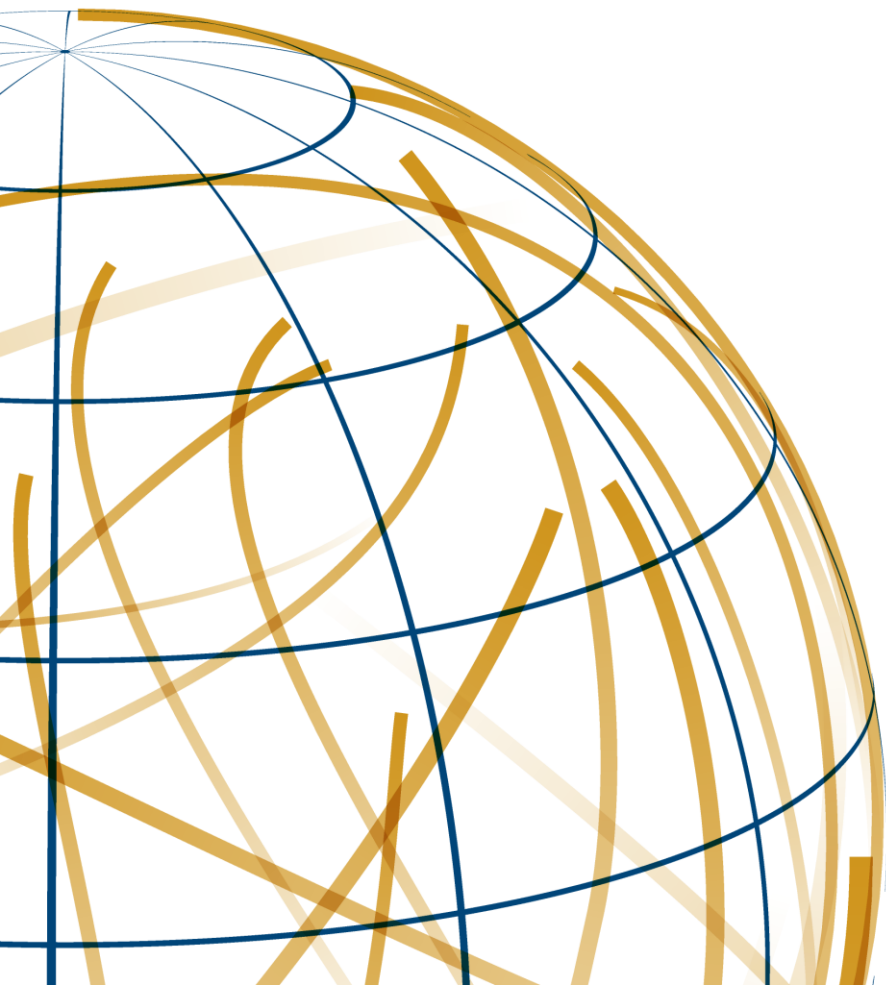*Susan Stewart*

Ukraine during the Russian War of Aggression

The Nexus between Internal Developments and EU Accession

- The Russian war of aggression has deepened relations between the EU and Ukraine. This can be seen, above all, in Ukraine's EU candidate status.
- Despite the war, Ukraine continues to pursue many reforms, even if their pace has slowed since February 2022.
- The strong concentration of power in the Office of the President negatively affects the separation of powers. It makes judicial reforms more difficult and hinders parliament's ability to exercise its functions.
- The war has weakened the power of oligarchs in Ukraine in many respects. Yet the form of governance in the country has not experienced a clear break from the past.
- Even during the invasion, the authorities are continuing their fight against corruption among the elite. The population perceives some progress, but high-level corruption remains a deep-rooted challenge.
- Civil society activities have changed both qualitatively and quantitatively as a result of the war and have become more significant since the invasion. Civil society engagement can be fostered with the help of returning Ukrainian migrants and through the involvement of Ukrainians abroad.
- Ukraine's municipalities will play a key role in reconstruction, or are doing so already. To ensure that reconstruction is successful in all its dimensions, municipalities should continuously be involved in the mechanisms and processes currently being developed.
- In order to meaningfully intensify Ukraine-EU relations, it is essential that rule of law be expanded and consolidated, not only in Ukraine, but also in the EU and its member states.

Susan Stewart

Ukraine during the Russian War of Aggression

The Nexus between Internal Developments and EU Accession

Table of Contents

Dr Susan Stewart is a Senior Fellow in the Eastern Europe and Eurasia Division at SWP.

Ukraine during the Russian War of Aggression: The Nexus between Internal Developments and EU Accession

In June 2022, the European Council granted Ukraine the status of a candidate country, thus bringing it politically closer to joining the European Union (EU) than ever before.

This development was made possible thanks to Ukrainians' courageous and determined responses to Russian aggression since 24 February 2022. Indeed, even sceptics within the EU were convinced to take this step after observing Ukraine's emphatic defence of the values of freedom, sovereignty and territorial integrity.

In December 2023, the European Council decided to begin the process of opening accession negotiations with Kyiv. The so-called screening process started in the end of January 2024 and included composing a list of laws that need to be harmonised with existing EU legislation and regulations prior to accession. In March, the European Commission proposed a negotiating framework, and in June, negotiations with Ukraine (and Moldova) were officially opened.

In light of the ongoing accession process on the one hand and the continuing war on the other, the question arises: Which conditions are in place in Ukraine that are relevant to its EU accession and how have these conditions evolved over the course of more than two years of war? This analysis aims to answer that question, firstly by exploring not only the country's capacity for reform during the war but also the concrete progress made over the last two years.

Secondly, it goes on to investigate the considerable changes that have occurred in Ukraine throughout the war. Ukraine's political sphere and (civil) society have had to adapt to the needs resulting from a large-scale invasion. Quantitatively, resources often flowed to war efforts instead of to reforms, while a series of qualitative changes also affected the landscape. Such shifts need to be taken into account when it comes to Ukraine's potential EU accession and EU-Ukraine relations as a whole.

Thirdly, both Ukraine and the EU see Ukrainian reconstruction as closely linked to the process of EU accession. Ukrainian actors' views on reconstruction will be decisive in charting the country's path towards

accession. How they organise the recovery institutionally and operationally will shape the nexus between EU accession and reconstruction as well as the character and pace of both processes. With that in mind, this analysis explores how Ukraine is positioning itself for reconstruction, which practical activities are already underway and what consequences these activities will have on accession. Particular focus will be placed on the municipal level.

The questions investigated here are interrelated and form a complex picture. First, it is clear that reforms are continuing successfully even in times of war. While the pace has slowed, progress towards reform has proven possible and should therefore be supported as the country charts its path to EU accession. In this regard, assistance will be indispensable, especially, as Ukrainian actors themselves readily admit, with respect to administrative capacities and negotiating expertise. This rings all the more true amid uncertainty about the implementation of the EU's new enlargement methodology.

Second, the war has not brought about a major shift in the mode of governance employed by Ukrainian elites. It is certainly true that a greater degree of centralisation of decision-making is to be expected and is indeed necessary in wartime, but in the Ukrainian context, this phenomenon has become disproportionately problematic. Networks and structures that could form the basis for a new post-war oligarchy are being created or fine-tuned. This could hinder achievement of the required tipping points for key reforms, particularly in the area of rule of law.

Thirdly, the war has changed (civil) society. Even compared to the post-2014 period, the number of people involved in various civil society activities has increased, and so have the areas in which they are active. Nevertheless, the portion of civil society's resources devoted to supporting reforms and monitoring their implementation has decreased as activities related to the war take precedence. Moreover, emerging societal fault lines make greater attention to social cohesion necessary. This dynamic situation offers the EU new opportunities for cooperation with Ukrainian civil society while also creating new challenges.

As far as reconstruction is concerned, more attention must be paid to the institutional architecture at the community level. Municipalities are developing different models of reconstruction; while some focus mainly on vertical connections, others emphasise horizontal ones. Their cooperation with Ukrainian and international funders also varies. One of the ongoing objectives of reconstruction should be to consistently ensure and deepen the meaningful involvement of local actors, whether authorities, civil society or entrepreneurs. At the same time, municipal structures should be strengthened, e.g. by continuing the decentralisation reform, which has so far been very successful, but remains incomplete. The link between reforms and reconstruction becomes clearer in this context, and the obstacles that prevent tipping points in reform processes from being reached become all the more significant. Impediments to further decentralisation need to be removed so that local actors can play the most effective role possible in rebuilding the country.

EU-Ukraine Relations in the Run-up to the Russian Invasion

Prior to Russia's annexation of the Crimean Peninsula and its covert invasion of the Donbas in spring 2014, relations between Ukraine and the EU revolved primarily around reform.[1] Since the 2000s, EU-Ukraine relations have been supported by action plans that provided for cooperation in numerous spheres in order to advance Ukrainian reforms. During the presidency of Viktor Yushchenko (2005−2010), the action plans were placed within the framework of an Association Agreement, which was negotiated over many years and only came fully into force in 2017.[2]

This focus was maintained even after the war begun by Russia in 2014. In this context, considerable efforts were made to work towards restoring Ukraine's sovereignty and territorial integrity in the framework of the so-called Normandy Format.[3] However, alongside Ukraine and Russia, the only EU member states involved in this format were Germany and France. The EU did participate together with the USA and Russia in conflict settlement talks in a different format in Geneva for a short time. In April 2014, the three parties even reached an agreement, but this was not followed up with any concrete steps to resolve the conflict.[4] Since then, the EU has not been involved in any formal conflict resolution endeavours regarding the Donbas.

Since 2009, Ukraine's integration into the Eastern Partnership (EaP) has resulted in additional areas of cooperation with the EU, e.g. concerning regional projects and civil society. However, Ukraine, like most of the countries taking part in the EaP, valued the bilateral dimension of cooperation with the EU more than the regional one. Kyiv tended to view its participation in the EaP as a downgrade of its relationship with the EU. Ukrainian politicians argued that their country already had the instruments offered by the EaP before its creation. For example, they pointed out that Ukraine had already begun negotiating an Association Agreement with the EU in 2007. For certain segments of Ukrainian civil society, however, the EaP was a welcome opportunity to expand their networks with representatives of EU institutions and to engage in an in-depth exchange with civil society organisations in other EaP countries.

Before the Russian invasion, the EU largely neglected the security dimension of its relations with Ukraine.

Security issues did not play a prominent role in the action plans, the Association Agreement or the EaP. Although the security situation in the region continued to deteriorate, the EU consistently neglected

---

1 For an analysis of the development of relations between the EU and Ukraine since 1991, see Susan Stewart, "Die Ukraine und die Europäische Union: Langsam aber sicher in Richtung Mitgliedschaft", *Ukraine – Portrait einer europäischen Gesellschaft*, ed. Susann Worschech (Baden-Baden: Nomos-Verlagsgesellschaft, 2024; forthcoming).

2 Even though the Association Agreement did not enter into force in its entirety until 2017, parts of it were provisionally effective at an earlier stage.

3 See, e.g., Sabine Fischer, *The Donbas Conflict. Opposing Interests and Narratives, Difficult Peace Process*, SWP Research Paper 5/2019 (Berlin: Stiftung Wissenschaft und Politik, April 2019), doi: 10.18449/2019RP05.

4 Wojciech Konończuk and Agata Wierzbowska-Miazga, *The Geneva (Dis)Agreement on Ukraine* (Waraw: Ośrodek Studiów Wschodnich/Centre for Eastern Studies [OSW], 24 April 2014), https://www.osw.waw.pl/en/publikacje/analizy/2014-04-24/geneva-dis-agreement-ukraine.

the security dimension.[5] Attempts at managing the protracted conflicts in Moldova, Georgia, Nagorno-Karabakh, and later in Ukraine achieved very little and were usually pursued by the Organization for Security and Co-operation in Europe (OSCE) or the United Nations rather than the EU.

It is therefore difficult for the EU to cope with the current situation. Indeed, its efforts in the South Caucasus in recent years have shown that at times it has the will, but not the power, to decisively influence developments in countries affected by conflict and war.[6] Nevertheless, the EU's previous experiences with both reform in Ukraine and enlargement are extremely important and useful. In this sense, the EU is well prepared for Ukraine's accession process. The Association Agreement has consolidated certain forms of cooperation between the EU and Ukraine in recent years, for example within the framework of the Support Group for Ukraine (SGUA), which closely accompanied and supported a wide range of reforms between 2014 and 2022.[7]

On the other hand, the lack of cooperation in the security sphere is now taking its toll,[8] affecting not only Ukraine but also the entire region. Russia's full-scale invasion shocked many EU member states. One result of the events was the expansion of the European Peace Facility (EPF), the vast majority of whose resources have so far been channelled to Ukraine.[9] It is undisputed that numerous EU member states have provided significant military support to Kyiv.[10] This demonstrates the capacity of the EU (and its member states) to react much faster than usual in crisis situations and to creatively use the instruments at their disposal.[11] However, this form of cooperation was neither well-established nor embedded in a broader approach centred around security policy. The recent conclusion of a series of joint EU-Ukraine security commitments may represent the beginning of such an approach, especially since they constitute one of numerous such agreements that Ukraine has recently signed with international partners.[12]

Discussions within the EU about a new round of enlargement are in full swing. Among other questions, there is heated debate about which EU reforms are necessary to prepare the Union for the admission of numerous new member states.[13] For various politi-

---

5 See, e.g., Gustav C. Gressel, *The Eastern Partnership's Missing Security Dimension* (Berlin: Zentrum Liberale Moderne, June 2020), https://libmod.de/wp-content/uploads/LibMod_PolicyPaper_EasternPartnership3.pdf.

6 The EU's weak influence in the South Caucasus has a long history. See, e.g., Tracey C. German, "Visibly Invisible: EU Engagement in Conflict Resolution in the South Caucasus", *European Security* 16, no. 3–4 (2007): 357–74, doi: 10.1080/09662830701751141; Laure Delcour and Katharina Hoffmann, "The EU's Policy in the South Caucasus", *L'Europe en formation* 385, no. 1 (2018): 7–25, https://www.cairn.info/revue-l-europe-en-formation-2018-1-page-7.htm; Stefan Meister, *Restoring EU Influence in the South Caucasus*, DGAP Online Commentary (Berlin: Deutsche Gesellschaft für Auswärtige Politik [DGAP], 31 January 2022), https://dgap.org/en/research/publications/restoring-eu-influence-south-caucasus.

