Key findings of the 2023 Report on Ukraine

Brussels, 8 November 2023

Despite Russia's full-scale invasion in February 2022 and its brutal war of aggression, Ukraine has continued to progress on democratic and rule of law reforms. The granting of candidate status for EU accession to Ukraine in June 2022 has further accelerated reform efforts.

During the reporting period, no elections took place. Overall, the legal framework remains conducive to the organisation of democratic elections. Reform of the electoral legal framework should be continued to address outstanding recommendations by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

The work of the Parliament (Verkhovna Rada) continues to be marked by extraordinary circumstances related to the Russian military aggression. However, legislative tasks are carried out systematically, laying the ground for an uninterrupted democratic decision-making process. Key decisions, especially on defence/security questions, were adopted by clear cross-party majorities. Considerable attention was paid to legislation related to EU integration. The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive.

Ukraine has some level of preparation in the area of public administration reform, with limited progress made during the reporting period. While the Ukrainian public administration has proved its resilience during the full-scale invasion, reform has slowed or stopped in a number of sectors, in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the human resources management information system. The digitalisation of service delivery has reached a high level.

On multi-level governance, the achievements of decentralisation reform continued, with municipalities acting as a pillar of Ukrainian resilience. Overall, following the successful finalisation of the territorial part of decentralisation, other elements of the reform still need to be completed. Local self-government in the liberated territories and those near the frontlines should be gradually restored where the security situation allows it. The newly established Ministry of Restoration should synergise infrastructure and the regional development portfolio to stimulate locally driven recovery and reconstruction based on the systematic involvement of local authorities and associations. The local fiscal base needs to be strengthened.

On the functioning of the judiciary, Ukraine has some level of preparation and must continue its efforts. Despite the Russian war of aggression, Ukraine continued to deliver justice services and made good progress on the implementation of the 2021 reform of the judicial governance bodies focused on integrity and professionalism. The High Council of Justice and the High Qualification Commission of Judges were re-established following a transparent process with the meaningful involvement of independent experts. It will allow the government to start filling more than 2,000 judicial vacancies again and evaluating (vetting) the qualification of some 1,900 sitting judges, which was suspended in 2019. Despite significant challenges, the Ukrainian institutions showed remarkable resilience and introduced the necessary legislative and organisational measures that allow it to continue to provide justice services to citizens and companies during the war. In 2022, most courts maintained a clearance rate (ratio of the number of resolved cases over the number of incoming cases in a given year) of 100% or even higher. In August 2023, Ukraine enacted legislation enabling a transparent and merit-based preselection of judges of the Constitutional Court in line with the Council of Europe's Venice Commission recommendations and started the implementation process by establishing the Advisory Group of Experts and announcing the competitions to the Constitutional Court. Legislation on the selection of judges should still be improved, and a more transparent procedure needs to be introduced for the selection of management-level prosecutors. In August and September 2023, Ukraine adopted two laws for resuming disciplinary proceedings against judges and for establishing an independent service of disciplinary inspectors on the basis of a transparent and meritocratic selection procedure with a meaningful involvement of internationally nominated experts. A new administrative court to handle cases involving the central government bodies and staffed by properly vetted judges needs to be established, following the abolition of the
Kyiv District Administrative Court. Legislative and institutional changes are needed to ensure stronger disciplinary system for prosecutors. To increase transparency, efficiency and access to justice, Ukraine should also continue its efforts on digitalisation of the judiciary. Systemic measures still need to be taken to advance the reform of enforcement of court decisions, including the enforcement of decisions of the European Court of Human Rights. To ensure the sustainability of rule of law consolidation efforts, Ukraine should continue legal education reform.

Since the start of the full-scale invasion, Ukraine has been confronted with an unprecedented number of atrocities committed by the Russian military. The Ukrainian institutions made considerable efforts to address this and bring the perpetrators of international crimes to justice. Multiple law enforcement agencies, following the guidance of the Office of the Prosecutor General, started investigating these complex crimes. Specialised investigation and prosecuting departments were established for this purpose. As a result, 107 951 incidents related to various atrocity crimes have been officially registered. 267 people have been indicted and 63 people convicted for war crimes by Ukrainian courts. There has been close international cooperation, including with the International Criminal Court and its Office of the Prosecutor, Eurojust, Europol and numerous EU Member States. To improve the effectiveness of investigation of international crimes and cooperation with the International Criminal Court, Ukraine should further harmonise its legal framework with the applicable international standards.

