



**GLOBAL
INITIATIVE**
AGAINST TRANSNATIONAL
ORGANIZED CRIME

RECONSTRUCTING UKRAINE

CONTEXT-TAILORED
APPROACHES TO
CORRUPTION

Katherine Wilkins

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NOTE

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FROM VISION TO ACTION: A DECADE OF ANALYSIS, DISRUPTION AND RESILIENCE

The Global Initiative Against Transnational Organized Crime was founded in 2013. Its vision was to mobilize a global strategic approach to tackling organized crime by strengthening political commitment to address the challenge, building the analytical evidence base on organized crime, disrupting criminal economies and developing networks of resilience in affected communities. Ten years on, the threat of organized crime is greater than ever before and it is critical that we continue to take action by building a coordinated global response to meet the challenge.



EXECUTIVE SUMMARY

Ukrainians have paid a terrible price in Russia's war. The economic costs are among the most severe: the Kyiv School of Economics estimates US\$135.9 billion in damages to infrastructure and physical assets alone,¹ while shuttered businesses and impeded trade have led to cumulative losses to the state budget.² Ukrainian Prime Minister Denys Shmyhal, speaking at the Ukraine Recovery Conference in Lugano, Switzerland, in July 2022, placed the estimate for full reconstruction at around US\$750 billion. The coming reconstruction period will create the opportunity for true restitution to be made to the people of Ukraine after an unjust and devastating war, but it will also increase the risk of corruption in a country that has already expended so much in pursuit of good governance.

Corruption – the misuse of government office or resources for personal benefit³ – will remain a central governance issue in Ukraine after the war and will be the primary hazard during reconstruction. Corruption is not only a cross-cutting issue to be considered alongside organized crime, but a potential force multiplier. Illicit economies are often interwoven with corrupt schemes, generating a complex and embedded problem typified by sophisticated, sustained and often transnational networks. Illicit actors of all types may use the same enabling conditions and structures, exploiting institutional weaknesses and funnelling profits through the opaque global offshore financial system. In addition, corruption enables organized crime by incapacitating oversight within state bodies and instrumentalizing activities within institutions for outside interests. The GI-TOC has previously documented how the Russian conflict has influenced organized crime in Ukraine;⁴ how these effects may change in future depends on potential alterations in patterns of corruption. It should also be noted that prospective anti-corruption reforms may contribute to the control of organized crime.

Towards the end of 2023 and into 2024, planners and advocates will be thinking about how to design a so-called 'clean' reconstruction programme for Ukraine. While this is in principle a technical question – one of setting up adequate prevention structures and oversight processes – how it will work in practice is another matter entirely. Will there be sufficient resources? Are suitable approaches identified to counter the opportunities for corruption guaranteed to emerge? Will the right stakeholders be involved, and will they be empowered to act? Contemporary anti-corruption scholarship encourages us to consider how the material and financial opportunities for corruption can be counterbalanced by legal or normative constraints.⁵ The capacity to restrict corruption, however, depends on the political, institutional, market, legislative and civic context. No single factor is decisive – each is necessary and interrelated in a complex system.



The interior of Transfiguration Cathedral, Odesa, damaged by a Russian missile. Reconstructing Ukraine is an opportunity for restitution after the war but is beset by the risk of corruption. © Nina Liashonok/Ukrinform/Future Publishing via Getty Images

To put this into practice, one must aim to identify the causes of and potential solutions to corruption in context. This includes considering how power is distributed among government entities and across the public, private and civic sectors; how well state institutions work and whether they function independently; what features define the market and how they are distributed across localities; and the overall demand for good governance within society. Thinking about corruption in this way enables one to develop context-specific responses, but also, crucially, to anticipate which approaches are most likely to succeed and which actors must be at their core.

The context specific to Ukraine must shape how the reconstruction programme addresses corruption risks. An understanding of the present state of the anti-corruption ecosystem in Ukraine is necessary to establish which elements will need immediate attention when the war ends. Furthermore, changes to the political, institutional and civic context for anti-corruption that have occurred during the war may affect the post-war operating environment and demand further responses.

This paper highlights some considerations for suppressing corruption during the reconstruction period and suggests responses for policymakers and advocates to pursue. It uses insights from academic research; primary and secondary sources, including Ukrainian legal texts and institutional documents; regional and global comparative experience; and consultations with civil society, donors and policy-makers undertaken from January–March 2023.



CORRUPTION IN UKRAINE BEFORE, DURING AND EMERGING FROM WAR

Before the war, Ukraine had made remarkable advances in the fight against corruption. After the Revolution of Dignity in 2014, Ukrainians worked to free their society from two core corruption traps. The first is contextual: oligarchy.⁶ That is, the presence of a small group of individuals who have amassed enormous wealth through dominating key economic sectors, which, in turn, gives them both the incentive and the means to shape the political, legal and institutional environment to suit their interests. The second is institutional: a cyclical bind of necessary government oversight of the judiciary countered by necessary judicial oversight of the government. Through the concerted efforts of Ukrainian public reformers, civil society activists, international partners and international financial institutions, Ukraine managed to create the governance conditions – that is, the state institutions, legal frameworks and administrative tools such as open procurement data – for public integrity. During the period between Russia’s annexation of Crimea in 2014 and the February 24 invasion of 2022, Ukraine created the institutional and legal foundations for removing private interests from government, improving the functioning of the government in the public interest and establishing channels to pursue accountability. The country became a stand-out performer⁷ among its regional peers and within its income group with regard to anti-corruption measures such as administrative transparency, and a global pioneer in technical areas such as public registries of beneficial ownership.⁸ Despite this demonstrable progress, continuing corruption scandals and repeated failures to hold those responsible to account demonstrate that corruption as the exception rather than the rule is still a project in the making in Ukraine.⁹

Whether the environment for anti-corruption will be more favourable after the war is a concern. The external incentive structures that were so essential to motivating the transformative political and economic changes in the years before 2022 may not remain viable in the post-war environment. Before the conflict, institutions such as the International Monetary Fund could threaten to withdraw funds entirely if certain steps were not taken, and bilateral donors could demand milestones before the delivery of additional funds. It is hard to imagine the same conditions being applied as a victorious Ukraine works to rebuild devastated hospitals and schools in the period immediately after the war.



Left: Ukraine's State Emergency Service extinguishes a fire after a missile strike in Kyiv on 10 October 2022.

