S. Pohrebnyak “Constitutional and Legal Status of the Secretariat of the Verkhovna Rada of Ukraine”<sup>4</sup>. This area was also researched by O. V. Bohachova, who wrote a relevant PhD thesis<sup>5</sup>.

Following the Revolution of Dignity and the signing of the Association Agreement, reform processes intensified in Ukraine, hence the analytical work of the Secretariat stepped up. The Secretariat as a state body has become a focus of the civil service reform and parliamentary reform.

Given the above, the areas relevant for our analysis include assessment of the progress of the civil service reform<sup>6</sup> and parliamentary reform. The return to the 2004 Constitution (parliamentary–presidential form of government) and the reform of public administration pose new challenges to the national Parliament, and hence to its Secretariat. The road map prepared by the European Parliament’s Needs Assessment Mission is also a very important document for studying cases and needs of the Verkhovna Rada administration.

However, in view of the fact that the organisational structure of the Secretariat has not been revised for 14 years, and given the delays in the process of implementation of the new Law “On Civil Service” and the parliamentary reform itself, the issue of assessment of the institutional capacity and professional standards in the Verkhovna Rada remains relevant.

## METHODOLOGY

In the framework of this study, we applied a qualitative approach. We went by the criteria for the quality of professional and ethical standards of the civil service as enshrined in the new version of the Law of Ukraine “On Civil Service”:

- rule of Law;
- legality;
- professionalism;
- patriotism;
- integrity;
- efficiency;
- ensuring equal access to civil service;
- political impartiality;
- transparency;
- stability.

We assessed the degree of integration of these principles at the organisational and individual levels.

At the organisational level, we focused on assessing the level of integration of the civil service principles in the internal policies and procedures of the Secretariat. The analysis involved examination of the regulatory framework, in particular, of the following documents:

- Constitution of Ukraine;
- Law of Ukraine “On Civil Service”;
- Rules of Procedure of the VRU;
- Regulation on the VRU Secretariat;
- Regulation on Certain Divisions of the Secretariat;
- Law of Ukraine No. 1700–VII “On Prevention of Corruption” dated October 14, 2014;
- Law of Ukraine No. 1699–VII “On the Principles of State Anticorruption Policy in Ukraine” (Anticorruption Strategy) for 2014–2017” dated 14.10.2014;
- On Measures to Implement Recommendations on Internal Reform and Institutional Capacity Building of the Verkhovna Rada of Ukraine: Resolution of the Verkhovna Rada of Ukraine No. 1035–VIII dated March 17, 2016);
- On Additional Measures to Implement the Declaration on Parliamentary Openness: Decree of the Chairman of the Verkhovna Rada of Ukraine dated 21.11.2017;
- Resolution of the CMU No. 564 “On Approval of the Regulation on the System of Training, Specialization

and Professional Development of Civil Servants and Local Self–Government Officials” dated July 7, 2010;

– Resolution of the Head of the NAPC No. 839 “On Approval of Methodological Recommendations on Prevention and Settlement of Conflicts of Interest” dated 29.09.2017;

– Decree of the Head of the NACS No.158 “On Approval of the General Rules of Ethical Conduct of Civil Servants and Local Self–Government Officials” dated 05.08.2016;

– Communication Strategy of the Verkhovna Rada of Ukraine for 2017–2021.

At the individual level, we focused on assessing the integration of the civil service principles from the point of view of the civil servants of the Verkhovna Rada of Ukraine. In order to carry out such assessment, representatives of the Secretariat were interviewed. Personal interviews concerned their vision and perception of the purpose of their work, the nature of the civil service, characteristics of the operation of the Parliament and the Secretariat, protection of civil servants’ rights, etc. Some interview questions varied depending on the function and purpose of the interviewee’s position, while some were indicative for evaluation of formal principles and remained the same for all interviewees (for the question list, see Annex 2). A total of 20 officials of the Secretariat, including 10 category B civil servants (no specific positions are indicated so that the interviewees could not be identified), and 10 category C civil servants (the main consultants responsible for compiling expert opinions) were interviewed.

For the purposes of the report, the international experience of regulating ethical and professional standards of the civil service and parliamentary administration was analysed. In addition, we took into consideration articles in the media and reports of international and Ukrainian civil society organisations on the work of the Parliament and its Secretariat.

In this report, we also rely on the structured survey of Secretariat employees conducted in September–November 2017. It was an anonymous online survey of the employees of the Secretariat’s divisions involved in the legislative process. The results of this stage of interviewing were published in the Journal Chasopys ‘Parliament’ No. 4/2017<sup>7</sup>.

<sup>1</sup> Law of Ukraine “On Civil Service” <http://zakon2.rada.gov.ua/laws/show/889-19/page>

<sup>2</sup> REGULATION No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, 1961. – Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01962R0031-20140501>

<sup>3</sup> The European Code of Good Administrative Behaviour, 2002. – Available at: <https://www.ombudsman.europa.eu/en/publication/en/3510>

<sup>4</sup> Погребняк Н. С. Конституційно–правовий статус Апарату Верховної Ради України : автореф. дис. ... канд. юрид. наук : 12.00.02 / Н. С. Погребняк ; Нац. юрид. ун–т ім. Ярослава Мудрого. – Харків, 2014. – 23 с.

<sup>5</sup> Богачова О.В., Зайчук О.В., Копиленко О.Л. Законодавчий процес в Україні. – Київ, реферат, 2006. – 424 с.

<sup>6</sup> Реформа державної служби та державного управління в Україні в 2017 році. Тіньовий звіт – 2017. –34 с. – Режим доступу: [http://parliament.org.ua/wp-content/uploads/2018/05/Shadow\\_Report\\_PAR\\_2017.pdf](http://parliament.org.ua/wp-content/uploads/2018/05/Shadow_Report_PAR_2017.pdf); SIGMA (2018) The Principles of Public Administration, Baseline Measurement Report: Ukraine. OECD Publishing, Paris, 127 p.

# CHAPTER I

## INTERNATIONAL AND UKRAINIAN EXPERIENCE OF LEGAL REGULATION OF THE BEHAVIOUR OF CIVIL SERVANTS AT THE NATIONAL LEVEL AND AT THE LEVEL OF THE VRU SECRETARIAT

In some cases, we also applied situational analysis: we described a situation (imaginary or one faced by the interviewed employees) in order to explain individual principles based on specific examples and clarify ways to deal with ethical dilemmas, conflicts of interest, etc.

The main document governing the work of the European Parliament's staff is the "Staff Regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community laid down by Council Regulations" of December 18, 1961<sup>8</sup>. It is worth noting that the document is universal and extends not only to the employees of the European Parliament. The document was one of the first to introduce categories and grades, setting clear-cut recommendations on the quality of office positions. The document also identifies the mission of officials.

As of today, the only similar document in Ukraine is the 2015 Law of Ukraine "On Civil Service", which came into force in 2016.

Unlike Ukraine, the EU in addition to special documents has a specific document designed exclusively for the employees of the European Parliament "Guide to the Obligations of Officials and Other Servants of the European Parliament (2008)". Another name of this document is "Code of Conduct". It is mandatory based on the resolution of the governing body of the Parliament.

The code contains rules intended to:

- ensure employees' independence from external interests and political influences;
- ensure their loyalty to the Parliament and prevent damage to the reputation of the Parliament<sup>9</sup>. (The document contains 30 pages, it is of purely formal and

technocratic nature and resembles one of the directives of the European Commission. The Code consists of three Chapters and Annexes providing samples of internal documents).

The Code spells out the principles of independence enshrined in the Staff Regulations of Officials (1961) and sets forth specific requirements for conduct – a system of formal approvals and notification obligations. The Introduction to the Code states that the Code provides clear "direction for use".

A similar document in Ukraine used to be the "Rules of Ethical Behaviour of Civil Servants", approved by Resolution No. 65 of the CMU dated February 11, 2016, which had been in force for less than a year before it was repealed on March 22, 2017 by Resolution No. 163 of the CMU. Today, the effective relevant document is the General Rules of Ethical Conduct of Civil Servants and Local Self-Government Officials, approved by Decree No. 158 of the NACS dated 05.08.2016. These rules are considerably smaller in scope and address a smaller number of issues. There is currently no separate code in Ukraine that would regulate the behaviour of civil servants in the VRU Secretariat taking into account the specific features of the work of the parliamentary body.

In 1998, the European Ombudsman began work on the standards of "good administrative behaviour" in European institutions. In 2001, as a result of this work, the European Parliament adopted the European Code of

<sup>7</sup> Жерибор О., Чернуха Т., Оуш К., Азімов Є. Особливості проходження державної служби в Апараті Верховної Ради України. // Часопис «Парламент». – 2017. – №4. – Available at: [http://parlament.org.ua/wp-content/uploads/2017/11/Chasopys\\_Parlament\\_4\\_2017.pdf](http://parlament.org.ua/wp-content/uploads/2017/11/Chasopys_Parlament_4_2017.pdf)

<sup>8</sup> Staff Regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community laid down by Council Regulations No 31 (EEC) and No 11 (EAEC) of 18.12.1961 (OJ 45, 14.6.1962 – Special Edition 1959–62, November 1972) and the Staff Regulations of officials and the conditions of employment of other servants of the European Coal and Steel Community.

<sup>9</sup> Parliamentary Ethics. A Question of Trust. European Parliament – OPPD, 2011, from <http://www.parlament.cat/document/intrade/59368>

Good Administrative Behaviour<sup>10</sup>.

The Code primarily focuses on relations between the institutions of the European Union and its citizens. This Code seems to be much more concise as it is designed for the general public rather than for internal users. It has less than 30 pages, user-friendly appearance, appropriate layout and illustrations.

A special document that regulates conflict of interest management with clear recommendations and instructions is the “Methodical Recommendations on the Prevention and Settlement of Conflicts of Interest in Activity of Persons Authorised to Perform Functions of the State or Local Self-Government and Equal-Status Persons” drafted and approved by a decree of the NAPC. This document undoubtedly constitutes a significant step towards establishing an effective conflict-of-interest management policy for the civil service but much effort is needed to introduce specific tools and monitor compliance with these guidelines.

The European Code of Good Administrative Behaviour contains an outline of the main principles and 27 articles. The Articles consist of rules that regulate the behaviour of both European officials and other employees (such as persons employed under private law contracts, and experts on secondment from national civil services). They should be followed in any contact with the public. It should be noted that, unlike the Guide (2008), this Code is non-binding and recommendatory. At the same time, it is quite authoritative and influential, primarily because it has institutional support in the person of the European Ombudsman, who is recognized by the Parliament and is authorised to receive and consider complaints from citizens and residents of the EU as regards administrative violations in the institutions and associations of the Union. Along with proposals for simplifying administrative procedures and improving individual responsibility, this Code is aimed at improving public and citizens’ trust in the European Commission and the European Parliament. Thanks to the efforts of the European Ombudsman, in 2012, the «Principles of the EU Civil Service» were developed and adopted. Like

the previous documents, the Principles are designed for a wide range of EU civil servants, and not just the staff of the Secretariat of the Parliament. It is due to the efforts of the European Ombudsman, that the Public Service Principles<sup>11</sup> were developed and adopted in 2012. Like the previous documents, the Principles are aimed at a wide range of EU civil servants, not just the staff of the Parliament’s Secretariat.

Unfortunately, Ukrainian legislation has no such document. It is necessary to develop such principles not only for the VRU Secretariat, whose communication with citizens and the public is governed by the Law of Ukraine “On Access to Public Information” and the General Rules of Ethical Behaviour of Civil Servants and Local Self-Government Officials. However, given the fact that there have been very unpleasant precedents in the history of relations between civil servants and citizens<sup>12</sup>, additional attention should be paid to this issue. This document is especially relevant in light of the public administration reform carried out in accordance with Ukraine’s Strategy for Public Administration Reform during 2016–2020<sup>13</sup>, where reform of the system of public services provision holds a special place.

The regulation of the work of the VRU Secretariat is considerably more feeble. Not only are the rules for proper communication unclear, there is still no body that would exercise direct control and monitor the implementation of these principles. Internal communications, communications with persons holding political offices, offices in the executive support services or other state bodies, legal entities and individuals are not regulated at any level. The ethics of negotiation, business correspondence, admissibility or inadmissibility of certain statements, the scope of and levels of internal information that can be disseminated is not regulated in any way.

In terms of the general value framework, the civil service principles in Ukraine are largely the same as those in other countries. In the following chapters, we will consider the status of their integration in the VRU Secretariat at the institutional and individual levels.

## CHAPTER II

# ASSESSMENT OF INTEGRATION OF THE PRINCIPLES OF CIVIL SERVICE AT THE LEVEL OF THE VRU SECRETARIAT

### RULE OF LAW

*The rule of law implies ensuring the supremacy of human and citizen rights and freedoms in accordance with the Constitution of Ukraine, which determine the essence and course of activities of civil servants when performing tasks and functions of the State.*

This fundamental principle is enshrined in the first articles of the Constitution, stating that Ukraine is a law-governed state, and “human rights and freedoms, and guarantees thereof shall determine the essence and course of activities of the State”<sup>14</sup>. In a country where the rule of law is constitutionally enshrined, Parliament as the legislature is responsible for compliance of the laws it adopts with this principle and for the legality and legitimacy of their adoption (in accordance with the Rules of Procedure). Therefore, it goes without saying that no majority vote or even unanimous adoption of acts contrary to the rule of law should be allowed.

The main issue of concern is who is responsible for passing laws that are contrary to the principle of the rule of law: only the members of the Parliament or the entire Parliament, including its administration? Unfortunately,

instances of adopting wrongful laws have often occurred in the history of law-making in Ukraine. Suffice it to recall the example of the scandalous laws of Viktor Yanukovich on January 16, 2014, or numerous cases of adoption of acts contrary to the conclusions of the Venice Commission<sup>15</sup>, and recognition of laws unconstitutional by the Constitutional Court<sup>16,17</sup>. In 2018, the Constitutional Court recognized unconstitutional a number of laws and their individual provisions, in particular, the Law “On All-Ukrainian Referendum”<sup>18</sup> and “On the Principles of State Language Policy”<sup>19</sup> were declared unconstitutional, including in view of violation of the procedure for adoption of regulatory legal acts by the Parliament.

