

# HOW TO MAKE LOCAL AUTHORITIES MORE TRANSPARENT?

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Analytical report by #TransparentCities



Transparency International Ukraine is a national chapter of Transparency International, an anti-corruption NGO with over 90 national chapters; which operates in more than 100 countries. TI Ukraine's mission is to limit the increase of corruption in Ukraine by promoting transparency, accountability, and integrity in both the public authorities and civil society.

# INTRODUCTION

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In Ukraine, the process of decentralization is underway, hence, more power and resources go to the local authorities. At the same time, there is a growing risk of corruption descending to the local level correspondingly. One of the factors contributing to the formation of a corruption free society is the transparency of the authorities, in particular the local ones. Although high transparency does not directly mean the absence of corruption, it is an opportunity for citizens to see the lack of integrity clearly. In addition, if the citizens are active, they will stand up to eliminate such instances, which in the long run will reduce corruption.

Transparency International Ukraine and the Institute of Political Education conduct a project aimed at increasing the transparency of local authorities. The idea of the project is based on the Slovak experience: the implementation of such a project has led to an increase in the average level of transparency from 40% to 51% from 2010 to 2016. Interestingly, the Corruption Perceptions Index for this period in Slovakia has improved from 43 to 51 points.

Therefore, the first step in the endeavor to achieve the transparency of local authorities was to measure the current level of transparency and identify the existing problems. Based on the Slovak methodology, a new research methodology was developed, which includes 13 areas of responsibility of city authorities, which in turn are described by 91 indicators. The indicators are the following: information on the work of local authorities; access and participation; public procurement; housing policy; budgeting and contracts;

grants, financial and material aid; social services; human resources; professional ethics and conflict of interest; land use and construction policies; communal enterprises; communal property; education. The team of analysts evaluated 100 largest cities in Ukraine. The evaluation results and the methodology are available on our website [transparentcities.in.ua/en/](http://transparentcities.in.ua/en/). It has been determined that the average level of transparency is about 30 points while the least transparent area is housing policy. Furthermore, analysts have provided recommendations to improve the situation in each city. Additionally, the project team trained 317 representatives of local authorities, activists and journalists from 90 cities of Ukraine on increasing transparency of the city authorities.

This analytical report describes the transparency of the 13 analyzed areas of responsibility of the municipal authorities: common issues, best practices in different cities in various aspects, general advice for improving the transparency of local authorities, and recommendations to the Cabinet of Ministers and the Verkhovna Rada regarding which regulations should be adopted to promote transparency at the local level.

Transparency International Ukraine is actively continuing its work on the regional level. In addition to the ranking and educational activities, we lead information campaigns for citizens as well as work with selected cities on their issues specifically.

**Kateryna Tsybenko, Head of Transparency City project in Transparency International Ukraine**

Analytical Report Based on the Transparency Ranking of 100 Ukrainian Cities

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# TRANSPARENCY RATING OF 100 LARGEST UKRAINIAN CITIES

41	Kamianets-Podilskyi	32,38	I
42	Uman	31,73	I
43	Rubizhne	31,71	I
44	Myrhorod	31,59	I
45	Uzhhorod	31,00	I
46	Slavuta	31,00	I
47	Kakhovka	30,99	I
48	Zhmerynka	29,70	I
49	Dubno	29,49	I
50	Bila Tserkva	29,40	I
51	Druzhkivka	29,26	I
52	Melitopol	29,20	I
53	Nikopol	28,60	I
54	Yuzhnoukrainsk	28,60	I
55	Kryvyi Rih	28,60	I
56	Shostka	28,43	I
57	Mariupol	28,05	I
58	Berdychiv	27,73	I
59	Boryspil	27,70	I
60	Varash	27,66	I
61	Bakhmut	27,26	I
62	Kamianets	26,50	I
63	Kupiansk	26,50	I
64	Zaporizhzhia	26,03	I
65	Dnipro	25,60	I
66	Novovolynsk	25,73	I
67	Marhanets	23,50	I
68	Pervomaisk	23,50	I
69	Kalush	23,49	I
70	Poltava	23,46	I



71	Starokostiantyniv	23,26	I
72	Fastiv	23,23	I
73	Severodonetsk	22,46	I
74	Pokrovsk	22,40	I
75	Irpin	22,13	I
76	Smila	22,06	I
77	Shepetivka	21,96	I
78	Konstantynivka	21,43	I
79	Izyum	21,09	I
80	Okhtyrka	21,06	I
81	Sambir	20,93	J
82	Izmail	20,59	J
83	Podilsk	20,06	J
84	Vyshneve	19,80	J
85	Zhovti Vody	19,74	J
86	Pavlohrad	19,60	J
87	Svitlovodsk	19,40	J
88	Vasylkiv	18,86	J
89	Lozova	18,60	J
90	Kolomyia	18,33	J
91	Pokrov	18,30	J
92	Lysychansk	17,81	J
93	Sloviansk	16,70	J
94	Stryi	16,40	J
95	Boyarka	15,61	J
96	Lubny	15,53	J
97	Luman	14,42	J
98	Dunayivtsi	11,33	J
99	Myrnohrad	9,93	J
100	Novomoskovsk	8,00	J

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# INFORMATION ON THE WORK OF LOCAL AUTHORITIES

Informing the public about the work of local authorities is the most successful area of accountability of city councils and their executive bodies. Many city councils can boast of well-established publication of council and executive committee decisions, news about activities, announcements of events, minutes of plenary sessions of councils and permanent deputy commissions.