Right: The state of the repaired road the next day. © Kyrlyo Tymoshenko and Boris Filatov via Getty Images

Regarding domestic politics, the urgencies of war have necessitated certain adjustments. Chief among these is a consolidation of authority over government under the presidential administration, including under politically appointed staff. Some political parties have been banned.¹⁰ Martial law has restricted civil liberties and TV channels have been consolidated, potentially weakening media plurality.¹¹ Recent changes concerning the Constitutional Court gave the executive more power over judicial appointments, a move the Venice Commission criticized.¹² Such changes are a warning signal, as there is no debate about the fact that a competitive electoral environment, media freedom and independent institutions are essential components of a healthy anti-corruption ecosystem. How Ukraine's political leadership will emerge from its wartime posture, and how temporary the aforementioned measures are, remains to be seen. There are encouraging signs coming from the country's political leadership. President Volodymyr Zelensky's track record both before and during the war shows that he is willing to spend political capital on an anti-corruption agenda. Responses to recent corruption scandals in the defence ministry, including the dismissal of the minister and key personnel, are at the very least a signal to Western partners that corruption will remain high on the presidential administration's agenda moving forward. Nonetheless, the moves made so far are not sufficient to prevent future problems, and the question remains how deeply the administration is willing and able to confront the issue. In any case, the consolidation of authority may prove sticky post-war, and how quickly the country is able to pivot back from the consolidation of power under the executive will be an important litmus test. Another positive is Ukraine's strong record of intolerance for corruption in leadership post-2014, with public demand driving political transitions. The ability of the institutional environment and wider society to place a check on the executive may prove resilient, and in an electoral democracy this matters more in the long term.

Ukraine's anti-corruption institutions were still in the process of development before the war, and their work in the first 15 months of the war presents a mixed picture. Some of the usual corruption challenges in Ukraine are dormant, while new ones have emerged, meaning institutions have needed to redirect their attention quickly. Shortfalls in the state budget and the curtailed economic environment during the first year of the war have had the perverse benefit of drying up many enrichment opportunities, but scandals also have emerged where money is flowing, namely in the defence sector. Encouragingly, even in the first year of the war, the work of Ukraine's specialized anti-corruption investigatory and prosecutorial bodies continues apace, with some notable achievements.¹³ Also of note is the fact that while judicial interference has long hampered the work of Ukraine's anti-corruption agencies, here too there has been an encouraging development: the notorious Kyiv District Administrative Court – whose chairperson sanctioned by the US for bribery in December 2022 – has been dissolved.¹⁴

Where matters are falling short is in the provision by institutions of the tools essential to expose and investigate corruption, such as open data portals. Most notably, public information on procurement is restricted and asset declarations by officials are not publicly available, meaning investigative journalists and activists lack the key means to identify illicit enrichment. This wartime blackout follows on from previous turmoil surrounding asset declarations, when a 2020 ruling by the Constitutional Court demonstrated how corruption within the judiciary impedes the exposure, investigation and prosecution of that very crime.¹⁵ After the war, there will be a need to reactivate many of these tools and mechanisms, and to monitor potential power struggles between anti-corruption and judicial bodies. The task coming out of the war will not only be to maintain investment in the independence of Ukraine's anti-corruption institutions, but also to bring them into the mainstream of reconstruction management.

Concerning civil society, Ukraine benefits from an exceptional group of anti-corruption organizations. Ukrainian civil society organizations have proven to be well-organized and innovative, while Ukrainian investigative journalists have extensive experience covering major corruption scandals, political transitions and institution building. This body of experts and front line activists, which was at the forefront during the campaign for reforms and in their design, which in some cases was pioneering not only in Ukraine but globally, will also be essential to the reconstruction period. It is a community deeply affected by the war. Like Ukrainian society at large,¹⁶ some joined the defence forces, others redirected their energies to volunteering, still others were displaced, and all have had concerns about their physical security. In addition, the thematic work of civil society shifted during the conflict, as resources were redirected at times towards conflict-adjacent activities such as tracking Russian assets and international advocacy toward security assistance. The Ukrainian Centre for Civil Liberties – whose director won the 2022 Nobel Peace Prize – runs programmes to support Ukrainians captured by Russia and advocates for an international war crimes tribunal for Russian President Vladimir Putin, while Daria Kaleniuk, the executive director of Ukraine's Anti-Corruption Action Centre, has championed security assistance.¹⁷

As the anti-corruption community turns its attention to the reconstruction period, consideration should be given to the difficult conditions in which it operates. Before the war, Ukraine's anti-corruption community was subjected to years of administrative harassment; sustained attacks, such as the burning of Anti-Corruption Action Centre head Vitaliy Shabunin's home in 2020;¹⁸ and several murders, including the terrible assassination of Kherson activist Kateryna Handzyuk in 2018.¹⁹ For this community to continue to be subject to security risks after the war would not only be unconscionable, but would also severely increase the risk of corruption across the reconstruction process.

In sum, by focusing attention firmly on defence and mobilizing society towards a common goal, the war may have obscured political and institutional conflicts and weaknesses. But as Ukraine emerges from conflict, so too may the struggles that typified its pre-war governance.

Before the war, members of Ukraine's anti-corruption community were subjected to intimidation. Vitaliy Shabunin, head of the Anti-Corruption Action Centre, shown here, was attacked with dye in 2018. *Photo: zbruc.eu*





RISKS

The projected scope of the Ukrainian reconstruction project and conditions in the country will determine what kinds of risks to bear in mind. These risks can be plotted along a timeline of overlapping but distinguishable phases in the reconstruction process. The phases are planning: setting the terms of the reconstruction programme; recovery: restoration of basic infrastructure; and renewal: rebuilding for a future of prosperity and security. Some risks will be more relevant during specific phases, while others may combine and accumulate across phases. Each of the phases, moreover, may alter the intensity and patterns of corruption in practice in distinct ways. Existing corruption networks, for example, may profit from a rapid inflow of new financial resources in the recovery period, resulting in the potential expansion of their territory. By contrast, activities particular to the renewal period, such as economic modernization campaigns, may facilitate new ventures and greater profit for existing corruption networks and enable the growth of new ones. With the right approach and design, however, such activities could also reduce these networks.