In Decision No. 4-p / 2018 of the Constitutional Court concerning compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine “On All-Ukrainian Referendum”, this law was recognized unconstitutional inter alia because of a violation of the rule of law principle by the Verkhovna Rada:

*The Constitutional Court of Ukraine, while resolving the issues raised in the constitutional motion, proceeds from the fact that the principle applicable in this case is the principle of the rule of law, according to which “the*

<sup>10</sup> The European Code of Good Administrative Behaviour <https://www.ombudsman.europa.eu/resources/code.faces#/page/1>

<sup>11</sup> Public service principles for the EU civil service [https://www.ombudsman.europa.eu/en/resources/publicserviceprinciples.faces#\\_ftn1](https://www.ombudsman.europa.eu/en/resources/publicserviceprinciples.faces#_ftn1)

<sup>12</sup> See. The Chapter “Transparency”

<sup>13</sup> Ukraine’s Strategy for Public Administration Reform during 2016–2020 was approved by Resolution No. 474 of the CMU, dated June 24, 2016, – p <http://zakon.rada.gov.ua/laws/show/ru/474-2016-p>

<sup>14</sup> Конституція України. – Режим доступу: <http://zakon2.rada.gov.ua/laws/show/254к/96-вр>

<sup>15</sup> Ільков О. Венеціанська Комісія та Україна: український шлях до демократії через право // Часопис «Парламент». – 2016. – №3. – Режим доступу: <http://parliament.org.ua/wp-content/uploads/2017/02/Parlament-3-Print.pdf>

<sup>16</sup> Малишев Б., Кириченко Ю. Вплив конституційного судочинства на законодавчу діяльність Верховної Ради України // Часопис «Парламент». – 2016. – №4. – Режим доступу: <http://parliament.org.ua/wp-content/uploads/2017/03/Parlament-4-4.pdf>

<sup>17</sup> Жерибор О., Чернуха Т., Оуш К., Азімов Є. Особливості проходження державної служби в Апараті Верховної Ради України // Часопис «Парламент». – 2017. – №4. – Режим доступу: [http://parliament.org.ua/wp-content/uploads/2017/11/Chasopys\\_Parlament\\_4\\_2017.pdf](http://parliament.org.ua/wp-content/uploads/2017/11/Chasopys_Parlament_4_2017.pdf)

<sup>18</sup> Рішення № 4-р/2018 Конституційного Суду України у справі за конституційним поданням 57 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України “Про всеукраїнський референдум”. Режим доступу: <http://zakon.rada.gov.ua/laws/show/v004p710-18>

<sup>19</sup> Рішення № 2-р/2018 Конституційного Суду України у справі за конституційним поданням 57 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про засади державної мовної політики» від 28 лютого 2018 року. – Режим доступу: <http://zakon.rada.gov.ua/laws/show/v002p710-18>

*Constitution of Ukraine is the superior law” (Part 2, Article 8 of the Constitution of Ukraine), as well as the principle of division of powers, according to which “legislative, executive, and judicial bodies shall exercise their authority within the limits determined by this Constitution and in accordance with the laws of Ukraine” (Part 2, Article 6 of the Constitution of Ukraine).*

*Based on these principles, the Constitutional Court of Ukraine emphasizes that the Verkhovna Rada of Ukraine while exercising legislative regulation of social relations is obliged to ensure the supremacy of the Constitution of Ukraine.*

When we use the expression “Verkhovna Rada adopted” or “Verkhovna Rada supported”, we refer to the act of voting for a draft law in Parliament, that is, the responsibility for these decisions lies, at first glance, with MPs who carry out this act of voting. On the other hand, the principle requires that ensuring the rule of law should be a priority and determine the essence and course of activities of civil servants, that is, the employees of the VRU Secretariat.

Given the fact that the agenda of plenary meetings is overloaded and Ukrainian MPs have a very varied level of professional training, we can hardly be confident in their capacity to ensure compliance of adopted laws with the rule of law principle. At the same time, the Secretariat does not have sufficient powers to prevent consideration of draft laws that run contrary to these principles. Notably, the Central Judicial Office submits expert opinions on bills before their consideration in the second reading, but they do not necessarily affect the decision during voting<sup>20,21</sup>.

In accordance with the Rules of Procedure of the Verkhovna Rada (Art. 102 and 123), absence of critical comments on the part of expert departments of the VRU Secretariat is a prerequisite for adoption of draft laws as a whole. Hence, adoption of draft laws contrary to their opinion is a gross violation of the Rules of Procedure.

However, the laissez-faire attitude to such cases on the part of the entire parliamentary institution (both the MPs and civil servants) attests to problems with the integration of the rule of law principle.

When interviewed, Secretariat employees expressed different views on this issue.

Mostly, Secretariat employees tend to believe that they are not responsible for the final version of the text of the adopted law, bearing responsibility only for the quality and timeliness of the expert opinion provided. In this regard, at the individual level, there were constant references to the political responsibility of MPs, which reveals the lack of integration of this principle at the level of values.

In our opinion, it is important to understand the views of Secretariat employees regarding the proper level of their authority in this matter. There was a range of views on this matter that fall into two basic categories:

1. The powers of individual divisions should be clarified, and clear mechanisms of influence on the legislative process should be introduced;

2. Extension of the powers of individual divisions will turn the Secretariat’s civil servants into politicians.

Most of the respondents agree that in any case extension of powers will increase the political pressure on the civil servants of the Secretariat and will further reduce the quality of work of expert divisions.

In our opinion, the first approach is much more promising given that, first of all, under the Law of Ukraine “On Civil Service” civil servants are tasked with the performance of the functions of the state, and, secondly, monitoring formal observance of the rule of law principle does not necessarily have to imply holding a political position. To develop such a mechanism, it is necessary to amend the Rules of Procedure of the Verkhovna Rada with the further extension of the discretionary powers of the Secretariat, especially as regards refusal to register and suspension of the passage of draft laws.

## LEGALITY

*Legality implies obligation of civil servants to act solely on the grounds, within the limits of authority and in the manner prescribed by the Constitution and laws of Ukraine*

The interviewed Secretariat employees manifested a very high level of understanding of the limits of their authority and the legality of their actions. On the other hand, many respondents had experienced situations where they were expected to act contrary to the Rules of Procedure or internal procedures. **Such cases, however, attest to the low level of protection of civil servants from political or any other illegal influences rather than to a lack of integration of the value of legality, which prevents strict adherence to this principle.**

The Law of Ukraine “On Civil Service” establishes the following mechanism for refusing to execute orders (instructions) or assignments the legitimacy of which seems to be questionable to the civil servant: to demand a written confirmation of the order that raises doubts, whereupon the employee must fulfil it and inform about it a higher-level official or a higher-level body in writing.

In the vast majority of cases, when employees of the Secretariat receive a dubious order they inform the head of the civil service but hardly ever require written confirmation. As a rule, they by default perceive the execution of such an order not as their responsibility but rather as the responsibility of the management. It should be noted that due to the nature of the operation of the Secretariat, responsibility for the committee’s opinions concerning draft laws is a controversial issue, since a number of key procedural documents of the VRU are drafted by Secretariat employees but decisions are taken by MPs. That is, such documents as draft opinions of committees, agendas of the Coordination Board and plenary sessions in any case require joint work of both civil servants and politicians. Hence, introduction of amendments to any of the aforementioned draft documents by an order of dubious legitimacy is not

necessarily perceived by civil servants as a violation.

Examples of such situations generally do not gain wide public coverage, but there is a case that we can cite as an example that attests to the relevance of the problem. We refer to the 2012 order of Valentyn Zaichuk (Secretary General 2002–2015) to withdraw the accreditation of (back then) journalists Mustafa Nayem and Serhiy Leshchenko. For this decision, Mr. Zaichuk was referred to as the enemy of the press in 2012/2013<sup>22</sup>. This illegal decision was made in the interests of the Party of Regions, which at the time had a majority in Parliament, but was condemned, in particular, by the Committee on Freedom of Speech and Information<sup>23</sup>. The situation clearly attests to a bias against the above journalists and their campaign against the draft law “On Slander” and, consequently, suggests that there were political motives behind this decision. In this case, the Press Service of the VRU Secretariat received a written order regarding withdrawal of accreditation of the said journalists.

In addition, the interviewed Secretariat employees do not trust the mechanism for protection against political or other unlawful influences provided by the Law (which implies appealing to the head of the relevant state body<sup>24</sup>) as such heads are appointed by a majority decision and, accordingly, in the exercise of their powers, they have to choose between the priorities of the majority and the interests of the staff of the Secretariat as civil servants. Moreover, the mechanism set forth by the law seems even less effective if there is no head of the Secretariat supported by the majority. The following quotation is a tell-tale response of one of the Secretariat employees concerning this issue:

*Who is protecting a civil servant? If I refuse to follow orders? Will anyone protect me in this system? No one will protect me in this system, and therein lies the rub.*

In fact, authorised staff members of the Secretariat should constantly keep a balance between compliance with the Rules of Procedure and the political pressure of interest groups. In this respect, if the VRU management takes the political lead in promoting a legislative initiative, it is very easy to violate the Rules of Procedure, if need be,

<sup>20</sup> Малишев Б., Кириченко Ю. Вплив конституційного судочинства на законодавчу діяльність Верховної Ради України // Часопис «Парламент». – 2016. – №4. – Available at: <http://parlament.org.ua/wp-content/uploads/2017/03/Parlament-4-4.pdf>

<sup>21</sup> Заславський О., Хоруженко О. Концепція законодавчого процесу «від початку до кінця». – К., 2017. – 52 с. – Available at: [http://parlament.org.ua/wp-content/uploads/2017/10/Policy-Paper\\_End-to-end.pdf](http://parlament.org.ua/wp-content/uploads/2017/10/Policy-Paper_End-to-end.pdf)

<sup>22</sup> «Вороги преси» за версією НМПУ та ІМІ – Азаров, Янукович, Захарченко, Княжицький та інші // Телекритика. – Available at: <http://ru.telekritika.ua/education/2013-06-06/82284>

<sup>23</sup> Comments of Yu. Stets, back-then Head of the Committee. Апарат ВРУ: У країнах зі сталою демократією журналісти не розвішують плакати // ZIK/ – Available at: [https://zik.ua/news/2012/10/11/aparat\\_vru\\_u\\_krainah\\_zi\\_staloyu\\_demokratiieyu\\_zhurnalisty\\_ne\\_rozvisyuyut\\_372961](https://zik.ua/news/2012/10/11/aparat_vru_u_krainah_zi_staloyu_demokratiieyu_zhurnalisty_ne_rozvisyuyut_372961)

<sup>24</sup> Law of Ukraine «On Civil Service» № 889-VIII, dated 10.12.2015 <http://zakon2.rada.gov.ua/laws/show/889-19/pagee>

by resorting to administrative pressure. Of course, the democratic process of political dialogue in the Verkhovna Rada does not always fit the scope of the Rules of Procedure. The Secretariat employees who have been working for many years and have experience of work in the VRU of different convocations claim:

*Every move of a draft law is accompanied with a struggle to get it on the agenda or prevent its inclusion in the agenda. There is internal control between factions, there are different positions, and they monitor one another. It is all about approval, about the coalition's votes, because when there is an effective coalition, the attitude is more respectful. If you are in opposition, no one hears you. We [the employees of the Secretariat] must adhere to the Rules of Procedure, the one who gave the right not to do this or that. You are asked to include draft laws [not included on the approved agenda] and you need to weasel your way somehow but you cannot escape responsibility.*

It is worth noting that political pressure does not necessarily involve intimidation, threats or bribery. It is primarily about the status of an MP and a Secretariat officer, about a kind of supremacy. Secretariat employees tolerate this disposition, while MPs extensively take advantage of it. In addition, according to Secretariat employees, MPs tend to lack understanding of the procedures, knowledge of the Rules of Procedure, in particular, understanding of the tasks of the parliamentary service, as well as the limits of authority of those who perform it. The interviewed employees repeatedly pointed out that the content of the principles of the rule of law and legality is far from obvious to many MPs too.

As we can see, the situation with compliance with the Rules of Procedure at the level of the VRU attests to the parliamentary political leadership's low demand for strict observance of the principle of legality by Secretariat employees. Moreover, it is the political leadership of the Parliament that may be interested in violating the Rules of Procedure and "bypassing" some procedures stipulated therein. The problem of political pressure is given more attention in the chapter devoted to the political impartiality of Secretariat employees.

There are also informal procedures for appealing against actions and decisions within communication with

colleagues and managers. According to respondents, informal procedures, in particular personal talks, are rather effective.

There is also a formalised mechanism of disciplinary proceedings involving the Personnel Management Service and representatives of other divisions. Under Article 69 of the Law of Ukraine "On Civil Service", the Disciplinary Commission for Consideration of Disciplinary Matters in the Verkhovna Rada of Ukraine (hereinafter – the Disciplinary Commission) was established by Decree No. 2647к of the First Deputy Secretary General of the Verkhovna Rada of Ukraine dated July 15, 2016.

According to one of the respondents, Secretariat employees more or less trust this body:

*The only protection, in fact, is the procedure for formation and operation of the Disciplinary Commission, which includes a system of balances that somewhat counterbalance the arbitrariness of the management..*

From July 2016 to May 2018, the Disciplinary Commission considered 11 disciplinary cases, of which 8 were closed due to absence of the event of disciplinary offence on the part of civil servants. Three civil servants were subject to disciplinary action: 2 admonitions and 1 reprimand. The share of cases closed due to absence of the event of disciplinary offence amounts to 72.7%, which indicates that the work of the Commission is not repressive. On the other hand, **8 out of 11 (as much as 72.7%) of disciplinary cases were initiated without proper grounds.** Many respondents agree that the practice of initiating proceedings in cases where there is no violation attests to misuse of the mechanism in order to exert pressure, and the Commission's work serves as a safeguard against injustice<sup>25</sup>.

However, according to Secretariat employees, these mechanisms may turn out to be ineffective in the event of a conflict between a manager and an official or when an MP is party to a conflict. In such cases, employees of committee secretariats are most at risk, as according to Art. 50 of the Law of Ukraine "On the Committees of the Verkhovna Rada of Ukraine" they are subordinated both to the chairmen of committees and to the Secretary General.

Notably, apart from the court procedure, there is no mechanism for protection against unfair disciplinary

proceedings or biased attitudes of managers or MPs, whose complaints serve as a ground for such proceedings.

Integration of this principle at the Secretariat level poses a significant institutional problem. To solve this problem, it is necessary to carry out profound systematic work on developing the ethical infrastructure.

