

KEEPING UP APPEARANCES

HOW EUROPE IS SUPPORTING UKRAINE'S TRANSFORMATION

Gustav Gressel



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Contents

<i>Map of Ukraine</i>	4
EXECUTIVE SUMMARY	7
INTRODUCTION	10
CONTESTED UKRAINE	12
DEFENDING UKRAINE'S SOVEREIGNTY	14
SUPPORTING UKRAINE'S POLITICAL TRANSFORMATION	30
SUPPORTING UKRAINE'S ECONOMIC TRANSFORMATION	51
THE EU'S SUPPORT FOR UKRAINE	61
ASSESSING EUROPEAN POLICIES ON UKRAINE	68
RECOMMENDATIONS	76
ANNEX: LEADERS AND SLACKERS ON UKRAINE SUPPORT	80
<i>A: Leaders</i>	81
<i>B: Fence-sitters</i>	92
<i>C: Slackers</i>	100
<i>About the author</i>	101
<i>Acknowledgements</i>	102

Map of Ukraine



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Executive summary

In November 2013, the people of Ukraine assembled *en masse* in Kyiv's Maidan square. They were protesting President Viktor Yanukovich's failure to sign Ukraine's Association Agreement with the EU. The Maidan uprising sent Ukrainian politics into chaos. It began a chain of events that led to the Russian annexation of Crimea and to the ongoing war in the Donbas. And it changed the political leadership and set Ukraine on the rocky road to reform.

Effective reform has long eluded Ukraine, in part because reform there isn't just about improving the transparency of the state apparatus. It often also involves a complete overhaul of state processes. Ukraine was one of the most "Sovietised" republics in the USSR, and has carried forward many of its worst organisational characteristics. Reform in Ukraine is effectively "de-Sovietisation".

Ukraine's reform efforts have made some progress over the last two years. Reforms are ongoing in almost every arm of the state, including in the media, even as Ukraine has had to deal with a challenge to its territorial integrity and Russian aggression within its internationally recognised borders.

But overall, the results are mixed. Ukraine has made great strides in some sectors — particularly the defence sector, the banking sector, and the agricultural sector. But reforms in key state institutions, such as the judiciary, have failed to deliver results.

The EU and its constituent member states have helped Ukraine on the path to reforms by providing financial assistance and expertise. The EU has always been in a strong position to help Ukraine, having helped reform efforts in other post-communist countries. Now that those countries are themselves EU members they are able to share best practice with Ukrainian interlocutors.

The EU has been particularly helpful on regulatory issues, rural development, and energy-sector reform. Despite some teething issues, support from the EU and member states has, on the whole, been a success to date. It has helped to bring about more change and reform than Ukraine has seen since its independence. Indeed, Ukraine has passed more laws in the years since

Maidan than any other European country. Transparency has increased, and more controls have been put in place to stifle corruption.

But the EU's efforts at assistance have not helped spur effective judicial and administrative reform, that is to say, reform of the central state apparatus. The lack of progress in this area hampers reform efforts in other areas. More than two years after Maidan, it is clear that the EU should have placed more pressure on the country's leadership to deepen judicial and administrative reforms. Instead, much diplomatic energy has been wasted on the Minsk process, which is locked in a stalemate.

Ukraine fatigue and defeatism is taking hold in some European countries. But the governments of these countries should know that Ukraine *can* reform. It just requires effective support and guidance — some of which can be provided by the EU. Sometimes that support and guidance has missed the mark, but there are things the EU should be focusing on now to help Ukraine reform.

There is also a regional divide in the willingness of EU member states to assist Ukraine. While northern and eastern member states actively support Ukraine's transition, there is a lack of engagement by many western and southern member states. This imbalance undermines the idea of European solidarity and cohesion, and ultimately the effectiveness of the EU as a political player. Italy, for example, provides less assistance to Ukraine than Slovenia. France, Spain, and Italy together provide less than any of the individual Baltic states.

In order to push forward the reform process further the EU needs to continue to **communicate with the Ukrainian public** to give them evidence of the impact of reforms, progress on Minsk, and to reassure them that separatists in the east of the country will not gain influence. The EU needs to help win the hearts and minds of Ukrainians by keeping their communications consistent and clear. The absence of such communications will bring on further disillusionment with the protracted reform process.

The EU should **focus on judicial and administrative reform**. This is the area most in need of reform. One way of helping to support reforms of the judiciary and administrative functions is to **embed European diplomats and experts into Ukrainian administrative structures**. This will allow for the transfer of advice and experience, but also give some control over the reform process.

The EU will have greater leverage for pushing forward these reforms if it is able to **stick to its commitments to Ukraine**. When Ukraine achieves the requisite reforms to receive benefits – such as visa liberalisation, the EU must make good on its promises, otherwise it risks alienating Ukrainians from the reform process.

One of the key factors holding back reform efforts in Ukraine is the lack of specialised task forces to implement reforms. As such, the EU should **advocate for specialised reform implementation bodies in each Ukrainian ministry**, so that there are dedicated people working on reforms. This will help to ensure that reform is treated as a priority in government ministries.

While Ukraine's reform process rumbles on, so does the conflict in the east of the country. The EU should make sure that it is also supporting Ukraine in this fight. The EU should therefore **step-up efforts to reform the Ukrainian armed forces**, so that they are better equipped to combat the Russian threat, and also **be open to lethal aid, if the requisite conditions are met**.

Local economies in Ukraine are weak and there is a high degree of financial uncertainty. The EU should ensure that it is aiding Ukraine's economic transition and de-oligarchisation process by opting to **support small and medium enterprises** that are owned by regular people, rather than oligarchs. Connected to this, the EU should **continue to support rural development** as agricultural reforms mean that many small farms will face hard times ahead. Ukraine has one of the largest agricultural sectors in Europe, and by offering increased support to reforms in this sector it can ensure that the transition to European standards is as smooth as possible.

Perhaps more than anything else, the EU needs to **be blunt about the shortcomings of Ukraine's reforms**. The EU has at times been too soft on Ukraine. European diplomats should be as straightforward as possible when pointing the finger at those responsible for delaying reforms. Only by doing this can real progress be made.

The reform of Ukraine will by its very nature be a long and drawn out process. Even if the government in Kyiv was more committed to reforms, the effort would take years to bear fruit. The EU should understand this. It cannot give in to its Ukraine fatigue and needs to support the country in its journey to EU membership, lest it contribute to even greater instability on the EU's eastern periphery.

Introduction

1

Ukraine's former President Viktor Yanukovych's sudden decision in November 2013 not to sign an Association Agreement with the European Union triggered mass protests in Kyiv's central Maidan square: protests that would eventually turn violent. The protests triggered a national uprising that deposed the government and paved the way for elections. The core demands of the protesters were intensive reform of the economy, government, and institutions, and to place Ukraine on the path towards European integration. Russia's response – annexing the Crimean peninsula and launching a campaign of hybrid warfare in the Donbas – is the price of Ukraine's decision to turn towards Europe.

Since 1989, the EU and its member states have vowed to support Eastern European countries in their attempts to reform and strengthen democracy, the rule of law, market economies, and open societies. However, while Europe welcomed Ukraine's choice to move closer to Europe, there was confusion over how to react to its consequences: the Russian aggression, and the domestic crisis that unfolded in Kyiv. Instead of a smooth transition, Ukraine's struggle for a new future turned out to be a messy and prolonged battle.

But as the war in Donbas entered a quieter phase in summer 2015, the real battle for Ukraine's future may not be on the military frontline but in the offices of bureaucrats – and be fought over the issue of whether Kyiv can carry out the necessary political and economic reforms. In the two years since Maidan Ukraine has made progress, but much less than expected. Corruption, graft, and nepotism are still ubiquitous in political and administrative life. Informal relations, personal ties and dependencies shape politics, and formal institutions are weak. There is growing suspicion among civil society regarding the will and ability of the Ukrainian government to carry out meaningful reform.

For the EU, Ukraine's transition to a functioning and prosperous state is of paramount importance. It will be the litmus test for whether the EU – weakened by internal crisis and strategic divisions – is still able to project stability into

its neighbourhood. A failure in Ukraine would play into the hands of extreme forces in the Kremlin, bolstering its claim that Eastern-Slavic societies are unable to build a state based on the rule of law and democracy. This would push internal developments in Russia even more worrisome directions. At the same time, a collapse of the Ukrainian state would cause major economic instability in Central Europe.

The EU was a key player in facilitating the post-Communist transition across Eastern Europe, and has a variety of tools to facilitate reform in Ukraine. Additionally, many EU member states have successfully been through a similar transition after 1989. The EU institutions and several member states have expressed their support and provided assistance.

This report sets out to assess Europe's aid to Ukraine, considers whether the EU currently provides the right type of support, and whether this support matches the Union's aims. It considers bilateral assistance by member states, and sets out the gaps, the success stories, and the lessons learnt from efforts to lend assistance to Ukraine so far. Finally, it makes recommendations for how the EU should step up its support, and ways in which it can encourage greater commitment to Ukraine among member states.

This paper's assessment of the diplomatic, military, and economic challenges facing Ukraine after Maidan, and how Europe engages with other international stakeholders to assist the government is – unless otherwise stated – based on the findings of 28 interviews conducted in Kyiv in February and March 2016. Interviewees include officials from the EU, selected member states, and non-EU international donors, as well as representatives of the Ukrainian government, civil society, political parties, and think-tanks. All interviews were conducted on the condition of anonymity. As Ukraine's reform process is a fast-changing moving target, it is important to recall the timeline of the research phase. The annex of this publication, which outlines the bilateral support by EU member states to Ukraine's transformation is based on reports received through ECFR's network of national researchers.

Contested Ukraine

2

In July 1990 the London declaration was issued by the 22 NATO and Warsaw Pact states. The declaration guaranteed every European state the freedom to freely choose its alliance. The declaration was an important pillar of the post-Cold War order.

However, since the declaration, Moscow has used domestic and territorial conflicts to impose its preferences on neighbouring states. The case of Moldova illustrates this: Russia was only willing to “solve” the country’s frozen conflict if Moldova became its *de facto* vassal. It declared that, according to the 1997 Moscow Memorandum and the 2003 Kosak Memorandum, Moldova was to be transformed into a federation, in which the Russian-controlled breakaway regions were to be granted veto power on all major laws. The then-President of Moldova, Vladimir Voronin, thought that Russian security concerns had been addressed through a constitution that declared Moldova a permanently neutral state and banned foreign troops from its soil. But Moscow’s quest was never about security — it was about control. Knowing that he would have transformed Moldova into another failed state, the allegedly pro-Russian leader of the Communist Party of Moldova rejected Moscow’s deal.

Ten years later, the then-Ukrainian President Viktor Yanukovich fell into the same trap. Having declared Ukraine a neutral state by law, he prolonged the contract to host the Russian Black Sea Fleet until at least 2042, and granted Russian intelligence services unprecedented powers to work in Ukraine. He thought that by cutting these agreements Russia’s security interests would be covered. Russia’s interests were, once again, not really in security *per se*. As the likelihood of Yanukovich signing the Association agreement with the EU grew, Russia threatened to cut economic ties and impose punitive measures such as sanctions, product bans, and travel bans, among other things, against Ukraine. The pressure was not just economic. Since 2008 Russia had stepped up preparations for military and paramilitary campaigns on the Crimean

peninsula and in eastern Ukraine. Ultimately Yanukovych bowed to Russian pressure, and in doing so, lost power.¹

It was no surprise that the Maidan protesters used the Ukrainian and European flags as their symbol. The EU Association Agreement would have included passages to strengthen rule of law, reform the judiciary, increase press freedom, and reform the security sector. With corruption spiralling out of control, a government arbitrarily taking its opponents to court, and lucrative economic opportunities marked off for kleptocratic elites only, it was no wonder that Ukrainians staked their desire for a better life on the EU. Facilitating the transition from weak states with oligarch-run economies to functioning democracies with free market economies has always been a core aim of European foreign policy. However, in Ukraine, the issue was larger; Russia's quest to claim sovereignty over other states and people without their consent was unprecedented in Europe, and if accepted by the EU, would have meant the end of the European order as we know it.

It became clear that self-serving local elites could easily manipulate the geopolitical context to demand European support on their own terms. Even before Maidan, Yanukovych had tried to rally European support for Ukraine by placing its quest for the Association Agreement in the frame of a geopolitical contest with Moscow. His interest was in accessing the economic benefits of the agreement, while trying to ensure that Europeans asked as few questions as possible about the regime's dealings with the opposition, media, and competing businesses. The EU was rightly sceptical of Yanukovych, and insisted that any assistance was contingent on structural reforms being pushed through and an end to politically motivated prosecutions.

¹ For further reading on the Maidan and the political struggle for Ukraine see: Klaus Bachmann, Igor Lyubashenko (Eds.), *The Maidan Uprising, Separatism and Foreign Intervention, Ukraine's complex transition*, Peter Lang, Frankfurt am Main, 2014; and Andrew Wilson, *Ukraine Crisis, What it Means for the West*, Yale University Press, New Haven, London, 2014.

Defending Ukraine's sovereignty

3

Russia's annexation of Crimea posed an unprecedented challenge to the European order. It was the first time since 1945 that a European power had used force to annex the territory of another European country. And it was the first time in modern history that the possibility of a state signing a free trade agreement was used as a pretext for armed aggression by another country.

The annexation happened so quickly and took the West by such surprise that no effective strategy was developed for countering it, even if the will was there. Only a week passed between the abdication of Yanukovich and an influx of some 25,000 armed men. Moreover, the increasing military build-up on Ukraine's borders pointed to an all-out invasion.² As with Georgia in 2008, Russia could have used any response from Kyiv as a pretext for a larger intervention.³ Given the dismal state of the Ukrainian armed forces at the time, there was little Kyiv could do about it.

Russia created a *fait accompli* that Europe could not recognise, but could not reverse. Later, sanctions against individuals involved in the occupation⁴ were largely symbolic, and spared those occupying top administrative posts in President Vladimir Putin's inner circle. The call for a "peaceful solution" was diplomatic cover for having little plan of how to move forward. Military roll-back was out of the question⁵ and Putin never even considered putting Crimea on the negotiating table. After two years, this diplomatic *impasse* is still in place. The EU's sanctions regime remains static. It has not reacted to administrative changes in the Russian occupation regime, nor to the increasing repression of ethnic and religious minorities on the peninsula – particularly the Tartars.

2 Igor Sutyagin and Michael Clarke, "Ukraine Military Dispositions, The Military Ticks Up while the Clock Ticks Down", Royal United Services Institute, April 2014, available at https://rusi.org/system/files/UKRANIANMILITARYDISPOSITIONS_RUSIBRIEFING.pdf.

3 "Transcript of NSDC meeting before annexation of Crimea (on Martial Law)", 112.UA International, 23 February 2016, available at <http://112.international/article/transcript-of-nsdc-meeting-before-annexation-of-crimea-on-martial-law-2827.html>.

4 "M1 Council Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol", European Commission, 23 June 2014, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0692-20141220&qid=1444987014323&from=EN>.

5 Jacek Durkalec, "Nuclear-Backed 'Little Green Men': Nuclear Messaging in the Ukraine Crisis", the Polish Institute of International Affairs, July 2015, available at http://www.pism.pl/files/?id_plik=20165.

Russia followed up the annexation of Crimea with war in the Donbas. The West – the United States and Europe – was a passive bystander. Until summer 2014, the challenge was subversion rather than a substantial military threat and could have been dealt with by even a modest EU mission. However, at the time this seemed too risky.

As the Ukrainian military machinery slowly started its engines, Russia was forced to send in the regular army, including heavy surface-to-air missiles (SAM) to save its proxies from defeat. The Ukrainian defeat at Ilovaisk and the shooting down of the MH17 civilian airliner on 17 July 2014⁶ transformed the war from a hybrid campaign to an undeclared inter-state war and an international crisis. The developments prompted the West to impose tougher sanctions on Russia – above all, sanctions against the financial sector, a prohibition on selling arms and dual-use goods, and a restriction on the access of Russian state-owned enterprises to Western capital – by 12 September.⁷

The sanctions were meant to support diplomatic negotiations between Ukraine and Russia under the umbrella of the Organization for Security and Co-operation in Europe (OSCE). The Minsk I protocol – an agreement signed on 5 September – was brokered by the OSCE Contact Group and based on a peace plan drawn up by Poroshenko. The agreement included a ceasefire, withdrawal of heavy weapons, an amnesty law, a law on self-governance for the rebel-held territories, and provisions for OSCE control of the Russian-Ukrainian border.

The diplomatic battle for Ukraine: is Minsk enough?

However, the Minsk I agreement did not bring an end to the fighting. Nor was the OSCE Special Monitoring Mission granted full access to the separatist-held areas of Ukraine or to the Russian-Ukrainian border – the places it was meant to monitor. On the contrary, Ukraine witnessed the most intense and destructive phase of the war after the deal. The deterioration of the conflict was the main incentive for German Chancellor Angela Merkel to try to use her leverage to bring Putin to the negotiating table on a ceasefire agreement and end the fighting in the Donbas.

6 “MH17 - Potential Suspects and Witnesses from the 53rd Anti-Aircraft Missile Brigade: A Bellingcat Investigation”, Bellingcat, February 2016, available at <https://www.bellingcat.com/wp-content/uploads/2016/02/53rd-report-public.pdf>; “New Google Earth Satellite Update Confirms Presence of Buk in Eastern Ukraine”, Bellingcat, 22 June 2016, available at <https://www.bellingcat.com/news/uk-and-europe/2016/06/22/new-google-earth-satellite-update-confirms-presence-of-buk-in-eastern-ukraine/>.

