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CONSTITUTIONAL REFORM AND CONSOLIDATED DEMOCRACY: ROLE OF CIVIL SOCIETY, POWER AND THE OPPOSITION

Conference Materials
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CONTENT

INTRODUCTION

The concept of consolidated democracy is a new trend of modern political studies, which has replaced theories of democratic transition. It became a reaction to awareness of that maintenance and support of the democratic regime is a no less complicated problem than its implementation. At present, democratic transformations in a certain country are examined through the prism of stabilization, strengthening, deepening, but not a completed transition to a certain status.

Processes of democratic consolidation are not only resistance to going back to the authoritarian regime – they envisage affirmation of democratic institutions as the only mechanisms acknowledged within a certain political field for realization of good governance. That is, they condition creation of a system of a certain quality, which is able to oppose resistance to extra-system elements. It should be noted that an «institution» in this case is to be understood in the extensive meaning of the word – as an aggregate of not only bodies, but also the provisions determining their existence and conditioning links among them.

If we consider consolidated democracy as a certain quality of democracy, then the solution of problems of current governance is simultaneously creating conditions for consolidation. In particular, such conditions are: people's legitimating the regime, assertion of democratic values, neutralization of extra-system stakeholders, domination of the civil sector over the military one, party building / formatting of interests of social groups, stabilizing of electoral rules / implementation of direct democracy mechanisms, routinization of political practices, decentralization of state power, efficiency and stability of the judicial system, economic growth and stability. Such a wide range of conditions requires interest in establishment of democratic consolidation principles on the part of all political system actors (admission of their general optimum and efficient nature), and, thus, absence of any intentions to undermining the foundation of the regime.

Consolidation requires not just ***an agreement on rules of the game and competition for power****, but also on fundamental and substantiated* ***limitation of power****. This, in its turn, requires internal conviction among elites that it is necessary to limit power regardless of which force keeps it in its hands; the basic mechanism is co-ordination of functioning of constitutional mechanisms, political institutions.*

Thus, processes of democratic consolidation foresee forming of an institutionalized system based on a number of principles, meets certain requirements and is able to resist anti-system phenomena. Within such system, the basic method of affirmation of rules is a dialogue among the basic actors existing and operating in its scopes. The Constitution appears as a result of such dialog, as a summarized and the concerted vision of «the only rules of the game» – as a regulatory basis for the system's functioning. Successful consolidation of democracy requires participation in this process of all subjects of political life (from state officials to ordinary voters), as well as their

development of various forms of behavior and attitudes, which are to become the foundation for the process of legitimization of authorities and the regime.

Considering everything mentioned above, we reach the conclusion that under conditions of Ukrainian politics the basic problematic issue related to consolidation of democracy is democratic institutionalization. Without regard to that during the 17 years of independence processes of state building have been taking place quite intensively (the state apparatus was created, the regulatory and legislative basis developed, mechanisms of changing the power were affirmed), the issue of setting «the only rules of the game» remains open.

The constitutional reform of 2006 substantially modified the political system of Ukraine. The change of accents in the system of state and power decision-making and the method of forming representative bodies, as well as distribution of powers of control in the system of state power, conditioned the necessity of looking for not only new forms of co-operation among political actors, but also new methods of communication – achieving agreements on rules and consequences of such interaction.

Unfortunately, the political crisis of 2006-2007 revealed the low level of Ukrainian politicians' capacity of coming to agreements. On the one hand, it is possible to explain that with the neutralized role of ideology and political parties' programs, which deprives them of the foundation to search for compromises and joint direction finding for policy realization. On the other – the disappointing practice of personal or corporate interest dominating over public interest. At such conditions, stimulation of consolidation of democracy in Ukraine is a mandatory condition for preserving stability of the institutional order, as well as teaching civil political culture both with the political elite, and with citizens.

Revision of the Constitution as normative frames determining the specificity of political and social life in the country may become one of ways for solving current problems. However, the second wave of the constitutional reform must take into account not only deficiencies of the Foundation Law, but also practical tasks that must be fulfilled and concrete realities that will influence realization of the Constitution.

1. CONSTITUTIONAL REFORM:
ESSENCE AND SCOPES OF CONSTITUTIONAL TRANSFORMATIONS

The state-creating objective of the constitutional reform of 2006 in Ukraine was transition from the model of the mixed republic to the parliamentary. It, in its turn, foresaw such redistribution of powers among higher public authorities in Ukraine that would reduce the significance of the President in the process of governance decision-making. The basic steps were to be directed towards transferring to the parliament (more precisely – the parliamentary majority) of the key role in appointing to position in the state and overcoming the dualism of the executive power by concentration of controlling powers over bodies of the lower level in hands of the government. The reform of local self-government, which would absorb and affirm principles of the European Charter on Local Self-Government, was to become another important layer of constitutional transformations. The objectives declared fully coincided with the logic acknowledged by theorists for transition from authoritarism to democracy, which foresees evolutional replacement of centralized rule (presidential republic) with the model with the dominant role of the representative body – legislature.

The practice showed that, disregarding the modifications of the political system enacted in 2006, until now constitutional regulation has a number of gaps and problems that require most rapid elimination and solution. Briefly, major shortcomings of the current Constitution are represented in the table below.