In order to improve the situation with the information coverage on the work of local authorities, we recommend the following:

- to disclose the minutes of sessions of conciliation boards, presidiums, collegiate organs or other meetings held ahead of plenary sessions of the boards (there are positive practices, for example, Kyiv, but in most cases the minutes of sessions are either not kept or not disclosed). We should also note the necessity to publish minutes of sessions or reports and announcements of meetings, collective assembly of other bodies formed by the council, incl. communal enterprises;
- to systematize and publish information on all activities and events taking place with the participation of the mayor, mayor deputies, secretaries, city deputies, heads of executive bodies and communal enterprises, institutions and organizations subordinate to self-governing authorities;
- to keep information on activities and events, work schedules and meetings of all bodies of self-government authorities that have been announced or conducted for several years after the event took place;
- to verify all numbers and the possibility to actually upload the minutes of plenary sessions and of permanent deputy commissions, and also the availability of minutes of sessions of all commissions and not only the elective ones (in case if the commissions are not productive, we recommend to dissolve them and elect deputies from such to other commissions);
- to introduce timely disclosure of the agendas, time, place of the meetings of permanent deputy commissions, and likewise to ensure the disclosure of all incoming and outgoing documentation, which is addressed to or created by the permanent deputy commission;

- to disclose information on the initiators (authors) of draft decisions, commentary and conclusions to them;
- to complement the list of members of local councils with their detailed contacts – telephone numbers, mobile phone numbers, social network addresses, e-mail addresses and the same detailed contacts of their personal assistants.

Additionally, we strongly recommend: to publish the minutes of executive committee sessions, to create the corresponding archive of the minutes of sessions of the executive committee of acting convocation, as well as comply with the legislation regarding the disclosure of draft decisions of the executive committee 20 business days prior to their handling.

Regarding the information systematization on all events that took place on the basis of all departments, executive bodies, schools, institutions of cultural, social services and healthcare, communal enterprises, institutions of various nature, etc., timely collection of such data and formation of tables for past and future events will not only help in corruption counteraction, but will additionally serve as a tool for effective management and functioning of representatives of the city authorities themselves. We would like to draw attention to the fact that currently, most of the deputy corps, officials, members of the executive committees, and heads of executive bodies do not have detailed information about all activities and events taking place on the basis or with the participation of representatives of local authorities and their subordinate institutions.

Moreover, there often are no mechanisms for convenient search of relevant documents on the websites of local governments, thus the requirement for disclosure is formally being executed, but it is difficult for the end user to find the actual information. We recommend working on convenient sorting and search of information on official web pages.



## RECOMMENDATIONS TO THE VERKHOVNA RADA OF UKRAINE:

- to amend the Law of Ukraine “On Local Self-Government in Ukraine” by making the disclosure of the minutes of sessions of the executive committee mandatory, as was done with the minutes of sessions of plenary meetings of local councils (new version of article 46 of the law from 2014);
- to oblige all collegial bodies that are subjects of authority to announce the time, place and agenda of their own meetings at the legislative level (at the level of local self-government bodies this will be primarily the case of executive committees and permanent deputy commissions), and separately indicate free access of citizens to such events, with the simultaneous obligation to disclose the agenda and minutes of sessions of such an event.



# ACCESS AND PARTICIPATION

Unlike the question of informing local community members about events and activities in the city, and the topic of providing access to information, the question of ensuring access to participation in local government processes is much more complicated for city councils in big cities. We can state the fact that many cities already consider it their duty to inform city residents about the past activities and certain future events, but at the same time they do not want to recognize city residents as full-fledged participants in all community affairs. Despite this, positive practices are being formed on a large scale, including:

- the participative budget, that is, the opportunity for city residents to submit their own projects and receive financial and other types of support in order to implement the idea;
- open data formation and disclosure;
- creation of an electronic service for submitting and tracking appeals to the mayor, executive bodies, and councils;
- creating modern and user-friendly websites that attract users instead of putting them off.

To overcome the numerous problems of access and participation of local residents to local self-government, we recommend the following:

- to review the restrictive norms and rules contained in the procedure and regulations on the work of permanent parliamentary committees in order to ensure unimpeded access to the sessions of deputies. In addition, there should be factual access to the work of deputy collegial bodies where there are no legally restrictive norms, but there is no real access, and significant obstacles are encountered (e.g., Kharkiv, Odessa city councils);
- to introduce the announcement of meetings of boards, presidiums, conciliation councils, etc., which are held ahead of plenary sessions of the local council;
- to disclose open statistics of independent organizations on visiting websites of local self-government bodies directly on the website;
- to disclose all draft decisions 20 business days prior to their handling at the plenary session of the council and provide the opportunity for citizens to comment, submit corrections and proposals to these documents, which are handled at the meetings of

the permanent deputy commissions and conciliation boards ahead of the plenary session;

- to disclose the agenda of all plenary meetings, executive committees, conciliation councils, etc., as well as the minutes of sessions and the results of the roll-call vote;
- to provide video recording and streaming of sessions of the executive committee and the commissions of the council and the executive committee;
- to ensure compliance with the current legislation on the disclosure of decisions within 5 business days and with indication of the publication date;
- to ensure full implementation of the resolution of Cabinet of Minister on the disclosure of open data.

Taking into consideration the numerous cases of canceling the decisions of local councils with significant violations of the handling and voting procedure, and taking into consideration the numerous instances of non-compliance with current legislation in this area, we would like to emphasize the following:

- the council handling draft decisions and voting for them while they were not made public 20 business days beforehand (1 month if the decision is of regulatory nature) is a direct violation of the constitutional right of Ukrainian citizens to access public information (Section 3 of Article 15 of the Law of Ukraine “On Access to Public Information”);
- failure to disclose the name of the issue (the name of the draft decision) on the agenda of the convening of a council session 10 days before the first plenary session is a direct violation of the right of access to local self-government by members of the territorial community, because residents are not aware that the issue is going to be considered at a specific time, day, and at a specific place, as indicated in the other part of the order to convene a session.