7 “Consolidated list of sanctions”, European External Action Service, 18 August 2015, available at http://www.eeas.europa.eu/cfsp/sanctions/docs/measure_en.pdf.

The attempts to bring an end to the fighting in Donbas culminated in a marathon negotiation in Minsk in February 2015. The agreement signed on 12 February resembled the first Minsk agreement, but it contained some points that would make it more difficult for Ukraine to push through the agreement domestically. First, that the law on self-governance of the separatist areas should be supplemented by a constitutional amendment. Second, a provision that social and other payments from Kyiv to the Donbas should resume – a provision that, under Russia’s interpretation, would make Ukraine and the West pay for the Donbas while Russia ruled it. Third, the agreement postponed the control of the Russian-Ukrainian border to the very end of the entire implementation process. However, the agreement included some timelines and conditions relating to points from Minsk I, including the ceasefire, withdrawal of heavy weapons, and prisoner exchange. Linking these basic provisions to the maintaining of a ceasefire should have provided incentive for both sides to comply with the package – because each party had an interest in at least one of the provisions.

It is worth recalling that the prime objective of the French and German governments at that time was de-escalation. There was a lot of doubt as to whether the agreement would actually hold, or whether it could be developed into a comprehensive peace plan. Immediately after the negotiations, diplomats around Merkel were highly sceptical about whether the agreement would hold at all. However, the Minsk II agreement was later elevated to the status of dogma in European diplomatic circles. Any scepticism about the accords vanished once the implementation process was passed from heads of state to foreign ministries. Key points of the agreement were negotiated between Ukrainian President Poroshenko and Putin's special advisor on Ukraine, Vladislav Surkov, rather than being imposed by French President François Hollande and Angela Merkel.

Still, the terms of the Minsk agreement were so vague that they were not implementable for either side. As a result, an agenda of clear points and timelines for the security-related and political aspects of the agreement had to be established in subsequent negotiations in Paris in March 2015. But in Kyiv, the agreement was contested domestically. For many Ukrainians, Poroshenko went too far, providing giving Russia a de-facto role in Ukraine's domestic politics. Many would have preferred an agreement that didn’t make Kyiv responsible for the occupied territories under any circumstances, and would seal off the areas that had been lost. In the domestic debate, the Ukrainian president portrayed himself as the victim, and Ukraine as being forced to accept the deal. However, the contrary was true, as Minsk is nothing but the evolution

of Poroshenko's own peace plan and the result of his negotiations. Hence, at the time, the Ukrainian government continued to negotiate in Paris, whilst denying any active role in the process at home. This communication failure meant that the discussion in Ukraine developed in directions that differed from the government's position, and reinforced resentment towards the Minsk deal. Domestic tensions boiled over when the law to grant the so-called Donetsk and Luhansk Peoples' Republics special-status was due to be voted on in parliament on 31 August 2015. The vote was accompanied by clashes in front of parliament, killing two policemen and injuring over 100 people.

The confrontation was a shock to Ukrainians. To most people, the amendment was seen as a concession to the enemy, and the Ukrainian government seemed willing to sacrifice Ukrainians for the sake of its reputation abroad. But in fact, Poroshenko had offered this concession as early as summer 2014. The amendment polarised the Ukrainian political spectrum, and split the reformist camp. Even pro-Western and pro-reformist parties such as *Samopomich* (Self-Reliance) expelled key lawmakers who supported the bill.

Furthermore, it was difficult to convince the Ukrainian audience that the special status law – granting the separatist-controlled areas more autonomy – should be passed. The continuing Russian aggression and the deteriorating economic situation were causing bitterness. At times when gas prices soared for home consumers and pensions had to be cut, it was almost impossible to convince the public that Ukraine should make concessions to the separatists.

The next communication failure occurred around the so-called “Morel plan” on regional elections. Part of the Minsk II agreement called for the election of new representatives in the occupied territories under Ukrainian law. The provision offered the chance to pitch two conflicting Russian interests against each other: the recognition of the government of the proxy-states – the so-called Donetsk Peoples' Republic (DNR) and the Luhansk People's Republic (LNR) – and the maintenance of direct control over those territories via obedient, hand-picked proxies in the government. Achieving both was difficult. If there were free and fair elections in the proxy-held areas – which included the votes of those displaced from the region – the current proxies would lose the elections as they were not particularly popular. Any freely elected government in the separatist areas might push its own agenda rather than stick to Moscow's line. But if Moscow tried to manipulate the elections, exerting pressure through military presence, violence, or abductions, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) would not approve the elections as free and fair.

The original idea was to pass the special-status law only on a preliminary basis. It would enter into force only if ODHIR confirmed the local elections as free and fair according to Ukrainian law. If not, Kyiv would have had the right to scrap the special-status law altogether and pin the blame for the failure of Minsk on Russia. If, on the other hand, Russia allowed fair and free elections, including withdrawal of its troops, this would have meant a huge leap forward on Minsk, though the chance of this happening was remote.

Instead of explaining the logic of the Morel plan to the public, Poroshenko denied having agreed to it and dismissed the plan as Pierre Morel's private opinion.⁸ This is very unlikely to have been the case, as Ukraine was part of all the negotiations and meetings undertaken by the group working on the plan. However, for Poroshenko, it was easier to portray himself as a victim of foreign pressure than to engage in a difficult domestic debate that he was at the centre of.

For German and French diplomats, who had to fight to maintain sanctions on Russia in an increasingly difficult diplomatic environment in Brussels, this double game in Kyiv was a bitter disappointment. But they too share some blame for the diplomatic failure. In their diplomatic statements in particular, Western foreign ministers, diplomats and officials had tried to “balance” their critiques regarding the failure of Minsk implementation between the Russian and the Ukrainian sides. To Ukraine — the victim of Russian aggression, the weaker state, and unlike Russia, a democracy — this “balanced” critique was especially corrosive. It gave rise to the fear that Ukraine would be forced to accept a “peace” favourable to others — one that would mean their sacrifices to date had been in vain.

Even worse, after the Minsk agreement and the Morel-plan hit a dead end, European diplomats kept pressing Ukraine to hold elections in the Donbas without making any reference to Russia's obligations on troop withdrawal or security. Particularly disturbing was the announcement after the 3 March Normandy-format meeting in Paris, which essentially advocated local elections in the Donbas in summer 2016 without making any reference to preconditions. Lacking the leverage to insist on holding elections according to Ukrainian law, the move would have been a mere rubber-stamp exercise legitimising the Russian occupation. The reformists feared that international rhetoric, which was almost exclusively focused on Minsk and the special-status law, might

8 “Украина в Минске обсуждает ‘план Мореля’, предполагающий выборы в Донбассе по специальному закону Больше читайте здесь”, *ZN.UA*, 19 September 2015, available at http://zn.ua/POLITICS/ukraina-v-minske-obsuzhdaet-plan-morelya-predpolagayushiy-vybory-v-donbasse-po-specialnomu-zakonu-189210_.html.

destroy the legitimacy of the reform project and shake international support. Western rhetoric is confusing for Ukrainians: Ukraine is constantly criticised for not implementing Minsk, while Russia, the main culprit for the war, is spared. To add insult to injury, possible rewards, like the easing of sanctions on Russia, are discussed in Europe. This is further eroding public support for Minsk. Another lesson drawn from this uneven critique is that “geopolitical” logic about the importance of Ukraine and Russia’s respective places in the world will always trump real implementation success – hence Ukraine could also substitute reform implementation with a geopolitical narrative that stresses their own importance. There is a fear in Kyiv that Europeans are looking for an excuse to normalise ties with Russia, which creates a great deal of suspicion when it comes to taking further steps in the Minsk process. Domestically, the weak Western rhetoric on Moscow has helped the cause of nationalists, who seek to denounce those Ukrainian actors in favour of passing the special-status law, as traitors.

There have been many attempts by reform-minded Ukrainian politicians to reach out to Western diplomats and ask them to change how they discuss Minsk in order to give them more domestic freedom to defend the agreement. But neither Washington, Paris nor Berlin have changed their rhetoric. Neither have they achieved any tangible improvement in Ukraine’s security situation, which would make it easier to legitimise concessions. The “school-year” ceasefire of October 2015 – named as such because it was agreed to be effective from the beginning of the school year – was short-lived. Since then, OSCE access to the separatist areas has not improved. Prisoner-swaps take place only occasionally, and Ukraine has not received any security benefits outside of the Minsk framework, such as lethal military assistance, that could reassure Kyiv.

There is no provision that could be granted to assure Ukrainians that the separatists will not gain influence over Kyiv or use their position to prepare a new offensive. These two issues are central for Ukrainians – the others are mere formalities. There has been no diplomatic effort to address them, and too little effort has been made to explain Europe’s aims and tactics in Ukraine to a wider audience.

In Kyiv, foreign policy is devised by a narrow circle of elites; the president, the prime minister, the Foreign Ministry, and few members of parliament are frequently consulted. Most actors in Ukraine’s domestic politics are not involved and do not follow the diplomatic battles and manoeuvres. But foreign policy continues to play an immense role in Ukraine’s day-to-day politics and

its political discourse. Therefore, many politicians immediately denounced the Morel plan from the beginning without considering the diplomatic logic behind it. Christoph Heusgen, Merkel's chief advisor on foreign and security policy, tried to meet wider groups of political stakeholders to explain German intentions. Frank-Walter Steinmeier and Jean-Marc Ayrault tried to do the same in spring 2016, but their attempts were soon overshadowed by events taking place closer to home.

Military assistance and defence sector reform: Can Ukraine stand its ground?

Western, particularly European, governments see the Minsk deal as the main reason for the de-escalation of the war in the Donbas in autumn 2015, and, as a result, they have put the deal at the heart of their Ukraine policy. Yet they have overestimated its impact. There are other factors that explain the transformation of the war in the Donbas to a “sitting war”, and which also serve as important lessons for the continuing reform process.

Despite the Minsk implementation agreement being signed on 12 February, the ceasefire did not come to effect until the 15th. However, Russian forces needed until 19 February to fully occupy the city of Debaltseve. Only then did the fighting wind down slightly. The Battle of Debaltseve saw intensive use of regular Russian military formations.⁹ It was fought by the Russian army, with pro-Russian separatists and Russian volunteers playing only minor roles to guard flanks or seal the combat zone from spectators or journalists.

In March and April, the front was relatively quiet again. The conflict followed the pattern of rotation of the regular Russian troops deployed in the Donbas. To keep the narrative of a “Ukrainian Civil War” alive in its propaganda, the Russian army needed to keep the absence of regular troops from their home garrison at a minimum and the overall number of casualties low. For this reason, one battalion from each brigade within the Russian armed forces is deployed to the war zone at any given time – to be relieved by another after a few months. Intensive troop movements in Rostov-on-Don and a calm front indicated that the rotation was ongoing. By the end of May the Russian army was again ready to strike. Fresh troops, re-supplied and re-trained to fight together, carried out the first attacks on 5 June.

But the Ukrainian army proved stronger and better coordinated than anticipated.¹⁰ Russian troops were quickly pushed back: they lost their initial gains, while Russian casualties were higher than before.¹¹ Under such circumstances Moscow was faced with the decision to either commit significantly more troops – making it difficult to hide the true extent of Russian involvement from its own public – or reduce the intensity of the war. Russia chose the latter, switching to a phoney war with phases of relative calm – similar to the period after the September ceasefire – and relatively active phases of shelling from the Russian side, as in spring 2016. But key to the relative decrease in hostilities was that the Ukrainian Army gained strength, and was, for the first time, a serious obstacle to Russian regular military forces in the Donbas.

Strengthening Ukraine's military

After Crimea and the war in the Donbas, the Ukrainian armed forces went through a series of ad-hoc reforms, all of them ineffective. The problems in the defence sector were the same as those in all other branches of Ukraine's public services – and sometimes worse. Years of corruption and neglect had ruined the army. Stocks of arms and ammunition, supplies, fuel, medical equipment, and the stock of entire field hospitals had been illegally sold off. Russian spies and subversive forces were ubiquitous, as Russia tried to gain a hold on Ukraine's defence sector under Yanukovich. Clearing up this mess was no easy task, as the president only trusted those with ties to him and his circle. The first reshuffle in the defence apparatus in summer and autumn 2014 had little effect. After Minsk II, however, it was clear that there would neither be an internationalisation of the conflict – in the form of a serious peacekeeping mission – nor would Russia stop the fighting. The pressure to do something substantial was enormous, and the next round of defence reforms, conducted in April-May 2015, propelled many front-line commanders, who had distinguished themselves in combat, to posts within the Defence Ministry, the general staff, and other key positions that dealt with the war effort.

A steep learning curve

The war itself imposed a steep and bloody learning curve on Ukraine's armed forces. With little training or preparation for such a war, they learned many

10 "Російський військовий експерт: У Росії все готово для нової атаки", *Ukrainska Pravda*, 10 July 2015, available at http://pda.pravda.com.ua/articles/id_7074026/.

11 Piotr Smielak, "Szczegoly ostatnich walk na Ukrainie", *Nowastrategia*, 5 June 2015, available at <http://www.nowastrategia.org.pl/szczegoly-ostatnich-walk-na-ukrainie/>.

tactical and operational leadership skills and combat procedures under live-fire conditions. Evaluations of how each commander performed were behind the first systematic meritocratic promotions in the Ukrainian bureaucracy since Maidan, and the effects were clearly visible. Furthermore, in December 2015 six top-level generals within the Defence Ministry — equivalent to heads of department in the civil administration — were sacked due to incompetence. This was a new development, too: in most other ministries, the top ranks are protected by political forces and are not dismissed, regardless of performance.

The Ukrainian army's training schedule has also been revisited. Between 2008 and 2014 the Ukrainian armed forces had no combat exercises at brigade-level, but now they have 12 such exercises per year. Ukraine's increased focus on training mirrors Russia's recent efforts to step up its own training and manoeuvres to increase the effectiveness of their armed forces.¹² The army is transitioning from the Soviet-style rigid battalion-brigade structure to a more flexible structure with tactical battalion combat teams. This means it will be more adaptable, versatile and have better combat performance.

Voluntary organisations

The other main reason for the success of Ukraine's army was the tremendous effort of voluntary organisations. While in early 2014 voluntary battalions had to substitute the army in many combat roles, by late summer the army was able to take over most combat operations. However, without the support of NGOs, the army could not have prevailed. They were crucial in supplying the armed forces, performing medical evaluation and medical services, repairing vehicles and combat systems, and developing secure communications. As the army's inherited supply apparatus was plagued with corruption and mismanagement, these voluntary organisations were also responsible for storing and distributing non-lethal goods supplied by Western nations to the troops at the front. Not only were they more efficient, but they had expertise in bookkeeping (to Western standards), and documentation of the use of assets, verification, etc. As most independent civil society organisations were dependent on Western programmes and project funding for survival during the Yanukovich era, their accumulated knowledge about Western requirements on documentation and transparency were crucial.

Most of Ukraine's personnel protection gear is still delivered through NGOs. The full gear for one soldier costs about \$5,000 – purchasing these for a 250,000-strong army is beyond the means of the Defence Ministry. Combat brigades in the east still request some night-vision devices and soldiers' gear directly from NGOs, because, although formal logistics are getting better, it is still slow to react to specific needs.

Volunteers also reformed the government's communications on the war and on defence reforms. In 2014, confusing or contradicting reports on the situation in Donbas increased the public sense of uncertainty. Russian propaganda on the war was strong and professionally produced, and inadequately countered by the Ukrainian authorities. A new, professional information policy was set up in autumn 2014 with the help of the Ukrainian Crisis Media Centre and other volunteer groups. This effort has been expanded, and these groups are currently working on an army radio station to entertain troops in the Anti-Terrorist Operation (ATO) zone: the official title given to the war zone in the east of Ukraine. During the spring 2015 defence reforms, the Defence Ministry took several key personnel from NGOs and incorporated them into the formal structures. No other ministry in Ukraine saw such a large influx of civil activists and new faces into its structure as the Defence Ministry. The Economy Ministry under Aivaras Abromavičius and the Finance Ministry under Natalie Jaresko tried to attract civil society experts for governmental posts as part of a structured overhaul, but never achieved the levels of the Defence Ministry.

These two factors – the learning curve and the voluntary effort – are regarded as the key factors that enabled the Ukrainian military to stand its ground. But there are other interesting features of the defence sector that are worth mentioning.

Integrating voluntary battalions

In the field, the regular army took over most combat tasks in the autumn and winter of 2014 leading into 2015. While the voluntary units were Ukraine's saving grace in summer 2014, they were not equipped to withstand the onslaught from the regular Russian army that followed in autumn. Some of the battalions were initially supported by local oligarchs – particularly in the east – stoking fears that they might develop into private armies. But in 2015 they were integrated into the regular army as a territorial reserve force, or into the Interior Ministry as a national guard. This meant that professional officers were put in command; they were integrated in regular command and control structures; and the disciplinary law of the armed forces applied to them. These

troops now receive a state salary, rather than one from private donors. This transition within the armed forces was smoother than media reports made it seem. Only *Pravy Sektor* and *Azov* – two of the 40 Ukrainian paramilitary battalions – refused to be integrated. Some arrangements were made with *Azov* on the tighter control of their forces by the state, but *Pravy Sektor* is less willing to cooperate. Even so, the organisation’s combat force is too small to be of much concern, consisting of only about 120 men.

