

Delegitimation of the Ombudsman institution and attacks on the independence of the Constitutional Court in Ukraine

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31 July, 2017, Ukrainian President Petro Poroshenko signed the law on the Constitutional Court of Ukraine (No. 6427-d) passed by the Parliament on 13 July, 2017.

This law has drawn a lot of criticism from lawyers, anti-corruption organizations and human rights groups.

Firstly, the new law gives the president more powers to control the judiciary. Now, instead of the parliament speaker, the president does personally sign and hand over certificates to the judges. This means that the president now has the opportunity to abuse the admission of judges to their duties. This goes beyond the powers granted to the president by the Constitution of Ukraine.

These actions of the Ukrainian authorities undermine the independence of the country's highest court, which has exclusive powers to interpret the Constitution, to give consent to changes in the Constitution and changes in the distribution of powers of the branches of power.

There is a serious danger that judges will get under the control of the president. In fact, the executive authorities in Ukraine are trying to seize the Constitutional Court.

Secondly, the procedure for electing the Ombudsman, a person authorized by the Parliament to protect human rights, has been changed. Earlier, the Ombudsman was elected by secret ballot. The new law provides for an open voting. It is obvious that the members of parliament may vote under pressure. As a result, the post of the Ombudsman may be occupied by a political appointee who will act in the interests of his party.

The Ombudsman institution is a mechanism of parliamentary control of utmost importance, which should be independent. The Ombudsman is a key post in those states that are striving to be democratic. Throughout the world, the Ombudsman is being secretly chosen among the competent lawyers and human rights activists.

The new law changing the procedure of appointing judges and the Ombudsman in Ukraine is an obvious attempt by certain political forces to politicize the position of the Ombudsman in favor of party interests. It casts doubt on the independence and impartiality of the newly elected Ombudsman and limits the functioning of one of the most important institutions of the modern rule-of-law state.