## PROFESSIONALISM

*Professionalism implies competent, objective and impartial performance of professional duties, ongoing improvement of professional competence by the civil servant, fluent command of the state language and, if necessary, a regional language or national minority language as determined by law.*

Competence at the level of admission to the civil service and the level of serving as a civil servant correlates with the principle of efficiency that will be considered in the relevant Chapter.

Integration of the principle of objective and impartial performance of official duties requires standardisation of the behaviour of civil servants in all external and, ideally, internal, communications: with the management, politicians, the press, the public and citizens. Today, there is no document containing detailed rules and practical guidelines for civil servants to rely on with regard to these issues.

Meanwhile, the issue of impartiality of parliamentary officials as a value of the civil service is attracting more and more attention in many countries of Europe and worldwide. The requirement of independence of Parliament officials implies impartiality in work concerning both citizens and MPs, that is, equal treatment. Impartiality involves absence of pre-existing negative or positive attitudes towards someone or something. The requirement of impartiality includes:

– the duty to advise and implement policies impartially and, in particular, to recognize the need for impartiality so that any authorised political decision-maker could trust them;

– prohibition to show bias based on personal beliefs or family ties<sup>26</sup>;

– performance of duties with equal attention and diligence in the interests of any of the political forces represented in Parliament, without positive or negative discrimination of any of the groups of interests, i.e. proceeding from the principle of respect for equality of political forces and of citizens<sup>27</sup>;

– factoring in only the specific circumstances of the case, disregarding different influences<sup>28</sup>;

– prohibition of double hatting (Belgium, USA). In addition, in many countries, the codes of conduct for civil servants regulate the communication of parliamentary officials with business representatives: Finland, Ireland, Malta, and Portugal<sup>29</sup>.

According to the Law "On Civil Service", provisions on the system of training, retraining, specialization and qualification of civil servants<sup>30</sup> are approved by the CMU on the submission of the NACS. According to the Regulation, "The purpose, content, terms, forms and methods of training, specialization and professional development of civil servants and local government officials are specified in the relevant educational and professional training programmes developed by education institutions in accordance with the requirements hereof as well as laws and regulations of the Ministry of Education and Science". Hence, the system of in-service training of civil servants still has no cross-cutting links between the special requirements for the professional competence of civil servants in specific positions, job duties in these positions, criteria for assessing the results of official activities in these positions, and the content of professional development programmes for civil servants.

<sup>26</sup> Civil Service Code of Standards and Behaviour <http://www.sipo.ie/en/Codes-of-Conduct/Civil-Servants/Civil-Service-Code-of-Standards.pdf>

<sup>27</sup> Estatuto do Gestor Público – DL n.º 71/2007, de 27 de Março [http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1252&tabela=leis&ficha=1&pagina=1&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1252&tabela=leis&ficha=1&pagina=1&so_miolo=)

<sup>28</sup> The Civil Service code / Gov.Uk <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

<sup>29</sup> Parliamentary Ethics. A Question of Trust. European Parliament – OPPD, 2011, from <http://www.parliament.cat/document/intrade/59368>

<sup>30</sup> Resolution No. 564 of the CMU "On Approval of the Regulation 'On the System of Training, Specialisation and Advanced Training of Civil Servants and Local Self-Government Officials'" dated July 7, 2020, <http://zakon2.rada.gov.ua/laws/show/564-2010-n>

<sup>25</sup> According to the Secretariat's official data received on request

Thus, the professional training of the civil servants of the Secretariat aimed at ensuring their adherence to the special requirements for professional competence established by the Secretariat can, in fact, be provided only by the Secretariat itself. At any rate, the head of the civil service in a state body – in this case, the Secretary General of the VRU Secretariat – has the right, in accordance with the law, to procure the services necessary for improvement of the qualification of civil servants from enterprises, institutions and organisations, regardless of the form of ownership, and from individuals.

According to the data of the VRU Secretariat provided on the ALI's request, during 2014–2016, the number of civil servants who underwent training was increasing: 88 people in 2014, 174 in 2015, and 177 in 2016. As of 15 November 2017, 300 employees have undergone advanced training.

During the interview, Secretariat representatives said that they did not consider such training effective. They think that a more effective form of professional development is the experience of work itself and fulfilment of the corresponding tasks. Personal structured interviews (both with senior consultants and with department heads) revealed that the only effective form of training to improve individual professional competencies that a parliamentary official should have is the training by a direct supervisor.

The interviewed Secretariat employees also believe that training seminars and internships abroad are rather useful and important. Even though such trips do not help acquire fundamentally new skills, they do help to gain new knowledge and find out about new tools in the management of human and financial resources.

## PATRIOTISM

*Patriotism implies loyalty and faithful service to the Ukrainian people.*

Loyalty and faithful service to the Ukrainian people should be discussed in the context of understanding by the staff of the VRU Secretariat of the ultimate beneficiary of their work. Some Secretariat employees do not feel they are part of a branch of power and identify themselves with state power as a whole and the state as a holistic institution. In order to analyse how identity is formed, we will go on to define the key concepts.

The Encyclopaedia Britannica defines “common good” as that which benefits society as a whole, in contrast to the private good of individuals and sections of society<sup>31</sup>. That is, the common good includes the material and symbolic values that all members of a community need without exception. Thus, the common good necessarily benefits everyone and is recognised as a value by everyone. According to the social contract paradigm as a theory of the source of origin of the institution of State, communities form the State precisely as a tool for provision of the common good – i.e., first and foremost, to guarantee security (border protection, personal safety, protection of life and property).

Filip Spagnoli explores the key concepts of democracy and human rights in the limelight of philosophical, ethical, political, legal, and practical approaches. Thus, he notes that “The general interest is established and pursued, not by way of adding up and pursuing a sum of individual interests, but by way of public discussion and common action... it deals with caring for the common world, for the things that everybody holds in common and on which everybody has, by definition, an equal say”<sup>32</sup>. Hence, the general interest aims at achievement, multiplication and promotion of the common good.

The general interest, on the one hand, is the interest of the community related to ensuring its prosperity, stability, security and sustainable development, and, on the other hand, it is “common”, i.e., one that covers the private interests of all individual citizens as members of one community. In view of the fact that individual interests are very heterogeneous, it refers to a kind of a “common denominator” rather than the sum of all private interests, i.e., it is a certain indispensable minimum.

Gerhard Hafner<sup>33</sup> and Nicholas Onuf<sup>34</sup>, researchers of the phenomenon of the State, believe that the basic tasks of the State come down to: preserving the sovereignty, protecting borders, guaranteeing the safety and welfare of the country's economy. Marcus Beham, having analysed different views and approaches to defining the state interest, argues: “Recalling the definition of what constitutes a state, these ‘traditional’ interests are inextricably linked to its ‘survival’.”<sup>35</sup> Therefore, the state interest is aimed at preserving sovereignty and statehood, strengthening state power, expanding the state machinery, reinforcement of state institutions and increase of the state's influence on the international arena. At a certain level, the interests of the state and society coincide – these are the interests of the state that also clearly benefit society. The very existence of these needs makes the institution of the state necessary.

However, the state and general interests are often in conflict: censorship, restriction of the freedom of speech, abuse of public resources for the maintenance and development of the state machinery, and aggressive foreign policy that might be carried out to protect the state interest often run contrary to the general interest. Thus, society must have developed institutions to check on the state and its bodies in order to have sufficient levers to protect the general interest. The general interest supported by the state, as well as any other interest of the state power which the public is aware of and accepts is referred to as a public interest. Hence, the public interest cannot be contrary to either the state or the general

interest. The public interest is somewhat narrower a concept than the general interest but it is much broader than the state interest. In fact, the public interest is the totality or commonality of the interests of the state and society if they are considered as separate entities. Even the origin of the word “public” reveals that in Latin it means “common”, for instance, “res publica” stands for “common affair” or both state and social affair. That is, the public interest covers all the areas that concern both the state and society. Of course, the state is not designed to provide for all public interests; therefore, there is also a large number of CSOs, trade unions, political parties, commercial associations that one way or another serve the public interest without being state institutions.

Thus, the task of civil servants should involve precisely protection of public interests.

At the legislative level, the notions of general and public interests are insufficiently clearly defined, which thwarts civil servants' identity formation. On the one hand, the Law of Ukraine “On Civil Service” defines the civil service as “a public, professional, politically impartial activity aimed at practical fulfilment of the tasks and functions of the state”, which implies that the civil servant should serve the public interest. On the other hand, the principle of patriotism stipulated in the Law requires the civil servant to serve the people, which, of course, refers to Article 5 of the Constitution of Ukraine: “The people shall be the bearer of sovereignty and the sole source of power in Ukraine” and “The right to determine and change the constitutional order in Ukraine shall belong exclusively to the people and shall not be usurped by the State, its bodies, or officials.”<sup>36</sup>. Thus, it is logical to regard the people of Ukraine as the final beneficiary, which, however, gives rise to some more questions. Specifically, the requirement to serve the Ukrainian people is a requirement to serve the common good, that is, the general interest, and the general interest is much wider than the public interest, it is more difficult to determine, and, therefore, difficult to perceive as a clear-cut value benchmark.

<sup>31</sup> Lee Simon, Common good– <https://www.britannica.com/topic/common-good>

<sup>32</sup> Spagnoli, Filip. Homo Democraticus: On the Universal Desirability and the Not So Universal Possibility of Democracy and Human Rights. – Cambridge Scholars Press, 2003. – 555 p. (43)

<sup>33</sup> Hafner G. Some Thoughts on the State-Oriented and Individual-Oriented Approaches in International Law. – Austrian Review of International and European Law Online. – 2003, Voll 14, Issue 1. – P. 27 – 39.

<sup>34</sup> Onuf N. World of Our Making: Rules and Rule in Social Theory and International Relations. – Routledge, 2012. – 340 p.

<sup>35</sup> Beham, Marcus P. State Interest and the Sources of International Law: Doctrine, Morality, and Non-Treaty Law. – Routledge, 2018. – 225 p.

<sup>36</sup> Constitution of Ukraine. – Available at: <http://zakon2.rada.gov.ua/laws/show/254k/96-pp>

The interviewed representatives of the Secretariat differ in their opinions as to their mission and their client. Most of the respondents referred to the state as their client, with the people of Ukraine coming second, and only a few employees considered that their client is the Chairman of the Parliament. However, the context of many interviews made it clear that the majority perceives service to the state and to the people of Ukraine as identical things. This attests to the lack of understanding of the difference between the concepts of general and public interests. The state is recognised as primary in relation to the people, regardless of its nature as an instrument for achievement of the common good. This is partly due to the concept inherited from the Soviet totalitarian ideological principles: the state comes first, the people comes second.

The distinction between state and general interests is an important task for civil servants, since by mixing these concepts one can get a distorted idea of certain processes and make wrong decisions for issues within the scope of responsibility of civil servants.

Therefore, it is necessary to develop an effective communication tool that would explain the mission and role as well as determine the identity of civil servants.

## INTEGRITY

*Integrity implies civil servants' commitment to protect the public interests and his/her rejection of prevalence of private interest while exercising powers granted to him/her.*

While integration of patriotism requires prevalence of the public interest over the state interest, the principle of integrity requires that civil servants give up on their private interest in favour of the public interest in the exercise of their duties.

Private interest motivates individuals or groups of individuals to obtain certain material and / or symbolic good.

Conflict of interest management is regulated by the Law of Ukraine "On Prevention of Corruption". In addition, the NAPC developed guidelines "On Preventing and Resolving Conflicts of Interest in the Activities of Persons Authorised to Perform Functions of the State or Local Self-Government, and Equal-Status Persons"<sup>37</sup>, that is, in fact, for civil servants.

The staff of the VRU Secretariat currently have no separate documents such as the ones in the UK or Portugal, and rely on documents common for all civil servants, as do parliamentary officials in most countries. The mission and values are specified only in the text of civil servants' oath:

- serve the Ukrainian nation truly;
- abide by the Constitution and laws of Ukraine, implement them;
- respect and protect human and citizen's rights, freedoms and lawful interests and the honour of the State;
- be worthy of my dignified status of a civil servant;
- and carry out official duties in good faith.

Based on the SIGMA's opinion and policy recommendations on public-interest conflicts developed at the request of the Ministry of the Interior of the Czech Republic in 2006, we can draft a table of recommendations and compare them with the current Ukrainian legislation and other documents regulating this area thereby examining their compliance with international standards<sup>38</sup>.

