

Ukraine's Other Front: The War on Corruption

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Cover image: National Anti-Corruption Bureau of Ukraine detectives arrest three employees of a state-owned enterprise.

This page: Much is at stake in the Ukrainian war on corruption.

INTRODUCTION

Before the full-scale Russian invasion in February 2022, many Americans could not place Ukraine on a map. Still, they knew one thing: it was a country plagued by corruption — deeply, thoroughly, perhaps even intrinsically corrupt.

Few Ukrainians would quarrel with the underlying charge. Ukraine has struggled with a toxic legacy of corruption since it declared independence from the Soviet Union in 1991. Where most Ukrainians would disagree: with the notion that the problem is endemic — somehow intrinsic or inherent and, by extension, immutable. On the contrary, Ukraine has been fighting fiercely for more than a decade to root out corruption and strengthen the rule of law.

Progress has been intermittent, often one step forward, two steps back, and there remains much to be done. But many of the breakthroughs seen in recent years would have been unthinkable a decade ago. And contrary to expectations — most observers anticipated that reform would stall in wartime — the war on corruption has intensified since the 2022 invasion.

Much is at stake on this second front for both Ukraine and the West. Corruption took a heavy toll in Ukraine's early years as the country struggled to free itself from the Soviet past,

establishing a market economy and forging ties to the West. Funding that should have been used to grow the economy was diverted into private hands. Fearful foreign investors stayed away even as they flocked to other Central and Eastern European countries like Poland and Czechia. Powerful vested interests erected barriers to entry in vital industries, suppressing competition and choking growth. Meanwhile, a lack of public trust in government stymied the development of democracy.

Ukraine has been fighting fiercely for more than a decade to root out corruption and strengthen the rule of law.

The 2022 invasion raised the stakes further still, including for Ukraine's Western backers. In the past 18 months, according to the Kiel Institute for the World Economy, the U.S. has committed \$74.5 billion in military and humanitarian aid to Ukraine.¹ Together, the European Union (EU) and its member states have committed nearly twice that much — \$141.3 billion.² (See Figure 1.) The bill for postwar reconstruction is already being estimated at more than \$1 trillion, and Kyiv hopes much of this funding will come from private investors, ideally backed by Western governments and international financial institutions.³

Any unlawful diversion of any of this support would have disastrous consequences for Ukraine's future, crippling reconstruction and the national political renewal Ukrainians hope will come with it.

European integration also depends on beating back corruption. It's no accident that five of the seven conditions the EU has asked Ukraine to meet before moving forward with accession trace back to anticorruption reform and the rule of law. Failure could block Ukrainian membership in both the EU and NATO, further

discouraging foreign investment and democracy building.

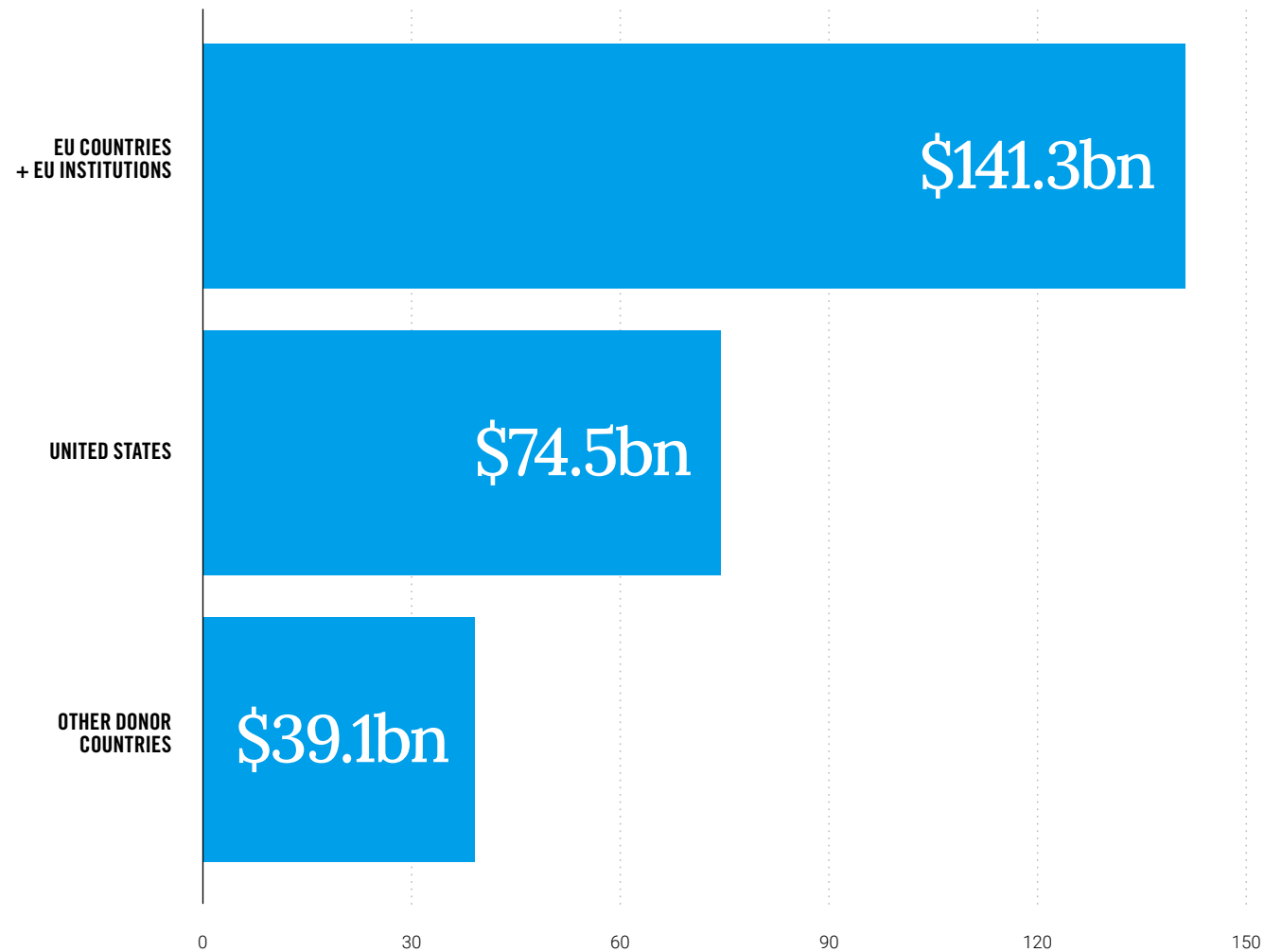
Bottom line: The struggle to root out corruption will be as important to Ukraine's future as driving Russian soldiers from its territory. Failure on either front would put an end to the dream of a fully democratic, independent nation ready to take its place in Europe – an unimaginable disappointment for Ukrainians and a profound risk for the West, which can ill-afford a faltering, unmoored state on its border with an emboldened, rapacious Russia.

Ukrainians are fighting to drive out Russian invaders and build a new nation.



FIGURE 1: GOVERNMENT SUPPORT FOR UKRAINE

Committed military, humanitarian and financial assistance, January 24, 2022 to July 31, 2023



Source: Kiel Institute for the World Economy

But none of this means that fighting corruption is easy or that success is guaranteed. The past decade has been a long, hard struggle: reforms introduced and then scuttled, implementation blocked at every turn, charges filed and then ignored by the courts, anticorruption activists beaten and murdered.

Those with a vested interest in the old order have stopped at nothing. And Ukraine will need its allies' support as much on this front as on the battlefield – financial support, technical assistance, exacting standards and, when necessary, a refusal to compromise or relax standards.

Reform advocates say Ukraine has been transformed in the past decade. "The corruption of 10 years ago and now – it's two

different worlds," says Viktor Nestulia, the Open Contracting Partnership's team lead in Ukraine.⁴ Yet no one in civil society thinks the fight is over. "There will always be someone in government trying to block reform," Anti-Corruption Action Center (AntAC) executive director Daria Kaleniuk explains. "We need our international partners to help us combat this obstruction by conditioning their support on our progress."⁵

The struggle to root out corruption will be as important to Ukraine's future as driving Russian soldiers from its territory.

THE SOVIET ERA



The roots of Ukrainian corruption trace back to the Soviet era. Today's graft and extortion aren't something intrinsic or hardwired; they're adaptive strategies learned from the past.

Ukraine was part and parcel of the Soviet Union for 70 years and dominated by the Russian Empire for some 200 years before that. Ukrainian political and cultural traditions were distinctly different from Russian traditions, but the centuries of colonial rule took their toll, and Ukrainians are still working to shake off the habits — political and economic assumptions and habits of mind — inherited from Soviet days.

In Soviet Ukraine, as in the rest of the Soviet Union, the Communist Party reigned supreme — a small ruling elite above the law with absolute control over politics, the courts and virtually all economic activity. Ordinary citizens distrusted government. Informal networks — friends, neighbors, extended family — were seen as more reliable than institutions. A chronic scarcity of goods and services fueled the emergence of a shadow economy based on barter and bribery. And many felt it was legitimate to ignore the law.

People often distinguished between good and bad corruption — the small bribes you paid to get access to needed services versus the

entrenched power and privilege of the party elite. But by and large, citizens accepted that both kinds of illegality were inevitable. You couldn't survive without bribing in the Soviet shortage economy. Besides, when everyone else jumps the queue, it's foolish not to — there was no reward for playing by the rules. And corrupt officials operated with impunity. No one — neither the predatory elite nor the public it was exploiting — imagined they could be stopped. Indeed, according to one thoughtful analyst, both party and public recognized that without corruption, the communist system would hardly have worked.⁶

The collapse of the Soviet Union triggered a transition across Eastern Europe from communist command and control to free market economies. But the shift went more smoothly in some countries than others, and it often offered new opportunities for wrongdoing as authorities privatized the state's vast economic holdings. In Russia and Ukraine, oligarchs and organized crime with access to relatively small amounts of capital were able to grab control of great wealth — huge swaths of agricultural land,

Seventy years in the Soviet Union left its mark all over Ukraine.

Ukraine got off to a slow start — much slower than many of its neighbors in the former Soviet sphere of influence — in rooting out these inherited habits of mind.

manufacturing facilities, oil and gas production and other infrastructure. A handful of Ukrainian titans — a new privileged elite not unlike the old party nomenklatura — used their new fortunes to build media empires and take over political parties, often simply by paying off a critical mass of lawmakers.

Early Ukrainian governments, like their Soviet predecessors, were built around personal patronage networks where loyalty trumped merit and influence peddling was routine. The new authorities — often the same people who had held power in the past — maintained control of the courts. In fledgling Ukraine as in Soviet days, “telephone justice” prevailed — judges waited for a call from above before issuing verdicts. And old habits of mind were slow to change.

Informal networks remained more important than rule-driven institutions. As late as 2020, estimates suggested that informal transactions accounted for between 25% and 40% of Ukrainian economic activity.⁷ And bribery, both

petty and more significant, was often seen as the only way to get things done.

