

**OSI International Policy Fellowship**

PROJECT “Political Institutions and Public Policies: The Effect of Institutional Choices  
on Legislative Decision-Making Practices in Ukraine and Russia”  
Interim Research Report

Part I. Ukraine

To analyze how the institutional framework influences the policy process in Ukraine this research concentrates on examining the policy output of the following key institutional actors: parliament, president, and cabinet. Parliament, which, according to the Ukrainian constitution, is the primary legislative body, legislates on a wide variety of issues. Parliamentary laws provide an essential basis for designing policy in any substantive issue area. Examining the various characteristics of legislative output is essential for understanding how the framework for policy process is organized.

A semi-presidential constitutional design also allows the Ukrainian president to participate actively in policy formulation. The constitution grants him substantial legislative and non-legislative powers. Power to issue decrees is the key instrument that enables the president both to initiate and shape policies in a wide range of issue areas. Presidential decrees provide valuable information on the extent of presidential involvement in one or another policy area, on the mechanisms of presidential influence and on the president’s policy priorities.

The role of cabinet in any democratic political system extends far beyond executing laws and routine government management. Cabinet not only has a certain degree of flexibility in specifying policies outlined by laws and, often in semi-presidential settings, presidential decrees, but also has the ability to influence the very design of laws and decrees. The power of legislative initiative is critical for cabinet’s ability to influence the legislative agenda. It is important to understand how successful cabinets are in exercising this power.

Methodology:

The data set was created on the basis of the LIGA legal database that contains a comprehensive list of parliamentary laws, presidential decrees, and cabinet orders and regulations issued in Ukraine since 1991. The data set covers *all* parliamentary laws and presidential decrees issued between 1991 and 2002. The laws and decrees are classified according to policy area and time of issue. Appendices I and II at the end of this paper provide the classification details. Additional parameters of classification were introduced in the course of analysis of specific research issues raised at different stages of this

research project. These classification parameters are explained in the text during the discussion of the relevant research problems.<sup>1</sup>

Summary statistics and aggregate data are used throughout the text to illustrate empirical findings and theoretical arguments engaged in the course of the research. Many figures and graphs presented in the paper are examples of univariate, or one-variable statistics. A number of figures and graphs, however, engage more than one variable. These attempts at bivariate or multivariate analysis have only suggestive character. More advanced statistical data analysis techniques have to be employed to further explore the suggested causal links.

### Analysis

The functioning parliament is a relatively new phenomenon in Ukraine. Prior to independence in 1991 the parliamentary deputies had very little real law-making experience. The Supreme Soviet of the Ukrainian Soviet Socialist Republic was not an independent law-making body. It served rather as a formal assembly for approval of the decisions made elsewhere, primarily in Moscow or Kyiv's party headquarters.

The first post-communist decade can be considered as a period of institutional emancipation of parliament: new rules were introduced, tried and changed; parliamentary deputies had to learn rules of procedures, basic legal terms and principles, and the art of collective decision making; political leaders in the legislative and executive branches were forced to deal with the competing claims on power and with the ambiguities of the separation of power system.

These difficulties are reflected in the quantity and quality of parliamentary output. Figure 1 below captures the temporal dynamics in parliamentary law-making activity during the decade.

---

<sup>1</sup> Students of Russian politics familiar with the current work on the executive-legislative relations done by Mishler, Willerton, and Smith will find some of the classification used in this research highly compatible with the one developed by these authors. While I introduced a number of new classification categories to address some additional aspects of presidential and legislative decision-making, I adopted most of the general categories proposed by the authors. This should allow a broader cross-national comparison, which is one of the goals of this project. See Mishler, W., Willerton, J. P., & Smith, G. B. "Hegemony or Rivalry? Laws, Decrees and the Dynamics of Legislative-Executive Relations in the Russian Federation," (a revised version of a paper presented at the 1998 Annual Meeting of the American Association for the Advancement of Slavic Studies, June, 2001).

Figure 1. Parliament Laws in Ukraine, 1992-2002

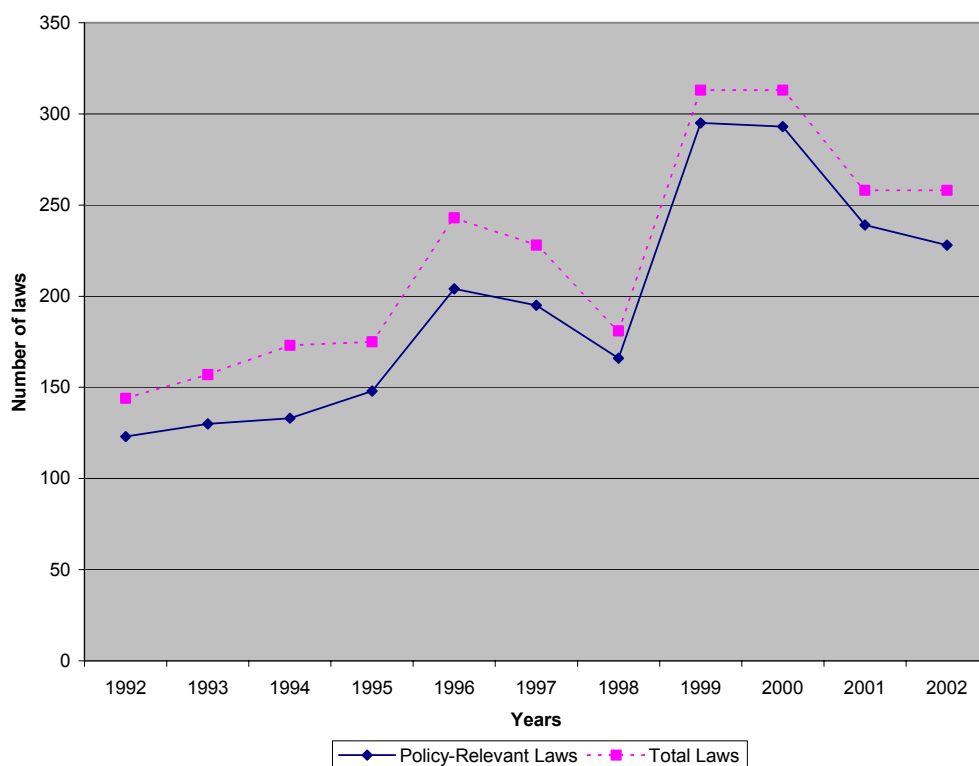


Figure 1 shows an upward trend in the number of laws passed by parliament, which may indicate a growing sophistication and effectiveness of the legislative body. The figure differentiates between the total number of laws and the number of policy-relevant laws. The latter indicator excludes laws that introduce minor changes and amendments to the existing pieces of legislation (see Appendix I for details).