Major shortcomings of the current Constitution of Ukraine

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
CO-OPERATION OF BRANCHES OF POWER	**Contradictory and complicated procedure of forming the Cabinet of Ministers of Ukraine (hereinafter – CMU)**	***Diversified procedure of appointing CMU members***	Threat for efficiency of collective work of members of the government because of the diversified procedure of their appointment (Minister of Defense and Minister of Foreign Affairs are appointed by Verhovna Rada of Ukraine (hereinafter – VRU) upon proposition of the president of Ukraine, and the rest – by VRU upon proposition of the Prime Minister of Ukraine).
		Absence of certain conditions at which the personal composition of the government can be considered formed	Opportunity for the country's leader to artificially create grounds for early termination of powers of the Parliament on the basis of the right for early termination of powers of the legislative body, if during 60 days after resignation of the government a new personal composition of the Cabinet of Ministers is not formed, and the President him/herself has not offered the candidatures of the Minister of Defense and Minister of Foreign Affairs.
		Inconsistency of the procedure offering by the president of Ukraine to VRU the candidature for the position of the Prime Minister of Ukraine	Vagueness of grounds for refusal on the part of the President of Ukraine to suggest the candidature of the Prime Minister offered by the governmental coalition for consideration of the parliament at the end of the 60-days term allocated for formation of the government, as according to the Constitution the country's leader has 15 days for his/her personal consideration of the candidature offered.
	Ambiguity of the procedure of dismissing members of CMU	***Vagueness and contradictions in constitutional provisions determining the right of VRU to make decisions on dismissal and resignation of CMU members***	Threat of political disputes based on the possibility of interpreting p.12 part 1 of art.85 of the Constitution as such that gives VRU the right to independently make a decision on resignation of members of the government. This determines extensive grounds for the parliament's interference with work of CMU.
		Vagueness in definition of the procedure of dismissal of the ministers whom BRU appoints upon the suggestion of the President of Ukraine	Absence of the special provisions on dismissal of the Minister of Defense and Minister for Foreign Affairs. This creates a threat of political conflict among the president of Ukraine, the parliamentary majority and the government.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
	Unclear definition of powers and spheres of competence of VRU, the President of Ukraine, CMU	***Vagueness of how positions in relation to public policy among the President of Ukraine, VRU and CMU are to be coordinated.*** On the one hand, the Constitution defines the status of the President of Ukraine as the head of the country, the guarantor of state sovereignty, territorial integrity and respecting rights and freedoms, attributes to him/her the powers of managing foreign-policy activity, issues of national security, as well as extensive personnel authorities in these spheres. The political position of the president represented in the pre-election program receives legitimating of the majority of citizens at presidential elections. On the other hand, the government also has authority in relation to state sovereignty, realization of domestic and foreign, protection of the Constitution, etc. Positions of political forces represented in VRU and influence forming of the government (and, consequently, its policy), are supported by citizens at parliamentary elections.	Negative impact on: - integrity and comprehensiveness of state policy; - opportunity to look for agreements among political forces represented in various public offices and in the parliament; - objective representation of citizens' interests; - becoming and stabilizing of the party system; - confidence in bodies of state power, institution of elections, representative democracy and party system on the part of citizens.
	Vagueness of provisions related to early termination of powers of VRU	***No clarity concerning whether the right of the President of Ukraine to terminate authority of VRU is only limited to the cases stipulated in part 2 of art.90, or other grounds are possible.***	Threat of political manipulations round the issue of expedience of expanding rights for the President of Ukraine in relation to termination of powers of VRU.
		Absence of stipulation of what is to take place in the case of reduction of the numbers of MPs elected	The proportional electoral system based on lists of candidates from political parties enables the parliamentary minority to artificially create a situation at which VRU is powerless because of presence of less than 2/3 of its members.
	Complicated procedure of impeachment of the President of Ukraine	***Violation of the balance among branches of power*** because of actual unreality of the procedure of removal by VRU of the President of Ukraine from his position in the impeachment procedure.	Reduction of efficiency of the state apparatus.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
	Vagueness of some issues of parliamentary control	***Violation of the general principle of defining frames for branches of power*** through the possibility of setting limits of parliamentary control not only with the Constitution, but also with laws of Ukraine.	Violation of the checks and balances principle among key power bodies
		Necessity of changing the instituting of the MP's query	Low efficiency of the institution of the MP's query. Introduction of the institution of the interpellation submitted from a group of MPs (for example, of the amount not less than the minimum quantity of a faction at VRU) as a traditional form of parliamentary control over activity of the government seems logical.
WORK OF VRU	**Organizational grounds of VRU's work**	***Necessity of research substantiation of expedience or pointlessness of creating a two-chamber parliament in Ukraine***	A issue is a subject of numerous speculations, and that is why it requires balanced assessment of both all pros and cons, as well as clear determination of prospects of such institutional innovation.
		Necessity of affirming the principle of continuity of activity of the legislative body	Absence of ways of resolving a crisis that may arise because of inability of the parliament newly elected at early elections to form the parliamentary majority
		Impossibility for the coalition of MPs' factions at VRU to have an institutional character	Presence of a provision in relation to forming, organization of activity and termination of activity of the parliamentary coalition (art.83). Experience testifies to that definition of these issues depends on specificity of political practice.
		Contradictory issue of increasing the term of power of VRU from four to five years	Low degree of involvement of citizens to management of state affairs in Ukraine.
		Non-mandatory quorum at functioning of VRU	Absence of provisions that would set the quorum for holding VRU sessions, as well as parliamentary decision-making.
		Absence of law what would regulate organization and the procedure of activity of VRU	In accordance with the Constitution, organization and procedure of VRU's activity and the status of the MP of Ukraine must be set exceptionally with the law. However, at present the Regulation ratified with the Resolution of VRU makes it possible to simply enough bring changes in it, which turns it into a document dependent on political situation.
	Ambiguity of attitude to the institution of the imperative mandate of an MP of Ukraine	***Negative impact on independence and objectivity of MPs at their making political decisions***	- Threat to stability of configuration of political forces at VRU; - Obstacles to political structuring of the society.