The West believes Ukraine’s armed forces to be more poorly organised and chaotic than they really are. Many in the West also overestimate the role of the voluntary forces due to the level of media coverage they have received. Some Ukrainian politicians, who were part of voluntary battalions for some time, have tried to draw attention to their role in the war and claim they were responsible for preventing Russia marching on Kyiv. And at times, they do this by playing down the regular army, creating the impression that the voluntary forces are better organised than the actual army. Furthermore, voluntary organisations usually try to highlight their role and significance for the war-effort in order to raise funds and attract volunteers – and, at times, this involves bashing the regular armed forces. There are also more reports on the voluntary forces, as they are more open to the press and often have embedded journalists in order to attract further attention and funds. Because of this, the picture of the Ukrainian armed forces in the West’s mind is more negative and chaotic than it is in reality. The biggest disciplinary problems in the Ukrainian armed forces are caused by former volunteers who fail to integrate into normal society and instead opt to conduct “security-related” business on their own – from offering protection services at a premium, to engaging in organised crime and robbery.

Performance evaluation

The other unique feature of the Defence Ministry is an independent bottom-to-top performance evaluation. In every bureaucratic institution, reports are passed up the chain of command. In many cases, issues that are pressing on lower levels are omitted by careerist civil servants or bureaucrats the further such reports travel upwards, in order to veil mistakes or negligence. The Defence Ministry routinely sends four-man teams to the front-line, made up of a psychologist, a priest, an inspector and a political officer to interview soldiers and field commanders about their mood, their concerns, and to what extent they trust their superiors. These teams report directly to the general staff. Initially, this was met with scepticism, but after some shortcomings were tackled by the Ministry, the procedure was increasingly accepted. In almost all

other Ukrainian ministries, there are complaints that the implementation of reforms on a local level are barely supervised, and that the politicians in Kyiv are out of touch with the situation on the ground. The lack of direct feedback links was a complaint made by almost everyone engaged in assessing reforms. The Ministry of Defence was the only exception, proving the value of such initiatives to monitor the situation on the ground.

Salary reform

The Ministry of Defence and the National Bank are the only two institutions in Ukraine that pay competitive salaries. In fact, it was an IMF requirement that the National Bank do so. The Ministry of Defence introduced competitive salaries in spring 2016 to keep competent personnel within the organisation as well as to increase discipline among soldiers. For example, the salary of an ordinary Non-Commissioned Officer (NCO) was increased from 2,000 (€72) to 7,000 Hryvna (€251) per month. If deployed to the Anti-Terrorist Operation Zone — where the war in the Donbas is taking place — the salary is now higher, at 10,000 Hryvna (€359). The average salary in Ukraine is officially around 3,200 Hryvna (€115), although most salaries are paid cash-in-hand, meaning that the official average salary is not accurate.

While the increase of salaries for public servants was rejected by all other ministries for populist reasons, as well as to ensure the financial dependency of officials, raising salaries for soldiers that risked their lives on the frontline was not a controversial issue in Ukraine. In all reform projects regarding the administrative and juridical system, non-competitive salaries are an issue that seriously endanger reform-success. In the defence sector, this has been avoided.

Still, problems remain. The state-owned armament industry is a hotbed of corruption. The new deputy defence minister — a reformer — is still not allowed to fully audit the “old” logistical and acquisition systems. The new ones do work, however, and the armed forces were the first to adopt and use new electronic procurement systems that act as a control against corruption.

International assistance

The success of Ukraine's defence reform is even more remarkable as it was achieved with little external assistance. In spring 2015, foreign assistance and training was just beginning. The primary actor was the US, which initially trained only national-guard soldiers and border police. The US also

advised other services within the Defence Ministry, as well as supporting NGOs that manage information, logistics and communications. Among the European powers, the UK established a sizeable presence of advisers in the Defence Ministry, engaged primarily in reform efforts. Other European states channelled their support for the Ukrainian defence sector through the NATO mission in Kyiv. Canada, the UK, Lithuania, Poland, Romania, Estonia, and Latvia are the most active in this regard. Sweden and Norway also have smaller programmes with the Ukrainian navy. Other states predominantly work through NATO trust funds. According to interviews with numerous interlocutors in Kyiv who choose to remain anonymous, most Western European nations abstain from these efforts for political reasons, not wishing to stir up anger in Moscow. Overall, European assistance to the defence sector is extremely limited. In the past – even during Yanukovich's rule – NATO's efforts in Ukraine focused on promoting military-to-military relations, and preparing Ukrainian contingents for international missions. Now the West advises and assists Ukraine on defence reform. The US-Canadian-UK Joint Multilateral Training Group aims at improving Ukrainian troops' abilities in the field, focusing on combat training for battalion-levels and below, and specifically helping to improve their procedures in combat and their tactical leadership. Training Special Forces has become another area of cooperation for the group. Lithuanian and Estonian personnel also participate in this trilateral training initiative. Non-lethal aid is predominately contributed by the US or Canada, but some Central-Eastern European countries and Turkey have made smaller donations through NATO and NGOs. Unfortunately, some European member states are entirely indifferent, if not sceptical, towards assisting the Ukrainian defence sector – particularly France and Germany.

NATO first built up a presence in Ukraine in 1997 to assist with defence reform and help Ukraine to cooperate with Western armies on international missions.¹³ Within NATO there is ongoing debate over whether to increase cooperation beyond the usual Partnership for Peace (PfP) framework or not. The Country Action Plan (CAP) – which outlines NATO's support and programmes for Ukraine – does not veer outside the PfP framework, although Ukraine has made much better use of it since 2015.

Some member states are calling for restraint, so as to signal to Russia that NATO is not the “winner” following the Maidan revolution and the change of government in 2014. Others call for deepened engagement. The NATO Summit

in Warsaw did not manage to resolve its Russia dilemma: although expressing strong political support for Ukraine, it was careful not to alarm Russia or give it cause to think that Ukraine could be the next NATO member.¹⁴ Therefore, for the time being, all initiatives beyond the PfP/CAP framework have to be conducted bilaterally with the respective member states.

For NATO, just as for the EU, every cooperation programme has to go through a rigid bureaucratic evaluation process. After 2014 the support for NATO in Ukraine soared, and the Ukrainian Defence Ministry has indicated that it would like to set up further programmes with NATO. But again, its requests are often lacking in specificity, nor do they reach beyond the mandate of NATO. This lack of programme planning capability is common in Ukraine, but the Kyiv bureaucracy is gradually improving on this.

The European effort is mostly about reforming the Defence Ministry, its logistical apparatus, and its education structures. Poland started to train Ukrainian officers in 2015, but with the new government in Warsaw reviewing all its programmes, Ukrainians are not sure whether this will continue. Estonia is leading an expert group to create an NCO corps in the Ukrainian army. Professional NCOs greatly increase the effectiveness of platoons, squads and small teams in combat, while also increasing discipline and morale among troops. Russia had introduced a new NCO corps during reforms initiated by Defence Minister Anatoly Serdyukov from 2007-2012. The competitive advantage that Russian troops had compared to their Ukrainian counterparts was visible in the Donbas. Now Estonia is helping Ukraine catch up. After the first encounters with regular Russian troops, the mismatch in tactics, planning, and leadership skills became obvious. Through combat experience, Ukrainian troops have improved on a tactical level.

Setting up a trilateral Lithuanian-Polish-Ukrainian brigade had been under discussion since 2008, but only in 2014 was there enough political will to realise the project. In autumn 2015 the brigade was declared operational, and the headquarters opened in Lublin in January 2016. The brigade will give one Ukrainian battalion and Ukrainian staff officers the opportunity to train and work alongside NATO members to learn the combat tactics and planning procedures of Western armies.

14 "Joint statement of the NATO-Ukraine Commission at the level of Heads of State and Government", NATO, 9 July 2016, available at http://www.nato.int/cps/en/natohq/official_texts_133173.htm?selectedLocale=en.

Although the defence reform has been a success so far, both Ukrainian and NATO experts agree that the process is far from complete. Leadership training, tactical and operative procedures, and combat techniques still need to be improved. In Kyiv, the entire model of defence planning, procurement, and so on, needs to be brought up to Western standards. For example, in the past the general staff were independent from the Defence Ministry and reported directly to the president. Now this has changed to fit with the standard European practice. Many regulations will affect the public service, and are embedded in a wider process of reforming Ukraine's government. But even there, progress is being made. The new electronic procurement system has saved the Defence Ministry 300 million Hryvna (approximately €10 million) in 2015 alone.

European neglect

Ukraine's defence reform was neglected by Europe for various reasons. The Russian threat was one. The lack of strategic thinking and understanding of strategic-military organisation was another. Because of this, Europe has not been part of Ukraine's biggest reform success story to date.

The question of delivering lethal aid was one of the most controversial topics regarding Ukraine. No European or Western state did so – at least not publicly. The reasons for this were sometimes dubious. The argument was that Russian soldiers being killed by NATO weapons would be the perfect pretext for Russia to escalate the war. However, Russia was waging a limited war for domestic reasons, holding back its war machine to keep the conflict simmering at a low heat. The more efficient the Ukrainian army became, the quicker these restraints would curtail the Russian military campaign. In Syria, Russian soldiers were killed by CIA-delivered TOW anti-tank missiles, and the world did not slide into World War III.

More serious arguments were made in discussions between some Central and Eastern European states and their Ukrainian counterparts in 2014 regarding the state of the defence sector, level of corruption, and the practical ability to distribute goods. According to these arguments, the fact that international donors were resorting to NGOs to distribute equipment was problematic. Non-lethal aid such as personal protection gear is freely available to civilians, and so can legitimately be distributed by NGOs. But the sale of weapons and munitions is restricted to governments under national and international law. However, once Ukraine made progress in reforming the defence sector, the debate shifted towards whether it would be wise for small, exposed nations to

deliver such goods without a dedicated common policy on lethal aid.

Donation of uniforms, personnel gear, protective equipment, and vehicles have improved the chance of survival for individual soldiers, but there is still a high demand for one area of non-lethal aid – communication equipment. Russian troops regularly jam and intercept Ukrainian military communications. In many instances, commands are passed on by cell-phone, which is highly vulnerable to jamming and deciphering.

Another non-lethal field where the Ukrainian army needs more advice and training is Civil-Military Cooperation (CIMIC). During the initial stages of the war the Ukrainian army could do little to help the local population in the war zone, causing much bitterness and disappointment in eastern Ukraine, where the fight for hearts and minds is crucial. Western armies, if employed to combat zones, could use their capabilities – especially engineers, combat-engineers, army-logistics, and the army medical service – to rebuild damaged infrastructure, or provide food, medical, and other humanitarian support to the local population. In 2014, the Ukrainian army logistics system was totally broken and could not even provide basic services for its own troops, but now, as the Ukrainian Army's logistical capabilities increase, CIMIC has become an important initiative to support the local population.

NATO also benefits from Ukraine's experience in the war against Russia. There is no other army that has fought a conventional enemy on the scale of the Russian military. The lessons learned from Ukraine are important for the West, which needs to be prepared for Russian military actions elsewhere on its periphery. The Ukrainian National Security and Defence Council, with NATO, are setting up a study centre on hybrid warfare to develop best practices arising from experiences fighting Russia and add value to the alliance. Some nations also train bilaterally with Ukrainian Special Forces, learning lessons on Russian tactics from those who have fought in the Donbas.

Though it has had a low profile, the defence reform is the biggest success story of post-Maidan Ukraine, and some initiatives should be replicated and implemented in other branches of the bureaucracy. Above all, political resistance to reform was overcome in many instances – even if it was a hard fight. Ukraine is far from a hopeless case. If the pressure is high enough – in the case of defence reforms it was existential – reforms will be implemented. As set out, competitive salaries, direct feedback on pre-implementation, and meritocratic promotions are key issues for all other reform areas.

Supporting Ukraine's political transformation

4

When the EU-Ukraine Association Agreement was negotiated under President Viktor Yuschenko, and later President Yanukovych, it was trade and economic issues that made up the core of the deal, even though issues like human rights and the state of the judiciary also played a part. Maidan changed everything. Initially the effort was tailored towards trade negotiations, but ultimately state-building became its central task. First, because Ukrainian society demanded deep reform. Second, because Ukraine suddenly became a contested state. It was plain that the weak state and its institutions were a vulnerable point that could be exploited by Russia.

Brussels was slow to react. At first, the EU wanted Ukraine to set out its own reform agenda, which considerably delayed the effort. But in a time of war and political turmoil, few politicians had time to ponder the details. When the first agenda was drafted, it comprised of 62 different areas of reform without any priorities, timelines, or precise working agendas. While local ownership is a principle of EU support, there are many reasons why this should not strictly be applied in Ukraine. The EU's politically correct hesitation hardened into a more robust approach eight months after Maidan.

In December 2014 the Ukrainian government established the National Reform Council¹⁵ to coordinate the work of international donors and supporters, led by Dmytro Shymkiv, then deputy head of the presidential administration. The council was divided into 18 working groups, comprised of Ukrainian government

¹⁵ "Key reforms - progress in tasks completion for 2015", National Reforms Council, 2015, available at <http://www.reforms.in.ua/en/skorkardy>.

officials, civil society representatives, members of parliament, and international donors. It was intended to review drafts, develop programmes, coordinate reform efforts across the government, and evaluate progress on reforms.

However, the NRC is not as active as it could be. There are meetings twice a week, but it is very much down to the ministers to make best use of them. During Arseniy Yatsenyuk's government, there was little interest in the NRC from the presidential administration or the prime minister's office, and the government regarded it as an attempt by the presidency to meddle in its affairs. These tensions eased somewhat under the new government. As it was presided over by the deputy head of the presidential administration, it was the only institutional body in which the presidential administration and government officials worked together. On the occasion that they have produced a decision – and there haven't been many of them – they have, at least, been carried out. In addition, there is little coordination between the different working groups. Indeed, if it were not for the EU's own internal coordination among member states and the EU representation, there would be no coordination at all. As a result, non-EU donors often raise the issue of a lack of inter-group coordination, while those who are meeting at the European table have fewer concerns regarding cross-reform group coordination.

Top officials like deputy ministers or heads of cabinets are often tasked with heading reform committees or steering groups within their ministries. However, they are generally so overburdened in their day jobs that, despite their personal support for reforms, they are unable to get into the details. In the years after 1989, in many Central and Eastern European states, special reform task forces were created in each ministry, with no other function than planning and coordinating the reform of that ministry. No such groups have yet been formed in Ukraine, which is one reason for delays and interference with the reform process. However this is due to be addressed, as the EU and the European Bank for Reconstruction and Development (EBRD) intend to fund “project management officers” in each ministry to coordinate reform efforts.

While the effectiveness of the NRC varies depending on the willingness of the respective ministries to cooperate, the body represents the first structured approach to reform. The EU is responsible for donor coordination in four of the working groups, and shares that responsibility with Sweden and Germany respectively in two other groups. Germany and the EBRD lead another group, as does NATO. Lithuania is currently in charge of coordinating NATO programmes in Ukraine. Lack of coordination between the different ministries,

the presidential administration, and the government, and the lack of strategic planning on the Ukrainian side is recognised as a key shortfall, both by Ukrainian and international experts. Hence the importance of the EU's push towards driving forward a reform agenda in Ukraine, rather than waiting for a plan to emerge from Kyiv. In an attempt to address the coordination shortfall the new Ukrainian government has appointed Ivanna Klymush-Tsintsadze as deputy prime minister for European integration. Her work to push the reform agenda within the government has been highly appreciated by European donors. From the broad reform agenda of the 18 groups, the EU has set up four priority areas: tax reform and state finances, reform of the energy market, rule of law and judicial reform, and the fight against corruption. These four areas receive the most attention and support, and the EU is pushing other member states to throw their efforts behind them.

Administrative reform and rule of law

Although they are divided between three different reform working groups, judicial reform, reform of the public administration, and decentralisation all depend on each other. If courts functioned properly in Ukraine, many of the issues around the failure of implementation could be solved. For example, if agencies were not implementing new legislation, they could be held accountable. On the other hand, the efficiency of the courts depends in many ways on the effective reform of the bureaucracy. Decentralisation, the shifting of administrative competences and resources to the *oblast* (province), county and municipal levels will change the operational procedures for Ukraine's public administration, and to a lesser extent the judiciary as well. All are central to creating a "new Ukraine" that functions efficiently, runs according to the rule of law, respects citizens' rights, and allows enterprises to safely invest in Ukraine. Unfortunately, progress is slow on all of these key reforms.

The Ukrainian legal system is not only over-centralised and over-regulated, it is also very rigid. Many issues that are regulated through administrative decrees in other European states are regulated by law in Ukraine. Reforms are easily stalled, because one of the relevant laws is not amended. And reforms can easily be hijacked by attempts at political bargaining. To read and vote on all the proposed legal reforms is simply beyond the capacity of the parliament, although the Ukrainian parliament is one of the busiest in Europe. Since November 2014, the 8th Verkhovna Rada has submitted 6,755 draft pieces of legislation, out of which 1,333 have passed into law.¹⁶

To reform the portfolios of the ministries and disentangle their competences is an important step in streamlining and facilitating the work of government. Ukraine was one of the most Sovietised republics of the USSR, as Moscow wanted to make sure that it remained Russian. As a result, Ukraine has inherited many of the worst traditions of Soviet administration, including administrative chaos.

In Soviet times, duplicating competences and dividing them among ministries was a common practice. The state agencies blocked one another, and the Communist Party, the true power centre of the Soviet state, was the de facto decider. With the Communist Party subtracted from this equation, stalemate, ineffectiveness, and bureaucratic trench wars remain. In 2015, a new law on the cabinet of ministers and the ministries could have paved the way for a wider re-organisation of the ministries, departments, and the distribution of competences amongst them, once a new government is formed. However, as Prime Minister Volodymyr Groysman's cabinet was formed during a time of governmental crisis, the transition was rushed and little change was made in the ministries.

Public administration reform

Public administration reform and the restructuring of the civil service is hampered, above all, by inflexible structures and non-competitive salaries.