Although there was an urgent necessity in the wake of the Soviet breakdown to adopt a scores of new legislation, the figure indicates that the Ukrainian deputies started off slowly. The total number of laws passed by the parliament each year between 1992 and 1995 was well below two hundred. When laws introducing minor changes and amendments are excluded the numbers become even smaller. The first substantial increase in a number of passed legislations took place in 1996. As the figure indicates, when we take the 1990-1994 period as a basis for comparison, each consecutive parliamentary term – 1990-94, 1994-98, 1998-02 – was characterized by a higher degree of parliamentary activity than the previous one.

### *Legislative process*

To analyze a number of the characteristics of laws passed by the parliaments in Ukraine a random sample of 271 laws was drawn out of the total of 2108 laws passed by Ukrainian parliaments between 1991 and 2002. The findings are summarized in Table 1.

**Table 1. Characteristics of Legislative Output in Ukraine**

Indicators	Law categories				Total
	New laws	Laws that introduce amendments to the current laws	Laws that introduce stylistic amendments to the current laws	International treaties	
Number of laws	16	20	7	0	43
Distribution, %	37.2%	46.5%	16.3%	0.0%	100.0%
<b>1990-94</b> Total number of amendments	62	16	2	0	80
<b>1990-94</b> Average number of amendments to a law	3.9	0.8	0.3	0	1.9
<b>1990-94</b> Maximum number of amendments to a law	13	8	1	0	13
Number of laws	15	26	14	37	92
Distribution, %	16.3%	28.3%	15.2%	40.2%	100.0%
<b>1994-98</b> Total number of amendments	24	9	2	0	35
<b>1994-98</b> Average number of amendments to a law	1.6	0.3	0.1	0.0	0.4
<b>1994-98</b> Maximum number of amendments to a law	6	3	1	0	6
Number of laws	43	56	3	34	136
Distribution, %	31.6%	41.2%	2.2%	25.0%	100.0%
<b>1998-02</b> Total number of amendments	28	7	0	0	35
<b>1998-02</b> Average number of amendments to a law	0.7	0.1	0.0	0.0	0.3
<b>1998-02</b> Maximum number of amendments to a law	7	1	0	0	7

**Sources:** Author's calculation; data from Upravlinia komp'uternykh system Apparatu Verkhovnoi Rady Ukrainy (Office of Computer Systems, Apparatus of Parliament of Ukraine).

The table classifies the laws according to the parliamentary term and category of law. The laws are categorized as new laws, laws that introduce amendments to the current laws, laws that introduce only minor amendments to the current laws, and laws that ratify international treaties. The table also captures a number of characteristics of legislative output for each of the parliamentary terms: the distribution of laws according to law category; number of laws in each category; an average number of amendments to a law; and a maximum number of amendments to a law.

The first row in the table indicates a number of laws from the sample that fall into each category. The last column shows total numbers of laws for each parliamentary term. Our sample includes 43, 92, and 136 laws from the 1990-94, 1994-98, 1998-02 parliamentary terms respectively. The sample reflects the underlying dynamics of law-making activity during the first post-communist decade: a number of laws passed during each consecutive term has been increasing.

There is a substantial variation in the distribution of laws across parliamentary terms. During the 1990-94 term 37.2% of the laws were new laws and 46.5% were the laws that introduced amendments to the existing laws. During the 1990-94 parliamentary term international treaties did not have to be ratified in the form of laws passed by the parliament. They required only the decision of the Presidium of the Verkhovna Rada. Thus, there are no laws in the category “international treaties” for the 1990-94 parliamentary term.

A substantial drop in the share of new laws in the 1994-98 parliamentary output is partly explained by the introduction of a new practice of international treaties’ ratification in the form of parliamentary laws. The most recent data, which covers the 1998-2002 parliamentary term, indicates that the proportion of new laws returned to the one third of the total legislative output.

Average and maximum numbers of amendments to the current laws are of interest because they can shed some light on how stable the legal environment is. If the laws are changed and amended frequently it might also signify a poor quality of legislation. Amendments to the current legislations are often necessitated by the societal changes. When the laws change on a much higher rate than underlying societal conditions the quality of laws can be questioned.

As the table indicates there were, on average, almost four amendments to each new law passed during the 1990-94 parliamentary term. The laws that introduced amendments to the existing laws have also been frequently amended (0.8 amendments per law). The maximum number of amendments to a new law was thirteen. Two laws in the sample were amended thirteen times: Administrative Code (№ 1798-XII, passed on 06.11.1991) and Customs Code (№ 1970-XII, 12.12.1991). Although the table does not provide information on the individual pieces of legislation, it is interesting to note that the first amendment to Administrative Code was passed only in 1999 while Customs Code was

firstly amended already in June 1992. The type of amendments and their timing require further investigation that has to be done on the individual basis.

While the average and maximum numbers of amendments declined during the two subsequent parliamentary terms (1994-98; 1998-2002), the lower numbers may be a function of the more recent origins of these laws. The fact that one of the laws passed during the 1998-2002 term, namely the law on the Year 2000 State Budget (№ 1458-III, 17.02.2000) contains as many as seven amendments, raises further concerns about the stability of legal environment in Ukraine.

Table 2 below relies on the same sample of laws to draw some preliminary conclusions about the temporal aspects of legislative process in parliament.

**Table 2. Passage Time of Draft Laws in Parliament of Ukraine**

Indicators	Law categories				Total
	New laws	Laws that introduce amendments to the current laws	Laws that introduce stylistic amendments to the current laws	International treaties	
Number of laws	13	22	12	27	74
1994-98 Average passage time, days	221	139	114	94	133
1994-98 Minimum passage time, days	4	1	1	3	1
1994-98 Maximum passage time, days	530	483	309	592	592
Number of laws	38	45	3	33	119
1998-02 Average passage time, days	260	123	56	173	179
1998-02 Minimum passage time, days	1	1	23	9	1
1998-02 Maximum passage time, days	1014	674	105	731	1014

**Sources:** Author's calculation; data from Upravlinia komp'uternykh system Apparatu Verkhovnoi Rady Ukrainy (Office of Computer Systems, Apparatus of Parliament of Ukraine).

The table presents data on the average, minimum, and maximum passage time for the draft laws in the Ukrainian legislature. Passage time was calculated in days from the moment a draft law was officially introduced in the parliament until the day the final vote took place and a law was passed. Since data on the dates of the introduction of draft laws

during the 1990-94 parliamentary term was not available the table presents findings only for the 1994-98 and 1998-2002 parliamentary terms.<sup>2</sup>

The major finding that emerges from these calculations is that the average passage time increased substantially during the 1998-2002 parliamentary term. On average it took 133 and 179 days for the law to be passed during 1994-98 and 1998-2002 parliamentary terms respectively. The numbers for the category of new laws, a key category of interest here, were 221 and 260 days. The magnitude of differences between two parliamentary terms is especially large for the maximum passage time: 592 and 1014 days for the 1994-98 and 1998 -2002 parliamentary terms respectively. A more comparative data is required to estimate whether the Ukrainian passage time numbers are small or large in comparison to the numbers found in the parliaments of other countries.