International standards	Ukrainian practice
Comprehensive anticorruption strategy	Law of Ukraine "On the Principles of State Anticorruption Policy in Ukraine (Anticorruption Strategy) for 2014–2017" <sup>39</sup>  Draft Law on the Anticorruption Strategy for 2018–2020 <sup>40</sup>
Clear-cut set of standards of conduct in public life	General rules of ethical conduct of civil servants and local self-government officials <sup>41</sup>
Proper administrative and criminal legal framework	Code of Ukraine on Administrative Offences, Criminal Code
Professional civil service and independent judiciary	In progress
Well-arranged procedure for recusal and self-withdrawal from participation in decision-making	Art. 28 and 29 of the Law "On Prevention of Corruption", Para. 1.1.3. of the Guidelines for Prevention and Settlement of Conflicts of Interest
Restrictions or even a ban on holding positions other than state ones for civil servants	Art. 25 of the Law "On Prevention of Corruption", Para. 1.2.2 of the Guidelines for Prevention and Settlement of Conflicts of Interest
Declaration of income	Section 1, Para. 7 Art. 46 of the Law "On Prevention of Corruption"
Declaration of property	Art. 46 of the Law "On Prevention of Corruption"
Declaration of family income	Art. 46 of the Law "On Prevention of Corruption"
Declaration of gifts	Art. 23 of the Law "On Prevention of Corruption"
Use of internal information	Section 5 General rules of ethical conduct of civil servants and officials of local self-government
Declaration and registration of personal interests	Unregulated
Transparency and openness of declaration	Art. 45 of the Law "On Prevention of Corruption"

<sup>37</sup> On Approval of the Guidelines on Prevention and Resolution of Conflicts of Interest: Resolution No. 839 of the National Agency for the Prevention of Corruption of September 29, 2017. – Available at: [https://nazk.gov.ua/sites/default/files/docs/2017/Методрекомєнд/№%20839%20Метод%20рек%20\(конфлікт%20інтерєсів\).pdf](https://nazk.gov.ua/sites/default/files/docs/2017/Методрекомєнд/№%20839%20Метод%20рек%20(конфлікт%20інтерєсів).pdf)

<sup>38</sup> Conflict-of-interest policies and practices (2006) <http://www.sigmaxweb.org/publications/42618438.pdf>

<sup>39</sup> Law of Ukraine No. 1699-VII "On the Principles of State Anticorruption Policy in Ukraine (Anticorruption Strategy) for 2014–2017" dated 14.10.2014. <http://zakon3.rada.gov.ua/laws/show/1699-18>

<sup>40</sup> Draft Law on the Anticorruption Strategy for 2018–2020 [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=63942](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=63942)

<sup>41</sup> Order No. 158 of the NACS On Approval of the 'General rules of ethical conduct of civil servants and local self-government officials' dated 05.08.2016 <http://zakon0.rada.gov.ua/laws/show/z1203-166>

International standards	Ukrainian practice
Restrictions on employment after leaving the civil service	Art. 26 of the Law “On Prevention of Corruption”
External activities while in the civil service	Partly regulated by Part 3, Art. 10 of the Law “On Civil Service”
Special regulation of ownership rights for shares in private companies	Art. 36 of the Law “On Prevention of Corruption”, Para. 1.1.4 of the Guidelines for Prevention and Settlement of Conflicts of Interest
System of detection and investigation, including an independent special body	Section 2 of the Law “On Prevention of Corruption”
Compatibility and complementarity of criminal and administrative penalties	Further improvement required

- Having analysed the information in the table above, we can conclude that the provisions of the Ukrainian legislation are generally in line with the recommendations of SIGMA. We can see noteworthy achievements in introducing obligatory public declaration of income and property. Establishment of an effective policy on managing conflicts of interest in the civil service is one of the key tasks of the ongoing national reforms of the judicial system, public administration and civil service.
- In the framework of this study, we did not analyse the situation with the management of conflicts of interests at the Secretariat level: this issue could be the focus of a dedicated study.
- It should also be noted that the principle of integrity is not limited to the requirement to avoid conflicts of interest. Having explored the international practices of regulating the conduct of civil servants, we have also discovered other principles that are usually covered by the umbrella term of integrity.
- Thus, we will start out by formulating a basic understanding of the categories that will be applied for further analysis. In this study, we will use the definitions proposed in the Handbook of Adminis-

trative Ethics” (ed. Terry Cooper)<sup>42</sup>.

- An ethical situation is a situation where one aspects or general circumstances that have arisen as a result of action or inactivity have signs of “abnormality” or do not fit the set list of permissible ones.
- An ethical dilemma is a situation when a person faces binary or multiple choice options or misunderstanding based on ethics or lack thereof, that is, when a person thinks that both (or all) options are wrong (or correct).
- An ethical conflict is an ethical dilemma that involves a very difficult or complex choice.
- An ethical challenge arises when a person needs to adhere to an ethical point of view in conditions of lack of understanding or confrontation.
- Having analysed respondents’ answers, we can come up with the following positive conclusions:
- VRU Secretariat employees are well aware of the existence of the problem of parliamentary inefficiency;
- they recognise and are aware of the problem of public distrust in the VRU;
- they are aware of the lack of transparency, however interpret it as lack of information and

misunderstanding of many aspects of work by the public.

At the same time, all interviewees care about their work and show that the fate of the VRU matters to them. However, Secretariat employees did not seem eager to fully share responsibility for the work of the VRU as an integral parliamentary institution, dividing responsibility between MPs and officials and shifting it to politicians (MPs) and the Government:

“The work of the VRU and the work of the Secretariat are different things. All in all, I have a favourable view of the work of the Secretariat, but society does not distinguish between these two, for us it is a typical situation.” Secretariat employees are well aware of the need for political neutrality and the need for impartiality

and independence of the Secretariat.

Responses of employees reveal clear value orientation:

- understanding that there is a margin for error, tolerance towards mistakes along with a negative attitude to poor-quality work;
- desire to create a workplace for maximum efficiency and to overcome inertia;
- desire to create a safe environment (microclimate) without persecution and backstabbing;
- most of the respondents consider the Ukrainian people to be the ultimate beneficiary of their work.

However, there is a risk of other situations and failings that should be considered more carefully.

## ANALYSIS OF SPECIFIC SITUATIONS

### Confidentiality of draft laws in the process of drafting

**Situation:** An MP’s aid orally enquired of a VRU Secretariat employee about a draft law submitted by his MP. During the conversation, the aid manifested interest not only in the status of the draft law but also in other details and opportunities for facilitating its passage. He asked about draft laws from other MPs. The Secretariat employee informed the aid about the status of consideration of the draft law from the said MP, however, refused to disclose information about other draft law on the grounds of confidentiality.

**Question:** Can the aid ask about draft laws with which he (his MP) has nothing to do? What information can a Secretariat employee provide to the aid?

Was the Secretariat employee right when he refused to disclose information about other draft laws?

#### Answer:

An MP’s aid is entitled to request and receive information only concerning the draft laws directly relating to him, for example, when he is included in the working group drafting the bill or is a member of the relevant commission. In view of protection of confidential information, civil servants have no right to disclose any information on the existence, nature or details of passing of the draft laws of other legislators, other MPs, or the aid’s MP.

### Documentation

**Situation:** Petro joined his division six months ago and is still undergoing training. In his division, he provides services directly to citizens in an overloaded service sector constantly suffering from personnel shortage. The team works closely, and everyone relies on each other a lot to cope with their tasks. During his initial training, he learned that the law required that he should properly document and provide information about each case of communication with citizens.

<sup>42</sup> Handbook of administrative ethics / edited by Terry L. Cooper.—2nd ed., rev. and expanded.p. cm. — (Public administration and public policy) — 2001. — 763 p.

Petro made a comment to his colleagues concerning the fact that most members of his team did not have enough time to keep records, saying that they would spend more time on paperwork than the work itself. His colleagues replied that, compared with him, they serve considerably more citizens per day.

**Question:** What should Petro do? Should he accept the team's approach? Is it proper sacrifice the number of clients served in order to comply with formal requirements? Is it worth sacrificing good team relations in order to comply with the requirements of the law?

**Answer:** First, Petro should immediately discuss it with his supervisor to understand his priorities. His supervisor should consider the question of how to reconcile the legislative requirements for record-keeping and the requirements for quality and speed of customer service.

This example illustrates a conflict of values. It is important to serve people by providing good public service to clients. However, the value of legality and professionalism requires that they create and maintain important documentation in accordance with the legislation and relevant instructions. First of all, arbitrary disregard for the requirement of legality is subject to disciplinary proceedings. Secondly, lack of records concerning provision of services to the public makes it impossible to control the quality of these services, respond to problems, and improve the level of service. Thus, the problem discovered by Petro must be solved by the management<sup>43</sup>.

#### Tacit consent

**Situation:** during a Secretariat management meeting the responsible officer reports on the work done and states that he has carried out the assignment in full, in a timely and adequate manner.

Most of the attendees at the meeting, except the manager, are aware of the situation and know for sure that the officer's report is not consistent with reality but they keep silent and do not report this fact to the manager. The meeting is over and none of the participants made any public comments. However, one of those present decided to report about the "inaccuracies" to the manager in a personal conversation. The manager praised and thanked the subordinate for providing important information. After the report, the manager collected and verified some additional facts and finally reprimanded the officer for improper performance of the assignment.

**Question:** Was the employee right to inform the manager? Did the manager do the right thing?

**Answer:** The refusal to act promptly and to expose the lie publicly is a violation of the principle of honesty. By keeping silent, everyone became an accomplice to the offence – i.e. concealment of information. Each of the participants was obliged to consider the colleague's report in an honest and unbiased manner, that is, they had no right to conceal information on the state of affairs concerning this matter. The manager's conduct cannot be considered proper either, since he had to cultivate, first of all, honesty, not loyalty. Moreover, the grounds for reprimanding included inadequate fulfilment of the assignment, while the officer's dishonesty, false information and its concealment had no consequences. This means that the manager does not require integrity from his subordinates.

#### Common sense and private interests<sup>44</sup>

**Situation:** Senior Secretariat Manager John and his newly employed assistant, George, who has recently started working in the Parliament, commute separately every day from a suburb not too far from the airport; the major highway runs past it. This evening, the Senior Manager will be detained unexpectedly at an important meeting called by the Secretariat's leadership. Earlier John had promised his wife, who was returning from a business trip, to pick her up at the airport. Given the fact that her flight was scheduled for the time when he usually goes past the airport on his way home from work, it is clear that John will not be able to meet his wife.

**Question:** Can John ask George to pick up his wife as a matter of convenience because he will drive past the airport terminal anyway?

**Comment:** This case proves that an ethical dilemma can arise even with regard to minor and insignificant things. At first glance, it may seem that this is an ordinary routine thing and there is no ethical problem. However, by practicing on low stakes, decision-makers keep making their daily choices that eventually sum up to a certain habit of ethical conduct. We should not think of ethical dilemmas as a life and death choice that hardly ever happens. Officials' work involves a lot of ethical dilemmas as part of their daily routines.

**Answer:** No, since it is unethical to demand personal (private) favours from subordinates.

- The employee may expect a job-related favour in return.
- Yes, the assistant always travels past the airport terminal and this is not a big deal and anyone else would have done it for someone else. However, does George give someone a lift on a regular basis? No. So why should he make an exception?
- John must decide whether he can accept such a favour from a person he barely knows as a purely personal favour, despite the fact that the only thing they have in common is work.

#### Social media post<sup>45</sup>

**Situation:** An employee was found to have breached the Code of Conduct by posting material on Facebook that had the potential to bring his agency into disrepute. He posted two comments on his Facebook page, one critical of a grants process conducted by his agency and the second criticising the achievements of a senior employee who received an honour. The employee's Facebook page was private and did not identify the employee as an employee of his agency. Nevertheless, his postings came to the attention of his employer. The employee's manager initiated a disciplinary case and as a result a reprimand was imposed on the employee.

<sup>43</sup> Адаптовано за: <https://www.canada.ca/en/treasuryboardsecretariat/services/valuesethics/code/valuesalivediscussionguide.html#Toc12>

<sup>44</sup> Один з найбільш поширених прикладів етичних дилем на роботі. Зустрічається в багатьох підручниках щодо етики в публічному секторі. За таких умов, встановити авторство доволі складно. Даний приклад адаптовано з *The ethics challenge in public service: a problemsolving guide* / by Carol W. Lewis, Stuart C. Gilman. (2005)

<sup>45</sup> Адаптовано за прикладом реального кейсу в парламенті Австралії та його тривалого оскарженні в Комісії захисту гідності <https://meritprotectioncommission.gov.au/home>

**Question:** Did the employee violate the ethics of a civil servant? Was his manager correct?

**Answer:** The Merit Protection Commissioner confirmed the manager's findings:

- explaining that the employee's comments were not confined to publically available information and that it was reasonable to assume that at least some of his Facebook friends would be aware of his employment.
- referring to the fact that the employee's behaviour was in breach of the agency's social media policy which warned employees not to publish material on social media that could harm the reputation of the agency or bring it into disrepute.

## EFFICIENCY

*Efficiency is reasonable and effective use of resources for achieving public policy objectives.*

One of the key tasks associated with integration of the efficiency principle into the civil service system is to retarget it from process to result. Implementing this approach at the level of the Secretariat is not an easy task for the VRU, given the fact that the existing functions of this body aim at technical support of the processes (even its expert function: a draft law – an opinion), and are process-oriented.

The nature of planning the work of the Verkhovna Rada itself is also formal. Without streamlining co-operation and clarification of the functions of the CMU and VRU, without their interaction, it is impossible to focus the work of the Secretariat and its employees on the result and plan implementation, since the basis of the VRU's strategic planning is a plan of legislative work drafted on the basis of the Coalition Agreement and the Plan of Work of the Government. Since co-ordination, quality cooperation and control over the Government are not systematic, and the cycles and regimes of the two bodies are not mutually consistent, it is impossible to ensure quality planning of legislative work, high-quality consideration of draft laws and control over enforcement of the adopted policies with regard to certain results. Due to this, the issue of regulating the professional standards of the work of the Secretariat is so problematic and important.

The Secretariat as a body tasked with supporting the work of the VRU must comply with all the functions assigned to the Verkhovna Rada of Ukraine. Thus, in this Chapter, we will analyse the level of support for the constitutional functions of the VRU and try to find out which of them need additional professional support.

The VRU is the Parliament of a parliamentary-presidential republic, it serves as the main channel of communication between the public and government (in the broadest sense), forms the CMU, controls its activities, adopts laws, and approves plans of expenditures. The powers of the VRU that require constant support include the following<sup>46</sup>:

- to adopt laws;
- to approve the State Budget of Ukraine and amend it; to supervise the execution of the State Budget of Ukraine and adopt decisions on reporting concerning its execution;
- to establish the principles of domestic and foreign policy;
- to approve national programmes for economic, scientific, technical, social, national, and cultural development and protection of the environment;
- to consider and adopt decisions on the approval of the Programme of Activity of the Cabinet of Ministers of Ukraine;
- to monitor the activities of the Cabinet of Ministers of Ukraine in accordance with this Constitution and law;
- to exercise parliamentary control within the limits established by this Constitution and law;

- to approve the budget of the Verkhovna Rada of Ukraine and the structure of its staff.

In fact, consideration of the VRU's draft laws is the most popular function at the level of the Secretariat. The legislative process in the VRU is the most profoundly studied issue and is usually perceived as the main and often the only function of the VRU. Actually, the process of passing draft laws in the VRU is fully ensured by the VRU Secretariat (from registration to publication on the portal of the VRU).

A considerable number of legislative process problems are already specified in the Roadmap on Internal Reform and Capacity-Building for the Verkhovna Rada of Ukraine<sup>47</sup> and policy papers of the Agency for Legislative Initiatives, for example, in the Policy Paper "Concept of 'End-to-End' Legislative Process" and in Issue 4/2017 of the Chasopys 'Parliament' Journal<sup>48</sup> 49. The main problems include "legislative spam", protracted process of passing bills (some draft laws are pending consideration for several years) and lack of mechanisms for draft law quality assurance and prevention of wrongful laws and regulations.

