

# TWENTY YEARS OF UKRAINE'S INDEPENDENCE: REFORMS AND NEW CHALLENGES AT HOME AND ABROAD

## PANEL ONE: DOMESTIC DEVELOPMENTS

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WASHINGTON, D.C.

### WELCOME/INTRODUCTION:

**Matthew Rojansky,**

Carnegie Endowment for International Peace

**Thomas O. Melia,**

Deputy Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor,  
U.S. Department of State

### MODERATOR:

**Gavin Weise,**

International Foundation for Electoral Systems

### SPEAKERS:

**Victoria Gumeniuk,**

NGO "Center UA"

**Roman Romanov,**

International Renaissance Foundation

**Marina Stavniychuk,**

Deputy Head of Presidential Administration,  
Ukraine

Transcript by Federal News Service  
Washington, D.C.

JAMES COLLINS: Morning, everyone. My name is Jim Collins. I am the director of the Russia-Eurasia program here at Carnegie. And I am extremely pleased to welcome all of our Ukraine friends and colleagues here today.

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We are looking at 20 years of independence for Ukraine and the extraordinary changes that have taken place both in Ukraine and in the surrounding region following the end of the Cold War and the end of the Soviet Union. It's time for reflection I think both in the region itself and Ukraine and Europe, and in the United States. A lot has changed in 20 years. And I'm very pleased that we're going to have some serious discussion of where we are today and where things are going in the future.

And I want to extend a particular welcome to Deputy Minister Klimkin, Ambassador Motsyk, Maryna Stavniychuk and Valeria Lutkovskaya. They are here as part of our effort at Carnegie to give our own audience and our own people in the Carnegie family a better sense of where Ukraine is today and where its policies are going to take it.

I am simply here to welcome all of you on behalf of Carnegie Endowment and to turn the floor over to my colleague Matt Rojansky who is really leading this program on Ukraine at Carnegie, and of whom we're very proud in terms of his achievements up to today in that – in developing this program. So Matt, I want to give you the floor.

MATTHEW ROJANSKY: Thanks. And I'm going to turn the floor over to DAS Tom Melia.

THOMAS O. MELIA: Thank you, Ambassador Collins and Matt Rojansky, for putting this together today. This is an important opportunity for those of us currently serving in the United States government, as Jim Collins did with such integrity and accomplishment during his own time in the State Department.

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We depend, in the United States government, on think tanks and NGOs to speak truth to power, speak truth to governments, tell us what is really going on out there. Sometimes we get a little confused when we're reading our official talking points to each other, you know, one government to another. It's important to have honest intellectual content added to the mix from time to time, and so we're particularly grateful that Carnegie has hosted this symposium this morning, because it will provide those of us in the two governments who are here today an opportunity to hear an honest conversation about the state of Ukraine 20 years on now into its independence and to inform the discussions that we will have later today.

For almost three years now, there has been a strategic partnership commission in place that provides a regular opportunity for officials in our two governments to meet and to talk and exchange views on a range of important bilateral issues. And it is – it is interesting to note that this partnership commission has survived changes in administration in both countries, demonstrating that, we hope, it is an enduring institution that will enable us to be able to meet and talk honestly and frankly among friends indefinitely into the future as we build and strengthen the very important relationship that we have with Ukraine.

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It's 20 years on of independence, but there's a lot of years to come, and we expect that the United States and Ukraine will be fast friends going forward into the future. So it's particularly important that we have established this institution for regular conversation and dialogue, and it's of particular benefit to the relationship at Carnegie here and in Ukraine – we're watching – (inaudible) on the screen – are able to host this kind of honest, frank conversation.

So I just want to say we'll be listening in. I look forward to a discussion at midday. And then after lunch, we will head over to the State Department for the official part of our dialogue today. Thanks again to Matt and your colleagues here for putting this together, and Marina and the others. So thank you, all, and – look forward to a good and honest conversation.

MR. ROJANSKY: All right. Well, yet another set of thank yous. Thank you, Tom. Thanks, Ambassador Collins. And I'll add my welcome on behalf of Carnegie and our program, the Ukraine program. We have this flashy new banner; I'm very proud of it.

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And in particular, I do want to thank AID and the State Department, IRF, the Ukrainian embassy, of course, the government for sending so many good participants. And I want to – I want to emphasize – as well, by the way, not least my colleague Olga Shumylo who is looming on the glowing monitor there in the corner. She'll be speaking to us on the second panel, but has the opportunity to listen in. So I want to thank my Brussels colleagues for making that possible.

And let me just emphasize, this is a workshop environment. And so our hope is that we are going to be very tight and rigid on short comments from the panels so that we can really open it up for discussion. The last time that we did something like this here at Carnegie was in February of this year. And I thought, personally, you know, the best – the best part of the day for me, we had Justice Minister Lavrynovych having really a very open conversation with members of the group around the tables. And so I think we all took a lot away from that. And the hope is to continue that process here. And this won't be the end either, and then move over to the State Department this afternoon.

So just some housekeeping notes: We're going to be on the record for this morning. Please turn off cellphones. We have a relatively tight schedule, as I said, so, you know, forgive me if I have to get rather officious about that. As DAS Melia mentioned, the program will continue this afternoon at the State Department.

I just want to – I want to say – and then I'll shut up and sit down and hand the floor over to Gavin – that for me, watching the development of Ukraine in the post-'91 independence era has been very personal. I lived in Ukraine doing research as an undergraduate in college at the end of the '90s. It was a very different place. I remember – you know, I lived with the family of a friend of mine in a pretty small house outside of Kiev, but what they were doing to that house was very important for them. It represented their life savings. They were – they were pumping it into building materials, building fences, building a new driveway, adding a room, building a garage.