On the fight against corruption, Ukraine has some level of preparation. Some progress was made during the reporting period, in particular with the establishment and consolidation of a comprehensive anti-corruption institutional framework and the gradual building of a track record in investigating, prosecuting and adjudicating high-level corruption cases. Ukraine stepped up reforms in this area after receiving EU candidate status. New legislative, strategic and institutional improvements were pursued, including the adoption of the national anti-corruption strategy, accompanied by a comprehensive state programme for its implementation. The new Heads of the Specialised Anti-Corruption Prosecutor’s Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU) were appointed in July 2022 and March 2023 respectively, following transparent and meritocratic selection procedures with the involvement of independent experts. Since their appointment, NABU and SAPO have increased their cooperation and stepped-up investigations into high-level corruption cases. The e-asset declaration system, suspended after the introduction of martial law, was restored, and opened to the public, albeit with some potential weaknesses related to the verification powers of the National Agency on Corruption Prevention (NACP) and the data to be verified. The Parliament has also adopted a law that would weaken administrative liability related to e-asset declarations, but the President has not signed this law into effect. To ensure the impact and sustainability of anti-corruption efforts, Ukraine should continue building a credible track record of investigations, prosecutions, and final court decisions in high-level corruption cases, including the seizure and confiscation of criminal assets. Timely and steady implementation of the 2023-2025 state anti-corruption programme should also be pursued. Efforts are also needed to further streamline and improve substantive and procedural criminal law. To cope with increasing workloads, the number of NABU staff, SAPO prosecutors and High Anti-Corruption Court judges should be increased. Furthermore, SAPO should be further protected from possible undue interference by improving the selection procedures for the Head of SAPO and its key officials, increasing its organisational and procedural autonomy, and improving its accountability framework.

Ukraine has some level of preparation in the area of the fight against organised crime. Some progress was made. Ukraine has a dedicated strategic and institutional framework to fight organised crime and a good level of international cooperation. There is an increasing number of joint operations with EU Member States. Measures are being taken to tackle the illicit flow of firearms, human trafficking, and cybercrime. The development of the e-case management system in the criminal justice chain was launched. The national asset recovery strategy was adopted. Russia’s war of aggression had a profound impact on the institutional capacity to fight organised crime, but relevant institutions demonstrated resilience and continued their work. However, the legal framework and operational capacity to fight organised crime remain weak. Procedural gaps, jurisdictional overlaps, widespread corruption, and underdeveloped IT infrastructure are also hampering the effective fight against organised crime. Inter-agency coordination needs to be strengthened further. Ukraine should also launch the national serious organised crime threat assessment in line with EU standards and build the capacity to implement it. The legal framework and institutional capacity still need to be improved as regards financial investigations, asset recovery and management. Transparent and merit-based selection of management and staff, along with a strong accountability system should be introduced in the Bureau of Economic Security, a key agency tasked to fight economic crime.

On fundamental rights, Ukraine complies overall with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. Citizens suffered severely from the large-scale violations of fundamental rights by Russia, which Ukrainian authorities and civil society have sought to remedy since February 2022. At the start of the full-scale invasion,
Ukraine introduced martial law, which led to some restrictions of rights and freedoms, but these have so far remained largely in proportion to the actual needs and have been applied with caution. The number of registered discriminations against minorities, including against LGBTIQ persons and national minorities as well as antisemitic acts, has strongly decreased. On the rights of persons belonging to national minorities, Ukraine needs to address the remaining recommendations of the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023. Further efforts are also needed to ensure that persons with disabilities can enjoy their rights as per the UN Convention on the rights of persons with disabilities.

At the same time, important reforms have been introduced and adopted, such as the new media law. Ukraine also ratified the Istanbul Convention on preventing and combating violence against women and domestic violence in July 2022 and adopted the 2030 state strategy on ensuring equal rights between men and women, which should now be implemented. Only limited progress was made in the field of prevention of torture and ill treatment in prisons and other forms of detention, where a cultural change within state authorities needs to materialize and further measures are required to prevent and ensure accountability for such acts. A law on personal data protection, aligned with the EU *acquis*, should be adopted. The situation of children (but also of older persons) in care institutions as well as persons with disabilities remains difficult, but commitments on the deinstitutionalisation of childcare and to rebuilding Ukraine in a barrier-free manner are promising and need to be implemented as a priority. Similarly, support for the Roma community needs to be stepped up with a concrete and targeted action plan.

Given the breadth of issues concerning fundamental rights, in particular the numerous violations by Russia, the Ukrainian Parliament Commissioner for Human Rights faces serious challenges with its existing capacity to address the entire range of its responsibilities in a meaningful manner.

