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**OPINION ON A STATE AWARDS LAW FOR UKRAINE**

The present Report was prepared by the Democratic Institutions and Governance Department of Directorate General II - Democracy, in co-operation with Serena Pescatore, Council of Europe expert.

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## INTRODUCTION

The present Report was prepared by the Democratic Institutions and Governance Department of Directorate General II - Democracy following the request of the Parliamentary Committee on State Building, Regional Policy and Local Self-Government dd. 13 July 2015.

*A good state awards system requires not only a limited number of honours and decorated people for very high merits, but also fixed and transparent procedures of conferral. These features are divided in the following analysis between quantitative and qualitative. Some general thoughts on Ukraine's legal system on State awards will provide the lien among the two parts of the analysis. Indeed, the Ukraine system on State awards comprises very numerous pieces of legislation. In order to improve its quality, a decrease in this quantity seems necessary.*

*In general, the law of Ukraine on national state awards of 16 March 2000 provides for procedures which do not contrast fundamentally with those of other Member States. In spite of this similarity, strict quantitative and qualitative requirements and clear procedures on conferral and withdrawal of the awards are somewhat lacking. In this opinion, the main issues of Ukraine's law on State awards is taken into account, along with examples and good practices offered by other States, as Estonia, France, Germany, Italy, Poland and the United Kingdom, the legislation of which has been deeply studied and analysed.*

## QUANTITATIVE FEATURES

This part of the analysis focuses on quantitative elements of a sound national system of honours, spanning from the total number of honours, the amount of decorated people and how the countries establish quotas, and the number of days when the awards are officially conferred.

### ***Number of awards***

According to the general law on State awards of 16 March 2000<sup>1</sup> there are 9 orders (the Order of Liberty, the Order of Yaroslav the Wise, the Order of Merit, the order of Bohdan Khmelnytsky, the

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<sup>1</sup> The law is available in Ukrainian <http://zakon4.rada.gov.ua/laws/show/1549-14>. An official abstract of this law in English can be found at <http://zakon4.rada.gov.ua/laws/anot/en/1549-14>. At a first glance at the abstract and the law

Order of the Hundreds Celestial Heroes, the Order for Bravery, the Order of Princess Olha, the Order of Danylo Halytskyi and the Order of the Miner) plus the title of “Hero of Ukraine”, 5 medals and 38 different honours that can be bestowed in Ukraine today.<sup>2</sup>

At a first glance, the number of different orders does not seem overly numerous when compared with other countries. Indeed, among the States that have been analysed, only Germany has a single order, the Order of Merit.

Nevertheless, the description of the services honoured with the awards does not differ much from one order to another, and suggests that several of them could be merged. As an example for this, the reasons for the bestowal of awards under the Order of Freedom, the Order of Yaroslav the Wise, the Order of Merit and the Order of Bohdan Khmelnytskyi are overlapping. Hence, these orders could be grouped into a single one dedicated to award citizens’ merits. The same could be said regarding the Order for bravery and the Order of Danylo Halytskyi: they could be merged into one dedicated to reward exceptional military service. Furthermore, the Order of the Princess Olha could be also abolished, because women have the chance to be honoured under the other national Orders.

Article 10 of the law and the long list of 38 honours<sup>3</sup> could also be eliminated. Indeed, when France created the Order of Merit in 1963, the aim of the legislator was to reorganise and simplify the system of honours and to merge or eliminate some of the orders that multiplied during the years, in parallel with the growing number of State activities. While suppressing these ministerial orders, four of them were nevertheless maintained because of their long-lasting history and their prestige.<sup>4</sup>

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one could think that a discrepancy exists on the number of awards in force in the legal system of the country. Anyway, a closer look suggests that the abstract is dated 1 January, 2005, while the most recent orders, the Order of Liberty and the Order of the Hundreds Celestial Heroes were created in 2008 and in 2014 respectively.

<sup>2</sup> This list does not take into account national prizes that are organised in different areas of national service (the prize Shevchenko, for literature; the prize for science and technology, for architecture; and the Dovzhenko prize).

<sup>3</sup> Referred to with *Почесні звання України*.

<sup>4</sup> See: Preliminary remarks of the Décret 63-1196 du 03/12/1963 sur la Création de l’Ordre National du Mérite (J.O. du 05/12/1963).