In our opinion, the problems of the legislative process stem from the lack of representation of other vital functions of the VRU, which are not supported either institutionally or financially. Such functions include establishment of the principles of domestic and foreign policy; approval of national programmes for certain areas; and approval of the Programme of Activity of the Cabinet of Ministers of Ukraine. Their implementation requires, on the one hand, substantial expert support and, on the other hand, establishment of ties and high-quality coordination between the VRU, the CMU and the PU. Coordination of the main priority areas of policy of the CMU and the Verkhovna Rada is established by adopting such programme documents as the Coalition Agreement (2014), the Plan for Legislative Support to Reforms in Ukraine (2015), and approval of the Programme of Government Activity (2016). A lot of time lapsed between these documents.

Even taking into account the change of government in 2015, there is practically no time for meaningful policy formation and implementation. The processes of policy-making and implementation by CEB (the CMU and ministries) are rather chaotic and lack coordination with the Parliament. That is, as we see, it took the VRU and the CMU 3 years to come up with a plan of work, although they have a total of 5 years to implement their plans.

Needless to say, strategic planning is not supplemented by and does not correspond to budget planning, while the main fiscal document of the country is the annual budget, and there is no long-term financial planning.

The above situation concerns the political level, but there are problems at the level of expert support for these functions too. Technically, the VRU Secretariat prepares draft Legislative Work Plans but it provides neither expert nor communicative support for this planning. The mechanisms of internal parliamentary communication (sessions, Coordination Boards, committee meetings) do not ensure sufficient efficiency of the political dialogue at the level of the VRU. Parliament, as a multi-party body, needs effective organised mediation in working on a common position among all the represented forces. We believe that high-quality administration of the political dialogue is a key to organising the work of the body and an important condition for its agency in relation to the state decisions that it has to adopt.

Institutional support is necessary inter alia for performance of the following functions (these may be partly assigned to the secretariats of factions):

- analysis of citizens' requests and political agendas of parliamentary factions;
- work on communication and coordination of these agendas;
- analysis of state policies, examination of the CMU's planning documents;
- support for communication within Parliament;
- designing planning documents of the VRU.

A similar recommendation is also included in the Roadmap<sup>50</sup>:

<sup>47</sup> European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine led by Pat Cox, 2016–2017, Report and Roadmap on Internal Reform and Capacity-Building for the Verkhovna Rada Of Ukraine, from: <http://www.europarl.europa.eu/resources/library/media/20160301RES16508/20160301RES16508.pdf>

<sup>48</sup> Заславський О., Хоруженко О. Концепція законодавчого процесу «від початку до кінця». – К., 2017. – 52 с. – Available at: [http://parliament.org.ua/wp-content/uploads/2017/10/Policy-Paper\\_End-to-end.pdf](http://parliament.org.ua/wp-content/uploads/2017/10/Policy-Paper_End-to-end.pdf)

<sup>49</sup> Жерибор О., Чернуха Т., Оуш К., Азімов Є. Особливості проходження державної служби в Апараті Верховної Ради України // Часопис «Парламент». – 2017. – №4. – Available at: [http://parliament.org.ua/wp-content/uploads/2017/11/Chasopys\\_Parliament\\_4\\_2017.pdf](http://parliament.org.ua/wp-content/uploads/2017/11/Chasopys_Parliament_4_2017.pdf)

<sup>46</sup> Конституція України. – Режим доступу: <http://zakon2.rada.gov.ua/laws/show/254к/96-вр>

45. An inter-party dialogue unit (mediation unit) should be established within the VRU to provide a structure to support and coordinate cross-party groupings and caucuses, convene meetings between the political parties to assist in overcoming obstacles in the legislative process and to act as a facilitator in supporting political dialogue and consensus building

The function of approving the State Budget of Ukraine and amending it, as well as monitoring the implementation of the State Budget of Ukraine, making decisions concerning reports on its implementation is a weak link in the administration of the work of the VRU. The issue of the State Budget falls within the scope of competence of the VRU Committee on Budget, which is overburdened<sup>51</sup> and has neither sufficient resources nor expert capacity to provide high-quality analysis and sensible decisions on the draft annual budget of the country.

Another closely related issue is that of exercising control over Parliament. Currently, at the state level, there are no tools for monitoring and evaluating the impact of state policy. Within the framework of the public administration reform, such functions were to be assigned to the general directorates of ministries, which are supposed to be responsible for public policymaking and for monitoring and evaluation of its implementation. Government also planned to develop a methodology for such assessment. Fulfilment of these obligations could undoubtedly be a necessary step but it is insufficient. Assessment of the effectiveness of state policies should be carried out not only by policymakers but also by the authorities responsible for supervising and monitoring its implementation. Currently, the control function of the VRU committees is also very weak at the institutional level and does not have targeted financial support.

Establishment and effective implementation of these functions require that they should be formally

assigned either to the secretariats of committees or to specially created departments at the level of the Scientific Experts Office, as well as methodological, personnel and technical support.

Another extremely important aspect is that none of these functions is assigned to the Secretariat at the level of the relevant procedures and mechanisms laid down by the Rules of Procedure and internal regulations or in the form of the budget request of the VRU to the Ministry of Finance, the structure of which is presented in the VRU budget. The VRU budget, as well as any other financial plan of any other state body in Ukraine, has the same shortcoming: it provides for expenditures for the maintenance of a state body rather than for implementation of planned measures aimed at achieving the goals in accordance with the principle of results-based budgeting.

Hence Secretariat efficiency issues are rooted in the problems of the VRU as an institution. The VRU Rules of Procedure themselves focus on the process of passing laws, the effectiveness of which can be measured by the number of prepared expert opinions and their timeliness.

The above problem of the ineffectiveness of some functions of the VRU makes it difficult to re-target the Secretariat's work to the result. First of all, it is about the ineffectiveness of the strategic planning of the work of the VRU and, consequently, the strategic planning of the work of the VRU Secretariat on its basis. Therefore, without effective planning containing clear-cut results, qualitative and quantitative outcome indicators and a budget consistent with this plan, it is impossible to make civil servants focus on the result.

Shift of focus from the process to the result should be implemented at the level of the national civil service reform, therefore, new approaches to the personnel management policy in the civil service are needed.

As of today, there are a number of problems of

the national system of personnel management in the civil service, including:

- lack of a system of personal indicators of the efficiency of civil servants consistent with the goals, objectives and relevant indicators for achievement of strategic goals;
- lack of in-job training system for civil servants focused on the acquisition of special professional competencies necessary for specific tasks and achievement of specific goals;
- lack of adequate methods for assessing the performance and effectiveness of civil servants;
- no link between existing approaches to assessing and awarding civil servants<sup>52</sup>.

Усі ці проблеми перешкоджають інтегруванню цінності. These problems hinder the integration of the value of efficiency at the personal level in the VRU Secretariat.

According to the senior staff and personnel management officials of the Secretariat, an updated assessment system has been developed, and evaluation based on the new method is expected to start in the fall of 2018. Its effectiveness, though, can be established after the evaluation. On the other hand, since there has been no revision of the nature of planning, we cannot expect the above problems to be completely eradicated.

The key role in HR policy is played by the Secretary General, who approves the annual staffing, appoints and dismisses employees (other than officials of the secretariats of committees), assigns grades to employees, organises trainings, approves awards and makes decisions on initiation of disciplinary procedures and imposition of disciplinary penalties. Hence, the Personnel Department is the division of the Secretariat responsible for personnel management and directly subordinate to the Secretary General, currently such divisions are responsible for operational, routine administration of personnel record keeping.

Thus, the Secretary General has sufficient authority to develop a strategy for personnel management, to plan the appropriate financial support and to control its

implementation. In this context, we deal with a lack of leadership and proactive position of the management at the level of the Secretariat, which prevents improvement of professionalism at the level of the body.

It should be noted that most of the interviewed Secretariat staff manifest a significant degree of inertia and lack of initiative. The few exceptions to this trend, i.e. proactive and motivated managers are, unfortunately, a negligible minority. Usually such motivation is not hailed and is even frowned upon. This attests to the fact that active reform of the Secretariat may be resisted at the level of its employees.

A relevant and important indicator of the level of professionalism of the staff of the Secretariat is the quality of expert opinions prepared by the secretariats of the committees (to be approved by the committee) and the expert divisions of the Secretariat.

CSEO and CJO expert opinions are prepared based on a formalized methodology, which, unlike the opinions of the committees, applies to each draft law, depending on the stage of the passage.

There is no approved formalised methodology for expert opinions of committees. For instance, the Secretariat of the Committee on Corruption Prevention and Counteraction uses the methodology for identifying corruption-related risks based on the methodology of the Ministry of Justice.

The Budget Committee poses the largest number of problems. Firstly, expert evaluation is aimed only at identifying the need for expenditures from the state budget to implement a certain draft law. However, expert opinions do not include estimates of the scope of costs, fiscal and economic impacts. Indeed, the Budget Committee is the most overworked, which significantly limits its resources. However, the right of the individual legislative initiative of VRU MPs makes it possible to introduce regulations for consideration by Parliament that may require budgetary expenditures and exercising fiscal influence.

Therefore, the VRU Secretariat is unable to carry out

<sup>50</sup> European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine led by Pat Cox, 2016-2017, Report and Roadmap on Internal Reform and Capacity-Building for the Verkhovna Rada Of Ukraine, from: <http://www.europarl.europa.eu/resources/library/media/20160301RES16508/20160301RES16508.pdf>

<sup>51</sup> Заславський О., Хоруженко О. Концепція законодавчого процесу «від початку до кінця». – К., 2017. – 52 с. – Available at: [http://parlament.org.ua/wp-content/uploads/2017/10/Policy-Paper\\_End-to-end.pdf](http://parlament.org.ua/wp-content/uploads/2017/10/Policy-Paper_End-to-end.pdf)

<sup>52</sup> Reform of Civil Service and Public Administration in Ukraine in 2017. Shadow Report – 2017. –34 p. – Available at: [http://parlament.org.ua/wp-content/uploads/2018/05/Shadow\\_Report\\_PAR\\_2017.pdf](http://parlament.org.ua/wp-content/uploads/2018/05/Shadow_Report_PAR_2017.pdf)

a comprehensive assessment of such draft laws, which results in inconsistencies in the legislation and chaos in the state policymaking

## EQUAL ACCESS TO THE CIVIL SERVICE

*Ensuring equal access to the civil service implies prohibition of all forms and manifestations of discrimination, absence of unreasonable restrictions or granting unjustified advantage to certain categories of citizens when they apply for civil service positions and perform civil service.*

The issue of access to the civil service at the level of the VRU Secretariat is also important. According to the interviewed Secretariat employees, contests for vacant posts are transparent and unbiased. It is hard to fully trust this testimony, but we cannot cite any evidence of a violation of the employment procedure set forth by the law and internal procedures.

On the other hand, based on the results of analysis of the tender procedure and monitoring of the NACS and VRU websites, we can argue that the state authorities' communication as regards searching for and attracting the most worthy candidates is rather weak. This is also attested to by the feeble competitiveness of the Secretariat (and the state as a whole) in view of the amount of remuneration. The NACS website is not user-friendly and does not have options such as sorting vacancies by type of position, institution, location and date, one cannot subscribe to new announcements. Given the large number of civil service positions in Ukraine and the number of advertisements, these features are important for improving the competitiveness of state contests<sup>53</sup>.

When it comes to non-discrimination at the level of civil service in the Secretariat, a few important points should be mentioned.

During the interviews, Secretariat employees did not mention any discrimination on any grounds and did not demonstrate a biased attitude towards their colleagues and subordinates.

The only biased attitude may be traced in manifestations of so-called ageism, that is, a biased attitude towards young or considerably younger people. Thus, some individuals in managerial positions demonstrated distrust and doubted the level of professional competence of junior service employees and candidates for vacancies based on age. In addition, sweeping statements were made regarding the low qualifications of young specialists in general.

Another problem is gender equality in the VRU Secretariat. This problem is wide-ranging for the entire civil service, not only for the Secretariat.

Specifically, this refers to the absence of gender mainstreaming policies at the level of both national civil service personnel management policies (developed and approved by the NACS) and internal policies, that is, exclusively at the level of the Secretariat. Thus, selection, hiring, promotion, social security and vacation policies are gender-blind, that is, they do not take into account the characteristics and specific needs of women and men of all ages.

There were no manifestations of sexism during the survey, but gender equality at the level of access to decision making in the VRU Secretariat is not ensured. Instead, there is a significant imbalance. Thus, as of November 20, 2017, the accounting number of employees amounted to 1013 people (the total number on the staff list is 1115), including 683 women and 330 men. At the same time, there is not a single woman among the management of the Secretariat (five people: acting Secretary General and four deputies), and no women head the management of structural divisions. Only two women head departments: Karmeliuk Iryna Mykolayivna, Head of the Press Service, and Adamovych Iryna Mykolayivna, Head of the Public Appeals Department.

A significantly better gender balance is ensured among the heads of the secretariats of committees (13 women and 14 men) and factions (4 women and 4 men). As we can see, most of the staff of the Secretariat are women but they hold lower positions and have a limited access to managerial positions in the Secretariat<sup>54</sup>.

Consequently, to ensure equal access to the civil service it is necessary to implement relevant policies both at the level of civil service reform and at the VRU Secretariat, as well as hold appropriate trainings and awareness campaigns.

## POLITICAL IMPARTIALITY

*Political impartiality implies preventing the impact of political views on the actions and decisions of the civil servant, as well as refraining from demonstration of own attitude to political parties and own political views while performing professional duties.*

The requirement for political neutrality is closely linked to the principle of independence, but this refers to the personal political convictions of civil servants. This aspect is very important but problematic issues are difficult to identify.

The Law of Ukraine "On Civil Service" (Art. 10, Para. 3) does not prohibit membership in political parties or, moreover, holding own political views. The Law prohibits holding positions in the governing bodies of parties and being a member of a political party only for the civil servants of category "A" (i.e. heads of state bodies, in this case it refers to the Secretary General). Refraining from showing your attitude to political parties and demonstrating your political views is an important requirement for civil servants, which is of particular significance in the VRU Secretariat. It is particularly important that the Parliament is a multi-party body. Here the Chairman and the deputies, the chairmen of the committees and the members of the committees represent various political forces, the cooperation of which should be based on the principles of complete neutrality and impartiality.

Surveys conducted in 2017 showed that the staff of the Secretariat is 100% politically neutral. Parliament, as a multi-party body, has a special need for politically neutral administration. In general, Secretariat employees refrain from demonstrating and commenting on their political views.