Consequently, it should be noted that the timely disclosure of full agenda of the council session and texts of draft decisions is not only in the interest of the community and a necessary measure to overcome corruption, but also a guarantee that, in the future, the decisions of the council will not be canceled, and the recipients and executors of these decisions will not find themselves in a difficult legal position.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- clarification of the wording of Law of Ukraine, “On Local Self-Government”, Article 46, regarding disclosure of the session agenda and inclusion of questions to the agendas of plenary sessions of local councils, both regular and irregular, and prohibition to review draft decisions which were not published for the community in a timely manner and the review time and place of which was not duly communicated to the community members.



## RECOMMENDATION TO THE CABINET OF MINISTERS OF UKRAINE:

- to amend the Resolution of the Cabinet of Ministers of Ukraine of October 21, 2015, No. 835 “On Approval of the Provisions on Data Sets to be Disclosed in the Form of Open Data”, to decipher the list of data to disclose in accordance with the ranking of 100 largest cities of Ukraine compiled by Transparency International Ukraine, Institute of Political Education and partners.

# PROCUREMENT

The area of procurement is one of the most reformed domains in the work of local self-government bodies. Even though, a short while ago, the use of ProZorro system was only the best practice of certain cities, it has already become a legal requirement for all cities. Therefore, we managed to achieve a significant increase in transparency at all stages of procurement. This change affected all cities, yet, at the same time, corruption and corruption risks have not been completely eliminated.

In order to increase transparency and eliminate corruption risks, it is recommended that local self-government bodies:

- disclose information about all complaints and problems connected with procurement, and for this, ensure the functioning of a special public service or another official online procurement resource on which one can freely read complaints, proposals and appeals, as well as responses to these and actions taken;
- resolve the problems of pre-threshold procurement, and for this purpose to develop and adopt a procedure or other regulatory document on the implementation of pre-threshold tenders for all executive bodies, structural subdivisions and subordinate utilities, institutions and organizations;
- provide full and unrestricted access to information on all procurement made by subordinate communal bodies, institutions and enterprises for the amount up to UAH 50,000 (EDRPOU (number in the National State Registry of Ukrainian Enterprises and Organizations) of the customer, the name of the customer, EDRPOU of the supplier, supplier name, procurement item, amount of the contract) in a convenient and machine-readable format on the website of the city;

- disclose archival documents on procurement, namely, make the archive of procurement for the last 3 years as well as annual procurement plans available on the official website;
- locate all current up-to-date information about procurement activities, which are being carried out on the territory of the whole city (procurement activities of councils, executive bodies, structural divisions, communal enterprises, institutions and organizations) on the city web-site;
- publish the list (structure) of all executive bodies, communal institutions, enterprises and organizations subordinate to the city council that carry out the procurement on the web-site in a machine-readable format;
- provide for public access to general and detailed information on the results of procurement for previous three years (competitive / noncompetitive, subordinate / sub-threshold, number and amount of contracts, top purchasers / winners) on the official website.

# HOUSING POLICY

The reduction of corruption in the area of housing policy, in particular, in distribution of residential premises, takes place naturally, because the number of square meters that are subject to distribution or which may be subject to influence of local government bodies is reduced. At the same time, corruption is still dominant in various aspects in this area. Specifically, the following factors contribute to this:

- unlike the permanent deputy commissions, which consist of elected deputies, the housing commission is set up by the executive committee and consists mainly of civil servants as well as officials or public figures close to representatives of the of public organizations, which avoid publicity and attention to their own activities as much as possible;
- the executive committee usually consists of people who are loyal to the mayor to varying degrees, and therefore, unlike the local council, there is no internal opposition, which greatly reduces the quality of discussion and revision of the draft decisions proposed by the housing commission, as well as decreases the attention and transparency of the decision-making process, including decisions on housing issues, in comparison with the council's session.

These problems are also typical of other areas, but when it comes to work of housing commissions and distribution programs for housing, office premises, rooms in dormitories etc., they are particularly grave. Taking into account the above-mentioned conditions, all commissions formed by the executive committee, including those on housing issues, operate under the conditions of the executive committee and all its commissions being closed off from external observation, media attention and the public. The work of such commissions is characterized by professionalism, formality, efficiency and dependence on the mayor or other individuals directly influencing decision-making in

the executive bodies of the council. Thus, community members almost do not know about the existence of relevant commissions in local self-government bodies, often confusing their work with permanent parliamentary commissions. As a result, the public control over the work of relevant commissions is almost entirely absent, and the activity is mainly carried out without the aim to improve the life of the community, but in order to fulfill the formal requirements of current legislation and to satisfy an established traditions of decision-making in housing issues instead.

We also recommend that local authorities carry out a full and detailed inventory with further publication of all information about existing community living quarters. It is necessary not only to overcome corruption risks, but also to protect the interests of registered residents and increase the revenue for property owned by territorial community members.