Despite the context of a full-scale war, Ukraine is in between some and moderate level of preparation in the area of *freedom of expression*. Good progress was made in the reporting period with the adoption of the media law in December 2022 and despite the war-time restrictions in access for media and journalists introduced. Ukrainian citizens enjoy freedom of expression, with critical media reporting available. However, media concentration has been observed due the collapse of the media and advertising market, particularly in the television segment. This has reduced people's access to pluralistic media in Ukraine. The situation of journalists remains precarious, both economically and – since the start of the full-scale invasion – physically. Ukraine needs to envisage new ways to ensure a post-war structure for pluralistic and independent non-online media (in particular television), including the long-term outlook of the public broadcaster and independence of the national regulator.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, the Ukrainian economy is between an early stage and some level of preparation towards establishing a functioning market economy. Since the full-scale invasion by Russia, the conduct of monetary policy, overall economic governance and the institutional and regulatory environment have faced considerable difficulties. Despite these challenges, the Ukrainian authorities have responded swiftly and with overall stability in mind, although the circumstances have also brought about some temporary setbacks on several important elements of a functioning market economy. In 2022, the economy contracted by 29.1%, showing more resilience than first expected. To contribute to financial stability and strengthen confidence in the domestic currency, the National Bank of Ukraine suspended the hitherto successfully managed inflation-targeting framework, fixed, and devalued the exchange rate and raised its main refinancing rate. The banking sector remained fully operational and stable with ample liquidity, also thanks to previous reforms and supervisory forbearance measures. The state of public finances has deteriorated markedly due to the duration and cost of the war and its impact on the economic activity. This has undone the considerable fiscal consolidation and corresponding reduction in the debt stock that had been achieved in previous years before the pandemic. The significant internal and external population displacements, together with significant capital destruction, profoundly affected the labour market.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, Ukraine is at an early stage of preparation in terms of its *capacity to cope with the competitive pressure and market forces within the EU*. The war has severely damaged Ukraine's capital infrastructure and triggered a massive human exodus that has deeply affected the economy. Investment in research and innovation has been low, and educational outcomes have not met the needs of the labour market, despite rather high spending and relatively high formal levels of educational achievement. The structure of the Ukrainian economy remained concentrated in sectors with low added value. While trade integration with the EU has been advancing recently, including thanks to the implementation of the Deep and Comprehensive Free Trade Area, it remains rather low. At the same time, the international response in support of Ukraine has been massive over the last year, and future reconstruction could also help support modernisation, in which Ukraine specialises in higher value-added chains, and help strengthen its competitiveness.
On good neighbourly relations and regional cooperation, Ukraine maintains good bilateral relations with other enlargement countries and with neighbouring EU Member States. These have been strengthened amidst Russia's war of aggression leading to further deepening cooperation with many of those countries, marked by a number of high-level visits and considerable humanitarian, military and financial support.

On Ukraine's ability to assume the obligation of EU membership, the country continued to work on alignment with the acquis in many areas.

The internal market cluster is key to Ukraine's preparations for the requirements of the EU internal market and is of high relevance for the implementation of the Deep and Comprehensive Free Trade Area. Good progress was made in the area of free movement of capital and intellectual property law. Some progress was achieved in several areas, particularly in financial services, free movement of goods, right of establishment and freedom to provide services, and company law. Progress was limited in the area of competition policy as well as consumer and health protection, with no progress in the area of freedom of movement for workers due to Russia's full-scale invasion of Ukraine.

The competitiveness and inclusive growth cluster and the related reforms are closely linked to the ability and capacity for recovery and reconstruction. This requires increasing competitiveness and building a sustainable and inclusive economy. Good progress was achieved in digital transformation and media and in the customs union. Some progress was made on taxation and education and culture. Limited progress was made in social policy and employment, enterprise and industrial policy and science and research. No progress could be made – due Russia's full-scale invasion which demanded extraordinary economic policy measures – on economic and monetary policy.

The Green Agenda and sustainable connectivity cluster and the related reforms are also intricately linked to Ukraine's reconstruction during and after the war. Russia's war of aggression against Ukraine has been highly detrimental to the transport infrastructure, environment, and climate. Progress was achieved in several areas within the cluster, with good progress on environment, some progress on energy and Trans-European networks, while progress was limited in the area of climate change and transport policy.

In the areas covered by the cluster on resources, agriculture and cohesion, progress was achieved in particular in three areas, namely some progress in agriculture and rural development, food safety and veterinary (SPS) and phytosanitary policy as well as in the area of fisheries and aquaculture. Progress was limited in regional policy and the coordination of structural instruments and financial and budgetary provisions.

In the external relations cluster, Ukraine has good level of preparation. As regards the foreign, security and defence policy, Ukraine has made good progress as it has increased the alignment rate with relevant EU decisions and declarations of the EU's common foreign and security policy to 93% (2022). Progress was limited in alignment with the EU's trade policy.

Key dates

28 February 2022: Ukraine submits its application for EU membership.

17 June 2022: the European Commission presents its Opinion on the application for EU membership submitted by Ukraine. The Commission recommended to the Council that Ukraine should be granted candidate status on the understanding that 7 steps were taken.

23 June 2022: the European Council granted candidate status to Ukraine.


20 June 2023: the Commission proposed to set up a new Ukraine Facility to support Ukraine's recovery, reconstruction, and modernisation.

November 2023: the Commission recommends that the Council opens accession negotiations with Ukraine and will monitor on the progress and compliance in all areas related to the opening of negotiations and report to the Council by March 2024.

For More Information

Ukraine Report 2023
2023 Communication on EU Enlargement Policy
Ukraine_2023 Enlargement Package Factsheet
EU Solidarity with Ukraine factsheet
In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

Press contacts:

Ana PISONERO-HERNANDEZ (+32 2 295 43 20)
Zoi MULETIER (+32 2 299 43 06)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email