A similar action could be conducted for the 38 honours. Thus, for example, the eight honours for workers in the culture and education area could become a single honour attributed from the Ministry of culture and education, and the same could happen for the others, while at the same time ensuring that the most important professional areas are rewarded (Education and Culture, Science and Technology and Industrial Innovation, and so on).

### ***Number of people awarded***

A general principle that needs to be considered while reorganising the system of State awards is very well summarised in the above-cited French decree of 3 December 1963:

*La revalorisation de la notion de décoration, en tant que marque d'honneur accordée par l'Etat, impose une limitation non seulement des effectifs des attributaires des divers ordres, mais encore du nombre des décorations elles-mêmes.<sup>5</sup>*

In order to restore the value of the decoration system as a sign of honour bestowed by the State with the purpose of recognising citizens' contribution and stimulating others to follow the same examples, not only it is advisable to limit the number of awards, but also the number of people that is allowed to be decorated in a certain period of time.

The countries that have been analysed have answered in two different ways to the problem of establishing a fixed number of awards to be bestowed: either determining maximum quotas of awards to be attributed in a certain period of time, or the maximum number of people that could belong to the order – and thus be admitted with the conferral of the award. The former solution is common to France and Italy, the latter belongs to the United Kingdom.

In France, according to Article R.14 of the *Code de la Légion d'Honneur et de la Médaille militaire*, the number of awards to be conferred under the *Légion d'Honneur* is established via a decree by the President of the Republic that refers to a three-year's time. The same procedure is valid for the Order of Merit, according to article 23 of the Decree 63-1196 of 3 December 1963 that extends to the Order of Merit the procedure for appointment and promotion of the *Légion d'Honneur*. The Decree of the President of the Republic is meant to determine quotas for each

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<sup>5</sup> Ibidem.

level of hierarchy of the order. Some exceptional appointments are also envisaged and they are estimated in 20 per year.<sup>6</sup>

The Italian procedure is very similar to the French system: a presidential decree approved by the Council of Ministers determines every year the number of awards to be conferred for each level of hierarchy of every order. The Presidential Decree of 31 December 2014, on the quota of honours to be bestowed under the Order of Merit, has fixed this total in 5000 divided into the 5 levels of the order.<sup>7</sup>

The United Kingdom has adopted a different model: every order has a fixed number of members determined in its Statute. For example:

- 1) the Order of Merit – which, as well as others, is bestowed by the Queen to recipients that she personally selects – is restricted to 24 members (including a military division) as well as additional foreign recipients;
- 2) the Order of the Companion of Honours consists of the Queen and 65 members;
- 3) the Statutes of the Order of the Bath provide for 120 Knights and Dames Grand Cross, 295 Knights and Dames Commander and 1455 Companions.

Hence, the quota is not established annually, but globally, as the quota attributed to the order. Another feature of the United Kingdom system which is linked to this issue of quotas is the following: when suggesting a candidate for nomination, the proposer cannot recommend a specific honour, as this is only decided by the Honours Committee.

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<sup>6</sup> The estimated annual amount for the period 2015-2017 is around 4600 for the Légion d'Honneur and 6300 for the Ordre du Mérite, according to: *Décret n° 2015-434 du 15 avril 2015 fixant les contingents de croix de la Légion d'honneur pour la période du 1er janvier 2015 au 31 décembre 2017*, article 1, available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030490475&dateTexte=&categorieLien=id> and *Décret n° 2015-435 du 15 avril 2015 fixant les contingents de croix de l'ordre national du Mérite pour la période du 1er janvier 2015 au 31 décembre 2017*, article 1, available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030490481&categorieLien=id>.

<sup>7</sup> The Presidential decree (in Italian) is available at <http://www.gazzettaufficiale.biz/atti/2015/20150018/15A00368.htm>. It has been published on the Italian Republic Official Journal 18 of 23 January 2015.

It cannot be omitted that the French *Code de la Légion d'Honneur et de la Médaille militaire* has established a maximum – though quite extensive – number of people that can belong to the order. Indeed, according to article 7, the *Légion d'honneur* comprises : 75 *grand'croix*; 250 *grands officiers*; 1.250 *commandeurs*; 10.000 *officiers*; 113.425 *chevaliers*.<sup>8</sup>

Statistics from Germany prove that having a single order means that very little number of people is awarded, but for really outstanding and exceptional merits. After the peak reached in 1991 with 5000 nominees, in 2014 Germany has awarded 1618 people only.<sup>9</sup>

### ***Days to officially bestow decorations***

Another important expedient that helps the public keeping track of the number of decoration bestowed – thus ensuring that the honours system rewards only the most distinguished citizens for exceptional and extraordinary merits – consists in fixing a number of days when decorations are to be officially conferred.