The vision for reconstruction introduces new risks

International leaders are evidently looking to past models for instruction, having even dubbed the reconstruction programme a ‘Marshall Plan for Ukraine’. The reconstruction of Ukraine, however, will be an undertaking materially different from those that have come before. The Marshall Plan provided under US\$150 billion in today’s dollars and, moreover, took place in the context of a Europe, though devastated, decisively at peace, while Ukrainian reconstruction may need to be mindful of persisting insecurities caused by Russia. The conditions are materially different in a second way that will prove fundamental to corruption risks: at the time of the Marshall Plan, globalization had yet to transform economies in the structural ways that enable cross-border corruption. These conditions will shape the boundaries of corruption risks for Ukraine reconstruction. Knowledge can be drawn from other post-war and post-disaster scenarios but must take into account the ways reconstruction in Ukraine is expected to differ. Post-war Iraq or Afghanistan; post-Yugoslavia; and post-disaster Puerto Rico, Haiti and Indonesia offer only oblique comparisons. These scenarios had neither the market, institutional or social conditions of Ukraine, nor the same goals.²⁰

Ukraine’s articulated aims, as detailed in proposals put forth by the National Council for the Recovery of Ukraine from the War,²¹ are not only to rebuild what was, but to renew the country in alignment with a vision that includes economic prosperity, future security and the hope of integration into the European Union. Ukraine’s president, Volodymyr Zelensky, called it ‘the most momentous economic,

technological and humanitarian project of our time', and added, '[w]e will become those whose potential in "green" energy will replace dirty Russian fossil fuel for Europe', presenting a vision of a modernized Ukraine not only repositioned to ensure its own economic and energy security, but advancing that vision on the continent.²² These plans, and the influx of money and actors predicted to arrive in pursuit, will present specific corruption risks, but will also offer a guide for the approaches that may be most effective in mitigating them.

A number of events have taken place in an attempt to generate consensus on how reconstruction should be managed, including Ukraine's formation of the National Council for the Recovery of Ukraine from the War in April 2022,²³ the Switzerland- and Ukraine-coordinated Ukraine Recovery Conference in Switzerland, which took place in July 2022,²⁴ and the G7-coordinated Ukraine Recovery Conference in Berlin in October 2022.²⁵ Any agreement, however, is still outstanding.



The Ukraine Recovery Conference gathered the international community in a discussion on safeguarding Ukraine's economic future. © Pascal Lauener/Pool/AFP via Getty Images

Planning

Assessing corruption risks should begin at the agenda-setting and planning stage, as corruption may first enter the picture when certain reconstruction goals are prioritized over others (such as regions, sectors and types of physical assets, but also suppliers and trade routes). Public information suggests the process may already be falling short. A general lack of transparency in the development of the coordination structure is impeding scrutiny of how interests may be shaping decisions. As international coordination develops, there are some signs for optimism and some for concern. Pressure to centralize coordination, which may facilitate transparency by reducing the number of bodies that need to be watched, is a positive sign. But diverging views²⁶ on who should ultimately be in charge of the effort – and how many parties should be included – are delaying the formalization of the coordination structure, and thus hindering opportunities to integrate anti-corruption measures throughout. What all partners to the reconstruction effort require is an administratively and politically functional coordination body with context-driven anti-corruption measures at its core.

While corruption risks are receiving attention from both international and Ukrainian leadership, anti-corruption has not been adequately integrated into the thinking around economic, physical and social recovery. Plans released by the National Council for the Recovery of Ukraine from the War working groups do not bring anti-corruption into the mainstream; rather, the issue is siloed into its own working group, potentially baking institutional disorder into the reconstruction plans.²⁷ And in addition to anti-corruption not being sufficiently central, the substance of some policy proposals has been criticized.²⁸ As an example, the anti-corruption working group has put forward legislation to protect whistle-blowers. This is a sensible suggestion, which would align Ukraine's legislation with EU guidelines and offer a protected channel for identifying corruption during reconstruction. The problem, however, is that the legislation is envisioned in current draft plans to come into effect sometime between 2026 and 2032, well after reconstruction is under way.

First-order risks	<ul style="list-style-type: none"> ■ Select elites (domestic or domestic and international) receive preferential treatment ■ Programme design and key participants are not market driven but elite driven
Second-order attendant risks	<ul style="list-style-type: none"> ■ New grand corruption schemes emerge, with potential consequences in Ukraine and abroad
Potential risk groups	<ul style="list-style-type: none"> ■ Foreign lobbying groups ■ Ukrainian political and business elites ■ Foreign public officials
Potential preventative measures for corruption	<ul style="list-style-type: none"> ■ Transparency of the agenda-setting process ■ Embedding anti-corruption into all aspects of reconstruction management
Core stakeholders at this stage	<ul style="list-style-type: none"> ■ International partners, European public officials ■ Ukrainian leadership ■ Ukrainian technocrats ■ International and Ukrainian civil society

FIGURE 1 Top risks in the planning phase.

The civic organization Livyj Bereh (Left Bank) has organized the repair of more than 100 homes through private donations. Pictured here is a schoolteacher's home receiving a new roof after shelling. *Photo: Livyj Bereh's Instagram account*



Recovery

The presumption that recovery will only begin once international donors agree on the size and format of a funding package is incorrect. Recovery and essential rebuilding are in fact happening now, during the war, albeit at a small scale and in an ad-hoc manner. Ukraine has put its existing resources towards clearing and repaving streets following bombings; businesses are, where possible, making the necessary repairs to keep their doors open; private donors and communities are funding the reconstruction of houses and neighbourhoods. There is a need to consult with the groups active on the ground about their current and anticipated needs, priorities and obstacles. All told, more than 7 million people displaced in this war may return home, and reconstruction managers should be prepared in advance to coordinate the necessary resources and funds. Properly scoping needs now and formulating the right capacities and resources to enable resilience within these communities would propel recovery.

