

AN INTRODUCTION TO DOABLE REFORMS

LESSONS FOR BELARUS FROM ESTONIA

BY TOOMAS HENDRIK ILVES



”All successful post-commie countries reform alike. Each unsuccessful post-commie country finds its own excuse.

Toomas Hendrik Ilves (1999)

Having been involved in reform processes not only in Estonia but also in advising other post-Communist countries, the following is a distillation of lessons learned as well as mistakes made.

It is prescriptive, i.e. I offer “Do-s” and “Don’t-s” which some may take offense at, but after thirty years I have seen too many failures and too few successes in countries pulling out of the miasmic mess of post-Communist societies to sugarcoat the message.

While I have been making some of these points since the late 1990s, others are newer observations based on missed opportunities in the early stages of reform that later came to haunt governments.



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Basics

Start before liberation. Begin serious and intellectual discussions early. What are your visions of what Belarus will be like? Everyone in Belarus wants the country to be free, wealthy, European and democratic. However, what that entails can span a range of different forms of government, electoral systems, property rights, restitution, privatization, currency reform, accountability for regime crimes, etc.

1. **Create a new constitution, modeled on a European parliamentary democracy.** You can even just copy one.
 - A. The point is **do not opt for a presidential system of government.** All post-Communist countries except for the Baltic Three opted for presidential systems. Some – Georgia and Ukraine – later changed to parliamentary systems after experiencing presidential systems where the head of state assumed too much power. The reasons are simple: long before the collapse of communism, the democratic track record of countries with presidential systems in Latin America and Africa was dismal. The reason is simple. When executive power is concentrated in the head of state with a fixed term, the temptation to stay in power – to enrich oneself or to avoid prosecution for crimes – becomes too strong and democracy suffers. In the past thirty years we have seen this across the entire post-Soviet space where countries in 1991 opted for presidential systems. Only one country in the world has managed to maintain a democratic executive presidential system – the United States – and even there an incumbent ultimately succumbed to the temptation to stay in power using illegal means.
 - B. Make **electoral districts multi-member**, i.e., avoid first-past-the post electoral districts. The latter generally lead to distortions of proportional representation where third parties lose out (viz. the UK and the US) and ultimately to a two-party system. Indeed, Duverger's Law – an empirical 'law' of electoral systems – says that this is inevitable. Two-party systems are more susceptible to populism and to a winner-take-all approach to governance, which again tend to lead to abuses of power.

This may be a bit too technical, but for multi-member elections you need to think about how votes are distributed. There are various ways to do this (d'Hondt, party lists/individual votes, ranked choice, etc.) but it's good to think ahead.
 - C. **Ensure the Constitution leads with a firm Bill of Rights**, patterned on the European Charter of Fundamental Rights. This should give citizens an understanding that guaranteeing and safeguarding their civil and human rights is the most important job of the state.
 - D. **Set up an independent Ombudsman institution**, which should be constitutionally mandated and act independently of the executive branch. The *Ombudsman* should be nominated by the head of state and confirmed by the parliament, and its central task is to adjudicate human and civil rights complaints and provide a check on the activities of the government where these may infringe on citizens' rights. This institution, originating in Sweden already in the 19th Century, will be crucial to handle citizens' complaints in a society just emerging from autocratic rule.
 - E. Ensure a **constitutional and genuine separation of powers** between the executive, legislative and judicial branches. In autocracies, the three merge into a unitary machine of repression, with the executive mandating laws that are



then applied by the judiciary at the direction of the executive. The separation of powers between the executive Prime Minister and the legislature in a parliamentary system is not perfect, but it does provide a check on executive overreach. In the judiciary, apolitical judges – especially after the destruction of trust in the impartiality of the law – are a must. A separate issue is whether the judges of the *ancien régime* can impartially serve the public after serving a dictatorship. This leads to a broader problem.

- F. **Lustration: dealing with the past.** Every society that has emerged from an oppressive past has had to deal with participants in the crimes of the previous regime. No country has done this without problems. Generally, the more repressive the previous regime, the more difficult it will be, as victims will demand the justice they deserve.