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	Partial vagueness of the status of the MP of Ukraine	***The problematic issue of the scope of inviolability of MPs of Ukraine***	The volume of MPs' inviolability must correspond to needs of effective functioning of VRU. In particular, there is the actual problem of appearance on electoral rolls of political parties (blocks) of persons against whom criminal cases are in process.
		Failure to meet the requirement concerning individual voting of MPs during VRU sessions	Absence of a system of responsibility for voting with cards of MPs by their faction colleagues
		Violation by MPs of Ukraine of requirements related to incompatibility of the MP mandate with other types of activity	Quite a lot of MPs only formally respect the requirement related to incompatibility, in practice carrying out business activity, which is negatively reflected in efficiency of VRU's functioning Special attention should be paid to the issue of combining the MP mandate with a position as a government member.
HEAD OF THE STATE STATUS	**Problematic constitutional definition of the status of the head of the state**	***Vagueness of authorities of the President of Ukraine*** because of lack of definition of mechanisms for him/her guaranteeing state sovereignty, territorial integrity, respect of the Constitution, as well as rights and freedoms of a person and citizen. This generates institutional conflicts	Vagueness of grounds, scopes and mechanisms of political responsibility of the President of Ukraine.
	Absence of regulation of procedures for the president's execution of his/her powers	***Gaps in legislation*** related to: - unsettled procedures of interaction between the President and the government, which contributes into appearance of conflicts round appointing heads of local state administrations; - the procedure of signing acts by the President with signatures of the Prime Minister and the profile minister; - realization by the President of his/her right to terminate validity of governmental acts; - the President's opportunity to use personnel authorities at his/her own discretion (in particular, it refers to the right to dismiss 1\3 of members of the Constitutional Court of Ukraine).	Opportunity for the President to operate in a way not transparent to the society.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
EXECUTIVE BODIES SYSTEM	**Problematic optimization of executive bodies**	***Presence of limitation for consideration of the issue of the government's responsibility during the year after approval of the CMU Action Program***	Ineffectiveness of operation of a resigned government as a result of the parliament's passing a resolution of no-confidence. It is necessary to consider the issue of introduction of a structural no confidence vote to CMU, which will foresee expression of no-confidence and resignation of the government initiated by VRU only by electing a new Prime Minister, his/her forming a new composition of the government, as well as approval of executive body's Action Program.
		Absence of a clear definition at the constitutional level of the system of executive bodies	Vagueness of the status of central executive bodies.
		Unclearness of definition of the number of vice-prime ministers	Unsubstantiated increase of the number of people in the government
	Insufficient definition of the principle of separating political and administrative spheres in the structure of executive power	***Overlapping spheres of responsibility, politicizing and deterioration of the professional level of the public service***	The Constitution does not define a minister as the head of the ministry, who realizes a policy in a certain sphere and is responsible for that.
	Vagueness of the status of general prosecutor's institutions	***- Ambiguity of attributing to the general prosecutor's office with the general control function;*** ***- Doubtful efficiency of the mechanism of dismissing the General Prosecutor of Ukraine by VRU's pass of no-confidence motion to him/her.***	Ineffectiveness of functioning of the general prosecutor's institution.
PROBLEMS OF COURTS OF GENERAL JURISDICTION	**Failure to observe the instance principle at construction of the general jurisdiction courts system**	**Violation of the instance principle as one of basic principles of organization of the general jurisdiction courts system.** Art.125 of the Constitution of Ukraine determines that the judicial system is built on principles of territory and specialization.	Because of the abovementioned inconsistency, there arises the necessity of successive fixation of all basic principles in the Constitutions or regulation of this issue with a law with exclusion of the proper provisions from the text of the Basic Law.
	Unclear definition of the general jurisdiction courts system	***- Unclear functions of higher judges and correlation of their jurisdictions with the Supreme Court of Ukraine;*** ***- no clarity of what courts are the cassation instance.***	Violation of stability of functioning of the judicial system, and, thus, decline of efficiency.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
	Unsettled process of appointing judges for administrative positions in courts and dismissal from them (except for the Constitutional Court of Ukraine and the Supreme Court of Ukraine)	***Legal conflict round the procedure of courts formation.*** According to the Resolution of the Constitutional Court of Ukraine of May, 16, 2007 #1-rp/207, provisions of part 5 art.20 of the Law of Ukraine «On the Judicial Administration of Ukraine», in accordance to which the head of the court and vice-head of the court are appointed and dismissed from the position by the President of Ukraine, was deemed unconstitutional. However, no proper procedure of appointing heads of courts has been adopted.	Appearance of unnecessary disputes among public authorities in relation to HR issues, which will be reflected negatively in realization of justice.
	Lack of correlation of the procedure of forming the Supreme Council of Justice with international standards	***Absence of provisions that would provide representation in composition of the Supreme Council of Justice of the majority of judges, as well as the majority of subjects who have the right to form its composition.***	In accordance with international standards, any decision related to selection, appointment, promotion or resignation of a judge must be made at participation of a body independent of legislative and executive powers, in which no less than a half of the composition are judges, elected such judges according to the procedure that guarantees wide representation.
	Absence of adequate guarantees of the principle of independence of judges	***Non-detailed essence of the principle of independence of judges***	Threat of ambiguous interpretation and manipulations round the essence of the principle of independence of judges.
		Disparity of the procedure of appointing judges of general jurisdiction with international standards	Absence of guarantees of politically impartial elections of judges by the parliament after the first 5 years of the judge's realization justice, which is violation of the principle of free and democratic governance.
		Absence of mechanisms of preventing free dismissal of judges (because of their violation of the oath)	Manipulations round the composition of the Constitutional Court of Ukraine by prosecution for violation of the oath without sufficient proving of that.
		Insufficient guarantees of providing for proper state financing for effective functioning of the courts system	Real lack of constitutionally stated requirements to separate definition of expenditures for maintenance of courts.
	Extending the jurisdiction of courts on the political sphere	***Extension of appeals in courts of general jurisdiction against acts on dismissal of political public servants*** on the basis of the provision about that jurisdiction of courts covers all legal relations in the state.	Politicizing courts of general jurisdiction.