---

<sup>2</sup> The dates of the introduction of draft laws were also missing for some laws passed during the 1994-98 and 1998-2002 parliamentary terms. This explains the differences in the numbers of laws in Tables 2 and 3.

### *Cabinet legislative initiatives*

The right of legislative initiative is one of the key policy instruments available to cabinets across political systems. There is a growing tendency in advanced democracies to strengthen cabinet power in forming the legislative agenda. Cabinet ability to secure the successful passing of cabinet-sponsored bills is enhanced through the introduction of procedural norms that allow cabinets to submit their draft laws in a package, to declare a draft law as a matter of confidence vote and to designate certain draft laws as issues that require priority in legislative consideration.

Table 1 below captures the variation in the legislative activity of Ukrainian cabinets:

**Table. 3 The Legislative Activity of Cabinets in Ukraine, 1994-2002**

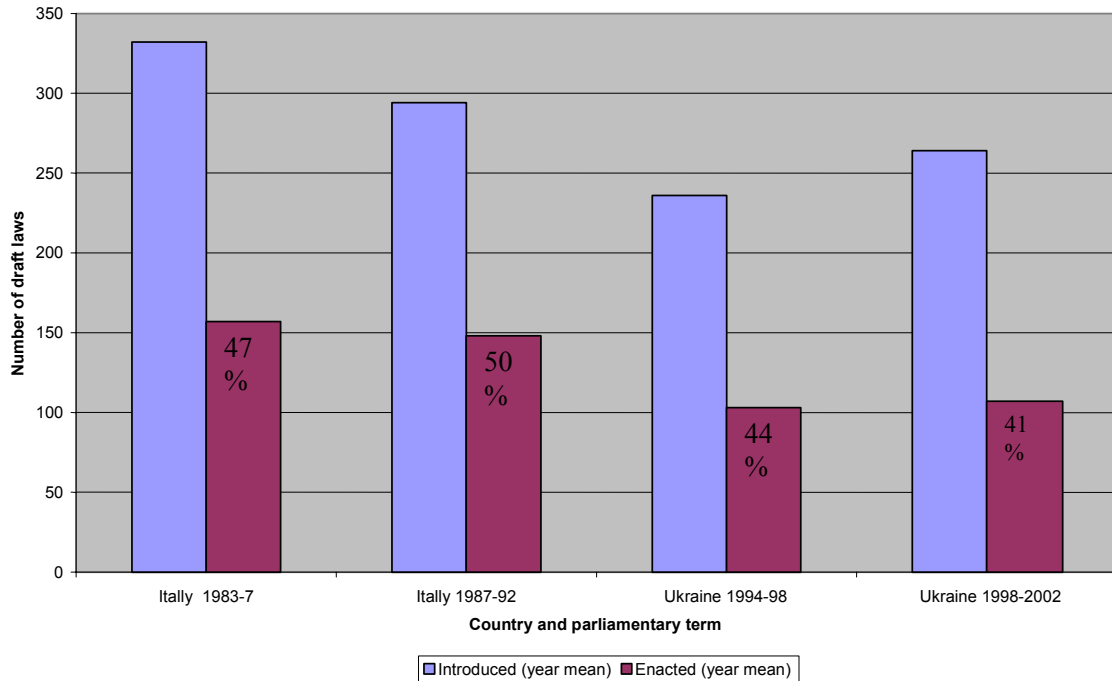
<b>Prime Minister</b>	<b>Office term</b>	<b>Law Drafts Introduced</b>	<b>Law Drafts Enacted</b>	<b>Law Drafts Failed</b>	<b>Success Rate (%)</b>
Masol, Vitali	6/94-4/95	133	77	56	58%
Marchuk, Yevhen	6/95-5/96	206	88	118	43%
Lazarenko, Pavlo	5/96-6/96	33	14	19	42%
Lazarenko, Pavlo	6/96-6/97	326	135	191	41%
Pustovoitenko, Valeri	7/97-12/99	743	289	459	39%
Yushchenko, Viktor	12/99-4/01	316	145	171	46%
Kinakh, Anatoly	4/01-11/02	244	89	155	36%

**Sources:** Author's calculation; data from Upravlinia komp'uternykh system Apparatu Verkhovnoi Rady Ukrainy (Office of Computer Systems, Apparatus of Parliament of Ukraine).

The table lists the number of draft laws introduced by each cabinet since 1994. It provides information on how many draft bills became laws, and measures the success rate that individual cabinets achieved in securing parliamentary support for their legislative agenda. As the numbers indicate, with the exception of the Yuschenko cabinet, there was a steady downward trend in the percentage of draft bills that cabinets were able to turn into laws. In other words, cabinets' ability to fulfill their legislative agenda was declining during 1994-2002.

To put the activity of Ukrainian cabinets into a comparative perspective, Figure 6 provides data on the activity of Ukrainian and Italian cabinets during two parliamentary terms. The availability of detailed quantitative data on the Italian cabinets, as well as the fact that Italian cabinets are among the weakest in Europe in terms of their control over the legislature, makes this comparison interesting.

**Chart 1. The Legislative Activity of Cabinets in Italy and Ukraine**



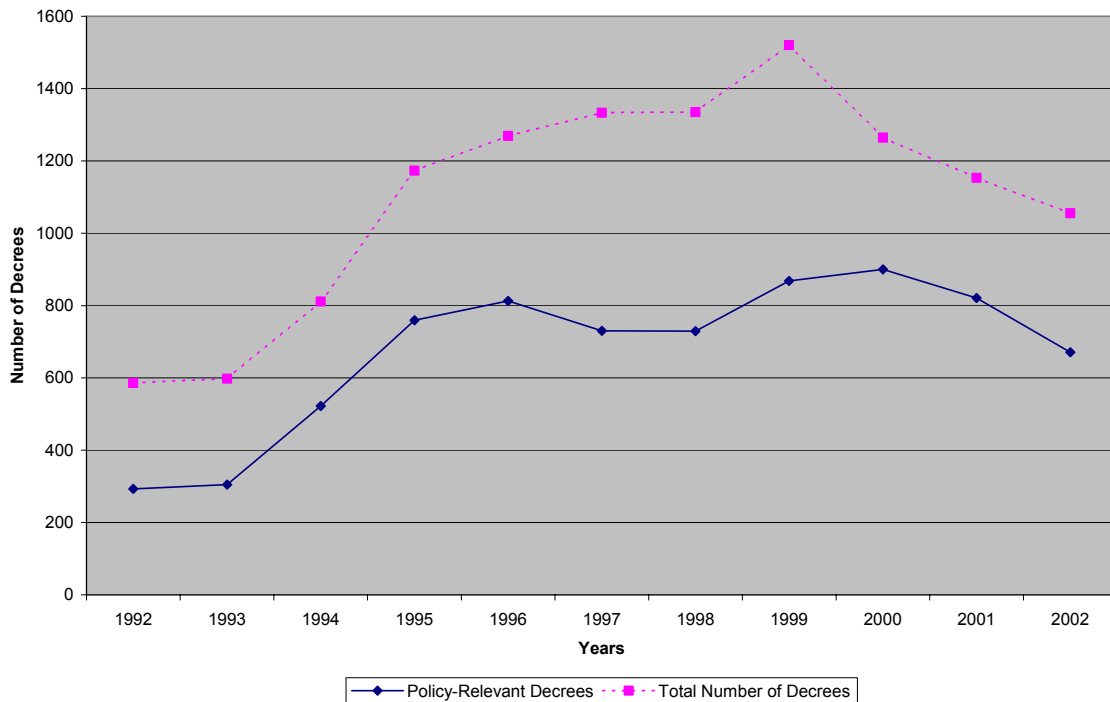
Sources: Author's calculation for Ukraine; data on Italy - Gary W. Copeland and Samuel Charles Patterson, *Parliaments in the Modern World: Changing Institutions* (Ann Arbor: University of Michigan Press, 1994).