Ukraine got off to a slow start — much slower than many of its neighbors in the former Soviet sphere of influence — in rooting out these inherited habits of mind. Former party officials remained a political force through the new nation's first decade. Early presidents looked to Russia for resources and protection. The Ukrainian economy remained closely entangled with the Russian economy — a huge nearby market linked by age-old ties where consumers spoke the same language as the Ukrainian business elite. And Russian authorities determined to maintain Ukrainian dependence often intervened surreptitiously to foster corruption in Kyiv and other cities. “It kept us weak,” one businessman who didn't want to be named from the notoriously corrupt city of Kharkiv explained, “and made it easier for Moscow to pull strings here.”⁸

People wait in line to buy milk in the Soviet era.



Credit: Maximonline.ru

The upshot: As recently as 2022, Ukraine still lagged behind virtually all its post-Soviet neighbors in shaking off the legacy of the Soviet past. It's difficult to assess corruption empirically — most domestic report cards and international rankings rely on surveys, either of business owners or the public. But according

to Transparency International's widely cited corruption perception index, Ukraine now ranks 116 on a list of 180 countries, with only Russia among post-Soviet nations coming in below it. It's a disturbing number, but it masks dramatic improvement since 2000, when Ukraine came in just three spots from the bottom of the list.⁹

THE MAIDAN REVOLUTION

A Maidan protester in Kyiv cloaked in the flag of the European Union.



Credit: Maidan Museum

The Maidan Revolution of 2014 triggered a new era in Ukraine — in many ways, it, rather than formal independence in 1991, was the birth of the nation we know today.

More than a million people poured into the streets to protest pro-Russian president Viktor Yanukovich's decision not to pursue EU membership. After three months of demonstrations and fierce street fighting — more than 100 protesters were killed — Yanukovich fled to Russia and a new generation of young idealists emerged, eager to build a new foundation for Ukraine.

Anticorruption was a focus from the start. Reformers came together in small, grassroots groups, formal and informal. In some cities, they set their sights on local issues, gathering data on public procurement or building a case against predatory traffic cops. The top target in Kharkiv was the pro-Russian mayor, Hennadiy Kernes, and his corrupt political machine. Activity in Odesa centered on customs agents and the port authority. At the national level, a coalition of activist nonprofits, the Rehabilitation Package of Reforms, drafted legislation for the new reformist government and worked with parliament, the Verkhovna Rada, to establish a state-sponsored investigative body, the National Anti-Corruption Bureau of Ukraine (NABU).

As their reach grew, activists were able to attract foreign funding — government funding from the U.S., the EU and a variety of European countries, as well as foundation support. Also essential from the beginning, a number of international partners, including the EU and the

International Monetary Fund (IMF), conditioned aid for Ukraine on the progress of the war on corruption.

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A NEW TEMPLATE: INNOVATION DRIVEN BY CIVIL SOCIETY

Arguably the most effective and influential reform launched in these years was the online public procurement platform, ProZorro. Few realms of life were more prone to corruption in the nation's early days than government contracting. Local and national authorities could siphon money to cronies by overpaying or arbitrarily restricting who could bid on contracts. Crooked pols bought things their constituents didn't need and received lavish kickbacks in return. Everything was done behind closed doors with little information available to the public or the media. According to one estimate, more than 20% of the money spent on public procurement in that period was lost due to corruption and limited competition.¹⁰

Not long after independence, the EU and the World Trade Organization encouraged Ukraine to police public procurement. But the new system Kyiv created was as corrupt as what had come before it — a new set of pro forma rules riddled with loopholes that allowed officials to continue unjustified, overpriced purchases from a limited cohort of suppliers.



A Maidan protester collects money for the revolution.

Unlike some activist groups, which saw themselves as adversaries of government — watchdogs and whistleblowers — Transparency International Ukraine (TI Ukraine) focused from the start on working with officials to solve problems. “Our idea is to fix things,” current executive director Andrii Borovyk explains. “We like to cooperate behind the scenes.”¹¹ In spring 2014, that meant convening a group of IT experts and entrepreneurs to develop an electronic platform, transparent and open to the public, for conducting public tenders and monitoring procurement.

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Activists were inspired by innovation in nearby Georgia. The Washington-based Open Contracting Partnership (OCP) provided core ideas. International donors, including the U.S. Agency for International Development (USAID), offered seed funding. The cash-strapped Ukrainian government, hemmed in by falling commodity prices and an expensive new war in Crimea, was eager to save money on public procurement. But it was grassroots activists who drove the development of the new system

— bottom-up, trial-and-error experimentation by a team of several hundred tech-savvy volunteers working on a shoestring budget.

In 2015, the coalition launched a first pilot. In 2016, activists offered a finished product to the government, free of charge. And by the end of that year, all Ukrainian public procurement — by the national government, state-owned monopolies, regional administrators and municipal governments — was mandated by law to take place on the new, transparent platform.

The principle behind ProZorro, now almost a national slogan, is that “everyone sees everything.” The digital architecture links a central, government-run database to eight privately owned commercial marketplaces. Officials announce tenders on the marketplaces. Would-be government contractors offer bids and provide extensive background information — everything from their licenses and business history to the make, model and price of any equipment they intend to use or install under the contract. Auctions are conducted online. Anyone in the public or private sector can review the process in real time, and everything about the sale — all the background documentation, the contract, the final price — is stored online in the central database, available to any and all viewers.

BEYOND INNOVATION TO COMMUNITY-BUILDING

ProZorro was an instant success. Government agencies, local and national, reported extensive savings. There were international prizes and global renown, as open contracting took hold in several dozen other countries worldwide. But for TI Ukraine, ProZorro — it means “transparency” in Ukrainian — was just the beginning. The next step, called Dozorro, or “oversight,” was building a nationwide army of public-spirited data analysts who could use the system to monitor procurement and call out abuses.

There were technical innovations at this stage too — using artificial intelligence, for example, to identify likely problem cases among the millions of tenders offered each year by state and local government. But the real work was grassroots organizing: training sessions, retreats, instructional gamification offered on social media, even a line of trademarked merchandise — mugs, caps and the like — designed to recruit potential procurement watchdogs.

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The result in just a few years: a large, far-flung community of nonprofit organizations, journalists, entrepreneurs, public officials and law enforcement agencies. “We’re an essential component,” Kharkiv Anti-Corruption Centre analyst Pavlo Novyk explains. “ProZorro cracked open the system and spurred new competition — more bidders. That in itself helps save money and reduces corruption. But the real key is oversight — someone has to monitor public purchases. And you need people who know how to do it.”¹²

IN MID-SEPTEMBER 2023, RUSSIA CONTROLLED NEARLY 17% OF UKRAINIAN TERRITORY



Russian-controlled Ukrainian Territory before February 24
 Assessed Russian Advances in Ukraine
 Assessed Russian-controlled Ukrainian Territory
 Claimed Ukrainian Counteroffensives

Source: Institute for the Study of War

A TEN-YEAR STRUGGLE

By the time Russia invaded in 2022, Ukraine had launched a clutch of anticorruption institutions, all, like ProZorro, originally conceived by civil society activists and then adopted by the state.

Detectives from the National Anti-Corruption Bureau (NABU) — it was developed with help from the FBI — are dedicated to investigating bribery, graft, embezzlement and other abuses. They pass promising investigations on to the specially trained prosecutors in the Specialized Anti-Corruption Prosecutor's Office (SAPO). A High Anti-Corruption Court (HACC) tries cases developed by NABU and SAPO. A National Agency on Corruption Prevention (NACP) administers electronic asset declarations filed by some 800,000 government officials, national and local, and an Asset Recovery and Management Agency (ARMA) tracks and seizes or repatriates stolen state assets. (See Figure 2.)

On paper, it's an impressive array. What it masks: the savage struggles that took place at every stage of launching and staffing these bodies and also their uncertain future. The Danish diplomat who leads the EU Anti-Corruption Initiative in Ukraine (EUACI), Allan Pagh Kristensen, describes the institutions as an "isolated island in a hostile sea."¹³

All are up and running in some form today. Some have in fact grown stronger in the 18 months since the full-scale invasion. But all continue to face resistance. Several are still struggling to prove themselves — there have as yet been relatively few final convictions. And there is much work still to be done.

FIGURE 2: NATIONAL ANTICORRUPTION INSTITUTIONS



THE OLD GUARD FIGHTS BACK

The battles of the past decade pitted this new, forward-looking, technically oriented Ukraine against the old, post-Soviet order — corrupt, bureaucratic vested interests determined to block reform. The new Ukraine was buoyed by its ideals and international partners — public and private donors and organizations, like the EU and IMF, that conditioned aid to Ukraine on continued progress in the fight against corruption. But the old guard was equally formidable and far more ruthless.

At the top of the lineup opposing reform, some dozen all-powerful oligarchs controlled the media and large blocks of compromised Rada deputies. Everyone who ran for president promised to combat corruption, but as often as not, once elected, they sided with the oligarchs and other vested interests. Legions of civil servants, local and national, used to making their living from kickbacks and extortion looked for ways to get around or obstruct the new reforms, as did a generation of businessmen accustomed to single-source procurement and sweetheart deals.

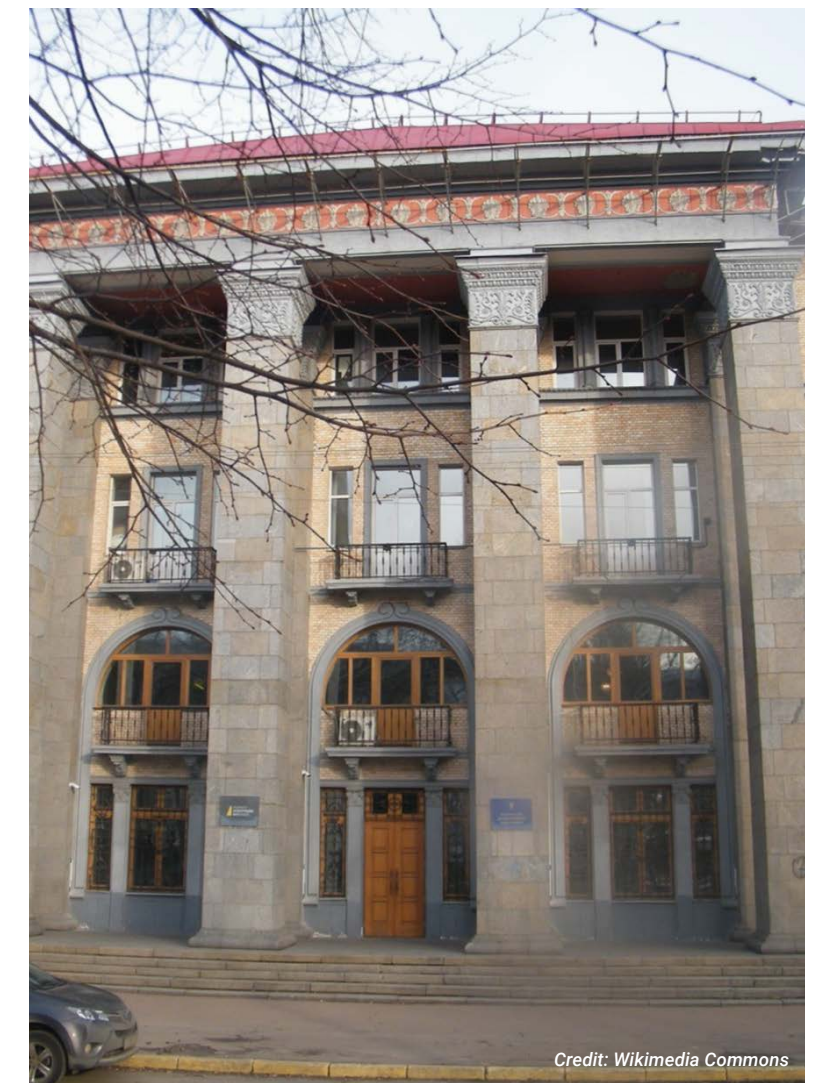
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Among common tactics, the Rada blocked and buried legislation. The Constitutional Court of Ukraine (CCU) stalled implementation of reforms and ruled even against laws demanded by international partners. Oligarchs paid judges to head off or overturn convictions and snuck cronies on the boards of state-owned enterprises. Weak, ineffectual candidates were given jobs at the new anticorruption institutions. And when that wasn't enough, alternative enforcement agencies loyal to the president's office — often the Security Service

of Ukraine (SBU) or the National Security and Defense Council (NSDC) — interfered with the work of the new bodies, derailing sensitive investigations and prosecutions.