In the case of Belarus, we might assume that those responsible for the most egregious of crimes will, as in the case of Ukraine, flee to Russia. Senior commanders and members of Lukashenko's inner circle will be difficult to bring to justice. In their case, it will be important to quickly put them on the Interpol and Europol Red List as wanted. However, it will be more difficult to deal with those who were, in the immortal phrase of the Nazis, “just following orders”.

2. Governance, privatization and the legal environment.

- A. Once the constitution is in place, pass a law quickly to create **a professional civil service**. This clearly differentiated Estonia from many post-commie (and indeed some non-commie) countries where a change in government meant a wholesale housecleaning of ministries. Countries with politicized civil and diplomatic services generally did poorly as incompetent party apparatchiks carried out policy. This was especially clear in the early 1990s, when in almost all post-commie countries, crony friends of the president were appointed to prestigious ambassadorial postings. (“Prestigious” unfortunately also meant the capitals that mattered most to the emerging new countries.) Estonia appointed people who knew the country they were going to, not crony buddies. The result was a failure in countries with crony diplomats to understand what was going on in the countries they needed to know most about. A similar approach should be adopted when it comes to domestic ministerial posts and civil service jobs. Whenever possible, appoint ministers who also know something about their area of responsibility. Allow a minister only 2 or 3 “counselors”. Ministries need to be run by a permanent undersecretary who is independent of the party in charge of the ministry, with a fixed term longer than an election cycle. The permanent secretary needs to be apolitical to run a competent ministry.
- B. **Privatization.** This always is and always will be difficult. The concept of private ownership of land is, moreover, especially thorny in the post-Soviet space. Yet, if you want the country to rise out of economic backwardness with modern industries and avoid the grotesque corruption, oligarchs and crony deals that has turned Russia into the backward, byzantine *bardak* that it is, you must do privatization (or in the case of crony-privatized state property, re-privatization).
- a. Do *NOT* privatize State-Owned Enterprises (SOEs) with vouchers. This was the original or at least avoidable sin of Russia's transformation.

In voucher privatization *à la Russe*, every employee received a number of vouchers. These were not tradable stocks on a developed stock market as in the West, and since there was no market to sell or buy them, they



were indeed seen as little more than useful chits to perhaps buy a bottle of vodka. There *were*, however, people in Russia who already had access to large amounts of hard Western currency. One should consider, what *kind* of people had access to significant sums of *valuta* before the political collapse of the USSR. These were already people who did not follow the law and were generally amoral and ruthless.

When Russia then did its voucher privatization, these were the people who managed to buy up vouchers in the SOEs, not for the real value of the companies but for pennies. These are the oligarchs who emerged in the 1990s and who essentially control the country today. That many of these people were Soviet era cronies of Putin's only made it worse.

Estonia has no oligarchs. Not even close. While we have billionaires and more unicorns (billion-dollar companies) per capita than any country in the world, beating even Israel, these are all new tech companies that never had anything to do with the old resource-based economy.

We privatized using the *Treuhand* model, used by Federal Republic of Germany to privatize SOEs in the DDR. We sold to the highest bidders, with no restrictions on nationality of those buying, except for connections to crime or the Russian security services. In other words, due diligence/"know your customer" was at a premium. The *Treuhand* consisted of a board of trustworthy, respected individuals. It was headed by an independently wealthy expat Estonian so no one thought he would use crony connections to enrich himself or his friends. His number two was a German who had been in the German *Treuhand* leadership.

Tenders were awarded on the basis of the highest bidder *and* the business plan that would be evaluated, including "social effects", i.e. on what the plan entailed for employment. This was to prevent "asset stripping", a practice in Western mergers and acquisitions where a company is bought, all its employees are fired and the property and remaining assets of the company are all that remain in the hands of the new owner.

This is not an easy procedure. It will cause social upheaval, nationalist objections – often fed by the factory directors and Sovhoz chairmen who have lost out.