Article 9 of the Decree of the President of Ukraine of 19 February 2003 n. 138/2003 lists several occasions when awards can be conferred: state holidays, professional holidays, anniversaries of companies, institutions, organisations and of local and regional territorial entities,<sup>10</sup> while the legislation of the other countries analysed provides for few and well defined occasions when decorations can be bestowed. For example, Chapter 2, art. 10 (1,2) of the Estonia Decorations Act passed 19 December 2007, states as follows:

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<sup>8</sup> Article R. 7 : « *La Légion d'honneur comprend limitativement, compte non tenu des nominations et promotions faites hors contingent dans les conditions fixées au chapitre III du titre II : 75 grand'croix ; 250 grands officiers ; 1.250 commandeurs ; 10.000 officiers ; 113.425 chevaliers.* »

<sup>9</sup> See: *Verdienstorden der Bundesrepublik Deutschland*, latest edition May 2015, available at [http://www.bundespraesident.de/SharedDocs/Downloads/DE/Publikationen/120605-Verdienstorden.pdf?\\_\\_blob=publicationFile](http://www.bundespraesident.de/SharedDocs/Downloads/DE/Publikationen/120605-Verdienstorden.pdf?__blob=publicationFile).

<sup>10</sup> See: *Указ Президента України «Про Порядок представлення до нагородження та вручення державних нагород України», 19 February 2003; and Порядок представлення до нагородження та вручення державних нагород України, 19 February 2003.* Both documents are available at <http://zakon1.rada.gov.ua/laws/show/138/2003>.

*§ 10. Bestowal of decorations*

*(1) The regular bestowal of decorations shall take place once a year on the occasion of 24 February, Independence Day.*

*(2) Decorations may also be bestowed at any other time in exceptional cases, including in the event of a state visit or if a diplomat accredited to Estonia departs from Estonia upon expiry of his or her term of office, or posthumously.<sup>11</sup>*

Similarly, Germany has established since 1991 a single day to confer decorations: the anniversary of German reunification 3 October.<sup>12</sup>

In Italy, art. 7 of the Decree of the President of the Republic, 31 October 1952 approving the Statute of the Order of Merit of the Republic of Italy states that the conferral of awards and honours takes place twice a year: on 2 June, the National day of the Republic and on 27 December, anniversary of the Constitution.<sup>13</sup> Exceptional nominations can take place every other day of the year (as spontaneous conferrals by the President of the Republic, awards to foreigners and to public officials ceasing their service), according to article 2 of the Presidential decree on implementing measures for the Law of 3 March 1951 n. 178 on the creation of an Order of Merit of the Republic of Italy.<sup>14</sup>

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<sup>11</sup> See Decorations Act, available at <https://www.president.ee/en/estonia/decorations/images/00113019.pdf> (in English).

<sup>12</sup> See *Verdienstorden der Bundesrepublik Deutschland*, Latest edition May 2015, available (in German) at [http://www.bundespraesident.de/SharedDocs/Downloads/DE/Publikationen/120605-Verdienstorden.pdf?\\_\\_blob=publicationFile](http://www.bundespraesident.de/SharedDocs/Downloads/DE/Publikationen/120605-Verdienstorden.pdf?__blob=publicationFile).

<sup>13</sup> The Decree is available (in Italian) at [http://www.governo.it/Presidenza/onorificenze\\_araldica/onorificenze/normativa/dpr31101952.html](http://www.governo.it/Presidenza/onorificenze_araldica/onorificenze/normativa/dpr31101952.html).