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And to me, that was emblematic of, really, what Ukraine was in the 1990s. It was a place where everybody wanted to build. Everybody had something that they'd held onto and saved up, but nobody really felt that they could pool their resources. There was no great trust in public institutions. There were no great investment opportunities.

And then I took kind of a hiatus from Ukraine. I went to law school and did some other things I'm not proud of.

But I came back a few years ago. This was actually just after the crisis had begun. And so Ukraine was not doing well by the figures. But to me, already I could see a huge difference. On the road from Borispol Airport, I saw the enormous brand-new apartment blocks that had gone up that are pretty much indistinguishable from apartment blocks anywhere in the world. You know, let's give them a couple decades, see how the construction materials hold up. But anyway, you know, it was clear that there was corporate investment going on. You know, people were organizing themselves. People were seeking out larger-scale opportunities.

And then, as I've traveled back and forth quite frequently over the last couple of years in my job here at Carnegie, I've seen the evolution towards a fair number of social enterprises. The biggest, obviously, is everything that surrounds Euro 2012. That is an infrastructure project of massive proportions.

But what's probably most important is what you can't see. And that is that certainly, Ukraine is changing physically; the shape of the country is being constantly added to by these investments. But what's being invested in inside of people and inside the society? And that remains, I think, an open question because we've seen so much change but there are these very big challenges that are looming.

And I hope that today's discussion will be one that really gets beneath the surface level of the visible change and talks about what's going on sort of within. Not to get too psychoanalytical, but I do think it is about what exists inside each person and what each person is willing to commit of themselves to see their society move forward. So I hope that we can have that level of personal discussion.

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Anyway, with that, I'm going to hand the floor to Gavin Weise from the International Foundation for Electoral Systems, and thank him very much for moderating this panel on domestic reform – and add one more plug for keeping the panelists to the time. Thanks.

GAVIN WEISE: Thank you. I think that tight and rigid timeline comment was directed at the moderator, so I will – I will do my best.

Well, thank you, everyone, for coming in this morning on a very – on early Monday morning. I hope that you will not be disappointed with the panel that has been assembled here today.

As I mentioned, my name is Gavin Weise. I'm the deputy director for Europe and Asia at the International Foundation for Electoral Systems. We are currently implementing a program in Ukraine and have been active there for a number of years. So the country is no stranger to us, and we hope we are no stranger to the country.

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I will just start by briefly going – introducing the panelists, but only maybe with a one-word introduction, and then maybe perhaps introduce them with a few words, maybe a sentence or two, prior to each of them speaking. I believe today we will go sort of from right to left – your – my left – my right to my left down the panel.

We're joined by Victoria Gumeniuk, who's currently the head of European programs at NGO Center UA; Roman Romanov, Rule of Law program director at Renaissance Foundation; and also we're very pleased to have Maryna Stavniychuk, deputy head of presidential administration, here with us today.

The theme for this morning's panel is a rather broad theme: domestic developments in Ukraine. And as you can imagine, that could – we could probably stay up here for most of today, tomorrow and a few more days. But I – we will keep it short and brief as possible.

There are some subtopics, if you will, in the – in the agenda today. I believe we're going to try to stick to NGO and elections law, rule of law and corruption in general. However, there may be any number of issues that the panelists may want to go over. And then we will save adequate time, sufficient time for questions when we're finished.

I think the housekeeping comments have – well, Matt has already gone over them pretty well. So I think with that, I will turn it to the first panelist. Victoria Gumeniuk is head of the European program at NGO Center UA, as I mentioned, where she also coordinates the work of the Civic Experts Council.

VICTORIA GUMENIUK: Yeah. Hello, everybody. Thanks for – first of all, I would like to thank Carnegie Endowment and State Department officials for inviting me. And it's a great honor for me to talk today.

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Yes, you're right, I'm coordinating the Civic Expert Council activities. This council is actually a body which is consultative to the government on euro integration issues. And it unites around 32 experts from nonstate sphere, nongovernmental organizations which – they all represent their own institutions, but, in general, there is always a reaction and then assessment of what is going on in Ukraine in terms of euro integration issues.

And of course, you'll notice that the euro integrational issues in Ukraine is more about inner reforms than about – than about diplomacy. That is why I'm here today, to talk on internal developments. And this wide topic of 20 years of independence, for me, today, is condensed to two issues, which is actually election legislation elaboration and NGO law, the process – how the new draft law on NGO organizations is being developed.

As always, in the situation, there are two sides, there are two sides of the coin or two news, a bad one and a good one. A bad one is this – is that we are still talking about progress, not result, but a good one is that there is always a hope, and there were not made the steps to destroy the hope.

And let me start with a short overview – with giving you a short overview on how the situation with election legislation is being developed in Ukraine. And the most recent developments are the following: On the third of November this year, a temporary special commission was created in Verkhovna Rada on elaborating single – kind of a compromise draft on election legislation which would actually take into account five drafts of those which are available now and which are registered now in Verkhovna Rada.

And literally on Thursday evening or Friday morning, it was already publicly available, the information on the requirements of – a position, members in the parliament – who are the members of this temporary special commission? What do they require in order – in order for this election legislation could be drafted?

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So they've – the main three requirements are actually the following: First one is within this mixed system, which is still on the agenda, they want to decrease the share of those deputies who would be elected on the basis of majoritarian principles, and it would be one-third of the – of the whole members of the parliament; the rest two-thirds are to be elected on the basis of proportional system.

The second political requirement is that the blocs, political blocs are to be allowed to participate in the elections. And the third is that the threshold to be – to gain the seats in the parliament is to be decreased, and the starting point is 1 percent.