In other instances, when its interests were most threatened, the old guard fell back on smear campaigns and physical violence. One of the most prominent national reform groups, the Kyiv-based Anti-Corruption Action Centre, was investigated by the national tax police and accused of embezzling U.S. government assistance. The co-founder of the Kharkiv Anti-Corruption Centre, Dmytro Bulakh, was attacked by thugs in broad daylight the day before he was scheduled to speak to a council of regional administrators. Between 2014 and 2018, one human rights group tracked 100 attacks on anticorruption activists and 10 murders.¹⁴

Civil society reformers worked with lawmakers to create the National Anti-Corruption Bureau in 2015.



Credit: Wikimedia Commons



Credit: RAIL Insider

REFORM SLOWED, BUT NOT STOPPED

Over the years, this obstruction took its toll: a long, bitter history of stalled reforms and partial implementation. Legislation establishing the High Anti-Corruption Court was subject to 2,000 amendments, many of them hostile, before final passage in June 2018. In keeping with legal requirements, President Petro Poroshenko appointed an auditor to oversee the workings of NABU but then neglected to pay him, so no audits were ever performed. A criminal investigation into a \$400 million Kharkiv real estate scam included Mayor Hennadiy Kernes among those to be indicted, but when the charging document came back to Kharkiv after passing through the Prosecutor General's Office in Kyiv, the mayor's name had been dropped, and he was never prosecuted.

The list of abuses, large and small, goes on and on. And the bolder the reform —

overhauling the judiciary and taming the power of the oligarchs are the two most difficult and potentially consequential fights — the fiercer the resistance mounted to block it.

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The good news: none of this opposition has deterred the activists battling Ukrainian corruption. On the contrary, if anything, it seems to have made them tougher and more determined — and over time, their persistence has paid off, as in the recent struggle to appoint a new head of SAPO.

Detectives from the National Anti-Corruption Bureau are dedicated to investigating bribery graft, embezzlement and other abuses.

Even after a decade of ostensible national consensus on the need to root out corruption, the resistance remains powerful and unafraid to flex its muscles. But in the end, the reformers' candidate prevailed.

One of the most important links in the chain of Ukrainian anticorruption bodies, SAPO has been beset by challenges since its creation. It's a small outfit — only a few dozen prosecutors — housed in the Prosecutor General's Office and dependent on its support. Worse still, for SAPO's first four years of existence, before the launch of the High Anti-Corruption Court in 2019, most of the office's indictments languished unattended in the regular court system, blocked by old guard judges determined to protect the status quo.

The latest battle began well before the full-scale war. The top job at SAPO had been empty since August 2020, when the previous head resigned in protest against interference by the Prosecutor General's Office. It took more than a year for a new head to be selected. The anticorruption activists' preferred candidate was star NABU detective Oleksandr Klymenko, but he faced stiff opposition from an attorney favored by the president's office. Finally, in late 2021, Klymenko triumphed in a point-based selection process, only to be blocked for another seven months by Rada deputies who claimed he lacked proper security clearances.

EU officials protested, but still the opponents dragged their feet, and international skeptics



The Specialized Anti-Corruption Prosecutor's Office is housed in the Prosecutor General's Office and dependent on its support.

wrung their hands — yet another example, some said, of Ukraine's hopelessly ingrained corruption. Finally, in June 2022, the EU broke the logjam by making installation of a SAPO head one of its conditions for beginning talks about Ukrainian accession, and Klymenko was appointed in July 2022.

From start to finish, the selection process had taken nearly two years. At many points, it looked as if the old guard would win. Even after a decade of ostensible national consensus on the need to root out corruption, the resistance remains powerful and unafraid to flex its muscles. But in the end, the reformers' candidate prevailed.

AntAC, among other groups, hailed Klymenko's appointment as a "watershed moment," and SAPO productivity doubled in the new chief's first year at the helm.¹⁵ The full payoff won't be clear until his cases produce convictions, but the agency is said to be advancing 250 high-level investigations and prosecutions, including a once unimaginable case against the powerful head of the Supreme Court and investigations of some dozen suspect Rada deputies.¹⁶

WARTIME



A nation at war: military vehicles in the streets of Kyiv.

Many international observers expected that the February 2022 invasion would mean a pause in the Ukrainian war on corruption or even, some feared, a reversal of the gains made in the eight years since Maidan.

Wartime imperatives for secrecy, it was argued, are fundamentally at odds with the reformist ideal of transparency. The war would centralize power. Other priorities would take precedence. Ukraine's new anticorruption institutions would be weakened, and when the war was finally over, the need to rebuild would be too urgent to worry unduly about how exactly it was done.¹⁷

In fact, so far, few of these predictions have been borne out. On the contrary, the full-scale conflict has intensified the fight against corruption as Ukraine's international partners double down on demands for reform and wartime sacrifices sharpen Ukrainians' hunger for a truly independent, democratic state.

MARTIAL LAW

The exigencies of war have brought a few unwelcome changes.

Under martial law, procurement deemed to be security-related need not be reported on the ProZorro platform. This allows officials to forgo competitive bidding and rely on single-source, direct contracting, appropriate in some cases — weapons procurement and other timely needs — but of growing concern to reform activists. No one knows exactly what share of purchases is not being reported or what share is no longer competitive. But civil society groups that supported some ProZorro exemptions 18 months ago are now beginning to complain.

"Transparency isn't very popular with the government right now," TI Ukraine chief Borovyk laments. "We in civil society understand — no one wants to give away Ukrainian secrets to the Russians. But our fundamental standards haven't changed. The secrecy and the limits on information are problematic."¹⁸

Also of concern to reformers, the government suspended the requirement that public officials file annual asset declarations.

concedes. "Even if you're not dishonest, it's a pain in the neck."¹⁹

But in this case, too, a combination of international pressure and domestic demand for reform eventually triumphed. Appeals to restore the declarations mounted through the first 18 months of the war: from the European Commission, the European Parliament and the Group of Seven (G7) wealthy nations, among others. President Volodymyr Zelensky called on the Rada to pass legislation reinstating the requirement. Members dragged their heels, then approved a half-hearted bill that required officials to file declarations but shielded the information from public view — it would be available only to law enforcement officials, not voters, the media or civil society.

The public response was swift and angry: a petition demanding that Zelensky veto the law garnered 80,000 signatures in just a few hours, and the president promptly complied. "These restrictions are unacceptable," he told the nation on the Telegram messaging app. "The register must be opened right now."²⁰ A new law was approved in late September, reinstating the requirement to file declarations and making them available to the public immediately.

Meanwhile, despite these significant gaps — ProZorro and e-declarations were at the core of Ukraine's post-Maidan anticorruption strategy — the full-scale war has also been a boon for the fight against corruption: a historic boost in momentum and an unexpected opportunity for reformers.

Also of concern to reformers, the government suspended the requirement that public officials file annual asset declarations. From 2016 through 2020, hundreds of thousands of politicians, civil servants, judges and other top officials were required to disclose their and their families' finances: earnings, liabilities, property holdings — everything from vintage wines and watches to real estate and ownership of trusts and companies. Declarations were filed electronically and open to the public, and fraud was a criminal offense, with suspicious declarations subject to investigation by NABU and SAPO.

Conceived by civil society and endorsed by the EU and the IMF, both of which conditioned aid to Ukraine on adoption of electronic asset declarations, the system was hugely popular with the public — the national media made a meal of the reports every October — and seen as an essential weapon in the battle against corruption.

Martial law suspended the requirement to file declarations. Many elected officials are relieved. "No one likes to do it," AntAC's Daria Kaleniuk

INTERNATIONAL PARTNERS

The full-scale war has brought unprecedented international interest and attention — and with it, intensified pressure for reform that has been warmly welcomed by activists and much of the Ukrainian public.

Enthusiasm for joining the EU, long an article of faith for reform-minded Ukrainians, has grown even stronger since the full-scale invasion. Recent polls show support running between 80% and 90%, and virtually no one complained in June 2022 when the EU laid out seven tough conditions for beginning membership talks.²¹ Brussels' demands were detailed and exacting: that Ukraine strengthen the anticorruption institutions, curb the influence of oligarchs, reboot the bodies that select and discipline judges and revamp its approach to selecting judges for the Constitutional Court, among other measures. (See Figure 3.) But rather than react defensively, the Ukrainian public embraced the conditions. According to one survey, 73% of respondents were

supportive, with many seeing the demands as an essential lever for change.²²

"Every politician comes to power promising to fight corruption," says TI Ukraine's Borovyk. "But it's mostly PR, not relevant or not applicable. Now, thanks to the EU, we finally have a road map — a program we can implement to effect meaningful reform."²³

The EU's intervention has produced a burst of changes in Kyiv. Several of its top demands — for appointing new heads of NABU and SAPO and rebooting the two bodies of sitting judges and legal experts that oversee judicial selection and discipline, the High Council of Justice and High Qualifications Commission of Judges — had been in the works for years, stymied by old guard obstruction and sabotage. All four reforms were completed in the past 12 months in response to the EU conditions.

The EU's intervention has produced a burst of changes in Kyiv.

FIGURE 3: EU CONDITIONS

TOPIC	CONDITION	JUNE 2023
CONSTITUTIONAL COURT	Enact and implement legislation on procedure for selecting judges	Good progress
JUDICIAL GOVERNANCE	Select members of the HCJ and HQCJ	Completed
ANTICORRUPTION	Appoint new heads for NABU and SAPO, show credible track record of prosecutions and convictions	Some progress
MONEY LAUNDERING	Ensure that legislation is in compliance with international standards	Some progress
OLIGARCHS	Implement anti-oligarch law taking account of Venice Commission opinion	Some progress
MEDIA	Enact law to tackle influence of vested interests	Completed
NATIONAL MINORITIES	Finalize and implement legal framework recommended by the Venice Commission	Some progress

Sources: Delegation of the European Union to Ukraine and the European Commission

EU insistence has also sparked a breakthrough in a long-running battle over the Constitutional Court. The debate had been raging since October 2020, when angry street protests forced the government's hand and Zelensky stepped in to fire two of the country's most influential judges. Yet the government and civil society remained at odds over how to select new judges and overhaul the court — until August 2023, when pressure from the EU brokered a legislative compromise.