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PROBLEMS OF CONSTITUTIONAL JURISDICTION	**Absence of definition and providing for the principle of continuity of work of the Constitutional Court of Ukraine (hereinafter – CCU)**	***Possibility for subjects of the right of appointing judges of CCU to block its work through the provision about appointing judges for the expressly defined term – 9 years.***	Threat of blocking work of the constitutional jurisdiction body on the part of VRU, CMU, the President of Ukraine.
	Possibility of self-willed dismissal of CCU judges from their positions	***Threat of intervention of VRU and the President of Ukraine in work of CCU.***	Violation of the principle of independence of judges.
	Limited access of citizens to constitutional jurisdiction	***Absence of citizens' and legal entities' right to appeal to CCU with constitutional complaints at violation of their rights and freedoms.***	Removal of citizens and legal entities from the process of realization of constitutional justice.
	Doubtful objective criteria at selection of candidates for positions of CCU judges	***Absence of the procedure of pre-selection of candidates for positions of CCU judges.***	Threat of manipulation with the CCU composition on the part of VRU, the President of Ukraine, the convention of judges of Ukraine, as each of the subjects mentioned has the right to appoint 6 judges on the basis of limited requirements set in art.148 of the Constitution.
		Doubtful justification of setting the quota for appointment of one third of the composition of CCU at a convention of judges of Ukraine.	No need for of representation of professional judges in composition of the constitutional jurisdiction body
	Non-optimal work of CCU	***Excessive duration of consideration of constitutional claims and appeals***	Undue solution of constitutional conflicts, which negatively reflects in activity of the whole state power mechanism and protection of rights and freedoms of citizens.
		Absence of the necessity of providing for continuity in activity of CCU	Negative impact of the system of complete changing of the CCU composition on efficiency of work of the constitutional jurisdiction body.
TERRITORIAL ORGANIZATION AND LOCAL SELF-	**Absence of fixation of the ubiquity principle of local self-government**	***- Limitation of rights of local self-government;*** ***- Developing the system of administrative and territorial organization without taking into account needs of local communities.***	Impossibility of extending jurisdiction of local self-government bodies on lands adjoining the settlements, as well as existence of territories actually not covered by local self-government.
	Unstructured system of administrative and territorial units and clear definition of their types	***Overlapping concepts of a «settlement» and an «administrative and territorial unit».***	Contradictory normative and legal regulation of administrative and territorial organization. Article 133 of the Constitution defined all settlements as administrative and territorial units.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
	Non-recognition as an administrative and territorial unit of inhabitants of several villages voluntarily incorporated in a rural community	***Admitting as a territorial community of voluntarily associations of inhabitants of several villages, at that a community is not an administrative and territorial unit.***	Presence of legislative possibilities for manipulating the process of governance in regions.
	Unclear constitutional definition of the status of «districts in cities»	***Collision of provisions of articles 133, 140 and 142 of the Constitution.*** Art.133 does not admit districts in cities as an administrative and territorial unit, and art.142 admits their residents as a territorial community, that is confers to them the right to form their own executive and representative bodies, have budgets and property. Moreover, according to art.140, the issue of organization of managing districts in cities is attributed to jurisdiction of city councils.	Appearance of the phenomenon of the «nest-doll of local self-government», which foresees existence of incompetent local self-government bodies of minor administrative and territorial units, and, consequently, their dependence on local self-government bodies of the higher level.
	Absence of the territorial basis for local self-government, which would be able to provide the minimal list of public services	***Presence of minor territorial communities that are economic unable to realize the functions and authorities attributed to them by law.***	Low quality of block-structured services provided in some territorial communities.
	Doubtful expedience of admitting local self-government exceptionally a right of territorial communities	***Absence of fixation of the duty of the state to provide for opportunity of a territorial community to independently settle local scale issues.***	More cases of transformation of local self-government into a formal institution deprived of real opportunities to influence local management.
	Absence of basics of the electoral system of local self-government	***Absence of defining in the Constitution of basics of the electoral system at the local level.***	Politicized activity of local self-government bodies formed based on the principle of proportional representation.
	Excessive regulation of issues of internal organization of the local self-government bodies system, as well as the procedure of their activity	***Fixation in the Constitution of the uniform model of organization of executive power at the local level («strong mayor»), which limits competences of local self-government***	Limitation of opportunities of a territorial community to elect one of few available models for organization of executive power at the local level.

	GENERAL PROBLEMS OF THE CONSTITUTION OF UKRAINE	CONCRETE SHORTCOMINGS OF THE CONSTITUTION OF UKRAINE	NEGATIVE CONSEQUENCES
	Inconsistent regulation of material and financial bases of local self-government	***- Collision between articles 13 and 14 of the Constitution, one of which determines land and natural resources as the object of the property right of the Ukrainian people, and the other – of territorial community;*** ***- Absence of the requirement in relation to adequacy of financial and material resources to duties laid on local self-government bodies;*** ***- Absence of fixation of basics of forming local budgets.***	- VRU's ignoring the financial status of territorial communities, as well as scales of powers delegated to them at definition of the volume of transfers to local budgets; - Absence of criteria for definition of the «total volume» of state financing of realization of delegated powers by local self-government bodies.
	Ignoring interests of territorial communities at normative settlement of local administration issues	***Absence of a constitutional requirement for taking into account position of all-Ukraine associations of territorial communities at regulatory activity of the state related to local administration issues.***	Weakened positions of local self-government in the process of its interaction with the state.
	Unclear definition of the rayon link of administrative and territorial organization as a subsidiary level of local self-government	***- Non-recognition by the Constitution of inhabitants of rural rayons as a territorial community;*** ***- Impossibility for rural councils to form own executive bodies.***	Impossibility of introducing full-fledged local self-government at the rayon level
	Absence of constitutional bases of regional self-government	***The definition of the oblast council as a local self-government body representing common interests of territorial communities of villages, settlements and cities does not correspond to the European practice of guaranteeing regional self-government.***	Decreased efficiency of regional self-government.
	Inefficient correlation of institutions of local self-government and local state administrations	***Improper functions of the institution of local state administrations, in particular – in the part of realization of executive power at the level of rayons and oblasts.***	Negative impact on efficiency of regional self-government, as well as economic development of regions.

It is possible to single out several systematic problems of the Basic Law in force that require a complex approach to their solution.

First. One of the most global problems that the constitutional reform would have to solve is *differentiating powers and responsibility of the government and the head of the state.* However, after passing the Law of Ukraine „On Amending the Constitution of Ukraine", no expected

differentiation of political responsibility between the President of Ukraine and the Cabinet of Ministers took place. The Basic Law in its new reading still attributed to the President significant levers for influencing the executive vertical, in particular – the right to appoint and dismiss heads of local state administrations, the absolute right to suggest candidates for positions of separate members of the Cabinet of Ministers of Ukraine (which, generally speaking, is not typical for foreign practice), functions managing the spheres of foreign policy, national security and defense, the to terminate validity of acts of the government, etc. Moreover, in contrast to the Constitution of Ukraine of 1996, according to which the most essential acts by the head of the state were subject to counter-assignation by the Prime Minister of Ukraine and the Minister accountable for the act and its implementation (which would to a great extent limit arbitrary powers of the President), the Law „On Amending the Constitution of Ukraine" substantially extended scope of discretionary powers of the head of the state – from then, only some of his/her acts are subject to counter-assignation. Actually, Ukraine remained the „presidential-parliamentary" republic, in which the government plays an important, but far not the key role in realization of executive powers.

On the whole, at present it is rather difficultly to offer an answer to the question about to what consequences the constitutional reform led in part of presidential powers – to their expansion or, vice versa, narrowing. For at presence of the proper will, the President even at the condition of existing of the „parliamentary-presidential" form of rule can paralyze work of the Cabinet of Ministers of Ukraine and the parliament, in particular – via the Council for National Security and Defense, decisions of which are enacted with acts by the head of the state and the composition of which is to a great extent defined directly by the President, by terminating validity of acts by the Cabinet of Ministers and vetoing laws, including – those initiated by the government.

The **second** major layer of shortcomings of the constitutional reform is related to its ***inability to provide for balanced and effective differentiating of powers and responsibility in the system of public authorities on the whole*.** The current legislation of Ukraine provides for, first, dualism of local government, and secondly – duality of subordination of executive power at local levels. The number of subjects to which local state administrations are accountable is the most obvious potential threat for efficiency of regional policy. As to responsibility to representative bodies for delegated powers, considering absence of council's own executive subdivisions, such provision is fully logical (a separate question is imperfection of practical mechanisms of realization of this provision). However, competition for influencing local executive bodies between the head of the state and the government is paradoxical. Without regard to that one of tasks of the constitutional reform was differentiating the sphere of influence of the President and the Cabinet of Ministers, the former was not excluded from the process of forming and controlling activity of local executive bodies. The model according to which ministers are accountable to the parliament and heads of oblast and rayon administrations – to the President generates a breach in the vertical of executive power. A bright example of such breach were the cases observed during the year after parliamentary elections of 2006, when rayon councils declared no-confidence to heads of rayon administrations, and the President for his own political reasoning did not dismiss them. For this reason, maintenance of dualism of executive power is considered one of basic flaws of the constitutional reform.