7 From 1 February 2023, the SGUA was transformed into the Ukraine Service to take into account Ukraine's complex situation as a candidate country both at war and simultaneously pursuing reconstruction.

8 Although the EU Advisory Mission (EUAM) Ukraine has been in place since December 2014, it only deals with the civilian component of the security sector. Even if this component is relevant in times of war, experience to date has shown that it is difficult for external actors to tackle the core problems of the security sphere. See, e.g., Henrik Larsen, *CSDP Missions: Begrenzte Wirkung auf Reformen*, CSS Analysen zur Sicherheitspolitik, no. 279 (Zurich: Center for Security

Studies [CSS], ETH Zurich, March 2021), doi: 10.3929/ethz-b-000471671.

9 See European Council/Council of the European Union, *European Peace Facility*, https://www.consilium.europa.eu/en/policies/european-peace-facility/.

10 See the regularly updated Ukraine Support Tracker of the Kiel Institute for the World Economy: https://www.ifw-kiel.de/de/themendossiers/krieg-gegen-die-ukraine/ukraine-support-tracker/.

11 For a summary of EU support to Ukraine during the first year of the war, see Jan Joel Andersson and Clara Sophie Cramer, *EUISS Yearbook of European Security 2023* (Paris, 2023), 16–25, https://www.iss.europa.eu/content/yearbook-european-security-2023.

12 "Joint security commitments between the European Union and Ukraine", 27 June 2024, https://www.consilium.europa.eu/media/oredhmis/eu-ukraine-security-commitments-en.pdf. For more on the embedding of this and similar agreements in a larger context, see Mykhailo Soldatenko, *Getting Ukraine's Security Agreements Right* (Washington, D.C.: Carnegie Endowment for International Peace, 8 July 2024), https://carnegieendowment.org/research/2024/07/getting-ukraines-security-agreements-right?lang=en.

13 In Germany and France, much of the debate revolves around a controversial expert paper commissioned by the two governments, *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century* (Paris and Berlin, 18 September 2023), https://www.europeansources.info/record/sailing-on-high-seas-reforming-and-enlarging-the-eu-for-the-21st-

---

cal, security-related and economic reasons, Ukraine's accession would no doubt pose the most severe challenges for the EU. At the same time, of all current candidate countries, Ukraine arguably holds the greatest potential to positively contribute as a future member state.[14]

Obviously, the question of how the war between Russia and Ukraine ultimately ends is pivotal to the findings of this report. However, there are three reasons why the analysis was not postponed until then. Firstly, relations between the EU and Ukraine are continuing to develop even during the war, as was particularly evident when Ukraine was granted candidate status. Secondly, fostering a better understanding of more recent developments can help to shape the relationship between Ukraine and the EU in a more meaningful way, which in turn can impact the war. Thirdly, the EU makes accession more likely by standing by its conviction that Ukraine will join the Union and by acting on this assumption. This should lead to a further deepening of the mutual relationship over time, which in turn should have a favourable effect on accession negotiations.

century/. See, e.g., Roderick Parkes, "A Different Way of Thinking about EU Enlargement and Reform", *Internationale Politik Quarterly*, 28 September 2023, https://ip-quarterly.com/en/different-way-thinking-about-eu-enlargement-and-reform. Outside of these two states, the willingness for far-reaching reform of the EU is often much lower. See, e.g., Piotr Buras and Engjellushe Morina, *Catch-27: The Contradictory Thinking about Enlargement in the EU*, ECFR Policy Brief (European Council on Foreign Relations [ECFR], 23 November 2023), https://ecfr.eu/publication/catch-27-the-contradictory-thinking-about-enlargement-in-the-eu/.

14 On the consequences of Ukraine's accession to the EU see, e.g., Raphael Bossong et al., *Der mögliche EU-Beitritt der Ukraine und seine Konsequenzen*, 360 Grad (Berlin: Stiftung Wissenschaft und Politik, 6 July 2022), https://www.swp-berlin.org/publikation/der-moegliche-eu-beitritt-der-ukraine-und-seine-konsequenzen. On the economic consequences, see Miriam Kosmehl and Stefani Weiss, *Outlier or Not? The Ukrainian Economy's Preparedness for EU Accession* (Gütersloh: Bertelsmann Foundation, 15 November 2023), https://www.bertelsmann-stiftung.de/en/our-projects/sovereign-europe/project-news/outlier-or-not-the-ukrainian-economys-preparedness-for-eu-accession.

Reforms during Wartime

In order to join the EU, Ukraine must fulfil the so-called Copenhagen criteria,[15] according to which it must not only have stable democratic institutions and functioning rule of law, but also an established market economy. It must also adopt all parts of the *acquis communautaire* present at the moment of accession. Ensuring this is the objective of the accession process, which ascertains, *inter alia*, whether the candidate country has fulfilled the relevant requirements in all areas of the *acquis*, which is divided into chapters such as transport, health, agriculture, etc. Since 2020, the chapters have been combined into clusters in order to make the process less fragmented and to reduce the number of necessary Council decisions.[16]

The so-called Ukraine Plan constitutes an important framework for driving reform forward.

To this end, the so-called Ukraine Plan will be an important framework for driving reform. The Plan was drawn up by the Ukrainian government and includes a strategy for reforms that is not only related to EU accession, but also to the challenges of reconstruction. On 15 April 2024, the European Commission approved the Plan. This means that planned monthly payments from the Ukraine Facility can flow to Kyiv.[17]

Assessments by the European Commission

The Association Agreement between the EU and Ukraine, which has been fully in force since September 2017, incorporated many parts of the *acquis*. Therefore, one key question is how far the implementation of this agreement has progressed. The answer to this question provides an indication of how long the accession process will take,[18] as well as the areas in which Ukraine could first achieve partial integration in the sense of a staged accession.[19]

Both the Association Agreement and the accompanying Deep and Comprehensive Free Trade Area (DCFTA) agreement provide for a comprehensive institutional framework for bilateral dialogue.[20] A moni-

---

15 See accession criteria (Copenhagen criteria), https://eur-lex.europa.eu/DE/legal-content/glossary/accession-criteria-copenhagen-criteria.html.

16 European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Enhancing the Accession Process – A Credible EU Perspective for the Western Balkans*, COM(2020) 57 final (Brussels, 5 February 2020), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:520 20DC0057.

17 See Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), "Commission Endorses Ukraine Plan, Paving the Way for Regular Payments under the Ukraine Facility", 15 April 2024, https://neighbourhood-enlargement.ec.europa.eu/news/commission-endorses-

ukraine-plan-paving-way-regular-payments-under-ukraine-facility-2024-04-15_en. For the text of the Ukraine Plan see *Ukraine Plan 2024–2027*, http://www.ukrainefacility.me.gov.ua/wp-content/uploads/2024/03/ukraine-facility-plan.pdf.

18 On Ukraine's performance compared to previous EU candidate countries (current member states), see Miriam Kosmehl et al., *Ukraine and the EU: How to Keep Up the Accession Momentum* (Berlin: Zentrum Liberale Moderne, October 2023), chapter 3, https://libmod.de/en/ukraine-and-the-eu-how-to-keep-up-the-accession-momentum/.

19 "Staged accession" refers to an accession model in which candidate countries move closer to the EU in phases and receive both opportunities for institutional participation and financial support in return for increasing reform steps. See, e.g., Milena Mihajlović et al., *Template 2.0 for Staged Accession to the EU* (Brussels: Centre for European Policy Studies, 28 August 2023), https://www.ceps.eu/ceps-publications/template-2-0-for-staged-accession-to-the-eu/.

20 This primarily concerns the Association Council, which is responsible for monitoring the implementation of the Association Agreement. Within this framework, there is also a committee that organises the meetings of the Council, as well as another committee that brings together members of the European Parliament and the Parliament of Ukraine (Verkhovna Rada) on association issues. See "Bilateral Institutions of the Association Agreement between Ukraine and the EU", *Government Portal* (Ukraine), https://www.kmu.gov.ua/en/yevropejska-integraciya/ugoda-pro-asociacyu/dvostoronni-ustanovi-ugodi-pro-asociaciyu-mizh-ukrayinoyu-ta-yes.

toring procedure has also been set up to track Ukraine's progress vis-à-vis the *acquis*. This means that the EU has assessed the implementation of the Association Agreement every year since 2016, which allows Brussels not only to assess the current level of implementation, but also to determine changes in its tempo over the years. It is therefore possible to determine the extent to which the pace has slowed since the start of the full-scale invasion on 24 February 2022.

The European Commission's last assessment of Ukraine's progress under the Association Agreement prior to the Russian invasion was released on 22 July 2022.[21] The Commission's aim here appears to have been to record the status of implementation of the agreement up to February 2022 and to emphasise that the invasion had not altered Ukraine's European orientation.

In its progress report of 8 November 2023, the European Commission moved from an evaluation of the implementation of the Association Agreement to a more global assessment.[22] As Ukraine is now a candidate country, its performance is evaluated in terms of the entire EU *acquis* rather than simply referring to the Association Agreement and the DCFTA. The Commission sees progress in the key area of rule of law and emphasises that such progress has continued or even increased since the Russian invasion. This applies, among other things, to judicial reform and the fight against corruption, where Ukraine is at the stage of "some level of preparation".[23] In the economic sector, however, hardly any reforms have been implemented, mainly due to the Russian aggression. Thus, Ukraine is positioned between "early stage" and "some level of preparation" when it comes to the market economy. Its ability to withstand competitive pressure and market economy forces in the EU is still at the "early stage". This assessment alone indicates that Ukraine still has a long way to go before it fulfils the Copenhagen criteria.

Because time was of the essence when deciding on Ukraine's application for membership, the European Commission published a report in June 2022 with more general conclusions on the status of Ukraine's preparedness for EU membership. This was the Commission's response to Ukraine's application for EU membership that was submitted on 28 February 2022, just days after the start of the invasion. In this context, seven steps were outlined that Ukraine needed to take in order to fulfil the conditions for opening accession negotiations from the EU's perspective. Overall, the Commission came to the following conclusion:

"Ukraine has gradually approximated with the EU *acquis* included in the AA/DCFTA and has an overall satisfactory track record of implementation, though progress is uneven and delays in meeting the ambitious times lines in the AA/DCFTA have been frequent. Pending a fully-fledged analysis of all chapters to be carried out at a later stage in the process, the analysis provides examples of chapters in the clusters in which Ukraine has achieved particularly good results and highlights areas where there has been a limited approximation to the *acquis*."[24]

With this report, the Commission succinctly summarised the status of Ukraine's reform efforts, insofar as they were relevant to EU accession. Firstly, it assessed Ukraine's efforts as satisfactory overall, which is not insignificant in informing the decision to grant candidate status. Secondly, the Commission noted that progress had been uneven and that the originally envisaged timeframes for the implementation of measures usually could not be met. This is important, as it dampens future expectations and indicates that there are areas where necessary reforms are blocked. This in turn highlights the need to understand the origins of the obstacles and how they can be overcome.

21 European Commission, *Joint Staff Working Document, Association Implementation Report on Ukraine,* SWD(2022) 202 final (Brussels, 22 July 2022), https://www.eeas.europa.eu/sites/default/files/documents/Association%20Implementation%20Report%20on%20Ukraine%20-%20Joint%20staff%20working%20document.pdf.

22 DG NEAR, *Ukraine Report 2023* (Brussels, 8 November 2023), https://neighbourhood-enlargement.ec.europa.eu/ukraine-report-2023_en.

23 This assessment distinguishes five stages of preparation: 1) Early stage; 2) Some level of preparation; 3) Moderately prepared; 4) Good level of preparation; 5) Well advanced. See European Stability Initiative (ESI), *Scoreboard. The True State of Accession. What the Commission Assessments Reveal*, ESI Background Paper (Berlin, Brussels and Istanbul, 17 March 2023), https://www.esiweb.org/publications/scoreboard-true-state-accession-what-commission-assessments-reveal.

24 DG NEAR, *Opinion on Ukraine's Application for Membership of the European Union*, (Brussels, 16 June 2023), 17, https://neighbourhood-enlargement.ec.europa.eu/opinion-ukraines-application-membership-european-union_en.

Thirdly, the Commission recognises that a full analysis of Ukraine's performance has not yet been carried out. With its assessment of February 2023[25] and its annual November 2023 progress report, the Commission compensated for the lack of analysis on the missing areas. These documents give no reason to deviate from the Commission's general conclusion articulated above. Ukraine has an astonishing reform record considering that it is in an intensive, ongoing war. Nevertheless, it is still relatively far from fulfilling the Copenhagen criteria and adopting the *acquis* as a whole.

It should be noted that the reports are limited in that they exclude assessment of those parts of Ukrainian territory outside Ukrainian control. The implementation of the Association Agreement in the occupied territories is certain to lag far behind that in the other areas. Taking into account the degree of destruction caused by the war in those territories, as well as Russia's efforts to impose its own bureaucracy and values there, it will be difficult to avoid starting the implementation from scratch in those areas. However, it seems just as plausible to assume that the experience of implementing the Agreement in the controlled parts of the country will prepare Ukraine to quickly bring the other territories up to speed once they are recaptured.[26] Nonetheless, this presupposes widespread popular consent, which will not be easy to achieve, particularly due to Russia's intensive propaganda operations in recent years.[27]

Assessments by the Ukrainian government

The European Commission draws on a variety of sources in its progress reports.[28] Nevertheless, it is useful to look at other assessments of Ukraine's reform efforts as well, firstly because they can reveal domestic perspectives on the reforms within Ukraine and secondly because they shine a light on the contribution of Ukrainian civil society actors to the reforms (and to their evaluation). The Ukrainian government also publishes annual reports on the implementation of the Association Agreement that are compiled by the Office of the Deputy Prime Minister for Euro-Atlantic Integration.[29] Based on a quantitative evaluation of the documents that have been adopted or agreed to in various areas of the Association Agreement, these reports release a percentage figure that is intended to represent the implemented proportion of the Agreement.