Still other important changes driven directly or indirectly by EU demands include passage of a comprehensive anticorruption strategy — legislation stalled in the Rada for two years before Brussels intervened — and liquidation of the powerful and notoriously corrupt District Administrative Court of Kyiv.

The lesson for many reformers: moving forward, they would like to see even more stringent requirements from the EU and other international partners. "Conditions have to be detailed and technical," DEJURE Foundation Co-founder Mykhailo Zhernakov maintains, "the more precise, the better. We need that leverage. We need the pressure. Without it, we won't see the changes we need to build a truly democratic, Western-looking country."²⁴

Beyond the EU's specific requests, international pressure is driving a new sense of urgency among political leaders. Officials at every level know that the world is watching — not just the EU and the IMF but also a broad array of other donors, public and private, who will be essential for reconstruction. And the scrutiny is producing a rich yield of prosecutions and arrests. In January 2023, 15 high-level government officials, including four deputy ministers, two heads of state agencies and five regional governors, resigned or were dismissed as Zelensky announced "zero tolerance" for corruption.

Other crackdowns followed. In August, Zelensky dismissed all 24 of the country's regional military recruitment chiefs, some of



Credit: Tamar Jacoby for American Purpose

them charged with taking bribes from men seeking to evade the draft. Then, in early September, the president replaced Defense Minister Oleksii Reznikov, who was charged with no wrongdoing but seen to have mishandled investigations of military procurement scandals involving overpriced eggs and overcoats.

Some Western skeptics saw the arrests as a symptom of rot — graft at every level, including even the war effort. But by and large, Ukrainians seemed encouraged: another sign that Kyiv is getting serious about the war on corruption.

Mayors who need reconstruction funding are also looking West — to governments and international financial institutions in Europe and

the U.S. Anticorruption activists in Kharkiv were astonished when city officials they had been at odds with for a decade recently invited them to join a committee making plans for postwar rebuilding. "Kharkiv, Sumy, Poltava, Mykolaiv, they're all vying to outdo each other," explained Volodymyr Rysenko, a lawyer at the Kharkiv Anti-Corruption Centre. "They know the Western donors want transparency and accountability, and they're competing to show how squeaky clean they are."²⁵

Poland helped Ukraine get through the winter by providing temporary housing for people displaced from their homes.

Mayors who need reconstruction funding are also looking West.

OLIGARCH LOSSES

Another unexpected windfall of the war has been a temporary taming of the oligarchs who once controlled Ukraine's biggest, most important industries and media outlets. Viktor Medvedchuk, Rinat Akhmetov, Ihor Kolomoisky, Kostyantyn Zhevago: At the height of their influence, Ukrainians say, many people were afraid to utter their names — they were that powerful. But all have lost hundreds of millions of dollars — in some cases, billions, and more than 50% of their vast fortunes — to wartime destruction.

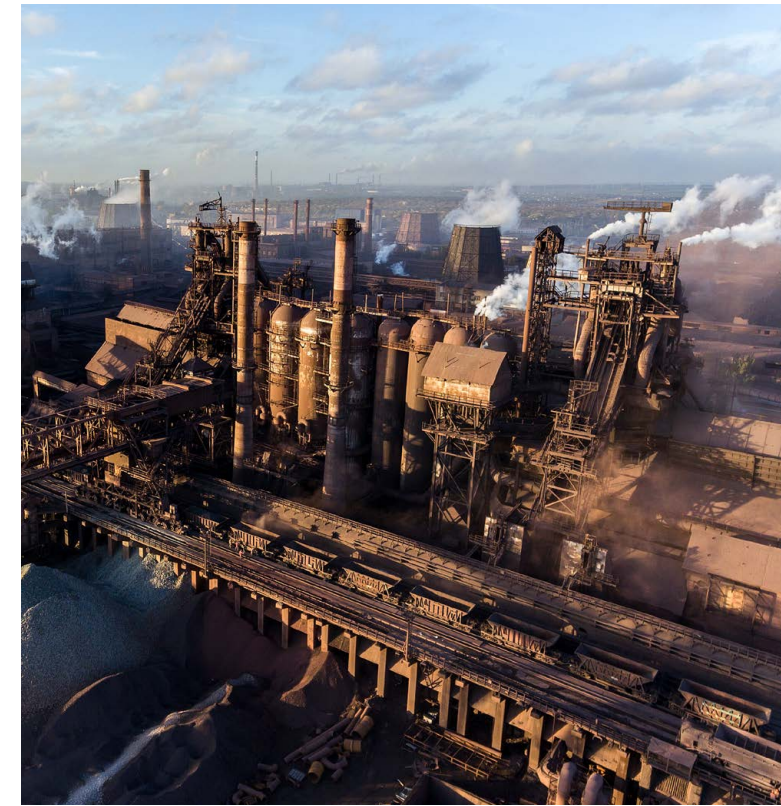
Akhmetov lost the legendary Azovstal steelworks in the siege of Mariupol. Kolomoisky lost what was once the nation's biggest oil refinery, in Kremenchuk, also destroyed by Russian missiles. Wartime consolidation of the nation's top TV channels — all were previously controlled by oligarchs — has deprived the tycoons of their most powerful political tool.

The notoriously pro-Russian Medvedchuk was handed over to Moscow in a prisoner exchange. Zhevago, charged with embezzling hundreds of millions of dollars from one of Ukraine's largest banks, is living in exile in France. It's widely believed — a rumor not confirmed or denied — that Zelensky's former patron Kolomoisky has been stripped of his Ukrainian citizenship, and in early September, he was arrested on suspicion of fraud and money laundering of some \$14 million.

None of this guarantees that the oligarchs won't be back; all still have vast reserves of wealth and power. But it suggests that their hold can be broken — an idea once unimaginable for most Ukrainians.

None of this guarantees that the oligarchs won't be back, but it suggests that their hold can be broken.

The oligarchs have lost hundreds of millions of dollars to wartime destruction.



The share who said corruption is “never justified” jumped from 40% before the war to 64% in mid-2022.

The Azovstal iron and steel works in Mariupol was leveled by Russian shelling in the first months of the full-scale war.

A NEW NATIONAL RESOLVE

A third big wartime shift, less tangible than the others but in the long run at least as consequential, has been growing public intolerance of corruption — what many now see as the country's greatest, most damaging weakness.

The war has sparked unprecedented patriotic zeal and civic-minded sacrifice. Quite apart from the thousands who have volunteered to fight, polls show that 86% of the public has donated money, often on a regular basis, to support the war, and more than 40% has volunteered their time or expertise.²⁶ When asked what they're fighting for, people talk about expelling Russian troops but also, often more fervently, about the new nation they want to build — a truly Western nation, free of all Russian influence, including the post-Soviet legacy of corruption.

A December 2022 EUACI poll found that 87% of the public and 77% of business executives see political corruption as a somewhat or very serious problem for Ukraine. At the same time, both groups said the war had brought renewed energy and effectiveness

to the fight against malfeasance, and 46% of businesses said abuses had declined in the past year.²⁷ Another sounding, by USAID, found that the share who said corruption is “never justified” jumped from 40% before the war to 64% in mid-2022, and those who said they would be willing to report corruption nearly doubled, from 44% to 84%.²⁸

Just how this could play out politically is already becoming evident in cities like Kharkiv. Anticorruption activists and city officials alike say the public is perceptibly less tolerant of wrongdoing than it was before the war. Some view this as inspiration for change. “We've been through an experience we will never forget,” deputy mayor Dmytro Isayev reflected. “Why would we want to go back to the past? We want to build something better.”²⁹

Others see it as a stick. “Ukrainians are fighting and dying to become part of Europe,” noted Roman Semenukha, deputy head of the Kharkiv regional administration — a job akin to lieutenant governor in a U.S. state. “As an elected official, I need to listen to the will of the people — or else. I won't survive if I stand in the way.”³⁰

WHAT'S NEXT?

Nearly 10 years after the Maidan Revolution sparked the first serious Ukrainian effort to fight back against endemic graft and oligarch control of the economy, it can still be hard to tell how close the country is to finishing the job.

The battle against corruption has taken off, and the full-scale war has given it an unexpected boost. Yet the future remains uncertain.

CAUTIOUS OPTIMISM

Some, like former minister of economic development Tymofiy Mylovanov, now president of the prestigious Kyiv School of Economics (KSE), are relatively optimistic. There's been a momentous shift, he says, that will change everything going forward: today, unlike in the past, corrupt officials are no longer untouchable. "People end up in court. People go to jail. Ministers, deputy ministers, prosecutors — no one operates with impunity. That's a disciplining force for any politician and a powerful deterrent."³¹

Unlike in the past, corrupt officials are no longer untouchable — no one operates with impunity.

Hopeful civil society activists argue that the anticorruption institutions are finally coming into their own. Many, including NABU and SAPO, struggled to make a difference in their four or five years in existence. But the establishment of the High Anti-Corruption Court in August 2019 launched a new era, these activists maintain. Now the other institutions — the detectives, the prosecutors, those tracking stolen assets and

others — can finally make their mark.

According to one count, no more than one or two judges were convicted by Ukrainian courts in the years before the HACC was established. As of June 2023, the new tribunal had found 23 top-level judges guilty of corruption charges.³²

"We've come light years since 2014," says DEJURE's Mykhailo Zhernakov. "The institutions are in place. We know the formula; we have a process. Ukrainian civil society develops solutions, and the international partners apply pressure — aid conditioned on reform. We just need to scale it."³³

'The issue now — the question mark — is implementation. It's all about results.'

Still others are most encouraged by what they see as a new political will. "There's been a clear shift," says Andy Hunder, president of the Kyiv-based American Chamber of Commerce in Ukraine. "There's an understanding that for the country to succeed, it needs to play by the rules — the global rules." Still, Hunder cautions, this is only a start. "The issue now — the question mark — is implementation. It's all about results."³⁴

Many civil society activists also temper their hopes with caution. "We've come a long way," says TI Ukraine's Andrii Borovyk, "but we can't — we don't — expect a straight line up. We're still a long way from the end goal, and there are many ups and downs still to come."³⁵

The major challenges ahead fall into five buckets: strengthening the anticorruption institutions, judicial reform, preventing the return of the oligarchs, uprooting the culture of petty corruption and ensuring a transparent reconstruction.



Barricaded with sandbags: the Kyiv city state administration and Kyiv city council.

ANTICORRUPTION INSTITUTIONS

The first challenge is to safeguard the progress made in recent years by strengthening the anticorruption institutions and ensuring their political independence.

Both NABU and SAPO are understaffed. NABU has 700 employees — fewer than 250 of them detectives — in a country with a prewar population of 40 million. SAPO has just a few dozen prosecutors, nearly one-quarter of them on leave to serve in the armed forces. Activists in regional capitals grumble that they can't get the agencies' attention, and even when they do, the institutions lack the manpower to help them. "The triage takes a terrible toll," says Kharkiv lawyer Rysenko, formerly on a NABU oversight board. "It means they miss lots of important things."³⁶ Conservative estimates suggest that NABU needs 300 more detectives. Rysenko would like to see a tripling of the existing force.