Taking into account the trend towards growth of the number of apartment building co-owners associations and increase in the repair needs of the housing fund, we recommend creating clear and understandable queues for repair works in high-rise and low-rise buildings, as well as introducing incentive mechanisms for candidates for repair works (apartment building co-owners associations, cooperatives, population self-organization entities, associations of owners and co-owners) to move closer to the result - obtaining repair works. Such incentives can be: experience of the housing cooperatives / apartment building co-owners associations (or other structures representing the interests of owners or residents), a significant share contribution to repair works, use of innovative technologies, a significant percentage of future energy modernization, emergency status, etc.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- to approve the draft law of the Ministry of Economy and Trade No. 4738-d, which, inter alia, specifies a clear list of powers of the State Audit Service of Ukraine in the field of public procurement monitoring;
- to reduce thresholds for compulsory use of competitive procedures.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- to oblige local self-government bodies to disclose all information about existing residential premises owned by a territorial community;
- to abolish the duty of the territorial community to provide official and other staff accommodation and other public servants, which were not employed by the territorial community;
- to improve the legislation on working with escheat.

# BUDGETING AND CONTRACTS

The majority of local councils address budget information disclosure quite formally. On the one hand, decisions on the yearly budget can be found in the local council databases, changes and amendments to it can be found in other decisions, which means that, formally, this information is accessible to residents. On the other hand, given the lack of skills in reviewing the database of local council decisions and familiarity with projects, most city residents think that local budget information is not available. Such opinion is also being strengthened by the comments of those public figures, activists and journalists who found relevant decisions for the city budget and tried to understand them. Given that the budget resembles financial tables rather than a publicly-funded community-based document, and given that many cities do not provide complete visualization of the financial data, many have the impression that budget information is not available de facto, even if it is available de jure. Thus, city residents are convinced in the lack of information about the local budget, the way of its formation and expenditure.

However, in many cities, visualization has been created, the budget or budget performance report presentation for the past year has been prepared, plus there are some cases of visualization of the current budget implementation. This was reflected in our rating in the form of plus points, and became one of the best practices that we strive to expand. For instance, such best practices include:

- creating separate sections about the city budget on the website;
- making presentations on current budget and on budget execution in the past (visualization of one year, 9 months, 6 months, and quarterly reports);
- disclosure of budget expenditures broken down by the object;
- disclosure of the cost sheets (expenditures) on the maintenance of local authorities and community management, which is necessary for residents to understand how much funds authorities spend on themselves from the taxes collected in the community;

- creation of geo-maps and other convenient systems of public control concerning the course of road construction works, location of objects for the functioning of which city budget is spent.

In order to ensure transparency of work with the budget and overcome corruption risks, in addition to the abovementioned best practices, we recommend city councils:

- to conduct public hearings on the budget process and discuss the budget draft in the process of drawing up and formulating priorities;
- to start drafting the budget in advance and strictly adhere to the rules of 20 business days regarding the publication of the budget draft ahead of its review by the executive committee and, accordingly, 20 business days when the budget draft is considered by the city council after the executive committee has reviewed and forwarded it to the council;
- to approve the local budgeting procedure, which defines local peculiarities of reviewing the report, its public discussion, handling of budget requests, drafting the budget and reviewing the draft, the implementation process, introduction of amendments and supplements.

It is also possible to make recommendations to the parliament, as the budget process is almost completely regulated by the Budget Code and by subordinate government regulations.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- to amend the Law of Ukraine “On Local Self-Government in Ukraine” or the Budget Code of Ukraine to include mandatory holding of public hearings on local budget issues;
- to strengthen the responsibility of officials of local governmental bodies for not publishing draft decisions of the local council in the budget sphere;
- to formalize in legislation the standard that other features of budget process than those defined by the Budget Code, are regulated by local budget regulatory acts.
- In addition, we must note that the availability of all information in a convenient and high-quality format, the adoption of a modern regulatory framework at the local level regarding the process of forming, drawing up, reviewing, approving and implementing the local budget do not guarantee that the funds will be allocated according to community needs and preferences, that is, efficiently and usefully. It should be clearly understood that overcoming corruption in the budget process only partially ensures higher efficiency of budget expenditures, but does not replace the other aspects of the question of efficient spending of limited financial resources.



# GRANTS, ALLOCATION OF FINANCES

Information about specific recipients of financial assistance and funds from the local budget in most cases is not disclosed not due to the fact that the city authorities are against the disclosure of such information, but because in most cases they do not have such systematized information. Particularly, local communities cannot provide an answer to the following questions:

- how many individuals and legal entities received financial aid at the expense of the budget and efforts of local self-government bodies (monetary aid, joint measures, material non-financial assistance with economic works, goods and services), since there are no consolidated registers;
- how many individuals and legal entities were denied financial and other aid, when and in what form. Often, such information is not even available at the level of social protection, where information is available on the number of recipients of financial aid and amounts received by them.

There are no relevant pages on the city councils websites. Additionally, there are no documents at the local level that regulate the avoidance of corruption risks, conflicts of interest between the participants in funding competitions and the members of the decision-making bodies who are not on the staff of local self-government bodies. Often, deputies of local councils, the public, activists, journalists in general cannot explain who and how ultimately makes decisions on the allocation of financial or other aid.

The public not only does not have information about these mechanisms, but also can not be present at meetings where respective decisions are made; documentation and protocols are not systematized and not even

given to members of the local council. Only part of the information is contained in the reports of the executive bodies on social protection and is kept in the decisions of the council and the executive committee among all other decisions of the council (consulting them requires tremendous effort). Even if such information is contained in other decisions of the board and executive committee, information on the name of the specific recipients of material aid is often hidden, even though this contradicts the current legislation. Often, representatives of local self-government bodies refer to the legislation on protection of personal data, absolutely not taking into account that article 59 of the Law of Ukraine “On Local Self-Government in Ukraine” has been specially adjusted so that the community would not conceal information about specific names of recipients of funds from the local budget. Accordingly, such information does not exist on websites, archives, or in a systematic register of relevant decisions and rejections.