Third. The new Constitution laid grounds for substitution of the parliament with the parliamentary majority. At the constitutional level, only the status of the parliamentary majority is defined, while the status of those MPs who are not members of it has remained constitutionally indefinite, which under conditions of absence of proper legislative base and the democratic practice of respecting rights of the minority may create pre-conditions for removal of the minority from any influence policy formation.

On the other hand, those provisions of the Constitution of Ukraine that objectively required changing were not revised during the constitutional reform. In particular, it refers to:

- ***Procedures of impeachment of the President:*** the set procedure of dismissing the head of the state in the procedure of impeachment makes it impossible to dismiss the President even at presence of proven facts of his/her actions containing signs of a crime);

- ***Systems of administrative and territorial division and local self-government*:** do not meet standards of the European Charter on Local Self-Government;

- ***Problems of citizens' access to the Constitutional Court of Ukraine*:** unlike the situation in a lot of European countries, where citizens have the right for direct address to the constitutional jurisdiction body for issues of the constitutional nature of laws and other regulatory acts, in Ukraine the proper right can be realized only indirectly, through subjects defined in part two of article 150 of the Constitution, or the Constitutional Court itself during consideration of cases related to official interpretation of laws;

- ***Legal proceeding systems***: hinders ratification of the Rome Statute of the International Criminal Court, on the necessity of which CEPA used to insist;

- ***Introduction of the imperative mandate***: it exists only in countries with the authoritarian form of ruling (Cuba, Laos, Vietnam, etc.), and among more or less democratic countries – only in India.

- ***Issue of revision of the scope of MPs' immunity***: in Ukraine, it has an absolute nature. In the majority of countries of the world, the MP immunity is limited, its action does not cover cases of detention of a member of parliament at the place of crime committed by him/her, cases when a crime was committed in an inter-session period, etc.;

- Creation of grounds for substitution of the parliament with the parliamentary majority: at the constitutional level, only the status of the parliamentary majority is defined, while the status of those MPs who are not members of it remained constitutionally indefinite, which under the conditions of absence of proper legislative base and the democratic practice of respecting rights of the minority may create pre-conditions for removal of the minority from any influence on policy formation.

The abovementioned drawbacks of the new model of the new constitutional system of Ukraine have a direct impact on processes of democratic consolidation, as they are related to formation of institutional frames, which determine formal rules of the game within the political system. On the one hand, they determine the volume of the state power resource (authority attributed by the law, the number and capacity of subdivisions subordinated, possibilities for manipulation, etc.) concentrated in hands of a certain public servant. On the other hand, they lay the basis for potentially possible confrontation among different centers of power in the state, which may result in neglecting democratic rules of the game. At such unstable and unproductive conditions, it is hardly possible to speak about asserting democratic conduct at the level of values and persuasions of subjects of political life.

Keeping in mind that an effective constitution is not only a document, but also an influential factor of forming political and social relations in the state, it should be emphasized that a legislator should pay attention not only to the text of the Constitution, but also development of constitutional provisions in proper laws and bringing the existing law-application practice in accordance with the Basic Law. It is hardly possible that imperfection of the Ukrainian Constitution is the principal reason for braking the administrative reform, providing for independence of the judicial branch of power, reformation of the law-enforcement system (general prosecutor's, advocacy, etc.), „detachment" of public administration from needs and requirements of people, corruption, non-transparent activity of public bodies both at the central, and at the local levels. Reasons of that the proper reforms are not being realized should be tracked in the domain of absence of laws necessary for their realization (that, in its turn, is explained by either absence of political will or unwillingness to achieve consensus in relation to conceptual principles of reformation). In particular:

- The new reading **of the Law „On the Referendums in Ukraine"** has not yet been passed, which substantially complicates realization of provisions of article 5 of the Constitution, as well as the law on temporary investigation and temporary special commissions of Verhovna

Rada of Ukraine, which not only contributes into efficiency of parliamentary control, but also, actually, makes it impossible to apply in practice the institution of impeachment;

- In the present reading, the **Law of Ukraine „On Accounting Chamber"** cannot provide for efficient realization by the Chamber of the tasks defined by article 98 of the Constitution**;**

- Principles of building **the system of central bodies of executive power,** their functions and authorities, internal organization of activity are defined by secondary legislation, which does not correspond to part two of article 19 of the Constitution. **The Laws „On Judicial Administration of Ukraine"** and **„On the Status of Judges"** in the current readings not to their full provide for the principle of independence of judges set in arts. 126, 129 of the Basic Law. The CPC of Ukraine, the Code of Ukraine on Administrative Offences in a lot of their provisions do not contribute into implementation in life of constitutional principles of legal proceedings. At the same time, it is to a great extent on guarantees of independence and efficiency of the judicial branch of power that realization of general principles of the Constitution depends, in particular – principles of checks and balance, rule of law, etc. Substantial controversies between practice and essence of proper constitutional provisions (Section II of the Constitution) also exist in the sphere of providing and protecting constitutional rights for an individual.

Actually, all major political forces in Ukraine acknowledge imperfection of amendments to the Constitutions that were made in 2004. All of them also acknowledge that these amendments were adopted at the conditions of a serious political crisis for the sake of decreasing the degree of confrontation both in politics, and in the society as a whole. As a result, the new reading of the Constitution adopted contains a considerable amount of unsettled provisions and procedures that require improvement. During the latest electoral campaign of 2007, they actively discussed both the essence of the amendments and additions to the Constitution of Ukraine, and the form of its approval. Various political forces, not denying the necessity of the constitutional reform, have differing visions of it – from acceptance of a new reading of the Constitution, to drafting an absolutely new Basic Law. It is also necessary to note that representatives of all parliamentary forces have become members of the National Constitutional Council – a body recently created by the president, the task of which is drafting constitutional amendments, and which has united leading politicians and lawyers of the country.