This percentage has increased each year, which seems logical considering that the Ukrainian government makes continuous efforts to push ahead with implementation. Even in 2022, the first year of the war, it managed to increase the percentage by nine points to 72 per cent. The latest report, which covers 2023, reports 77 per cent implementation.[30] However, even if one accepts these assessments, the European Commission's report makes it clear that Ukraine still has a long way to go in adopting the entire EU *acquis* even after it has fully implemented the Association Agreement. Although the EU progress reports are structured according to a different system and do not provide an overall percentage, the degree of implementation is nevertheless assessed according to a five-

25 This analytical report, dated shortly before the EU-Ukraine summit in February 2023, assesses Ukraine's capacity to fulfil the obligations of an EU member state. This document is explicitly understood as being complementary to the Commission's opinion of 17 June 2022. European Commission, *Commission Staff Working Document. Analytical Report Following the Communication from the Commission to the European Parliament, the European Council and the Council. Commission Opinion on Ukraine's Application for Membership of the European Union*, SWD(2023) 30 final (Brussels, 1 February 2023), https://neighbourhood-enlargement.ec.europa.eu/commission-analytical-report-ukraines-alignment-eu-acquis_en.
26 This depends on attitudes in the area, however. In all areas where fundamental popular perceptions are at stake (with respect to rule of law and fundamental freedoms, for example), it may take much longer to effectively implement reforms as a result of Russian disinformation in the occupied territories.
27 The problems arising here are difficult to foresee and depend, *inter alia*, on how many people — following these territories' return to Ukrainian control — emigrate to Russia

and how many come back to these areas from other parts of Ukraine or abroad.
28 These sources include information from the Ukrainian government, EU member states, the European Parliament, international organisations and non-governmental organisations.
29 The reports (in Ukrainian and English) can be found at "Reports on the Implementation of the Association Agreement between Ukraine and the EU", *Government Portal* (Ukraine), https://www.kmu.gov.ua/diyalnist/yevropejska-integraciya/vikonannya-ugodi-pro-asociaciyu/zviti-pro-vikonannya-ugodi-pro-asociaciyu.
30 *Report on Implementation of the Association Agreement between Ukraine and the European Union for 2023*, https://eu-ua.kmu.gov.ua/wp-content/uploads/Report-on-implementation-of-the-Association-Agreement-between-Ukraine-and-the-European-Union-for-2023.pdf.

point scale whereby "early stage" corresponds to the lowest category (1 point) and "well advanced" to the highest (5 points). Seeing that Ukraine averages around two points ("some level of preparation"), this roughly corresponds to around 40 per cent preparedness for accession.[31] It must be noted, however, that the European Commission's progress report evaluates Ukraine's performance in relation to the entire *acquis*, not just the Association Agreement and DCFTA.

Unrealistic expectations in Ukraine regarding the speed of EU accession need to be tempered.

Overall, Ukraine's assessments (both verbal and written) tend to be more positive than those of the Commission. One reason for this may be that Kyiv wants to present its reforms in the best possible light. It may also be due to the fact that the Ukrainian government is more immediately aware of the progress that it is making. However, if these differences of opinion continue over the upcoming years, problems could arise. Firstly, the Ukrainian population is more likely to be aware of Ukrainian reports than of those coming from the Commission. As a result, Ukrainians may have exaggerated expectations regarding EU-Ukraine convergence and the accession timeline. Indeed, the Ukrainian government has fuelled these unrealistic expectations. For example, Prime Minister Denys Shmyhal issued a statement in 2022, announcing that Ukraine would be able to fulfil all obligations necessary for accession within just two years.[32] Secondly, the Ukrainian government will be much more convinced that Ukraine is ready for accession than the European Commission, particularly when it comes to the implementation of the Association Agreement. This may create tension in the future. It is clear that, from the perspective of the EU and its member states, the Commission's reports carry much more weight than those of the Ukrainian government. Therefore, in order to avoid unpleasant surprises, it would be wise for the Ukrainian side to reflect on the reasons for any discrepancies between the two assessments and to adapt its own approach if necessary. Shifting focus from the Association Agreement to achievements within the *acquis* overall offers an opportunity for more consistent messaging.

The reports issued by the Ukrainian government make it clear that Ukraine has not only achieved a great deal in terms of converging with the EU over the years, but also that the implementation of the Agreement is now being analysed and evaluated more systematically. For example, reporting on reform progress has continued across several presidents and governments, and a mechanism has been developed whereby relevant Ukrainian ministries have been able to regularly provide comparable information on the status of their respective reform areas. None of this should be taken for granted in the Ukrainian political context. Such reporting began at a time when the Association Agreement had not even entered into force, meaning that Ukraine assumed responsibility for reporting in advance and of its own accord. The same applies to the accession process, whereby the Ukrainian government carried out a kind of self-screening before the European Council even decided to open accession negotiations. In that instance, the Ukrainian government evaluated its progress in all areas of the *acquis* and specified areas where work was still needed.[33] This provided a helpful basis for the opening of negotiations with the EU in June 2024.

In the Commission reports on the implementation of the Association Agreement in recent years, it is striking that Ukraine rates its performance in the area of "justice, freedom, security and human rights" particularly high (92 per cent implemented in 2023). These categories include many of the essentials needed to establish the fundamentals of rule of law, and comprise one part of the first cluster of issues being addressed during accession negotiations since 2020. To be precise, this cluster includes judicial reform, functioning democratic institutions, reform of public administration and security structures, respect for human rights, and so forth. It is exactly in these and related areas that the EU has repeatedly noted Ukraine's considerable deficits and sluggish pace in remedying them due to the existence of powerful vested interests. These areas are important, not

---

31 See DG NEAR, *Ukraine Report 2023* (see footnote 22).

32 Suzanne Lynch, "Ukraine Wants to Join EU within Two Years, PM Says", *Politico*, 30 January 2023, https://www.politico.eu/article/ukraine-eu-membership-two-years-prime-minister-denys-shmyhal/. This was later repeated by the Deputy Prime Minister for Euro-Atlantic Integration Olha Stefanishyna. Lisa O'Carroll, "Ukraine Doesn't Want Sympathy Vote on Joining EU, Says Deputy PM", *The Guardian*, 6 November 2023, https://www.theguardian.com/world/2023/nov/06/ukraine-joining-eu-reforms.

33 *Report on the Initial Assessment of the Progress in the Implementation of the European Union Legal Acts (EU Acquis)*, https://www.kmu.gov.ua/storage/app/sites/1/55-GOEEI/zvit_EN.pdf.

just in and of themselves, but because they can constitute the foundations of decisive reform in other spheres. With this in mind, the reasons behind the significant differences between Ukraine's self-assessment and the EU's evaluations will need to be clarified.

In addition to its regular reporting, the Ukrainian government has endeavoured to make its actions and progress accessible to the Ukrainian public on a website entitled "The pulse of the Agreement" [Pul's uhody].[34] Here, one can easily follow the progress made in various areas at a glance. Even though parts of the website have not been maintained in recent years, it remains a useful source of information.[35] Before Russia invaded in February 2022, the Ukrainian government also planned to set up European integration offices in several regions across the country, thus indicating its desire to inform broader segments of the population about EU-Ukraine relations in general and the Association Agreement in particular.[36]

Assessments from Ukrainian civil society

Ukrainian civil society efforts to evaluate the implementation of the Association Agreement also deserve attention. Their work provides a counterpoint to that of the Ukrainian government and can help to pinpoint problematic areas or confirm that certain spheres have been adequately addressed from an expert perspective. In this regard, two types of assessments in recent months and years are particularly noteworthy, namely those found in the work led by the New Europe Center (NEC) on the seven recommendations of the European Commission and that conducted by the Ukrainian Centre for European Policy (UCEP) on the implementation of the Agreement as a whole.[37]

The NEC is a Ukrainian think tank that has published numerous analyses on the topic of EU integration and NATO-Ukraine relations. It can rely on well-established networks within government circles and Western countries and often organises events and discussions. Of particular interest here is the so-called Candidate Check, an assessment of the implementation of the steps towards accession recommended by the European Commission in June 2022. Since that time, the NEC has evaluated Ukraine's implementation of the measures five times, noting significant progress.

During the first Candidate Check in August 2022, the NEC issued only 4.4 out of a possible 10.0 points, while the fifth Check in September 2023 saw this score rise to 8.1 points.[38] Within this assessment, even the required reform of the Constitutional Court, which the NEC had previously labelled a failure, received 6.0 points. Other reforms also received high ratings, with those in the areas of justice, anti-corruption, media and national minorities receiving between 8.0 and 10.0 points. Only the reform in the fight against money laundering faltered, at 6.0 points. The NEC relies on the opinions of experts in making these determinations.

Nonetheless, the NEC does not assess deoligarchisation, which is addressed in one of the seven EU recommendations. The reason for this is the EU's demand that the recommendations of the European Commission for Democracy through Law (a Council of Europe institution commonly known as the Venice Commission) be taken into account when revising Ukraine's so-called anti-oligarch law. These recommendations were not published until June 2023 and they call for the law to be abandoned in its current form in favour of a systematic approach that would require a number of changes in various areas, including levelling the economic playing field. Because these measures go far beyond the Commission's original request and cannot be introduced in the short term, the NEC excludes deoligarchisation in its assessments and calls on the European Commission to do the same.[39]

---

34 See https://pulse.kmu.gov.ua/.

35 As of early June 2024, documents on the website had not been updated, and since 2020 neither had the information on implementation by actor (cabinet of ministers, parliament, other bodies). However, other areas were up-to-date.

36 *Report on Implementation of the Association Agreement between Ukraine and the European Union in 2019. Results and Plans*, 5, https:// www.kmu.gov.ua/storage/app/sites/1/zviti-pro-viko nannya/aa-implementation-2019-4-eng.pdf.

37 My special thanks go to Lyubov Akulenko, the director of UCEP, for her insights into Ukraine's progress on the Asso-

ciation Agreement/DCFTA, as well as on the criteria for UCEP's assessment.

38 *Candidate Check-5: Where Ukraine is in the implementation of 7 EU recommendations* (Kyiv: New Europe Center, 27 September 2023), http://neweurope.org.ua/en/analytics/kandydat-check-5-de-ukrayina-perebuvaye-u-vykonanni-7-rekomendatsij-yes/.

39 In its November 2023 report (see note 22) the European Commission positively assessed Ukraine's progress with respect to the seven steps. Four additional steps, which were

The Ukrainian Centre for European Policy (UCEP) goes beyond analysing the Commission's recommended seven steps. It was founded in 2015 "to promote reforms in Ukraine for sustainable economic growth and to build an open society in partnership with institutions at all levels".[40] UCEP continuously works on questions of implementation of the Association Agreement, and in May 2023, a team of UCEP authors published a lengthy report on Ukraine's integration into the EU under wartime circumstances.[41]

The report focussed on certain sectors that are of critical importance in wartime and of considerable relevance for Ukraine's integration into the EU. These are: firstly, the rule of law, particularly reform of the judicial system, and secondly, trade. Because of the war, trade with neighbouring countries within the EU (including Romania and Bulgaria) has become particularly important. The report particularly excels in two areas. First, it sets realistic priorities that can be tackled immediately within the almost unmanageable *acquis communautaire*. Secondly, it combines two objectives, namely the needs resulting from the war and rapprochement with the EU. Thus, the analysis (and the work of UCEP as a whole) is an essential complement to the assessments of the European Commission and the Ukrainian government.

With the support of the Konrad Adenauer Foundation, UCEP has also published an analysis explaining, *inter alia*, its research methods.[42] The methodology used takes into account not only the formal adoption of the *acquis* within Ukrainian legislation (transposition), but also its implementation in practice. Firstly, it examines the extent to which the relevant authorities have the institutional, financial and human resources to enforce the new regulations. Secondly, it considers options for monitoring, sanctions and flexibility, in case it should be necessary to modify any given policy. Seeing that implementation of laws in Ukraine is often inadequate, the analysis's separation of these two steps lends credence to its con-

clusions. This approach provides one explanation for the differences between the assessments of UCEP and the Ukrainian government, as the latter does not explicitly make this distinction.

UCEP's approach is also convincing in the sense that it not only argues for the introduction of new laws and regulations, but also calls for the cancellation of previous documents that are still in force despite contradicting the *acquis*. Other assessments of the implementation of the Association Agreement do not address this issue, which, if left unchecked, runs the risk of creating a jumble of contradictory legal texts that will become increasingly unwieldy over time. This also generates opportunities for stakeholders wishing to challenge the implementation of part of the *acquis*, as they can rely on older laws that are not in line with the *acquis* but are still in force.

UCEP's report on Ukraine's integration into the EU during wartime covers the implementation of the Association Agreement, including the DCFTA, during the second half of 2021 and the whole of 2022, thus allowing part of the period during the full-scale Russian invasion to be compared with the one immediately prior. The authors note that Ukraine had implemented 55 per cent of the relevant parts of the agreement as of 2022, six percentage points more than at the start of evaluation period.

The war has slowed the reforms, but not brought them to a standstill. Kyiv continues to drive them forward.

According to the same report, the war had two effects on the reforms associated with the Agreement. Firstly, their pace slowed because most resources had to be channelled into tasks related to the war. Secondly, due to the destruction caused by the war, the already achieved changes required by the Agreement (for example in infrastructure) could only be maintained, at best. Progress during the first year of the war was hardly possible, in part due to the loss of personnel, some of whom went abroad and some of whom joined the armed forces. In addition, key control functions (for example, with regard to public procurement and state subsidies) were eliminated, and overall transparency diminished in many areas. In addition, according to the authors, political will to complete key reforms in important areas such as decentralisation, anti-corruption, justice, law enforcement and the civil service was already lacking before the war. Nevertheless, a number of laws were passed

subsequently specified, are also considered to have been largely implemented.

40 See UCEP's website, https://ucep.org.ua/en.

41 *A Realistic Path towards Ukraine's Accession to the EU* (Kyiv: Ukrainian Center for European Policy [UCEP], June 2023), https://ucep.org.ua/en/doslidzhennya/a-realistic-path-towards-ukraines-accession-to-the-eu.html.

42 *Ukraine and the Association Agreement. Implementation Monitoring 2014–2022* (Kyiv: UCEP, 2023), https://ucep.org.ua/en/doslidzhennya/ukraine-and-the-association-agreement-implementation-monitoring-2014-2022.html.

in 2022 that are crucial for the implementation of the Agreement. However, this means that the list of secondary legislation documents required for practical implementation has grown considerably longer.