The new Ukrainian Civil Service law, which regulates employment, rights, duties, and accountability of civil servants, fits with international standards and practices and is praised by European experts. But, given the current circumstances in Ukraine, it is too conservative, giving too much emphasis on protecting the rights and privileges of civil servants, and making it difficult to reform the bureaucracy. A more rigid contractual framework for civil servants – protecting them from being sacked or transferred at short notice – increases their independence, as has been seen in most other developed states in Europe.

It has proven difficult to fire bureaucrats, even when they are judged incompetent. In the few ministries where people have been laid off, those affected have appealed in court. The fear of impending court cases makes ministries worry about firing underperforming staff. To prove incompetence in such a way that it can be held up in a court of law is difficult and time-consuming. And, in a situation where entire ministries need to be restructured,

this is hardly possible. As in many post-communist countries, state employment was used in Ukraine as a means of subsidising people who would otherwise be unemployed. Now that officials are expected to perform, this practice cannot be sustained. However, many ministries fear that laying off surplus staff who can't be retrained would heighten social tensions in Ukraine.

Under the civil service reform, state employees will have to go through a re-admission exam every two years to ensure that they are sufficiently competent and not corrupt. If they fail twice, they will be fired. This should reduce the number of civil servants over time, but it will be at least four years until the process comes into effect. The creation of the Civic Council on Oversight of Lustration will impact on further civil service reform. Even if no other laws are created in the near future, there are now other bodies and bureaucratic structures that can block the re-admission of incompetent bureaucrats and fire people. This adds an extra layer of accountability to the system, as even if ministers try to prevent change as much as possible, there are independent bodies to ensure that they can't.

Non-competitive salaries are one of the biggest problems of the current system. Neither civil servants, judges, prosecutors nor politicians are able to live on their salaries. In the lower ranks, they support themselves by receiving other small kickbacks for skewing decisions in favour of whoever is paying them off – in other words, they earn extra on the side through corruption. Those higher up in the system are embedded in unofficial networks of oligarchs' money. These revenue streams are the real deciders of loyalty and the factions that operate in the political system. Such corrupt practices are fundamentally incompatible with the demands of the Maidan protesters, and any kind of political and legal accountability. As both President Poroshenko and former Prime Minister Yatsenyuk were millionaires, they benefited from the system, and no attempt was made to change it.¹⁷

For the reformers, this issue is particularly painful. An average civil servant earns the equivalent of around €100 to €150 per month. Some ministries hired young, foreign-educated, reform-minded personnel for key positions to help implementing reforms. They took the jobs living on their partners' or parents' money, or even their savings. Two years after Maidan, their resources are running low, and it is increasingly hard to hire qualified people for government jobs because the salaries are so low. Andriy Pyvovarsky,

¹⁷ Andrew Wilson, "Survival of the richest: How oligarchs block reform in Ukraine", European Council on Foreign Relations, 14 April 2016, available at http://www.ecfr.eu/page/-/ECFR_160_SURVIVAL_OF_THE RICHEST-HOW_OLIGARCHS_BLOCK_REFORM_IN_UKRAINE.pdf

the former infrastructure minister, resigned in protest against low salaries. Lacking other sponsors and refusing to engage in corruption, he had no option but to take a job in the private sector.

Both the US and the EU have put pressure on Ukraine to increase salaries for public sector employees. The US does not pay these salaries itself, with the exception of the new patrol police. The EU occasionally funds salaries, but only through projects. SIDA – the Swedish government’s aid agency – has funded reformist officials and top bureaucrats in the Economy Ministry. The Infrastructure Ministry had a similar double-structure approach: to hire new officials through international programme funds, who would then drive reforms within the ministry. This approach was regarded by many Ukrainian and international private donors as a success.

To raise the salaries at the highest level of Ukraine's administration – in the government, parliament, ministries and for heads of departments and other key players – to competitive levels, would cost an estimated €40 million per year. This sum could be raised from the EU, and by restructuring the national budget. But for the time being, there is no systematic approach to this issue – neither from Kyiv nor from Brussels. The EU is negotiating some salary top-ups as a stop-gap. The overall support package for hiring experts and programme officers is worth about €100 million – some of which will be used to increase salaries for other officials. However, Kyiv and Brussels can't agree on the delivery of this support, as the EU demands strict oversight and a say in how these funds are allocated, something which Kyiv refuses to grant.

Still, to many Ukrainian and international experts, the success of the public administration reforms have been underestimated. Many steps will take at least another year to take effect, but will change the Ukrainian public administration in the long term.

Security sector reform

The coordination of security sector reform through the NRC is a very slow process. While the entire sector – the patrol and municipal police, investigative police, the secret service (SBU), and the prosecutorial service – are to be reformed at once, progress has only been made in very few, isolated fields. The new patrol police, introduced in 2015, was an American concept also applied in Georgia. The US funds competitive salaries for the new police and as a result, corruption has diminished. It is one of the most visible and

popular reforms, especially because the old “militia” was one of the most corrupt bodies in Ukraine. Unlike most EU programmes, the details of the programme were not negotiated with Kyiv for the sake of local ownership, but were implemented as Washington suggested. While there remain issues of sustainability, this illustrates that programmes initiated by international donors can effectively initiate reforms. The EU and US are now trying to embed the new patrol police in a newly reformed communal police force to make the programme self-sustaining.

But the rest of the security sector is lagging behind on reform. Legislation on the law enforcement reform has hardly been implemented, or even adopted, while many key administrative decrees and new procedures are not yet in place. The current laws on reform of the law enforcement sector leave the border police and the financial police untouched. The degree and means of cooperation between these new forces and the prosecutor’s office, as well as the new local police (to be created under the decentralisation law), are still unclear. Civil society experts also criticise the lack of oversight and control over the new law enforcement agencies.

Structurally, the Interior Ministry tried, as far as possible, to preserve the parallel structures it inherited from Soviet times: including its own universities, hospitals, schools, and child-care facilities. In the past, these structures were hotbeds of inefficiency and waste, intended to offer privileges to compensate for inadequate salaries. It seems to be difficult to break with these structures.

A general complaint about the Interior Ministry is the lack of transparency of the reform process and the lack of involvement of independent experts. Many of the experts interviewed for this study complained that there are no law enforcement officers with practical experience involved in drafting the reform agenda or working within the reform working groups. According to many experts and civil society activists, Interior Minister Arsen Avakov is resistant to advice, and reluctant to adopt new ideas. Civil society involvement in security sector reform is low and often merely for show. The exception to this rule is the process of the re-admission of local police officers who apply for the new communal police. The new communal police will report to communal or county authorities rather than the central police bureau. The use of this re-admission instrument still depends on the province and the local community, but comments on this process, from the press, experts, and polls, have been positive.

Demand for reform of the police is particularly high, since they were one of the most abusive arms of the old system. As a result, the lack of transparency, the disciplinary oversight, independent disciplinary commissions, and independent bodies investigating the abuse of power within the Interior Ministry are particularly disturbing for the reform movement.

The EU Advisory Mission in Kyiv (EUAM), which went into operation in spring 2015, is the key EU instrument advising the Ukrainian government on security sector reform. Its mandate was expanded in spring 2016 to increase the mission's presence. The number of staff will be increased from around 160 to 230, and it will provide strategic advice on security sector reform, operative support, and coordination of international assistance with recipients. For the time being, the EUAM is concentrating on five priority areas:

1. Establishing a clear catalogue of competences, and removing administrative overlaps between the different services within the security sector.
2. Reforming community policing, with new training and leadership techniques, working with the US to make the community police into a service-oriented modern force.
3. Training new riot police to modern European standards. Given Ukraine's vibrant domestic politics, such training is needed to prevent unnecessary escalation of demonstrations. This will also make it more difficult for Russian provocateurs to derail peaceful protests.
4. Improving the quality of Ukraine's police and other security service personnel through training schemes, and improvements to career paths, contracts, employment, and salaries.
5. Reform of criminal investigations, to end bureaucratic overlaps and to enhance inter-service cooperation and exchange of information.

The EUAM is also involved in reform of border security, customs, the secret service and the judiciary, but on a smaller scale. Other donors, particularly the US and Canada, take the lead on these topics.

The EUAM is due to open offices in Lviv and Kharkiv to evaluate and support police reform in those regions. On paper, Ukraine is a highly centralised

state, but actual administrative practices in the regions differ greatly. And while EU staff in Ukraine generally recognise that a presence outside Kyiv is needed, the EUAM is the only body that has been allowed by the European Council to open offices elsewhere. It is too early to assess the new regional offices' impact on the work of the mission, but it will be important to monitor this and draw lessons for other support efforts. As the work of many law enforcement agencies is predominantly conducted outside Kyiv, supervision requires a presence beyond the capital.

Key partners for the EU's efforts on security sector reform are the US, Canada, and the OSCE. There is an effective division of labour on programmes and projects, particularly with the US, but it is the close EU-US cooperation that is the main driver behind the international support effort.

As in other sectors, reform of the security sector is hampered by bureaucratic obstruction and a lack of political will. However, there are individuals in the Interior Ministry that are pushing forward the reform agenda. European officials have found that they require a trial-and-error process to identify key reformist officials on each project. Some of the bigger EU member states that are conducting individual missions and programmes on security sector reform lack the necessary experience of Kyiv's bureaucracy to find reformists on their own. However, there are examples in which the EUAM has facilitated the bilateral programmes of individual member states – especially smaller states – to navigate these obstacles. These include a Romanian project on Ukraine's prison system, a Swedish project with Ukraine's intelligence services, and a British programme on asset recovery.

Italy and France are seen as the biggest stalling of EU efforts to reform Ukraine's security sector. Germany is supportive, but highly bureaucratic. To some in Kyiv this clumsiness is interpreted as Russia-appeasement – which it is not. German bureaucracy is by default very complicated and time-consuming. Within the EUAM, Germany, Sweden, the United Kingdom, Denmark, and Finland are the most active contributors, with Canada, Turkey, Switzerland and Norway also making positive contributions.

The Ukrainian secret service (SBU) is another body whose reform has yet to begin – or even to be planned. It functions outside the normal law, with very weak oversight but significant powers to gather information and to play a role in ordinary investigations. The SBU acts as an intelligence, counter-intelligence, and intelligence-oversight body at the same time. It may also

supervise and monitor the activities of other security agencies and anti-corruption-agencies. Salaries in the SBU are low, making agents vulnerable to corruption. As this vulnerability coincides with broad powers and lack of oversight, there is suspicion that the agency also protects vested interests from prosecution. Particularly problematic is the long history of Russian subversion in Ukraine's secret services.

Judicial reform

Judicial reform has been equally slow-moving. Though key legislation has been passed, it has not yet been implemented. Constitutional amendments on reform of the judiciary are currently being assessed by the constitutional court. There is a vibrant discussion about the extent of political influence on the judiciary. Both the president and the parliament use their far-reaching powers to appoint judges to influence verdicts and settlements in their favour. Despite a constitutional overhaul of many paragraphs regarding the judiciary, there has been too little change on this. The dismissal, by former Prosecutor General Viktor Shokin, of reform-minded prosecutors who dared to investigate corruption by Poroshenko allies in spring 2016, and the launching of intimidating investigations against anti-corruption investigative NGOs for embezzlement, illustrates this problem.

In addition, the constitutional amendments do not break from the Soviet tradition of a strong hierarchy within the judiciary. The president can therefore appoint key allies to senior positions, who can use their positions to achieve political control of the entire system. Granting the Anti-Corruption Court greater freedom from this hierarchy is a key demand of the reformists.

Corruption among judges is still one of the biggest problems. Lustration and re-admission of judges — a process designed to ensure that all judges are free from corruption and fit to serve in the public interest — began in September 2016. There are too few investigations, not enough legal and disciplinary consequences for bad behaviour, and weak disciplinary oversight. There is no special disciplinary commission within the judiciary as there is in most Western countries, and once again, the lack of competitive salaries amplifies the problem.

European support for this reform process predominantly comes from the Venice Commission of the Council of Europe, which comments on draft legislation. The EU has linked progress in reform of the judiciary to key benefits such as visa liberalisation. Today, Ukraine has fulfilled all of the EU's requirements for

visa liberalisation, but domestic squabbles in key member states – particularly Germany – prevent the EU from moving ahead. This is particularly corrosive to EU efforts, given the pivotal importance of judicial reform for the overall process of transforming Ukraine. At present, there is not enough pressure on Kyiv to fix this. Indeed, the postponement of the visa liberalisation process has discredited the carrot-and-stick method as a tool for driving reform.

The creation of the National Anti-Corruption Bureau of Ukraine (NABU) — to investigate cases of corruption, monitor electronic declarations and officials' income, and work on preventive measures — and the Special Anti-Corruption Prosecutor's Office, which supervises the NABU and brings the cases to court, are signs of progress, but they won't be able to change much if the judiciary is not sufficiently reformed. The Bureau might highlight some cases, but only a working reformed judiciary throughout the country can reduce systemic corruption.

The Special Anti-Corruption Prosecutor's Office is still struggling to gain independence from political influence and from the Prosecutor General's Office. Cooperation between the prosecutor-service and the NABU was stalled for political reasons for quite some time, and is not as efficient as it could be. Prosecutors missed the chance to demand the extradition of key Yanukovych figures and officials, and recover stolen assets. The prosecutor service failed to produce extradition requests that were up to international standards. This was a huge setback for the government's public image, as the population suspects them of protecting operatives from the old system.

De-oligarchisation and the fight against corruption

More than two years after Maidan, anti-corruption reforms have still barely begun to take effect. The key areas that need reform are public procurement, the media, the political system (particularly party financing), the judiciary, public administration, law enforcement, and business regulation. Of these, the most important is reform of the judiciary. Some steps already taken, such as the new electronic public procurement system, have been a success and are yielding results. However, systems for the electronic declaration of assets, and new laws on party financing and privatisation, still need to be implemented. Importantly, the issue of public servants' salaries has not yet been systematically addressed.

Reform of Ukraine's tortuous regulations is another key strand of the fight against corruption. The financial and tax regulations, anti-corruption laws,

and business laws are overly complicated and full of loopholes. While low-level corruption is easy to track, large-scale, systemic corruption presents a much greater challenge. Books are usually cleaned, loopholes used, and prosecutors out-foxed. Specialised agencies with professional investigators are needed to tackle and out instances of top-level corruption. For the moment, the new Special Anti-Corruption Prosecutor's Office can't fill this void because it is insufficiently separate from the hierarchy in the prosecution service as a whole, as well as being understaffed, and lacking access to files and other key sources of information. So far, investigative journalism, increased transparency of public finances, and pressure from the public and international partners are the only counterbalance to systemic corruption.

Furthermore, there is competition between the 15 different agencies, offices and bureaucratic institutions that are engaged in the fight against corruption. Cooperation between them is rare. Instead, agencies fight for responsibilities, power, and influence. Information monopolies are seen as the most powerful weapon in these bureaucratic wars, and so information it is rarely shared, to the detriment of investigations.

The failed reform of the prosecutorial service, and the failure of prosecutors to investigate asset theft and corruption during the Yanukovych era, is embittering people. Ukrainians see the new government as protecting the old nomenklatura. This problem has been ignored for too long by the president and government, and both are fast losing public support.

Public finance

Reform of public finance and procurement has long been on the agenda of the EU, as it is a major risk area for corruption. Sweden and Germany have tried to push several Ukrainian governments to implement reform, but without much success. After Maidan, public pressure for change was high, as was pressure from the international community. A new wave of Western money, credit, and assistance arrived, and international donors started to look more carefully at how their money was being spent.

The biggest success so far has been the introduction of an electronic tender and procurement system called ProZorro. The system makes tender processes and procurement much more transparent and efficient. According to Ukrainian and international experts, the system works reasonably well, and is indeed a huge leap forward against corruption – particularly at the local level. A large number

of corrupt deals at the local government level were organised through rigged public tenders, which is now much more difficult to do. Portugal was the role model for this system. After the financial crisis it made its public procurement system electronic, simplified it, and made it more transparent. Ukraine reviewed the recent experiences of southern EU countries in reforming public finances, and judged the Portuguese approach to procurement to be the most suitable.

ProZorro also provides open and real-time data on all public spending, down to each individual hospital or kindergarten. Each has to register their spending on a single, publicly accessible platform, effectively centralising all data.

The next step, currently being planned, will be to create regulatory authorities to monitor the online declarations made by public servants and officials. This idea came from civil society – particularly NGOs that international donors use to monitor compliance with financial transparency requirements – and was strongly supported by Finance Minister Natalie Jaresko.

Though too few people – even journalists – know about the new system, it is becoming increasingly difficult to hide waste and graft from the public. It is only a matter of time until Ukraine’s media and NGOs learn how to use these new instruments to put pressure on those in power.

State-owned enterprises

But while public procurement reform is making progress against low-level corruption, the fight against top-level corruption, especially in state-owned enterprises, is a much greater challenge. As the financial dealings of state agencies have come under increasing scrutiny since Maidan, state-owned companies have become more important for corruption networks. As of September 2014 Ukraine had a total of 1,833 state-owned enterprises (SOEs), out of which the top 100 produced a net loss of 74.7 billion Hryvnia (€2.68 billion) per year.¹⁸ Few of those enterprises are run on a commercial basis, with many employing their workers on public contracts. They are usually managed by associates of political leaders, who reshuffle the governing board and appoint affiliates to CEO posts in order to tap into the wealth of these companies.