Given the fact that the Secretary General is responsible for the work of the Secretariat and the policy of personnel management, the appointment of this official is important as regards his political impartiality.

Under the Rules of Procedure, Secretary General is elected by a majority of votes in the VRU upon submission of the Chairman of the VRU. This is a civil servant of category A, that is, the head of the civil service in a state body. Despite the fact that the Secretary General is a category A employee, he/she is not elected via the CSCS. This is fully justified in view of the Parliament's right to administrative autonomy, but the very procedure for appointing the official is imperfect, given the risks of political pressure on the part of the VRU management.

A similar situation arises when preparing expert opinions for draft laws by committees. First, the methodology of preparation and the structure of expert opinions are not formalised. This has a negative impact on the quality of expert opinions as well as makes room for manipulation. The main advisers of the committee secretariats who prepare expert opinions for draft laws are often subjected to pressure from MPs, especially if the draft law affects large groups of interests.

According to the interviewed Secretariat employees, discussions about the decision of the committee to recommend or not recommend including a draft law in the agenda belongs to a political rather than expert realm.

There is currently no official Secretary General — there is only acting Secretary General. This has been the case since 2014, when the previous head V.O. Zaichuk retired. It is unacceptable and requires a legislative settlement: candidates should be put forward following a competition (even if held by the Secretariat), and the vote may be negative too.

<sup>53</sup> Reform of Civil Service and Public Administration in Ukraine in 2017. Shadow Report. – 34 p. – Available at: [http://parlament.org.ua/wp-content/uploads/2018/05/Shadow\\_Report\\_PAR\\_2017.pdf](http://parlament.org.ua/wp-content/uploads/2018/05/Shadow_Report_PAR_2017.pdf)

<sup>54</sup> According to the Secretariat's official data received on request

Another option is to set deadlines for proper appointment of Secretary General.

Such uncertainty of management has two main negative effects. Firstly, the legitimacy of the current Secretary General is questioned by the management of the Secretariat. An illegitimate leader does not have the same level of authority nor the level of responsibility that can be assigned to the properly appointed Secretary General. Secondly, it means that no reorganisation or reform can be initiated until there is properly appointed Secretary General. This is a precarious situation, a state of uncertainty.

Many interviewed employees of the Secretariat argue that the fact that Secretary General has not been appointed also hampers the civil service reform at the level of the Secretariat, as well as the reform of personnel management policies, since when there is no appointed Secretary General it is impossible to exercise due leadership, initiative and responsibility in planning and ensuring these processes.

In addition, the absence of appointed Secretary General also produces negative effects from the point of view of the political impartiality of the Secretariat's management. First of all, this refers to the change of the acting Secretary General after the change of the leadership of the Verkhovna Rada (election of new speaker) when V.I. Slyshynskyi was substituted with P.O. Bodnar, which was not coordinated with the VRU. That is, as of today, it is the Chairman of the VRU that has the most influence on the Secretariat rather than MPs. In fact, MPs' right to professional and objective administration has been abridged.

## TRANSPARENCY

*Transparency – free access to information about the activity of the civil servant, except in cases defined by the Constitution and laws of Ukraine.*

After the relevant law was adopted, the level of access to public information has grown significantly, as well as the culture of communication and feedback from

citizens – however there is a lack of public reports on the results of the work of the VRU and the Secretariat.

On the other hand, back in 2013, the All-Ukrainian Network OPORA beat the VRU Secretariat in court for refusing to provide a copy of the staffing chart based on the Law of Ukraine “On Access to Public Information”<sup>55</sup>. This principle is insufficiently integrated, but there has been some significant progress in this regard, in particular, due to pressure from citizens and the public.

Transparency and openness of the Secretariat of the Verkhovna Rada of Ukraine is a prerequisite for building trust between society and Parliament. At the legislative level, we can see incorporation of transparency and openness in the activity of the VRU in the Rules of Procedure of the Verkhovna Rada of Ukraine, which, along with the Constitution, establish the main provisions concerning the work of the Verkhovna Rada of Ukraine. According to Article 3 of this Law “Openness and Transparency of Work of the Verkhovna Rada”, it is the VRU Secretariat that bears responsibility for basic obligations regarding transparency and openness such as accreditation of media representatives, broadcasting of meetings, posting of information on the official website of the Verkhovna Rada, and provision of information on requests in accordance with the Law of Ukraine “On Access to Public Information”. In turn, the employees of the Verkhovna Rada's Secretariat are civil servants, and the principle of transparency is set forth as one of the main principles of the civil service in accordance with Article 4 of the Law of Ukraine “On Civil Service”.

Also, in accordance with Article 4 of the Law of Ukraine “On Access to Public Information”, access to public information is provided based on the principles of transparency and openness of the activities of the government agencies.

On the way to European integration and adoption of best international practices, it is important to pay attention to recommendations for internal reform and institutional capacity building of the Verkhovna Rada of Ukraine. They were approved by Resolution No. 1035–VIII of the Verkhovna Rada of Ukraine dated March 17, 2016, with one of the main provisions being openness,

transparency and accountability to citizens<sup>56</sup>.

The recommendations include developing and approving a communication strategy, which was put into effect by the Decree of the Chairman of the VRU dated November 21, 2017, and is personally supervised by the Chairman of the VRU<sup>57</sup>.

Its main tasks include the following: to ensure citizens' awareness of the processes in the Parliament by providing a fuller access to public information about the legislative activities of MPs, MP committees, parliamentary factions (MP groups), the Chairman, deputy chairmen, the Secretariat, and VRU committees. Ensuring full and objective coverage of the Parliament's activities in the media by introducing effective mechanisms for informing the media and assisting them in collecting facts and comments about the work of the deputy corps, committees and Parliament as a whole<sup>58</sup>.

Another noteworthy task set in the communication strategy implies the need to introduce a reporting mechanism. Specifically, this refers to public reporting of the management of the Verkhovna Rada of Ukraine and political parties, for example, when the web-site of the Chairman of the Verkhovna Rada of Ukraine promptly publishes current news on the activity of the Chairman of the Verkhovna Rada of Ukraine (meetings, visits, etc.), and to introduction of a single format of public reports of the VRU leadership and MPs, which take place at least once a year.

It also provides for coverage of international activities of MPs and parliamentary delegations, for example, when MPs and the leaders of the Verkhovna Rada of Ukraine publish reports on the results of trips abroad and the number of meetings, use of budgetary funds, documents and resolutions initiated due to their international travel and the results of their implementation. The secretariats of the committees of the Verkhovna Rada of Ukraine are obliged to publish reports (post-releases) on the visits of parliamentary delegations abroad on the official website

of the Verkhovna Rada of Ukraine.

Reporting seems to be the weakest element of public relations and transparency. Thus, while the Law “On Civil Service” provides for the annual reporting of the heads of the civil service of executive bodies (see Art. 45), no law or regulation stipulates the mandatory annual reporting of the Secretary General as the head of the civil service of the legislative body.

The Chairman of the VRU tasked the Secretary General with presenting reports for the use of funds by the Administrative Office of the VRU Secretariat according to the VRU budget at meetings of the Committee on Rules of Parliamentary Procedure and Support to Work of the VRU. This is established by the Resolution on the Competence of Committees, whereby the Committee on Rules of Procedure shall organise the work of the Verkhovna Rada of Ukraine as well as exercise control over the performance of its functions by the VRU Secretariat and its bodies and over administration of the budget of the Verkhovna Rada of Ukraine.

In order to improve control over the activities of the Secretariat, it is also necessary to establish a procedure for reporting by the Head of the Secretariat and on other issues of organisation of the work of the VRU.

Unlike the previous management of the VRU Secretariat, whose head was recognised one of the main enemies of the press, we can observe significant progress in terms of openness and transparency of the VRU's activity as ensured by the current management of the Secretariat<sup>59</sup>.

The above-mentioned case of the Civil Network OPORA is a rather illustrative example.

On the other hand, under the next management of the Secretariat, the request of the Agency for Legislative Initiatives for information in accordance with the Law of Ukraine “On Access to Public Information” was fully granted and the information was provided within the timeframe prescribed by law.

<sup>55</sup> Суд зобов'язав Апарат Верховної Ради надати ОПОРА копію штатного розпису // Сайт Всеукраїнської мережі Опора. – Available at: <https://opora.ua.org/news/3925-sud-zobovjazav-apat-verbhovnoji-rady-nadaty-opori-kopiju-shtatnogo-rozpysu>

<sup>56</sup> On Measures to Implement Recommendations on Internal Reform and Increasing Institutional Capacity of the Verkhovna Rada of Ukraine: Resolution of the Verkhovna Rada of Ukraine // Bulletin of the Verkhovna Rada of Ukraine. – 2016. – No.14. – p. 149. – Available at: <http://zakon3.rada.gov.ua/laws/show/1035-19>

<sup>57</sup> On Additional Measures to Implement the Declaration on Parliamentary Openness: Decree of the Chairman of the Verkhovna Rada of Ukraine dated 21.11.2017p. – Available at [http://search.ligazakon.ua/l\\_doc2.nsf/link1/MUS29377.html](http://search.ligazakon.ua/l_doc2.nsf/link1/MUS29377.html)

<sup>58</sup> Communication Strategy of the Verkhovna Rada of Ukraine for 2017–2021. Available at: <http://portal.rada.gov.ua/uploads/documents/44841.pdf>

<sup>59</sup> Список «ворогів преси» очолив Азаров // 24 канал. – 2013. – Available at: [https://24tv.ua/spisok\\_vorogiv\\_presi\\_ocholiv\\_azarov\\_n3430622](https://24tv.ua/spisok_vorogiv_presi_ocholiv_azarov_n3430622)

It is also necessary to pay attention to the progress made as regards cooperation of the Parliament with NGOs and international technical assistance projects.

On February 5, 2016, Ukraine joined the Declaration on Parliamentary Openness, and the then-Chairman of the Verkhovna Rada of Ukraine Volodymyr Groysman signed the Decree approving the Action Plan for the Implementation of the Declaration on Parliamentary Openness. The main goal of the initiative is to ensure greater transparency of parliamentary work and to involve the public in parliamentary processes. The Action Plan to implement the Declaration on Parliamentary Openness was developed by Ukrainian organisations for monitoring parliamentary activities (OPORA, CHESNO, Transparency International Ukraine, Eidos, Media Law Institute) together with the Verkhovna Rada of Ukraine with the support of the United Nations Development Programme in Ukraine. The Action Plan covers 20 commitments between Parliament and civil society in the following areas: 1) access to information; 2) involvement of the public in parliamentary processes; 3) reporting, and 4) technology and innovation. Today, the Open Parliament initiative in Ukraine involves MPs, representatives of the VRU Secretariat, international and Ukrainian NGOs<sup>60</sup>.

In the context of adherence to this Declaration, the main achievement as regards increasing transparency in the organisation of the activity of the VRU is the launch of the VRU Open Data Portal [opendata.rada.gov.ua](http://opendata.rada.gov.ua)<sup>61</sup>, whereby anyone can obtain information on the use of budgetary funds or the organisational structure of the VRU Secretariat.

In addition, in the context of monitoring of the work

of the Parliament and the desire of VRU committees to increase the transparency of their work, attention should be given to their cooperation with the Civil Network OPORA. The Network, based on the developed methodology, monitors the work of the committees of the Verkhovna Rada of Ukraine and provides recommendations for improving the transparency of their work and information to be posted on the web-resources of these bodies<sup>62</sup>.

From October 2017 to April 2018, another civil project was being implemented to increase the transparency of the committees' work. The project Transparent and Open Committees of the Verkhovna Rada of Ukraine was implemented by the NGO League of Interns within the framework of the Open Parliament Initiative with the support of the EU-UNDP Rada for Europe project<sup>63</sup>.

An important element of the transparency and accountability of the Verkhovna Rada of Ukraine is the publicity of information on the incomes of the Secretariat's civil servants and management and prevention of conflicts of interest. According to Art. 3 of the Law of Ukraine "On Prevention of Corruption"<sup>64</sup>, employees of the Secretariat as civil servants have to annually submit an electronic declaration of their income.

Using the NAPC's resource, we can examine the electronic declarations of the management and other employees of the Secretariat<sup>65</sup>. This is a significant progress compared with 2015, when V.O. Zaichuk, the then-Secretary General and I.M. Kutzyk, First Deputy Secretary General, refused to submit property and income declarations<sup>66</sup>. Thus, recently there has been a significant

increase in the transparency of the organisation of the activity of the VRU and its Secretariat.

To some extent, this can be traced to the introduction of electronic tools that provide access to public information, as well as by establishing communication with civil society representatives. However, in the future, attention must be paid to the development and implementation of a reporting mechanism for the leadership of the Verkhovna Rada of Ukraine and the Secretariat, legislative enshrinement of the need to observe the transparency and openness of the Parliament, appointing the responsible persons, granting the appropriate powers, and allocating financial and human resources. For instance, the current parliamentary leadership contributes to increasing the transparency and openness of work, but there is no guarantee that such processes will be sustained when other leaders come, holding other views on transparency..

## STABILITY

*Stability involves appointment of civil servants for non-fixed terms, except in cases defined by the law, non-dependence of the civil service staff composition upon changes in political leadership of the state and government agencies.*

The institutional memory of the Verkhovna Rada of Ukraine is largely ensured by the VRU Secretariat, despite the fact that now there are a lot of MPs who were elected to the Parliament for several consecutive convocations. It is necessary to renew the Parliament, but new MPs need mentoring, which to a large extent is provided by the Secretariat.

Secretary General is appointed for an indefinite period by a majority of votes on the submission of the Chairman of the Verkhovna Rada. The Secretary General is accountable and responsible to the Verkhovna Rada. According to law, all civil servants are appointed for non-fixed term, except for category "A" positions, with some exceptions. Secretary General is a category "A" position, i.e. a head of the civil service in a government body. The Law also stipulates that category "A" employees are appointed for a term of 5 years, unless otherwise provided by law. Appointment of Secretary General is regulated by

the Rules of Procedure of the Verkhovna

Rada, however, there is no mention of the term of office, and it is not specified that Secretary General is appointed for non-fixed term. On the other hand, the Law states that: "The Secretary General of the Verkhovna Rada of Ukraine may be released from office by the Verkhovna Rada before term..." Here, the mention of early dismissal seems unexpected, since the Rules of Procedure do not specify any terms of office of the Secretary General. We can assume that the Secretary General is an exception to the rule concerning 5 years on the grounds that he/she is appointed via a special procedure provided for in the Rules of Procedure of the VRU, since the previous Secretary General appointed based on this procedure was in office for 13 years and retired from it due to reaching the retirement age. However, it would be a good idea to specify the term of office or the fact that it is non-fixed. Another important problem is refusal to appoint Secretary General in accordance with the procedure set in the Rules of Procedure.

