

CURRENT STATUS AND PROSPECTS OF UKRAINE'S FIGHT AGAINST CORRUPTION

— THE KEY TO PROGRESS IS PRESSURE FROM THE INTERNATIONAL COMMUNITY AND DOMESTIC PUBLIC OPINION —

Daisuke Kitade
Europe & Russia Dept., Global Economic & Political Studies Div.
Mitsui & Co. Global Strategic Studies Institute

SUMMARY

- In recent years, Ukraine has introduced an “anti-corruption infrastructure” that envisages a cyclical process whereby corruption is prevented through an electronic asset declaration system for public officials, crimes of corruption are investigated and prosecuted, and assets are returned to the state treasury through judgments reached in courts dedicated to trying corruption cases.
- The European Commission has asked Ukraine, a candidate country for EU membership, to undertake specific reforms in seven areas, including anti-corruption and anti-oligarch measures.
- Anti-corruption measures are an essential prerequisite for post-war reconstruction, which will require significant international support, and effective measures are expected to accelerate as bidirectional monitoring and pressure by the international community and domestic public opinion intensify.

Ukraine, which has been the victim of Russian aggression, has become a candidate country for EU membership, and is now looking to shape the post-war future, as evidenced by the announcement of a vision for reconstruction and other moves. At the same time, the country's dependence on international assistance has never been greater, and it is now time to question whether this assistance is truly being used effectively. This report presents an overview of the measures introduced in recent years by Ukraine, a country that has long been known to be rife with corruption, and discusses the prospects for the challenges it faces, particularly in the context of EU accession and postwar reconstruction.

1. CURRENT STATE OF CORRUPTION IN UKRAINE

1-1. A spate of corruption scandals

Since the beginning of 2023, Ukraine has been hit by a series of corruption-related scandals. For example, it was reported on January 21 that a contract to purchase food for members of the armed forces had set the price at which food was purchased by Ukraine's Ministry of Defense at two to three times the retail prices at city

supermarkets¹, and on January 24 the Deputy Defense Minister was forced to resign². In addition, the Deputy Minister For Development Of Communities, Territories and Infrastructure was arrested on charges of accepting a US\$400,000 bribe in connection with a contract to purchase generators and other equipment³, while the Deputy Head of Ukraine's Presidential Office resigned over allegations that he used one of the luxury cars donated to the government by US company GM to evacuate residents from the combat zone for his own personal use⁴.

1-2. Current state of corruption in Ukraine

Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI) that indicates the degree of corruption in each country, and for 2022, Ukraine's CPI score was 33, ranking it 116th out of 180 countries (Figure 1). In May 2022, the OECD made a similar assessment to TI, stating "Ukraine has made an unprecedented leap in tackling high-level corruption through the establishment of dedicated independent investigative, prosecutorial and judicial institutions (NABU, SAP and HACC⁵)," but that "high-level corruption remains widespread"⁶. The IMF says that Ukraine differs from neighboring Latvia, Poland, and Romania in the extreme concentration of resources in the hands of a small group of people (oligarchs), which has eroded public institutions and the economy, and is a specific feature of corruption in the country⁷.

Currently, in the US, Ukraine's largest donor nation, there are growing calls, especially in Congress, for oversight to ensure that weapons and aid material provided to Ukraine are not misappropriated, and inspectors from the Department of Defense, the Department of State, and the Agency for International Development now conduct joint inspections to this end⁸.

Figure 1: 2022 Transparency International CPI rankings of former Soviet countries

Country (ranking)	CPI
Denmark (1) *Reference	90
Estonia (14)	74
Japan (18) *Reference	73
Lithuania (33)	62
Latvia (39)	59
Belarus (91)	39
Moldova (91)	39
Kazakhstan (100)	36
Ukraine (116)	33
Uzbekistan (126)	31
Russia (137)	28
Kyrgyzstan (140)	27
Tajikistan (150)	24
Azerbaijan (157)	23
Turkmenistan (167)	19
Somalia (180) *Reference	12

Source: Compiled by MGSSI based on TI "CORRUPTION PERCEPTIONS INDEX 2022"

¹ According to a January 21, 2023 report in Ukraine's Weekly Mirror newspaper, a food purchase contract signed by the Ministry of Defense on December 23, 2022 for a total of 13.2 billion hryvnia (1 hryvnia = 3.72 yen), set inflated purchase prices, including 17 hryvnia for eggs that were being sold in city supermarkets for 7 hryvnia and 22 hryvnia for a kilo of potatoes that were available in supermarkets for 8 to 9 hryvnia. The Ministry of Defense denies the allegations, claiming that the purchase price includes the price of delivery.