The Ukrainian non-governmental organisation Vox Ukraine confirms the difficulties facing reform in Ukraine in times of war. It regularly publishes a reform index that clearly shows fluctuations in the pace of reform. Since the start of the Russian invasion in February 2022, on average, the speed of reforms has fallen sharply. Measuring the pace of reform on a scale of -5.0 to +5.0, with 0.0 representing stagnation, Vox Ukraine has not assessed the pace of reforms as greater than +1.5, while specifying +2.0 as the minimum acceptable tempo.[43] However, amid ongoing and intense warfare, it is surprising that work on the implementation of the Agreement has not been completely suspended; on the contrary, it is clearly continuing to be pursued in many areas. This speaks to both the ability of the Ukrainian bureaucracy to function during a major war and the high priority Kyiv assigns to its relations with the EU.

Taken together, the above reports point to a number of developments. First, reform efforts in Ukraine are progressing despite the war, even if, second, the pace of reform has inevitably slowed as a result. Third, progress is primarily achieved when there is a limited list of precise expectations that can be met in the short term. Fourth, the rule of law remains one of the most difficult areas to achieve successful and complete reforms. Fifth, and most important, is the realisation that even in the current situation it is possible for the EU and Ukraine to move forward with the existing components of their relationship, i.e. to tackle reforms in the context of working towards Ukraine's accession to the EU.

From this perspective, the European Council's decision to open accession negotiations appears justified, and not purely for geostrategic reasons. However, it would be unrealistic to expect rapid progress on reforms in the coming months. A direct link between the emergence of opportunities to strengthen reform and Western backing is evident in this context. The more resolutely Western states and organisations support Ukraine militarily, the more quickly a situation can arise in which rapid reforms are feasible. As the first months of 2024 clearly showed, a lack of military support will result in the Russian armed forces advancing further into Ukrainian territory. Due to the volatile and often unfavourable developments on Ukraine's frontline, it has become necessary to focus almost exclusively on defensive measures. In addition, morale is deteriorating in the armed forces and society at large.[44] Both developments create extremely difficult conditions for further reform. If the Russian side achieves additional territorial gains, this will further complicate the implementation of reforms on several levels, not least in a geographical sense. Increased military aid is therefore a contributing factor to the success of Ukraine's reform agenda.

---

43 See Vox Ukraine, *Reform Index: Path of Reforms*, https://voxukraine.org/en/category/imore-en. This refers to the pace of all areas of reform taken together.

44 The Ukrainian incursion in the Kursk region of Russia beginning in August 2024 has given a boost to morale and shown that the Ukrainian armed forces are capable of successful surprise operations. However, the medium- and long-term implications of the incursion are difficult to predict and, taken by themselves, seem unlikely to include a fundamental alteration of the war's trajectory.

The Evolution of Ukrainian Governance since 2022

Prior to the Russian invasion in February 2022, the Ukrainian elite had an ambivalent attitude towards their country's rapprochement with the European Union. On the one hand, many members of the political and economic elite were interested in further deepening relations with the EU for geopolitical and economic reasons. On the other hand, some of the same people were often unwilling to take certain steps towards reform that might have led to a breakthrough in relations, because these steps would jeopardise their own particular interests. This is especially true in the area of the rule of law and points to structural features of Ukrainian politics. Probably the most serious of these is a form of oligarchic governance, in which cronyism, systemic corruption, problematic interconnections between the political and economic realms, and impunity for illegal behaviour are prevalent.[45]

As a result of the elites' ambivalence, the relationship between the EU and Ukraine was characterised by somewhat contradictory developments. In some areas, steady progress was possible. For example, a visa-free regime for Ukrainian citizens' short tourist stays in the EU was successfully implemented. At the same time, however, obstacles were repeatedly encountered in other spheres, meaning that no larger breakthroughs were achieved.[46] Instead, the focus was often placed on developments within the framework of the Minsk agreements and attempts to put an end to the war in the Donbas.[47]

Since the beginning of the full-scale invasion, a completely new situation has emerged. Ukrainian elites have had to adapt to the domestic and foreign policy parameters imposed by the war. However, there is little evidence that the war has led to a systemic change in Ukrainian politics or economic affairs. Overall, the picture is mixed. On the one hand, certain disturbing developments are being fuelled by the war. On the other hand, efforts to implement further reforms that tackle key issues are progressing despite the war. Nonetheless, the main elements of the Ukrainian mode of governance which were problematic even before the war (not only under current Ukrainian President Volodymyr Zelensky) persist, and they continue to prevent systemic change from occurring.

Separation of powers

As occurs in many other countries at war, power has become more centralised in Ukraine. The role of the president and his closest associates has become almost omnipresent. It should be recognised here that presidents have typically striven for ever more power and authority in Ukraine. Even if the country is a "parliamentary-presidential republic" according to the constitution, and the importance of the parliament is undeniable, Ukrainian politics usually emphasises the "presidential" over the "parliamentary". Because war generally requires unusual and especially rapid decisions, centralisation focussing on the president can currently be seen as unavoidable.

---

45 See, e.g., John Lough, *Ukraine's System of Crony Capitalism. The Challenge of Dismantling "Systema"*, Chatham House Research Paper (London: Chatham House, July 2021), https://www.chathamhouse.org/2021/07/ukraines-system-crony-capitalism.

46 Obstacles and a lack of interest on the part of the EU were also apparent, but this is not the subject of this analysis. See, e.g., Andrew Wilson, "Has Europe Forgotten about Ukraine?" *Eurozine*, 11 January 2016, https://www.eurozine.com/has-europe-forgotten-about-ukraine/.

47 See Fischer, *The Donbas Conflict* (see note 3). The so-called Normandy Format, in which negotiations on the situation in the Donbas repeatedly took place, consisted of Germany, France, Ukraine, and Russia, but not the EU.

Nevertheless, it is clear that the president and his team have become accustomed to their additional powers and that this will have consequences beyond the war (even if a new president is elected). Alongside the typical tendency of Ukrainian presidents to attempt to increase their power, a shift in the balance of power in politics and society is occurring. The role of state institutions outside the presidency has also changed as a result of the war. The parliament (the Verkhovna Rada) has become weaker and less visible since the Russian invasion. It is impressive and commendable that the Rada continues to function and to pass numerous legislative acts necessary for the conduct of the war and for EU integration in the current challenging context. However, a number of developments have severely limited its role.

For example, parliamentary sessions may no longer be publicly broadcast for security reasons.[48] This has reduced transparency in the legislature. In addition, the composition of the Rada has changed.[49] Some parties categorised as pro-Russian were banned.[50] While this did not result in elected representatives from these parties being stripped of their mandates, it did mean that they had to reorient themselves. Some left the Rada of their own accord or under pressure, while others switched to the pro-presidential camp. Often those who left could not be replaced, as it is not possible to hold elections under martial law.[51] The opposition is therefore in a completely different situation than before the war, not to mention the fact that much of the opposition supports the government on most issues out of solidarity, or at least does not openly criticise it, even if this has begun to change after over two years of fighting.

Not only the Rada, but also the judiciary has undergone significant changes due to the war. However, even before February 2022, the judiciary did not act independently in many respects. Important segments of the judicial apparatus were de facto under the (informal) control of the president. This dominance of the executive over the judiciary has a long tradition in Ukraine and is therefore not solely a problem of Zelensky's presidency.[52] Still, as a result of the war, this dependence has increased rather than decreased, even though some aspects of judicial reform have continued. The strong role of the president and his team thus extends to relations with the courts and secures their influence there.

Because the judiciary lacks independence, judicial reform is one of the EU's priorities. This is evident from the seven recommendations of the European Commission published in June 2022, which Ukraine had to take into account before accession negotiations could be opened. This ongoing focus on judicial reform, together with the determination of some Ukrainian actors to conduct such reforms, has led to various steps being taken to strengthen or restore the functioning of the justice sector. This means, among other things, that the justice sector is in a transitional phase and is therefore not fully functional.[53] Its dependence on the executive in combination with the ongoing reform means that in particular the highest courts and judicial bodies are struggling to adequately fulfil their tasks. This holds especially true for the Constitutional Court and the Supreme Court.

---

48 A majority of Ukrainians are now in favour of reintroducing public broadcasts of parliamentary sessions. Stanislav Pohorilov, "Majority of Ukrainians Want Parliamentary Session Broadcasts to Return", *Ukrainska Pravda*, 8 January 2024, https://www.pravda.com.ua/eng/news/2024/01/8/7436299/.

49 Of 450 members of the Rada, only 401 are still officially in office today. See "Statystychni dani" [Statistical data], 1 February 2024, https://vrkadry.rada.gov.ua/news/dijalnist/kadr_zab_dep/72929.html. The empty seats either could not be filled in 2019 because Russia had occupied the representatives' constituent territories or the corresponding MPs left without a replacement for various reasons during the full-scale war since 2022. See "Decline of MPs during the War: Why is the Number of MPs Decreasing?" *Agency for Legislative Initiatives*, 23 October 2023, https://parlament.org.ua/en/analytics/decline-of-mps-during-the-war-why-is-the-number-of-mps-decreasing/.

50 "Zelenskiy Signs Law Banning Pro-Russian Political Parties in Ukraine", *Radio Free Europe/Radio Liberty*, 14 May 2022, https://www.rferl.org/a/ukraine-law-bans-pro-russia-parties-zelenskiy-signs/31849737.html.

51 Ukraine has a mixed electoral system, according to which half of the parliament is elected by party lists and the other half in individual constituencies. Representatives elected by list can be replaced by another candidate on the list, even in times of war. However, directly elected representatives may not be replaced, as this would require a new election.

52 See Maria Popova and Daniel J. Beers, "No Revolution of Dignity for Ukraine's Judges: Judicial Reform after the Euromaidan", *Demokratizatsiya: The Journal of Post-Soviet Democratisation* 28, no. 1 (2020): 113−42, https://muse.jhu.edu/article/747827.

53 Oleg Sukhov, "Judicial Reform in Limbo as only Few Tainted Judges Are Fired or Convicted", *The Kyiv Independent*, 27 November 2023, https://kyivindependent.com/judicial-reform-in-limbo-as-only-few-tainted-judges-are-fired-or-convicted/.

In 2020, the Constitutional Court declared a number of anti-corruption laws unconstitutional, most notably the law on asset declarations, which many civil servants were required to submit.[54] The president of the Constitutional Court at the time, Oleksandr Tupytsky, who had a personal interest in this decision, was removed from office by Zelensky. This triggered a constitutional crisis, which led to a fierce debate about the procedure of selecting court judges. The presidential office favoured a solution that, according to civil society representatives, would have given the president too much control over the process. After the Venice Commission and the European Commission intervened, a compromise was found within the framework of the seven recommendations made by the EU Commission.[55]

At the Supreme Court, former Chairman Vsevolod Knyazyev is accused of having received around €2.7 million in exchange for issuing a judgement in favour of a Ukrainian businessman. Knyazyev is currently awaiting trial and was replaced by another judge, Stanislav Kravchenko, in May 2023. The case also revealed that at least one other Supreme Court employee and a Ukrainian lawyers' association were involved in the illicit activity.[56]

Many controversial corruption cases (including those outside the judicial sector, for example in the Ministry of Defence) are being tackled, often due to strong pressure exercised by the public and investigative journalists. In December 2022, for example, the scandal-ridden Kyiv District Administrative Court was dissolved by a law proposed by the presidential office following a petition by citizens demanding the issue be addressed. The Court was responsible for dealing with cases involving high-ranking national politicians and was known for its rampant corruption. Above all, the chief judge at this court, Pavlo Vovk, was notorious for his dishonest methods and disruption of the judicial system. The dissolution of the Court not only highlights the dysfunctionality of the court system in general, but also shows that simple abolition was the solution chosen by the presidential office — as opposed to a more systematic strategy that could render the court independent, functional and less prone to corruption. Another court with an almost identical name was created to replace the original one. It therefore remains to be seen whether the problem will be resolved or merely transferred to the new structure,[57] especially considering that Pavlo Vovk has retained his status as a judge and thereby has the right to another position within the judicial system.

The centralisation of power in the presidential office during the war weakens the separation of powers.

The centralisation of power in the presidential office during the war should therefore be seen as weakening the separation of powers, which compounds deficits that existed prior to the war. Indeed, the demands of wartime make it even more difficult to eliminate these deficits. The significant government reshuffle in September 2024 can be seen as a further attempt to increase the control of the presidential office over certain ministries, as well as the government as a whole.[58] Nevertheless, the steps recommended in the past by the European Commission have brought about some improvements, particularly in the area of justice, thus demonstrating the effectiveness of specific EU demands when they are accompanied by a credible promise — in this case, the promise to open accession negotiations. In the Ukrainian context, further reforms, even painful ones, may therefore be possible if the EU's credibility is maintained and if attractive rewards for successful steps in the right direction can be expected at regular intervals.

54 Andrii Nekoliak, "Analyse: Das ukrainische Verfassungsgericht kippt Teile der Antikorruptionsreform in der Ukraine" (Bonn: Bundeszentrale für politische Bildung, 1 December 2020), https://www.bpb.de/themen/europa/ukraine-analysen/322114/analyse-das-ukrainische-verfassungsgericht-kippt-teile-der-antikorruptionsreform-in-der-ukraine/.

55 Dinara Khalilova et al., "Zelensky Signs Law Changing Constitutional Court Selection Procedure", *The Kyiv Independent*, 18 August 2023, https://kyivindependent.com/zelensky-signs-law-on-changing-constitutional-court-selection-procedure/.

56 Anastasia Shepeleva and Lilia Rzheutska, "What Ukraine's Supreme Court Bribery Scandal Means", *Deutsche Welle*, 20 May 2023, https://www.dw.com/en/what-ukraines-supreme-court-bribery-scandal-means/a-65682855.

57 Yelizaveta Dorontseva, "In the Focus of the Reform Index: Liquidation of the District Administrative Court of Kyiv. How to Carry the Reform through and Not Just 'Change the Sign'", *Vox Ukraine*, 23 January 2023, https://voxukraine.org/en/in-the-focus-of-the-reform-index-liquidation-of-the-district-administrative-court-of-kyiv-how-to-carry-the-reform-through-and-not-just-change-the-sign.

58 Chris York et al., "Who's Who in Ukraine's Biggest Wartime Government Reshuffle", *The Kyiv Independent*, 4 September 2024, https://kyivindependent.com/ukraine-reshuffles-its-government-whos-out-whos-in-and-what-it-all-means/.