It should be noted separately that representatives of local self-government bodies do not realize that, apart from financial material aid to certain population categories, other financial and non-financial material aid to individuals and legal entities is carried out at the expense of the local budget.

Among the positive sides, we would like to point out the existence of contests for the allocation of funds to public organizations and other institutions of the civil society in many communities, yet, at the same time, there is no information on the prevention of corruption and conflict of interest.

# SOCIAL SERVICES

Social services have become hostages of a non-transparent system of executive committees and executive bodies of local councils. In order to understand the conditions in which the responsible officials in the executive bodies of the council have to work to provide social services and coordinate the work of relevant institutions, the following factors have to be taken into account (which, incidentally, create conditions for the growth of corruption risks not only in the area of social services but also in all areas of activity of local self-government bodies):

- in accordance with current legislation, unlike local councils, executive committees are not obliged to inform about the time and place of their meetings, as well as the agenda of their meetings, and therefore the public is usually not informed about what issues are planned to be considered. With regard to the decisions made, the media and the public generally find out about them post-factum;
- unlike meetings of local councils and meetings of permanent deputy commissions, where publication of minutes is mandatory, executive committees and the commission of the executive committee, as a rule, do not publish the minutes. That is why the media and the public, as a rule, do not have information on the course and process of approving or rejecting relevant decisions;
- while current legislation provides for mandatory reporting of permanent deputy commissions, at least once a year, there are no such provisions in relation to reporting of the commissions of the executive committee. Thus, there is a tacit tradition in the local councils that the commissions of the executive committee do not report their work at all.

Taking into account the above-mentioned, we recommend that local self-government bodies introduce changes to the rules of work of the executive committees, which

would oblige them to announce the meetings of the executive committee and its commissions, to disclose the agenda, time and place of commissions, to disclose the materials of commissions and minutes of sessions, and as well to ensure inclusion of public representatives in commissions of executive committees.

Moreover, in order to improve social policy, it is advisable to implement the following in the cities:

- to enable ordering any social service or place in all institutions and organizations subordinate to the local council on the websites of local councils and Centers for Provision of Administrative Assistance websites. Such a service should allow residents to get acquainted with the list of all institutions and organizations, services they provide, the description, conditions and cost of the service, if it is not financed by the local or state budget. Residents, thus, should be able to choose the necessary services and register for their receipt, which will improve not only the access of people to services, but also strengthen local authorities’ control over the work of institutions;
- considering that, excluding certain exceptions, employees of social institutions and organizations usually are not employees of local self-government bodies, we recommend creating a separate section of vacancies and systematizing information on all employment opportunities in the field of social services, with a detailed description of working conditions, payment, career opportunities or other development.

We also recommend local governments to prepare transparent and understandable information materials, including visualization, about users of social services in the community broken down by gender, age, socio-demographic groups, etc.

## AS FOR THE RECOMMENDATIONS TO THE CABINET OF MINISTERS AND VERKHOVNA RADA, THEY ARE AS FOLLOWS:

- to amend the current legislation, prohibiting a non-competitive mechanism for allocating funds among civil society institutions;
- to supplement anti-corruption legislation with requirements to individuals who are members of collegial and working bodies on the distribution of financial and other material resources at local self-government bodies and their executive bodies, extending all obligations and restrictions to them in the course of performance of their duties.

## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE AND THE CABINET OF MINISTERS OF UKRAINE:

- reduce the procedural regulation of social policies, social service rules and procedures, as well as their interpretation, in order to increase the capacity of local self-government bodies to determine the procedures, rules, recipients, standards and procedures for the provision of various social services independently, as well as to formulate their own list on the territory of the respective community.



# PERSONNEL QUESTIONS

In most cases, the official city council website as well as websites of executive committees publish detailed information on vacancies with their description and deadline for filing documents. Generally, advertisements do not contain any discriminatory restrictions (by gender, age, disability, etc.). However, unfortunately, in most cases there is no information on the procedures for competitive selection, course of the competition and the test. Instead, there is often only the contact phone of the personnel service, which creates significant additional corruption risks.

To overcome corruption risks, it is necessary to publish the protocols of selection procedures for applicants to executive bodies, including the full names and positions of the members of the selection board and publish the final evaluations of the selection board, protocols and ratings concerning the selected and unelected applicants. The understanding that this information will be disclosed mobilizes and organizes high-quality work of the selection board members. Unfortunately, it is hardly ever organized this way. It is recommended that the representatives of public organizations be engaged in the selection boards in different ways, approved in an appropriate manner (delegation of representatives of the public council, drawing lots among the candidates from civic organizations etc.), which would make the competitions transparent to the public, prevent abuse in the course of competitions and, at the same time, defend the selection board against possible allegations or suspicions of ill-treatment, which is systematically observed among all communities, because in the vast majority of cases 100% of the selection board consists of employees of executive bodies.

For example, the introduction of a new version of acting legislation in the field of culture in the personnel decision-making is a positive step. Thus, in competitions for vacant positions of the head of a state or communal institution of culture, the Law of Ukraine “On Culture” establishes that three candidates from non-governmental organizations in the field of culture of the corresponding functional direction apply to the selection board, and by drawing lots they can become members of the selection board. In addition, as prescribed by the Law of Ukraine “On Culture”, the governing body shall publish the submitted documents specified in part two of the same article on its official website within three business days after the expiration of application deadline, taking into account the Law of Ukraine “On Protection of Personal Data”, and the selection board publishes the competition results after the winner has been chosen. We recommend transferring such mechanisms to other areas, adopting local regulations for this and publicly disclosing these mechanisms.