<https://zn.ua/ukr/economic-security/tilovi-patsjuki-minoboroni-pid-chas-vijni-piljajut-na-kharchakh-dlja-zsu-bilshe-nizh-za-mirnoho-zhittja.html> (all links in this report were last accessed May 17, 2023)

² Report on the defense minister's acceptance of Deputy Minister Shapovalov's resignation announced by the Ministry of Defense <https://www.mil.gov.ua/news/2023/01/24/ministr-oboroni-ukraini-pidtrimav-prohannya-vyacheslava-shapovalova-shhodo-jogo-zvilnennya-z-posadi-zastupnika/>

³ On January 21, 2023, Vasyl Lozynskyi, Deputy Minister for Communities, Territories and Infrastructure Development (also acting minister at the time of his detention) was caught red-handed accepting a \$400,000 bribe in return for using his position to award a contract to purchase generators and other equipment.

<https://nabu.gov.ua/novyny/zastupnyka-ministra-vykryly-na-otrymanni-400-tys-dol-ssha-nepravomirnoyi-vygody>

⁴ Reported on the Bihus.Info investigative journalism website operated by anti-corruption activists and journalists.

<https://bihus.info/zastupnyk-yermaka-yizdyt-na-pozashlyahovyku-yakyj-general-motors-peredav-ukrayini-dlya-gumanitarnyh-czilej/>
<https://www.president.gov.ua/documents/282023-45621>

⁵ See Figure 2 for more information on these institutions.

⁶ Anti-Corruption Reforms in Ukraine, Pilot 5th Round of Monitoring Under the Istanbul Anti-Corruption Action Plan <https://www.oecd.org/corruption/anti-bribery/corruption/acn/anti-corruption-reforms-in-ukraine-b1901b8c-en.htm>

⁷ IMF Country Report No. 17/84, P.15

<https://www.imf.org/-/media/Files/Publications/CR/2017/cr1784.ashx>

⁸ JOINT OVERSIGHT OF THE UKRAINE RESPONSE, USAID

https://oig.usaid.gov/sites/default/files/2023-03/1247_1707_Ukraine_mar2023_revised_final.pdf

On March 29, John Kirby, US National Security Council Coordinator for Strategic Communications, announced that the US hasn't "seen any evidence that there has been any egregious misconduct when it comes to managing the security assistance that's gone into Ukraine". (<https://www.whitehouse.gov/briefing-room/press-briefings/2023/03/29/press-briefing-by-press-secretary-karine-jean-pierre-and-national-security-council-coordinator-for-strategic-communications-john-kirby-8/?ref=kyivindependent.com>)

2. RECENTLY INTRODUCED ANTI-CORRUPTION MEASURES IN UKRAINE

2-1. Development of anti-corruption infrastructure and measures to rein in the oligarchs

The demand by the EU and international organizations for Ukraine to take action against corruption as conditions for the introduction of visa-free travel for Ukrainian citizens and the provision of financial assistance spurred Ukraine to seriously begin developing an “anti-corruption infrastructure” in 2014, including institutions and independent specialized investigative agencies to detect corruption, which usually leaves no traces, and punish those involved (Figure 2). This led to the introduction of the E-Register of Asset Declarations of Public Officials (commonly known as the electronic asset declaration system), under which public officials (including legislators and judges) are obliged to declare their assets and income online. The National Agency on Corruption Prevention, an independent investigative agency newly established in 2015, is responsible for managing declarations, examining assets, and investigating cases of suspected corruption, such as the discovery of undeclared assets or the existence of assets disproportionate to income. It was this agency that detained the deputy minister of infrastructure for bribery in connection with the purchase of generators mentioned earlier in this report. Depending on the result of investigations, a two-tiered trial will be held at the High Anti-corruption Court with the Specialized Anti-corruption Prosecutor’s Office acting as prosecutor. In accordance with a court ruling, misappropriated assets are seized or sold by the Asset Recovery and Management Agency. Thus, a cyclical process is envisaged under the anti-corruption infrastructure in which corruption is prevented based on electronic asset declarations, further investigation and prosecution are conducted, crimes of corruption are tried in court, and assets are returned to the national treasury through court judgments.