While low-level corruption hampers the public administration on a day-to-day basis, the large-scale corruption organised via state-run companies poisons

¹⁸ “Ukraine’s Top 100 state-owned enterprises”, UK-UA Reform Assistance/Ministry of Economic Development and Trade of Ukraine, 2013-2014, available at http://reforms.in.ua/sites/default/files/upload/docs/top-100_soes_0.pdf.

the entire political machine. It buys loyalties, it influences decisions, and it warps the political process in favour of certain interest groups. The “Donetsk Clan” within the Economy Ministry, and affiliated with former President Yanukovich, became infamous for using state-run enterprises as a money laundering machine. But after Maidan, instead of abolishing this machine, Ukraine’s new political actors clamoured for access to it.

Former Economy Minister Aivaras Abromavičius tried his best to reform this quagmire by either restructuring state-owned enterprises as independent bodies with reduced state control or by privatising them. But there was enormous resistance from the ministry, the presidential administration, and parts of the parliament. While the restructuring of the national oil and gas company Naftogaz was demanded by international donors, forcing the authorities to comply, the restructuring of the state-owned railways was much more difficult. Quarrels about the appointment of new CEOs finally led to Abromavičius's resignation. According to Abromavičius, congress man Ihor Kononenko – deputy head of the Poroshenko bloc – was pushing for a list of political appointees to be made CEOs in certain state-owned enterprises. Abromavičius refused to do this. The crisis triggered by the decision ultimately led to the downfall of Prime Minister Yatsenyuk in April 2016.

The new government that replaced him, led by a close affiliate of the president, has made little effort to solve this problem. Privatisation is once more at the bottom of the agenda. A programme to reform the governance of state-owned enterprises was initiated by the previous government to disguise the absence of privatisation in the restructuring of these state-owned enterprises. But most reforms only impact the top 100 companies, leaving the vast majority untouched, especially at the regional and local level.

Media reform

One of the major drivers of oligarchs’ influence is their control over the media. More than 50 percent of the Ukrainian population cite the TV as their main source of news and commentary. The reform of Ukraine’s media – particularly public broadcasting – is an important task, both for improving the quality of political debate and to counter Russian propaganda. European support in this area is two-fold. First, helping to reform and modernise Ukraine’s public broadcasting network, and second, supporting alternative non-oligarch funded media outlets and investigative journalism.

Alternative, non-oligarch owned media outlets are replacing the traditional media with some audiences, particularly among the younger middle-class population. Maidan and Russia's aggression has brought attention to new, alternative media outlets, and the introduction of the 3G wireless data service in 2015 has increased the share of people that use the internet on a daily basis to almost 50 percent (up from 20 percent in 2009). In addition to alternative media, social media accounts of politicians and journalists have built up a base of followers that is comparable in numbers to conventional media outreach.¹⁹

Independent newspapers and TV stations, like Horomadske.tv (Citizen TV), receive funds from the EU, Scandinavian member states, and the Visegrád Fund – run by the Czech Republic, Hungary, Poland and Slovakia. While their ratings are much lower than the major TV outlets, they have a big impact in shaping discussions among opinion leaders. Independent media have a larger reach among younger, urban, digitally-connected Ukrainians, who have an outsized impact. They are well-networked, they organise rallies to protest against corruption scandals, and they feed into a network of civil-society and watchdog organisations. Given the poor state of the judiciary, investigative journalism is at times the only effective check on state institutions. Moreover, it helps expose corruption to the public. European funding in this field is critical for the survival of Ukrainian democracy.

Mainstream media outlets are generally owned by oligarchs, though their ownership is hidden by complicated schemes of holdings. But the extent to which these television channels are able to steer public opinion is questionable. Kolomoisky, for example, owns the most watched channels in Ukraine, but was still unable to prevent the government removing him from the post of governor of Dnipro province. However, the channels spread a negative attitude towards politics in general – depicting all politicians as corrupt and self-serving. The channels attack each and every political initiative, and focus on private scandals rather than political issues. These things all resonate further when populist politicians toe the same line as the media, causing an upsurge in widespread populist belief.

After Maidan, the Yatesnyuk government set out to reform and restructure the state-owned media outlets into a public TV network called NTV (National-TV). Passing the framework law on public broadcasting in 2014 and the law on public

19 Oles Hoyan, Diana Dutsyks, Othar Dovzhenko, Valerii Ivanov, Vitalii Moroz, and Oleg Khomenok. "Ukrainian Media Landscape in 2015", Konrad Adenauer Stiftung, available at http://www.kas.de/wf/doc/kas_43639-1522-1-30.pdf?160629160453; and Oleh Rozvadovsky, "Media Landscapes Ukraine", European Journalism Centre, available at http://ejc.net/media_landscapes/ukraine.

television and broadcasting in March 2015 gave Ukraine – at least on paper – a public broadcasting system that incorporates best practices from Europe. However, implementation is another matter. The reforms involved merging 32 independent companies and 28 regional stations into this one company. A lot of bureaucratic resistance had to be overcome, and some issues had to be settled in court. The process is still ongoing. As a result of this “merger” the whole company is overstaffed, with about 8,300 employees in total, of which only about 1,400 actually work in broadcasting. However, being state-run, the salaries are not competitive with those of private TV channels, and so it is hard to project an image of professionalism or attract top talent. It will take at least three years before current plans for restructuring the company are concluded.

At present, the public TV network is receiving a budget of some €200,000 from the government. As long as this continues, employees remain public servants and the same barriers to firing staff exist as in other parts of government – something that delays the restructuring of the company even further. The advisory board of the network has been formed, with nine members elected from civil society, and eight representing the political parties. There are plans to charge about 50 Hryvnia (€2) a month per household to make the station independent from state funding. But after the inflation shocks of 2014/2015 and the increase in the gas prices, the introduction of fees for public media has been postponed.

Supporting the implementation of the laws on public broadcasting – to transform the various state-run outlets into a single broadcasting company – is proving to be more difficult than supporting drafting the law. While the Council of Europe and the EU were active in advising the government on the law, and then pushing for its adaptation, there has been little follow through on implementation. The US is not very interested in public broadcasting, because it does not exist in their country, and so the political work on the matter falls to the Europeans.

There isn't enough funding to replace old Soviet-style programmes with attractive new ones, and so the TV network is concentrating on programmes that require it to employ as few resources as possible. International donors provide about \$1.4 million in funding for specific programmes. Among the European broadcasting companies the BBC is the biggest supporter, contributing about \$400,000 in total. But project funding has a major drawback: after the completion of the programme, the loaned equipment is returned and funds are terminated. Greater certainty about the future of

funding would help the restructuring of the companies. A Danish grant worth €5 million and a Japanese grant should help to renew the information and “infotainment” sections of NTV. For the moment, the funding of unbiased news sources are donors’ top priority.

The next project will be the reform of regional media outlets. The collapse in the ratings of regional outlets has facilitated their reform, as local oligarchs and politicians care less about defending their influence over them. In the war-torn east of the country, broadcasting is difficult. This is because Ukrainian channels, which can only be received through terrestrial analogue antennas, are frequently jammed or transmitters are detonated by saboteurs. The US has donated former military mobile transmitters to support efforts to continue broadcasting.

A political makeover: Elections and decentralisation

One of the demands of the Maidan protests was to restore Ukraine’s 2004 constitution, reversing the changes made by Yanukovich to strengthen his own position in power. Hence, “constitutional reform” in Ukraine usually involves simply backtracking on Yanukovich’s changes, rather than carrying out far-reaching reform. Still, the previous constitution had major problems that have plagued Ukraine since its independence, and there is public discussion about whether more radical change is needed. However, for the time being this has not resulted in action, and most constitutional amendments passed or currently under review are small-scale fixes that concern reform of the judiciary and decentralisation.

Electoral law

Ukraine’s overly complicated election law is a key piece of legislation where change is needed. However, the few changes that did take place before the regional and national elections, which took place in October 2014 and 2015 respectively, were merely cosmetic. Currently, the single-seat tickets for the parliament benefit bigger parties, which are particularly vulnerable to oligarchic influence. Support from oligarchs is a pre-requisite to win, especially in the east of the country. Once oligarch-dependent members of parliament are installed they block reform legislation or trade their vote for support on certain issues and concessions in other fields, such as privatisation. Oligarchs pull strings to prevent anti-corruption efforts, or preserve the status quo in the judiciary and bureaucracy.

Creating a new, simpler, and more transparent electoral system has been one of the goals of all post-Maidan governments. However, even now there is no blueprint of what a new system could look like. Early elections – discussed at various stages of the political crisis – would hardly improve the stability of the governmental coalition or the quality of political representation. Furthermore, election campaigns in Ukraine have traditionally been relatively expensive, hurting the chances of parties without oligarchic backing. However, new provisions on party financing and transparency, under which parties receive public funds in proportion to their representation, were approved in July 2016. So far, only parties that entered parliament in the 2014 national elections will receive funding, which will make it difficult for new, reform-minded parties.²⁰ On the other hand, it could also force the reformers that are now in parliament to join forces.

Decentralisation

Decentralisation is the other pressing issue in reforming the Ukrainian state. Ukraine has chosen the Polish model, which means that, though laws are made in the capital, regional governments have the freedom to decide how to implement them. They are responsible for administrating and implementing policies, and running schools, hospitals and other public services. From a European perspective this may not seem particularly dramatic, but everything in Ukraine was highly centralised until recently. Even administrative decrees such as notifications on construction work were issued in Kyiv, and the central Treasury paid every cleaning lady in every town hall in Ukraine. There was no local management, and no right to decide on local affairs.

Decentralisation is therefore important not only to create a more efficient Ukrainian administration but to increase the sense of ownership and responsibility. In the past, average citizens were often disengaged from politics, as there was a feeling that local affairs couldn't be changed anyway.

Initially, decentralisation enjoyed high levels of support from the government, parliament, and the international community. Because of this wide support, the constitutional amendments on decentralisation were linked to the law that gave special status to separatist areas under the Minsk agreement. It was thought that the lack of domestic support for Minsk could be overcome with the promise of decentralisation. Instead, Minsk poisoned the debate on

20 Miriam Kosmehl and Andreas Umland, "Established Political Parties Benefit from Ukraine's New Reform", Atlantic Council, 26 July 2016, available at <http://www.atlanticcouncil.org/blogs/new-atlanticist/established-political-parties-set-to-benefit-from-ukraine-s-new-reform>.

decentralisation. Protests and harsh public critique of the proposed special-status law meant that the constitutional amendments on decentralisation were put on hold.

But despite this constitutional stalemate, there are more than 500 individual pieces of legislation that can be used to carry out decentralisation – as well as administrative decrees and reform initiatives. At the same time, decentralisation means that local administrations must develop planning and management capabilities, and build up a stock of experts and additional governance structures. To support this, the EU launched the programme “U-Lead”, with €100 million allocated in funding.²¹ The United States Agency for International Development (USAID) launched its own initiative – Decentralization Offering Better Results and Efficiency (DOBRE) – with \$50 million allocated to assist local authorities.²² The two programmes are complementary, and the 159 administrative *raions* (divisions) taking part are divided between the programmes.

This international support is supplemented by a 40 percent increase in local administration budgets from the Treasury. As there have never previously been any bodies that planned, decided and managed programmes on their own, training is the top priority. However, few operatives within the Ministry for Regional Development speak English, limiting the opportunity to include them in Western training programmes. To facilitate training, USAID has set up 24 regional offices with support from Europe. Sweden has created a task force in the Finance Ministry to facilitate fiscal decentralisation, but this is still in its early stages. But while coordination between the US, the EU, the Council of Europe and some individual European states, like Switzerland or Sweden, has been smooth, some other states, which are as yet unnamed, have developed programmes without consulting or informing others.

But the biggest obstacle to decentralisation is the lack of coordination between the Ukrainian ministries. Disentangling state bodies from the post-Soviet chaos of competences and accountabilities has delayed reform, despite the fact that decentralisation is supported by Prime Minister Groysman and others. In order to push forward the decentralisation of power to the *oblasts* and *raions*, the Ministry for Regional Development reached out to the relevant other ministries in early 2015 to gather information on the infrastructure in each province. They

21 “Special Measure 2015 for Decentralisation Reform in favour of Ukraine Action Document for ‘U-LEAD with Europe: Ukraine Local Empowerment, Accountability and Development Programme’”, European Council, available at <https://www.gtai.de/GTAI/Content/DE/Trade/Fachdaten/PRO/2015/12/Anlagen/PRO201512295004.pdf?v=1>.

22 “Ukraine USAID-Kiev, RFA-121-16-000002, Decentralization Offering Better Results and Efficiency (DOBRE)”, Agency for International Development, 12 February 2016, available at <http://www.grants.gov/web/grants/view-opportunity.html?oppId=281002>.

did this so that they could brief the new regional governments on their role and tasks. But the staff in hospitals, schools, and other facilities are paid by the Finance Ministry, and so the Education and Health Ministries were unable to say exactly how many facilities are in each region and how many people are employed, which would enable payments to be calculated. The Finance Ministry, which was then occupied with restructuring the banking system and keeping Ukraine solvent, had little time or resources to gather the necessary data.

Furthermore, some ministries, particularly the Health Ministry, have been reluctant to cooperate with decentralisation reforms. Meanwhile, the Education Ministry wants to complete its reform of the education system first. Both ministries fear that regional governance will interfere with their restructuring efforts. Interestingly, neither has received much foreign assistance or advice, and at the highest level, personal rivalries between officials on how to implement decentralisation and who should have which powers have delayed the work throughout much of 2015.

The topic of decentralisation has become ideologically fraught because it was linked to the special status law according to the Minsk accords. This linking has damaged support for reform among top officials. However, Groysman has always been open to suggestions on decentralisation, and there is hope that he will be able to push this agenda forward even further as prime minister.

To reduce the number of communities and *raions* in Ukraine, the government gave incentives to voluntarily merge smaller ones. Before rationalisation there were approximately 490 *raions*, and when the research for this paper concluded, these had been streamlined into just 159. The progress of decentralisation reforms depends greatly on the participation and mobilisation of those who live in the countryside. Here, the EU and USAID programmes to assist decentralisation in the communities play a vital role in raising awareness about the reform and how it will affect the lives of citizens.

At present, the decentralisation reform is itself highly centralised. Kyiv prescribes reforms, while most communities are faced with the difficult task of implementing them, and sometimes even understanding them. A few cities and provinces are making active use of the new laws, but most are just trying to adapt as best they can. The government's communication on this issue has been poor, and many Ukrainians see decentralisation as a tool of "federalisation" and hence capitulation to the separatists. Attempts to explain the reform to ordinary people have come late, and are still insufficient. The lack of information about

what the reforms would entail made many local politicians fear for the loss of their powers, and campaign against them – despite the fact that such reforms will create more opportunities for them in the long run.

At the same time, it is inevitable that decentralisation will lead to many schools, hospitals, and other public services being closed. But this is an overdue development, as maintaining the surplus of facilities inherited from the Soviet Union is unsustainable. However, if this restructuring is not accompanied by a plan for regional development, decentralisation runs the risk of looking like a centrally imposed austerity programme, rather than a means of local empowerment.

Supporting Ukraine's economic transformation

5

The war in the Donbas, deteriorating relations with Moscow – including Russian economic sanctions against Ukraine – and the contraction of the Russian market have hit Ukraine hard. These crises only put a spotlight on the structural weakness of the Ukrainian economy – lack of diversification, over-reliance on obsolete industries and on the post-Soviet export markets, and an adverse investment climate. The crisis and economic shock were exacerbated by the war and by Moscow's hostile behaviour, but the weaknesses of Ukraine's economy had already been unveiled by the 2008 financial crisis and subsequent collapse of the steel price. Economic restructuring, diversification, and adoption of EU standards in order to tap into export markets beyond the post-Soviet space would have been necessary regardless of the geopolitical situation. Now, they must be implemented under more trying circumstances.

The war has also focused the need for financial stability. After Maidan, an annual budget deficit of 10 percent of the GDP was forecast. This would have been unsustainable under any circumstances, but particularly at a time of political uncertainty, when few creditors would lend money with reasonable interest rates. Urgent measures had to be taken to rebalance the Ukrainian budget. However, Ukraine is not a poor country. If its money had been managed, invested, and taxed in a more efficient way, it would have a prospering economy. But for this to be a reality in future, deeper structural reform is required.

The quest for solvency

Before giving Ukraine access to international loan facilities, the International Monetary Fund (IMF) demanded drastic reform.²³ Among the most urgent was the restructuring of the National Bank of Ukraine and of state-owned gas supplier Naftogaz, and a reform of the financial sector. Before the privatisation of Naftogaz, 7 percent of Ukraine's GDP was used to re-capitalise state-owned enterprises (SOEs). That was more than the total expenditure on national defence – and Ukraine is at war. Few SOEs are easy to privatise, and most are enormously inefficient and unproductive.

Energy sector

Despite big challenges, the gas market was liberalised and consumer gas prices increased to market level after the winter of 2014/2015. The restructuring of communal heating and energy services followed. A special fund was introduced to take care of underprivileged consumers, particularly pensioners. The reform was difficult for poorer members of society, but widely regarded a success.

However, this does not mean that the reform of Ukraine's energy sector is complete. Naftogaz has been opened to foreign investment, but the coal sector is still dependent on government subsidies. The problems with reforming the coal sector were compounded by the war in the Donbas – a region well-known for its coal industry. Some of Ukraine's largest mines have also split off from the state, but in the long run, it was questionable how long the mines in the Donbas could have been maintained.

EU support for Ukraine's energy reforms have focused on issues around deregulation and the restructuring of Naftogaz – both of which are important to fully integrate Ukraine in the European Energy Community (EEC).