We also recommend verifying the biographies of mayors published on the websites and checking whether the coverage of educational background, job and experience is complete, as well as information on the mayor’s links with commercial and non-profit organizations before entering a post, his or her political or community activities.

All of the above-mentioned requirements and recommendations do not pose any technical challenges for implementation.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- when reviewing the Law of Ukraine “On Service in Local Self-Government Bodies”, vetoed by the President of Ukraine, or when introducing subsequent changes to it, we recommend to take into account the requirements for conducting the competition and obligate to disclose relevant information on the selection boards, the results of the competition, procedure protocols for selecting candidates for positions including evaluations and results on the websites. To oblige local self-government bodies to engage candidates from public organizations in selection boards in the amount of up to 50% of the membership.



## RECOMMENDATION TO THE CABINET OF MINISTERS OF UKRAINE:

- to develop and approve the typical Procedure for conducting the competition for vacant positions in local self-government bodies and the procedure of the candidate test.

# PROFESSIONAL ETHICS AND CONFLICT OF INTEREST

Professional ethics and conflict of interest are quite a new concept for representatives of local self-government bodies. That is why in the overwhelming majority of communities (more than 70%) there are no activities in this area, which creates favorable conditions for corrupt acts and risks.

The level of implementation of Ethics codes for deputies, separately for employees in the bodies of local self-government, employees of communal enterprises, institutions and organizations, as well as associations founded by the community, and special documents on explanation and prevention of conflicts of interest remains very low. The most widespread practice is having a few articles in the councils' regulations, but often without any warnings or sanctions for violating regulated issues. On the other hand, the adoption of the code and broad regulation are also not a guarantee of an effective resolution of problems, since the rules are often declarative and too vague in nature. Moreover, most of the councils that adopted the Code of Ethics did not create ethical commissions with public representatives, but assigned functions to control the observance of the Code of Ethics norms to parliamentary commissions, which completely invalidated the very idea of public control over the observance of ethical norms of conduct of deputies.

In particular, it is necessary to adopt special documents on the prevention and settlement of conflicts of interest at the level of the whole city. The introduction and dissemination of such rules on the territory of the city should extend not only to the employees and deputies of the city council, but also to contractors with whom the council works or from whom it orders services, as well as to persons directly or indirectly connected with local self-government bodies, which may include members of the executive committee, members of commissions of the executive committee and other working bodies.

In many cities, there is absolutely no tool for whistleblowers to inform about a conflict of interest, or unethical behavior of employees or deputies, but where such tools exist (e-mail, hotline, electronic feedback form on the website, etc.), clear mechanisms for their settlement in case if such a message has been received are still absent.

Despite the fact that a party system of nomination of deputy candidates has been introduced at the level of all communities, often, the official websites do not even have information about the political affiliation of local deputies: the party from which the deputy / candidate (nominee) was elected; if the deputy belongs to any party or faction. Quite rarely such information, which is really important for voters and residents of the city, is fully disclosed and contains all three components of the question: the faction of the deputy, the party of the deputy, and the party which nominated the candidate for the deputy position. Often, there is only one element: the faction, or two elements: the faction and the party, sometimes – the faction and by whom the candidates have been nominated.

The ability to exercise public control and to prevent or disclose a conflict of interest increased significantly after the mandatory electronic declaration for local council deputies has been introduced on the website of National Agency for Prevention of Corruption, as well as after roll-call voting was introduced. As of today, cities have implemented the above-mentioned legislative standards, which proves their effectiveness. Therefore, we recommend expanding the practice to all persons involved in execution of tasks in local self-government bodies.



## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- to apply the requirement for declaration to all members of the executive committee and members of the commissions of the executive committee, other agencies that are associated with local self-government bodies;
- to introduce roll-call voting in the executive committee; permanent deputy commissions, commissions of the executive committee, other agencies that are associated with local self-government bodies, as well as to introduce the practice of disclosing the results of roll-call voting, minutes of sessions of meetings of the executive committee and commissions, as well as to ensure free access of citizens to these sessions (in practice, local authorities interpret the Law “On Access to Public Information” in their own way: they allow residents to sessions, but not to meetings of the executive committee and commissions, interpreting them as meetings of the council agencies, and not as collegial meetings of public authorities).



# LAND USE AND CONSTRUCTION POLICY

The principles of publicity, accessibility and deregulation in urban planning and land policy are not implemented in practice by the majority of city councils (especially in small and medium-sized cities). However, these areas are very sensitive for residents, and the decisions of the city council directly affect the lives of citizens. It is these areas that entrepreneurs and active community members often call some of the most corrupt on the local level.

Unfortunately, executive bodies often ignore the implementation of direct requirements of legislation, which has been substantially improved over the past years. Namely, a large number of city councils do not disclose the zoning plan and detailed territory plans. When considering relevant issues at the council sessions, the graphic part of the relevant city-planning documents is not always disclosed. Furthermore, city-planning documentation is not always disclosed in full, for example, its text part is not disclosed.

At the same time, some cities are actively starting to introduce geo-information services that are not only user-friendly, but also informative. For example, Lviv City Council has created a city geo-portal that allows you to combine urban, demographic, social, educational and other information about the city. In addition, Kyiv and Mykolaiiv City Councils have published a city-planning cadaster, where you can get detailed information about investment objects and city planning.