The chart indicates that the Ukrainian cabinets during both parliamentary terms, which are included in the graph, introduced a smaller number of law drafts and were much less successful than even legislatively weak Italian cabinets. These findings underscore the general problems with the functioning of cabinets in Ukraine. Cabinets in Ukraine are weak in at least two important respects. They have been politically weak due to their technocratic nature. None of ten Ukrainian cabinets has been a party cabinet that could rely on the solid and unconditional support of the party majority in parliament. Secondly, cabinet powers remain ambiguously defined. Due to intense confrontation between the president and parliament over the control of a cabinet, a Law on Cabinet of Ministers, which is supposed to clarify the powers and responsibilities of cabinet, and which has been put to the vote at least eight times during the two last parliamentary terms, has not been passed yet.

## Presidency

An upward trend somewhat similar to the trend in the annual parliamentary output (see Figure 1 above) characterized the decree-making activity of the Ukrainian presidents during most of the first post-communist decade. Figure 2 captures the dynamics of changes in the number of presidential decrees over time. Two indicators of presidential decree-making activity are introduced in the figure. One indicator refers to the total number of presidential decrees issued during the year. The second one, labeled 'policy-relevant' decrees, excludes ceremonial presidential decrees that award state medals, honorary diplomas, and titles to individuals and organizations, commemorate special events, etc. (see Appendix II for the details).

Figure 2. Presidential Decrees in Ukraine, 1992-2002



The figure indicates that a sharp rise in a number of presidential decrees took place between 1994 and 1995. The variation in the annual numbers of decrees issued afterwards has become much smaller, while the gap between the total number of decrees and the policy relevant decrees has remained substantially larger than in the pre-1995 period. A sharp increase both in policy-relevant and ceremonial decrees during 1994 and 1995 coincided with the beginning of the term of a new president, Leonid Kuchma. The new president opted for much more assertive style of intervention in the various policy matters than his predecessor.

The annual data presented in Figure 2 is highly aggregated and disguises a relatively high degree of variation in the levels of presidential activity since 1995. To examine trends in presidential decree-making in more detail, monthly data on presidential decrees is introduced later. A number of explanatory variables and hypotheses are then introduced to account for this variation.

Even this highly aggregate data testifies to the importance of presidential involvement in the policy process. While a number of methodological problems arise when one compares presidential decrees with parliamentary laws, such a comparison can serve many useful purposes. For one thing, it allows detection of how peaks and lows in the policy-making activity of the parliament and president are related to each other. The intense executive-legislative rivalry in Ukraine could have found its expressions in the competition of parliamentary laws and presidential decrees either dealing with the same policy issues or advocating different policy priorities. While a comprehensive analysis of the terms of legislative competition requires a detailed breakdown of presidential decrees and parliamentary laws according to specific policy areas, the aggregate data on the comparative dynamics of changes in number of presidential decrees and parliamentary laws is presented in Figure 3.

Figure 3. Comparative Dynamics of Laws and Decrees in Ukraine, 1992-2002

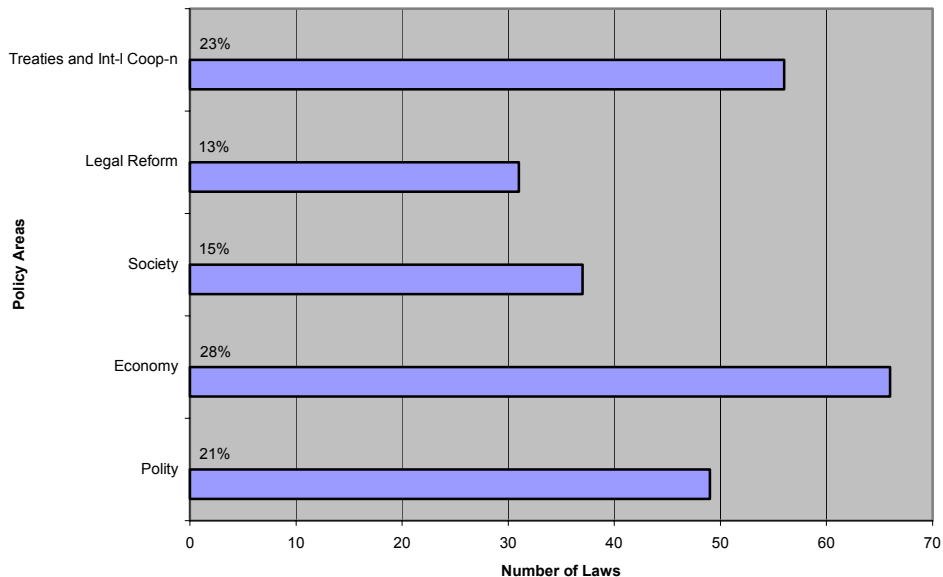


The figure's aggregate level data indicates that the cycles in parliamentary and presidential activity in Ukraine coincide to a large degree. The 1996 peak in a number of laws and decrees was followed by a dip during 1997 and 1998 and a new rise during 1999-2000 period. The 2001 decline may indicate a new phase of lower legislative activity on the part of the parliament and president. The similarity of the parliamentary and presidential cycles requires further explanation. The trends captured in the figure refer only to the numbers of policy relevant laws and decrees. Presidential ceremonial decrees and minor changes and amendments to existing laws are not included in this figure.