Following Maidan, the European Commission was also key in brokering the “winter packages” – contracts between Naftogaz and Russian-owned Gazprom over pricing, means of payment, and delivery of natural gas before the winter of 2014/2015. This deal was key to guaranteeing Ukraine's gas supply during that period. At that point it wasn't possible to immediately pivot away from Russian gas, although Kyiv's medium-term goal is still to become independent from Russian gas sources through increased production and reverse flow substitutes

²³ “Ukraine, Special Focus: A Roadmap for Urgent Macroeconomic and Structural Reforms”, International Monetary Fund, April 2014, available at <http://www.worldbank.org/content/dam/Worldbank/document/eca/ukraine/ua-focus-april-2014-en.pdf>.

from the likes of Slovakia, Poland, and Hungary. Slovakia is the biggest supplier, at 14.6 billion cubic metres (BCM) per year, followed by Hungary at 6.1 BCM per year, though Budapest suspended flows in 2014 due to Russian pressure. Poland will expand its export capacity in the years to come, up to 8 BCM per year. Reduced consumption due to decreased industrial production and increased domestic production will make up the difference, affording Ukraine energy independence.²⁴

The reduction of gas imports, competitive pricing and gas diversification have stabilised Ukraine's finances and improves its resilience. But to finalise gas market reform, Naftogaz also needs to be privatised, and competition on the market increased. The liberalisation of energy pricing would give Europe opportunities to further support Ukraine's energy transition, particularly in the field of renewables. Bio-gas – a by-product of Ukraine's huge agricultural sector – will allow the country to provide cheaper energy, though Europe has not yet come up with a coherent plan or programme to support this.

Financial sector

The other big structural reform demanded immediately by the IMF was in Ukraine's financial sector. After Maidan, the National Bank of Ukraine (NBU) ordered Ukrainian banks to carry out “stress tests” to assess their liquidity and financial health. The results were bleak, and the state of Ukraine's financial sector was much worse than anticipated. In the aftermath, the NBU was given increased powers to inspect, order tests, and if necessary, liquidate banks. Since then, Ukraine's banking sector has been on a slow but steady course towards stabilisation. Banks are required to balance their capital reserve ratio by the end of 2016, and to build up capital reserves of at least 10 percent after three years.

The supervision regulations have been brought in line with EU standards, and a deposit guarantee has been established – a requirement under the Deep and Comprehensive Free Trade Area (DCFTA) agreement. International donors have helped to create a deposit guarantee fund, with the EBRD, which is particularly involved in the financial securities committee. Recommendations and analysis from the US Treasury and the EU Directorate-General for Financial Stability provided further guidelines for international donors and other financial institutions. These recommendations have been implemented

²⁴ Georg Zachmann and Dmytro Naumenko, “Evaluating the options to diversify gas supply in Ukraine, Policy Paper Series 01/2014”, German Advisory Group, February 2014, available at http://www.beratergruppe-ukraine.de/download/Beraterpapiere/2014/PP_01_2014_en.pdf.

by the IMF and the World Bank in their respective programmes. Bilaterally, the UK and Germany are active on financial sector reform, having implemented bilateral restructuring and rescue programmes. Through the Vienna Initiative, the EU supports Ukraine's efforts to implement common standards on foundation, ownership, management, oversight and control of private banks, credit monitoring and harmonising lending practices, asset securitisation, and the resolution of credit disputes.

The reform and restructuring of Ukraine's state-owned banking system is one of the biggest EU projects in Ukraine and was supervised by the EU Directorate for Financial Stability. Under Yanukovich, state-owned banks were primarily used to lend funds to the president's cronies, and much of this money is now gone for good. This systemic abuse of funds has led the sector into deep financial troubles. After Naftogaz was reformed, state-owned banks became the biggest sinkhole for government money. In 2015, 20 to 25 billion Hryvnia (€685-850 million) had to be poured into the sector, and another 16 billion Hryvnia (€550 million) will be needed in 2016. These sums will just cover the banks' losses, and will not be used for any active programmes. In 2008 – after the economic crisis and the collapse of the steel market – 5 to 6 percent of Ukraine's GDP had to be used to re-liquidate state-owned banks.

To maintain the banks in their current state would mean prolonging a financial liability for the government without gaining any benefit. Two of the state-owned banks are regarded as economically important and will be restructured and put under new management. Two have been shut down, another will be shut down by the end of the year, and the rest are due to be sold. However, under current law Ukraine can't sell government assets below book value, which is hardly realistic in the case of these banks. Unless Ukraine makes an exception for them, the situation will drag on. Meanwhile, the EBRD is trying to assess whether it would be possible to reform and restructure these banks, put them under new management, and sell them at a profit after five years.

New regulations increasing the minimum capital needed to set up a new private bank are intended to make it more difficult for oligarchs to create banks and use them to get loans. In the past, oligarchs abused the Central Bank to re-capitalise their banks after having embezzled their banks' finances. Since Maidan, 70 out of 180 banks have been closed by the NBU due to a lack of capital. Thirty to 40 other banks will be liquidated over the coming years. This was one of the most effective policies by Ukraine's then-Finance

Minister Natalie Jaresko because it made it much more difficult for oligarchs to steal taxpayers' money. But it's still a tricky issue. Ihor Kolomoisky, one of Ukraine's wealthiest oligarchs, controls about 30 percent of the Ukrainian banking market and demands large amounts from the deposit-security fund to cover the losses of his banks. But 60 percent of Ukrainians receive their salaries in accounts with these banks, so from a political standpoint it is not very easy to shut them all down.

After Maidan, the Central Bank received extra attention and funds from international donors. But it was wisely governed and underwent harsh structural reforms, laying off about 50 percent of staff and paying competitive salaries to those that stayed. This was an IMF requirement. The bank also effectively coordinates with international donors, making them aware of overlaps in the system, asking them to specialise in certain issues and not to duplicate the efforts of others. In few other sectors is the Ukrainian authority as involved in coordinating the efforts of donors.

While there is no proof that Moscow uses Russian banks in Ukraine as a political tool, there are strong indicators that this is the case. First, they are all headed by former KGB officers, who tend to know more about subversion than about finance. Despite losing almost all their private customers and being kicked out of Ukraine's ATM network, Russian banks are re-capitalised by Moscow. Many Ukrainian and Western experts suspect that, now that the military campaign in the Donbas has hit a dead end, subversion, corruption, and blackmail are again the Kremlin's best tools with which to destabilise Kyiv.

But it is not only Russian banks that cause trouble. Austria is the only EU member state whose national bank has no agreement with Ukraine's Central Bank to cooperate on investigations into transnational financial transactions, and hence Austria has not helped to investigate the suspicious dealings of its Meidl bank, which has engaged in dubious business in Ukraine, including the transfer of money from bankrupt oligarch-controlled banks abroad.²⁵ The reluctance of Austrian financial regulators to cooperate with their Ukrainian colleagues undermines European credibility in the fight against corruption.

²⁵ "Die Millionen aus dem Wilden Osten", *Die Zeit Online*, 14 December 2015, available at <http://www.zeit.de/2015/50/wiener-meidl-bank-treuhandgeschaefte-kiew/komplettansicht>.

Taxation

Another vital step to increase Ukraine's fiscal stability is tax reform. Tax evasion is a major issue for the government, as the shadow economy is estimated to make up between 50 to 60 percent of total GDP. The tax reforms rushed through in December 2015 were, above all, designed to increase the proportion of people in formal employment and with declared income. Income tax was levelled at 18 percent and social security contributions decreased to 22 percent (from 40 percent) of income, and the VAT refunding harmonised with European standards. The decrease in tax revenues should, in the medium-term, be offset by increased revenues as Ukraine reforms. This higher revenue will be come from lower production, lower employment costs, increased domestic consumption and exports, higher number of people in registered employment and therefore paying tax. According to preliminary reports, some of these effects are already visible.²⁶ Further work on reforming other taxes and tariffs as well as simplifying tax declarations are to be implemented, but the tax reforms put in place so far have received positive feedback from international experts. Over-taxation is certainly not the main hurdle for investment and economic growth in Ukraine: it is over-regulation that acts as a barrier, and that is a significant problem.

All of Ukraine's biggest reforms – including reform of the gas market, and independence of the Central Bank – were direct results of pressure from the IMF and the World Bank. The EU has linked its macro-financial assistance to Ukraine to the IMF. This means that if the IMF grants Ukraine money the Union does so as well. Hence the Union communicates the same demands to Kyiv as the IMF and accepts satisfactory implementation of those demands when the IMF does. However, the IMF is much more publicly outspoken about its demands than the Union. Despite the political difficulties Ukraine faced in Mach with Yatsenyuk's dismissal, the IMF hasn't stopped its macro-financial assistance to Kyiv, though delivery of the current package has been postponed until the end of summer. There is hesitation in Brussels about using macro-financial assistance as political leverage, despite the fact that it is by far the largest and most direct form of assistance.

²⁶ Robert Kirchner and Philipp Engler, "Auswirkungen der Senkung der Sozialversicherungsbeiträge", Deutsche Beratergruppe Ukraine, July 2016, available at http://www.beratergruppe-ukraine.de/wordpress/wp-content/uploads/2016/07/Newsletter_03_2016_Deutsche-Beratergruppe.pdf.

Transition and structural shift in Ukraine's economy

The war in the Donbas caused the near-collapse of Ukraine's heavy industry and triggered the eventual de-Sovietisation of the economy. Before Maidan, mining and machine-industry accounted for almost 50 percent of Ukraine's industrial exports. However, the collapse of the steel price after 2008 and the ongoing economic crisis in Russia – the prime export market for machinery – hurt these sectors. After 2010, the industrial output in the west and north of the country grew significantly faster than in the east and south. At the same time the share of light industry products started to grow, while heavy industry remained in recession. The war in the Donbas and Russia's economic sanctions only accelerated the country's transition from heavy industry to light industry and from an east-orientation to west.²⁷ But the shock of the transformation has been deep. The question for the EU is how it can best facilitate this transition, and soften its negative effects.

Agriculture

Agricultural sector reform is one of the unsung success stories of Ukraine's post-Maidan transformation. This is not only due to factors such as Ukraine's ample fertile soil and unused agricultural land, but to the willingness of the Ukrainian authorities to reform, and international support for this transformation. The then-Minister for Agriculture Oleksiy Parlenko led one of the most open and cooperative ministries, while donor coordination has been effective and efficient. Amid general recession, Ukraine's agricultural sector has become one of the few sources of growth in the country.

For this reason, it attracts many international donors. Some operate on the policy level – on regulations, for example – particularly USAID and the EU. The IMF and the World Bank are also pushing the top levels of the political class to facilitate reform in this sector. The IMF, International Finance Corporation (IFC), and EBRD work with larger agricultural enterprises. Canada, the EU, and Switzerland are working on programmes to link agricultural policies to rural development. This means granting small farms access to processing facilities and regional markets, and helping them to access competitive insurance and financial products. Rural areas can only develop if small and medium farms can profit from the investment in agriculture.

27 David Saha and Vitaliy Kravchuk, "The industrial sector of Ukraine: Trends, challenges and policy options", German Advisory Group, March 2015, available at http://www.beratergruppe-ukraine.de/wordpress/wp-content/uploads/2014/06/PP_03_2015_en1.pdf.

Donor contributions to this effort range from small-scale contributions for financing shared-processing machinery for multiple farmers, and facilitating contracts with local supermarkets and distributors, all the way up to working with banks and insurance companies to develop new financial products. The latter is crucially important given the coming implementation of the EU-Ukraine DCFTA, which will transform the agricultural sector. The DCFTA will open the European export market for Ukraine's agricultural sector. Adopting EU standards across the sector will also make it easier for Ukraine's agricultural enterprises to export to other markets, particularly in Asia and the Middle East. However, implementing these standards in the regulatory framework and adopting production is not an easy task.

To prepare Ukraine for this transformation, donors are tackling three areas: deregulation, competitiveness, and rural development. A National Strategy and Action Plan for Agriculture and Rural Development has been drafted through the NRC, and is currently being implemented.²⁸ International support and advice on this action plan has been given by Europe, the US and Canada, with the three coordinating closely. The EU plays a pivotal role, as EU norms and standards will be implemented in all programmes. Adjusting to European standards is more difficult for small farms than for large agribusinesses, as considerable investment in new production facilities is needed. But it is much more difficult for small- and medium-sized farms to get access to the financial services required for these investments, than for large agricultural enterprises. Large farms are already used to producing for the European or world market, but many small farmers, particularly in eastern Ukraine, had exported most of their goods to Russia. This market collapsed with the expansion of Russia's import ban in January 2016. It will be crucial to grant small farms access to new export markets, and for this the EU programmes cited above are of pivotal importance.

There are about 100 state-owned enterprises in the agricultural sector, and few of them are profitable. But unlike the rest of Ukraine's SOEs, they are being privatised. UkrSpirit, the state-owned alcohol distiller, was the first to be sold.

28 "Single and Comprehensive Strategy and Action Plan for Agriculture and Rural Development in Ukraine for 2015", Ministry of Agrarian Policy and Food Ukraine, 26 October 2015, available at <http://minagro.gov.ua/en/system/files/Single%20and%20Comprehensive%20Strategy%20and%20Action%20Plan%20for%20agriculture%20and%20rural%20development%202015-2020.pdf>.

Deregulation

Investment from and expansion of trade with Europe is the other key area that the EU is trying to support through the DCFTA. To an extent, the success of the trade pact is dependent on deregulation. Excessive regulation of business and services is a major drawback of the Ukrainian market, and there is a requirement to adopt EU regulations in many areas concerning private businesses under the DCFTA. To assist this process, the EU has committed to finance a Better Regulation Delivery Office (BRDO) in Kyiv for three years, made up of 70 experts and lawyers to help draft the necessary reforms. Canada has begun a similar programme. While Ukraine has made considerable progress on adapting new technical regulations, a lot still needs to be done when it comes to certification, services, capital market regulations, inspections, and control. Under the Yatsenyuk government the most reform-minded ministries – finance, economy, and agriculture – were involved in the process, and the climate was considered to be constructive by many experts. Given the vast amount of change needed, reform progress is slow but steady.

As the regulatory framework improves, Europe could reinforce its support for Ukraine's economic transition in other areas. One issue highlighted by experts is the limited access of small- and medium-sized enterprises (SME) to capital, due to constraints and uncertainties in the banking sector.²⁹ Loan-guarantee funds would be one solution. Others include financial support for start-ups in sectors with growth potential, such as the IT sector. The EU should also consider creating specific support programmes for east Ukraine, where instability and the continuing war scares off many investors, but where economic regeneration is needed most.

The Ukrainian bureaucracy is qualitatively and quantitatively overwhelmed by implementing the regulations and practices required under the DCFTA. Some of them are quite restrictive, and will have a major impact on business in Ukraine. Some Ukrainian experts doubt whether it is wise to jump directly from Ukrainian-style over-regulation to EU standards. They point instead to the model of Georgia, which carried out a general deregulation programme first. Many European experts are sceptical on this point, noting that Ukrainian business will have to adjust to EU standards sooner or later – not just to access the EU market but to tap into the global market. But even compared to other former Soviet states, Ukraine is one of the worst in terms of having

29 Ivan Koriakin and Robert Kirchner. "Improving SME Access to Finance in Ukraine", German Advisory Group, February 2016, available at http://www.beratergruppe-ukraine.de/wordpress/wp-content/uploads/2016/03/PB_02_2016_en.pdf.

standardised business regulation. The task ahead of its regulators and lawmakers is enormous.

Ukrainian exports to the EU grew again in 2015/16 in real terms.³⁰ Though the slump in commodity and food prices distorts statistics, the DCFTA is slowly taking effect. Overall, Ukraine is benefiting from the DCFTA, and will continue to. But the EU should maintain its support for Ukrainian SMEs and regional development programmes in order to soften the shock in some areas and make growth more sustainable.

³⁰ Riccardo Giucci, Mykola Ryzhenkov and Veronika Movcha, "Ukrainische Exporte in die EU: Positive Wirkung des DCFTA?", Deutsche Beratergruppe Ukraine, June 2016, available at http://www.beratergruppe-ukraine.de/wordpress/wp-content/uploads/2016/06/Newsletter_02_2016_Deutsche-Beratergruppe.pdf

Issues with EU support to Ukraine

6

The age old observation about EU member states – that individual states are too small and weak to play a strategic role alone, but can when they join forces – is demonstrably true when it comes to Ukraine. The EU is a major player in aid to the country, alongside the IMF, the US, Canada, Japan, and the World Bank.

- Since the Maidan the IMF has been the leading donor, having approved a four-year assistance package for Ukraine worth \$17.5 billion (€15.4 billion). The programme covers macro-financial stabilisation above all
- The EU has spent €3.16 billion – €1.36 billion in 2014 and added another €1.8 billion for 2015/16 – in macro-financial assistance.
- The World Bank has invested \$1.38 billion (€1.25 billion) and \$1.35 billion (€1.2 billion) in 2014 and 2015 respectively
- The US gave \$2 billion (€1.78 billion) in loan guarantees plus about \$800 million (€715 million) in programme funding to Ukraine in 2014 and 2015.

By comparison, in 2014/15 the biggest EU member-state single donors were Germany, which contributed €700 million, €200 million of which was macro-financial assistance; and Poland, which contributed approximately €100 million, of which €89 million was macro-financial assistance.

There are more than 400 EU and EU member-state programmes in Ukraine. Given this large number, organisational issues – how well the donors communicate, how programming is organised, and so on – play a major role in the effectiveness of reform efforts. This section will address how the EU is doing on these issues, and what role the member states play in the reform process.

First, the EU support group, created after Maidan to help Ukraine’s reform efforts, has proved less efficient than initially hoped. The lack of any permanent staff in Kyiv – the biggest flaw of the group from the beginning – means that it is hard to keep up with events on the ground. This has become increasingly evident over time, as the political situation in Kyiv has developed. Finally, in summer 2016, a small number of officials were sent to Kyiv and headquartered there.