Between war and organized renewal will be a transitional period of recovery. In this period, urgent needs will be addressed. These include the restoration of basic services, that is, critical infrastructure, including water and energy, as well as social infrastructure, such as schools and hospitals. At the individual level, this includes homes and businesses. During this rapid response period there will be the question of how to deliver direct financial support quickly to people and small and medium enterprises seeking to rebuild, as well as the parallel question of how to organize the supplies for this undertaking. We can look to the small business Paycheck Protection Program, which was launched in the US during the COVID-19 pandemic, for a stark example of just how poorly such direct payment programmes can function without proper oversight. The programme provided approximately US\$800 billion in loans to small businesses to support them through pandemic-related shutdowns. Of these, researchers at the University of Texas at Austin identified 1.41 million questionable loans, representing US\$64 billion in potential fraud, noting that the true estimate was likely closer to US\$120 billion.²⁹ This offers an example of the risks in rapid response aid even in a context with robust oversight institutions, a watchful civil society and press, and strong technical capacity. In this programme, speed of support was prioritized over integrity controls, and it is realistic to expect the same in post-war Ukraine. What will matter is reducing, to the degree possible, the misdirection of funds.

Transition moments, like the one that will begin during the recovery period, can shake up power dynamics within corruption networks. These networks can be multidimensional, bridging the public, private and outright criminal.³⁰ Organized crime activities raise the risk of certain regions becoming so-called 'thiefdoms', diverting recovery funds from their intended purpose or dominating supply lines for construction.³¹ The kinds of corruption occurring at the intersection of government and organized crime are likely to have tangible effects on people's lives. It will be important to ensure that vulnerable people do not fall victim to organized crime schemes that inveigle them to apply for recovery payments and then fleece their funds. Construction, already one of the industries where corruption is most prevalent, both in Ukraine and worldwide, will be an attractive entry point for organized crime groups.³² This will require a tailored understanding of how local crime groups are responding to the illicit opportunities produced by the war, and more engagement at and with the local level.

First-order risks	<ul style="list-style-type: none"> ■ Funds are released without sufficient oversight, bribery, embezzlement and fraud are unchecked
Second-order attendant risks	<ul style="list-style-type: none"> ■ Existing corruption networks expand their territorial coverage ■ Individuals standing at the intersection of organized crime and corrupt interests emerge as beneficiaries
Potential risk groups	<ul style="list-style-type: none"> ■ Existing opportunistic corrupt officials at the local level ■ Politically connected Ukrainian (especially construction) companies (potentially newly registered)
Potential preventative measures for corruption	<ul style="list-style-type: none"> ■ Transparency at the transaction level ■ Decentralized oversight and community co-ownership ■ Inserting anti-corruption into the mainstream agenda and providing staff and funding for carrying out checks
Core stakeholders at this stage	<ul style="list-style-type: none"> ■ Local communities ■ International partners (European and US governments, US Agency for International Development, EU institutions) and reconstruction managers designing the programme ■ Ukrainian leadership from local to national level, especially those in municipal government ■ Ukrainian civil society, particularly those operating outside the capital within local communities

FIGURE 2 Top risks in the recovery phase.

Renewal

Ukraine's vision for reconstruction is not only rebuilding, but renewal. Among the objectives outlined by the National Council for the Recovery of Ukraine from the War working groups are decarbonization and the pursuit of a green energy market, both for Ukraine's own energy independence and for the development of new exports.³³ In the decade following the war, the renewal period will be characterized by the cultivation of new industries, the entrance of new market players and the creation of infrastructure to support these endeavours.

Within each of these elements, there are corruption risks. While risks in all phases are not restricted to the territory of Ukraine, stretching across borders and along the supply chain, this is an order of magnitude greater during renewal. In contrast to the recovery phase, the private sector will be the key interest group during renewal. Fortunately, Ukraine has a good track record regarding beneficial ownership transparency, but what about the international supply chain? Many of the priorities during the renewal period will have a regional dimension, and risks will arise not only within Ukraine, but also from the absence of corruption controls in neighbouring European countries, such as public beneficial ownership registries, which were recently struck down by the European Court of Justice. Finally, the creation of new, modernized physical infrastructure will typify this period. Construction is an industry particularly prone to corruption and already there are some warning signs that these concerns are not unfounded. For example, to recognize their support during the war, Zelensky has encouraged Romanian firms to participate in the reconstruction programme.³⁴ The risk relates to how Ukraine will verify that a construction firm is truly Romanian (and not simply registered through a shell company) and, if Romanian, whether the firm is a reputable one.

The cultivation of new industries, such as clean energy, will be an attractive window for corrupt parties, including specialized companies that need technical expertise to evaluate their products. New markets, likewise, mean new rent-seeking opportunities for public officials, along with new licences to issue and public funds to distribute. Non-competitive tendering, conflicts of interest, collusion and the involvement of politically exposed persons are all issues that will be salient as Ukraine seeks to expand its markets for renewables and to encourage broad economic innovation. The entrance of new market players brings with it considerable information asymmetries.

Alongside the company and market risks that will characterize the renewal phase, a corresponding challenge will persist. It would be naive to assume that the cessation of fighting will mean an end to all Russian influence operations. As evidenced by previous experience in Ukraine and beyond, corruption is a means for the Kremlin to achieve its political aims, through capturing institutions, officials, businesses or supply routes. In the post-war period, firms connected to Russia may enter the market or may feed into material supply chains. These risks may collide with sanctions evasion, a practice that is already visible during the war in how some Russian firms are operating from neighbouring countries such as Armenia. Influence activities may also manifest as disinformation in the anti-corruption space, whether against Ukrainian officials or watchdogs. Russian disinformation campaigns and the weaponization of corruption are vulnerabilities that will need to be addressed during the renewal period. Open communication of reconstruction plans, transparency of activities and baked-in public oversight can guard against this risk.

First-order risks	<ul style="list-style-type: none"> ■ Non-competitive tendering, conflicts of interest, collusion ■ Involvement of politically exposed persons distorts markets and undermines the vision for development
Second-order attendant risks	<ul style="list-style-type: none"> ■ State capture of new industries, private interests set policy terms ■ Existing corruption networks expand their coverage into new ventures ■ Emergence of new corruption networks within Ukraine and across borders ■ Potential security risks, enablement of sanctions evasion
Potential risk groups	<ul style="list-style-type: none"> ■ Private Ukrainian and international companies ■ Clean tech and energy firms, both Ukrainian and foreign ■ Ukrainian public officials, European public officials ■ Regional business elites
Potential preventative measures for corruption	<ul style="list-style-type: none"> ■ Beneficial ownership transparency ■ Transparent and competitive contracting, with integration of specialized expertise into the tendering process ■ Voluntary initiatives ■ Whistle-blower protections ■ Centralized oversight body (ombudsman)
Core stakeholders at this stage	<ul style="list-style-type: none"> ■ Private companies with integrity (as technical experts monitoring contracting, generators of a climate for business integrity) ■ Ukrainian and international watchdogs ■ Ukrainian and international investigative journalists ■ Ukrainian and international anti-corruption investigatory bodies (in Ukraine: the National Anti-Corruption Bureau) ■ Ukrainian justice system

FIGURE 3 Top risks in the renewal phase.