All others – all others requirements of the members of this temporary special committee which represent, actually, the opposition, are those which can side with the majority of those recommendations elaborated by our international colleagues from the Venice Commission and the – and from the International Foundation of Election Systems.

And I would not go deeply into details on that, but the main point is that besides the political requirements, there are those procedural things which are actually – undermine or minimize the possibility to manipulate the results of the elections. So this is the situation for now.

And today, Monday 14<sup>th</sup> 'till 2 p.m. Ukrainian time – so it's already – the deadline is already there – the members of the parliament from the majority are to react on this proposal from the opposition. And we are – we will see how this situation will be developed.

On the situation with the legislation on public organizations, which was actually approved in the first reading in May this year – is quite strange in the sense that it has not been developed actively. And the working group which was actually formed did not manage to prepare the document for the second reading, and it is still in the process of being – of being prepared.

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That is why there is not much to say. The only thing is – which is really important is to lobby the adoption of this draft law and the preparation of this draft law for the second reading. And we know the people whom we are to contact in order to provide this. Moreover, a positive initiative of the presidential administration to elaborate the strategy to support civil society was also launched in August this year, but again, no realized steps by now. That is why, especially with the situation with this NGO environment, we are – we are waiting for the results to be achieved.

Yeah, if there will be some questions or some clarifications needed, I will be really happy to answer.

MR. WEISE: Thank you, Victoria. I think we will probably – sorry. I think we will probably hold the questions until the end and we'll just go through the panelists now. So then – thank you for that. Now to turn it over to Roman Romanov, a gentlemen who I had the pleasure, probably, of working alongside of at one point or another when I was with the American Bar Association in Ukraine, who's certainly no stranger to the rule of law field. Roman, please.

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ROMAN ROMANOV: Thank you, Mr. Moderator. It's a great pleasure for me to speak before such an honorable audience.

Really, the topic of our panel is wide enough, is broad enough, actually. And, you know, I've been thinking about what would be my entry points for this session. And I just remember the in-flight magazine I picked up once in the aircraft. And it was a kind of advertising, Bahama or other islands, urging the people to invest money in their country. And so the words on this advertising were low taxation, political stability, independent judiciary and beautiful nature. That's everything what you need, actually, to invest in a country and actually to enjoy to work there.

It's like – comes to me just to think about Ukraine, you know where we are and where we are attractive as a partner for all the friends and partners we want to have, and to have more and more.

There is, of course, no doubt that Ukraine is big and beautiful country. The nature, you know, it's something, what we really can enjoy. Political stability, yeah; at least for last time we have much more political stability than ever before, than previously, yeah. Low taxation, I wouldn't say so, actually. You know, there are a number of efforts by the government to improve the budget system and to make the taxation more friendly for investors and for local business in the country; unfortunately not so many achievements, still, but it could be discussed.

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But the most problematic issue is – for me is the independent judiciary. So I think that among all the issues which really urgently need to be discussed – at all the panels, at all the sessions, at all the conferences we've got and we wanted to have in the future – I think judiciary is one of the key point. It's not only the question of persecution of political opposition in the country, but it's, again, the question of fair justice for everyone who lives in Ukraine and who believe in justice at all. I think the situation with manipulation of judiciary and pressure over judges in the country dramatically changed in the negative for last two years.

Of course, it's never been ideal. We could, of course, refer to a number of cases which happened earlier, and the attention of our international partners were attracted to, like, such a dramatic event that – around – you know, more than half a year, we didn't have functioning constitutional court because the parliament of Ukraine didn't want to have the constitutional court in the country. And it happened during the, you know, previous government and the previous president.

But the situation now is dramatically changed at less and less hope and belief in justice in the country. That's not, you know, clearly related only to political, so-called political cases, but to any proceedings in the country and any court functioning here.

Today I just read an article in one Ukrainian newspaper that the investigation started against the head of the court of appeal in Crimea was stopped recently because the judge left his position. So the investigation started several months ago with the reason of disclosure of state secret by the head of the court of appeal in Crimea. And the office of the head of the court was searched by the security services. So, what happened next? The judge left his position. The investigation immediately stops.

You know, it's like the clear picture of the environment there: The judges are functioning and trying to make justice in the country. They are being threatened by the administration, by the security service, by the prosecution services.

Of course, the most terrific, you know, case, is related to newly started investigation by the High Council of Justice against the whole Criminal Chamber of the Supreme Court of Ukraine.

You know, the High Council of Justice was already involved in a number of, you know, cases. Then the independence of judiciary or judges because very questionable. But, you know, to start an investigation against the whole chamber of the Supreme Court of Ukraine, it's really a demonstration of real power and a demonstration – what do they think and what do they feel about the judges, even the senior judges in the country.

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It's not the first case, actually. And this case, as well as many other cases of investigation started by the High Council of Justice, was initiated and actively supported by the General Prosecution Office of Ukraine and their representative at the High Council of Justice, Mr. Havrylyuk.

You know, in a country where there is a functioning rule-of-law system, the judiciary controls the security services. In Ukraine, in the rule-of-law system, so called, the prosecution – the prosecutors control the judiciary. They can search their offices. They can initiate investigations in the supreme – in the High Council of Justice, et cetera.

Unfortunately, I think even the – the judiciary itself, the judicial self-governance, the legal profession in Ukraine does not give sufficient attention to all these tendencies which are completely negative, which could destroy not the independence, but even the hope for independence of judiciary.