The absence of an on-the-ground presence has not meant that the support group is totally useless – instead, it has adjusted its mission. Instead of conceiving policy, the support group is increasingly used to coordinate bilateral initiatives between member states and to square them with the EU’s policy goals. One example in which this took place was on decentralisation reforms. The EU coordinated its programme funding with Sweden and Germany, and later asked other member states to join the effort. This linking of practical implementation on the ground and lobbying in Brussels should also improve the member states’ abilities to design their own policies. The EU and its personnel in Kyiv have built up experience and knowledge, and can advise member states on the needs, shortfalls, and traps of reform in Kyiv.

The other issue is speed. The EU is often criticised for being slow to react to developments on the ground. The rule of thumb for EU project or programme funding is that it takes three months to discuss the application, three months to decide on the programme, three months to arrange all documents, and the funding finally arrives one year later. For this reason, most urgent projects are funded via the bilateral agencies, the Council of Europe, or private foundations in Kyiv.

The EU is keen to shorten the delay between need assessment and implementation, and sees coordination between Brussels and the capitals as the key. But there is acknowledgement among policymakers that the EU cannot change its procedures just for Ukraine. These are usually designed for longer-term assistance and advisory missions, and do not work as well under conditions of war, political unrest, and crisis. But individual member states’ foreign policy apparatuses are much more agile, and decisions are

executed without having to undergo a myriad of panels and multilateral steering committees. So, once Ukraine's needs have been identified, national programmes and initiatives should react quickly to supplement the EU's efforts, with support group coordination.

Compared to the US, Japan, and to other international organisations, the EU's support measures lack visibility. To deliver development assistance, support for internally displaced people, or other humanitarian assistance, the EU contracts international or national aid organisations. The EU does not have its own personnel on the ground doing practical work on refugees, and as a result Ukrainians often are not aware that the aid they are receiving is financed by the EU or its member states. Only the German development agency, the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), has staff on the ground and provides direct support to internally displaced persons in eastern Ukraine, which is widely appreciated. USAID, in contrast, has a wide network of people in eastern Ukraine, and can provide assistance at short notice. In many instances, effective assistance to displaced persons is not a matter that requires large budgets, but quick fixes to immediate shortfalls. Personnel on the ground who can carry out these small-scale corrections are an invaluable asset.

Most EU support to Ukraine takes the form of technical assistance or traditional donor programmes, as opposed to sending experts directly into the ministries or institutions to give advice. Few member states apart from Poland, Hungary and the Baltic states have a large number of experts who speak Ukrainian or Russian, or who have worked in Ukraine. These secondments are capacity multipliers rather than capacity builders, and they help existing structures and institutions to run more efficiently than before. The key advantage is that the officials monitor the implementation process and accelerate feedback from the administration to donors. The key shortfall is sustainability of impact – when the experts go back home, their expertise goes with them.

However, if the assignment of personnel to work within the Ukrainian civil service was better coordinated between EU member states, this instrument could be used more effectively. The mechanism of “twinning”, where technical experts are sent to work in mid-level administration or policy development, is a helpful tool, but usually confined to mid-level administration. Some countries actively use the instrument to send their experts to Ukraine, while others are more passive. In 2014, Ukraine proposed including Commission representatives in each reform group and placing larger numbers of

Commission experts into the reform council's experts groups. The EU's reasons for declining this offer could not be established.

Ukrainian experts in particular highlight that the EU needs to supervise the implementation of its aid more closely. Oversight efforts focus on paperwork of programmes, rather than on whether they achieved their aims. In Ukraine, as in other post-Soviet countries, the culture of policy analysis and review is not well-established, and the EU has not helped to introduce one. Clear criteria on the desired outcomes are lacking for many EU programmes, and so it is hard to evaluate and monitor performance objectively.

There are a lot of courses and training programmes for Ukrainian officials in European institutions, but few officials and bureaucrats in Ukraine have enough knowledge of English or French to be able to take part. As a result, many places on these programmes go unused.

While expertise and monetary assistance are needed, the critical issue for the EU is breaking political and administrative deadlocks that hinder the implementation of Ukraine's reforms. Draft laws are still diluted and bent to specific interests in many cases. The prime example of this happening was the law on electronic declaration of assets, which originally demanded that all government officials and politicians publicly declare their assets, and those of their closest relatives. However, when the draft law was read in the parliament, the time limits for the declarations were extended – giving corrupt officials more time to hide assets – and the requirement to declare the assets of family members was discarded – allowing corrupt officials to transfer assets to their relatives. Only fierce criticism from the IMF, the US and particularly the EU forced a change of course. The EU's ambassador to Ukraine, Jan Tombinski, made forceful public statements warning that such a watered down law would endanger Ukraine's path to visa liberalisation. Two days later, parliament amended the law once more to address the criticisms made of it.

This situation was symptomatic of the challenges the EU faces in Kyiv. But this is only the tip of the iceberg when it comes to administrative delays and interference with reforms. In some cases, even small changes to administrative procedures simply are not implemented by the local and regional bureaucracy. Some of the Ukrainian ministries are not engaged with these issues, and the EU has no staff to evaluate what is going on in the countryside. Most civil society organisations are located in Kyiv, even though the EU is increasingly trying to fund groups in the countryside. To lobby or to gain access to international funding, a presence

in the capital is essential. While many reformers are from other provinces, few work there on a regular basis. Over-regulation of EU grants also causes the EU's efforts to be centred on the capital. An official letter of recommendation by the government – a pre-requisite for winning grants for most programmes – can only be issued in Kyiv.

This lack of attention to the countryside obstructs the entire reform effort: shortfalls in implementation are not reported, and problems that are specific to certain regions – like coping with large numbers of internally displaced people – are not addressed. Politically, Kyiv is a very different environment to the rest of the country. Increased flexibility in bureaucratic requirements would help the EU to increase its presence and visibility beyond the capital.

According to Ukrainian experts, the EU is often too polite and hesitant to criticise the Ukrainian government. The Union often takes a German-style approach to aid – being reluctant to apply direct pressure, offering programmes but not insisting on them, and placing great emphasis on “local ownership”. It is overly reliant on Kyiv coming up with plans, instead of pushing its own agenda, and refrains from getting directly involved in Ukrainian government processes. The exception to this culture of restraint is EU Ambassador Jan Tombinski, who is blunt about what the EU expects from Kyiv, and what has gone wrong. Every one of the non-EU experts interviewed for this paper specifically mentioned the positive role Tombinski plays. The US and the UK are more forthright in the demands they make of Ukraine, and do not hesitate in applying direct pressure on the government in Kyiv to achieve their ends.

There are other traps looming for Europeans in Ukraine. An increasing number of NGO quasi-experts are popping up in Kyiv, sometimes working in concert with the political class. They serve to whitewash events in the country. The other trap is bureaucratic deception. When briefing foreign guests the officials cite documents or draft documents that would supposedly resolve each issue, but in practice these are never implemented – and they leave foreign donors with an overly positive picture of affairs in Ukraine. The donors only realise their mistake when their project money has been wasted and no results delivered. European countries and politicians who do not know the political establishment in Kyiv are prone to fall into this trap. Coordinating assistance with the EU's representatives in Kyiv, or with other member states that have more experience in the country, can help to avoid this.

Coordinating like-minded states

EU donor coordination has improved considerably since the Maidan revolution. Although the EU Mission in Kyiv now meets regularly with member states representatives on the ground, however, the EU needs to look elsewhere to prevent duplication of efforts – specifically to European capitals. In spring 2016 there were five separate fact-finding missions and five rule of law missions launched by EU member states in Kyiv. Several EU member states offer very similar training to law enforcement and judicial personnel. These plans are made in national foreign ministries without consulting Brussels. Some have their origin in Kyiv – when representatives of the Ukrainian government travel abroad to lobby for certain initiatives without consulting the relevant ministries at home. The member states then try to conceive their own programmes to tackle the particular shortfall – often through similar or overlapping programmes that duplicate effort. To counter this lack of coordination, the EU tries to use make greater use of the support group as a coordination tool.

The EU often calls on member states to engage more in Ukraine, but few have responded. In the end, the implementation of reforms will depend on Kyiv. There are states that abstain from assisting Kyiv for strategic reasons – particularly France and Italy – and there is little enthusiasm in Brussels or Kyiv to try to bring them on board. They would be perceived as spoilers, and most people engaged in Ukraine only want to work with those states that actively support the new government.

In Kyiv, few member states participate regularly in the EU's donor-coordination meetings. Slovenia is the most frequent attendee of these meetings. Other states do whatever is on their bilateral agenda, or visit the working groups on an infrequent basis. In most embassies, this is due to staffing issues – there are too many meetings, working groups, and initiatives assigned to the staff based in Kyiv. In most embassies, there was very little increase in staffing after Maidan, despite the fact that the number of tasks grew.

One issue on which coordination through the EU framework could be stronger is that of programme supervision, evaluation, and management. As the European support effort will continue for the foreseeable future, evaluation and performance-management is key. This will not be done by Kyiv, as Ukraine lacks the necessary capacities and skills. At the time of writing, this evaluation is performed on an ad-hoc basis by different EU and national institutions. But setting up a structured process should be Brussels' key initiative.

Europe could also make greater use of programmes targeted at specific regions. Hungary and Romania have set up regional partnership programmes for the provinces on their borders. The EU could increase the range of such programmes beyond the border regions, and small- and medium-sized countries in particular could partner with one or more specific provinces. For them, it is better to focus their efforts on a smaller territory than to duplicate programmes in Kyiv, as their limited funds would have little impact if spread across the whole country. Such regional partnerships could strengthen decentralisation, enable local governance, and redistribute money away from Kyiv and towards the regions.

The most important partners for the EU in Kyiv are the US and Canada. Practical coordination and cooperation of staff engaged in implementing the programmes is smooth and they have good working relationships. The Americans and Canadians have more personnel on the ground, and in some cases also more programme-funding at hand than the EU. The EU on the other hand is the central norm-setting authority, as European standards, procedures, and benchmarks have to be met in most reform-areas. In many cases, US and Canadian programmes are responsible for implementing EU reform-goals.

Assessing Europe's Ukraine policies

7

background to all of its dealings with Kyiv. To Vladimir Putin, Ukraine is not a legitimate state and Ukrainians are not an independent people. Ukraine is merely a territory that Russia has a right to, regardless of who lives there. As long as these attitudes persist in Moscow, there can be no real solution to the conflict, regardless of how hard the West tries. For the time being, the Minsk process will at best be a tactical manoeuvring-ground to provide Ukraine with time to reform. For Ukrainians it is important to be a subject in this process, and not a mere object. Despite this, Kyiv has barely been able to shape the negotiation process on Minsk implementation on its own terms, and reacts rather than taking the initiative.

Ukraine is not a hopeless case, and the project of the Maidan protests – the transformation of Ukraine into a functioning democracy and market economy – is not doomed to fail. Amid the chaos and inefficiency that still hobbles Kyiv, there is progress. But this progress is directly correlated with the degree of pressure placed on the government to reform. Without this pressure, little happens, and those with vested interests can find a way of preventing or holding back on reforms. This is why the greatest change has been in the defence sector – the threat to the country from Russia's intervention was existential, and after the defeat of the Ukrainian forces at Debaltseve it was clear to the Ukrainian leadership that no one would help them but themselves. Any European assistance to Kyiv needs to be a part of a broader political effort to push the government to reform. This is hard for many European officials to comprehend. Why would a government need to be forced to accept international support? However, Ukraine's civil society is usually much more outspoken than the EU in terms of criticising the government in Kyiv. Politicians weary of dealing with Kyiv tend to forget that Ukraine is more than just a government. On the contrary: the government and formal institutions are often the weakest links in Ukraine, while civil society is very strong.

By the end of 2015, it was clear that the initial momentum for reform after the revolution had died out. Many experts – both Ukrainian and international – complained that the old habits of doing politics were creeping back. The window of opportunity to change Ukraine quickly and radically – as in Poland or the Czech Republic after 1989 – seems to have passed. The crisis that followed on the heels of the ousting of Prosecutor General Viktor Shokin, and then the subsequent changes in government – with all important reform-minded ministers dropping out or resigning – was an indication of how precarious the situation in Kyiv was, and still is. Now the EU has to re-think its tactics again. Instead of quick fixes, the EU must support the reformers in a long-term struggle to change their country, despite the hurdles they face.

The Ukrainian government has not lived up to expectations – either those of the EU or of the country’s reform-minded civil society. But, unlike in the Orange Revolution of 2004-2005, civil society is not satisfied with a simple change in government anymore, and have started to work within government or governmental programmes, taking on political or administrative responsibility themselves. Confronted with a chaotic government, foreign invasion and the near-bankruptcy of their country, civil society activists have been forced to engage in almost every field of state action. Through this struggle, they are becoming the new political class themselves. Their work often depends on EU funds and in parliament, the new force of the cross-party “Euro-optimist” group in the Verkhovna Rada exerts constant pressure on the government to reform. They don’t have the majority needed to pass laws, but they are well connected, informed, and have a public audience whenever they criticise defective laws or propose alternatives. And when their voice is echoed by international donors or organisations, their critiques are taken especially seriously. Even if the changes and amendments they are pushing for are seldom spectacular, they are gradual steps towards change.

Both President Poroshenko and former Prime Minister Yatsenyuk bear some of the blame for the delays in reform. Each had different shortfalls. President Poroshenko was not interested reforming the judiciary, the Prosecutor General’s Office, or law enforcement agencies. If those reforms had enjoyed presidential support, Ukraine would be in a much better position today. Yatsenyuk, on the other hand, was unable to push for the implementation of reforms in terms of regulation, and was protecting his allies in the energy sector, state-owned enterprises and big business. Neither were particularly keen to push the anti-corruption agenda or privatisation. Still, both performed

better than any other Ukrainian government before them.

During Yanukovich's time, the monopolistic control of the media led to many scandals being suppressed. Now, a resurgent independent media is actively reporting on nepotism and corruption. This can give the international community the impression that the new government is no better than the old. However, this is misleading, as today's scandals would be business as usual under Yanukovich.

Drastic reforms – although necessary – are often undertaken sporadically, without much strategic communication. This makes the public feel insecure, and means that they don't see the long-term benefits of the reform process. The government has missed many opportunities to improve the life of Ukrainians. For example, the “one-stop-shop office” in Odessa where people can get licences and government documents in a single day has received much positive feedback, and is being emulated in other provinces. But this was a personal initiative of Mikheil Saakashvili – the former Georgian president who now serves as Odessa's governor – and has not been systematically rolled out by the government. There is no broader plan yet for how to speed up deregulation in such a way that people can benefit from it in their daily lives.

Strengthening European support for Ukraine

As Brexit negotiations are yet to get underway, the euro crisis continues, and Syria remains a bloodbath, support to Ukraine should not be dropped from the policy agenda. Unfortunately, Ukraine-fatigue is setting in among some EU member states, though the reform efforts are starting to show results and the country is gradually moving forward.

Discussions with Europe have at times served to unite groups from across Ukraine's polarised political spectrum. When Ukrainian MPs from rival factions were invited to Brussels in February 2016 and had to explain their country's position to European officials, it was one of few occasions where they refrained from blaming one another. Europe should also be careful not to underestimate the power of symbolism. The visits of G7 delegations or members of the European Parliament to the conflict zones of the Donbas have a wide impact in Ukraine. It gives people the feeling that those in Europe have not totally forgotten about them, and that they are not merely objects of greater power politics.

70 Ukraine is a new state, but it still suffers from a Soviet hangover – having

inherited many of the communist state's worst traditions. Reform is not easy, and has to be forced through at every step. EU accession is the idea that unites the country, and so the EU is in a unique position to help the country change for the better. To achieve this, the EU should put all politeness, sensitivity and political correctness aside, and be blunt, brute, and direct. US Secretary of State Joe Biden, for example, had to get personally involved in order to remove the oligarch Ihor Kolomoisky as governor of Dnipro province, while Ambassador Jan Tombinski's protest against the watering down of the law on electronic declaration of assets saved it in the end. It makes little sense for the EU to complain about missed opportunities in hindsight when no one insisted on reform at the time when it was threatened.

Many in Brussels still defend local ownership as a principle that should be applied under all circumstances. While this may be appropriate for much development assistance there are several reasons to re-think or abandon the principle in the case of Ukraine. First, it is not clear who in Ukraine is the "local owner". Is it the president, the government, the bureaucracy, the judiciary, or society? Almost every poll in Ukraine shows that society wants more reform than the government is delivering. This makes local ownership and pressing for reform into mutually exclusive positions. This paper strongly recommends dropping the former in favour of the latter.

Second, reforming Ukraine is not rocket science, but simply a question of overhauling a post-Soviet and post-Communist country. The EU has helped to do that before, and successfully. Third, Ukraine has a clear goal of becoming a truly European society. The implementation of the Association Agreement will be more like an accession process than like the implementation of a free trade agreement with a distant nation. On accession, the EU does not grant its partners "local ownership" over which parts of the law they want to implement, and whether they would like to reform their judiciary or not. Even if the possibility of EU membership may not be spelled out for political reasons, bringing Ukraine as close as possible to the EU, and helping it as much as possible to reform, is the immediate goal.

While macro-financial assistance – currently the lifeblood of the Ukrainian budget – is the international community's main tool of leverage via the IMF, the EU's main tools of influence are its moral authority and the prospect of closer ties. Still, increasing assistance would increase the EU's leverage and influence over various reform-projects. However, this needs to be done in a smart way, because too much money with too little control is more corrosive

to the political climate than too little money. In Ukraine, donors should strengthen their supervision and control instruments in the country.