Figure 2: Ukraine's recently established anti-corruption infrastructure

Title	Established/ Introduced	Main features
E-Register of Asset Declarations of Public Officials	2016	<ul style="list-style-type: none"> Requires state and local officials to electronically declare their assets and income Provides for fines or imprisonment (up to one year) for false declarations, depending on the difference between the actual assets and the declarations Under the current wartime status, parties are exempt from making e-declarations and the database is not published for security reasons
National Agency on Corruption Prevention (NACP)	2015	<ul style="list-style-type: none"> Develops anti-corruption strategies and implementation programs, and coordinates anti-corruption programs of various government agencies Checks electronic asset declarations of public officials (reports suspected violations to NABU)
National Anti-corruption Bureau of Ukraine (NABU)	2015	<ul style="list-style-type: none"> Investigates corruption by the president, ministers, parliamentarians, and other high-level public officials, as well as large-scale corruption involving large amounts of money Semen Krivonos was appointed in March 2023 as the bureau's second director, filling a post that had long remained vacant.
Specialized Anti-corruption Prosecutor's Office (SAP)	2015	<ul style="list-style-type: none"> Functions as an independent division of the General Prosecutor's Office, prosecuting cases investigated by NABU at trials held in the HACC Oleksandr Klimenko was appointed as the office's second head in July 2022, filling a long-vacant post.
Asset Recovery and Management Agency (ARMA)	2016	<ul style="list-style-type: none"> Discovers, tracks, and manages assets obtained through corruption
High Anti-Corruption Court (HACC)	2018	<ul style="list-style-type: none"> Conducts trials of corruption cases investigated by NABU

Source: Compiled by MGSSI based on information from each agency's website

Ukraine's President Volodymyr Zelensky, who has pledged to fight corruption and oligarchs, also drafted his own 'anti-oligarch' bill. The bill has been adopted by Ukraine's parliament and came into force in May 2022.

The law defines oligarchs as persons who meet three or more of the following four criteria: 1) they participate in politics, 2) they have significant influence in the media, 3) they are the effective owner of a monopoly company, and 4) they hold assets in excess of one million times the minimum monthly cost of living (approximately 9.63 billion yen)⁹. Any person listed on the register of oligarchs by the National Security and Defense Council is prohibited from financially supporting a political party or participating in the privatization of state-run companies.

⁹ The minimum monthly cost of living in 2023 is 2,589 hryvnia (approximately 9,631 yen).

The law also requires public figures, such as the president and members of parliament, to report any contact they have with oligarchs.

2-2. Challenges to Ukraine's anti-corruption drive

While TI and the OECD recognize the progress that Ukraine has made in fighting corruption, they also point out the need for judicial reform, including a constitutional court, and the need to ensure the independence of anti-corruption institutions to combat corruption more effectively. For example, in October 2020, the Constitutional Court ruled the electronic asset declaration system and the criminal code provisions regarding violations of the system unconstitutional, which led to the closure of the electronic declaration database and dropping of the corruption cases under investigation, threatening the entire anti-corruption infrastructure itself¹⁰. This ruling of unconstitutionality was seen as resistance by forces opposed to progress in anti-corruption measures, and President Zelensky dismissed the head of the Constitutional Court and others, and pressed ahead with legal reform. Currently, five of the 18 Constitutional Court judge positions are vacant, and need to be filled with fair and impartial judges.