I think all these actions – they clearly demonstrate the need of deeper understanding among the political elite, among the current authorities of Ukraine, which role the independent institutions, including the judiciary, should play in a democratic state which is governed by the rule of law. Unfortunately, as a victim of political stability, we have all these, you know, independent – or previously, at least, partly independent – institutions, which are not independent anymore.

I mean consolidation of political power, which was effectively conducted by the current administration in Ukraine, effectively destroyed all the independence of those institutions. So I'm not sure I could just evidently demonstrate all these ways, how different independent institutions become dependent from the authorities or administration.

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But at least, from the point of view of public trust, of course, there is lack – there is less and less belief among the society in Ukraine, among the population that the courts are really independent in Ukraine, that the Constitutional Court could be the real mediator between the authorities in the country.

The National Broadcasting Council, unfortunately, becomes more and more dependent as well. The same, I think, could be said about the National Bank of Ukraine. So all the institutions which are important for a democratic society as really independent – in certain ways, they are controlled by the administration in the country.

The issues of fundamental freedoms – it raises for the last years, and if several years ago, we'd have been proud, you know, to live in Ukraine – there the fundamental freedoms are at, you know, a much higher level than in the neighboring countries. Now it's, like, really questionable in different, different ways.

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Just two weeks ago, we had a big conference in Ukraine on freedom of assembly, which was organized by the Commission on Strengthening Democracy and the Rule of Law. And indeed, we had lots of judges from the whole

Ukraine. And the picture which we – we got about this fundamental freedom in the country – that we have more than 80 percent of the bans for peaceful assemblies imposed by courts.

So more and more frequent, the local authorities are applying to courts to impose certain bans for peaceful assemblies. And the court practice is completely negative. More than 80 percent – it's coming closer and closer to 90 percent – are bans imposed by courts.

The motivation for such limitations of fundamental freedom sometimes are ridiculous. For example, during the visit of state secretary, Ms. Hillary Clinton, to Ukraine, all the peaceful assemblies were banned in Ukraine, with the motivation that the participants of those peaceful assemblies could be beaten by the police, and it's in their interest, actually, to avoid from taking part in any peaceful assemblies.

In other cases, judges motivated their bans in different ways – like, the peaceful assembly is going to be held in the same date that the president of the European Union, Mr. Rompuy, is going to visit Kiev, and you know, this assembly could damage the diplomatic relations between Ukraine and EU. So the fundamental freedom – fundamental freedoms, according to our judges, could damage diplomatic relations with many country.

You know, one case was related to the visit of president of Slovak Republic in Ukraine. So I can give you many, many examples with, you know, clear dates, numbers of those cases, names of the judges. But believe me, it's not their motivation. Actually, they've been submitted with certain, you know, documents by the local authorities. And what the judges did – they just put their names and claim the final judgment.

This is, like, a picture of the impact of those pressures to our judiciary in the country, which gives such negative results for fundamental freedoms in the country – which, I think, you know, such limitations for freedom of assembly were never exercised before in our history.

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Just not to be too much, you know, negative: I can say that there are lots of issues which should be taken into account. At a previous meeting here, we had been discussing a lot about the lack of dialogue between the government of Ukraine, presidential administration, and the civil society organizations. I can tell you from my experience that, you know, the situation is not so bad.

We can, you know, have places for dialogue at the level of different ministries, with presidential administration, in many ways. And this is, I think, extremely important. And we all should take into account that, actually, if there is something there, the dialogue could be productive. The civil society organizations are being heard.

The next issue which should be considered, and I would really welcome certain steps of the government of Ukraine, at least, to reconsider the situation with social benefits – with so-called, you know, social justice issue. All these years of populist democracy in the country leads to the situation when – we have almost 50 percent of the people in Ukraine who are allowed for certain social benefits, without real justification for us, as taxpayers, whom, how, and why, we want to pay.

So there are, I would say, quite uncertain and unclear efforts of the government to reform the social system in the country, but again, it never happened before. All the previous leaders just promised, you know, more and more social benefits, and initiated more and more so-called social draft laws in the country, which becomes laws.

Now we are not able to pay for everyone, and thousands of people, daily, meet injustice. They are allowed to be paid more, according to the legislation of Ukraine. They could not get these payments. They apply to courts, and government is doing everything to make it impossible to win the case, which are clearly because people are entitled to get these payments according to existing law.

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I think it's really quite a negative, you know, environment – political environment – and the political background, that we are just one year before the parliamentary elections, to impose real reform of the social justice system in the country, which could not be just left alone as it is. But by the way, I really hope that this government would be able to change the situation.

What is really questionable – whether the social justice will be taken into account during implementing certain changes and reforms in the country. So I started from the justice issues. I wanted to add the social justice issues. But this all is about justice. I do believe that people living in Ukraine – they still want justice. They want to believe in justice. And all the friends of Ukraine, of course, should do all the best to give this opportunity to enjoy justice in the country and to believe in justice in reality. Thank you.

MR. WEISE: Thank you, Roman. Our third and final speaker this morning needs no introduction – however, very briefly, Maryna Stavniychuk, currently deputy head of the presidential administration, also a member of the Venice Commission.

Previously, as many of you know, she served as deputy head of the Central Election Commission for a number of years, and also President Yushchenko's representative at the Constitutional Court, also in the CEC, as well as the deputy head of the secretariat at that time. So with that, I will turn it over to Ms. Stavniychuk. And will we have interpretation, or –

INTERPRETER: Yes.

MS. WEISE: OK, with interpretation.

[00:39:31]

(Ms. Stavniychuk's remarks are delivered through an interpreter.)

MARYNA STAVNIYCHUK: Hello, everyone. I'm very pleased that before we have our meeting of the working group on political dialogue and rule of law at the State Department, Carnegie Endowment gave us this opportunity to discuss the situation in Ukraine with both American and Ukrainian experts here, and to hear their thoughts on it.