Stability is one of the most powerful and best-integrated values of the VRU Secretariat. The turnover rate here is 8-10% (2011 to 2017)<sup>67</sup>, while institutional memory is largely concentrated at the level of the management of the Secretariat.

On the other hand, during the reformatting of the Government in 2015, part of the management of the Secretariat was transferred to the SCMU together with the former Chairman of the VRU Volodymyr Groysman, who became Prime Minister and headed the Cabinet of Ministers. In addition, V. Slyshynskiy was replaced with O. Bodnar as acting Secretary General, despite the fact that V. Slyshynskiy did not move to a similar position in the SCMU. This is a clear violation of the principle of stability and political independence of the Secretariat. Another disgraceful fact is that there is still no properly appointed Secretary General. This creates additional chaos in the work of the body and impedes its development and reform.

Therefore, in general, we have sufficient grounds to commend the level of integration of the principle of stability in the Secretariat of the Verkhovna Rada of Ukraine, but the uncertainty with appointment of Secretary General poses serious risks to the institutional stability of the body.

<sup>60</sup> Open Parliament: Interim Report on the Activity of the Initiative and Implementation of the Action Plan to Implement the Declaration on Parliamentary Openness, February 5 – May 5, 2016. – Available at: <http://www.ua.undp.org/content/dam/ukraine/docs/DG/Open%20Parliament%20report%20Feb-May%202016%20web%201.pdf>

<sup>61</sup> Open Data Portal: <http://data.rada.gov.ua/open/main/index>

<sup>62</sup> Transparency of the work of parliamentary committees: Opora's study. – 2016. – Available at: <https://rada.oporua.org/analitika/komitety/11414-prozorist-roboty-parlamentskykh-komitativ-doslidzhennia-opory>

<sup>63</sup> Results of the project «Transparent and Open Committees of the Verkhovna Rada of Ukraine» // Website of the League of Interns. – 2018. – Available at: <http://www.interns.org.ua/uk/content/pidbyto-pidsumky-proektu-prozori-ta-vidkryti-komitety-verhovnoyi-rady-ukrayiny>

<sup>64</sup> Law of Ukraine «On the Prevention of Corruption» / Bulletin of the Verkhovna Rada of Ukraine. – 2014. – No. 49. – p. 2056. – Available at: <http://zakon3.rada.gov.ua/laws/show/1700-18/page>

<sup>65</sup> Website of the «Declarations» project. – Available at: <https://declarations.com.ua/office>

<sup>66</sup> Керівник Апарату Верховної Ради не надав декларацію ні на запит «Громадського ТБ», ні на запит нардепа // Детектор медіа. – 2015. – Available at: <http://detector.media/infospace/article/104123/2015-02-24-kerivnik-aparatu-verkhovnoi-radi-ne-nadav-deklaratsiyu-ni-na-zapit-gromadskogo-tb-ni-na-zapit-nardepa>

<sup>67</sup> According to the Secretariat's official data received on request

# CONCLUSIONS

An efficient civil service that meets modern requirements for exercise of profession is an important element of the functioning of the VRU Secretariat and support of the work of the Parliament as a whole. In accordance with the new version of the Law “On Civil Service”, the principles of the civil service defined therein provide guidelines for integrating European values at the level of the parliamentary administration.

Having examined the level of integration of the civil service principles in the VRU Secretariat by analysing the regulatory framework, monitoring the work of the Parliament, studying international experience, conducting structured interviews and situational analysis, we have arrived at the following conclusions.

**Principle of the rule of law.** Employees of the Secretariat manifest a clear understanding of the content of this principle and recognise its high value but do not have sufficient powers to advance it in their professional activity.

**Principle of legality.** There is a good understanding of the principle of legality. The practical integration of this principle is hampered by political influences and lack of the relevant powers, just like with the rule of law.

**Principle of professionalism.** The principle of professionalism guarantees unbiased and impartial performance of official duties by employees of the Secretariat. In this regard, it is necessary to focus on two aspects. Firstly, there are no formalised rules of conduct for civil servants in all external and internal communications: with the management, politicians, the press, the public, and citizens. Secondly, there is no systematic approach to the development of in-service training of civil servants, as well as closer involvement of direct managers in the training of their subordinates. Employees also find training seminars and internships abroad rather important, as they provide an opportunity to learn something new and acquire new tools for managing human and financial resources.

**Principle of patriotism.** As for the principle of patriotism in the field of civil service, one must proceed from the fact that one of the main tasks of civil servants is protection of public interests. However, there is a problem with the legislative definition of the notion of general and public interests, which hinders the formation of the

identity of civil servants and, accordingly, understanding of the role of the civil service in the field of social relations.

**Principle of integrity.** The principle of patriotism is naturally intertwined with the principle of integrity. Issues related to adherence to the principle of patriotism focus on the prevalence of public interests over those of the state, meanwhile to adhere to the principle of integrity, civil servants should take note of cases of prevalence of private interests over public ones in official activities.

In order to effectively manage potential conflicts of interest, it is necessary to pay attention to the declaration and registration of personal interests and external activities while in office in the civil service.

The main disadvantage of combating conflicts of interest in the civil service, as well as the general reform of implementation of anticorruption policies and tools, is the lack of judicial independence and effective policies on the remuneration of civil servants (the reform of the latter is still ongoing).

Analysis of the regulatory framework and surveys conducted revealed profound gaps in the value system of the civil service organisation, which are also manifested at the level of the Secretariat as a separate body. So far, the values that could serve as sufficient yardsticks for employees who find themselves in a situation where it is difficult to make a decision have not been sufficiently integrated. The principles enshrined in the Law “On Civil Service” require further clarification and introduction of effective policies aimed at their integration.

**Principle of efficiency.** Implementation of the principle of efficiency in the civil service should focus on retargeting employees from process to outcome.

Currently, the parliamentary administration does not fully support all the functions of the Verkhovna Rada of Ukraine. In particular, functions such as strategic planning of the work of the VRU as an institution, ensuring a high-quality inter-party dialogue, parliamentary oversight of the executive branch and ensuring compliance of draft laws with the principles of the rule of law, constitutionality and legality are poorly represented.

In general, to ensure efficient work of the Secretariat and the VRU, it is necessary to reconsider and reform the legal and regulatory framework for the work of the VRU Secretariat.

The cycles of the work of the Government and the VRU, and, accordingly, the Rules of Procedure of both institutions must be aligned. This basic condition can be met only through an inter-institutional dialogue between the VRU and the CMU. The quality of the Secretariat’s work as regards planning of legislative work and expert support for approval of the plans of the Government is impossible without streamlining these processes.

VRU budget planning, which covers all activities of the Parliament and is the same for both the Secretariat and the VRU, should be based on short-term and long-term strategic objectives. Measures aimed at achieving these goals must be funded, and they themselves should be clearly set, contain forecasts and estimates of future outcomes. Thus, the budget and the Strategic Plan of the VRU must clearly align. The Strategic Plan should cover all the constitutional functions assigned to the VRU, strategic goals should be formulated in accordance with these functions and powers, and the planned activities should contain information on the responsible division of the Secretariat (or specific officials) and responsible political officers.

Currently, functions such as control and ensuring inter-party dialogue are not systematically performed. Functions related to ensuring the inter-party dialogue are partly fulfilled by the Secretariat’s management and partly assigned to organisational administration, but this task requires a more integral approach and appropriate resource support. The VRU’s control function, which is one way or another supported by the Secretariat, includes control over committees, but other control mechanisms such as the hour of questions to the Government etc. do not have any expert support and, as a result, are ineffective. Expert support for systematic and high-quality control over the executive branch should be ensured by the Secretariat of the VRU, which requires institutional and resource transformation. Such changes, in accordance with the Rules of Procedure, can be initiated by the Secretary General.

**Principle of equal access to the civil service.** Despite the fact that there have been a number of actions aimed at bringing more transparency to competitions for vacancies, there are still some problems to be addressed. Announcement of vacancies on the websites of the

NACS and VRU is not enough for high-quality selection of personnel for the VRU Secretariat, as there is insufficient work on active recruitment. The disproportion between women and men in managerial positions in the Secretariat attests to the presence of the “glass ceiling” for women as regards access to senior civil service positions in the Secretariat. There are also no gender mainstreaming policies at the level of the nationwide personnel management policies (they are developed and approved by the NACS), as well as internal policies, i.e., strictly at the level of the Secretariat.

**Principle of political impartiality.** This principle is the basis for ensuring the neutrality of Secretariat employees in fulfilling their duties and their attitude to colleagues. As regards the area of operation of the principle of political impartiality, it is important to pay attention to the mechanism of appointment of Secretary General. Given the fact that this official is responsible for the work of the Secretariat and the personnel management policy, appointment of Secretary General is important with regard to his political impartiality. The fact that there is no properly appointed Secretary General is disconcerting too. Currently it is the Chairman of the VRU that has the most influence on the Secretariat rather than MPs. In fact, MPs’ right to professional and objective administration has been abridged. This brings us to another major problem – appointment of Secretary General. The lack of properly appointed head negatively affects:

- the drafting of the agenda of the Secretariat;
- the drafting of plans for development and achievement of organisational goals, from timely recruitment, automation of document flow to proper control over the implementation of civil service reform at the level of the Secretariat, e.g. a system of personnel assessment;
- protection of Secretariat employees against MPs’ the political pressure;
- legitimisation of decisions and strengthening of the authority of the leader in resolving conflict situations;
- legitimisation of leadership behaviour and values conveyed by the leader through his actions, words and decisions within the organisation.

**Principle of transparency.** In recent years, this area has become significantly more vigorous, starting with

the establishment of a closer dialogue with civil society in terms of monitoring the work of the VRU Secretariat and ending with disclosure of official documentation. However, in order to further strengthen compliance with the principle of transparency, it is important to focus on development and implementation of a reporting mechanism for the leadership of the Verkhovna Rada of Ukraine and the Secretariat, as well as to legislatively enshrine the need to ensure transparency and openness of the Parliament, appointing responsible persons, granting the appropriate powers, and allocating financial and human resources for the sustainability of this process.

**Principle of stability.** The low staff turnover attests to the high level of institutional stability. However, while respecting the principle of stability, it is important to strike a balance in between the renewal of Parliament (in order to maintain a high level of employee professionalism with appropriate modern competencies) and insights and mentoring for newly elected MPs, which experienced employees of the Secretariat can provide.

Table 1. Recommendations

Problem	Suggestions	Ways to solve
<b>Rule of law</b>		
1. No guarantees of compliance of laws and regulations adopted by the Verkhovna Rada with the principle of the rule of law	Introduction of a mechanism that would allow the Secretary General and the Chairmen of the Central Scientific Experts Office and Central Judicial Office to stop the passage of some draft laws	1. Amend Art. 102 and 123 of the Rules of Procedure and the Regulation of the VRU Secretariat, enshrine the power of the Secretariat to stop the passage of some draft laws
2. Lack of powers and resources for high-quality control over compliance with the rules for drafting bills by the agents of legislative initiative.		1. Create a unit responsible for reviewing draft laws on the stage of registration, make appropriate amendments to the Regulation on the Secretariat; 2. Develop and approve a VRU Regulation that would clearly and exhaustively define the grounds for refusal of registration of draft laws in the VRU.
<b>Legality</b>		
1. Regular ignoring of requirements of the Rules of Procedure at the level of Parliament as an institution.		The problem cannot be solved at the level of the Secretariat.
<b>Professionalism</b>		
1. Lack of professionalism in personnel selection approaches to fill vacancies in the civil service.	1. Development and adoption of a personnel development strategy of the VRU Secretariat; involvement of external experts in the development of special requirements for professional competence and situational tasks to fill vacancies;	No need to enshrine in regulations
2. No active recruitment in the process of personnel selection for civil service vacancies in the VRU Secretariat.	2. Work on constant active recruiting by the Personnel Management Service of the Secretariat.	

Problem	Suggestions	Ways to solve
<b>Professionalism</b>		
3. No effective system of in-service training	3. Develop terms of reference for procurement of services for training of Secretariat employees based on their needs (they should be determined on the basis of annual assessment).	
4. Insufficient integration of the principles of impartiality and objectivity in external and internal communications of civil servants of the VRU Secretariat.	4. Develop and approve guidelines for standardizing the behaviour of the staff of the Secretariat in all external and, if possible, internal communications: with the management, politicians, the press, the public and citizens (ethics of negotiation, business correspondence, admissibility or inadmissibility of certain statements, scope of internal information that can be communicated and at what levels, etc.).	1. Include the guidelines in the Code of Conduct for Secretariat employees. 2. Approve the guidelines by the VRU Chairman's decree.
<b>Patriotism</b>		
1. Vagueness of the terms of general, state and public interests at the level of basic documents and, accordingly, confusion at the level of identity determination.	Develop and incorporate in official documents the notion of general and public interest that make it possible to draw a clear and unambiguous line between them.	There are several options:  A. To make relevant amendments to the Law on Civil Service, clearly interpreting and differentiating between these concepts.  B. Take this into account in the General Rules of Behaviour of Civil Servants and Officials of Local Self-Government.  C. Prepare a relevant Guide and approve it by the NACS's order.  In each of the options, appropriate training will be needed to clarify the mission and role as well as outline the identity of civil servants.