Although the anti-corruption infrastructure has been institutionalized, there have been some functional problems in the past, such as the heads of the various anti-corruption agencies intentionally not pursuing investigations and allowing cases to become time-barred. Therefore, the heads of the agencies are now appointed following review by a committee that includes foreign nationals given the need that they should be impartial individuals who are not under the influence of any particular political force. Other issues identified include delays in investigations and trials due to lack of capacity in specialized corruption investigative agencies and courts, and ensuring independence from other investigative agencies, such as the Prosecutor General's Office and the Security Service of Ukraine.

3. FUTURE PROSPECTS

3-1. Reforms to achieve EU accession

Possible solutions to these Ukraine's anti-corruption challenges are reflected in the seven "recommendations" that the European Commission asked the Ukrainian government to implement when it became a candidate country for EU membership in June 2022 (Figure 3)¹¹.

Figure 3: The European Commission's seven "recommendations" to Ukraine

1	To enact and implement legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on the evaluation of their integrity and professional skills, in line with Venice Commission recommendations.
2	To finalise the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidates to establish the High Qualification Commission of Judges of Ukraine.
3	To further strengthen the fight against corruption, in particular at the highest levels, through proactive and efficient investigation, and a credible track record of prosecutions and convictions, complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor's Office, and launch and complete the selection process for and appointment of a new Director of the National Anti-Corruption Bureau of Ukraine.
4	To ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF), adopt an overarching strategic plan for reform of the entire law enforcement sector as part of Ukraine's security environment.
5	To implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation.
6	To tackle the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the EU audio-visual media services directive and empowers the independent media regulator.
7	To finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission and adopt immediate and effective implementation mechanisms.

Source: Compiled by MGSSI based on information published by the European Commission

¹⁰ An account of the Constitutional Court's October 2020 ruling and the series of upheavals that followed, known in Ukraine as the "constitutional crisis", is detailed on the following web page.

<https://dejure.foundation/only-ksu>

¹¹ EU Commission's Recommendations for Ukraine's EU candidate status

https://www.eas.europa.eu/delegations/ukraine/eu-commissions-recommendations-ukraines-eu-candidate-status_en?s=232

In preparation for EU membership, Ukraine needs to continue to implement high-level anti-corruption and anti-oligarch measures. In the case of anti-corruption measures, the OECD recommends that the number of convictions be used as a benchmark¹², and the country will be required to show tangible results. In addition to the fact that their assets have been greatly depleted by the destruction of factories and other assets they own, mainly in eastern Ukraine, during the war¹³, many of the oligarchs are also reportedly taking steps to avoid meeting the four criteria, such as through selling their media holdings. While adopting the recommendations of the international community, it will also be necessary for Ukraine to revise the law to address the current situation. The next step for Ukraine, now that it is a candidate for EU membership, is to begin accession negotiations, but in order to proceed to that stage, Ukraine must be recognized by the European Commission to have made a certain amount of progress on the seven “recommendations”, which include anti-corruption measures. A provisional assessment by the European Commission, which is expected to be announced in June 2023, will be watched closely¹⁴.

3-2. Postwar reconstruction and the fight against corruption

At the Ukraine Recovery Conference held in Lugano, Switzerland in July 2022, the Ukrainian government announced a three-stage reconstruction plan consisting of (1) emergency assistance to increase economic, social, and environmental resilience, (2) reconstruction and rehabilitation to restore key economic and social processes, and (3) modernization with sustainable economic growth¹⁵. Although it is currently difficult to move to the second stage with fierce fighting still raging, once the fighting stops, reconstruction will begin in earnest. According to a joint estimate by the World Bank, the Ukrainian government, the European Commission, and the United Nations, the cost of Ukraine’s reconstruction and rehabilitation as of February 24, 2023 will amount to \$411 billion¹⁶, representing a huge injection of reconstruction funds. In return for support from other countries, Ukraine will also be required to strengthen its efforts to combat corruption.