RESPONDING TO RISKS IN CONTEXT

For Ukraine to rebuild for a future of prosperity and integration, it is vital that funds realize their intended goals, and do not undermine the pursuit of good governance by fuelling corruption. To achieve this, anti-corruption should be the animating principle for all structures and processes created for reconstruction. Recommendations for the design and support of these structures and processes should respond to corruption risks as they exist in the vision for reconstruction outlined earlier.

There is a wide group of stakeholders that will be involved in this effort, among them: governments, Ukrainian and foreign; international organizations, including multilateral agencies and private philanthropies; law enforcement agencies, both Ukrainian and foreign; civil society, both Ukrainian and foreign; the private sector, including Ukrainian and foreign contractors, suppliers, advisory firms, financial institutions and business associations; and the Ukrainian and foreign public. Responses must consider how to achieve coherence within such a complex programme, with many actors entering at different points, how to make good use of the specialized knowledge and competencies each group brings, and how to respond to the (sometimes competing) interests of these varied groups.

Time is of the essence. The current moment – as the formal structures to govern reconstruction are being decided and organized – is the most critical period for planning with corruption risks in mind. It is also key to keep in mind that while the political will may be here today, there is no guarantee it will be tomorrow. In the period after the war, political leadership – both in Western democracies and in Ukraine – may change, and, as the last several years adequately demonstrate, upheaval may follow. If the end of the war arrives and structures are not in place, risks will increase, and investor trust that the reconstruction programme can contain corruption will drop.

Core issues to address	Responses
Planning and oversight	<ul style="list-style-type: none"> ■ Prevent incoherence and duplication of efforts by centralizing, to the degree possible, the reconstruction programme. ■ Create a special office solely to oversee the broader anti-corruption programme on the donor side. ■ Think about transparency as both digital and analogue, not only within but outside Ukraine. ■ Put open data back online and enhance existing transparent procurement tools. ■ Plan to use inclusion strategically to harness networks, convening power, specialized knowledge and technical capacities in and outside Ukraine.
Institutions	<ul style="list-style-type: none"> ■ Focus on ensuring independence for Ukraine's specialized anti-corruption institutions, especially law enforcement agencies. ■ Avoid cannibalizing existing institutions with new pop-up entities. ■ Continue to support lines of communication between Ukrainian and international institutions.
Civil society	<ul style="list-style-type: none"> ■ Invest in capacity of Ukrainian civil society organizations through funding, networking, staffing and training. ■ End impunity for attacks on civil society and the press. ■ Build cooperation among Ukrainian and foreign civil society watchdog groups.
Sector risks specific to the reconstruction programme	<ul style="list-style-type: none"> ■ Design the programme to promote investment by reducing rent-seeking opportunities in administrative red tape and baking in transparency for tendering and licensing. ■ Empower the existing office of the ombudsman. ■ Integrate sector-specific technical knowledge, including from outside Ukraine. ■ Respond to incentives specific to private companies through voluntary initiatives. ■ Ensure whistle-blower protections are put into law and enforced.
Embedding of anti-corruption in society	<ul style="list-style-type: none"> ■ Greater integration of anti-corruption within Ukraine's decentralization programme. ■ Community involvement in recovery oversight. ■ Networking and cooperation among local community organizations and NGOs.

FIGURE 4 Core issues to mitigate corruption risks.



RECOMMENDATIONS

Leaders should consider now how to align incentives, leverage resources and reduce vulnerabilities to address the constellation of corruption risks that will be present during reconstruction. Taking into consideration both pre-war progress and current developments, corruption in Ukraine has been and remains a systemic challenge. Accordingly, the focus for tackling corruption should be on systemic rather than transactional approaches. That means prioritizing responses that help embed anti-corruption broadly across sectors and within various levels of Ukrainian society. Additionally, while reconstruction managers should absolutely aim to prevent corruption in every instance, focused consideration should be directed toward mitigating second-order effects, including the expansion and embedding of corruption networks and the overlap between corruption and organized crime, which may have longer-term governance effects not only in Ukraine but across borders.

Form should follow function

Expectations and the means to realize them together should be set now. During reconstruction, the best approach will be to adopt a realistic position about the corruption risks that are guaranteed to accompany such an enormous influx of money, to establish an open door to raise and address issues as they arise, and for the relevant groups to work in partnership with Ukraine and each other to ensure corruption is the exception rather than the rule.

And yet, no central contact point has so far been included within the coordination structure proposed by the EU for fielding corruption concerns among donors. An anti-corruption commissioner or other special executive appointment could fulfil this mandate. The position would have a comprehensive directive to address corruption issues, akin to a UN High Commissioner; they would be the coordinating international role for marking anti-corruption milestones, promoting cohesion on anti-corruption approaches across donor states, monitoring corruption over the reconstruction period and, crucially, their office would offer an independent venue for dealing with matters raised at all levels across the public, private and civic sectors. This office should sit within the structure that coordinates donor activity, and while its functions should not be restricted to oversight, it should be empowered to signal when funds should be held, to mobilize donor resources for investigating reported corruption, and to offer the public transparency on its findings. Establishing a channel of communication with this office beyond the executive will be necessary, particularly as a check on the risks of discretionary power arising from the consolidation of decision-making authorities. Connections could already be established between this office and international institutions, national bodies and civil society organizations, setting the stage for more seamless management and reducing problem bottlenecks down the line.

Use inclusion strategically

Part of the current discourse around the development of the reconstruction programme regards inclusion, with calls for a bigger tent of contributors including a wider range of state parties as well as non-traditional donors. In the area of anti-corruption, this conversation can and should take a more strategic turn; that is, to focus on which stakeholders will help reduce corruption risks at which points in the process. Strengthening anti-corruption prevention and oversight requires a tactical approach when it comes to the inclusion of stakeholders such as state donors, private philanthropies and institutional bodies. The unanticipated nature of the start of the invasion meant coordination among these groups took some time to get under way; the opportunity now is to plan so that when the hot conflict ends each group is prepared and ready to engage.