Both NABU and SAPO are understaffed.

Most observers — Ukrainian civil society and the EU — were satisfied with the way the sitting NABU and SAPO chiefs were selected. There are few serious questions about either man's political independence. But reformers burned many times in the past are eager to protect the agencies from future external interference.

Domestic activists and international partners question SAPO's status as a subdivision of the Prosecutor General's Office. Civil society is concerned about proposed legislation that would allow the Rada to dismiss the head of NABU and delay the appointment of a replacement. Other activists seek legislation to ensure that future staffing decisions are as transparent as those made in the past year under intensive international scrutiny.

Still other experts stress the need for audits — of NABU, SAPO, ARMA and other anticorruption bodies. ARMA needs a director — the post has been empty for more than three years. And virtually everyone agrees that the agencies need increased resources.

JUDICIAL REFORM

Arguably the most important — difficult and consequential — challenge ahead is judicial reform.

Today, as in the past, Ukrainian corruption rests on two essential pillars: a corrupt judiciary and the oligarchs who use it to advance their business interests and control the nation's political life. The post-Maidan reform strategy did little to address the power of unscrupulous judges. Unlike other Ukrainian civil servants, they were not subject to lustration — the purging of the old guard — after the Revolution of Dignity. And the nation's hermetic judicial selection process — new judges are appointed by sitting judges — allows a tainted establishment to perpetuate and protect itself without interference.

Ukrainian corruption rests on two essential pillars: a corrupt judiciary and the oligarchs who use it to advance their business interests and control the nation's political life.

The results have been all too predictable. Pre-Maidan and afterward, many judges took orders from Moscow. Others answered to the president's office or directly to one of the

oligarchs. Decisions, large and small, were up for sale. Other verdicts were driven by naked self-interest — judges protecting themselves and their allies from accountability. Reforms were blocked, high-level pending cases closed — formally dismissed or somehow conveniently forgotten. It was no accident that NABU and SAPO cases often sat unattended for years.

Ukraine does not have “a judiciary capable of fostering the rule of law,” the reformist DEJURE Foundation stated flatly in a recent report.³⁷ And according to one 2023 poll, 79% of Ukrainians mistrust the judiciary.³⁸

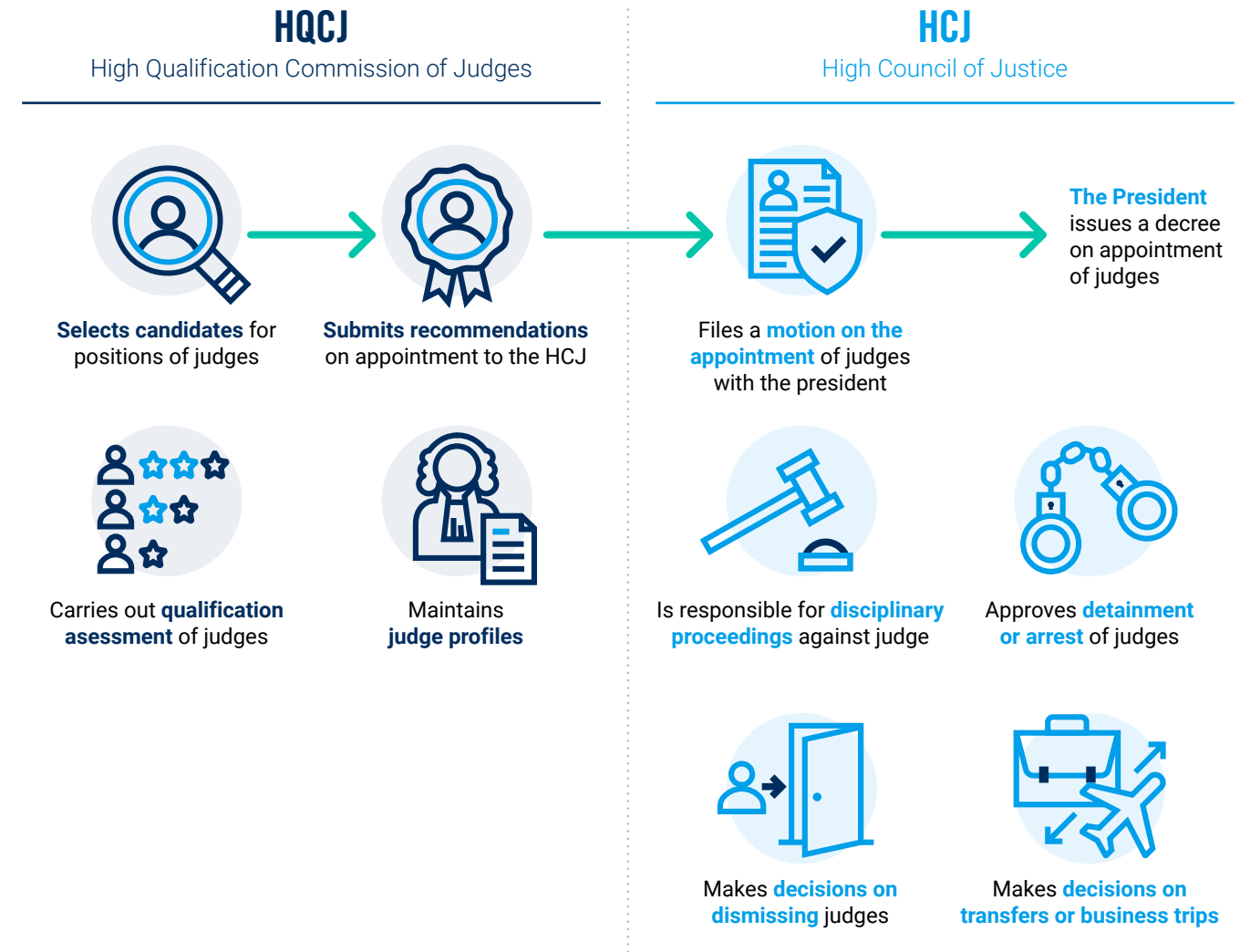
Civil society activists seeking to reform the system have pursued a two-pronged strategy. The first prong, creating a proxy system of alternative institutions, produced NABU, SAPO and, eventually, the capstone of that edifice, the High Anti-Corruption Court. The second prong targeted the two so-called “self-governing” bodies responsible for selecting and disciplining judges, the High Council of Justice (HCJ) and the High Qualifications Commission of Judges (HQCJ). (See Figure 4.)

Far from setting standards or upholding the integrity of the courts, both bodies were known in the past for ignoring abuses and protecting their own. One glaring example: in 2020, NABU released a cache of recordings



The Ministry of Justice oversees a judicial system deeply mistrusted by the Ukrainian people.

FIGURE 4: THE ‘SELF-GOVERNING’ BODIES THAT SELECT AND DISCIPLINE UKRAINIAN JUDGES



Source: Transparency International Ukraine

made in the chambers of the District Administrative Court of Kyiv — judges openly discussing how they had rigged the outcomes of several cases and interfered in the political process. The evidence was referred to the HCJ, but instead of disciplining the judges, it excoriated NABU, claiming that the tapes were a disinformation campaign. (It took a petition with 25,000 signatories to prompt Zelensky to act, introducing legislation to dissolve the Kyiv court. Then the Rada sat on the proposal for more than a year, adopting it only in 2022 under pressure from the EU.)

The HCJ and HQCJ will be particularly important in the next year or two as some 2,500 empty judicial posts come up for review. This is a rare occurrence, an accident of history — more than 2,000 judges resigned in the years after

Maidan, perhaps, observers speculate, to avoid filing assets declarations — and it offers an unprecedented opportunity for a fresh start.³⁹

According to one 2023 poll, 79% of Ukrainians mistrust the judiciary.

Also at stake in coming months and arguably even more consequential will be the selection of new judges for the Constitutional Court. Unlike the U.S., which combines the functions of the highest appellate court and the constitutional court in a single body, Ukraine maintains a separate tribunal to assess actions by the executive and legislative branches. The CCU has all but unfettered power to annul laws, revoke government decisions, shut down



Credit: Wikimedia Commons

The Constitution Court of Ukraine has all but unfettered power to annul laws, revoke government decisions and proscribe future policy.

institutions and proscribe future policy. Its decisions are final; there is no appeal. And it has a long, sordid history of catering to corrupt vested interests — conspiring with oligarchs, compromised presidents and meddling Russian agents to weaken NABU and undermine asset declarations, among other abuses.

Still a third long-contested issue likely to be revisited in coming years: an unsuccessful post-Maidan reboot of the Supreme Court. Reformers say that perhaps one-quarter of the judges appointed then were of questionable probity. Several dozen seats are currently empty, and the recent arrest of the top judge — caught red-handed with a \$2.7 million bribe — will give impetus to further reform.

The key challenge for reform advocates: How to get around the tradition of judges picking judges and perpetuating a compromised elite.

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both on the bench and in the two self-governing bodies. The task is too important to leave to elected officials, who are also all too likely to be controlled by oligarchs. Several early efforts to find a domestic workaround went nowhere. The breakthrough, demanded first by the IMF and pioneered in 2017-2019 with the creation of the HACC, was enlisting international observers to sit on an expert council overseeing the selection process.

Activists have sought to replicate this approach on three subsequent occasions, creating expert councils to oversee reform of the HCJ and HQCJ and select judges for the Constitutional Court. The reformers wanted foreign observers appointed by Ukraine's international partners to control the selection process. Sitting judges and elected officials sought to dilute the influence of international experts with Ukrainian representatives they could trust to do their bidding. The tug of war played out slightly differently in each case — there were three separate legislative battles. But the result in each instance was a mixed panel, half foreign and half domestic.

The results so far — the new members of

the HCJ and HQCJ selected in 2023 under pressure from the EU — have been largely acceptable to reform activists. But the true tests are still to come: the selection of new jurists for the Constitutional Court and the quality of the 2,500 judges to be appointed in coming years.

“Nothing less than the fate of the nation hangs in the balance,” says DEJURE co-founder Zhernakov, underscoring the political reach and power of the Constitutional Court. “How we reintegrate the occupied territories, the timing of the next elections and whether or not that unfairly favors the sitting government, land reform, health care reform, not to mention what remains of judicial reform — the CCU will make all those decisions, and it has to be independent.”⁴⁰

THE OLIGARCHS

A closely related challenge and essential for effective judicial reform will be preventing the return of the oligarch kleptocracy.

No previous Ukrainian government managed to curtail the power of the oligarchs, perhaps because no previous president tried — the tycoons were too powerful and too useful. Among their extensive assets: not just monopoly control of the nation's largest industries and energy infrastructure, but also the banks, the media, the courts and most of the large political parties.

Before Russia invaded in 2022, estimates suggest, between one-third and half of Rada members were beholden to an oligarch.⁴¹ The titans did much of their business at arm's length, using henchmen and cronies and leaving only the faintest of fingerprints. They knew better than to sign anything themselves, and all maintained large retinues of lawyers — so even when they landed in court, they were often able to prevail.

