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# The establishment of a self-regulating body of the Prosecutor rules out the chances of Ukraine's prosecutor's office being reformed

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Last year a bill was passed in Ukraine relating to the prosecutor's office. On the 15th April this year the section concerning the creation of a self-regulating body of the prosecutor entered into force. On 26th April the process of establishing new bodies of the Ukrainian prosecutor's self-regulating body began: the Council of Prosecutors, and the Qualification and Disciplinary Commission. The council's main role is to present the prosecutor general with candidates for managerial positions in prosecutor's offices at all levels (including deputies of the prosecutor general). The commission's main function is to present candidates for prosecutors at all levels and to consider disciplinary motions against them. The prosecutor general (appointed by the president, following approval from the Verkhovna Rada of Ukraine) does not have the right to veto the decisions of these bodies. They therefore have full competences regarding personnel choices. At the last moment President Poroshenko made attempts to postpone the bill relating to the prosecutor's self-regulating body from passing into law by another year. However, the draft of the related law was not dealt with in a timely manner.

**Commentary**

- The establishment of a self-regulating body in the Ukrainian prosecutor's office has to all intents and purposes eliminated the possibility that this organisation will be reformed. Following the Maidan revolution, only symbolic personnel changes were made in this body and it remains one of the most corrupt state structures. It should be expected that the self-regulating bodies established by the present prosecutors will perpetuate local corruption structures and will block any important changes in the workings of the prosecutor's office. The self-regulating, independent prosecutor's office will become a closed corporation which the state will have no control over. It should also be assumed that there is little hope that the present links between prosecutors and oligarchic and corrupt structures (sometimes even organised crime) will diminish; it is in fact more likely that they will grow stronger.
- The law relating to the prosecutor's office was hastily drafted, as can be observed by the fact that it has been amended nine times since it was passed in October 2014 (the last time was in February 2016). Failed attempts to further postpone the regulations relating

to the self-regulating body of the prosecutor's office entering into force were the result of negligence on the part of the highest levels of government. Had they been successful, it would have been possible to implement substantial reforms, both with regard to the organisation and its staff.

- Reforming the Ukrainian prosecutor's office (including the introduction of the rule of the independence and self-governance of the judiciary) was one of the demands made by the Council of Europe and other European institutions. However, when solutions characteristic of well-established and mature democratic regimes are uncritically adopted in a country which is building a stable democracy, they are often (as in the case of Ukraine) dysfunctional and serve to perpetuate antidemocratic practices, rather than to eliminate them.
- With the establishment of a self-regulating body of the Prosecutor, the role of the head of this organisation will be reduced from one which used to wield a significant degree of executive power in the state. The head of the organisation has been deprived of genuine instruments of control over his staff and will have no consequential impact on particular investigations.