2. PROCEDURE OF AMENDING THE CONSTITUTION OF UKRAINE: WAYS AND PROBLEMS

At present, there are several ways of revising the current Constitution of Ukraine. **The first** of them proceeds from the Conclusion of the National Commission for Strengthening Democracy and Asserting the Rule of Law in relation to observance of the constitutional procedure during amending the Constitution of Ukraine in 1996 by acceptance of the Law of Ukraine «On Amending the Constitution of Ukraine» of December, 8, 2004 #2222-IV and in relation to compliance of its provisions to general principles of the Constitution of Ukraine of 1996 and the European Standards of December, 27, 2005. In this Conclusion, special emphasis is made on disparity of the procedure of amending the Constitution in 2004 to the constitutionally set procedure of consideration and approval of amendments to the Basic Law. In this context, it should be noted that the Constitutional Court of Ukraine is considering a claim from 47 MPs of Ukraine regarding the constitutional nature of the Law of Ukraine «On Amending Chapter IV «Final and Transitional Provisions» of the Law of Ukraine «On the Constitutional Court of Ukraine».

1. Abolition of the Constitutional Reform

Provided the Constitutional Court supports the position of the National Commission (and for this, there are sufficient legal grounds), principles of interaction of branches of power would be defined on the basis of the Constitution of Ukraine in the reading of June, 28, 1996.

However, such scenario of revision of the Basic Law generates a number of problems.

First and foremost – going back to the previous version of the Basic Law does not solve a number of problematic issues, which the constitutional reform as such would have to solve, in particular – the problem of differentiating political responsibility between the Cabinet of Ministers of Ukraine and the President of Ukraine, the problem of disparity of principles of the administrative and territorial organization system and the system of local self-government with European standards, etc. Accordingly, going back to the primary variant of the Basic Law would scarcely provide for harmonization of relations in the system „head of the state – parliament – government" and would take off the issue of revising the Basic Law from the agenda.

Secondly, canceling the constitutional reform by the Constitutional Court of Ukraine would more aggravate the opposition between the Cabinet of Ministers and the President, between the majority and the opposition. At present, going back to the „constitutional field" of the type of 1996 is not advantageous for the government – for the Constitution of Ukraine in its primary variant provided the President of Ukraine with the right to terminate authorities of the whole composition of the Cabinet of Ministers or its separate members before the appointed term at any time at his/her own discretion, the right to direct activity of the Cabinet of Ministers of Ukraine with acts of the President, to create, reorganize and liquidate central executive power bodies, etc. The head to the state does not need going back to the primary variant of the Constitution either – while the Constitution of Ukraine in 1996 made it possible to relatively clearly outline scopes of his/her political responsibility (as the President had key levers of influencing activity of the government and, in fact, was politically responsible for its activity), the new reading of the Basic Law „blur" political responsibility between the President and the Government and makes it possible for the head to the state to considerably dissociate him/herself from activity of the Cabinet of Ministers formed by the parliament. The head of the state, under conditions of the new variant of the Basic Law, is always in the position to attribute positive results of work of the government to his/her account, and negative – to relate to the government and the parliament, which appointed the majority of members of this government. A number of political forces represented in the parliament also expressed their negative attitude to the idea of canceling the constitutional reform by the Constitutional Court. Their main argument against canceling results of the constitutional process of 2004 was that canceling of the constitutional amendments will de facto mean canceling of all agreements achieved in the process of the package voting in December, 2004, including – on holding the „third round" of presidential elections and admitting its results, forming the parliament.

There exist quite substantial legal grounds for canceling by the Constitutional Court of Ukraine of the Law „On Amending the Constitution of Ukraine". However, apart from essentially legal factors, the Constitutional Court of Ukraine should also take into account a number of political factors. At present, there are sufficient grounds to assert that after the three years of action of the new provisions of the Constitution, none of key players on the political arena has any significant interest in renewal of the constitutional model of the type of 1996, or act as an irreconcilable opponent of revising results of the constitutional reform. Accordingly, canceling the constitutional reform seems a hardly probable, although possible scenario.

2. Amending the Constitution of Ukraine according to the procedure set in Section XIII of the Basic Law

Main shortcomings of the Basic Law in its present reading could be corrected in the procedure set directly by the Basic Law. However, if we analyze the current balance of political forces in the parliament, the practice of interaction between the President of Ukraine and the Cabinet of Ministers of Ukraine, this variant of revision of the Basic Law has limited application. The majority of the necessary 300 vote could be obtained only for issues of not principally important nature, while the „core" of the constitutional reform – redistribution of state powers in the triangle „President – parliament – government", or reforming local self-government (which also foresees weakening the role of the President (or potential candidates to this position in 2009) in realization of executive power) will scarcely be supported by the necessary amount of MPs' votes. It is also necessary to take into account the fact that bringing amendments into a number of provisions of the Constitution of Ukraine requires realization of an all-Ukraine referendum, legal framework for which is highly imperfect. Accordingly, apart from essentially political factors, in the process of realization of plan of revising the Basic Law according to the procedure set directly by the Constitution of Ukraine, it would be necessary to also pay attention to passing by the parliament and signing by the head of the country the new reading of the Law „On All-Ukraine and Local Referendums".

At present, in the parliament 2 corresponding drafts have already been registered – the draft Law „On the All-Ukraine Referendum" #1374, submitted for consideration of Verhovna Rada on January, 18, 2008 by the MP of Ukraine O.Lavrynovych (faction of the Party of Regions), and the draft Law „On the All-Ukraine Referendum" #1374-1, submitted for consideration of the parliament on February, 1, 2008 by the MP of Ukraine Yu.Klyuchkovsky (faction of the Block „Nasha Ukraina – Narodna Samooborona"). Judging by the essence and available political assessments of the proper legal initiatives, adoption of any of these bills seems rather complicated. Thus, the ex-minister of justice Olexandr Lavrynovych very negatively assessed the contents of bill #1374-1, which actually excludes the possibility of its support by the faction of the Party of Regions: „The whole draft law submitted by Klyuchkovsky could be squeezed in one article, which foresees the right of the president of Ukraine to announce the all-Ukraine referendum for adopting the new Constitution. All the rest there does not matter much and causes a lot of questions related to preserving clarity of the concept apparatus and some other things". Considering that the draft by O.Lavrynovych actually makes it impossible to adopt during the referendum a new reading of the Basic Law, possibility of its approval by the parliamentary majority and signing by the head of the state seems doubtful enough.