<sup>14</sup> The Decree (*Decreto P.D.R. del 13 maggio 1952 n. 458, Norme per l'attuazione della legge 3 marzo 1951 n. 178 concernente la Istituzione dell'Ordine al Merito della Repubblica Italiana" e la disciplina del conferimento e dell'uso delle onorificenze*) is available (in Italian) at [http://www.governo.it/Presidenza/onorificenze\\_araldica/onorificenze/normativa/dpr458\\_1952.html](http://www.governo.it/Presidenza/onorificenze_araldica/onorificenze/normativa/dpr458_1952.html); The Law, *Legge del 3 marzo 1951 n. 178 Su Istituzione dell'Ordine al Merito della Repubblica Italiana" e la disciplina del conferimento e dell'uso delle onorificenze*, at [http://www.governo.it/Presidenza/onorificenze\\_araldica/onorificenze/normativa/legge178\\_1951.html](http://www.governo.it/Presidenza/onorificenze_araldica/onorificenze/normativa/legge178_1951.html).

The French *Légion d'Honneur* can be conferred three days a year for citizens' merits and twice a year for merits of the military personnel,<sup>15</sup> while the Order of Merit can be bestowed twice a year for civil and military merits.<sup>16</sup>

Furthermore, in France the ministerial activity of sending nominations to the chancellor of the order is also tightly regulated: only three times a year they make proposals for the conferral of awards under the *Légion d'Honneur* scheme,<sup>17</sup> and only twice a year for the Order of Merit.<sup>18</sup>

### **LEGAL FRAMEWORK: BETWEEN QUANTITY AND QUALITY**

The legal framework is the element that allows us to shift from quantitative to qualitative features. Indeed, currently the primary feature of the legal framework on State awards in Ukraine is the quantity of pieces of legislation, which creates lack of uniformity. A reduction in this quantitative aspect would allow for improvements in the overall quality of State awards.

The law of Ukraine of 16 March 2000 is not the only piece of legislation on the subject. Indeed, every order is established and works according to its Statute, which is issued via a Presidential decree, as it is common procedure in other Member States. An example of this is the Presidential Edict on the Hero of Ukraine of 2 February 2002 n. 1114/2002.

Another very important piece of legislation is the Decree of the President of Ukraine of 19 February 2003 n. 138/2003 on the procedure of attribution of State awards in Ukraine.<sup>19</sup> This Decree should work as a framework law on the procedural aspects of the Ukrainian honours system. As a matter of fact, several Statutes of the orders of Ukraine, but not all of them, adopt

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<sup>15</sup> See at <http://www.legiondhonneur.fr/fr/page/promotions/106> the list of the most recent conferrals.

<sup>16</sup> Article 23 of the *Décret 63-1196 du 03/12/1963 sur la Création de l'Ordre National du Mérite (J.O. du 05/12/1963)*.

<sup>17</sup> Article R28 du *Code de la Légion d'Honneur et de la Médaille Militaire*.

<sup>18</sup> Article 23 of the *Décret 63-1196 du 03/12/1963 sur la Création de l'Ordre National du Mérite (J.O. du 05/12/1963)*.

<sup>19</sup> See: *Указ Президента України «Про Порядок представлення до нагородження та вручення державних нагород України», 19 February 2003; and Порядок представлення до нагородження та вручення державних нагород України, 19 February 2003. Both documents are available at <http://zakon1.rada.gov.ua/laws/show/138/2003>.*

procedures comparable to those provided for in this Presidential Decree. This lack of uniformity creates some confusion in the relevant legislation, and results in legal uncertainty.

As one of the suggestions above is to merge some of the orders, the next step could be to simplify the legislation and to establish whether the new orders (and those which have not been abolished) should refer to the Decree 138/2003. For instance, the French Decree 63-1196 of 3 December 1963, explicitly states that the conferral of the award and the promotion, the way of carrying the awards, sanctions, and disciplinary and administrative procedures of the *Légion d'Honneur* are extended to the Order of Merit.<sup>20</sup>

A simplification of the high number of pieces of legislation governing State awards in Ukraine would result in an improvement in the quality of the award system itself.

## **QUALITATIVE FEATURES**

After the study of the quantitative features of the awards system, the analysis will now focus on its qualitative elements, which include: the general procedure of attribution, spanning from minimum requirements on the candidate to the award to clear procedures that define the promotion to the upper level of hierarchy of the order; the procedure for withdrawal of the award; and possible benefits granted to the decorated person. The procedures established within the Ukrainian system are not openly in contrast with European standards. Nonetheless, there is still room for improvement, and the following considerations may help in this direction.