Among the outstanding questions for the reconstruction period is which governments will be involved. Some parties, including the US, have argued for a more expansive group of state donors. An active role for the members of the G20 would open the policymaking space to include issues such as debt reform and climate finance, topics of concern to a broader group of countries,³⁵ but which resonate with the reconstruction programme as envisioned by the Ukrainian government.



Russian President Vladimir Putin and his Chinese counterpart Xi Jinping. China may be interested in playing a role in Ukraine's reconstruction, which might entail certain risks. © Reuters/Evgenia Novozhenina

As well as expanding the cast of donors, concerns about strategic competitors are also on the agenda. Proposals, such as those from the German Marshall Fund, have given thought to how to respond to Russian or Chinese influence through shareholders in international financial institutions, by, for example, requiring development banks to adapt their internal procedures, or even by working selectively with the European Investment Bank.³⁶ Given the country's significant and expanding global role in infrastructure development, including in post-conflict states, China may be interested in playing a role in reconstruction. This is likely to be particularly relevant for the renewables sector, where China is subsidizing clean technologies. There are specific considerations when working with Chinese firms, including opacity of ownership, barriers to meaningful due diligence because of inaccessible corporate and legal records, and the potential political risks of working with state-owned or state-connected

enterprises. It should be noted that these risks are not wholly unique to China, but rather appear top of mind among Ukraine's international partners in the context of broader great power competition. In any event, it remains to be seen how receptive Ukraine will be to Chinese investment, given China's stance on the war and its relationship with Moscow on the one hand, and its considerable potential as a reconstruction funder on the other. It should also be said that Ukraine, which represents a significant investment opportunity for Chinese companies, may have the leverage to set the terms for a novel approach, including the adoption of the same transparency standards and tendering procedures required for investment from any source.

Private donors, who have long supported civil society work on anti-corruption in Ukraine, will have a role to play as well. The Transparency and Accountability Initiative, a collaboration between major donors operating in the anti-corruption sector, identified in their 2022 annual report that anti-corruption had taken a back seat to emergent crises such as COVID-19, and that the strategy alignment of donor approaches to corruption was in a state of transition.³⁷ Sustaining investment in Ukrainian civil society and reinforcing its role within the wider anti-corruption ecosystem is where private philanthropic groups can have the most positive effect during reconstruction. In particular, private donors should make use of their existing strategic advantages – links with local groups and influence with Western institutions – to ensure that local expertise continues to reach decision-makers in Europe and the US.

Inclusion can have a 'many hands make light work' effect. How EU bodies, international financial institutions and international civil society can engage in the process is as coordinators certainly, but planners should also be thinking about how these groups' expertise can be engaged throughout the reconstruction period. In the first instance, EU bodies have the technical capacity to undertake the kinds of due diligence – environmental impact assessments, for example – that will be required for some of the large-scale infrastructure projects that are envisioned.³⁸ Peer learning will be relevant here. EU and Ukrainian partners do not need to spend time building strategies that already exist, and should draw on the experiences of EU technical assistance in the energy sector to Eastern Partnership countries such as Georgia, which also pursued renewables to achieve security and energy independence from Russia.³⁹ In parallel, cross-border peer collaboration can play a role. Watchdog NGOs in neighbouring EU countries could be formally engaged to assist in reviewing suppliers registered within their borders. By widening the group of stakeholders participating in anti-corruption work the load will be lightened, and personnel resources and local expertise can also be integrated into the reconstruction programme. Attention by foreign oversight agencies and watchdog groups to their own domestic companies could help identify and address potential problems, thereby reducing corruption risks not only in the territory of Ukraine but also with foreign partners.

Finally, inclusion in oversight should work both ways: EU bodies should be part of the process, while Ukrainians will benefit from being involved in EU structures. In particular, the call to include Ukraine (and other candidate countries) in the European Public Prosecutor's Office as soon as possible is a smart one, as Ukrainian participation in this body would open a channel to investigate and prosecute financial crimes against the EU.⁴⁰

Promote integrity in the green transition

Given the vision for a green transition in Ukraine's renewal, particular expertise on how corruption operates within the renewable energy market needs to be foregrounded in the planning process. Promoting integrity in this sector will require engaging private businesses, as well as increasing institutional capacity to offer oversight specific to the sector.

Ukraine's reconstruction will be financed not only by donors and partner governments, but also through private investment from both domestic sources and abroad. While it is likely Ukraine will rely greatly on aid or loans in the short term, to finance the immediate restoration of basic services and reconstruction of essential infrastructure in the recovery stage, private investment will drive and shape the renewal period, and much of this investment will come from abroad. Research on the interactions between trade openness, foreign direct investment and corruption offers some cause for optimism. First, the desire to attract foreign investment creates positive incentives for governments to control corruption domestically. Competition with foreign firms may also reduce rent-seeking by domestic companies.⁴¹ Second, trade openness, foreign investment and economic integration are supported and advanced by international institutions with their own anti-corruption measures, bringing in compliance obligations and creating pressure for reforms.⁴² But research also clearly finds that the development of new markets generates rent-seeking opportunities, for example through the establishment of new permitting procedures or quality controls. Given that Ukraine's vision for a post-war economy centres on the development of a new clean technology market, mitigating risks in this sector should be top of mind.⁴³ Reducing administrative red tape and making the process for permitting and tendering transparent will be important for reducing such rent-seeking opportunities. The business community, as the primary group involved at the transactional level, could play a large role in reducing corruption risks. How this group can be channelled into the oversight process is not a simple question, but there are some reasonable options.

Given the specific risks presented by renewal phase projects, public and transparent input from the business community, in areas such as how to determine the legitimacy of renewable energy suppliers from a technical perspective, will be vital. In its 2019 report, the Organization for Economic Co-operation and Development (OECD)'s Eurasia Competitiveness Programme proposed that Ukraine should adopt uniform qualification standards on energy efficiency aligned with EU regulations, noting that trust in suppliers is integral to growth in this sector.⁴⁴ Moves towards technically informed transparency such as this will not only help to reduce risks but also to promote a participatory culture of business integrity.