Deoligarchisation

While the Russian invasion has further entrenched the tendency in Ukraine to centralise power around the executive, an important change has occurred in another area: Observers agree that the war has significantly weakened the influence of the so-called oligarchs on Ukrainian politics and economic affairs.[59] There are several reasons for this. First, many oligarchs have lost key parts of their industrial facilities due to the destruction of infrastructure caused by Russia, while other such facilities have been nationalised over the course of the war. Second, it has become more difficult to import and — in particular — export numerous goods. As a result, most oligarchs have had to forego considerable income. Third, television reporting has been standardised as a result of the war, so the once significant media influence of the oligarchs has diminished considerably. In today's so-called TV marathon format, it is hardly possible to broadcast targeted messages that correspond to the agenda of any given oligarch. Fourth, the centralisation of power described above has reduced the oligarchs' ability to influence the Rada or the courts. Fifth and finally, the overall wartime situation has created a weak economy and has made it necessary to be more responsive to the needs of the state and the population than in peacetime.

Even though the so-called anti-oligarch law, which was passed in November 2021, is often criticised[60] and has been only partially implemented, it has brought about some changes. It is generally assumed that this law in particular persuaded Rinat Akhmetov, the richest man in Ukraine, to give up his media holdings. Former Ukrainian President Petro Poroshenko followed suit. The law defines an oligarch according to four criteria: Wealth, influence over politics, media ownership and monopolisation in one industry or another. Anyone who fulfils three of these four criteria according to the National Security Council is classified as an oligarch, and thereby cannot finance political parties, must disclose their sources of income and may not participate in the privatisation of key companies. In addition, representatives of the state are obliged to report on their interactions with these individuals and their employees.[61]

Nonetheless, Ukrainian and foreign analysts expect that the oligarchs will try to restore previously existing patterns of interaction and influence after the war. However, this view goes hand in hand with the hope that deepening relations with the EU will attract more involvement by investors from EU member states, some of whom will oust the oligarchs.[62] It is certain that the anti-oligarch law alone will not be enough to tackle the problem. Rather, further systemic changes will need to be made in order to eliminate the conditions that have favoured the oligarchs up to this point.[63] The war can act a turning point in

---

59 On the development of oligarchs' assets in the first year of the war, see Dmytro Goriunov et al., *Oligarchic Ukrainian Capital*, Policy Paper (Kyiv: Centre for Economic Strategy, February 2023), https://ces.org.ua/en/oligarchic-ukrainian-capital-the-research-ces/. On more recent developments, see Constant Méheut, "The War Has Reined in Ukraine's Oligarchs, at Least for Now", *The New York Times*, 15 January 2024, https://www.nytimes.com/2024/01/15/world/europe/ukraine-oligarchs-crackdown.html.

60 See, e.g., Kira Rudik, "Ukraine's Anti-Oligarch Law: President Zelenskyy's Populist Power Grab?", *Ukraine Alert* (Blog; Atlantic Council), 15 November 2021, https://www.atlanticcouncil.org/blogs/ukrainealert/ukraines-anti-oligarch-law-president-zelenskyys-populist-power-grab/.

61 On the law and its impact, see "President Immediately Signed the Anti-oligarchic Law Passed by the Verkhovna Rada", *President of Ukraine. Official Website*, 5 November 2021, https://www.president.gov.ua/en/news/prezident-nevid kladno-pidpisav-uhvalenij-verhovnoyu-radoyu-a-71445; Eugen Theise, "Has Ukraine's Anti-oligarch Law Had an Impact?" *Deutsche Welle*, 26 February 2023, https://www.dw.com/en/has-ukraines-anti-oligarch-law-had-an-impact/a-64810387.

62 See Goriunov et al., *Oligarchic Ukrainian Capital* (see note 59); Slavomir Matuszak, *Ukrainian Oligarchs and Their Businesses: Their Fading Importance*, OSW Commentary (Warsaw: OSW, 13 June 2023), https://www.osw.waw.pl/en/publikacje/osw-commentary/2023-06-13/ukrainian-oligarchs-and-their-businesses-their-fading.

63 The Venice Commission of the Council of Europe also argues along these lines. In a statement on the anti-oligarch law in Ukraine, it distinguishes between a "systemic" and a "personalised" approach and comes to the conclusion that the former should be preferred. In this context, it recommends postponing the implementation of the anti-oligarch law in favour of a more complex approach that works towards changes in the political and economic environment. See European Commission on Democracy through Law (Venice Commission), *Ukraine. Opinion on the Law "on the Prevention of Threats to National Security Related to the Excessive Influence of Persons with Significant Economic and Political Weight in Public Life (Oligarchs)"*, Adopted by the Venice Commission at its 135th Plenary Session (Venice, 9 — 10 June 2023), (Strasbourg, 12 June 2023), https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)018-e.

this respect, but systemic change will not happen without political will in Kyiv, in particular without the support of the presidential office for a different governance model.

There is some evidence to suggest that under Zelensky both individual oligarchs and the oligarchs as a group are operating under less favourable circumstances than before. While it was primarily the Russian invasion that imposed constraints on oligarchs' professional activities, the future of the oligarchic model may now be decided by the presidential office. Early on, some warned that this model could return in a modified form or with new players after the war, especially during reconstruction, when enormous sums of money will be injected (see section on reconstruction below).[64] Journalists and other observers suspect that a new group of oligarchs could in fact emerge around Andriy Yermak, the head of the presidential office.[65]

Yermak's leadership style was criticised even prior to the Russian invasion. There have also been reports that his brother Denys promised several individuals lucrative positions, which he could supposedly obtain for them with the help of his brother's influence.[66] Denys Yermak later won a lawsuit against the parliamentarian Geo Leros, who had published incriminating material in this regard. A number of incidents occurred in connection with the trial; for example, the vehicles of two witnesses were attacked,[67] and some observers linked these events to the witnesses' negative statements about Denys Yermak in the

media. Zelensky claimed to be convinced of the latter's innocence,[68] but justified doubts about the handling of the case remain.[69]

In addition, some of Andriy Yermak's employees have long been suspected of corruption. This especially applies to Oleh Tatarov, who is responsible for liaising with the security and law enforcement authorities and for fighting corruption in the presidential office. Tatarov worked in the Ministry of the Interior during Viktor Yanukovych's presidency and supported the violence against the Euromaidan protesters. In 2020, he was accused of corruption in two cases, but these appear to have been dropped due to his influence in the presidential office.[70] Questions have also arisen regarding Rostyslav Shurma, who until recently was responsible for economic affairs in the presidential office, due, among other things, to a conflict of interest in the field of solar energy.[71] However, the allegations against Tatarov are much more serious and long-running.[72]

64   See, e.g., Marc Champion and Daryna Krasnolutska, "Ukraine Has Decimated Its Oligarchs but Now Fears New Ones", *Bloomberg*, 6 April 2023, https://www.bloomberg.com/news/articles/2023-04-06/how-to-rebuild-ukraine-root-out-corruption-oligarchs; Andriana Velianyk, "What Is Happening to Oligarchs in Ukraine?" *Svidomi*, 11 April 2023, https://svidomi.in.ua/en/page/what-is-happening-to-oligarchs-in-ukraine.

65   Paul Starobin, "Ukraine's Real Power Broker. Is Andriy Yermak, Zelensky's Right-hand Man, Handing War-torn Ukraine over to the Oligarchs?" *Business Insider*, 18 December 2023, https://www.businessinsider.com/ukraines-real-power-broker-yermak-zelensky-russia-war-biden-2023-12.

66   Anna Myroniuk, "Leaked Videos Implicate Zelensky Administration Chief's Brother in 'Selling' High-level Positions", *Kyiv Post*, 30 March 2020, https://www.kyivpost.com/post/7116.

67   Oleg Sukhov, "Attackers Target Vehicles of Witnesses in 'YermakGate' Corruption Scandal", *Kyiv Post*, 12 May 2020, https://archive.kyivpost.com/ukraine-politics/attackers-target-vehicles-of-witnesses-in-yermakgate-corruption-scandal.html.

68   "Selens'kyj: brat Jermaka tochno ne vsjal deneg, on 'prosto boltun' i sdelal oshibku, a Leros — 'aferist'" [Selenskyj: Jermak's brother definitely did not take money, he is "just a blabbermouth" and made a mistake, and Leros is "a swindler"], *Interfax-Ukraina*, 11 June 2020, https://ru.interfax.com.ua/news/political/668045.html.

69   Oleg Sukhov, "Case against Brother of Zelensky's Chief of Staff Closed, Says Anti-corruption Agency", *The Kyiv Independent*, 1 April 2024, https://kyivindependent.com/nabu-says-it-closed-corruption-case-against-brother-of-zelenskys-chief-of-staff/.

70   On the problematic aspects of Tatarov's career, see the ANTAC dossier "Tatarov", https://antac.org.ua/en/special-projects/visaban/tatarov/.

71   "Derzhava platyla sonjachnym stantsijam brata zastupnyka Jermaka za elektroenerhiju v okupatsiji" [The state paid the solar farms belonging to the brother of Yermak's deputy for electricity during the occupation], *bihus.info*, 17 August 2023, https://bihus.info/derzhava-platyla-sonyachnym-stancziyam-brata-zastupnyka-yermaka-za-elektroenergiyu-v-okupacziyi/.

72   A working group was set up in the Office of the President in March 2024 to deal with corruption risks within the office. However, there are well-founded doubts about the actual potential and effectiveness of this group. See Anastasija Proz, "V 'Česno' usnali, kak OP provodit otsenku korruptsionnych riskov v svoej dejatel'nosti" [The organisation 'Česno' has discovered how the Office of the President carries out an evaluation of corruption risks in its activities], *Ukrains'ka Pravda*, 30 April 2024, https://www.pravda.com.ua/rus/news/2024/04/30/7453636/.

Even if Zelensky is no longer president after the war (or later in the war), the networks that are currently forming will likely play an important role in post-war Ukraine. Yermak's behaviour could thus be decisive in determining what kind of Ukraine emerges and how it cooperates with the West. This will presumably be the case even if — as many expect — there is a shift towards an elite that was directly involved in the war effort.

Combating corruption

As indicated above, the issue of corruption is closely linked to the problem of oligarchic rule. Since 2014, Ukraine has created a new institutional architecture to combat corruption. It consists primarily of the National Anti-Corruption Bureau of Ukraine (NABU), the Specialised Anti-Corruption Prosecutor's Office (SAPO), the High Anti-Corruption Court (HACC) and the National Agency of Corruption Prevention (NACP). Even if judicial reform and the fight against corruption are linked, it is probably easier to design new institutions in a targeted manner than to reconfigure an existing sector (the judiciary) based on completely revised foundations. The new anti-corruption institutions have suffered from a number of problems, above all inadequate selection procedures. Nevertheless, they are fulfilling their tasks, if not always in a convincing manner.

During the first few months of the invasion, official and expert circles argued that corruption in wartime was unthinkable because no one would dare to divert resources that are urgently needed for the country's defence. Indeed, such behaviour would make a mockery of the widespread death and suffering and cost even more lives. It is quite possible that the war has put a damper on previous corruption schemes for these and other reasons. However, this would be difficult to measure, and in fact, a number of corruption scandals have come to light in recent months, suggesting that old patterns of behaviour not only continue to exist, but even thrive in the opacity of certain transactions resulting from the war. Two examples of such scandals have involved the recruitment of men for military service and the procurement of foodstuffs for the armed forces.

The president and other state representatives have reacted quickly and decisively to these abuses, conveying the message that corruption should not be tolerated under any circumstances, especially in the current wartime situation. When it comes to the case of corruption in recruitment centres, officials were accused of unjustly declaring men unfit for military service or escorting men out of the country in return for large sums of money. In response, Zelensky dismissed all the heads of these centres and stated that their positions should be filled with people who had already proven their loyalty by actively fighting in the war. As with the anti-oligarch law, this approach also involves taking action against particular individuals, but not necessarily creating conditions to prevent such cases from recurring.[73] In addition, because all of the heads of these centres were dismissed in one fell swoop, loyal individuals may have also been released, potentially not only discouraging them but maybe even turning them against the state. This example clearly highlights the challenge of systemic reform during an ongoing war.

With regard to the scandal revolving around food supplies for the army, investigative journalists from Radio Free Europe/Radio Liberty discovered that the Ukrainian armed forces were paying exorbitant prices for food provisions in certain cases, apparently due to abuses of the procurement system.[74] The attempts by then-Minister of Defence Oleksiy Reznikov to justify the payments were not convincing. The inability of Reznikov to explain the situation led in part to his resignation, even though he had established good relations with both the Ukrainian president and many Western partners. In this case, too, the revelation of corruption had consequences at the highest level of government. Reznikov's successor, Rustem Umerov, was tasked by the president with sorting out the procurement issues and tackling the underlying problems.[75]

---

73 Lilia Rzheutska, "Ukraine Struggles to Curb Corruption in Its Military", *Deutsche Welle*, 17 August 2023, https://www.dw.com/en/ukraine-military-recruiters-dismissed-after-bribery-scandals/a-66561801. In addition, this decision temporarily led to chaos and increased inefficiency in the recruitment offices, as well as to serious problems with replacing the dismissed employees, as no one wanted to take on a position that was suspected of corruption from the outset.

74 Heorhiy Shabaev et al., "Prices for Ukrainian Army Food Supplies Inflated, Investigation Finds", *Radio Free Europe/Radio Liberty*, 8 April 2023, https://www.rferl.org/a/ukraine-army-food-prices-inflated/32352747.html.

75 Martin Fornusek, "Zelensky Introduces New Defense Minister Umerov, Names Key Tasks", *The Kyiv Independent*, 7 September 2023, https://kyivindependent.com/zelensky-introduces-new-defense-minister-umerov-names-his-key-tasks/.

The war creates tremendous economic challenges, but also generates large sums of money that encourage corruption.