The figure also shows that the gap between the number of laws and decrees increased dramatically between 1994 and 1995, providing further illustration of the earlier argument regarding the consequences of presidential turnover. A very high number of decrees regularly issued by the president, especially in comparison to the number of parliamentary laws, provides compelling evidence to what many observers of Ukrainian politics consider as being the excessive dominance of the Ukrainian president in the policy-making process.

While Appendix I at the end of the paper gives the classification details for the laws passed by the parliament, Figure 4 below provides a summary of how the parliamentary laws were distributed across policy area in one particular year, 2001.

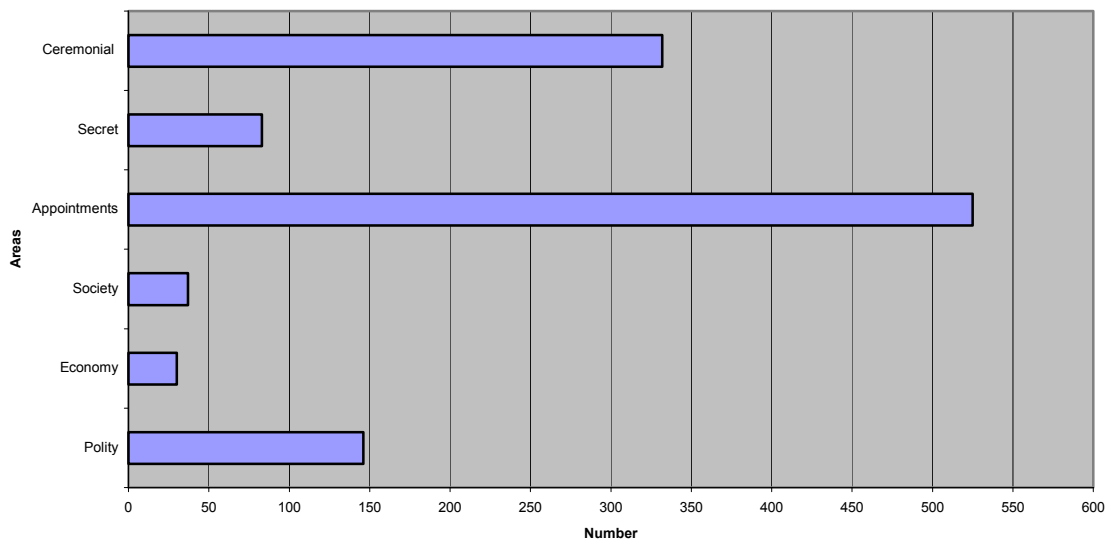
**Figure 4. Distribution of Laws: Policy Areas, Ukraine, 2001**



Two categories of laws, those dealing with economic issues and with the approval of international treaties and international agreements, had the largest number of items in them. The rest of the laws were classified into three broad categories: polity, society and legal reform. The largest category, economy, included 28 % of all laws passed by the parliament in 2001. While the salience of economic laws in the total package of issues that law-makers choose to address is not unexpected, the large share of international treaties and agreements in the total parliamentary output is less intuitive. Overall, the distribution of laws among five major categories specified in Figure 4 does not exhibit any extreme skewness: neither of five categories has an extremely large or small number of laws in it.

There was a much higher variation in the distribution of presidential decrees among different policy areas during the same period. Figure 5 below contains data on the presidential decree making activity during 2001.

**Figure 5. Distribution of Presidential Decrees, Ukraine, 2001**



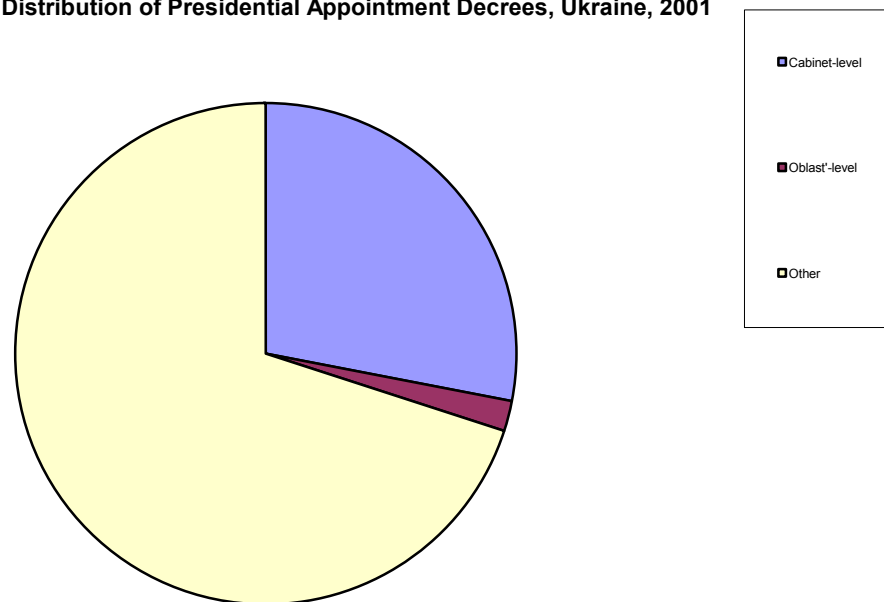
Presidential decrees in Figure 5 are classified according to 6 categories. A very high percentage of appointment decrees, especially if one excludes ceremonial decrees is the most obvious characteristics of this distribution. The appointment category includes the presidential decrees that either appoint or dismiss any government official(s). The figure suggests that the president affects the policy process in Ukraine, first of all, through appointments.

Figure 5 also indicates that the president issued a substantial number of decrees in almost each of the major policy areas first specified in Figure 4. The relative weight of these numbers becomes more significant if one excludes ceremonial decrees from the total count. An especially large number of decrees fall into the category of polity, which includes decrees regulating primarily the functioning of government, public administration, the police, the justice system, and the military. The figure also shows a relatively high number of secret or “not for publication” decrees issued during 2001. Since the Ukrainian laws do not specify the precise grounds for keeping certain decrees secret, it is difficult to establish the exhaustive lists of areas these decrees cover.

Data from Figure 5 should not be read as a precise summary of the general distribution of presidential decrees issued throughout the decade. The president’s ability to issue decrees in virtually any policy area was somewhat curtailed after 1999, when the special clauses of the 1996 Ukrainian constitution, which granted the president additional powers to issue decrees to address policy issues not-regulated by the laws, expired. The detailed time-series data on presidential decrees indicates, however, that appointment decrees occupied a prominent place in presidential activity during the 1991-2001 period.

Figure 6 below breaks down the distribution of appointment decrees according to three categories: cabinet-level, oblast’-level, and other appointments. Each category includes both appointment and dismissal decrees.