Zelensky broke new ground in 2021 by securing passage of anti-oligarch legislation. The law defines an oligarch as someone who meets three of four criteria: they must participate in public life, own or control a monopoly business, have significant media

influence and assets exceeding one million times the poverty line, or about \$83 million. Journalists and other observers estimated before the war that perhaps a dozen people fit this definition.⁴²

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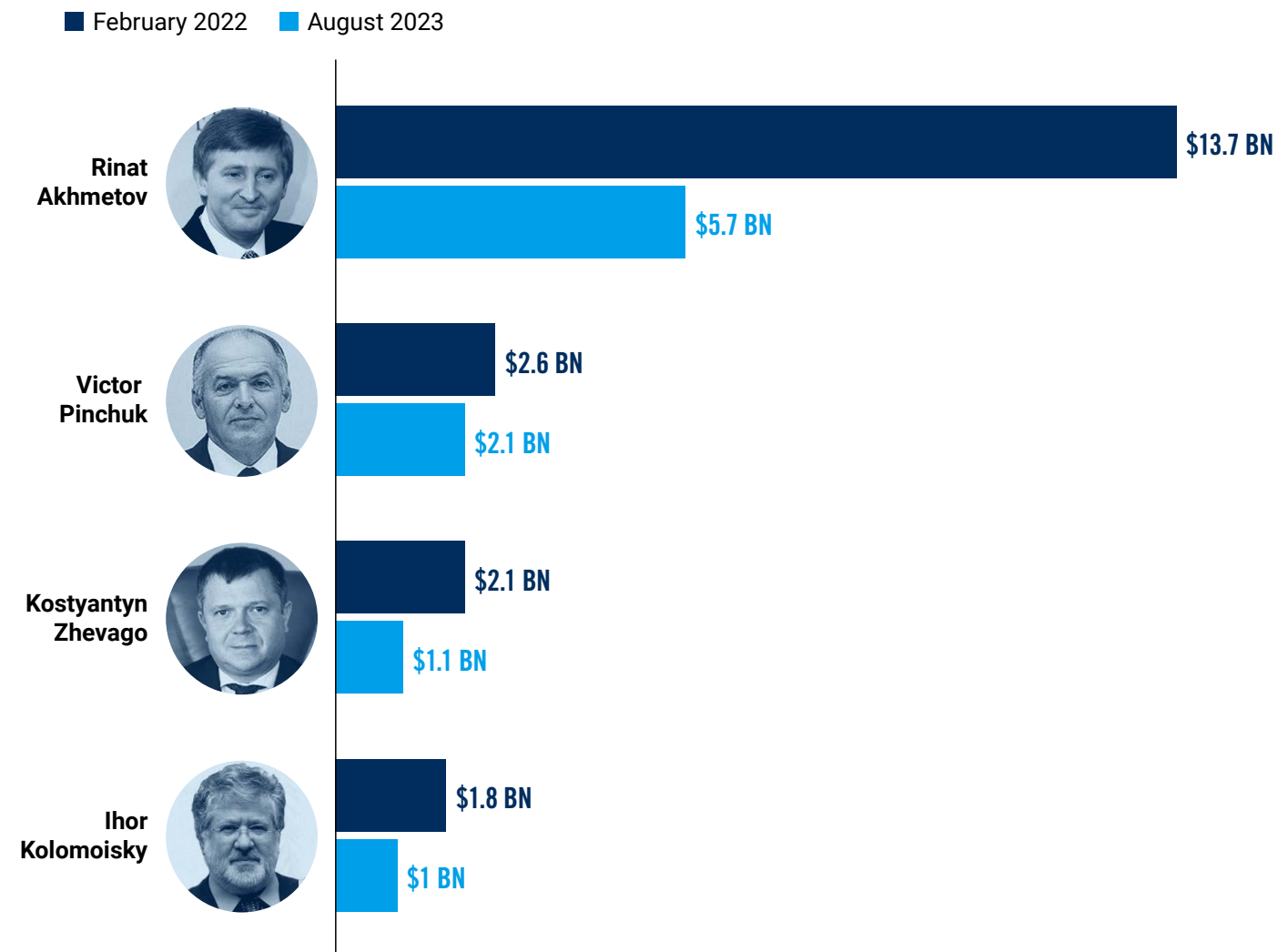
The law requires that they be entered into a government registry and subject to annual asset declarations. They are banned from financing political parties and must disclose any lobbying activity. They are also effectively barred from participating in any future privatization of state assets.

The law met with a mixed reception. No one knew if it would be effective. No registry was ever established. Most problematic for reform advocates, enforcement was left largely to the president and agencies that answer directly to him — not the anticorruption bodies or a rebooted, independent judiciary. The full-scale war put enforcement on hold even as it destroyed vast swaths of oligarch wealth, including the logistics infrastructure that underpinned most of their industries. (See Figure 5.) And it remained an open question if Zelensky's guardrails would be enough to prevent the magnates' return — or if, like previous presidents, he would eventually decide he needed them, including to finance the trillion-dollar reconstruction ahead.

But the debate shifted abruptly in June 2023 when the Venice Commission issued its opinion on the Zelensky law. An advisory body to the Council of Europe made up of former jurists and constitutional experts, the commission roundly denounced the legislation. The decision was an effective death knell for the law, all but ensuring that Ukraine would not meet the EU requirement that it limit the influence of the oligarchs before the end of 2023 or early 2024, when many Ukrainians hope to begin accession talks.

FIGURE 5: TAMING THE OLIGARCHS

Wealth destroyed in the first 18 months of war



Source: Forbes billionaires list

The bill's fatal flaw in the experts' view: its reliance on a "personal" or "punitive" approach, identifying a few bad actors and then going after them, rather than "systemic" reform to fight corruption and promote business competition with laws on money laundering, campaign finance, public procurement and the tax system. Like many Ukrainian reformers, the commission was troubled by the absence of provable criteria and judicial oversight. The new law, its opinion declared, is "profoundly dangerous," likely to "undermine democracy and the rule of law" in Ukraine.⁴³

Just what would happen next was anyone's guess. Whether or not the oligarchs snap back will have momentous consequences for postwar reconstruction. The government

and others could indeed be tempted to turn to them for financing. But their involvement would torpedo Ukraine's efforts to prove that it's putting corruption behind it, discouraging the other investors who Kyiv hopes will finance much postwar rebuilding. It could also severely slow economic growth if, as in the past, the tycoons erect barriers to entry that prevent the emergence of small and medium-sized entrepreneurs.

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No one expects Brussels to drop its demands that Ukraine tame its oligarchs in advance of joining the EU, and some Ukrainian activists have quietly welcomed the Venice opinion — it provides leverage for reforms in a half dozen new realms, including anti-monopoly policy and tax reform. The government's first reaction to the ruling was muted, and the timetable for next steps remains uncertain.⁴⁴

PETTY CORRUPTION

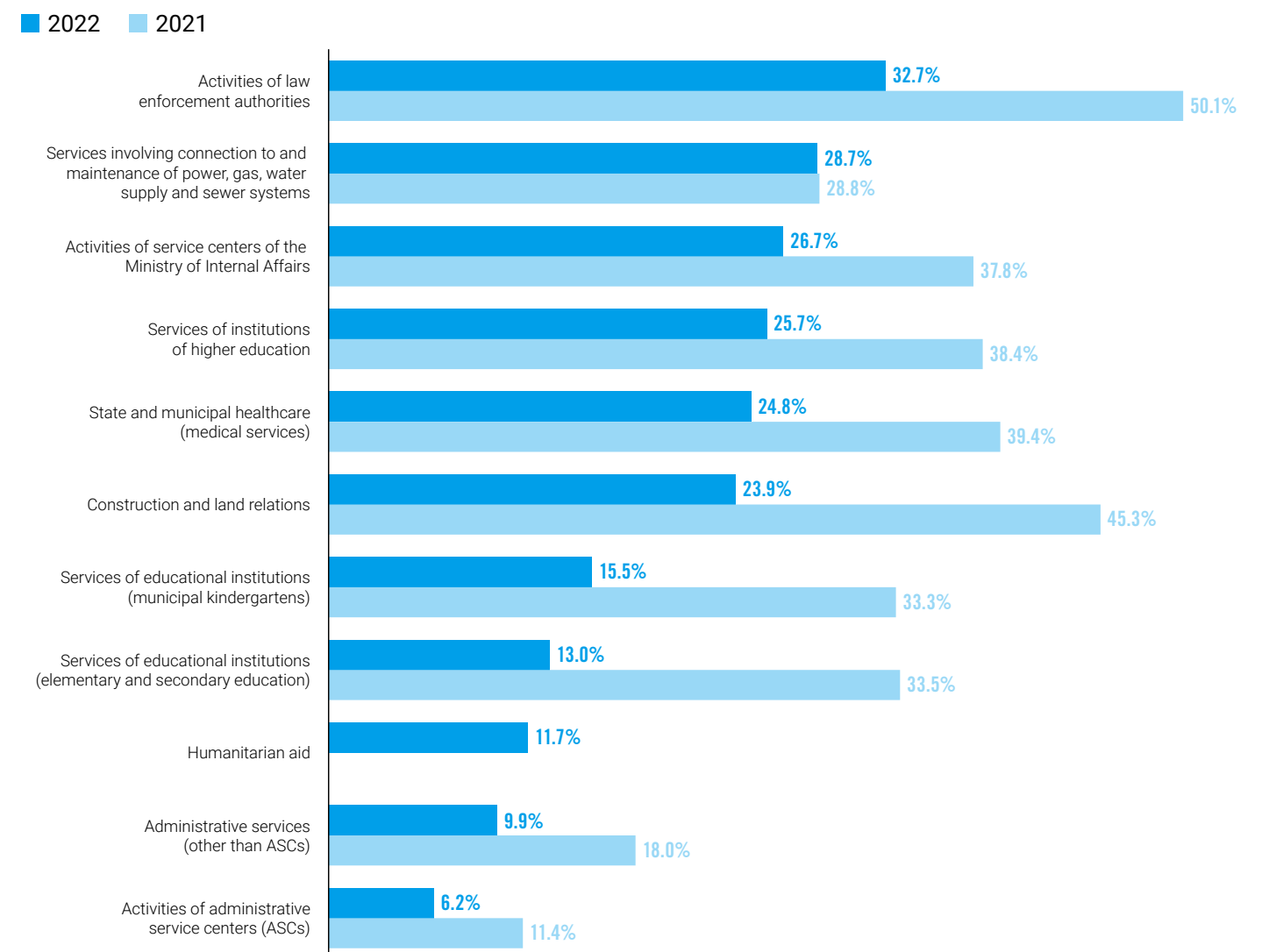
Arguably the most difficult challenge ahead — the battle likely to take the longest — will be rooting out what some call "household corruption." Today, as in decades past,

Ukrainians in all walks of life are used to paying a little extra for the services they need. The Soviet-era scarcities that made these small bribes all but essential have largely disappeared, but not the mindset. Families pay doctors for timely or individual attention. Students pay teachers for better grades or to secure places at university. Customs agents and cops often expect payoffs, as do an array of civil servants who administer social benefits. (See Figure 6.)