Banks too must be privatized. Indeed, that is one of the first things to undertake. A major stumbling block to Czech privatization under Václav Klaus was that Czech banks remained in government hands, yet they were major participants in the Czech privatization process. The end result was a series of underperforming and stagnant "private" companies that were indirectly under government ownership and control. Failing former SOEs were artificially kept afloat to avoid political problems, with the result that the economy stagnated for many years.

Where voucher privatization *does* work is in housing stock – i.e., all of the apartments built in the Soviet period owned by the state. People want to own their apartments. Estonia developed a formula for vouchers based on the size of the apartment, the number of years worked and – something to consider in Belarus – repression experience. Those who had been deported to Siberia or been otherwise repressed were given extra vouchers. Another aspect to consider is what to do with housing stock vouchers for those who worked for the repressive "organs". Do KGB officers get to participate at all?



- C. **Corruption.** Nothing destroys the fabric of even fully democratic societies more than corruption. It eats away at rule of law, alienates publics from governments and fuels mindless populism, while at the same time co-opting regular citizens to participate in corrupt practices through inefficient and poor governance.

Broadly there are two types of corruption, with completely different solutions: *Grand* and *Petit* Corruption. Grand corruption is what makes the news: big sums paid to government officials in tenders or to look the other way in the case of violations of the law. These occur around the world, more in some countries than others, but even a former Vice President of the US (Spiro Agnew) was caught taking kickbacks for highway construction projects. The best solution here is transparency of tenders.

Petit corruption is the everyday practice in all but the most developed countries where citizens have to pay a small fee for the most basic of services – access to medical care, social services, indeed any interaction with the government. This eats away at citizens' trust in government and leads to disenchantment and reciprocity – since they see the government cheating, they in turn cheat in other areas such as taxes.

This is where digitization of public services presents a huge benefit. Not only is Estonia the least corrupt former commie country, it is less corrupt than *all* European countries except for the four Nordic countries Finland, Norway, Denmark and Sweden, and the 6th least corrupt country in the world (New Zealand is the 5th least corrupt country worldwide). Yet Estonia is not a rich country like the five countries ahead of it. The question is, why?

Aside from a dramatic change in attitudes in the population in the past 30 years, the main factor seems to be the digitization of public services. Indeed, in Estonia there are only three public services one cannot do online: getting married, getting divorced and buying or selling immovable property. The last limitation comes incidentally from a *sine qua non* law for a future Belarus: **Anonymous shell companies must not be allowed to buy property.** Russian and other oligarchs and mafiosi have even acquired apartments in Donald Trump's Trump Tower in New York – let alone across London, Paris and Miami – but they could never do so in Tallinn.

Digitization of public and government services takes away the chance for bureaucrats to demand payment for what the citizen should receive for his taxes anyway. Today, Estonia has Europe's and probably the world's most digitized governance, yet it costs less than paper-based government. The way we did it is far beyond this short brief's purview, but I would strongly recommend Belarus to send people to Estonia to see how it's done. With Belarus' own strong IT community, much of which now lives in exile, this is a great opportunity to rebuild the state right.

3. **Use your expat and exile communities.** As is the case with so many countries suffering from autocratic rule, many of the country's best and brightest now live abroad. Use them. Estonia and the other two Baltic countries were especially adept at this, not only when it comes to political leaders (all three have had expat presidents), but more importantly from academia and the private sector, where internationally recognized scholars and businesspeople are keen to help their homelands. Get them started already now to work on the issues raised in this brief.

Addendum

The following is not about what Belarus should do based on the Estonian experience. Rather, it is a document I wrote up at the request of the late Ron Asmus (who led the U.S. NATO enlargement efforts). It sums up my advice to countries that aspired to but had failed in their attempts to join the EU and NATO and in general fared badly in their relations with the West. It is about attitudes and behaviors. Asmus called this “The Catechism”.

The Catechism: How to get the West to take you seriously.