**Figure 6. Distribution of Presidential Appointment Decrees, Ukraine, 2001**



As the figure indicates, a substantial proportion of decrees dealt with appointments and dismissals at the cabinet-level. The president frequently used his power to appoint and dismiss individual cabinet ministers, deputy ministers, and heads and deputy heads of cabinet-level government agencies. This power, in fact, allowed him to closely supervise, intervene, or, whenever he opted to do so, dominate the cabinet decision-making process. The power to make cabinet-level appointments is critical for explaining the president's ability to sustain control over the central level of government.

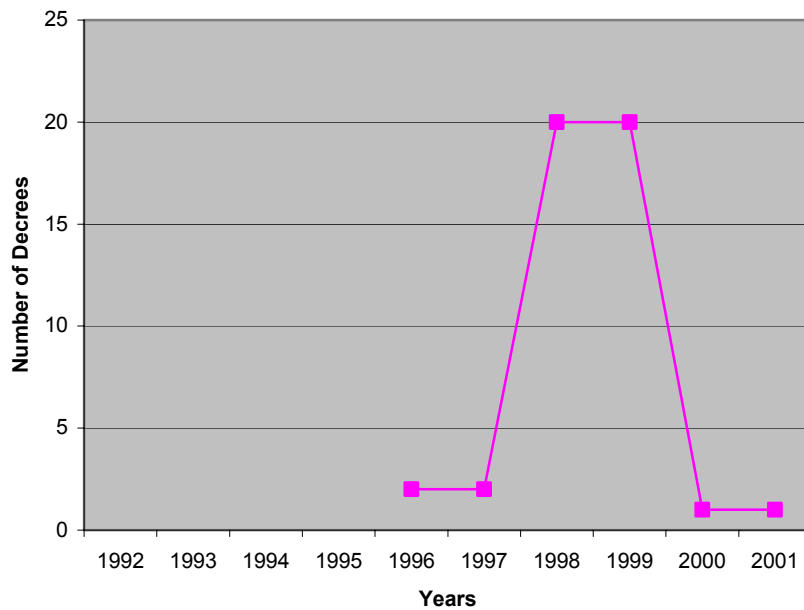
Equally important for the president's ability to maintain his influence on the regional level is his power to appoint the regional governors, their deputies and some other key officials on the oblast' level. The data for oblast' level decrees presented in Figure 6 substantially understates the true extent of presidential involvement in the appointment of government officials of the regional level since it does not include figures on the appointment/dismissal of the heads of raion administrations. Although the president makes these appointments they are not recorded in the form of presidential decrees.

The category of "other appointments" includes appointments to a vast range of positions in regulatory agencies, government-controlled industries, the diplomatic corp, etc. The largest share of appointment decrees in 2001, as Figure 6 indicates, fell into this category. These appointments are the blood vessels of an elaborate patronage system that the president in Ukraine controls.

A number of amendments to the Soviet-era constitution that defined presidential powers during the first half of the 1990s granted the president the right to make most of the appointments analyzed in the previous graph, as well as the power to issue other types of decrees. These amendments were not specific enough in defining the precise limits of the presidential decree powers allowing significant room for the interpretation of these limits by politicians in the executive and legislature. While the 1996 constitution tried to define these limits more precisely, it did not fully succeed. It also granted to the president additional special decree powers for the so-called 'transitional' three-year period. Figure 7 below provides annual data on the decrees in which the president clearly overstepped his constitutional powers.

---

**Figure 7. Paraconstitutional Presidential Decrees, Ukraine 1996-2001**



---

Figure 7 indicates that the rise in paraconstitutional decrees happened during the 1998-1999 period, which coincides with the last two years of the president's 'special powers' period. The end of this period, as well as the number of major political scandals that erupted in 2000 and 2001 and incriminated the president in various criminal wrongdoings, might have contributed to his decreasing willingness to test the limits of his decree making authority.

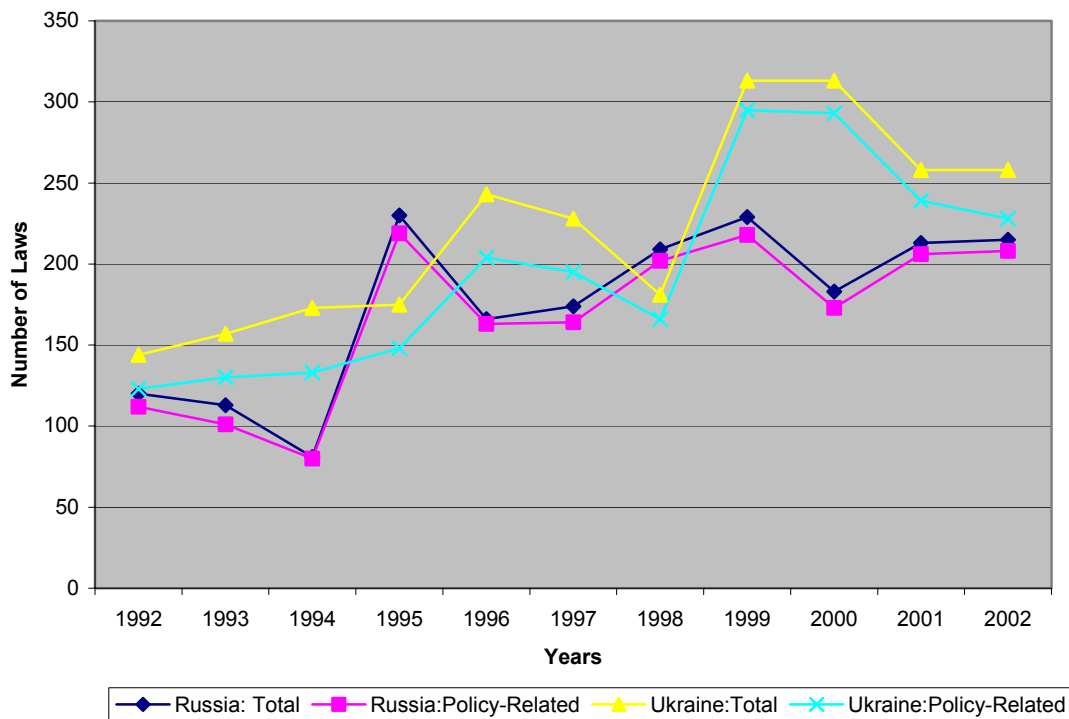
A presidential decree was classified as "paraconstitutional" when the specific policy area the decree was trying to regulate was not mentioned in the list of areas that the constitution specifies as 'open' for presidential decree-making. Since those areas are broadly defined, which makes qualifying a substantial number of presidential decrees as unconstitutional rather problematic, the data in Figure 7 significantly underestimates the degree to which the president abuses his constitutional powers. Political submissiveness and the slow start of the work of Constitutional Court, which is supposed to deal, among other things, with matters of the constitutionality of presidential decrees, makes the analysis of this aspect of the presidential decision making even more problematic.

