ADMINISTRATIVE REFORM IN UKRAINE
SETTING THE AGENDA

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INTRODUCTION TO THE SERIES

The development of democratic and effective government at subnational levels remains one of the central tasks of transition in Central and Eastern Europe and the former Soviet Union. The sharing of expertise between countries can contribute significantly to the reform process in the region. Pursuing this goal, the Local Government and Public Service Reform Initiative (LGI) has launched a series of discussion papers, which will be distributed widely throughout Central and Eastern Europe.

The series will report the findings of projects supported by LGI and will include papers written by authors who are not LGI grant recipients. LGI offers assistance for the translation of the papers into the national languages of the region. The opinions presented in the papers are those of the authors and do not necessarily represent the views of the Local Government and Public Service Reform Initiative.
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On 21 May 1997, a seminar was conducted by the World Bank and the government of Ukraine to address issues surrounding Ukrainian administrative reform. As the first event of its kind in Ukraine, the seminar promoted a frank exchange of local and international views on a wide range of issues (including administrative, policy, and civil service reform; economic development; and deregulation) and drew participants from all levels of Ukrainian government as well as representatives from the diplomatic community and several international institutions.

The following paper outlines both the discussions and conclusions of this seminar, and its original version was submitted to the State Commission on Administrative Reform, a structure created by a decree of the president of Ukraine in the fall of 1997. This English translation is being offered with the hope that the issues addressed below will be relevant to other countries in the region.

The Need for Administrative Reform in Ukraine

Ukraine inherited a Soviet administrative apparatus that was fashioned under a command economy and ultimately turned the country into little more than a colony of Moscow. As Ukraine attempts to meet the current needs of transition, one can clearly see that this
administrative structure is poorly suited to meet the needs of an independent state that is attempting to reform its political, economic, and social systems. Indeed, the existing administrative structures and procedures hinder the development and implementation of economic reform programs and make a successful economic transition unlikely.

Ukraine is now entering a new phase of the state-building process. The adoption of a new constitution has opened up new possibilities for the establishment of an effective government, where earlier a clear division of powers between the various branches of public authority had hampered the formation of an effective executive. Recent legislation has established the legal framework for a vertically integrated executive branch of government. At the same time, there is a noticeable increase in the structuring of political life through the development of viable political parties. Administrative reform is thus needed to differentiate between the roles of politician and civil servant.

Ukrainian society is becoming impatient with the slow pace and unevenness of reform, with inefficiency in government, with the poor services provided by government agencies, and with intolerable levels of corruption. In recent months, public discussions have raised the need for serious changes in the structure and practice of public administration, and these calls demand an appropriate response from authorities if public confidence in the administration is to be maintained.
The following important measures have already been taken to improve public administration in Ukraine:

1. The establishment of the Institute of Public Administration and Local Government, Cabinet of Ministers, in 1992 (restructured to form the Academy of Public Administration, Office of the President of Ukraine in 1995), an institution to train senior public servants.

2. The passage of the December 1993 law regarding public service and the creation of the Directorate General for Public Service, Cabinet of Ministers, which constructed the institutions of a modern civil service.

3. The creation of a president’s council on personnel issues, which was charged with activities aimed at improving the quality of public servants.

4. In 1997, key laws were passed by the Supreme Rada (parliament) that provided the legal framework for administrative reform; specifically, laws dealing with the Cabinet of Ministers, local state administration, and local self-government. These legislative initiatives are in the process of being reviewed, according to the president’s objections to a few.

Although such initial steps are indeed on the road to better government, such measures must now be reinforced by bolder and more sweeping measures.
Changes in the Mission of Government

Ukrainian government must now redefine its role, given that Ukraine has moved away from a command economy and is striving toward a market economy and the rule of law, and heavy-handed centralized command and control systems are unsuited to this new environment.

Government must steer, not dominate. Government must acquire the capacity to develop strategy and policy. Government must commit itself to fiscal responsibility. With public resources at a premium, government must devote greater attention to audit and expenditure management to achieve true financial control. Government must become client and service oriented, which necessitates simplified procedures, easier access, greater transparency, adequate information, courteous service, and timely decision making. Government must dedicate itself to spurring economic growth by improving the environment in which business can operate. Deregulation and the quality of services offered to business as a particular client requires attention. Finally, government must also increase efficiency and reduce waste by reexamining its programs and methods of operation.