Despite positive practices of some communities, we can confidently state that the land policy in most city councils is closed and non-transparent. Information on actual vacant land plots of communal property and their list is missing or may contain incomplete or outdated information. The procedure for obtaining services in the field of land relations has improved signif-

icantly in areas where Centers for Provision of Administrative Assistance work efficiently. However, most councils try to organize the process of review of land issues as obscurely as possible, leaving space for corruption risks. For example, by failing to disclose full information on land issues in the texts of draft decisions and in the agenda of the council sessions. In addition, the deputy corps substantially adjusts the content of land decisions at plenary sessions when considering issues, groundlessly rejects or fails to consider part of the petitions of legal entities and individuals. In addition, not only the information on investment-attractive land plots in its entirety, but also information on available communications and geodetic information in are absent from the websites of local authorities,. Quite often there is a practice of making decisions on the allocation of land plots without indicating the name of the persons to whom these areas are allocated, which contradicts the norms of legislation and is a major corruption-causing factor. Despite special legislative changes, local self-government bodies continue to use references to personal data protection, concealing information about land, property and funds recipients from the community.

Despite the urgency of the issue of setting up small architectural forms and outdoor platforms at restaurants, most cities are trying to restrict publicity in this area. The introduction of electronic queues, electronic maps and the marking of relevant objects is not typical of local authorities in Ukraine. It is virtually impossible to find information about such objects and their listing on official websites of councils. This is evidence not only of high corruption risks in this area, but also the lack of a rule for accounting and systematization of such information.



## TO LOCAL GOVERNMENTS WE RECOMMEND:

- to disclose the text and graphic part of all city-planning documentation on the official web-sites (general layout of the settlement, zoning plan and detailed plans of the territory);
- to disclose the city-planning cadaster following the example of Kyiv, Lviv and Mykolaiiv;
- to introduce an electronic queue and electronic auctions for establishing small architectural forms, temporary and all-season outdoor facilities of restaurants. Additionally, to provision the creation of a public geo-information service for small architectural forms and outdoor facilities for restaurants;
- provide for the implementation of principles of publicity when considering land and town-planning issues at a session of the council, in particular, the promulgation of detailed graphic and textual materials related to each issue / petition of individuals and legal entities.



## WE ALSO RECOMMEND THAT THE VERKHOVNA RADA OF UKRAINE MAKE THE FOLLOWING CHANGES:

- in the Code of Ukraine on Administrative Offenses, to strengthen the responsibility for violations when local self-government bodies consider issues in the field of land relations, urban development and architecture;
- in the Law of Ukraine “On Local Self-Government in Ukraine”, to oblige city councils to create interactive maps and schemes with small architectural forms, summer and all-season outdoor facilities. Additionally, to grant permission to establish small architectural forms solely on the basis of an electronic public auction.

# COMMUNAL ENTERPRISES

Over the past two years, acting legislation has made a huge leap in the legal regulation of the transparency of work of utility companies. Initially, the adoption of legislation on the openness of public finances, and then the creation of supervisory boards and external audit, created all the necessary grounds to overcome corruption in this area.

Long-term work in this direction will only intensify the elimination of “unprofitable and ineffective” utilities, and currently the toolkit helps the community to deal with the existing list, the condition and work of communal “managers.”

We recommend that local governments provide:

- disclosure of financial statements (balance sheet, statement of losses and profits, statement of financial results, statement of cash flow, statement on the use of funds paid into authorized capital of enterprises), information on replenishment of the authorized capital, risk assessment, results of independent audits, information on Procurement (what procurement, information on the contractors, the results of their implementation), the annual procurement plan, etc. ;
- clarification and disclosure of the list of all utility companies and associations in which 50% and more assets are owned by the community, which are at the disposal of the local authorities with indication of the percentage of community ownership, as the lists currently posted on city websites and the responses to requests for information often do not coincide; as well as information about them - address, telephone number, e-mail, information about the services they provide and the work they carry out (the experience has shown that verification of the lists of communal enterprises and their results become surprises not only for deputies and the public, but even for members of executive bodies);

- registration of all utilities on the E-data website;
- disclosure of biographies of heads of communal enterprises and associations in which 50% and more belong to the community;
- disclosure of information about tariffs on the services provided by enterprises and the procedure of their formation, the goods the enterprises sell and the work they carry out.

In order to introduce public control over utilities, drafts of regulatory acts have recently been developed to allow practical formation of supervisory board and give them respective authority.

At the same time, the situation in different communities is dramatically different. Some communities have already begun to set up supervisory boards, while others have not yet published the complete list of utility companies, their tasks, information on management and services on their websites. In this context, it is very important to include local deputies and representatives of the public in supervisory boards of communal enterprises and societies in which 50% and more belong to the community, as well as the to develop and publish the structure, principles of formation and remuneration of the administration (head office) of the enterprise and supervisory members as well as annual reports of the supervisory board and administration of the enterprise.

In addition, legislative changes touched upon the possibility of conducting an external independent audit of consolidated financial statements of utility companies (or business partnerships, where the proportion of the city council exceeds 50%). However, in most cities, such audits are not commissioned, and in case of conduction, disclosure of reports based on the results of the external independent audit of consolidated financial statements is not ensured. It is also a recommendation to executive bodies and community councils.

As for recommendations to the **VERKHOVNA RADA**, taking into account the existing practice and the above-mentioned legislative changes, the following is considered necessary:

- to establish in legislation the need to provision an administrative responsibility of the heads of communal enterprises for failure to disclose information set forth in Commercial Code of Ukraine, Article 78;
- to provide for the creation of supervisory boards in utility companies that are natural monopolists or occupy prevailing market positions;
- to establish the obligation to conduct an annual external independent audit of utilities that are natural monopolists or occupy prevailing market positions.