Collaborative initiatives can help, too. Research has found that voluntary anti-corruption associations can promote integrity by reinforcing pro-social behaviour (club theory).⁴⁵ An example of where the business community has played a fundamental anti-corruption role in a field relevant for renewal is the Extractive Industries Transparency Initiative, a governmental scheme to adopt transparency standards for the extractive sector. While participation is voluntary, supporting companies play a key role in providing technical expertise for standard setting, validating countries' adherence to the standards, and promoting a culture of ethical conduct. Currently there is no equivalent voluntary initiative for clean technology, but such an operation would offer an ideal platform for public and private cooperation during Ukraine's renewal phase. Given that Ukraine already has a strong track record of pioneering new approaches to anti-corruption, such a model could be tested during reconstruction with a view to wider adoption by other countries seeking to transition to renewables.

Finally, there needs to be a body in place to oversee the development of Ukraine's clean technology industry and offer a channel to address problems. Fortunately, Ukraine may not need to create something from scratch, but could rather invest in existing structures and, importantly, integrate them into the international oversight of the reconstruction programme. The Business Ombudsman Council, an advisory body created in 2015 to fight corruption and increase transparency in Ukraine's business environment, could play an integral role in the reconstruction process, and could, in turn, link to the proposed commissioner in the coordination structure. The ombudsman, independent and accountable to a board that includes the European Bank for Reconstruction and Development and the OECD, is tasked with receiving corruption complaints from foreign and domestic businesses and sharing findings on the systemic causes.⁴⁶ So far, only a portion (33%) of the ombudsman's nuanced recommendations, such as the establishment of a cross-institutional working group to spot-check train boxcars or the digitization of the process for new utilities connections, have translated to policy change. However, the body has a successful track record for generating and supporting investigations and has helped companies recover €600 million in losses.⁴⁷

To achieve its mandate during the reconstruction period, the capacity of the office of the ombudsman to field cases and translate research into policy action will have to be increased, not only by adding staff and promoting its services to the business community, but also by providing information through its research findings on where increased oversight is required. The active response of the anti-corruption commissioner within the executive management structure to this body will be essential. Furthermore, whistle-blower protections, which are needed across the board and should be given priority on the legislative agenda, would help to create the conditions in which people feel able to turn to the ombudsman without fear of recrimination.

Think of transparency as both digital and analogue

Transparency during Ukraine's reconstruction should be approached holistically, as both digital and analogue, and the narrow focus on transparent public procurement should be widened to include the reconstruction project overall, including decision making and, crucially, activity outside the country. In addition, as reconstruction managers plan for transparency, they should equally be thinking about who can act on open information.

Ukraine's achievements in the areas of open data indicate great promise for the reconstruction period. Before moving forward, however, existing transparency tools must be put back online. This is especially true for asset declarations, the importance of which cannot be understated. If these remain offline or their issuance delayed, government and civil society watchdogs will be missing a crucial tool for identifying the misuse of reconstruction funds.

In both the recovery and renewal phases, tools for monitoring public procurement will be essential, and Ukraine, providentially, excels in this area. First, however, a decision must be taken to centralize the management of funds. Currently, several platforms, including the Small and Medium Business Support Fund, the Fund for the Elimination of Consequences of Armed Aggression, the Destroyed Property Restoration Fund and the Fund for Economic Recovery and Transformation, are in use or planned, and these are just some of the Ukrainian-organized funding streams. A proliferation of schemes will make it difficult to monitor the various funds and their destinations. Centralizing, to the degree possible, all funds received and outgoing in one searchable system would greatly increase the capacity to track and monitor reconstruction finance. ProZorro, Ukraine's transparent public procurement system,

would need additional technical support and personnel to respond to the scale of the reconstruction effort, but it is a likely choice to centralize spending during this period. The question is whether it can be continuously audited not only by Ukrainians but also by international partners. An additional consideration is how it might be enhanced by the addition of state-of-the-art capabilities to flag potentially high-risk transactions, an option being explored by anti-corruption scholars and activists. This would require specialized expertise and time for viability and pre-testing, but reconstruction offers the unique opportunity to integrate such a system into the public procurement mechanism.

Where transparency can and must be improved is outside of Ukraine – first and foremost in the organizational management of the reconstruction process – and this is largely dependent on the country’s international partners. Partners and the public should be able to access information about planned budgets and priorities on a single platform. Beyond this, who is making which decisions should be clear – from personnel for the coordination structure through to meeting documentation. Transparency of this kind will help guard against conflicts of interest. Once reconstruction begins, data on spending and who receives it should be publicly available. Czechs, for example, should be able to view details about the money their country has given, where it is to be used, and later, what the results are. For this purpose, the European Court of Justice’s ruling against the public disclosure of corporate beneficial ownership is truly a shame; public and auditable ownership records in European countries would have been a transformative resource for tracking the ultimate beneficiaries of funds. Without improvements in transparency outside of Ukraine, what may happen is a spotlight within the country, and a black box around its borders.

While transparency is essential in an environment endeavouring to control corruption, it is ultimately only a tool. It is useless if there is no one using it to reveal wrongdoing and it is toothless in an environment of impunity. It will not be enough to make the reconstruction programme and the work of the public officials managing it transparent; the institutional environment and watchdog functions of society must concurrently be supported.

Reinforce the existing anti-corruption ecosystem

The political, institutional and civic elements of Ukraine’s anti-corruption ecosystem have been affected by the war. Coming out of the conflict, as civil servants and activists return to their usual work, some provision of resources specifically towards reconstruction would be prudent. Moreover, special attention should be paid to the wartime adaptations that may have weakened the independence of Ukraine’s anti-corruption agencies.

Scholarly research offers three insights that are particularly relevant to Ukraine’s institutional anti-corruption structures coming out of the war. First, scholars identify that just like any other institution anti-corruption bodies can be captured by special interests, rendering them not just ineffective but also dangerously positioned to enable, rather than constrain, corruption. On the institutional side, leaders should resist the urge to create pop-up, temporary institutions to govern reconstruction, as these themselves would create new corruption risks.⁴⁸ An illustrative metaphor for these kinds of institutions might be the facilities for the Olympics: at best they serve a term-limited function, they are commonly plagued with problems, and they are often quickly obsolete, representing a large investment with no long-term pay-off. In Ukraine, where anti-corruption bodies are already in an uphill battle to deliver justice, the risk that temporary agencies would cannibalize existing institutions is significant. Instead, reconstruction managers should look to fill any gaps by using existing institutions.

