

METHODOLOGY FOR THE INDEPENDENCE RATING OF KEY PUBLIC INSTITUTIONS OF UKRAINE: LIST OF PARTICIPANTS AND EVALUATION CRITERIA

Authors:

Alžbeta Tibenská,

Analyst, INEKO Slovakia

Peter Klátik,

Analyst, INEKO Slovakia

Yehor Kyian,

Economic Analyst at ICPS

Yulia Protsenko,

Economic Analyst at ICPS

Kateryna Moskalenko,

Director of Legal Affairs at ICPS

August 2020 - May 2021

ABOUT THE PROJECT

The project “Strengthening democratic resilience of key public institutions in Ukraine” is being implemented by the International Centre for Policy Studies (ICPS) in partnership with the Institute for Economic and Social Reforms in Slovakia (INEKO) and is financially supported by the Embassy of the United States in Ukraine. The project aims to improve the efficiency of state institutions, administration, self-government and civil society in the area of creation and oversight of regional policies, administration of state-owned enterprises, and monitoring of budgets and information openness of local authorities in Ukraine.

The independence of public institutions in Ukraine has always been and is remaining a topical issue. This is due to the fact that the influence of various stakeholders in their functioning can create asymmetries in market transformation of Ukraine and threaten good governance, increase the risk of corruption, shake the democratic foundations, negatively affect the well-being of the population and, even, jeopardize future economic development.

In turn, the purpose of the rating “Legal and formal independence of public institutions in Ukraine” is to analyze the degree of independence of key state agencies of Ukraine from various stakeholders and to provide recommendations for improving their independence. In addition, such an approach will contribute to the public debate on the degree of independence of key state institutions in Ukraine, will improve the public control over the functioning of state bodies.

The evaluation of independence of public institutions will focus on criteria such as appointments and dismissal of top-management personnel, sovereignty and legal basis of the institution, transparency of incomes of appointees, peculiarities of selection procedures for the position of the head of institution.

The position held by an institution within the ranking should show its independence potential. The evaluation and the ranking represent a reference point, comparison, discussions rather than certainty that the highest positioned institution in the ranking is the most independent and vice versa, the institution positioned at the bottom of the ranking totally lacks independence.

A number of recommendations is also provided with the aim to increase institutions' independence potential, minimize barriers and gaps in the way the governing bodies are organized and established, as well as in their activity.

The results of this project will be useful for anyone who can use them as a source of information to assess trends in the functioning of public institutions.

We hope that this project will be able to increase the independence and professionalism of the state bodies of Ukraine, will promote good ideas and inspire their implementation throughout Ukraine.

METHODOLOGY

The data for the Independence rating of key public Institutions of Ukraine is collected from the official websites of the selected institutions, through analysis of Ukrainian Legislation and Constitution, annual reports, with the help of search engines and requests for public information.

The independence of the selected institutions is evaluated in 5 key areas:

- I. Appointment of the Governing Body and Board Members
- II. Dismissal of Appointees
- III. Sovereignty and Constitutional Basis
- IV. Income of Appointees and Employees
- V. Selection process for the position of the head of institution

Nr.	Score for each category	Points for agencies without a management board	Points for agencies with a management board
I.	Appointment of the Governing Body and Board Members	13,0	13,0
II.	Dismissal of Appointees	5,0	5,0
III.	Sovereignty and Constitutional Basis	14,0	14,0
IV.	Income of Appointees and Employees	10,0	10,0
V.	Selection process for the position of the head of institution	6,0	6,0
	TOTAL	48,00	48,00

The points of the individual indicators are presented in the Table 1.

Final index is calculated as a sum of points awarded for each question divided by sum of maximum points. Overall ranking of an institution ranges from 0 % to 100 %. The ranking shows not only the total percentage score but also the score for each of the categories. The ranking also shows grades for easier comparison; these are assigned based on the following scale:

A+	80 % - 100 %
A	75 % - 79 %
A-	70 % - 74 %
<hr/>	
B+	65 % - 69 %
B	60 % - 64 %
B-	55 % - 59 %
<hr/>	
C+	50 % - 54 %
C	45 % - 49 %
C-	40 % - 44 %
<hr/>	
D+	35 % - 39 %
D	30 % - 34 %
D-	25 % - 29 %
<hr/>	
E+	20 % - 24 %
E	15 % - 19 %
E-	10 % - 14 %
<hr/>	
F	0 % - 9 %

The position held by an institution within the ranking should show its independence potential. The evaluation and the ranking represent a reference point, comparison, discussions rather than certainty that the highest positioned institution in the ranking is the most independent and vice versa, the institution positioned at the bottom of the ranking totally lacks independence.