In the end, the complication of revising the Basic Law for the purpose of taking into account interests of only one player – the parliament or the head of the state – is also testified by the experience of initiation and consideration of draft laws on amending the Constitution of Ukraine of 1996-2004. Among the 13 draft laws on amending the Constitution of Ukraine, which were considered by the Constitutional Court of Ukraine during the indicated period, only one was accepted, but even that – under the influence of the political state of affairs and without final assessment by the Constitutional Court of its compliance with articles 157 and 158 of the Constitution.

Thus, cardinal improvement of the Constitution according to the procedure foreseen by Section XIII of the Constitution is a possible, but, taking into account the existing balance of political interests, improbable variant of revising the Basic Law.

3. Adopting a new reading of the Constitution based on elaborations of the National Constitutional Council

In connection with the low level of probability of realization of the two abovementioned plans of revising the Basic Law, the idea of adopting a new reading of the Constitution during a referendum has recently become popular. Thus, since within the parliament the constitutional process seems complicated enough (if ever possible at all), the head of the state and a number of experts suggested taking the center for drafting legislation aimed at revising the Basic Law beyond the walls of the legislative body.

One of variants of „external" preparations of the text of the new reading of the Constitution was suggested by the head of the state. Thus, on December, 27, 2007, the President of Ukraine signed the Decree „On the National Constitutional Council", which simultaneously ratified the Statute of this body. Pursuant to the Statute, the National Constitutional Council is created by the President of Ukraine for preparing the concept of systematic update of constitutional regulation of public relations in Ukraine and a draft of the new reading of the Constitution of Ukraine, and it carries out its activity until adoption of the new reading of the Constitution of Ukraine. Besides, the Statute outlines the algorithm of preparing the new reading of the Constitution of Ukraine at participation of the National Constitutional Council. The position of the President in relation to the procedure of preparation and approval of the new reading of the Constitution of Ukraine was reflected in the article by Victor Yuschenko „Ukraine Needs a National Level Constitution" published in the weekly „Dzerkalo Tyzhnya" on February, 23, 2008 (see the box).

At the same time, creation of the National Constitutional Council, its staff and the very algorithm of preparing the new reading of the Basic Law suggested by the head of the state are far from unanimous approval. Thus, leaders of separate political forces have already had time to name the composition of the National Constitutional Council „pocket one", called to first of all promote interests of the President of Ukraine (see, for example: Symonenko: Constitutional Council Is Pocket One. – http://www.unian.net/ukr/news/news-237433.html). Doubts related to impartiality of the NCC were directly or indirectly expressed by leaders of other political forces as well. Volodymyr Lytvyn, for example, indicated: „in reality, the orientation of work of the NCC will be defined by what objective is set by the president of Ukraine for himself. If it is sanctifying via the Council of his vision of developing the country, then we should consider that it is an ineffective body." (Sergiy Rahmanin. Legal Issue // Dzerkalo Tyzhnya. - 2008. - #8 (687), March, 1 - 7, 2008). A similar position was expressed by Julia Tymoshenko: „in my opinion, it is to a certain extent imprudent to fill the Constitutional Council with sheer politicians and pockets lawyers. In fact, already now, only looking at their names, it is possible to absolutely exactly forecast what they will come forward with and which model they will support. As a result, we will have a permanent pulling of the patchwork blanket of powers from one side to the other. No consensus is possible in such council" (Sergiy Rahmanin. Legal Issue // Dzerkalo Tyzhnya. - 2008. - #8 (687), March, 1 - 7, 2008). *Thus, we have to admit: at the current composition of the NCC, the variant of the new reading of the Basic Law produced by it will scarcely have support of 300 votes of members of parliament.*

Another drawback of the suggested algorithm for adopting the new reading of the Constitution is vagueness of the procedure of its public discussion, grounds for taking or not taking into account of suggestions expressed by the public, as well as the composition of the „public". Moreover, it is hardly possible to answer these questions in the legislative field (in view of the wide scale of the discussion expected). Confidence in „public discussion" on the part of politicians is very low – for everybody knows how „public discussion" of the draft law on amending the Constitution submitted by L.Kuchma based on result of the all-Ukraine referendum on people's initiative took place.

Besides, it is necessary to note that in the algorithm suggested by the President, the role in the constitutional process of the national referendum on the issue of approval of the new reading of

the Constitution remains unclear. If such referendum is convened after non-acceptance by Verhovna Rada of Ukraine of the draft new reading of the Constitution prepared by the NCC and supported by the Venice Commission, there are two basic questions. First, which variant of amendments to the Constitution will be offered for this referendum? If the variant produced by the NCC, such referendum will only formally be considered a referendum „on people's initiative", as already today the majority of politicians link activity of the NCC with defending the vision of the President in relation to the optimum model of constitutional transformations, and the referendum in this contexts will be considered by the Party of Regions, CPU, Block of Lytvyn, possibly – by BJT as well only as an instrument for realization of political ambitions of the country's leader. And if the new reading of the Constitution will be „generated" directly by people of Ukraine, without any linking to work of the NCC, there still remain open questions about expedience of preliminary work of the NCC in this direction, as well as about mechanisms for association of the suggestions expressed in an integral document, the subject for generalizing suggestions, the procedure of their acceptance, etc. Second, there remains the open question about consequences of such all-Ukraine referendum. If the referendum will be considered only as an instrument for realization of interests of the President, its results will not be acknowledged by a part of political forces, and, respectively, by the part of the society that supports these political forces. In this case, the referendum will contribute into further splitting of the society, not its consolidation. In it turn, in order that results of the referendum were acknowledged by all participants of the political process and, above all things, by the society, it is necessary that the draft new reading of the Constitution offered for the referendum were developed by a subject independent of branches of power, for example – by the Constitutional Assembly, on convocation of which the public has repeatedly insisted.

In the end, adopting of the new variant of the Constitution in the „extra-parliamentary" way can also be perceived ambiguously. Although in subpoint 4.1 of point 4 of the motivation part of the Resolution of the Constitutional Court of Ukraine in the case on realization of power by people of October, 5, 2005 #6-rp/2005 it is indicated that «in opinion of the Constitutional Court of Ukraine, the provision of part three of article 5 of the Constitution of Ukraine shall be understood so that people as the carrier of sovereignty and the only source of power can realize its right to define the constitutional mode in Ukraine by adopting the Constitution of Ukraine at an all Ukraine referendum» (which opens a way for adoption of the new release of the Constitution of Ukraine directly by people), offering the new reading of the Basic Law for approval by the national referendum conditions arising of several questions.