### *The Legislative Process in Ukraine and Russia: A Comparative Aspect*

Comparing the legislative output of the key institutional actors in Ukraine and Russia is especially productive for the understanding of law-making in transitional societies both because the two countries share similar features of semi-presidential constitutional design and because they face similar challenges of organizing the legislative process. In both countries, the law-making process is greatly affected by the presidents who have the power to issue normative decrees, initiate draft laws, and veto the laws passed by the parliament. Cabinets in both countries have to go through a procedure of confirmation in parliament and have to secure the support of a parliamentary majority in order to turn their legislative initiatives into laws.<sup>3</sup>

Figure 2 below compares the dynamics of law-making in Ukraine and Russia during 1992 -2002:

Figure 8. Laws in Ukraine and Russia, 1992-2002



The total number of laws and number of policy-related laws (this indicator excludes laws that introduce minor amendments to the existing laws) are listed for each country. As the graph indicates, with the exception of two years, the Ukrainian parliament annually passed a larger number of laws than its Russian counterpart. The year 1998 was one of the exceptions during which the number of laws passed by the Ukrainian parliament dropped behind the number of those passed in Russia. This drop can be probably attributed to the deputies' preoccupation with electoral politics due to the parliamentary

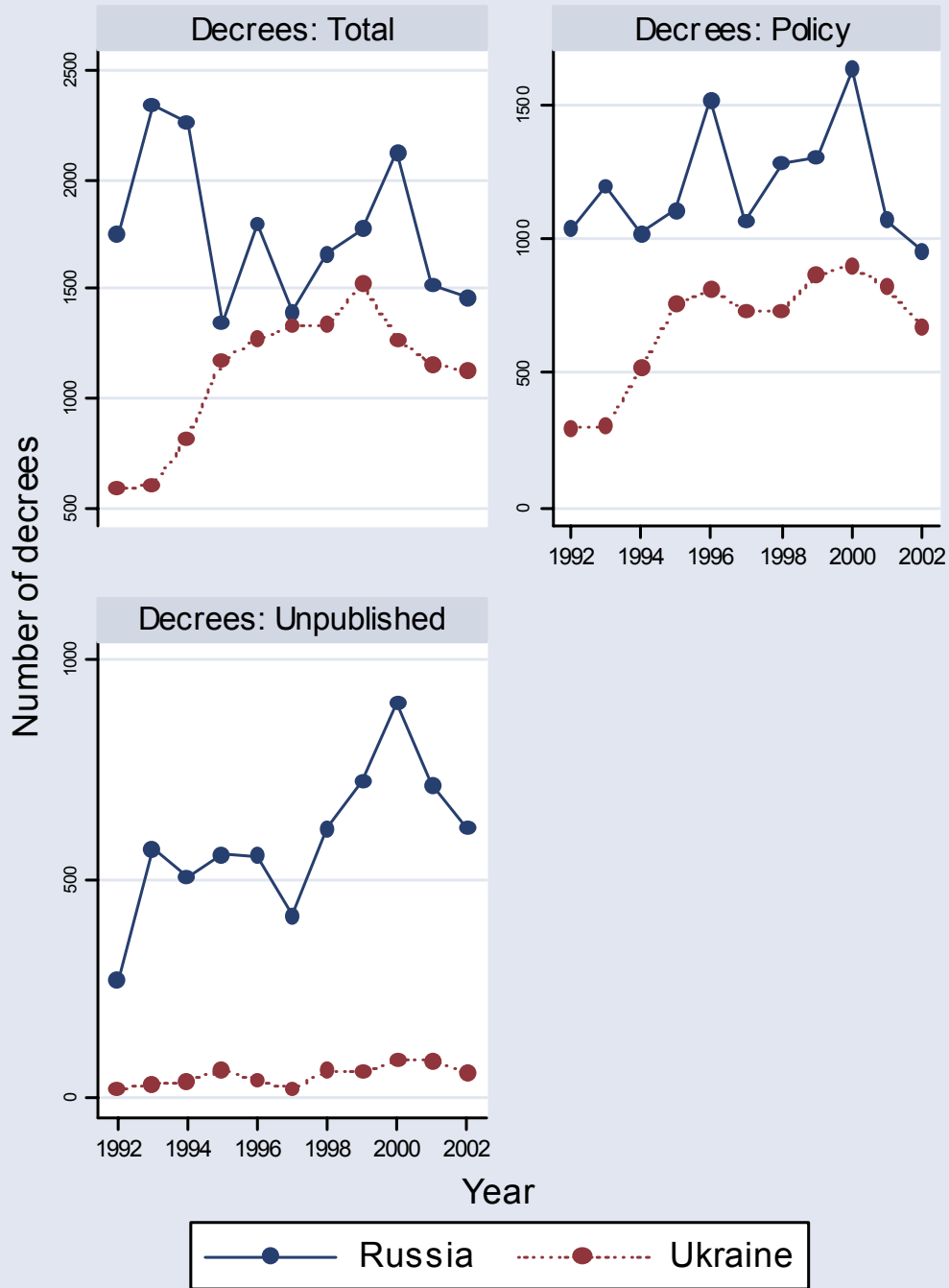
<sup>3</sup> In many instances, for some major legislative initiatives, also a consensus between president, cabinet and parliamentary majority is necessary.

elections held that year in Ukraine. Election-year politics, however, do not seem to have affected negatively the legislative productivity in any other year during which the elections were held in either of the countries. 1994, 1998, and 2002 were the years of parliamentary elections in Ukraine and 1993, 1995, and 1999 were the years when parliamentary elections were held in Russia.

The overall differences in the legislative output between the two countries render some support to the claims that a bicameral legislature slows law-making by introducing another powerful institutional actor into the legislative process. The Ukrainian unicameral parliament regularly passed a significantly larger number of laws than the Russian bicameral legislature. Although the differences in the numbers lessen during the last two years, more data is needed to see whether there is a convergence trend in these general indicators of legislative productivity. While the number of passed laws does not tell us much about the effectiveness of the legislative process or quality of laws, these numbers are important in the light of the current debates about the advantages and drawbacks of the different types of legislative institutions, because they summarize one type of variation in the outcome of legislative activity.

Graph 1 below compares the decree-making activities of the Ukrainian and Russian presidents. The total numbers of decrees are plotted in the upper graph that indicates that the Russian presidents were issuing much larger numbers of decrees than their Ukrainian counterparts. The difference in the numbers was especially pronounced during the earlier years of democratic transition. 1997 was the only year during which the presidents of both countries issued a similar number of decrees. The largest annual number of decrees in Ukraine and Russia were issued at the opposite ends of the first post-postcommunist decade, during 1999 and 1993 respectively.