Reform of the Central Machinery of Government

Changes in the mission of government require, in the first instance, reform of the central machinery of government. Central government structures and responsibilities are currently fragmented, overlapping, and poorly coordinated. In addition, there are simply
too many ministries and other central government agencies. While the OECD average is approximately twenty ministries, the Ukrainian government in 1996 consisted of some 112 ministries and state committees, with forty-one ministers and eight deputy prime ministers. Although the number of central government agencies was recently reduced to seventy-two, among them some thirty ministries, this number is still excessive.

Good government requires that a policy area be unambiguously located in a single ministry. Individual ministerial responsibility is undermined when, for example, social policy is the purview of several ministries and state committees, as is currently the case in Ukraine.

Ministries should be reorganized along functional lines; that is, deal with a substantive policy area rather than concern themselves with a narrow sector. For example, there is no reason why a Ministry of Statistics ought to exist in Ukraine since there is no public policy issue at stake. Many activities currently performed by ministries should be decentralized and transferred to specialized agencies. Other options for service delivery should be considered. Ministries should also develop standardized structures (for example, in the areas of public procurement, personnel management, policy development, international cooperation, and general administration), which will facilitate horizontal, intersectoral cooperation.

Of particular concern is the continued existence of numerous “branch” ministries and state committees organized around an industrial specialization, a remnant of the centrally planned economy. Branch ministries and state committees have conflicting
functions: they are charged with regulating the entire industry as well as managing numerous state enterprises. This system ultimately leads to special interest lobbying and a lack of uniform treatment. Because these agencies remain identified with the main enterprises for which they are responsible, the agencies favor incumbents in their sector when granting licenses and thus discourage the development of the private sector. The existence of branch ministries and state committees with responsibility for “running” their sector results in excessive administrative interference and extreme compartmentalization of decision making.

The creation of a strong cabinet government is a critical component of administrative reform. The cabinet is where key policies are debated and strategic choices are made. Coordination and support are provided by the cabinet secretariat, which provides a single point of entry to the cabinet and ensures its efficient operation. With the minister of finance, the cabinet ensures that choices are fiscally responsible. Ministers make policy, policy is strategic, and policy belongs to the cabinet if it involves the allocation of resources. The cabinet meets regularly in an atmosphere of confidentiality and solidarity, and cabinet decisions are carefully recorded and communicated to civil servants to provide guidance for policy decisions.

The cabinet in Ukraine is not an effective, collegial, policymaking body, and interministerial coordination and cooperation are weak. Reducing the number of ministries and reorganizing the ones that remain are important steps in creating an efficient cabinet. Equally significant, however, is reform of the Cabinet of Ministers.
itself. Today, the heart of the Ukrainian government is not the cabinet and its committees, but the system of cabinet ministers. This system, with its numerous departments, creates much duplication and leads to an overlapping of responsibilities and a lack of coordination. The entire apparatus should be restructured into a cabinet secretariat, headed by a civil servant whose function is to ensure the smooth operation of the cabinet as a whole.

The role of the individual minister must be strengthened. Ministries that deal with substantive policy areas should be headed by a minister who assumes personal responsibility for what transpires in his or her sector. For this to happen, some current practices have to change. Today, a civil servant who heads a relevant department within the Cabinet of Ministers can give binding orders to a minister (a politician). This practice reverses the functions as they are commonly understood in representative democracies. The role of the minister is also diminished by the fact that the responsibilities around arbitrating between competing interests, harmonizing government policy, preparing final decisions, and determining access to the prime minister are often placed in the hands of bureaucrats of the apparatus, not in the cabinet per se. This system enfeebles political direction over the executive and weakens ministerial accountability. In addition, the system also violates a sensible rule of good government; namely, that decision making and implementation should, as much as possible, be under the same umbrella. Too many steps in the decision-making process delay government action.
The machinery of regional and local governments should also be reviewed. The fragmentation of governmental responsibilities within the central government is reproduced at the subnational level as well. The central government should consider decentralization and move some of its functions to the levels best equipped to handle them.