These examples are just two of many that have come to light in recent months. The war is creating tremendous economic challenges, but it is also generating large sums of money that are spurring on networks of corruption, both old and new. In the eyes of anti-corruption campaigners, however, the scandals are not necessarily a purely negative development; indeed, according to Daria Kaleniuk from the Anti-Corruption Action Centre (ANTAC), "[i]t's important for people outside Ukraine to understand that the fact that we can have public corruption scandals in Ukraine, even in the defence ministry at a time of full-scale war, is a positive sign of a healthy, democratic society."[76] Kaleniuk isn't alone in this assessment. According to Transparency International's 2023 Corruption Perception Index, Ukraine fell from 116th to 104th place (with a lower ranking indicating a lower public perception of corruption); the Index notes that Ukraine has made more progress on this front than in other recent years.[77] This is also significant for Ukrainian refugees returning from abroad, as many cite the reduction of corruption as an important prerequisite for their return home.[78]

The Ukrainian political elite remained largely united during the first two years of the war, ensuring that political institutions continued to function adequately. The president stayed in Ukraine and, together with his highly active team, encouraged the entire population — by personal example — to mobilise their forces against the Russian invasion. Parliament also managed to continue to meet during the war, passing necessary laws. And even though the judiciary continues to have serious problems, it was able to take important steps towards reform. For example, the High Council of Justice and the High Qualification Commission of Judges are now functioning again, whereas for years they had remained understaffed, thus making the work of the courts more difficult.[79]

On the other hand, the war has definitely been detrimental to certain aspects of governance. First and foremost, centralisation has increased, which has negatively affected the already weak separation of powers. Secondly, many procedures have become considerably less transparent, which, among other things, creates new opportunities for corruption. Thirdly, it has become apparent that many forms of corruption are continuing or even intensifying during wartime, contrary to claims made during the early stages of the war. Corruption has not only been observed among actors directly involved in the war effort, such as the Ministry of Defence and recruitment centres, but also among other ministries, courts and economic actors. Fourthly, the networks and systems relied on by the so-called oligarchs, who have lost many of their assets and sources of revenue during the war, continue to exist or even to regenerate themselves in new forms or with new faces. This has led some oligarchs to hope that they might be able to profit handsomely from reconstruction. These and other developments over the last two years demonstrate that Ukraine has not yet managed to make the war a decisive turning point when it comes to its mode of governance, nor has it undertaken the systemic changes that will be necessary for accession to the EU, or to NATO for that matter.[80]

76 Shaun Walker, "'Ukrainians Understand Corruption Can Kill': Kyiv Takes on an Old Enemy", *The Guardian*, 19 September 2023, https://www.theguardian.com/world/2023/sep/19/corruption-kyiv-takes-on-an-old-foe-wartime.

77 Transparency International, *Corruption Perceptions Index: Ukraine*, https://www.transparency.org/en/cpi/2023/index/ukr. Since 2013, Ukraine has only achieved a comparable improvement in its rank once before, to 117th place in 2020.

78 Ilona Sologoub, "Return or Stay? What Factors Impact the Decisions of Ukrainian Refugees", *Vox Ukraine*, 16 January 2024, https://voxukraine.org/en/return-or-stay-what-factors-impact-the-decisions-of-ukrainian-refugees.

79 Veronika Movchan, *Ukraine: Preparation for the EU Accession Process*, SCEEUS Report Series on Ukrainian Domestic Affairs, no. 6 (Stockholm: Stockholm Centre for Eastern European Studies [SCEEUS], 25 April 2023), https://sceeus.se/en/publications/ukraine-preparation-for-the-eu-accession-process/; Roman Ihnatov, "The Chairman of the HQCJ Roman Ihnatov on Work Priorities and Fake News about Russian Citizenship, First Interview", High Qualification Commission of Judges of Ukraine, 16 June 2023, https://vkksu.gov.ua/en/news/chairman-hqcj-roman-ihnatov-work-priorities-and-fake-news-about-russian-citizenship-first.

80 For a creative approach to achieving systemic change by addressing "the underlying drivers of social and political behaviour", see David Jackson et al., *Advancing Corruption Prevention in Ukraine: A Constructive Approach* (Bergen: U4 Anti-Corruption Resource Centre, 10 June 2024), https://www.u4.no/publications/advancing-anti-corruption-in-ukraine-a-constructive-prevention-approach.

Civil Society Development during the War

Before the invasion in February 2022, Ukrainian civil society, or at least a segment thereof, was an important partner for EU institutions. Since 2014, certain organisations and networks in Ukraine have increasingly come to fulfil significant functions in EU-Ukraine relations. First of all, together with Ukraine's international partners (including the EU), these organisations have driven forward a substantial reform agenda in the country. In doing so, they generally kept the EU's demands and standards in mind when supporting reforms. Second, they warned partners in Brussels when reforms were behind schedule or in danger of failing, and perhaps above all, when factors that outsiders might not recognise endangered the implementation of reforms. Third, they expanded civil society networks within Ukraine and informed interested citizens about the EU's goals and demands, e.g. via Ukrainian media.[81]

It is clear that Ukrainian civil society's role and functions have changed significantly since the invasion. In this context, it makes sense to ask which changes have taken place and what they mean for EU-Ukraine relations. The active role of civil society organisations and networks since 2014 points to a high degree of preparedness to take on essential functions following the outbreak of full-fledged war. Nonetheless, the quantity and scope of these func-

tions surprised and impressed even long-time observers of Ukrainian civil society.

After 24 February 2022, most civil society actors primarily focussed their efforts on supporting the Ukrainian armed forces.

The focus of civil society organisations has changed significantly since February 2022, with most shifting towards supporting the Ukrainian armed forces in a variety of ways. They have collected financial, material and in-kind donations, procured equipment, arranged blood drives and much more. They also provided many forms of aid to internally displaced persons, ranging from psychosocial to material to financial assistance, especially during the first months of the war.[82]

The number of people who took part in such activities increased dramatically. Even though many Ukrainians joined either the territorial defence forces or the army or (especially in the case of women and children) left the country, almost 70 per cent of the remaining population participated in at least one of the activities described above.[83] This level of support called into question the very concept of "civil society", which could be perceived as having merged into society as a whole.

In the face of an existential threat to the Ukrainian state and nation, a strong sense of community and a feeling of fighting for the "right cause" emerged. This

81 For an analysis of numerous aspects of civil society development in Ukraine after 2014, see "Special Issue: Civil Society in Post-Euromaidan Ukraine", *Kyiv-Mohyla Law and Politics Journal*, no. 3 (2017), https://ekmair.ukma.edu.ua/collections/a8ce177c-4ba1-46d3-a7f3-7b32d999f447. For the pre-Euromaidan period, see Iryna Solonenko, "Ukrainian Civil Society from the Orange Revolution to Euromaidan: Striving for a New Social Contract", in *OSCE Yearbook 2014*, ed. Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) (Baden-Baden, 2015), 219–35, https://ifsh.de/file-CORE/documents/yearbook/english/14/Solonenko-en_S.pdf.

82 See, e.g., USAID/ENGAGE, *Civic Engagement Poll 2022*, 21 November 2022, https://engage.org.ua/eng/cep-2022-surge-in-civic-activism-overwhelming-support-to-resisting-the-enemy-and-fundamental-shift-in-perceiving-corruption/.

83 *Citizens' Involvement in Volunteering after a Year and a Half of War* (Kyiv: Ilko Kucheriv Democratic Initiatives Foundation, 22 September 2023), https://dif.org.ua/en/article/citizens-involvement-in-volunteering-after-a-year-and-a-half-of-war.

was accompanied by a perceived need to participate in the defence of what those involved saw as constituting the essence of their community and country: the opportunity to make life choices freely and with dignity. These sentiments impelled many to play an active part in (civil) society and to take responsibility for the common good.[84]

In this context, civil society has been active on many levels. Especially during the full-scale war, it has become clear that activities at the municipal level play an extremely important role in the country's defence. This applies to local governing bodies as well as local civil society structures. Local actors are often appropriately placed to provide concrete support for the armed forces, organise aid for incoming internally displaced persons and repair destroyed and damaged buildings and facilities. Volunteers are the backbone of these and many other operations. At the municipal level, it is becoming increasingly clear how important the steps taken so far in the decentralisation process, which began in 2014 and has been strongly supported by Germany and the EU (especially via U-LEAD), are for the development of the country and for the resilience of communities during the war.[85]

Since the invasion, cooperation has intensified between civil society and state actors at the local level across the country. However, the same cannot be said about this cooperation at the regional and national levels. Particularly at the national level, cooperation between the state and civil society is somewhat sporadic. On the one hand, positive examples of national authorities working closely with civil society groups to realise specific projects do exist, including the development of a digital platform for reconstruction — the Digital Restoration Ecosystem for Accountable Management, or DREAM (see also the section on reconstruction below). On the other hand, due to

the turbulence and difficulties caused by the war, many state actors have little time or desire to seek the advice of civil society experts or to exchange ideas with them. The picture is therefore mixed when it comes to cooperation at the national level.

In addition, the habits and networks that developed during Poroshenko's presidency and served to promote cooperation between civil society and the executive and legislative branches have largely disappeared and have not been replaced by new forms of cooperation. One reason for this is that Zelensky and his team came to power with a different idea in mind. They wanted to communicate directly with the population, not via intermediary civil society actors. This also applied to numerous members of parliament from Zelensky's Servant of the People party. The role that certain segments of civil society had played under Poroshenko was thus rejected by the newly elected Zelensky. In turn, civil society actors, particularly those in circles that had been involved in EU-related reforms, viewed their new president with a similar amount of scepticism.

The growing lack of transparency in many areas has also made the work of civil society actors more difficult, whether they are media professionals, monitoring organisations or anti-corruption advocates. Seeing that — for security reasons that are sometimes convincing, but sometimes rather dubious — these actors have lost access to certain important sources of information, they are not always able to carry out their work efficiently and have difficulties engaging in dialogue on an equal footing with state actors, who have a much broader information base at their disposal.[86] For these and other reasons, the functions of civil society and its relations with the Ukrainian state have been transformed under the influence of the war. Aspects of partnership were replaced by increasing state dominance, which has been exacerbated by the concentration of power in the presidential office described above.

The developments outlined in this section have a number of consequences for relations between Ukraine and the EU. There are still organisations working on reforms in various sectors and on the overall evo-

84 Kateryna Zarembo and Eric Martin, "Civil Society and Sense of Community in Ukraine: From Dormancy to Action", *European Societies* (online), 19 March 2023, 1–27, doi: 10.1080/14616696.2023.2185652. In Ukraine, the Euromaidan protests of 2013 and 2014 are called the "Revolution of Dignity".

85 See Oksana Huss and Oleksandra Keudel, *National Security in Local Hands? How Local Authorities Contribute to Ukraine's Resilience*, PONARS Eurasia Policy Memo, no. 825 (Washington, D.C.: Institute for European, Russian and Eurasian Studies [IERES] at the George Washington University's Elliott School of International Affairs, 25 January 2023), https://www.ponarseurasia.org/national-security-in-local-hands-how-local-authorities-contribute-to-ukraines-resilience/.

86 Aleksandra Klitina, "Wartime Parliamentary Trends: More EU Focus, Less Transparency", *Kyiv Post*, 12 December 2022, https://www.kyivpost.com/post/5677?utm_source=Kyiv+Post%27s+Ukraine+Digest&utm_campaign=20bd4524fb-EMAIL_CAMPAIGN_2022_12_13_11_24&utm_medium=email&utm_term=0_-20bd4524fb-%5BLIST_EMAIL_ID%5D.

lution of the reform agenda, as the work of the UCEP and NEC shows. Nevertheless, the focus of many individuals and groups has shifted since 2022 in the context of the invasion, and the new actors that have emerged are seldom focussed on reform. Even if the beginning of accession negotiations may result in more support for reform-related projects among civil society actors, developments in (civil) society, combined with the trends in governance described above, are likely to contribute to a reduction in the intensity of reform efforts.

Civil society actors will be increasingly sought after to help foster social cohesion.

In addition, social problems created by the war can increasingly be observed, such as widespread trauma as well as tensions between returning refugees and those who stayed. Heated debates about the mobilisation law have shown just how much this issue is preoccupying politicians and society at large. The fact that many are trying to avoid military service is generating new societal fault lines, and it will be important for certain segments of (civil) society to address these problems more intensively. To some extent, this can take place in cooperation with actors from EU member states or with support from Brussels. This is just one example of how EU-Ukraine relations have evolved, and they will likely continue to diversify against the backdrop of the Russian invasion. Just as importantly, existing societal fault lines have deepened as the war has progressed, pointing to problems that will continue to affect communities after the war. At the local level in particular, civil society actors will be increasingly called upon to foster the conditions necessary for preserving social cohesion.

Especially during the first year of the war, many civil society actors were reluctant to point out shortcomings in their country's governance reforms. The "rally around the flag" effect made it difficult for them to work on solutions for generally acknowledged problems and prevented them from playing their usual constructive and critical role. However, this effect has decreased noticeably over time, opening the way for critical voices to be heard once again, especially with regard to the reform measures that are necessary for EU accession. The diminishing transparency in certain areas due to (purported) security

concerns has also been challenged by civil society actors, in some cases successfully.[87]

Civil society is therefore still in a position to function as an early warning system for the EU with regard to the behaviour of the Ukrainian political and economic elite. However, the question remains as to how much space these concerns will be able to occupy on the agenda if the military and security situation continues to deteriorate and EU accession becomes a distant prospect. The EU must therefore remain flexible in terms of the type and extent of its support for and cooperation with Ukrainian civil society. The same is true for the EU member states and their own civil societies. In addition, the dynamics are shifting as a result of the large number of Ukrainian refugees in some member states — especially Germany and Poland. Their networks in Ukraine offer a wide range of opportunities for civil society cooperation across borders. Various forms of circular migration should be capitalised upon in order to intensify contacts (not only) at the civil society level. Doing so will be particularly helpful when it comes to reconstruction.

87   An example of such influence is the law on the resumption of publicly accessible asset declarations by politicians and civil servants. See Elsa Court et al., "Parliament Approves Public Access to Asset Declarations, Amends Controversial Law", *The Kyiv Independent*, 20 September 2023, https://kyiv independent.com/parliament-approves-amended-law-on-asset-declaration/.

The Ukrainian Approach to Reconstruction*

Ukraine began preparing and mobilising international support for reconstruction early on. A series of conferences have already been held on the topic, the first of which took place in July 2022 in Lugano, Switzerland.[88] Even though the Ukrainian leadership presented a comprehensive reconstruction plan at that early stage, it does not appear to have played a significant role in discussions on the topic since.[89] Instead, other assessments of the situation have taken precedence, especially those prepared with the support of the World Bank.[90] Since Lugano, further events of a similar nature have been organised in Berlin, Paris and London.[91] The most recent Recovery Conference was held from 11 to 12 June 2024 in Berlin.

From the outset, it has been clear that an institutional architecture would be needed to raise funds for reconstruction and to channel them in the right direction.[92] To this end, the Multi-agency Donor Coordination Platform (MADCP) for Ukraine was established in January 2023.[93] The steering committee of MADCP is jointly chaired by the USA, the EU and Ukraine, who also work in close coordination with the country holding the presidency of the G7. Importantly, international financial organisations are integrated into the work of the MADCP, as cooperation between the parties is essential for Ukrainian reconstruction. The Platform also serves as a place to bring together and — where possible — to harmonise efforts related to reconstruction in various reform areas.