Graph 1. Presidential Decrees in Russia and Ukraine, 1992-2002



Source: Author's calculations; data from databases 'Zakonodavstvo' /Office of Computer Systems, Apparatus of Parliament of Ukraine/ and 'Spravochnye pravovye sistemy' /Konsultant Plus, Russia/

---

Graph ‘Decrees: Policy’ excludes ceremonial presidential decrees from the total count of decrees. The new numbers are referred to as the numbers of policy-related decrees. The differences between Ukraine and Russia in terms of policy-related decrees are also quite substantial. The magnitude of these differences varied from 200 to 900 decrees per year. Again, the differences were most pronounced during the early years of transition, 1992 and 1993. The differences in the numbers, however, increased sharply on two separate occasions later in the decade. 1996 and 2000, the years of presidential elections in Russia, saw the gap between the numbers of policy-related decrees in Ukraine and Russia widening to 800 decrees.

Graph “Decrees: Unpublished” compares the number of unpublished presidential decrees in Ukraine and Russia. A substantial number of these decrees probably deals with state secrets and matters of national security. It is important to note how the information on this last type of decree was obtained for this analysis. The official Ukrainian publications mention unreported decrees. While neither title nor content of the decrees is published, the government information databases specify the number, the date of issue, and ‘not for publication’ status of these decrees. In contrast, the Russian official sources do not contain any information on this type of decree. The numbers were calculated by subtracting the number of published decrees from the total annual number of decrees as indicated by the numerical order of the last decree issued during the year (the decrees are issued in numerical order starting from number one for the first decree issued in January and continuing on till December). The numbers of unpublished decrees in Russia presented in this research are similar to the numbers reported by Parrish for the 1994-96 period in Russia.<sup>4</sup>

The legal norms that would specify the rules for classifying decrees as “not for publication” remain, however, largely undefined. In the absence of such specific rules, the large number of unpublished decrees, especially in Russia, provides grounds for serious concerns about the transparency and accountability of post-communist executives. While a much lower number unreported decrees in Ukraine could be considered by some as good news, the low number does not signal the absence of problems. As recent information published in the opposition press indicates, some of these decrees might deal with issues that fall outside any state secret considerations.

---

<sup>4</sup> Scott Parish “Presidential Decree Authority in Russia, 1991-1995” , in Matthew Soberg Shugart and John M. Carey, eds., *Executive decree authority* (Cambridge: Cambridge University Press, 1998), p. 82-83.

## Appendix I. Sample Coding Sheet for Parliamentary Laws

		###												Total
		year month	1	2	3	4	5	6	7	8	9	10	11	
<b>Polity</b>	Government and administration	2	1	3	3	7	7	2	0	2	1	2	1	31
	Police and Justice	1	0	1	0	0	1	1	0	0	0	0	0	4
	Military	1	0	0	0	0	1	0	0	1	0	1	0	4
	Citizenship and democratic norms	1	0	0	1	1	0	2	0	1	1	1	2	10
	Codes	0	0	0	0	0	1	0	0	0	0	0	0	1
	changes and amendments	1	0	0	0	3	0	0	0	0	0	0	0	4
<b>Economy</b>	Budget and finance	3	1	3	8	2	3	3	0	3	5	0	3	34
	Property and Privatization	0	0	0	0	0	0	2	0	0	0	2	2	6
	Investments and special economic zones	0	0	2	1	0	0	0	0	0	1	0	0	4
	Business	3	0	0	2	3	1	4	0	0	3	2	1	19
	Natural resources	0	0	1	0	0	1	0	0	0	0	0	1	3
	Codes	0	0	0	0	0	0	0	0	0	0	0	0	0
	changes and amendments	0	0	0	2	1	0	0	0	0	2	0	2	7
<b>Society</b>	Social services	0	0	0	1	0	1	1	0	0	1	1	1	6
	Demographics and Nationalities	1	0	0	0	0	2	0	0	0	0	0	0	3
	Social problems	2	1	2	6	1	1	5	0	1	1	4	1	25
	Arts and sciences	0	0	1	0	0	1	1	0	0	0	0	0	3
	Codes	1	0	0	0	0	0	0	0	0	0	0	0	1
	changes and amendments	0	0	0	0	1	0	2	0	0	1	1	0	5
<b>Legal Reform</b>	Legal issues	2	0	0	11	2	1	2	0	2	2	1	1	24
	court reform	1	0	0	0	1	4	1	0	0	0	0	0	7
	Codes	1	0	0	8	3	4	3	0	2	2	1	0	24
	changes and amendments	1	0	0	2	0	0	0	0	0	0	0	0	3
<b>Treaties and international cooperation</b>		3	3	3	0	5	2	14	0	10	2	14	0	56
changes and amendments		0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>		20	6	16	33	22	26	38	0	20	17	28	13	239
<b>Changes and amendments</b>		2	0	0	4	5	0	2	0	0	3	1	2	19

## Appendix II. Sample Coding Sheet for Presidential Decrees

		year												total
		month												
		1	2	3	4	5	6	7	8	9	10	11	12	
Polity							###							
	Government and administration	4	7	5	7	12	15	4	12	7	11	12	15	111
	Police and Justice	0	0	0	0	0	1	0	0	0	0	0	0	1
	Military	1	2	1	1	0	0	1	1	2	1	0	1	11
	Non Governmental Organizations	0	0	0	0	0	0	0	0	0	1	0	0	1
	Citizenship and democratic norms	0	0	0	0	0	0	0	0	0	0	0	0	0
Economy														
	Economic issues	3	5	3	3	11	61	3	10	2	2	0	4	107
	Natural resources	0	2	0	1	0	0	0	1	1	0	0	0	5
Society														
	Social services	1	1	1	1	1	1	0	3	1	0	0	0	10
	Demographics and Nationalities	1	0	0	0	1	0	0	0	0	0	0	0	2
	Social problems	1	0	1	2	2	5	2	2	1	5	1	0	22
	Arts and sciences	1	3	1	0	2	1	1	2	0	2	2	1	16
Appointment/dismissal														
	appointment of cabinet ministers	23	11	9	21	11	11	10	9	10	8	2	36	161
	appointment of oblast administration	4	1	2	3	2	1	4	2	4	0	9	1	33
	appointment of rajon administration	0	0	0	0	0	0	0	0	0	0	0	0	0
	appointment of others	16	18	19	71	23	37	41	10	31	21	17	26	330
Secret		2	10	0	1	10	1	0	8	4	3	1	18	58
Ceremonial		31	47	26	38	43	49	69	87	89	95	35	43	652
<b>TOTAL</b>		<b>88</b>	<b>107</b>	<b>68</b>	<b>149</b>	<b>118</b>	<b>183</b>	<b>135</b>	<b>147</b>	<b>152</b>	<b>149</b>	<b>79</b>	<b>145</b>	<b>1520</b>
"Pork-barrel" decrees		2	1	2	3	3	3	1	2	1	4	1	0	23
Unconstitutional		0	1	0	0	3	15	0	0	0	0	0	1	20