First, in practice differentiation between „a new reading" and „technical" amendments is impossible, that is the new reading of the Basic Law is only complex amendments in it. And offering the new Constitution for the referendum opens way to abuse of the corresponding practice in the future and leveling the procedure of revision of the Constitution set in it, for every time future amendments to the Constitution, including unessential ones, will be represented as a new reading of the Constitution and will be offered for approval at a referendum.

Secondly, adoption of the Constitution in an extra-parliamentary way presently does not foresee realization of preliminary constitutional control by the Constitutional Court of Ukraine. Meanwhile, amending the current Constitution of Ukraine is not allowed at all if the amendments foresee abolition or narrowing the scope of existing rights and freedoms of an individual. Consequently, at conditions of absence of legal assessment of the new reading of the Constitution by the uniform body of constitutional jurisdiction, there is a high level of probability that for approval at the referendum such reading of the Basic Law that will abolish or limit rights and freedoms of an individual and citizen set in the previous Constitution will be offered. Popularizing this practice, in our view, may in the future appear as a threat for building democracy. That is why it appears expedient to define the role of the Constitutional Court in the process of revision of the Constitution in the „extra-parliamentary" way.

4. Adopting a new reading of the Constitution by a specially authorized constituent body

As it was noted in the previous part of this research, the body that carries out preparation of the proper amendments above all defines prospects of bringing cardinal amendments to the Basic Law. As activity of the NCC for the short period of its work was critically assessed just for the issue of its dependence (according to representatives of a lot of influential political forces) on the President, there is the need of that elaboration of constitutional amendments were carried out by a body independent of political influences. In this context, we cannot but agree with the position of I.Koliushko and Yu.Kyrychenko, according to which by the basic task of the President and Verhovna Rada must be constituting and providing for work of a specially authorized constituent body for adoption of the new reading of the Constitution of Ukraine – the Constitutional Assembly of Ukraine.

This kind of approach would absolutely allow providing for adoption of the Constitution that would be oriented not towards supporting conjuncture interests of representatives of this or that political „camp", but towards achievement of strategic long-term objectives and solution of those problems that are really predefined by deficiencies of the Basic Law in force. Besides, at the condition of defining such mechanism for forming the Constitutional Assembly what would prevent its dependence on legislative, executive power and the head of the state, the variant of the new reading of the Constitution produced by it would be accepted by both politicians and the society. The highest degree of legitimacy of the new variant of the Basic Law approved by the Constitutional Assembly would be provided with the all-Ukraine referendum on the proper issue.

At the same time, realization of such scenario of amending the Constitution of Ukraine requires solution of a number of questions of the legal and political nature. The category of politically-oriented tasks should include achievement of an agreement between the head of the country and leaders of major political forces in relation to the possibility of adopting the new reading of the Basic Law by the Constitutional Assembly, in relation to mechanisms of forming such Assembly, binding acceptance of results of its work, the concept of the new reading of the Law on the all-Ukraine referendum, binding acceptance of results of the referendum that will be conducted on the basis of the proper Law. Legal tasks should embrace: a) definition of the procedure of adopting the new Constitution by the Constitutional Assembly in Section XIII of the current Constitution, realization of a referendum on this issue in accordance with points 156, 159 of the Constitution; b) specification of mechanisms of forming the Assembly and its decision-making in the Law „On the Constitutional Assembly of Ukraine", which will specify provisions of the new amendments to Section XIII of the Constitution; c) adoption and enactment of the new reading of the Law „On All-Ukraine and Local Referendums"; d) calling and conducting national elections to the Constitutional Assembly on the basis of such electoral system that would take into account the party structuring of the society, regional specificity, as well as the need for high professional level of representatives elected; e) adoption by the Constitutional Assembly of the new reading of the Basic Law, termination of the Assembly's activity; f) realization of a national referendum for adopting the new reading of the Constitution passed by the Constitutional Assembly.

Obvious advantages of this mechanism of amending the Constitution are amending within the legal field, removal of influence on the constitutional process of the political state of affairs, realistic possibility of approval of the perfected version of the Constitution, which will reflect requirements of the society. At the same time, realization of this method of revising the Basic Law requires time (thus, 2008 will hardly become the year of the constitutional reform) and achievement of a political compromise among basic political players.

3. CONCLUSIONS

Thus, the example of Ukraine proves to a choice of this or that governance model as it is does not appear as a guarantee of democracy consolidation. Efficiency of its functioning depends on the quality of legislative regulation, which is developed for the purpose of practical realization of the idea foreseen by the constitutional reform. Besides, political will of public administrators, as well as the proper level of the legal culture contribute into the speed of implementation of reformative ideas.

1. **Priorities of the future constitutional amendments may be:**

   1) balancing powers and differentiating responsibility in the triangle „president-parliament-government";

   2) reformation of the administrative structure, local self-government and executive bodies at the local level;

   3) providing for a „realistic³" procedure of dismissal of the head of the state in the procedure of impeachment;

   4) limiting the scope of MPs' immunity;

   5) providing citizens with the right to contest in the Constitutional Court of Ukraine the constitutional nature of laws.

2. **The basic orientations of drafting legislation in the direction of providing for realization of Constitutional provisions at present are:**

   1) strengthening controlling powers of the parliament and providing for transparency of its activity;

   2) increase of transparency of executive bodies' and local self-government's activity;

   3) reformation of the system of governance (public administration);

   4) reform of the judicial system and law enforcement bodies, which will provide for independence and efficiency of functioning of the judicial branch of power, will bring functions and powers of law enforcement authorities in accordance with European standards;

   5) providing for realization by citizens of their constitutional rights.

3. **Deepening of the constitutional reform requires not only amending the Constitution of Ukraine, adoption of the new laws directed at its realization, but also application of measures directed at providing for respecting laws, in particular – at increasing the level of legal culture and education of citizens, including public servants who apply legislation. Transformation of political and legal culture, orientation of education (including legal one) above all towards European standards and values are pre-conditions for implementation in life of fundamental constitutional principles – rule of law, socially-oriented activity of the state, etc.**

4. **The majority of variants of revising the Basic Law recently suggested by politicians seem improbable in view of the current political situation in the state.**

5. **The basic task of the President and Verhovna Rada must be constituting and providing for work of a specially authorized constituent body and adoption of the new reading of the Constitution of Ukraine – the Constitutional Assembly of Ukraine. This approach would completely allow providing for adoption of the Constitution that would be oriented not towards supporting conjuncture interests of representatives of this or that political „camp", but towards achievement of strategic long-term objectives and solution of those problems that are really predefined by deficiencies of the Basic Law in force. At the same time, realization of such scenario of amending the Constitution of Ukraine requires solution of a number of legal and political issues.**