Table 1. The indicators of independence of key state institutions of Ukraine

Nr.	Independence criterion	Points for state institutions without a management board	Points for state institutions with a management board	Source
I. Appointment of the Governing Body and Board Members				
1	The governing body is comprised of multiple persons	2	–	Legislation of Ukraine
2	The Head of the state institution does not participate in the election of board members	–	1	Legislation of Ukraine
3	An employment contract was not concluded with the Head of the Management Board	–	0,5	Legislation of Ukraine
4	An employment contract was not concluded with the Board members	–	0,5	Legislation of Ukraine
5	Members of the governing body are not replaced simultaneously	1	0,5	Legislation of Ukraine
6	Board members are not replaced simultaneously	–	0,5	Legislation of Ukraine
7	Members of the governing body are appointed in various ways (by several actors)	1	1	Legislation of Ukraine
8	The head of the state institution is nominated by a collective body	1	0,5	Legislation of Ukraine
9	Board members are nominated by a collective body	–	0,5	Legislation of Ukraine
10	Members of the governing body are elected by multiple actors	1	0,5	Legislation of Ukraine
11	Board members are elected by multiple actors	–	0,5	Legislation of Ukraine
12	Candidates for the governing body position must meet specific requirements regarding their political independence	1	1	Legislation of Ukraine
13	Members of the governing body are not allowed to hold certain offices after their office term ends	1	1	Legislation of Ukraine
14	Term of office of members of the governing body is limited	1	1	Legislation of Ukraine
15	The same person may not be appointed a member of the governing body for more than two consecutive terms	1	1	Legislation of Ukraine
16	Public hearing is part of the	1	1	Legislation of

	selection process for governing body positions			Ukraine
17	CVs of members of the governing body are publicly available	1	1	Official website of the agency, google search, or official information request
18	Members of the governing body were not politically active 2 years prior to being appointed	1	1	Official website of the agency, google search, or official information request
Number of points		13	13	
II. Dismissal of Appointees				
1	Dismissal of the head of the state institution is possible for reasons related to policy	1	1	Legislation of Ukraine
2	Dismissal of the head of the state institution is possible at the discretion of the authorized state institution	1	1	Legislation of Ukraine
3	Dismissal of the head of the state institution is possible if the appointed head of the state institution has been convicted of a crime or if he no longer meets a political independence criterion	2	1	Legislation of Ukraine
4	Dismissal of a board member is possible only on the grounds provided by law and must be justified	–	1	Legislation of Ukraine
5	Dismissal of the head of the state institution must be carried out by multiple actors	1	0,5	Legislation of Ukraine
6	Dismissal of a board member must be carried out by multiple actors	–	0,5	Legislation of Ukraine
Number of points		5	5	

III. Sovereignty and Constitutional Basis				
1	Legal regulation of the activity of the state institution is carried out by the Constitution of Ukraine	1	1	Constitution of Ukraine
2	The appointment procedure of the head of the state institution is defined in the Constitution of Ukraine	1	1	Constitution of Ukraine
3	The appointment procedure of the deputy head of the state institution is defined in the Constitution of Ukraine	1	1	Constitution of Ukraine
4	Constitutional majority is required for the election of the Head of the state institution or a member of its governing body	1	1	Constitution of Ukraine
5	Competencies of the state institution are defined in the Constitution of Ukraine	1	1	Constitution of Ukraine
6	The influence in any way on the state institution by the Cabinet of Ministers of Ukraine is excluded	1	1	Legislation of Ukraine
7	The state institution is independent in its decisions	1	1	Legislation of Ukraine
8	The Head of the state institution cannot make individual decisions	1	0,5	Legislation of Ukraine
9	Only in the case of equal distribution of votes, the vote of the Head of the Management Board is decisive	–	0,5	Legislation of Ukraine
10	The formation of the budget of the state institution is defined in the Law of Ukraine	1	1	Legislation of Ukraine
11	The state institution is the main administrator of the State Budget of Ukraine	1	1	Legislation of Ukraine
12	The state institution is financed not only from the state budget	1	1	Legislation of Ukraine
13	The state institution has the authority to decide on its own the internal organization	1	1	Legislation of Ukraine
14	The head of the state institution is not appointed solely by the government	1	1	Legislation of Ukraine
15	The state institution is authorized to independently determine its staff list	1	1	Legislation of Ukraine
Number of points		14	14	