On the Ukrainian side, a number of institutions involved in reconstruction and recovery have begun to operate. Until recently, these included first and foremost the Ministry of Communities, Territories and Infrastructural Development of Ukraine (often referred to as the Ministry of Reconstruction [or Restoration]). Oleksandr Kubrakov, who headed this ministry until May 2024, was also Deputy Prime Minister for Reconstruction. The State Agency for Reconstruction and Development of Infrastructure, originally led by Mustafa Nayyem, reports to this ministry,[94] and was created by merging the Agency for

---

* I would like to thank Roman Beliavski for his extremely thorough research on this topic.

88 This would have been the fifth in a series of reform conferences to discuss and strengthen the role of the international community in ongoing Ukrainian reform processes. Due to the war, the decision was taken to focus on reconstruction issues and to call the event a "Recovery Conference". See the conference website: https://urc-international.com/.

89 See *Ukraine Recovery Plan* (official website of the Ukrainian government), https://recovery.gov.ua/en.

90 See, e.g., the Rapid Damage and Needs Assessments, which were jointly compiled by the World Bank, the Ukrainian government, the European Commission and the United Nations. The most recent assessment was published in February 2024: European Commission, "Updated Ukraine Recovery and Reconstruction Needs Assessment Released", press release, 15 February 2024, https://ec.europa.eu/commission/presscorner/detail/en/ip_24_801.

91 Only the events in Lugano and London were referred to as the "Ukraine Recovery Conference"; the other two had a slightly different character, but also focussed on preparing for reconstruction.

92 On the emergence of this structure, see, e.g., Andrij Holub, "Ne plan Marshalla. Shcho vidomo pro systemu z vidbudovy Ukrajiny" [Not a Marshall Plan. What is known about the system of Ukraine's reconstruction], *Ukrajins'kyj tyzhden'*, 14 April 2023, https://tyzhden.ua/ne-plan-marshalla-shcho-vidomo-pro-systemu-z-vidbudovy-ukrainy/.

93 See the website of the Multi-agency Donor Coordination Platform for Ukraine, https://coordinationplatformukraine.com.

94 See the agency's website, https://restoration.gov.ua/. Nayyem is best known for his post on social media on 21 November 2013 in which he called on people to go to Independence Square in Kyiv to protest against President Yanukovych's refusal to sign the Association Agreement with the EU. This call is seen by many as the beginning of

Road Construction and Maintenance (Ukravtodor) and the Agency for Infrastructure Projects. The Agency for Reconstruction is responsible for executing relevant projects across the whole of Ukraine and therefore plays a key role both in Ukraine's internal reconstruction efforts and in its relations with international donors.

The DREAM online platform also falls under the Ministry of Reconstruction,[95] as many reconstruction projects will be documented there. This platform should ensure open access to information on tenders, completed contracts and work carried out, thus bolstering the transparency of the projects. DREAM demonstrates Ukrainian authorities' ability to digitise complex processes and their conviction that this is an effective measure to prevent corruption. The platform is still in the early stages of implementation, but it may yet prove to be an important asset when it comes to tracking larger and medium-sized projects. However, this is less likely to be the case for smaller projects at the municipal level (see below).

On 9 May 2024, the Rada voted to dismiss Kubrakov from his posts, and the ministry he headed was to be split into two ministries (one for infrastructure and the other for regional development). The reasons for the dismissal were initially unclear, as were its implications for the reconstruction architecture. Kubrakov reported that the prime minister had not informed him of the decision.[96] Sources in Kyiv claimed that Kubrakov had displeased the president and his team by presenting a series of conditions when asked to head the Ministry of Defence after the departure of Oleksii Reznikov; the conditions were not met and Rustem Umerov took the post instead. It seems that Kubrakov's impressive performance and his cordial relations with Western partners also worked to his disadvantage. Due to the combination of these factors, he came to be perceived as too powerful and demanding, and was therefore sidelined.[97]

Three of Kubrakov's deputies subsequently resigned or were dismissed.[98] Mustafa Nayyem, who had worked closely with Kubrakov, including on questions of combating corruption in reconstruction, also resigned from his position as head of the Agency for Reconstruction on 10 June 2024 after having been forbidden from taking part in the Ukraine Recovery Conference in Berlin. He listed a number of reasons for his departure, including underfunding of the Agency's projects, low salaries resulting in an inability to retain high-quality personnel, and bureaucratic obstacles that led to major delays in the approval of important projects.[99] Thus, the reconstruction architecture and key figures therein have been altered at a crucial point in the process, without clear indications that the related decisions were based on objective criteria regarding efficiency and results delivered.

The most visible reconstruction activities in Ukraine have so far been organised by the government — as outlined above — and linked to MADCP. More recently, the so-called Ukraine Plan entered the picture. While it is mainly EU-oriented and tied to the Ukraine Facility, the Plan also deals with aspects of reconstruction, which is why it acts as an important link between EU accession and recovery. At the regional level, there are branches of the presidential office that deal with reconstruction, but they have so far appeared to play a negligible role. Inevitably, many reconstruction projects will take place at the municipal level (see Box). Municipalities have proved to be an indispensable link in the chain of Ukraine's defence.[100] Those that had a higher level of efficiency

the Euromaidan. Nayyem later served as a member of parliament. He then worked at the defence company Ukroboronprom and as deputy infrastructure minister.

95 See the DREAM website, https://dream.gov.ua/en.

96 See Elsa Court, "Parliament Dismisses Infrastructure Minister Oleksandr Kubrakov", *The Kyiv Independent*, 9 May 2024, https://kyivindependent.com/parliament-dismisses-infrastructure-minster/.

97 See Josh Rudolph, "After Kubrakov, Ukraine Must Reestablish Faith in the Transparency and Independence of Its Restoration Institutions", *GMF Insights*, 23 May 2024, https://www.gmfus.org/news/after-kubrakov-ukraine-must-reestablish-faith-and-independence-its-restoration.

98 See Vira Perun, "Uriad zvil'nyv zastupnykiv hlavy Mininfrastruktury" [The government dismissed the deputies of the head of the Ministry of Infrastructure], *LB.ua*, 17 May 2024, https://lb.ua/economics/2024/05/17/613874_uryad_zvilniv_zastupnikiv_glavi.html; "Dpty Reconstruction Minister Azarkhina resigns due to dismissal of Dpty PM Kubrakov", *Interfax-Ukraine*, 13 May 2024, https://en.interfax.com.ua/news/general/986452.html.

99 Kate Connolly et al., "Ukraine reconstruction agency chief quits day before recovery conference", *The Guardian*, 10 June 2024, https://www.theguardian.com/world/article/2024/jun/10/ukraine-reconstruction-agency-chief-quits-recovery-conference-mustafa-nayyem.

100 Huss and Keudel, *National Security in Local Hands?* (see note 85); Maryna Rabinovych et al., "Explaining Ukraine's Resilience to Russia's Invasion: The Role of Local Governance", *Governance: An International Journal of Policy, Administra-*

Box: Municipalities and decentralisation

Since 2014, the local level in Ukraine has gone through considerable changes and is therefore relevant to this analysis in several respects. Firstly, it forms the core of the decentralisation reform to date. Secondly, it is important for the political and administrative structure of the country and therefore also for central governance issues. Thirdly, the municipalities will play a key role in reconstruction and recovery.

Aspects of local self-government have a long history in independent Ukraine. However, it was not until 2014 that serious reform was introduced in this area. Even though this affected several administrative levels in principle, it was primarily the local level that underwent significant changes. As a result of the reform, smaller units have been merged to form larger ones (amalgamated territorial communities, or ATCs). This has happened on a voluntary basis, through financial incentives. The new entities are entitled to a considerable proportion of certain tax revenues and are free to decide how to use these funds. Because of this, they are constantly gaining expertise in budgeting as well as project development and implementation. In addition, the elected representatives of the ATCs now have more responsibilities and are held to a higher degree of accountability if they disappoint residents.

Before the reform, the municipalities were far more dependent on the rayon and oblast administrative levels above them. With the decentralisation measures, the powers of these two levels have been reduced and their importance (especially that of the rayons) has been called into question. Although the reform has not yet been completed, the new powers of the local level have strengthened the ATCs and enabled them to play a significant role during the war — and even more so since the invasion on 24 February 2022. The experience and expertise gained in this context will also benefit reconstruction efforts.

before the invasion were more able to remain resilient during the war, and this is likely to be true during reconstruction as well. However, since November 2023, resources have been taken away from municipalities and granted to the national level to finance the war.[101] On the one hand, this is understandable, but on the other it undermines the resilience of the municipalities. This could take its toll as the war progresses, but also during recovery. It also means that communities need more support from outside. For reconstruction purposes, this assistance can come both from the national level within Ukraine and from foreign sources.

At the municipal level, cooperation occurs frequently between local authorities and local civil society actors. Above and beyond this, three forms of interaction are of interest here: firstly, vertical relationships between the municipal and regional or national levels within Ukraine; secondly, horizontal cooperation between actors from different municipalities; and thirdly, direct cooperation between municipalities and international partners.

Vertical cooperation between municipalities and the national Agency for Reconstruction is already functioning. Municipalities can submit applications for reconstruction projects, which are assessed on the basis of a number of criteria and potentially approved. However, this should not be the only funding channel for such projects for several reasons. Firstly, the capacity of this agency and its regional offices is limited, both financially and in terms of personnel. Previously, it dealt primarily with road construction and other infrastructure, but the current needs of the municipalities in the context of reconstruction go far beyond this. Secondly, the municipalities are confronted with bureaucratic and financial hurdles. The incentive to apply for smaller projects is limited because the costs involved in the application process are too high. Several cases indicate that implementers of small and micro-projects avoid the DREAM platform (see above) because using it is relatively complicated. Some also fear that DREAM's transparency may jeopardise their projects because Russian actors could find out about them and then prevent or destroy them. There have also been complaints that communities must pay specialised companies in order to document the damage done before they can apply for funding from the Agency for Reconstruction. This is unaffordable for some municipalities which cannot pay in advance, especially as they cannot be sure that their application will be approved.[102] Despite these problems, the Agency remains an important element in the reconstruction architecture.

tion, and Institutions* (online), 6 October 2023, doi: 10.1111/gove.12827.

101 "Ukrainian Lawmakers Back Use of Military Taxes to Fund Arms Purchases", *Reuters*, 8 November 2023, https://www.reuters.com/world/europe/ukrainian-lawmakers-back-use-military-taxes-fund-arms-purchases-2023-11-08/. For the text of the law, see the Ukrainian parliament's website, https://zakon.rada.gov.ua/laws/show/3428-IX?lang=en#Text.

102 I would like to thank Sabine Fischer for providing information about the problems with the application process.

Informal relationships between municipalities are important, and not only in times of war. On a more formal level, structures that defend the interests of municipalities and ensure horizontal exchange also exist. One of the best-known of these is the Association of Ukrainian Cities (AUC), chaired by Vitaly Klitschko, the mayor of Kyiv.[103] This association introduces points of view into the legislative process that are relevant to municipalities (including during reconstruction). It has also compiled a number of successful best practices from municipalities in times of war.[104] This type of horizontal cooperation is helpful for reconstruction projects because it serves as a resource for municipalities seeking advice, expertise or exchange of experience. Structures such as the AUC are more trusted than those located above the municipalities in the state hierarchy, as the latter may seek to impose their own top-down agendas.

Even though many international actors active in reconstruction efforts prefer to establish contacts with municipalities with the help of national authorities, some work directly with municipal structures.[105] Estonia, for example, provides assistance to the Zhytomyr Oblast and fosters numerous direct contacts between Estonian and Ukrainian municipalities in order to further recovery in various areas.[106] Cooperation between Denmark and the Mykolaiv region shows that a productive mix of cooperation can develop at the national, regional and municipal levels.[107] Even before the invasion in 2022, Denmark and Mykolaiv had signed a memorandum of understanding with the aim of jointly developing shipbuilding in Ukraine.[108] Denmark is also supporting the city of Mykolaiv and other locations in the region with water pumps and generators, for example. Due in part to the risk of corruption in this cooperation, a programme has been launched with the city of Mykolaiv to prevent the misuse of resources.[109] Furthermore, a new branch of the Danish embassy and an office of the Danish Refugee Council in Mykolayiv aim to ensure increased contact with citizens and heightened awareness of what is happening on the ground.[110] Such forms of cooperation make it easier for actors from EU member states to identify and encourage possible synergies between reconstruction and EU accession.

> **Each municipality will establish a slightly different mix of cooperation in order to confront the challenges of reconstruction.**

Other external actors will also be important for reconstruction in some Ukrainian municipalities, for example in the context of existing or newly established sister city partnerships. By autumn 2023, 356 Ukrainian municipalities had established 1,464 partnerships, mainly with Polish cities and municipalities (501), but also with Hungarian (122), German (86), Romanian (83) and other foreign municipalities;[111] and these numbers have certainly grown since then. Many informal connections have also developed. Businesses from abroad that intend to or have already established themselves in particular Ukrainian cities

103   See the website of the AUC, https://auc.org.ua/.

104   Oleksandr Slobozhan, ed, *Zbirnik krashchykh praktyk hromad u vijs'kovyj chas* [A Collection of Best Practices of Communities in Wartime] (Kyiv, 2023), https://auc.org.ua/novyna/zbirnyk-krashchyh-praktyk-gromad-u-viyskovyy-chas.

105   On this topic see Ievgeniia Bodnya and Alina Inayeh, *The Power of Partnership: International Supporters of Ukraine's Local Reconstruction* (German Marshall Fund, May 2024), https://www.gmfus.org/news/power-partnership-international-supporters-ukraines-local-reconstruction.

106   Estonia's ambassador to Ukraine, Annely Kolk, described the cooperation between Estonia and the Zhytomyr Oblast at a *Vox Ukraine* conference on 10 November 2023, https://2023conference.voxukraine.org/.

107   Vladyslav Faraponov, "Denmark's Support in Restoring Mykolaiv Is a Model for Ukraine's Postwar Recovery", *Focus Ukraine* (Blog, Kennan Institute, Wilson Center), 2 November 2023, https://www.wilsoncenter.org/blog-post/denmarks-support-restoring-mykolaiv-model-ukraines-postwar-recovery.