### ***Procedure for nomination and conferral***

Every citizen/person (in Estonia and the United Kingdom) or some institutions (in France and Italy: the ministers; in Germany<sup>21</sup> and Poland<sup>22</sup>: several institutions; in Ukraine: very numerous

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<sup>20</sup> See articles 23, 27, 34 and 35. Décret 63-1196 du 03/12/1963 sur la Création de l'Ordre National du Mérite (J.O. du 05/12/1963).

<sup>21</sup> Article 5 of the *Statut des Verdienstordens der Bundesrepublik Deutschland*: the head of German Federal authorities, the President of the Federal Bundestag and the Bundesrat, the Prime Ministers of Länder for people living in their Land; the Minister of Foreign Affairs for German citizens living abroad or for foreigners; the mayor of Berlin, the President of the Senate of the city of Bremen and Hamburg for people living in their territories.

institutions<sup>23</sup>) have the right to advance proposals for the bestowal of awards. The recommendation clearly stating the reasons why the honour should be conferred is then either sent directly to Grand Chancellor of the order (France) or to the Prime Minister, who eventually sends it to the Chancellor of the order with his/her opinions (Italy, Poland) or to the President (Estonia, Germany, Ukraine) or to the Honours committee (United Kingdom) accompanied with general information on the candidate and with his/her criminal record.

Only in Estonia and Germany the proposals are reviewed and decided upon by the Administration of the President of the Republic, while in the other countries the decision is taken within the Administration of the order, taking into account the opinions and considerations of the Prime Minister. The decision is then reviewed and approved by the President of the Republic or by the Prime Minister.

The comparison between the Ukrainian law and those of other countries shows a critical shortcoming: in Ukraine there are no specified requirements that the candidate to the award must fulfil, whereas in other countries these are strictly indicated. These requirements regard minimum age (40 years in Germany, 35 in Italy for the Order of Merit) or minimum years of eminent service in the area for which the award is bestowed (20 years for the *Légion d'Honneur* in France and 10 for the Order of Merit, 20 years in Italy for the Order of Merit for Labour).

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<sup>22</sup> Article 2(3) of the *USTAWA z dnia 16 października 1992 r. o orderach i odznaczeniach*: the President confers awards on his own initiative, or at the request of the Prime minister, the ministers, the head of the central offices or provincial governors and for decorations of the Cross of Liberty and Solidarity at the request of the National Institute for Remembrance or the Commission for Prosecution of crimes against the Polish nation.

<sup>23</sup> Article 8 of the *СТАТУТ звання Герой України, 2 грудня 2002 року N 1114/2002*: proposals for conferral of the title of Hero of Ukraine can be made by the President of the Ukraine Verkhovna Rada, the Council of Ministers of Ukraine, the Constitutional Court of Ukraine, the Supreme Court of Ukraine, the Supreme Economic Court of Ukraine, the General Prosecutor, ministries and other central executive authorities, the Supreme Council and the Council of Ministers of the Republic of Crimea, Kyiv and Sebastopol city state administration and finally the Commission for State awards and heraldry. Article 2 of the *Порядок представлення до нагородження та вручення державних нагород України, 19 лютого 2003 року N 138/2003* adopts the same procedure for the other orders. It has to be underlined, that the entitlement to nominate candidates of institutions like the Supreme Court, the Supreme Economic Court and so on does not find correspondence in other countries.

Other requirements need to be fulfilled in order to advance in the hierarchy of the order. In most of the countries analysed, the candidate to the promotion of level should have spent at least some years in the previous grade. Furthermore, Estonia<sup>24</sup>, France<sup>25</sup>, Germany<sup>26</sup>, and Italy<sup>27</sup> explicitly state that for this promotion new merits on the candidate's side need to be acknowledged (even though in Estonia new merits are also required to accelerate the promotion procedure).

An additional requirement, common to all countries but Estonia and Ukraine, is well summarised by this sentence: "The aim is to ensure that the large numbers of people not in the public eye who give valuable service are recognised"<sup>28</sup>; for this reason, the countries established that Senators and Deputies cannot be awarded during their mandate.