IV. Income of Appointees and Employees				
1	Information on the average monthly salary of the head of the state institution is publicly available	2	1	Official information request, official website of the agency, annual report
2	Information on the average monthly salary of the deputy head of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
3	Information on the average monthly salary of members of the Management Board of the state institution is publicly available	–	1	Official information request, official website of the agency, annual report
4	Information on the average monthly salary of high-ranking officials of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
5	Information on the average monthly salary of employees of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
6	Average monthly salary of the head of the state institution is publicly available	2	1	Official information request, official website of the agency, annual report
7	Average monthly salary of the deputy head of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
8	Average monthly salary of members of the Management Board of the state institution is publicly available	–	1	Official information request, official website of the agency, annual report

				report
9	Average monthly salary of high-ranking officials of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
10	Average monthly salary of employees of the state institution is publicly available	1	1	Official information request, official website of the agency, annual report
Number of points		10	10	

V. Selection process for the position of the head of institution

1	Call for candidate applications has been published	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
2	Candidates can apply without having to be nominated by another body (institution, professional organization, interest group)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
3	Candidacy is open to non-citizens.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
4	Candidacy is not restricted by (legal requirement of being at least 21 years old is not considered restrictive).	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
5	Candidates had / have at least 14 days to apply.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
6	Candidates are required to submit a CV	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
7	Candidates are required to submit a	0,25	0,25	Legislation of

	motivation letter (cover letter)			Ukraine, official website of the agency, google search
8	Candidates are required to submit a management strategy proposal.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
9	Candidates are required to submit property declaration (when applying or upon taking office)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
10	Candidates must meet integrity requirements (evidence of no criminal record)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
11	Candidates must meet educational requirements (university degree)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
12	Candidates are required to speak at least one foreign language (English, French)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
13	Candidates are not allowed to directly transition from a political office	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
14	Candidates must meet work experience criteria.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
15	The interview with the candidates is public (public hearing of candidates)	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
16	The list of candidates as well as all their documents (CVs, cover letter, management strategy) are published prior to the public hearing / interview.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
17	Public hearing or interview is broadcasted live.	0,25	0,25	Legislation of Ukraine, official website of the

				agency, google search
18	Recording of the public hearing is published online.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
19	Candidates present their management strategy proposal in the public hearing	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
20	Representatives of the public (media, NGOs) have the right to ask candidates questions during the public hearing / interview.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
21	List of committee members conducting the public hearing / interview is published.	0,125	0,125	Legislation of Ukraine, official website of the agency, google search
22	The committee is composed of representatives of several different institutions.	0,125	0,125	Legislation of Ukraine, official website of the agency, google search
23	Following public hearing, the committee makes their evaluation of candidates and reasons for their decision public.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
24	Each committee member has the right to publish their own evaluation separately.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
25	In case of an election of the head of institution, the election is public.	0,25	0,25	Legislation of Ukraine, official website of the agency, google search
Number of points		6	6	
TOTAL		48	48	

The list of participants of the independence rating of key state institutions of Ukraine

	Public authorities with functions of regulation, control, provision of services and in the field of judicial activity (hereinafter - public entities)	Web address
1	State Tax Service of Ukraine	https://tax.gov.ua/
2	State Fiscal Service of Ukraine	http://sfs.gov.ua/
3	State Customs Service of Ukraine	https://customs.gov.ua/
4	Antimonopoly Committee of Ukraine	http://www.amc.gov.ua/
5	National Commission for State Regulation of Energy and Utilities	http://www.nerc.gov.ua/
6	National Agency on Corruption Prevention	https://nazk.gov.ua/
7	National Anti-corruption Bureau of Ukraine	https://nabu.gov.ua/
8	Prosecutor General's Office	https://www.gp.gov.ua/
9	National police of Ukraine	https://www.npu.gov.ua/
10	Supreme Court	https://supreme.court.gov.ua/
11	Constitutional Court of Ukraine	http://www.ccu.gov.ua/
12	Ukrainian Parliament Commissioner for Human Rights	http://www.ombudsman.gov.ua/
13	Business Ombudsman Council	https://boi.org.ua/
14	National Bank of Ukraine	https://bank.gov.ua/
15	State Property Fund of Ukraine	http://www.spfu.gov.ua/
16	Pension Fund of Ukraine	https://www.pfu.gov.ua/
17	National Securities and Stock Market Commission	https://www.nssmc.gov.ua/