Second, and connected to risks of institutional capture, further research emphasizes the critical role of 'principled principals', that is, effective leadership, in upholding institutional integrity. Reconstruction funding should be tied to ensuring that anti-corruption institutions are fully staffed, especially with key leadership. Ukraine is visibly prioritizing this, with the appointment of a chief anti-corruption prosecutor in 2022, and a new head of the National Anti-Corruption Bureau in March 2023.⁴⁹ It is critical that new leadership should maintain the independent functioning of these agencies. Empowering anti-corruption institutions with new competencies and strengthening existing functions, especially in relation to parallel law enforcement institutions, will support their operational independence and guard against institutional capture. For example, in 2019, the National Anti-Corruption Bureau pursued and failed to gain some independent investigatory capacity, leaving it reliant on law enforcement agencies.⁵⁰ Addressing such weaknesses would enable existing institutions to address corruption in reconstruction, as well as enhance their capacity to fulfil their long-term missions of promoting justice and good governance.



Semen Kryvonos was appointed director of the National Anti-Corruption Bureau of Ukraine in March 2023, in a move to prioritize effective leadership in upholding institutional integrity. © Vitalii Nosach/Global Images Ukraine via Getty Images

Finally, research underscores how a culture of impunity fuels broad political disillusionment and disengagement.⁵¹ Rather than increasing electoral participation and support for electoral rivals, information about rampant, unaccountable corruption is associated with decreased voter turnouts and a withdrawal from the political process. Ukrainians have already spent the better part of a decade in pursuit of a system that will deliver accountability. Now, having experienced so much hardship in this last year of war, their demand for justice will be high. Broad political engagement will depend on the level of trust in the government to control corruption. To foster this trust after the war, it will be important for the healthy functioning of Ukraine's anti-corruption institutions to be visible, and not merely as public relations, but with concrete evidence of their independence. This is especially true for the investigation and prosecution of corruption related to the war and reconstruction, which will be conceptually core to Ukrainian statehood and society. Robust watchdog functions – namely,

the work of anti-corruption activists and investigative journalists – will also be essential. This group constitutes a core element of Ukraine’s anti-corruption ecosystem and needs both adequate resources and institutional protection to tackle the challenge ahead. Among the assets needed are flexible funds to hire new staff devoted to oversight and financial support for respite. Donors should also consider investment in training to expand this community, either in the form of support for new educational and skills-development programmes specifically addressing corruption, or additional funding for the on-the-job training of junior staff. Additionally, this sector needs more protection, given the situation before the war. Harsher penalties for attacking anti-corruption activists, like there are for public servants, should be considered, but at a minimum political leadership should set a new tone and ensure justice for their cases.

Engage at the local level

Citizen engagement and localization are not only fine principles; they offer pragmatic approaches to disincentivizing and preventing corruption. Given that the local level is chiefly where investment in physical reconstruction will occur, and also where it is most likely to intersect with people’s daily lives, measures to strengthen oversight here will be crucial. The changes to Ukrainian local governance provide an under-used opportunity for oversight. Over recent years, Ukraine has pursued a strategy of decentralization.⁵² This process offers benefits and costs for controlling corruption. On the positive side, decentralization places more distributional authority in the hands of those who are in principle better positioned for oversight. On the negative side, the empowerment of regional officials to decide how money gets spent can strengthen localized corruption networks. Already, communities are organizing to rebuild homes and neighbourhoods. The amalgamated territorial communities created through decentralization offer a formal structure to channel these recovery activities, but their function could be improved. The Government’s Priority Action Plan for 2023, which involves



Complex undertaking: a road bridge under construction in Kyiv. © Yan Dobronosov/Global Images Ukraine via Getty Images

continued decentralization,⁵³ may offer more explicit approaches for anti-corruption and how it can be properly resourced. Where this may be needed most is in strategic planning for regional development, a component anticipated by the action plan that will be a particular locus for corruption risks in the later renewal phase. Integrating anti-corruption policy into the roles of amalgamated territorial communities could provide a space for local engagement on this issue.

A host of research shows how citizen engagement can help to reduce corruption and pay developmental dividends. And local engagement does not only involve individuals; civil society can also play an integral role. Civil society organizations have staff with technical know-how, and are also part of wider professional networks, meaning they can draw on comparative experience across regions. Monitoring a large inflow of funds may require this kind of network. While there are many examples of this kind of collaboration, one effort that is active now is the monitoring of the return of former Nigerian president Sani Abacha's ill-gotten gains to his home country. Over 200 civil society organizations enlisted in the Monitoring of Recovered Assets through Transparency and Accountability (MANTRA) programme, which tracks funds across Nigeria and provides oversight of the projects the funds are intended to support. It is the collaboration among civil society organizations across the country that has made this programme work.

For Ukraine, an auspicious start will pay off later. The public post-conflict will be eager to rebuild, and it will be essential to harness this energy. Developing community oversight could have long-term beneficial results for democratic governance as people engage directly with and have a stake in public processes. The recovery period is the time to establish structures for engagement with municipal leaders and local stakeholders, so that during the later renewal phase relationships and practical experience are in place. There are some workable ways this may be achieved. Presently, the Ukrainian Ministry of Digital Transformation offers an app to apply for individual direct payments in support of recovery efforts.⁵⁴ The integration of local communities into the oversight of the recovery effort through community-based verification of individual needs could be considered as an additional check, beyond verification based on national identification numbers and other basic information. In the later period of renewal, online platforms could enable people and civil society to monitor the progress of reconstruction projects in their communities and see which businesses and local authorities are involved. This would help ensure that support is delivered in alignment with needs, and that channels are open to address issues as they arise.



CONCLUSION AND OUTLOOK

Ukraine's vision for the future is not only one of restitution and recovery but also of development and modernization. There is no doubt that reconstruction will be a complex undertaking, and the repercussions of getting it wrong substantial. A reconstruction process that fuels corruption would have social, political and economic consequences for Ukraine and its allies and partners for years to come. Preparing in advance for the corruption risks specific to this period will help set the programme on the right path. The attention being given to reconstruction is high at the moment, as is the political will to devote time and resources to renewal. The issue at hand is how to implement this vision in a manner that reduces corruption risks. By designing reconstruction with anti-corruption at the centre of the framework, Ukraine and its international partners can mitigate these risks and help to ensure the realization of a prosperous, modern Ukraine with a perspective for European integration.



NOTES

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