So I want to touch upon several issues in my presentation, make several comments on the electoral law – the draft of the new law on elections, and also the subject of NGOs in Ukraine, also the judicial reform and the subject of European – appeals to the European courts on, specifically, on the claims by Ukrainian citizens with regard to their social benefits.

So the biggest issue, when we speak of any reform, any kind of modernization that takes place in Ukraine, is, of course, the question of trust between the society and the government. And the answering – we should look at all these issues from this angle, the angle of trust between the society and the government.

And I can tell you that the Ukrainian government realizes the importance of the issue of trust between the government and civil society. And the president of Ukraine, on numerous occasions, both speaking to the government and his administration, stressed that the relevant mechanisms should be developed to facilitate this trust, to increase the trust from civil society towards the government, and for civil society to take part in the decision-making process – both on the level of developing policies, constructing policies, and also on the stage of implementation of those policies.

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So Ukrainian society is post – still a post-Soviet society, but at the same time, our strive towards building a democratic society is obvious, even though there is – there is a place for criticism on our way. What is true is that the Ukrainian legislation that regulates the development of civil society is outdated. The legislation was – the laws in this sphere, they were adopted in early '90s.

So for a certain period of time, the government was – just distanced itself from the part taken of the development of civil society. However, beginning from the year 2010, under the current administration, there were a number of concrete steps taken with regard to help facilitate the development of civil society.

And I can name several legislation in this sphere. The first one is, of course, the law on the principles of foreign and domestic policy, adopted in July of 2010; the law on access to public information, which was adopted in January of 2010; the law on volunteer activities that was adopted in 2011; and also the law of – the legal advice, which is – pro bono legal advice, and other law is also on social dialogue, which was adopted in December of 2010.

So I consider a big victory, for civil society and the government, the adoption – the vote on the first reading of the draft law on NGOs, which took place on May 17 this year. This was the joint effort by the presidential administration and also by representatives of civil society. And this draft law changes the whole philosophy of how NGOs operate right now in Ukraine.

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So this draft law is aimed at making the procedure of registration of NGOs easier than it is right now. It also proposes changes to the participants of NGOs, that the – now the members of NGOs would be not only citizens of Ukraine, but also legal entities – they could be part of NGOs. Also it broadens the base for fundraising for NGOs, their financing. And we want to change the approach when the government supports a certain kind – a certain NGO: We now want to provide a system where there will be a competition of projects to be funded by the government.

So the – right now the situation with this draft in the parliament is very difficult for political reasons, because it is an initiated – this draft is initiated by the administration. And it is beneficial for NGOs. And, of course, the members of the opposition, they try to block this for their political reasons. But I hope that soon the work on the draft will be finished and it will be passed for the vote. But the government of Ukraine, even though the legislation is stalled in the parliament, acted quite boldly and issued a number of decrees that allow NGOs to compete for government financing.

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So very soon I expect the president to sign a decree to establish the coordinational council on the development of civil society in Ukraine, and also to set this strategy of the governmental support of the development of civil society in Ukraine. And this decree – we worked on the text of this decree together with the representatives of NGOs.

So now we are preparing the national reports on the developments of civil society in Ukraine. When it's going to be presented to the president, and when president will sign the decree that I mentioned on the strategy – both on strategy and the coordinational council, the action plan with a number of concrete steps to develop civil society in Ukraine will also be adopted. So – and this is not something abstract. Those will be very specific steps. They will provide changes in the text – the tax – on the taxation of NGOs, also changes in their – in the budget policy, and also the participation of NGOs in the decision-making in Ukraine.

So, very shortly, I want to mention the electoral law draft. Indeed, Victoria Gumeniuk talked about it; I just want to stress that the great achievement on our side was at the organization of the temporary special commission that will work on – it is now working on the draft and soon will be finished. So I see here in this audience many people that I met in Kiev. And I think you know the subject well. I just want to stress that it's very important for this administration to adopt this new legislation to provide for the steady development of our electoral system.

So the challenge right now for us is to come to some kind of understanding and to reach compromise within the members of parliament on the text of this legislation so it will be accepted by all political parties. So the whole process is sort of divided into two spheres. One is a political process, the other is a procedural process, with very specific requirements. So both the Venetian Commission and IFES, they came up with a number of their comments on the draft. It was critical. But the – now the majority in parliament is ready to take those comments into consideration when developing the final draft and voting on it.

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So before I left for Washington on Friday, I met with representatives of opposition. We sat down and discussed the current draft; they presented their ideas, and we reached a sort of understanding on how we can incorporate their ideas into the – into the final draft. So the biggest issue of the discussion right now is the change of the system itself. And while we reached some understanding on the majority of the issues proposed by the opposition, the opposition still insists on political issues. And right now they ceased the negotiations and they still insist on making the mixed system not 50/50 but 350 deputies by 150. It doesn't change the idea of the mixed system itself, however.

Unfortunately, we're – our aim was to head up changes to prevent further falsification of the elections. And those are very technical issues. However, opposition still puts focus on the political issues, and that is – that is very, very unfortunate. But I'm still hopeful that we'll have a positive outcome of these negotiations and we will adopt the law that will enable us to conduct democratic and transparent elections.

So the opposition, they want to – our system to remain as it is, in the way that we conducted parliamentary elections in 2006 and 2007. Nevertheless, the current system was also criticized from – by the international observers. So it will be – it would be nice if we could reach an agreement on the – between the majority and the opposition factions in the parliament on issues of participation, of electoral blocs in the elections as for the threshold and as for the type of system that we're going to have. But for us, it's very important to adopt very specific and technical positions that would – will enable us to conduct democratic elections.