Finally, it is considered very useful to recall that national honours should acknowledge eminent and exceptional services to the State, not the mere perfect and flawless fulfilment of someone's duties. Germany is very specific on this issue, as explained in Chapter 2 article 3 of the Implementing Measures to the Order of Merit, which can be summarised as follows: the perfect fulfilment of someone's personal duties or the performance of voluntary activities is not enough for the bestowal of a decoration. The activities must be carried out for the national and social benefit, without caring about the person's own interests.<sup>29</sup>

### ***Withdrawal of awards***

According to article 16 of Ukraine law of 16 March 2000, awards can be withdrawn when the decorated has been convicted for serious crime. Similarly, article 9 of the Statute of the Order of Merit of Ukraine approved 22 September 1996, n. 870/96, allows the withdrawal of awards for

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<sup>24</sup> Article 10(3) of Estonia Decorations Act.

<sup>25</sup> Article R19 Alinéa 3 of the *Code de la Légion d'Honneur*. Article 23 of the Décret 63-1196 on the Order of Merit.

<sup>26</sup> Chapter 3 article 3 of the implementing measures: *Ausführungsbestimmungen zum Statut des Verdienstordens der Bundesrepublik Deutschland vom 5. September 1983 (GMBL. 1983, S. 389)*.

<sup>27</sup> Notice of the Prime Minister, 8 August 2002 on the conferral of State awards under the Order of Merit of the Republic of Italy.

<sup>28</sup> See <http://www.royal.gov.uk/MonarchUK/Honours/Honoursnomination.aspx>.

<sup>29</sup> Chapter 2 article 3 of the implementing measures: *Ausführungsbestimmungen zum Statut des Verdienstordens der Bundesrepublik Deutschland vom 5. September 1983 (GMBL. 1983, S. 389)*.

serious crime. On this issue, the Decree n. 138/2003 of the President of Ukraine, which is the reference text for several orders in Ukraine, is completely silent.

Other countries have preferred the notion of “unworthiness” of the decorated in order to decide on the withdrawal of the decoration. In particular, in Estonia the award can be forfeited when a Court judgment against the decorated for an intentional crime has entered into force; when circumstances unknown before the bestowal of the award become evident; and when later conduct of the person has become indecent (article 13 of Decorations Act). The reasons for withdrawal in Poland are similar to the Estonian ones (Chapter VI, article 36 of the Law on State orders and decoration, of 16 October 1992). In France, a person who has lost the French nationality, who has been convicted for crime, condemned to one year or more of imprisonment or to correctional penalty, or has committed acts against the honour, can have his/her decorations forfeited (R. 90-96 of the *Code de la Légion d’Honneur et de la médaille militaire*). Germany and Italy consider also the accessory penalty of disqualification from public office as a reason that allows for the withdrawal of the state award (Chapter 4 of *Gesetz über Titel, Orden und Ehrenzeichen, vom 26 Juli 1957*, and article 5 of the Law n. 178 of 3 March 1953 for Italy). In the United Kingdom, honours can also be forfeited when the decorated has been struck off by a professional or regulatory body.

The institutions of the order are entitled to consider and discuss the situation of the awarded and to decide on the forfeiture. France, Italy and Poland allow the examined to present his/her viewpoint and explanations before ordering the final and official withdrawal.

### ***Privileges of the awarded***

In general, economic benefits are attributed to medals and awards for the military personnel only. As specified in Germany, the bestowal of awards and honours is indeed considered a moral reward, thus no pecuniary benefit should be attached.<sup>30</sup>

In France and Italy a small pension is attached for the military personnel, when decorated. More specifically, the pension attributed to the decorated with the *Légion d’Honneur* is regulated by the

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<sup>30</sup> See <http://www.bundespraesident.de/EN/Role-and-Functions/HonoursAndDecorations/TheOrderOfMerit/theorderofmerit-node.html>.

articles R77-78 of the *Code de la Légion d'Honneur*. In Italy, pensions are attributed only for decorated under the Italian Military Order, and to a fixed number of people.

On the contrary, article 15 of the Law on state awards of Ukraine says that decorated people enjoy benefits and privileges envisaged by the laws of Ukraine. On this important issue, the Decree n. 138/2003 of the President of Ukraine, which is the reference text for several orders in Ukraine, does not provide for any disposition.

### **CASE STUDY: THE FRENCH REGIONAL/DEPARTEMENTAL COMMUNAL MEDAL**

While rewriting Ukraine's law on state awards, it could be of interest to provide for regional/local honours, once the territorial reform process is completed. France has adopted a notice regulating regional/departmental and communal medals at the national level, the *Circulaire NOR/INT/A/06/00103/C*. According to this Notice, the medal is awarded for services to local communities or to their public institutions, like subsidised housing services (*Offices Publics d'Habitation à Loyer Modéré*) and municipal lending banks (*Caisses de Crédit Municipal*).