The reason that the Zelensky administration removed the country’s Deputy Defense Minister and the Deputy Head of The Presidential Office, who were suspected of corruption, and accepted US inspections is because of the pressing need to maintain the trust of both its own public and its international partners in the face of the Russian invasion, and it deemed that such actions would enable Ukraine to retain the trust of society and its international partners¹⁷. According to a poll by Rating, a Ukrainian nongovernmental research organization (December 23-26, 2022), the war has exacted a heavy toll on the country’s citizens, with approximately 16% forced to emigrate, 17% who have relatives missing, and 5% who have relatives who have died¹⁸. The Ukrainian public’s view of corruption is more unforgiving than ever before. In an interview with the German magazine Focus, Prime Minister Denys Shmyhal said, “Society has changed as a result of this war... We have zero

¹² As above (footnote 6)

https://read.oecd-ilibrary.org/governance/anti-corruption-reforms-in-ukraine_b1901b8c-en#page163

¹³ According to an annual ranking of Ukrainian oligarchs published by Forbes Ukraine, the wealthiest oligarch, Rinat Akhmetov, owned assets of \$4.4 billion in December 2022, down about 67% from before the Russian invasion, and the total assets of the top 20 ranked oligarchs amounted to \$22.5 billion, a decrease of \$20 billion.

<https://forbes.ua/money/rejting-naybagatshikh-voennogo-chasu-26122022-10741>

¹⁴ EU Ambassador to Ukraine Matti Maasilta has said that an assessment of Ukraine’s implementation of the seven recommendations presented when it was granted EU candidate status will be announced in June 2023.

<https://www.euointegration.com.ua/news/2023/04/27/7160636/>

¹⁵ Ukraine’s National Recovery Plan

[https://uploads-](https://uploads-ssl.webflow.com/621f88db25fbf24758792dd8/62c166751fcf41105380a733_NRC%20Ukraine%27s%20Recovery%20Plan%20blueprint_ENG.pdf)

[ssl.webflow.com/621f88db25fbf24758792dd8/62c166751fcf41105380a733_NRC%20Ukraine%27s%20Recovery%20Plan%20blueprint_ENG.pdf](https://uploads-ssl.webflow.com/621f88db25fbf24758792dd8/62c166751fcf41105380a733_NRC%20Ukraine%27s%20Recovery%20Plan%20blueprint_ENG.pdf)

¹⁶ Updated Ukraine Recovery and Reconstruction Needs Assessment

<https://www.worldbank.org/en/news/press-release/2023/03/23/updated-ukraine-recovery-and-reconstruction-needs-assessment>

¹⁷ Announced by the Ministry of Defense of Ukraine on January 24, 2023.

<https://www.mil.gov.ua/news/2023/01/24/ministr-oboroni-ukraini-pidtrimav-prohannya-vyacheslava-shapovalova-shhodo-jogo-zviltannya-z-posadi-zastupnika/>

¹⁸ https://ratinggroup.ua/research/ukraine/pravoviy_zahist_postrazhdalih_v_d_vo_nnih_zlochyn_v_ros_23-26_grudnya_2022.html

tolerance for corruption”¹⁹. As noted by the US Center for Strategic and International Studies (CSIS), the participation of Ukrainian civil society organizations in a “watchdog” role will also continue to be important to increase transparency in the postwar reconstruction process²⁰.

It is likely that the effectiveness of aid, including postwar reconstruction, will come under closer scrutiny also in Europe and the United States, where “Ukraine fatigue” has been observed as the provision of aid becomes prolonged. The G7 has taken the lead in launching the Multi-agency Donor Coordination Platform for Ukraine under the principle of “Trust but verify” to monitor and manage reconstruction funds²¹. Ukraine’s fight against corruption is an indispensable condition for achieving its strategic goals of EU membership and postwar reconstruction, and is expected to be accelerated with bidirectional support and monitoring by the international community and domestic public opinion.

¹⁹ <https://www.kmu.gov.ua/en/news/prymyrennia-ne-bude-navit-cherez-sto-rokiv-interviu-premier-ministra-ukrainy-denysa-shmyhalia-nimetskomu-focus>

²⁰ Heather A. Conley, A Modern Marshall Plan for Ukraine, P.11

<https://www.gmfus.org/sites/default/files/2022-10/A%20Modern%20Marshall%20Plan%20for%20Ukraine.pdf>

²¹ Ministry of Foreign Affairs of Japan, Establishment of the Multi-agency Donor Coordination Platform for Ukraine

https://www.mofa.go.jp/press/release/press4e_003208.html