Improving Policy and Decision Making

Government in Ukraine is dominated by a “fire-fighting” approach to decision making, in that the focus of government is on immediate problems, with little capacity for sustained policy making. Contrary to the Ukrainian approach, government should create structures that make strategy and policy their primary concern. Permanent cabinet committees should be developed to deal with issues such as economic development, legislative and regulatory review, and financial management. The work of these committees must be supported by a qualified, professional staff who can prepare essential background information and policy options.

Work on policy must become a permanent function of every ministry, and a separate structure (such as a policy analysis and planning unit headed by a deputy minister) should be considered. In OECD countries, large numbers of civil servants are permanently employed in units dealing with strategy, evaluation, analysis, planning, and forecasting. In Ukraine, there are no such permanent divisions, and coming up with a program or policy is a one-
time action, in which people are mobilized to form a working group that disbands once the document is written. Because of the ad hoc nature of the process, policies are rarely dialogue with external organizations is rare.

Changes are also required in the decision-making process. Excessive delays are a major cause for concern. Under the prevailing bureaucratic culture, it is much safer not to make a decision than to take the possible risks involved in the process. Decision making is not transparent, and citizens are confused about which organization or level of government is responsible for which decision. Citizens should only deal with one official and not pursue a plethora of functionaries to get the appropriate signatures on documents.

Decision making should be pushed as far down the hierarchy as possible. Individuals in the second and third tiers should be empowered to make decisions, and clear descriptions of regulations and reference terms are needed. Bottlenecks in the decision-making process should be identified and individuals held responsible for their actions.

Deregulation and Improving Public Services

Government agencies should be seen as facilitators and service providers. Today, however, citizens, be they private individuals or businesses, are considered dependents pleading for benefits rather than consumers of services paid for by the taxpayer. A radical paradigm shift is required for government in Ukraine to see itself as a provider of services that tries to reach efficiency benchmarks.
A major focus of administrative reform must concentrate on the impact of government vis-à-vis economic growth. The burden that government places on businesses in terms of tax imposition, compliance, and administrative costs must be radically reduced, and urgent action is required to improve Ukraine’s regulatory regime.

Government regulations result in an extraordinarily high cost of doing business and enormous uncertainty. A few examples are as follows:

1. Registration and licensing procedures are expensive, lengthy, complex.
2. The tax regime is so confusing that it is impossible to understand or ensure complete compliance. The result is that anyone who is audited can be found to be in violation of tax laws.
3. About thirty central, oblast, or local government agencies are empowered to inspect an enterprise without cause or limit, and many have the power to seize assets or close operations.
4. Customs processing of imports and exports is time consuming, unpredictable, and subject to periodic bans and sudden regulatory changes.
5. The proliferation of rules, licenses, and permissions creates a favorable breeding ground for corruption.

The result of such regulations is that risk assessments rank Ukraine very low, and regulatory and policy calculations figure prominently among the reasons for this evaluation.
The rate of foreign investment in Ukraine, at only $17.00 per person, is one of the lowest in the world. The regulatory regime also stymies the growth of domestic private capital. Recent surveys show that dealing with the bureaucracy is more time-consuming in Ukraine than anywhere else. In Ukraine, it takes 30 percent of businesses’ time to deal with all of the requirements imposed by government, as compared to 6 or 7 percent in countries where it is easy to do business. The fact that Ukraine’s economy is still experiencing negative growth should shift the focus of discussion to how regulations affect businesses.

A critical part of administrative reform is the need for a fundamental reorientation of government officials away from attempting to control all economic activities and toward trying to support thriving and competitive markets, as a means to promote economic growth and employment. To achieve this reorientation, government officials, in every agency, should carry out review of regulations while asking the following questions: (1) Should the regulation exist at all? (2) Does the regulation achieve its desired result? (3) If a regulation is necessary, can its operation be simplified and modernized? (4) Is the regulation consistent with related legislation? (5) What are the effects of the regulation on the business sector? (6) Can other agencies (including the private sector) be used to enforce some regulations?