The requirements for candidates to the regional award are similar to those of national awards: 20 years of work at the benefit of the local community for the silver medal, 30 years for the medal of vermeil and 35 for the gold medal.<sup>31</sup> National deputies and senators cannot be awarded during their national mandate, even if they hold a local mandate. Accounting officers and directors of municipal lending banks are also excluded from the conferral of the award.<sup>32</sup>

Candidates to this local award are: people who hold or held a mandate in local assemblies; current and former officials of local authorities and their public institutions; current and former members of economic and social committees; current and former state officials having rendered services to local authorities. The mere fact of being a local official is not an award criterion: the quality of the services rendered to the local community has to go beyond what is normally expected.

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<sup>31</sup> Chapter III, A, 1 of the abovementioned notice.

<sup>32</sup> Chapter II, B, 4 of the notice.

This medal is not subject to any quota, thus honourability of candidates should not be under question with disciplinary, administrative or criminal procedures. No sanctions should have been imposed upon during the year, and during the previous 10 years no sanctions higher than a reprimand.<sup>33</sup> The medal can be withdrawn for administrative sanctions once the Disciplinary Board has issued his opinion, and once the awarded has behaved in such a way that makes him/her unworthy of the honour.<sup>34</sup>

Another example of local award system is envisaged in the Italian legislation, which provides for regional honours that are specifically regulated in every region.

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<sup>33</sup> Chapter III, B, 2 of the notice.

<sup>34</sup> Chapter IV, D of the notice.

## CONCLUSION AND FINAL RECOMMENDATIONS

In conclusion, the main features of Ukraine's law of State awards that could be changed taking into account the relevant examples and good practices enshrined in the legal framework of other Council of Europe Member States are as follows:

1. The Presidential Decree n. 138/2003 could work as a framework law on the procedural aspects of State awards in Ukraine, after all relevant changes have been made according to the following recommendations.
2. Article 7 of the Law on State Awards of 16 March 2000 could be amended. As the description of services honoured with the awards does not differ fundamentally from one to another, some orders could be merged to create a single one for civil merits, and one for military merits. The order of Princess Olha could also be abolished.
3. Article 10 of the Law on State Awards of 16 March 2000 could be abolished. Some honours could be restored and grouped into a single medal for services under relevant ministries.
4. Ukraine's law on State Awards is silent on quotas of honours/awards to be bestowed. A national method to establish quotas could be envisaged.
5. The Presidential Decree n. 138/2003 lists a large number of occasions when awards can be conferred. In order to better keep track of the number of awards and to allow the public control over the compliance with quotas, only one or two days could be selected, in correspondence with relevant national holidays.
6. The Statutes of the orders could clearly set strict requirements for candidates, as minimum age or a minimum of years of contribution to the State. Similarly, criteria should be established concerning advancements in the level of hierarchy of the orders.
7. The Presidential Decree n. 138/2003 could provide for clear framework procedures for the conferral of awards, common to all orders. Furthermore, the number of institutions allowed to advance proposals could be reduced.
8. Ukraine's law on State Awards of 16 March 2000 and the Presidential Decree n. 138/2003 could clearly state that Members of the Parliament cannot be decorated during their mandate.
9. Ukraine's law on State Awards of 16 March 2000 and the Presidential Decree n. 138/2003 could specify the exceptional character of the services to be awarded: the perfect

fulfilment of someone's personal duties or the performance of voluntary activities must not be enough for the bestowal of a decoration.

10. Article 16 of Ukraine's law on State Awards of 16 March 2000 could be amended. The notion of serious crime could be further specified and the issue of unworthiness of the decorated could be included. Similar provisions could be added in the Presidential Decree n. 138/2003.
11. A strict procedure for withdrawal could be provided for both in Ukraine's law on State Awards of 16 March 2000 and in the Presidential Decree n. 138/2003.
12. Ukraine's law on State Awards of 16 March 2000 and the Presidential Decree n. 138/2003 could state that no benefit is attached with the conferral of the awards, as State honours are only a moral reward.
13. Once the territorial reform process is completed, the possibility to create a regional award system could be explored. The regional procedure could recall the national one. Inspiration could be taken from the French system.