# COMMUNAL PROPERTY

In most major city councils, they have started compiling the register of property owned by the community. At the same time, in a large part of the communities the following is absent:

- registers of municipal property;
- relevant registries that have been properly updated during the last two or three years (turning point - local elections in 2015 or elections to the Associated Territorial Communities in 2016-2017) or detailed information on the contacts of the agency and the responsible individuals. For example, there is often no e-mail, direct telephone numbers, etc. ;
- electronic registers, since all documentation and information is stored in paper format;
- complete registers, which actually include all objects of communal property.

The analysis of disclosed registers reveals the following necessary sections, which are currently absent in most cases, but are essential for understanding the registry, including the distribution of existing ownership by user category as follows:

- local governments;
- other authorities;
- communal establishments, enterprises, organizations;
- vacant premises, can be sold or leased;
- temporarily free, can be leased;
- the property (premises) that the community offers as a basis for investment and business projects.

In addition, the analysis of all published registers of communal property shows a lack of information in the register on all types of residential premises (office, non-privatized apartments, dormitories, rooms, escheat, etc.) and property used to service residential premises. Thus, local authorities actually form the database / register of data on non-residential premises that are owned by the community, calling it the “List of communal property objects”. Although in many cases, residential premises, which are also communal property, are more significant and costly than the corresponding non-residential communal property.

Furthermore, typical problems of already compiled (disclosed) registries are:

- failure to update disclosed registers on the website of the board, in addition, the authorized executive

- body has the relevant information;
- compilation of registers (in electronic and paper form) in the informal “unofficial” manner, in the situation of absence of information on the proper format of public open data, and on the other hand, the availability of this information in the “private,” “secret” manner, which creates ideal conditions for corruption;
- publication of the registry is not in the open data format;
- a partial release of the registry or failure to disclose the registry on the open data website, or copies (redirects) on the council website;
- concealment of information about the real user or the lessee of the property in the already disclosed register, resulting in a situation that the presence or absence of disclosed register has no effect on real access to information, since in order to receive information under any circumstances, a request for public information to the local self-government body should be made.

With regard to the use of electronic auction system and automated systems for communal property sale and the right to lease, in most cases, city councils avoid using such systems for two reasons: technical unpreparedness and unwillingness to overcome corruption schemes. Furthermore, websites of city councils (Centers for Provision of Administrative Assistance) often do not have documents and procedures for obtaining community property for use or rent.

In addition to correcting the abovementioned problems, which are actually recommendations for local authorities, it is also possible to provide recommendations to public authorities, since the state register of property does not answer all of the above-mentioned questions.





## RECOMMENDATION TO THE VERKHOVNA RADA OF UKRAINE:

- introduction of responsibility of local self-government bodies for failure to disclose or update registers of communal property;



## RECOMMENDATIONS TO THE CABINET OF MINISTERS OF UKRAINE:

- to amend the Resolution of Cabinet of Ministers of Ukraine on open data, adding the point “non-residential and residential premises” to the item “List of communal property objects”;
- to reform the work of the national register of real rights to real estate, providing the opportunity to review property that belongs to local self-government bodies.

# EDUCATION

Not a single community that we analyzed had a convenient and understandable mechanism for registering children for school. Moreover, the overwhelming majority of schools actually do not have or update the school website. And more than 90 percent, even those with websites and regular updates, do not disclose information about school enrollment and the distribution of students among teachers, as well as data on the receipt and use of public funds (so-called “school funds”). While there is some progress in certain issues related to registration of children in preschool educational institutions, unfortunately, the system of obtaining a place in secondary schools remains non-transparent. It is also noteworthy that, to register children in preschool establishments, the vast majority of local self-government bodies use national electronic systems. In addition, the availability of an electronic registration form at an educational institution is often not accompanied by enrollment procedure which would be functioning, open and understandable for parents, which is also an integral part of the fight against corruption, which occurs because of the following issues:

- the number of children in certain communities or micro districts exceeds the number of available places in the kindergarten or school located at a convenient distance;
- different material and technical resources in different educational institutions;
- the prestige and “informal value” of studying in certain educational institutions (“extortion” in schools and kindergartens continues to grow).

Thus, as of year 2017, we can state that the corrupt system of personal arrangements and non-transparent procedures regarding the enrollment of children

in kindergartens and schools continues to exist in the vast majority of large communities of Ukraine.

We also found that an open system for registering children in out-of-school educational institutions has not been developed in a single community: art centers, musical schools, so-called palaces for children, etc., as well as other possible places of extracurricular education with a clear understanding of what opportunities, groups, sections, programs etc. they offer, how much they cost, rules of their work etc. Of course, under such conditions, there are no electronic mechanisms for registering a child in an honest and transparent way, avoiding the corruption component of formal and informal arrangements regarding attendance and costs. In general, information on available vacancies in out-of-school establishments and the cost of basic and additional educational services in them is not available in public.

Among the positive points, we can mention that in most communities rules for enrolling children in educational institutions are published. Consequently, we recommend communities that have not yet done so to provide accurate information, letterheads and procedures, as well as provide accurate contact details of responsible persons for the support and assistance of parents in registering children at educational institutions.

In addition to addressing the above-mentioned problems, which are in fact recommendations for local authorities, it is also possible to make recommendations to government authorities.

## RECOMMENDATIONS TO THE VERKHOVNA RADA AND THE CABINET OF MINISTERS OF UKRAINE:

- to make changes in the acting legislation regarding the obligatory nature of transparent and electronic procedures for the distribution of places in children’s, school and out-of-school educational institutions;
- to introduce and strengthen the responsibility for the use of “gray” and “informal” contributions in order to fulfill the obligation to publish information on all funds received on the website or educational institutions or local council, to provide the possibility of removal of the director at the request of the board of trustees or pedagogical council in case violation of legislation.

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