The following are some guidelines which should govern reforms in this field: (1) Rules should be simple and reduce the cost of compliance. (2) Rules should be consistent and their intent clear. (3) Regulatory administration should be transparent. (4) Bureaucrats administering the rules should be held accountable for their actions.
Various institutional approaches should be considered to improve the regulatory environment. Many OECD countries have offices concentrating on legislative and regulatory review, which, with the above criteria in mind, evaluate proposed and existing rules for businesses and the economy as a whole. Some countries, such as Mexico, have opted for radical solutions such as the appointment of a chief of deregulation with sweeping powers to remove any rules that are not justified. Consultative mechanisms at the level of the cabinet or the prime minister’s office are also an option. The fact that the president of Ukraine recently created an advisory board on foreign investments, of which he is chairman, whose task is to prepare proposals aimed at streamlining methods of economic management is a step in the right direction.

Efficiency in the provision of services to the public, especially at the level of field services, remains shockingly low. Yet it is at this level that the population enters into contact with the bureaucracy. Enormous queues, rudeness, and red tape are more often the rule than the exception. Consequently, opinion polls show that government officials in field services are the least respected occupational group in the society. Low public confidence in the bureaucracy undermines public authority in general. Government must commit itself to public standards of service as a matter of client rights. Consulting clients about their needs and a greater use of market mechanisms should represent another major thrust of reform.
Professionalizing the Civil Service

The passage of the civil service law and the establishment of a directorate general, which deal with issues surrounding public service, were significant steps in creating a professional civil service. Passing laws and establishing institutions, however, is easier than changing bureaucratic behavior. Areas which require special attention include the following: open and competitive recruitment, evaluation procedures and promotion by merit, job classification, and efficiency in combating corruption. For the civil service to become professional, impartial, and politically neutral, a clear delineation between the political and civil service spheres is also needed.

The quality of civil servants remains below standard. Special attention has to be paid to the education and training of civil servants. Training and career advancement must be correlated. Public servants have received little formal education in such essential areas as public finance, management, accounting, information technology, and interpersonal skills.

The reform of ministries along lines of responsibility will be impossible without new human resources. Policy-oriented ministerial structures need generalists, civil servants with analytical capacity, and individuals with experience in the methods of public policy analysis. Today’s civil service, in which a preponderance of the staff possess detailed technical knowledge of a single production process, is inadequate to the task. Of great concern is the fact that today every sixth civil servant is approaching pensionable age, and
those under thirty years of age represent only 15 percent of the total number of public servants. For highly qualified civil servants to be recruited, the conditions of employment will have to be improved.

A working environment must be created that nurtures employees. Currently, lines of communication with colleagues and supervisors are frayed, and the duties of public servants are compartmentalized. Opportunities for those in public administration to contribute to decisions that affect their work and responsibilities are limited and sporadic.

The status of civil servants, especially those at senior levels should also be addressed. The upper civil service in most OECD countries consists of a well-defined body of employees (an executive service or corps) that is highly trained and carefully selected. Ministries depend on the loyalty and professionalism of this elite corps. Modern civil servants provide analysis, offer options, implement and monitor policies and programs, and report back to politicians. Civil servants are expected to provide free and frank advice to their minister without fear of repercussion.

Implementing Administrative Reform

Experiences in other countries show that there are three important areas to consider in administrative reform.

Political. Without the strong political support of the highest authorities, administrative reform will be impossible, since resis-
tance to administrative reform from ministers and the bureaucracy will be inevitable. A special body should be created to serve as the strategic center charged with elaborating and implementing reform, such as a commissioner for administrative reform who is empowered to act on behalf of government and reports directly to the highest authority within the government.

Preparatory. While preparing administrative reform involves enormous intellectual effort (research and analysis, writing of organizational projects, drafts of new regulations, etc.), the end product must be highly practical. Consultation, openness, transparency, and a carefully conceived communication strategy are essential in the preparatory phase. Ministers and other senior government officials should be told clearly what reorganizations are contemplated, and documents should be circulated. The support of the legislative branch of government must also be sought.

Implementation. Hundreds will be involved in implementation; thus, the reform process has to be flexible enough to account for the lessons of experience. Implementation needs to be supported by adequate human and financial resources, given that the process will take years to accomplish and will likely extend over the tenure of several governments. Support from the public, especially from key sectors of society, is required if the reform process is to remain high on the political agenda.
Building broad support for administrative reform will be possible if it is seen as a means of improving the delivery of services to the public and not as just another means of redistributing power. Furthermore, reform must proceed simultaneously at the central and local levels of government, especially in field services. With these measures, there is a greater chance that administrative reform will move beyond a simple reorganization to a real shift in the purpose of the state.

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