Problem	Suggestions	Ways to solve
<b>Integrity</b>		
1. Lack of good examples and high standards of conduct at the level of the MPs	Створення етичної інфраструктури Creation of an ethical infrastructure of MPs	1. Approve the Code of Conduct of the MP.  2. Ensure proper openness and transparency through publication of regulations governing the conduct, incident registries and consideration outcomes for each incident.
2. Lack of clear standards and formal rules of conduct for the civil servants of the VRU Secretariat.	Develop a Code of Ethics for employees of the Secretariat.	Adopt a Code of Conduct for employees of the Secretariat by a VRU Resolution
3. No positive policy of soft levers of influence on the behaviour of the VRU Secretariat.	1. Organisation of discussions on problematic issues (seminars, round tables). 2. Organisation of meetings with colleagues. 3. International exchange of experience. 4. Creation of discussion clubs, movie clubs, etc., regularly raising ethics-related subjects. 5. Campaigns to raise public awareness of the VRU Secretariat, internal campaigns to promote the principles of ethics..	Introduce a calendar of various events, roundtables and meetings by a decree of the Secretary General to promote ethical standards.
<b>Efficiency</b>		
1. Weak interaction between the VRU and the CMU, lack of alignment in the work of these bodies.	Need for coordinated cooperation between the VRU, CMU and the PU	Development and introduction of amendments to the Rules of Procedure of the CMU and the VRU
2. Weak institutional support for the interparty dialogue in the VRU.	Create an office for inter-party dialogue within the VRU Secretariat to ensure support and coordination of work of inter-factional groups.	The VRU has to vote to adopt a new structure of the VRU Secretariat to include an office for inter-party dialogue. A regulation on such office

Problem	Suggestions	Ways to solve
<b>Efficiency</b>		
		of the VRU Secretariat has to be approved by the Chairman of the VRU. Also, the VRU would have to vote for a VRU budget allocating funds for this office.
3. Unsystematic nature and low institutional capacity of the VRU Secretariat to provide expert support for performance of the parliamentary control function (monitoring and evaluating the impact of public policies)	Increase the expert level of control over the executive branch of power by creating a special department on the basis of the CSEO in order to ensure regular monitoring and evaluation of policies in all spheres.	Amending the Regulation of the Secretariat and the Regulation on the CSEO
4. Ineffective strategic planning of the VRU's work	1. Approve a mechanism of internal parliamentary communication (session meetings, coordination boards, committee meetings), which will make planning at the level of the VRU sufficiently effective and realistic.  2. Develop and approve a Strategy for Reform of the VRU, setting the main strategic goals and clear objectives, specifying the dates and deadlines, as well as quantitative and qualitative indicators of the effectiveness of its implementation.	The Strategy should be approved by a resolution of the VRU
5. Ineffective policy of financial management in the body (ineffective planning, funding maintenance rather than goals and measures for their achievement, some of the constitutional functions are not funded at all)	1. Create a working group, involving representatives of the Secretariat of the CMU and the Ministry of Finance with a view to revision of the budget planning mechanism of the VRU  2. Align the VRU budget planning with the short-term long-term goals of the Parliament as a whole and the VRU Secretariat by establishing a working group consisting of the Chairman of the Verkhovna Rada, MPs (from different factions),	Decree of the Chairman of the VRU to create a working group

Problem	Suggestions	Ways to solve
<b>Efficiency</b>		
		the Chairman of the Committee on the Rules of Procedure, the Chairman of the Committee on Budget, Secretary General, heads of divisions and external experts.
<b>Principle of equal access to the civil service</b>		
1. Information on competitions for vacancies is difficult to access.	Make the websites of the NACS and VRU more user-friendly.	
2. Gender imbalance at the level of senior management positions, lack of gender mainstreaming policies that take into account the special needs of men and women	1. Develop and implement gender mainstreaming policies  2. Use quotas to ensure equal representation of women and men in senior management positions in the VRU Secretariat	1. Developed and approved non-discrimination policies in the VRU Secretariat (order of the Secretary General). 2. Regulation approved by a decree of the Chairman of the VRU establishing equal representation of women and men in senior positions in the VRU Secretariat.
<b>Principle of political impartiality</b>		
1. No duly appointed Secretary General.	1. Set the deadlines for election, submission and approval of the candidature of Secretary General and putting it to vote in the VRU in cases when this post becomes vacant. 2. Introduce a consultative competition for the post of Secretary General.	1. Amend the Rules of Procedure of the VRU to enshrine this mechanism. 2. Amend the Rules of Procedure of the VRU and the Law "On Civil Service" to determine the manner in which the Chairman of the VRU shall elect a candidate for the post of Secretary General; 3. Create a commission by a decree of the Chairman of the VRU to conduct a competition for the post of Secretary General having a consultative nature.
<b>Principle of transparency</b>		
1. Introducing a mechanism of regular public reporting of the Secretariat's management.	Incorporate the need to submit public reports by the Secretariat's management in the VRU's Rules of Procedure and the Law "On Civil Service"	Incorporate the need to submit public reports by the Secretariat's management in the VRU's Rules of Procedure and the Law "On Civil Service"

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## ANNEXES

### Annex 1

#### LETTER OF RESPONSE FROM THE VRU SECRETARIAT CONCERNING INTERVIEWS WITH OFFICIALS



Шановна пані Матвішко!

У зв'язку з Вашим зверненням від 8 лютого 2018 року №03/02-14242 (вх.№27568 від 8 лютого 2018 року) щодо інтерв'ювання працівників Апарату Верховної Ради України повідомляється таке.

Оскільки ідентифікація особливостей парламентської служби, що вирізняють її з-поміж інших різновидів діяльності у межах державної служби, є важливим чинником забезпечення належного супроводження роботи законодавчого органу, надіслали для розробки питань для інтерв'ю список посад (у зазначених Вами структурних підрозділах Апарату), опрацювання функціональних характеристик яких дозволить достатньою мірою проаналізувати зазначені особливості.

Посади наводяться за винятком структурних підрозділів Апарату, які ще не ухвалили остаточного рішення з питання їх оптимального представництва:

- 1) Головне юридичне управління – заступник керівника Головного управління, головний консультант;
- 2) Головне науково-експертне управління – заступник керівника Головного управління, керівник відділу;
- 3) Головне організаційне управління – керівник відділів;
- 4) Головне управління документального забезпечення – перший заступник керівника Головного управління, заступник керівника управління - керівник відділу;
- 5) Управління комп'ютеризованих систем – головні консультанти;
- 6) Управління кадрів – керівник управління або його заступник, головний консультант;
- 7) Відділ контролю – керівник відділу, головний консультант;
- 8) секретаріат Комітету Верховної Ради України з питань європейської інтеграції – заступник керівника секретаріату, головний консультант;
- 9) секретаріат Комітету Верховної Ради України з питань запобігання і протидії корупції – керівник секретаріату, заступник керівника секретаріату;
- 10) секретаріат Комітету Верховної Ради України з питань правової політики та правосуддя – заступник керівника секретаріату.

Інформація про конкретних осіб, які братимуть участь в інтерв'ю, уточнюватиметься залежно від часу його проведення.

З повагою

В. СЛИШИНСЬКИЙ

## Annex 2

**LIST OF INTERVIEW QUESTIONS****Block 1****Identity and Mission**

1. Who is and who should be the ultimate beneficiary of your work or that of the Secretariat as a whole? For whom do you work?
2. Do you think you work for the state?
3. Do you think you work for society?
4. Do you see a difference between protection of the state interest and general interest? Have you had to choose between the state and society? Give examples.
5. Is there a difference between the mission and tasks of MPs and those of the staff of the Secretariat? If there is, what is it about?
6. Is there a difference between the mission of MPs' aids and that of the staff of the Secretariat? What are the things they can do and you cannot? And vice versa?
7. What should the ideal employee of the parliamentary service be like?
8. Who is your client?
9. What happens if your client is not satisfied with the quality or speed of your work? Level of service and communication?
10. How do you feel about the low trust of the public in the Verkhovna Rada?
11. How do you feel about the accusations of ineffectiveness and political bias concerning the Verkhovna Rada? The VRU seems to be represented as a body that either adopts bad or irrelevant laws or adopts too few laws, doesn't it?
12. Are you personally satisfied with the results of the VRU's work?
13. What is your assessment of the work of the Secretariat?
14. Do you have the right to strike? Who will be able to cope (if you happen to go on strike) with your work? Your personal work, as well as that of your department and the Secretariat as a whole?
15. What division or body of the civil service is similar to yours or to the Secretariat?

**Block 2****Role, rights and duties**

1. Do your rights differ from those of other citizens? Do they differ from other civil servants' rights? If so, in what ways?
2. Give examples of situations where your duties are contrary to the rights or duties of other civil servants or vice versa. If they are not, tell about situations when you have room for independent decisions.
3. In situations where there are no clear-cut responsibilities and decisions concerning what needs to be done, what are you guided by?
4. Describe the goal of the work of the Secretariat, your division, your department and your own position.
5. List the functions that you perform. Are there any functions you perform that are not covered by your job description?
6. Who evaluates your work?

**Block 3****Assessment and bonus award**

1. Do you evaluate the work of your subordinates only based on the standard form? Do you have your own informal requirements?
2. To what extent do your subordinates' bonuses correspond to the results of assessing the quality of their work? What principles do you go by when distributing bonuses?

**Block 4****Productivity and motivation**

1. What motivates you to work – is it money or something else?
2. What do you dislike most of all about your work?

3. What could increase the efficiency of your work?
4. What could increase the efficiency of the Secretariat as a whole?
5. Are you aware of cases when someone was dismissed for reasons other than improper performance of their work?

### **Block 5**

#### **Compromises and conflicts**

1. Have you ever had to make moral compromises?
2. Have you ever faced situations in your work where you were formally obliged to act in a certain way but understood that the consequences of such actions could harm the object of your work, Parliament, parliamentarism, the State or society as a whole?
3. Do you ever have any conflicts? With colleagues, with the manager, with politicians?
4. What conflict situations tend to arise? What is the bottom line and reasons?
5. What kind of behaviour does the employer expect from you in conflicts? What should the behaviour be in your opinion?

### **Block 6**

#### **Responsibility and protection**

1. What will happen if you make a mistake?
2. Who estimates how gross and deliberate the error is?
3. Have you ever felt any injustice at work concerning yourself? Give examples.
4. Have you ever felt any injustice in relation to other colleagues?
5. Are there any ways of protection against injustice?
6. Have you ever been assigned a task that was contrary to the Constitution, laws of Ukraine, the Rules of Procedure of the VRU, or other rules of internal regulations?
7. If so, how did you deal with such situations?

8. Have you ever had to violate laws or regulations at work?
9. If so, what exactly did you have to violate? Why? Who was to blame?
10. Have you ever had to go against your own idea of the considerations of common sense, expediency or your own quality standards? In what situations? How to counteract this?
11. Is there a place to complain or ask for advice? Is it possible to do this anonymously?

## Annex 3

**GUIDELINES FOR ETHICAL DECISION MAKING IN SITUATIONS REPRESENTING ETHICAL DILLEMMAS**

1. Identify the ethical dilemma (from the point of view “right vs right”).
  - a. Truth vs loyalty;
  - b. Individual interests vs common (community) interests;
  - c. Short-term goals vs long-term goals;
  - d. Justice against mercy.
2. Formulate possible alternative courses of action.
3. Check the courses of action against the “ethical triangle” (protest).
  - a. Ethics based on principles;
  - b. Ethics based on virtues;
  - c. Ethics based on consequences.
4. Go back over the courses of action and see if any alternatives have appeared (reassessment).
5. Choose your course of action (make decision).

Of all the possible methods of decision making, the most integral one seems to be the Decision-Making Checklist developed by Carol Lewis. In fact, Lewis developed her hybrid regulatory and analytical approach based on the three existing models: by Nash (1981, 1990), Rion (1990), and Cooper (1998). Lewis’s checklist includes the following considerations:

1. Facts (including law and regulations). It is very important for decision-makers to collect relevant facts to ensure informed and complete understanding of the problem.
2. Empathy. Implies imagining yourself in the place of another. Usually there are different parties affected by the decision, and it may be useful to try to understand their positions.
3. Underlying causes. Taking into account the causes of important features of the situation can help to outline the problem more clearly. To what extent is the problem caused by the decision maker and to what extent by other or external events?
4. Stakeholders and responsibilities. It is also important to assess different players. Who exactly will be affected by the decision? Who matters in the situation?

5. Motives and objectives. To the extent possible, it is necessary to assess the objectives and motives of important players in the situation. Decision-makers also need to understand their own objectives in the situation.
6. Possible results. Implies imagining the consequences of different decisions. How will the decision affect others? How comfortable will you be with the expected results?
7. Potential harm (to stakeholders). One of the main moral imperatives is avoiding harm. It is, therefore, important to take into account the harm that may be inflicted on various stakeholders.
8. Participation. Who should participate in the decision-making process and in what form?
9. What are the long-term consequences and expected changes?
10. Disclosure and publicity.
11. Appearance and communication. Items 9 through 11 focus on testing predictable decisions concerning change. For example, how will this affect the organisation in the long run? However, no less important is what the decision looks like to the public. Even if you are confident in the correctness of your actions, you should always consider what your actions may look like to others.
12. Universality and consistency. Which of the possible decisions will be consistent with existing policies and will be interpreted similarly?  
Other countries have already adapted and disseminated Carol Lewis’s method. Specifically, we want to give you an example of an ethical decision by public sector employees in Australia:

1. Collect facts: gather as much information as you can, what you know and what you do not know — do not jump to conclusions.
2. Identify ethical issues: What is the main ethical problem in this situation? Check it against the Code of Ethics for the public sector and your organisation’s code — identify the key organisational values that can be compromised.
3. Follow the rules: go through directives, policy advice from governing bodies, guidelines, laws and regulations to find out about things relevant to the situation. Your decision must be lawful and comply with relevant policies and legal constraints.
4. Determine the parties affected by your decision: it is important to see the situation from another’s perspective. Identify the people or groups that may be affected by your decision and try to see another point of view (public, businesses, clients, colleagues, leadership, affiliate, department, minister, media, etc.). Ask yourself:
  - Will all parties affected by this decision consider it correct and fair?

- Is this option in line with the general interest?
  - What do taxpayers think?
5. Determine your responsibility and the consequences of your choice: think of your potential alternative. What are the risks and consequences (short-term and long-term) associated with each of them? Ask yourself: “What message will I send and how will my decision be taken?” Think about your reaction if the choice could affect you.
  6. Take into account your character and personal integrity:
    - Are you satisfied with the decision, can you be proud of this?
    - Will your decision contribute to ethical behaviour in the organisation?
    - Is your decision worthy of general interests?
  7. Make sure the decision is correct: contact your manager or address the appropriate department adviser (e.g., labour relations, finance, information technology, etc.) and / or your organisation’s ethics directorate.
  8. Act: Take action and be prepared to defend your decision and bear responsibility. Take into account the lessons learned next time.
  9. Share your experience with colleagues — this is always a great way to start a dialogue on ethics and values with colleagues.



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