It's difficult to assess how widespread these payoffs are. A 2022 EUACI survey asked respondents what they would do if they thought a government office would help them resolve a personal matter 30 days sooner in exchange for

FIGURE 6: PUBLIC PERCEPTIONS OF CORRUPTION

Survey respondents reported that they encountered corruption in these realms



Source: EUACI NACP Info Sapiens survey, December 2022

1,000 hryvnias — about \$27 — and more than 40% admitted they would pay the bribe if they could. Also telling, just 40% said that household corruption was a serious problem in Ukraine — compared to nearly 70% who said that about high-level political corruption.⁴⁵ “My mother would be ashamed to visit the doctor without a box of chocolates,” explained one reform activist who requested anonymity. “She doesn’t even see that as corruption.”⁴⁶

Many experts view petty corruption as much harder to eliminate than “grand corruption.” It rarely merits an official investigation, much less an expensive court case. People learn it from their parents, and they do it because it makes things easier and faster. “It’s a Soviet legacy,” KSE’s Mylovanov explains, “but now ingrained in parts of our culture and very difficult to get at. People accept that this is the way things are, and they see no incentive to change it.”⁴⁷

Many experts view ‘petty corruption’ as much harder to eliminate than ‘grand corruption.’

Reformers generally agree that the best answer is prevention. Some look to preventive policy measures: better, more readily available services, or higher salaries for civil servants. And indeed, some Ukrainians say that wartime salary premiums for the security services are already driving down corruption among traffic cops and local police.

Other activists are hopeful that the galloping digitalization of Ukrainian life will eventually squeeze out small-time bribery. Among the digital reforms of recent years, online registries of everything from real estate transactions to VAT payments are making Ukraine one

of the most transparent business climates in the world. And the mobile Diia app now in use by more than half of all Ukrainians allows anyone with a cell phone to access some 120 government services online, bypassing encounters with civil servants and opportunities for petty corruption.⁴⁸

Still other reformers argue that the road to change runs through hearts and minds. EUACI’s Allan Pagh Kristensen says what’s needed is “awareness raising.”⁴⁹ People need help understanding that the small bribes they pay day to day are as bad for the state as oligarch control of the economy — that both are Soviet legacies and not just wrong but undermining Ukrainian democracy.

Those looking for examples of what can be done sometimes point to nearby Georgia, where then president Mikheil Saakashvili all but eradicated petty corruption nearly 20 years ago. His groundbreaking tactic: persuading the public that common garden, small-time graft was on its last legs, setting in motion what one pair of analysts calls a “self-fulfilling prophecy.”⁵⁰ Instead of thinking, “Everyone does it, I might as well do it, too,” people began to feel that they could make a difference — and that if they didn’t, they would be left behind, a last remnant of a toxic past weighing down their country.

The lesson from Georgia is that change can happen fast. Once the edifice begins to crumble, it may collapse surprisingly quickly.

None of this is likely to happen soon in Ukraine — certainly not in wartime. But the lesson from Georgia is that it can happen fast. Once the edifice begins to crumble, it may collapse surprisingly quickly.



Damaged by enemy aircraft: a residential building in Kyiv awaits reconstruction.

RECONSTRUCTION

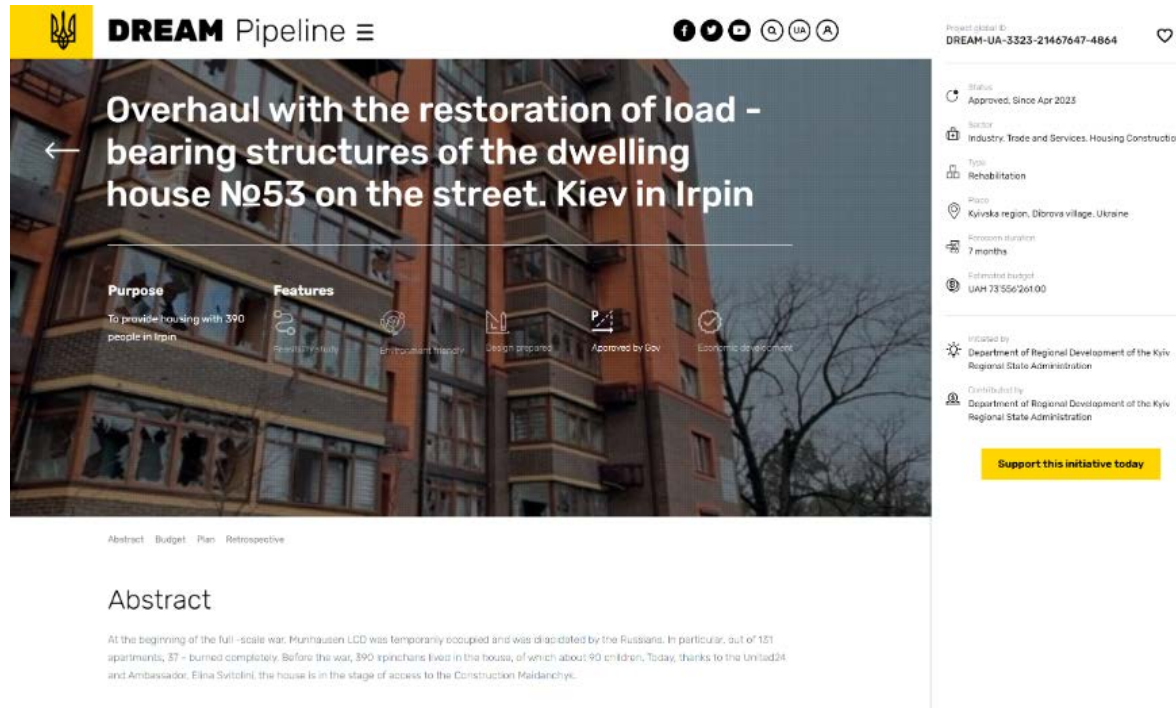
The timeliest challenge ahead — of most concern for the U.S. and others in the West — will be ensuring that postwar rebuilding is transparent and accountable, unmarred by corruption scandals. Reconstruction will bring unprecedented opportunities for malfeasance as billions of dollars pass through countless hands across a vast territory. The stakes could hardly be higher for Ukraine or its allies, and Ukrainians are already preparing, including with a pioneering new tool — a next-generation iteration of ProZorro.

Some types of corruption will matter more than others to postwar investors. American companies doing business in Ukraine list three top risks: officials looking for kickbacks, an uneven playing field dominated by unscrupulous competitors and no reliable referee — a dishonest, self-serving judiciary. “Investors want safety, and they want returns,” says KSE’s Mylovanov. “What will matter most is the courts and the rule of law.”⁵¹

But the broader climate will also make a difference, and not just because the taint of wrongdoing will turn away many potential allies. There will be no EU membership without a clean bill of health — progress across the board, addressing all types of corruption — and delayed EU membership would mean dramatically reduced foreign investment.

‘Ukrainians preparing for reconstruction have turned to a familiar playbook: civil society activists backed by international allies are developing an electronic tracking system.’

Ukrainians preparing for reconstruction have turned to a familiar playbook: civil society activists backed by international allies are developing an electronic tracking system that they intend eventually to donate to the government. The project is being spearheaded by several of the same groups that pioneered



A project page from the DREAM portal provides potential investors with information about reconstruction projects.

“Most important,” says Borovyk, “the whole process will be digitized — transparent and available online, for any citizen to see.”⁵⁷

Beyond these two core functions, arguably even more ambitious, the system is designed to advance Ukrainian democracy, involving local residents in every decision, large and small, about the future of their communities. “It’s not just a construction management tool,” OCP’s Nestulia explains. “We want to incentivize collaboration and change mindsets. We want to change the rules of the game.”⁵⁸

The system is designed to advance Ukrainian democracy, involving local residents in every decision, large and small.

No one is meant to get funding to build a school just because a school was destroyed in their community. Among the questions they’ll need to answer first: Is our population growing

or shrinking? Do we need a school? How is the economy of the region shifting, and how should that affect our priorities? Local officials will be required to consult with their constituents throughout the life cycle of every project — before submitting plans, while construction is under way and afterward. Citizens will be asked to make suggestions for rebuilding and to prioritize projects. They and others, elsewhere in Ukraine and abroad, will be encouraged to volunteer their services. And over time, reformers hope, as with ProZorro, cities will compete to show how transparent they are — vying to offer the most accountable government and most inclusive democracy.

The reformers building the DREAM ecosystem recognize the formidable challenges they’re taking on. “No one thought we could pull it off the last time either,” Nestulia laughs. “But ProZorro set a standard for the world — a model of digital innovation and open government.”⁵⁹

ProZorro, now under a new umbrella called the RISE Ukraine coalition. The core concept as framed by the coalition is “investment management.” The key ingredients: big data and absolute transparency — once again, as with ProZorro, the motto is “Everyone sees everything.”⁵²

In this case too, reformers are racing against time, hoping to be finished by early 2024, and they’re operating on a shoestring budget — just \$1.8 million provided by the British government. But this time around, the undertaking is much more ambitious: to develop a transparent, data-driven system that tracks hundreds of thousands of complex construction jobs, monitoring not just price and honesty in government, but also the utility of the project — will it be needed in a new, postwar Ukraine? — and the quality of the final product.

The Digital Restoration Ecosystem for Accountable Management, or DREAM, will have two main functions. The first is what some activists call a “project bank.”⁵³ Towns and cities across Ukraine will propose reconstruction projects and submit them to a central registry. DREAM will draw on other databases to validate

the circumstances — was this indeed war damage, will what’s being built provide needed services, how much difference will it make for the community’s most vulnerable inhabitants — and rank projects accordingly.

Investors looking for opportunities will be able to search the database and compare projects across many dimensions — price, schedule, context, the possibility of partnering with other investors and more. “A partner who wants to build a school can view 10 schools in 10 different communities,” explains TI Ukraine’s Andrii Borovyk. “That will make it much harder for any city to inflate the price, and investors will know exactly what they’re getting into.”⁵⁴

The second key capability: what DREAM developers are calling a “digital route” through the regulatory and procurement process.⁵⁵ DREAM will allow investors to monitor “every stage of the life cycle of the restoration project,” deputy prime minister for reconstruction Oleksandr Kubrakov told a group of visiting U.S. senators in May — from the first reports of damage through planning, financing, competitive bidding, permitting, the actual construction process and post-project audits.⁵⁶



To be rebuilt: a destroyed building in Kharkiv.

U.S. POLICY RECOMMENDATIONS



'Stand with Ukraine': Americans protest at the White House.

Credit: Wikimedia Commons

The important question for Ukraine's friends in the West is not if but how — not whether to use aid and investment as leverage, pressing Ukraine to prosecute the war on corruption, but how exactly to do so to have the greatest impact.