1. Figure out what you really want. Don't say one week you want the EU, next week a common economic space. Words mean something in the EU and NATO and you cannot imagine the confusion in the foreign affairs committee of the European Parliament on what Ukraine wants: to be in a common economic space with Russia or to join Russia. No matter what you say, this is a contradiction. This is not a new problem. In 1998, then-Ukrainian President Leonid Kuchma managed to say in three weeks that Ukraine sees as its most important strategic partner Russia, the EU and the US. So, do you really want the EU? Do you really want NATO? Do you want Russia?
2. Learn to say yes only when you can deliver. Don't promise to do things you know you won't or cannot do.
3. Deliver. The states left out of the West's enlargement lost credibility by promising and not delivering.
4. Forget “cultural heritage”, that you “have always been a part of European civilization”, forget saying you are the last bulwark of European civilization against whoever the barbarian on your Eastern border happens to be. Everyone has used this argument, including against *you*. It doesn't work.
5. Avoid the Marxist argument: *Groucho* Marx. From the Marx brothers' movie where Groucho enters a bank, goes to the teller, points a gun to his head and says “Give me your money or I'll shoot myself”. Do not, repeat, do *not* use the argument that “if you don't take us in we will self-destruct.” (By turning toward Russia, become Islamic fundamentalist, return to ethnic cleansing, whatever.) Everyone who has used this – and most of us have used this – have given it up. Think about it. Would you want someone who is such a basketcase that without being a member of your organization they will fall apart?
6. The West is Lutheran not Catholic: God helps those who help themselves. This is not about any religion per se – not about Lutheranism, Catholicism or Orthodoxy – but attitude. Confession doesn't make things better, behaving differently does. Taking responsibility does. Privatization, liberalization of the economy, reform of the security structures and civilian control of the military are normal and successful policies no matter what. Rule of law, lack of corruption, elections free of irregularities and a free press are not stepping stones to joining the West, they are the *prerequisites*.
7. No one wanted us. As late as 1997, Germany was against accession of the Baltic states to the EU because Germany saw a Russian *droit de regard* in the region. I am not even going to talk about NATO.
8. *Contribute* and in ways that matter. If you want Europe to take you seriously, then come up with initiatives that matter to Europe, which currently has to deal with illegal immigration and trafficking in drugs, and which matter to the U.S, which has to do with terrorism and Islamic fundamentalism.



9. Solve your problems. Don't whine if you have a problem; instead take steps to solve it. If that is overwhelming, then come up with concrete ways people can help you. Don't say "we have a big problem" and leave it at that.
10. Don't look for excuses for why you can't. Don't use fora like these to air sectarian differences. No one is interested in hearing why you can't do something – not in NATO, not in the EU. I was asked once to give a lecture on Estonian reforms to deputy ministers from a large country to the east of Poland. After my 1.5 hours on what we had done, the entire discussion was devoted to why it was this country could not do what we did: Estonia is small, they were large, Estonia is Lutheran, they are orthodox, Estonia was occupied for 50 years, they were occupied for 70. And the Q&A was spent entirely discussing this one issue: why we can't do what they did. I would conclude by paraphrasing the first line of Anna Karenina: All successful countries have reformed alike, each unsuccessful country finds its own excuses.
11. Finally, you will be asked to do more. Yes, capital punishment exists on the books in Belgium, but if Estonia wanted to get into the EU we had to outlaw it. No one had to do a Membership Action Plan (MAP) to get into NATO before the 2002 invitations. Do you want to protest this or do you want to get into NATO? Read the Melian dialogues in Thucydides. Life is unfair. Or to quote Marion Barry, the former Mayor of Washington, "Get over it".
12. Practical: implementation. Ask the EU for civil-servant twinning with the *new* members. Budget planning for the next budget will have new member input.
13. Get the new members on your side. We know very little except for transformation. We don't know competition policy or industrial policy in the EU, but we do know transformation. The situation is better now than it has ever been. But the basis of integration is domestic. You will not be rewarded by the EU just because you pass a good, EU compatible law. You will be rewarded because it makes Belarus more European.
14. None of the above means being submissive. You will be patronized and talked down to by representatives of countries who have no right to do so. While avoiding whataboutism, do push back when you are told something overbearing. Just be polite.

This brief is part of the series "How to Build a Democracy", which aims to create understanding about reforms within the context of the Belarusian democratization process.

The first report in this series, "How to Break Lukashenka" by Anders Åslund, can be found [here](#).

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