Thank you. And I'm ready to answer your questions.

[01:10:05]

MR. WEISE: Thank you, Ms. Stavniychuk. And thank you to all our panelists. With that, I think we should turn to the question-and-answer section. I think I said at the beginning we had a very full agenda, or a broad spectrum of issues. And I don't believe we disappointed. I think we covered political, legal, judicial, social; maybe we even touched on economic briefly there. So we have about 40 minutes, I believe, maximum, before the coffee break. And I promise – please ask your questions and we will not cut into the coffee break, I promise. And it will not go away, either. (Laughter.)

So if – do we have a microphone? Yes. Please – and please, I guess, identify yourself briefly.

Q: Hi. Jim Green. I run a small consultancy and have an interest in Ukraine for many years. All the speakers talked about the issue of the link and the trust between the public and society and the state as a key issue. And yet, in none of the discussion – and this obviously is the key issue for elections – is rejuvenating that. We could all feel the rejuvenation of this in every presidential election, for example, in the last few years – the last six or seven years.

One of the key issues that Europe has raised, and that domestic observers and experts have raised, is the question of open lists – the ability of the public and the voter to directly influence party formation, so that parties become not just elite but really reflect society. And no one mentioned it this morning, which I find very interesting. I'd be interested to hear your reasons for not mentioning it and your thoughts about it as a means of connecting the voter and the representative that might be more European and forward-looking than going back to a mixed system, which doesn't have such good history in the country.

MR. WEISE: Thank you. Perhaps I could ask Ms. Stavniychuk to please start.

[01:12:18]

MS. STAVNIYCHUK: (In Ukrainian.)

INTERPRETER: So I –

MS. STAVNIYCHUK: Sorry. (Laughter.)

(Translated from Ukrainian.) For a long time I've been a supporter of the open party lists on the regional level. And those who are the – good advice and comments coming from the parliamentary assembly of – Council of Europe and Venetian (sic) Commission. And I was part of the working group developing the electoral code. So in the – in the draft of the electoral code we had this idea of open party lists. It was very simple, but yet it was there.

However, our political elite, both the member of opposition and the current government, they are somehow reject this idea. However, the idea itself is sufficient because it establishes the direct link between the voters and the elected officials.

So the society, as the polls show, they support the idea of going back to the majoritary (sic) system, as we used to have. And the majority in the parliament also supports this idea. However on the level of experts, the polling in the expert community shows that over 40 percent of experts, they support the idea of open party lists.

[1:17:01]

So the main reason behind this rejection by the political elite of the idea of open lists is that now the party leadership in each party decides who is going to take part in the elections, which part of the list – which place in the list they will hold. But the open lists, however, in a very democratic way, they make it impossible. So this is why there's this rejection there.

The final point from me is that civil society itself is very active in this sphere. And while the political elites, they reject this idea of open lists, there's this – the initiative called “Chestno” that – truthfully – that is supposed to put under scrutiny each candidate, their issues – both in a political way on their issues and on the way of their wealth and so on.

MR. WEISE: Thank you.

Victoria, I believe you wanted to say a few words –

MS. GUMENIUK: Thanks. Thanks. I promised I'll be short.

MR. WEISE: – on behalf of civil society.

MS. GUMENIUK: Yes, but I would like to underline several points. First, from the very beginning, the issue of election system was a kind of a taboo from – I mean, from the very beginning of the liberation of election legislation. Because the members of working group, headed by Mr. Lavrinovich, were – many times were declaring that that the election system was not the subject of discussion, so from the very beginning, it was a mixed system. And till the end of this process – that's over the year past – we still have the situation that this is a taboo. And I wouldn't – I wouldn't – I underline actually the fact that one of the position draft law on election – on election of members of the parliament contains the provisions of having open regional lists. This is the draft law of Mr. Krachkovsky (sp) and others – deputies. So it is not – it's not totally true that opposition does not have the requirement to have such – and the desire and the intentions to have such a system. But the truth is, is that not all their position (sic) support this.

[1:20:24]

But again, it's not a question of willing but it's a question of having the possibility to influence finally. And then last week we had a public forum on the rules of parliamentary elections. And (Ms. Stavniychuk ?) was participating as well. And again, this issue was – one of the most important is that, why now we cannot talk about changing the system, why we perceive the mixed system as a kind of already decided. And that was – and that was really difficult.

Again, this is – this is a threat. It's not about the majoritarian system is a bad system. It's about the way how it is – it conducts it. So anybody – we are talking about the experience that shows us that it might be a bad system for Ukraine.

MR. WEISE: Thank you, Victoria.

If we could move to the next question, if there one – straight at the back?

[1:21:25]

Q: Dr. Nadiya Kravets, Harvard Ukrainian Research Institute – a question to all the panelists. From what I understand, the discussion sort of stems – or the key question is, what are the motivations of the current government? From the opposition, it seems like the motivations are not there to carry out their reforms in the first place, while the government and the representatives of the presidential administration are insisting on and delivering certain passage of laws to actually do – carry out reform in a number of areas: education, judicial system, electoral system, et cetera. So I would like to have your reflections on what are the motivations of the current government.

Is there really goodwill to do this? And if there is one, then why is it not being implemented? So what is the problem in the implementation, on the implementation level?

Thank you.

MR. WEISE: Thank you.

Are any of our panelists willing to volunteer? Roman, please?