Ukrainian civil society activists leave no doubt about what kind of pressure they think is necessary: clear, precise requirements and strict conditionality — no reform, no aid or no progress toward integration in Western institutions. Reformist Rada deputies like Kira Rudik want not just demands, but “deadlines” — with no room for evasions or excuses.⁶⁰ Some civil society activists plead quietly behind the scenes in Brussels, urging EU officials to stand firm

behind their ultimatums. Others level charges in the media. “The EU is going soft on us,” Kaleniuk charges. “They feel guilty, so they’re easing up — watering down or leaving out essential conditions.”⁶¹

“Ukrainians are proud people,” DEJURE’s Zhernakov explains. “We value our independence. But we’re willing to give up some sovereignty because we’re getting something in return.”⁶² The consensus is all but unanimous across civil society: without international pressure — tough, detailed conditions enforced to the letter — reformers will not be able to beat back the inevitable resistance by corrupt vested interests, and Ukraine will not succeed in generating the momentum to move ahead.

The U.S. has many opportunities to set conditions and influence others to do so.

Washington has a direct say in NATO, with the G7, at the IMF and World Bank, as well as indirect sway in Brussels. Private-sector American investors are expected to play a major role in postwar reconstruction. Government agencies like USAID and nonprofit organizations like the National Endowment for Democracy (NED), the National Democratic Institute (NDI) and the International Republican Institute (IRI) spend millions of dollars a year in Ukraine, as does a multitude of philanthropic donors, large and small.

The U.S. has many opportunities to set conditions and influence others to do so.

Not everything can be conditioned — not emergency aid or timely military assistance — and benchmarks must be meetable. But Ukrainian reformers don’t resist the tough love. On the contrary, they welcome it.

There’s no single blueprint for U.S. help — no one-size-fits-all template appropriate for every circumstance. What’s needed isn’t just money. Ukrainians fighting to tame corruption can also use training and technical assistance. They can learn from American investigators, prosecutors, jurists, bankers, journalists, data analysts, election administrators and other subject matter experts. Selecting a new generation of judges is a very different task than mounting a communications campaign to raise awareness of the damage done by household corruption, and Americans seeking to be helpful should think creatively about what can work best in each case.

The Ukrainian war on corruption isn’t new, and the decade-long fight that began at Maidan holds a host of lessons for the battle ahead. Among the core principles that should guide American thinking:

EMPOWER CIVIL SOCIETY

In Ukraine, as elsewhere in post-Soviet Europe, civil society is active on many levels: informal grassroots networks, small and

medium-sized charitable organizations and the dozen or so big national groups that function as the nation’s democratic opposition. All have their parts to play in beating back corruption. But in coming years, as in the past, a small circle of Kyiv-based reformist groups is likely to prove indispensable.

Most already rely heavily on foreign funding, which should not be allowed to lapse even as other pressing needs emerge, whether for emergency wartime help or postwar rebuilding. But the reformers also want less tangible support. They would like to be included in deliberations about Western aid — on an advisory board to the G7 Multiagency Donor Coordination Platform. They want international partners to condition help for Ukraine on robust participation by civil society. They want seats, for example, on the advisory councils that oversee judicial selection. And they say it’s essential to grow their ranks, launching additional reformist nonprofit groups.

Any pressure from abroad is likely to be more effective if it starts with a Ukrainian initiative and supports Ukrainian reformers.

“My organization focuses on judicial reform,” says DEJURE’s Mykhailo Zhernakov. “That keeps us very busy. We don’t have the bandwidth to add police reform and bar reform and criminal justice reform. The country needs all that too, and we need dedicated experts to drive it.”⁶³ The West can intervene directly in these and other fights, helping, for example, to advise the anticorruption institutions. But any pressure from abroad is likely to be more effective if it starts with a Ukrainian initiative and supports Ukrainian reformers.

DON'T FORGET LOCAL BATTLES

Crooked procurement, extortionist political machines, bribe-taking civil servants, embezzlement and cronyism: a lot of corruption is local. But Ukraine’s national civil society

groups focus mostly on national issues, and the anticorruption institutions lack the reach and resources they need to police the rest of the country.

As important in the last 10 years has been the fight at the local level, generally waged by local civil society groups that know their cities' history and political dynamics. Some local efforts stand out because reformers made so much progress, for example in the five municipalities, including Mariupol, singled out by the EU as model "integrity cities." In other cases, like Kharkiv, what mattered was that activists stayed the course against all odds through the tough decade after Maidan, resisting a corrupt political machine and raising public awareness — a long, hard fight paying off only now as municipal officials look abroad for help with reconstruction funding.⁶⁵⁴

American friends of Ukraine can have significant leverage at the local level: supporting civil society, conditioning investment on successful reform and advancing what Ukrainians call "decentralization" — the regional and municipal democracy-building that was one of the most effective innovations of the post-Maidan era.

This is where abuses happen — on the ground at the local level. It's one of the places you can make the biggest difference — and see the results when you do.

"This is where the bad guys are," the Kharkiv Anti-Corruption Centre's Dmytro Bulakh explains. "This is where abuses happen — on the ground at the local level. It's one of the places you can make the biggest difference — and see the results when you do."⁶⁵⁵

ENLIST ALL SECTORS OF SOCIETY

The war on corruption is too big and too important to leave to government and civil society, essential as both are. Ukrainians in all walks of life have a stake in rooting out public sector financial abuse.

The two most powerful other players are the private sector and voters. Businesses, large and small, have an interest in beating back oligarch monopoly power and breaking the grip of officials who expect bribes for public services. Entrepreneurs and law-abiding citizens alike need the protection of the rule of law. Virtually everyone fighting to expel the occupiers, whether on the battlefield or by volunteering or donating to sustain the struggle, wants to realize the dream of a truly democratic country aligned with Western values. And all Ukrainians benefit from an even-handed, accountable government.

"Ukrainian officials, local and national, care more about Ukrainian voters than EU funding," says KSE's Mylovanov. "The most important lever is domestic politics."⁶⁶ "Everyone needs to do their part," agrees Andy Hunder of the American Chamber. "Business support is critical — but also churches, lawyers, cultural figures, every organization and institution. We need them all, for advocacy but also to help change the mindset that drives everyday corruption."⁶⁷

What international partners can do: help Ukrainians build coalitions that draw on these domestic constituencies, recruiting unexpected allies and helping them combine forces. International aid could be conditioned on coalition building. Americans could provide technical assistance for public awareness and education campaigns. Organizations like NED, NDI and IRI could use their convening power to bring Ukrainians together to look for synergies and strategize about the future.

Ukrainian officials, local and national, care more about Ukrainian voters than EU funding.

The possibilities are endless, and there's ample public support to draw on. Ukrainians want to end the corruption they inherited from the Soviet era, and they welcome Western help in putting that poisoned legacy behind them.

ADDRESS UNDERLYING CAUSES

Corruption doesn't take place in a vacuum; it can't flourish in a clean environment. It's a symptom of deeper rot and a sign that other, bigger things are missing — free markets, robust business competition, a sensible regulatory environment, working courts and transparent politics, among other essential building blocks.

Ukrainians have been working since Maidan to make progress in all these realms, transforming a dysfunctional communist colony into a free-market democracy. Epochal reforms of this kind take time, and Ukraine has achieved impressive results. But there is more to be done on all fronts.

Corruption doesn't take place in a vacuum. It's a symptom of deeper rot and a sign that other, bigger things are missing.

American friends of Ukraine are right to zero in on corruption — it's Ukraine's greatest weakness and most dangerous proclivity. But as the recent Venice Commission opinion looked beyond the oligarchs to what it called "systemic" problems, so Americans and other international partners should be mindful of larger issues and help Ukraine develop strategies to deal with them.

Where Americans in particular might consider focusing their attention: anti-monopoly legislation, competition policy, deregulation, transparent media ownership, perhaps even lobbying and campaign finance reform. Once again, what's needed starts with funding but includes advice and technical assistance. Ukrainians would be eager to partner in any of these efforts, and all would have a substantial payoff for the war on corruption.

INSIST ON RESULTS

Ten tough years of fighting to root out corruption — model institutions blocked by legislators, stalled court cases, elusive oligarchs and entrenched administrators — teach a hard lesson. Change starts with underlying values.

Process is important. But what matters in the end is results.

What's needed now in Ukraine starts with criminal convictions. Self-dealing judges, bribe-taking Rada deputies and extortionist mayors must be found guilty and sent to prison. Oligarchs should see their wealth reduced and their power diminished. Judges in thrall to vested interests should be barred from the bench; administrators on the take must be banned from the civil service.

Change starts with underlying values. Process is important. But what matters in the end is results.

Change will inevitably be gradual, step by step. But as long as it's in process, it will be vulnerable to obstruction and backsliding. Reformers and their allies in government need to get the job done.

What this means for American friends of Ukraine: conditioned aid should be carefully tailored to reward both process and results. Launching the anticorruption institutions, for example, was a critical first step. Appointing competent, independent leadership at these bodies was long overdue and essential. But the milestone now is verdicts: solid, unassailable convictions and prison sentences for high officials.

The metric may not always be so obvious. What for example is the end point in the fight against petty corruption? But Americans and other international partners can help by laying out a road map and then, whenever possible, insisting that the process bear fruit.



CONCLUSION

Ukraine's two wars — to expel the Russian armed forces and tame corruption — are inextricably linked.

The goal is the same in both cases: an independent, democratic nation aligned with the West. But no one working to combat graft and extortion — to catch predatory officials, reform the judiciary or educate the public about the danger of what one official calls “corruptionism” — is waiting for the armed conflict to end.⁶⁸

The battles of the past decade were brutal; progress was slow and hard-won. But the trajectory leaves little doubt: Ukrainian corruption is inherited, not intrinsic, and the war to beat it back is winnable.

The U.S. has as much at stake in Ukraine's war on corruption as it does in the conflict on the battlefield. A future Ukraine stuck forever in the post-Soviet era, controlled by vested interests, struggling to grow its economy, vulnerable to meddling external predators and blocked from joining the West would be as dangerous — maybe more dangerous — for America and its allies as a Russian-occupied puppet state.

The U.S. has as much at stake in Ukraine's war on corruption as it does in the conflict on the battlefield.

The good news is that Ukrainian reformers, in and outside of government, are eager for American help: not just money, but guidance — detailed road maps and tough-minded conditionality.

It's not an opportunity the U.S. can afford to pass up. We need to stand by Ukraine as long as it takes to win this war too.

Victorious fighters hoist the Ukrainian colors over a newly liberated city.

APPENDIX I

ACRONYMS

ARMA	Asset Recovery and Management Agency
CCU	Constitutional Court of Ukraine
HACC	High Anti-Corruption Court
HCJ	High Council of Justice
HQCJ	High Qualification Commission of Judges
NABU	National Anti-Corruption Bureau of Ukraine
NACP	National Agency on Corruption Prevention
NSDC	National Security and Defense Council
SAPO	Specialized Anti-Corruption Prosecutor's Office
SBU	Security Service of Ukraine

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The **New Ukraine Project** is devoted to helping Ukraine secure its independence and take its place in Europe as a fully free and democratic nation. The project is tracking Ukraine's progress as it strengthens civil society, tackles the corruption inherited from the Soviet era, rebuilds the economy and creates new constitutional safeguards and political institutions to protect individual rights and liberties. The project will also challenge the Western nations that have helped Kyiv defend itself to stay engaged when the fighting stops and Ukraine starts to rebuild.

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