108   "Ukraine, Denmark Sign Memorandum on Joint Ship Construction", *Ukrinform*, 20 December 2021, https://www.ukrinform.net/rubric-economy/3372283-ukraine-denmark-sign-memorandum-on-joint-ship-construction.html.

109   "Mykolaiv to Become a Model Case for a Transparent Reconstruction Process", *EUACI News*, August 2022, https://euaci.eu/news/mykolaiv-to-become-a-model-case-for-a-transparent-reconstruction-process.

110   "DRC Presence in Southern Ukraine to Reach Newly Accessible Areas", *DRC Professional*, 21 February 2023, https://pro.drc.ngo/resources/news/drc-presence-in-southern-ukraine-to-reach-newly-accessible-areas/; Ministry of Foreign Affairs of Denmark, "Denmark Opens New Embassy Office in Mykolaiv", 2 October 2023, https://ukraine.um.dk/en/news/denmark-opens-new-embassy-office-in-mykolaiv.

111   Mariia Lukyanova and Vladlena Martsynkevych, *Local Budgets and the Reconstruction of Ukraine* (CEE Bankwatch Network/Ekodija, November 2023), 15, https://bankwatch.org/publication/local-budgets-and-the-reconstruction-of-ukraine.

can become involved in local reconstruction projects. Religious organisations can also support recovery efforts. Each community will probably pursue a slightly different mix of cooperation in order to confront the challenges of reconstruction.

The forms and levels of cooperation in reconstruction are therefore complex and dynamic. At the municipal level, each community is in a different phase of development and deserves continued attention moving forward. Nonetheless, three broader conclusions can already be drawn.

Firstly, the links between actors and institutions in the reconstruction process should be constantly monitored and strengthened. The role of local actors should remain a key focus. Reconstruction is a long process with many phases that are currently difficult to predict and do not occur simultaneously in all localities. It is therefore crucial to keep asking to what extent local actors are involved at the various levels and whether their inclusion is occurring sensibly and sufficiently. The MADCP should not communicate exclusively with Ukrainian national authorities, as it can also benefit from consulting with actors at the regional and local levels. The ministries responsible for recovery and the Agency for Reconstruction also need to ensure that the conditions for intensified dialogue with local actors are in place. This could make it necessary to provide more resources to the regional level as an important but currently underutilised intermediary. Exchange between actors from different municipalities within a region or across regions could help to not only disseminate best practices horizontally, but also to establish and expand networks. The Association of Ukrainian Cities is well placed to continue contributing to this exchange.

Secondly, simply involving municipal stakeholders in reconstruction efforts is insufficient; their competences and capacities also need to be strengthened in order to position them for success in fulfilling their new roles. Above all, this means continuing decentralisation and regional development reform measures,[112] which can also be pursued within the framework of EU accession. Furthermore, it will be important both to increase funding for municipalities (and their capacity to manage such funds) and to amend Ukrainian legislation so that municipal organisations can receive international grants and loans.[113] A survey conducted in autumn 2023 showed that most municipalities had no direct access to national or international funds.[114] Instead of insisting that every project in every municipality go through the same procedure, it seems more sensible to create conditions that allow municipalities to take on most tasks themselves. Among other things, this would mean promoting civil society structures that feed ideas and expertise into the reconstruction process and closely follow reconstruction efforts with the help of monitoring mechanisms geared towards reducing corruption.[115] Concerning the distribution of funds, renowned economist and Nobel Prize winner Roger Myerson has proposed decentralising at least a third of the funding for reconstruction and directing it to the local level.[116]

Thirdly, developments to date have shown that it will not be possible, let alone expedient, to shape each reconstruction effort according to the same mould. Nevertheless, it makes sense for major donors to coordinate their efforts within the framework of MADCP. It is equally important that an institutional architecture has been created in Ukraine to organise reconstruction, especially with respect to large infrastructure projects and overarching measures that affect more than one area. This is why the untimely and unconvincing changes at ministerial level described above are particularly problematic. At the municipal level, developments are likely to be even more complex and disparate than at other levels, especially because they encompass an extraordinarily broad spectrum of areas and activities. In addition to the physical reconstruction of homes, schools, hospitals and other facilities, municipalities will be faced with other tasks including dealing with refugees and returnees, treating the mental health of traumatised citizens and facilitating war veterans' return to civil-

---

112   For a detailed discussion of these issues, see OECD, *Rebuilding Ukraine by Reinforcing Regional and Municipal Governance*, OECD Multi-level Governance Studies (Paris: OECD Publishing, 2022), esp. pp. 15–17, doi: 10.1787/63a6b479-en.

113   Lukyanova and Martsynkevch, *Local Budgets and the Reconstruction of Ukraine* (see note 111), esp. pp. 9–11.

114   Ibid., 15.

115   Hubs that bring together representatives from civil society and local government can play an important role here. For an example of an already functioning hub in the city of Vinnytsia, see https://mistozmistiv.vn.ua/en/hub-misto-zmistiv/.

116   Roger Myerson, "Postwar Reconstruction Assistance and local Governments in Ukraine", VoxEU Column (Centre for Economic Policy Research, 9 March 2023), https://cepr.org/voxeu/columns/postwar-reconstruction-assistance-and-local-governments-ukraine.

ian life. These diverse challenges indicate how difficult it would be to integrate such a variety of efforts within a single institutional structure during reconstruction. Considering this, it might be more advisable to welcome different forms of separate but complementary activities. Duplication of certain measures or a lack of information and transparency in a limited number of areas would probably be less damaging than stifling small-scale activities or driving them underground due to burdensome bureaucratic and regulatory red tape.

Conclusion and Recommendations

Ukraine has demonstrated an astonishing degree of resilience since 2022. This applies not only to its military, but also to the realms of politics and society.[117]

It was surprising to many outside observers that Ukraine decided to proactively drive the EU accession process forward, even though Kyiv was and still is largely preoccupied with military challenges. The country has shown that it is possible to make substantial steps towards reform even amid intense fighting. Up to this point, the case of Ukraine has confirmed that progress is more likely to be made when concrete, limited measures are demanded in order to reach the next stage of the process. It is understandable that the pace of reform has decreased over the past two years, given the multiple war-related challenges Kyiv is facing. In this situation, Ukraine will need assistance to prepare for the various stages of accession negotiations and the expectations accompanying them. Nevertheless, the war should not be used as a reason to postpone the accession process, especially as the EU can use its demands during this critical time to help shape the political and economic environment that will characterise Ukraine after the war.

This opportunity to shape the environment is particularly important because the war has not yet led to a turning point when it comes to Ukraine's form of governance. Even if the conditions of wartime do make it imperative to centralise decision-making, as

similar cases have shown, the extent to which this is currently occurring in Ukraine is nevertheless problematic. This is all the more worrying considering that Kyiv has, for decades, exhibited a tendency to expand the power of the presidency. This increasingly calls into question the separation of powers, especially as the judiciary remains largely unreformed and unable to fulfil its role as an independent authority. Over the course of the EU accession process, it will therefore be necessary to repeatedly emphasise those reform elements that could bring about systemic changes by dismantling the detrimental symbiosis between politics and business that constitutes the foundation of oligarchic governance.

A continuation of the current Ukrainian approach, combined with large sums of money for reconstruction, is likely to revive the oligarchic system under new auspices. Therefore, the so-called fundamentals, i.e. the areas most closely related to the establishment of rule of law, should be placed at the centre of the accession process, as envisaged by the EU's new enlargement methodology. However, this emphasis on the rule of law will only remain credible if the EU succeeds in putting a stop to regression in this area among its own member states. Some in Ukraine have already begun to object to EU demands that cannot even be met by its current members. Furthermore, the EU must continuously prove at various levels that it is willing and able to continue the accession process with Ukraine and that it will admit the country when appropriate. This involves not only reacting to progress in Ukraine in a timely fashion, but also conducting internal reform of the EU.[118]

---

117 A similar development can be observed in the economic realm, but this is not covered in the present analysis. See, e.g., Anders Åslund, "Ukraine's Wartime Economy Is Performing Surprisingly Well", Ukraine Alert (Blog; Atlantic Council), 2 January 2024, https://www.atlanticcouncil.org/blogs/ukrainealert/ukraines-wartime-economy-is-performing-surprisingly-well/; Iikka Korhonen, "Ukraine's Economy Grows amidst the Rising Toll of War", *Bank of Finland Bulletin*, 23 February 2024, https://www.bofbulletin.fi/en/blogs/2024/ukraines-economy-grows-amidst-the-rising-toll-of-war/.

118 On the nexus between reform and EU enlargement, see, e.g., Carlos Bastasin, *Want Ukraine in the EU? You'll Have to Reform the EU, Too* (Washington, D.C.: Brookings Institution, July 2023), https://www.brookings.edu/articles/want-ukraine-in-the-eu-youll-have-to-reform-the-eu-too/; Daniel Göler, *Widening and Deepening? Preparing the EU for the Integration*

Civil society continues to play an important role in advancing reform and preparing Ukraine for EU accession. However, this role has diminished during the war and become more fluid. Although many more citizens have become socially active, most of them are engaged in activities directly related to the war. Also, because many people have been drafted into the military or have left the country, fewer resources are available for monitoring and supporting reform processes.

The EU should continue to work closely with Ukrainian civil society in furthering reform. Those who have remained in the country and have experience in certain reform areas are invaluable, as they can alert external actors to the dangers facing reform processes while also proposing ways to overcome obstacles. Constantly recalibrating and, if necessary, expanding forms of cooperation with different civil society actors within Ukraine will help to strengthen monitoring efforts across the country while adapting offers of support accordingly. Civil society actors also have an important function as intermediaries between the EU and Ukrainian society when it comes to the accession process. This is another reason why the EU may want to work with the Ukrainian government to create incentives for more migrants to return. This will not only increase the number of people who can support the reform agenda, but also allow returnees to disseminate knowledge about their experience of living in the EU.

An overarching architecture for reconstruction is now at least partly in place. The Multi-agency Donor Coordination Platform, which brings together foreign donors, is active at the international level. Thanks to Ukraine's co-chairmanship, the Platform is closely linked to reconstruction efforts in the country, which are managed and implemented by the relevant ministries and the Agency for Reconstruction. Nonetheless, local actors will be key to the success of reconstruction, whether they be local authorities, businesses or civil society organisations. At the community level, a variety of cooperative efforts are emerging that are linked to relations with the EU in multiple ways, even if they are not always interconnected with higher levels of the state hierarchy in Ukraine.

of New Member States (Genshagen: Genshagen Foundation, October 2023), https://www.stiftung-genshagen.de/publikationen/widening-and-deepening-preparing-the-eu-for-the-integration-of-new-member-states/.

The involvement of municipal actors in the myriad aspects of reconstruction should be seen as a process that requires constant readjustment as the needs of communities change. The Ukraine Recovery Conferences can be used, among other things, to highlight the challenges at the municipal level and to ask to what extent support for municipal involvement needs to be readapted. A strengthened engagement of municipal stakeholders can also increase their awareness of the links between reconstruction and EU accession.

At the same time, it should be accepted that a somewhat chaotic level of diversity at the municipal level will continue to exist and will encourage creative solutions to the challenges of reconstruction. Finally, while it is important to effectively involve municipal actors in recovery processes, it is equally crucial to improve the environment in which they operate. In this context, it is essential that decentralisation continue in the context of deepening relations with the EU. Before the invasion, this process helped to strengthen the role of municipalities by increasing their competences and resources. Advancing this reform can also help to reduce excessive centralisation at the national level by giving municipalities more competences and increased access to financial resources. In this way, the challenges of reconstruction are intertwined with those of the reform agenda and with domestic policy developments regarding governance. This highlights the intersections of the various areas explored in this paper.

This analysis has focussed on how political and (civil) society developments in Ukraine could influence its relations with the EU and, in particular, its potential accession. Clearly, the developments described here and the relations between the EU and Ukraine are closely linked to the trajectory of the Russian war of aggression. Political and (civil) society actors in Ukraine will have to continue adapting their actions to the needs of the war, and the war imposes restrictions on the way in which the accession process can progress. An accelerated process (fast track) towards Ukrainian EU membership, which is sometimes demanded by certain stakeholders, seems neither realistic nor favourable from an EU perspective. Instead, it is advisable to complement the accession process with necessary security measures in order to ensure Ukraine's ability to effectively defend itself while simultaneously pursuing reforms.

Despite the horrors involved, the war has paved the way for a rapid deepening of relations between Ukraine and the EU. This deepening has been accom-

panied by a widening of the relationship, as new areas of cooperation are constantly being added to previously existing ones. Even if the EU has not been able to transform itself into an effective security actor overnight, it has taken numerous, at times surprising steps to support Ukraine in defending itself. In the coming months, the EU and its member states will be called upon more than ever to ensure the security of Ukraine and Europe as a whole. It will be crucial for them to make a significant contribution to Ukraine's systemic transformation and reconstruction, as both will be necessary for Ukraine as a future EU member state.

Abbreviations

ANTAC	Anti-Corruption Action Centre
ATC	Amalgamated Territorial Community
AUC	Association of Ukrainian Cities
DCFTA	Deep and Comprehensive Free Trade Area
DGAP	German Council on Foreign Relations (Berlin)
DREAM	Digital Restoration Ecosystem for Accountable Management
EaP	Eastern Partnership
ECFR	European Council on Foreign Relations
EPF	European Peace Facility
ESI	European Stability Initiative
EU	European Union
EUACI	European Union Anti-Corruption Initiative (Kyiv)
EUAM	EU Advisory Mission
HACC	High Anti-Corruption Court
IFSH	Institute for Peace Research and Security Policy at the University of Hamburg
MADCP	Multi-agency Donor Coordination Platform
NABU	National Anti-Corruption Bureau of Ukraine
NACP	National Agency of Corruption Prevention
NATO	North Atlantic Treaty Organization
NEC	New Europe Center
OSCE	Organization for Security and Co-operation in Europe
OSW	Ośrodek Studiów Wschodnich (Centre for Eastern Studies; Warsaw)
PONARS	Program on New Approaches to Russian Security (Center for Strategic and International Studies [CSIS]; Washington, DC)
SAPO	Specialised Anti-Corruption Prosecutor's Office
SGUA	Support Group for Ukraine
UCEP	Ukrainian Centre for European Policy
USA	United States of America