MR. ROMANOV: I can start – difficult to answer, indeed, because I am not a politician. I am not a diplomat. I am not a representative of the government, so – and I am not a researcher, as you are. So it's, I think, mostly the question for you – how you think what is the real intentions of certain people in the government or the government itself or the president personally to have effective implementation of the reform: What kind of reform? So we can just give you kind of certain background information what is going on in the country and how we, as a people who are close to civil society organizations, who represent certain part of those organizations, could validate this. I don't think that there is the common position of everyone who represents the government. There is a, you know, common position for, you know, whole or even, you know, major civil society organizations about, you know, certain issue of, like, development of Ukraine and the way the reforms are implemented.

[1:23:53]

I do agree with Mrs. Stavniychuk that a number of reforms, which were started with this administration, have been effectively implemented, you know, not finished but at least we do see the – you know, the efforts to implement them. Just, you know, the – she mentioned the legal aid reform that I've been involved in for many years. And I do believe that it's, you know, extremely important step of the government to ensure that everyone is entitled to have the lawyer from the time of real detention, what never has been implemented in this country.

This is like a strong commitment, and it means that lots of efforts and lots of funding should be offered for everyone who needs the support of the lawyer. It's extremely important to think about reforms not only from the political side or not about the dialogue between our political class – between the opposition and the government, the ruling party – what is – always happens, but what the people of Ukraine could benefit from those steps. I would not criticize most of the reforms. I would more criticize lack of reforms in many aspects, in many, many spheres of life, but it's – I think it could be a very broad discussion; so that's, like, kind of my thoughts about that.

MR. WEISE: Thank you. Perhaps Mrs. Stavniychuk also would like to comment on that.

MS. STAVNIYCHUK: So there is a will with the help of the government to proceed with reform. And as you probably heard, now 21 economic reforms, they're already on the way. And we are also working on reforms in the sphere of – in the judicial sphere and the civil society sphere.

So we're not discussing the economic reforms here. So if we talk about the judicial reform, now the first stage of this reform has already finished.

So I believe that due to the lack of dialogue between the government and the – and the experts in Ukraine, we have those shortcomings in our judicial system that we have right now. But at the same time, the second stage of the judicial reform has already started, and we now are looking at the reform of the courts and the law enforcement. So we now still have the social type of approach when a person is presumed guilty before proved innocent, and we want to change that. We want to change this approach to defend civilians.

So the – indeed we have many people in the system with a still old mentality, but we are proceeding with reforms. We are preparing the reform on the status of lawyers and their practices and also the – we have – working on a draft on a general prosecution office.

[1:29:58]

So now the draft law on criminal procedural code is being examined by the Council of Europe, and we are expecting in coming days to hear the result of this expertise.

So there are many levels on how the reform or – those reforms are being done. And one thing is the institutional reforms and changes on this level. Another sort of – on the other hand, we have the problem with the atmosphere, with the sort of legal culture of those people who work in this sphere.

So many things depend on the legal culture of the lawyers and of the judges. And many things that Roman mentioned in his presentations, they derive from inability of the judges themselves (sic) to realize how important it is to be independent.

So if you talk about the will for reforms in – within the government and within the opposition, I can say that – once again repeat that there is this will in the government to conduct reforms. However, the opposition, when they talk to the government, they really lack substance. They don't have the alternative projects to present in the parliament so that the majority in the parliament can really examine those projects and maybe vote on them.

[1:33:55]

MR. WEISE: Thank you. If I could ask Victoria just to give a few sentences on this, and then maybe we could queue up the next question at the very, very back.

Yes?

MS. GUMENIUK: The question on motivation is really a wise one cause it appears when the consequences of actions do not coincide with the declared goals, and I think this is the case when you pose this question. In answering to your question, I would actually say that a real motivation we see now is – for the government is to look reformist; to have the air of being full of ideas, full of initiatives, full of launched reform process. And this is – this is – this is actually what is taking place, but we are not seeing the results of that. And I think that the case with the election legislation is one of the most vivid in a sense of showing the real motivation of the authorities in general: to be European, to be democratic, to coincide the declarations with the actions.

[1:35:00]

MR. WEISE: Thank you.

Also maybe, since we're running a little low on time, maybe we could take a few questions and then turn back to our panelists – and if I could ask the panelists to also be as concise as possible, and that way we could get through perhaps most of the issues here today.

So we'll take a question from Katie at the back and then maybe one other question as well.

Q: OK, thank you, Gavin.

My name is Katie Fox. I'm from the National Democratic Institute. My question is to Ms. Stavniychuk. I appreciate your acknowledgement and comments about the election law drafting process having weaknesses and also your recent comments in the Kyiv Post on this topic. And I don't want to – I agree that the issues of open lists and of the general consideration of the type of electoral system being taboo is key but I – at the same time, my question concerns something a little more technical on the election law drafting process.

As my friend Gavin from IFES knows, in the newer drafts of the law, there – the provisions for domestic monitors to – for domestic nonpartisan groups to monitor and to file complaints have been somewhat weakened. They need to be clarified and strengthened. Given what you've said about the presidential administration's commitment to strengthening civil society, are you confident that those provisions will be fixed in the final draft?

MR. WEISE: Thank you – and maybe one additional question?

[1:36:30]

Q: (Inaudible) – here in D.C. My question is to Maryna Stavniychuk. I was surprised that you said that opposition doesn't provide any comments, any suggestions for the law. But everyone saw the level of cooperation during the Kharkov agreement ratification. We saw the cooperation during the adoption of the – of the state budget law. Why do you believe that the level of cooperation will be much better during the negotiation about the judiciary reform? Thank you.

MR. WEISE: Thank you. So is there one more question that we could fold in there, or – OK, let's – I'll wait until the next round.

So the question about – both questions directed at Mrs. Stavniychuk. However, I would encourage our other panelists also to jump in if they – if they feel the need – a question regarding the – I guess some skepticism about the level of cooperation that we might see on the future reforms; and also a very specific question on the election law and the right of domestic observers, which we know have played a very important part in the history of Ukraine.

Please?

[1:38:25]

MS. STAVNIYCHUK: So with regard to the questions on monitors, I believe that in the current legislation this issue is addressed in more proper way than before that. The only question right now remains – to be solved is the right of international monitors to release their comments before the official results of the elections. And the

problem is that there's two types of monitoring missions. They are long-term and also the short-term, just one day during the – during the election, so –

So with regard to the second question, I don't want to get into details on Kharkov deal vote. However, with regard to discussion on the current electoral legislation, from my experience, I can say that I was – I had some disagreements with the proposals that was made by working group under Minister of Justice Lavrynovych.

And I made my position very clear to the president, and he heard my argument. And from this experience, I can tell that when you do have some kind of proposals, and you have your position, there are many ways on how you can stand your ground and reach, kind of, a goal of implementing those ideas. There are many mechanisms within the parliament of how opposition can deliver their views.

So again, talking about this electoral legislation, some of the representatives of opposition parties, they were involved in the work of this working group that delivered this draft. And the Bloc of Yulia Tymoshenko, they just rejected to take part in this process, and they insisted on keeping the system the way it is right now. Their attitudes toward this changed when the draft was introduced in the parliament. Now they are looking for ways to deliver their position.

So when the relevant committee started their hearings on the draft law, the representatives of opposition, they suggested that each of the other, alternative drafts should be withdrawn from the deliberation, and in this way to just stop the process itself – just to stop the discussion on the current draft and keep the system as it is.

So after a member, our deputy, Mr. Kliuchkovsky, who proposed his draft that actually was built around the idea of the open lists – he rejected to withdraw his draft. After this, the opposition become more talkative, more willing to compromise, and the situation changed.

[1:45:14]

MR. WEISE: Roman, if you want to just say a few words – if I could ask Ms. Stavniychuk to wrap up, just so we might have time for one more question. Unless you want to conclude.

MS. STANVNIYCHUK: So the process is much more difficult than it looks from the outside to international observers, because everybody involved in this process just tries to play his political game. But the main idea is to solve the biggest problem – it's the link between the voter and the elected officials. And if, for example, the proposed mixed system somehow addresses this issue, the current system, as it is, it just doesn't solve the problem.

So we understand there are some risks of how this mixed system can be abused. To avoid those negative outcomes, we insist that other procedural issues will be – should be adopted. And they will make possible the democratic and transparent elections.

[1:48:56]

So one last issue I want to raise is the issue of party blocs. If you can see, those blocs that we have right now – they are not sufficient. They are not effective in their work in the parliament. Just one example: If you look at the results of the elections of 2007, the electoral blocs as they were – Nasha Ukraina, Bloc of Yulia Tymoshenko, and Bloc of Lytvyn – they are, at this point, they are just changed. And they are not as they were in 2007.

And this shows how insufficient this idea of party blocs is. And it was stressed by IFES. In the first place, Venetian (sic) Commission didn't want to mention this as a problem, but they, then, kind of softened their opposition, and agreed with IFES that it is insufficient and it should be addressed.

MR. WEISE: OK, thank you. Roman, I'll give you the final word here, because unfortunately, we're up against the time, before I wrap things up here – with about 30 seconds of remarks – so please keep it very, very brief.

MR. ROMANOV: Thank you. I'll be brief, I promise you. Just, I wanted to come back to broader issues, but I think it's coming from all these questions which we heard here. In other words, whether we can trust – if there is a place to any trust in your reforms, in your efforts to change something, et cetera – it's not about only the election, everything – and whether the dialogue could take place at all.

Three points. First one: I do believe that our opposition is really ineffective, and it's not able to play the effective role which it should play. Unfortunately, the majority of the people who joined those parties which are in the opposition, they wanted to join the parties who rule the country. They are not ready, actually, to play the role of – in the opposition.

And when we talked about certain initiatives, mostly these are initiatives of concrete people, like Kliuchkovsky, like others. We can name all of them. But there is no position of the political opposition in the country. It would not be fair enough if I would not mention that, of course, it's quite hard to expect real dialogue with the opposition if the criminal persecution is being used against the political activity and political decisions taken by previous government.

[01:51:42]

It's true. It's fair, and we have to accept that. It's a problem, and we have to reconsider these ways – how the dialogue is being conducted by the government towards the opposition, if we really wanted to have a real dialogue.

And the reforms: Of course, the reforms, aimed to have more effective governance, could be in place in the country. And the government could be much more effective than before, because Ukraine, for 20 years, was very – really badly governed country. And we know that. But in these reforms, there is little space for fundamental freedoms, unfortunately. It's not the key values for the current administration.

But by the way, I think it's mostly the concern of civil society in Ukraine. If it is healthy enough, I do believe we can restore our rights, even in this quite unclear and difficult political environment. Thank you very much.

MR. WEISE: Thank you, Roman. On that, I guess, little bit of optimism I heard there, I think I'd like to conclude on that note and thank all of our panelists for joining us this morning. I was also pleasantly surprised by the growing interest concerning the issue of the election law, working in an organization that works particularly with election issues.

I'm also reminded of the burden of being a moderator, in that no one really cares about your opinion. (Laughter.) So perhaps I'll be invited back as a panelist in the future. So with that, I'd like to conclude. We only have about nine minutes for a coffee break. We have a very tight schedule this morning. So please, join me in giving a hand to our panelists – (applause) – and thank you very much for coming.

(END)

[01:53:34]