Many EU member states fear that Ukraine could become overly reliant on international donors. There is already a growing industry of “grant seeking” organisations, and some bureaucratic bodies are overly reliant on external contractors. This is why the EU is hesitant to commit itself to directly fund the salaries of officials or the basic costs of administrative structures. Unfortunately, there are cases where European assistance programmes contribute to waste and corruption. Ukrainian reformists are aware of this, and have brought such cases to the attention of European donors. As they fight to eradicate nepotism and corruption at home, they are acutely aware that sloppiness in the delivery, coordination, and monitoring of international aid has a highly corrosive effect.

On the other hand, subsidising salaries to make the judiciary and the highest levels of the administration more independent would increase the EU’s leverage and help eradicate one of the biggest obstacles to the country’s reform programme – the oligarchs. Germany, for example, has earmarked €300 million for the reconstruction of the Donbas, which will not happen in the foreseeable future. If this money was instead used to pay a competitive salary to Ukraine’s judges and prosecutors, on the condition that Ukraine made structural changes, such as establishing independent disciplinary commissions and abolishing the quasi-military hierarchy within the judiciary, then the money could be used for something useful in the short-term.

Judicial reform is the make-or-break reform, on which the success of all other reforms depends. Functioning courts would reinforce the implementation of anti-corruption measures, decentralisation, administrative reforms, and deregulation, because it would mean that bureaucrats who are unwilling to follow the new rules could be held to account. Without functioning independent courts, however, these reforms remain in limbo, and are blocked by those who are able to rely on their informal ties for protection.

To cope with a rapidly changing environment, the EU would be well advised to increase the amount of flexible funds it makes available for advisory staff, allowing it to hire experts on a short term basis to work on specific legislation or reform programmes. These advisers should be placed within the ministries, in order to get insight and first-hand information on processes and obstacles within the system. Other areas where more investment would have a big

impact include EU programmes on regional development, small-scale farms, and SMEs, which are among the most successful programmes from the Ukrainian side. Deregulation efforts are also under-funded. There are too few legal experts in the Economy Ministry: around 70 lawyers are working on more than 1,000 pieces of legislation. The EU has offered a lot of support to this effort already, but this area won't disappear from the to-do list any time soon, and the more support it gets, the better.

Despite all the complaints about the sluggish pace of EU programmes, civil society actors give a very positive assessment of these measures. Even if it moves slowly, the EU is open to new ideas, and responds to requests from Ukrainian civil society. Non-EU donors echo this positive assessment. In Ukraine, the Europeans and their transatlantic partners are broadly in agreement, and value each other's contributions.

The most important tasks for the supporters of Ukraine – particularly in the fight against corruption – are as follows:

1. Increase the pressure on the top political level to speed up reforms
2. Continue supporting pro-reform activists; and
3. Raise awareness in the regions about new anti-corruption instruments that have already implemented.

EU support for civil society, independent think-tanks and watchdog organisations are still crucial. Without the EU's support, many reformers would already have given up. But there are few new reform-minded individuals in the public administration, the judiciary or the Prosecutor General's Office. For the EU, directly supporting reformers in the government is an exception, and an approach that it usually avoids. However, the success of the reform agenda depends on those people. They can push for reforms from within, and build their knowledge into the bureaucratic apparatus. By contrast, external consultants have little insight into bureaucratic processes, and cannot assess the shortcomings and resistance of bureaucratic structures, or the degree of implementation of reforms. The Defence Ministry brought in new faces from civil society on a large scale after Maidan. Many experts have cited this as a positive example, and suggested that it should be copied by other ministries. The Economy Ministry under Abromavičius was another positive example, as he took steps to include experts from the private sector and civil society. But it

is not clear whether this has continued after his departure in February 2016. In the Prosecutor General's office, the opposite took place, as Former General Prosecutor Viktor Shokin fired or prosecuted all young foreign-educated, reform-minded newcomers.

Increasing transparency in government has been the biggest achievement of the EU and reformists so far in the fight against corruption in Ukraine. Many of today's scandals would have been suppressed or simply never discovered in Yanukovich's time. Ukraine has made progress, although most corruption cases are only revealed by investigative journalists and NGOs – the system is not ready to deal with the issue yet. It is vital for the EU to keep up the pressure. Expanding its support for civil society and independent media is one pillar of this, and expanding the network of trusted NGOs and experts is another. While the EU has done this in Kyiv, the lack of direct presence elsewhere is preventing the expansion of such networks beyond the capital.

Establishing a relationship of trust with civil society is not easy. More than 1,000 NGOs are registered in Ukraine, but many of them were founded by officials, politicians, or their allies. They provide a bogus imitation of civil society and transparency. These organisations rubber-stamp proposals by their sponsors, and provide little if any independent work. For example, the “Agency for Prevention of Corruption” is in theory supposed to advise the government on the fight against corruption, but in fact represents oligarchic interests. Those “dependent” NGOs have taken seats earmarked for civil society representatives in the advisory groups of some non-reform minded ministries and in the National Reform Council. These include the Culture Ministry, the Social Policy Ministry, and the Youth and Sport Ministry. On the other hand, some ministries are seen as being more open to independent advice. These include Jaresko's Finance Ministry, the Economy Ministry, the Infrastructure Ministry, the Ministry for Agriculture, and to some extent the Internal Security Ministry.

Embedding European experts and diplomats into Ukrainian governmental structures would facilitate both advice and supervision of the implementation. It would also speed up the feedback loop on whether European assistance programmes deliver the desired results, and what could be changed. Twinning programmes represents the first step towards the free flow of expertise on both sides. For the time being, a lack of language skills is the biggest obstacle to expanding this effort. The EU needs to increase its pools of experts who speak Russian or Ukrainian for such endeavours. After all, Ukraine might not

be the last Eastern European state that needs Europe to facilitate deep reform. But all efforts to give advice or pressure Ukraine will be futile if the EU does not stick to its own promises. If Ukraine completes all reforms necessary for visa-liberalisation and the EU denies it because of domestic political squabbles in some member states – Germany this time – it does huge harm not only to the EU’s own reputation, but also to the entire reform effort in Ukraine. The risk of Europeans turning inwards and giving in to populism seems to be one of the biggest dangers for EU-Ukraine policy today.

The other downfall of the European effort is the European prioritisation of Minsk over reforms. The Minsk accords are not the primary arbiter for relative calm in the Donbas. The increased capability of the Ukrainian army is. Hence for Kyiv, the European slogan that “there is no alternative to Minsk” is less and less credible. Furthermore, the communication policy on Minsk has been a disaster from the side of the Ukrainian government as well as from France and Germany, the member states leading it. This is why there is very little faith in the agreement and the proposed implementation process among the Ukrainian population, experts, and politicians. The Ukrainian government has failed to use the Minsk accords as a diplomatic tool to outmanoeuvre Russia. Many Europeans fail to understand that the preconditions for the political steps that Russia demands are not met at all, and that if Minsk were to be implemented on Russian terms, it would mean the end of Ukrainian sovereignty. Working groups established under the Minsk agreement might be useful to diminish the suffering of the local population, but the agreement as such is “unimplementable” from the Ukrainian side under current circumstances.

and national level should take into account the following recommendations:

- 1. Don't let the Minsk process detract from reform efforts.** The Minsk process focuses too much effort on transforming the war in the Donbas from a full-scale armoured manoeuvre war into a sitting-war. The Minsk format is still useful to deal with practical issues on the front line, and to keep up dialogue between the warring parties, but the Minsk agreement does not provide a proper roadmap to peace nor is progress on implementation a precondition for military de-escalation. However, particularly France and Germany, but also the US and the EU, have invested a lot of diplomatic leverage and pressure to push the political agenda (elections, special-status law) of Minsk. If the same effort had been devoted to pushing Ukraine on reforms – especially on reforming the judiciary as described above – there would have been much more progress in Ukraine by now, and the Donbas would be in more or less the same situation.
- 2. Communicate Minsk progress with the Ukrainian public.** The Minsk II implementation process was diplomatically well-coordinated, but represented a communication failure of the first order – both on the part of the West (above all by France and Germany, but also the US to some extent) and that of the Ukrainian government, particularly President Petro Poroshenko. The West failed to explain the agreement to a wider audience in Ukraine – particularly lawmakers and reformers – or to engage with those who shape public opinion about its merits and shortfalls. The discrepancy between public statements from the French and German foreign ministers, and contradictions between their respective negotiation teams in the Minsk implementation groups, has created unnecessary confusion. If

Europe wants to pressure Ukraine on Minsk, it first needs to reassure Ukrainian society – not just diplomats – that the separatists will neither gain influence in Kyiv, nor be able to use the process to gain military advantage. Without this, there will be no public support for the agreement.

3. **Focus on reform of the judiciary.** All other reforms on domestic issues, including the fight against corruption, will be unsustainable if the judiciary remains in its current state. The top priorities should be abolishing the influence of political affiliation on promotions within the judiciary, removing the strict hierarchical structure of the judiciary, paying competitive salaries, and introducing independent disciplinary commissions to deal with complaints of corruption against judges.
4. **Push harder for specialised reform-implementation bodies in each Ukrainian ministry.** Deputy-ministers and high-level officials in the ministries are too busy with their other duties to effectively dedicate time to pushing through reforms. Instead, there should be special bodies focusing on this task – particularly on core reforms such as reform of the judiciary, decentralisation, and administrative reform. The EU and the EBRD are negotiating the installation of specific programme coordination officers in each ministry. This would be an important step forward; however, the current deadlock over financial oversight of the programme needs to be overcome.
5. **Embed European diplomats and experts into Ukrainian administrative structures.** Embedding European experts into Ukraine’s state structures would give the EU insight into the process of implementing reforms, shorten feedback loops, and assist the Ukrainian bureaucracy in its transition to European standards and procedures. On the expert-level, EU-Twinning – sending administrative personnel to a partner country to assist the practical implementation of EU laws and regulation – is a first step. For the time being, such experts are only provided by a handful of member states, but this should be a much more common phenomenon.
6. **Continue to support rural development.** In the wake of the

Deep and Comprehensive Free Trade Area (DCFTA) agreement and decentralisation-reform, Ukraine's rural areas will undergo an enormous transformation. Public services and administrative structures will be closed as decentralisation reform gets underway, and the new business regulations and product certification procedures – particularly European food-safety standards for agriculture-products – will be more difficult for small- and medium-sized farms and enterprises to implement. Hence, programmes for rural development are crucial to support the transition of businesses in these regions and to keep up public support for the reform process. This is especially true for Ukraine's eastern regions, which are hit hard by Russia's economic sanctions. The programmes on rural development and agricultural transition that the EU currently has in place are one of the unsung success stories of EU support for Ukraine, and the expansion and reinforcement of these efforts should be encouraged.

7. **Support small and medium enterprises.** To aid Ukraine's economic transition and the process of de-oligarchisation, support for SMEs is essential. In a time of financial uncertainty, loan-guarantee funds are one measure that the EU could easily and effectively implement. Supporting SMEs is a way that donors could provide assistance without becoming involved in Ukrainian politics.
8. **Step up efforts to reform the Ukrainian armed forces.** The Ukrainian armed forces have already been the subject of reform, and progress made in this field exceeds that of all other state-agencies. Still, there are areas that need improvement and the country is still at war. There is room for improvement in operational and tactical planning, leadership-techniques, tactical training, and CIMIC. There are also shortfalls in equipment and technology, particularly on safe communication, electronic warfare, C² systems, anti-tank defence, and artillery tracking technology. Contrary to the opinion held in Europe, Minsk is not the guarantee of relative peace in Ukraine: deterrence through a more effective Ukrainian army is.
9. **Be open to lethal aid, if conditions are met.** The EU should deliver lethal aid, on the condition that certain reforms are made in Ukraine's defence sector – particularly reforms of logistical structures, procurement, control, oversight and disciplinary processes, and reform of the Security Service of Ukraine (SBU) –

rather than “geopolitical” considerations vis-à-vis Moscow.

10. Stick to commitments. If the EU agrees to deliver Ukraine certain benefits in exchange for progress on reforms, it must stick to its promises once Ukraine fulfils the relevant criteria. The postponement of the visa liberalisation process due to difficulties in Europe such as the refugee crisis, Brexit, and the rise of populism, despite the fact that Ukraine had met the requirements, was one of the biggest blunders the EU has made since Maidan. The EU’s stalling on visa liberalisation did great harm to the credibility of both the Union and the reformists themselves.

11. Be blunt about the shortcomings of Ukraine’s reforms. European diplomats should take Ambassador Jan Tombinski as their example and be as straightforward as possible when pointing the finger at those responsible for delaying reforms. Only by doing this can real progress can be made.

In conclusion, to de-Sovietise Ukraine is an unavoidably long-term project. Even if the Kyiv government was more committed to reforms, the effort would take years to bear fruit. Massive over-regulation, chaotic distribution and overlapping competences, and excessive employment benefits for civil servants would all stall reforms under any circumstances. The EU needs stamina, as the reform effort will have to continue for at least a decade.

Annex: Leaders and slackers on Ukraine support

9

To assess how cohesive the EU's Ukraine policy is, the following section divides member states into leaders, fence-sitters, and slackers on Ukraine reforms. Indeed, the level of support for Ukraine among member states is varied, with some states contributing much more than others, financially, through expertise, and through expressions of solidarity.

Leaders are member states that contribute to the EU's efforts to assist Ukraine and politically facilitate the European support effort to help Ukraine and counter Russian aggression. Leaders are pro-active and engaged in the reform process. For their foreign ministries Ukraine reforms are a priority. The leaders on Ukraine reforms are, in order, Germany, the United Kingdom, Sweden, Poland, Latvia, Lithuania, Estonia, Denmark, Finland, Romania, Slovakia and Bulgaria.

Fence-sitters are member states that either fail to contribute significantly to the EU's efforts or fail to facilitate them. Fence-sitters are member states that have to balance their economic or political interests in the EU and vis-à-vis Ukraine with interests in other fields. These member states do not hinder the EU's efforts, but are not always proactive in pushing them forward. The fence-sitters on Ukraine reforms are, in order, France, the Netherlands, Belgium, Czech Republic, Ireland, Hungary, Portugal, Slovenia, Spain, Croatia, Luxembourg, Malta and Cyprus.

None of the slackers have openly sabotaged reform efforts or have rolled-back sanctions, but they have attempted to confine the EU's Ukraine policy to an absolute minimum and their stance on Ukraine is largely determined by their desire to preserve positive relations with Moscow. The slackers on Ukraine reforms are, in order, Greece, Austria, and Italy.

Leaders

A

Germany

Since the Russian annexation of Crimea and invasion of the Donbas, German foreign policy towards Russia and Eastern Europe has undergone a remarkable transformation. Germany's traditionally "Russia-first" policy pivoted towards Ukraine after 2014. Ukraine has now become the focus of Germany's policy in the eastern neighbourhood. Together with France, the German government has taken on a mediator role within the "Normandy Format", which seeks to de-escalate the ongoing war between Ukraine and Russia over the Donbas region within the Minsk II process. On the other hand, Germany has been very reluctant to engage in Ukraine's defence sector reform and is hesitant to agree to a broader EU/NATO role in this reform. Still, the German *Bundeswehr* has provided medical assistance to Ukrainian forces.

With the refugee crisis Germany's political attention shifted away from Ukraine to some extent and German reluctance to engage more deeply on security issues became an obstacle as the Minsk II agreement failed to end hostilities in the Donbas. Uneven German pressure on Ukraine to unilaterally progress on elections and the special status law for the so-called Donetsk and Luhansk Peoples' Republics (DNR/LNR), as well as lukewarm and conciliatory rhetoric from Foreign Minister Frank-Walter Steinmeier towards easing sanctions, has begun to erode the strong reputation Germany had built over time.

Nevertheless, German pressure on reluctant EU member states to stick to the line on sanctions has been vital for maintaining them. Despite some disagreement within Germany's governing coalition, the official German line has remained firm – that full implementation of the Minsk II agreement is a pre-requisite for any lifting of sanctions. Consequently, even though Ukrainian-Russian relations are strained, the German government has prioritised de-escalation between Ukraine and Russia, and, so far, has not wavered on its priorities. The Federal Foreign Office is, however, aware that even if Minsk were to be implemented further steps would be necessary to stabilise the broader conflict – the issue of Crimea, for example, is not addressed at all by the Minsk agreement.

There is a growing desire in Germany to get the Ukraine-crisis off the table, with some voices arguing for a more “balanced” approach towards Russia. These voices are becoming louder as Germany approaches its 2017 *Bundestag* elections.

In 2015, alongside Germany’s share in EU, IMF and other multilateral funding schemes, the German government offered assistance through three different channels. First, it offered humanitarian aid to Ukraine in order to help displaced Ukrainians from the conflict regions, second it provided a loan of €500 million to the Ukrainian government – €200 million of which goes towards stabilising the Ukrainian budget and €300 million of which is devoted to reconstruction projects in eastern Ukraine. Third, the German government has set up an Action Plan amounting to €200 million with funds going to partner organisations, implementation agencies, businesses and civil society. The financed programs have the following priorities: energy and resource efficiency, business development and infrastructure, decentralisation and local self-government, rule of law, the fight against corruption, building civil society, education, research and development, and media.

Moreover, the German government has provided technical support and expertise, also in terms of consulting resources. The Federal Foreign Office has set up a special task force on Ukraine, and the numerous meetings between high-ranking government representatives of both countries has reflected the support of the German government for the Ukrainian government.

United Kingdom

The United Kingdom did not set out to be a public frontrunner in its policy towards Ukraine. Nonetheless, British ministers constantly raise Ukraine, and it is one of the top three issues on the Foreign Secretary’s list of priorities.

British technical assistance and advice increased throughout 2015, and the UK has provided active assistance in the process of reforming the Ukrainian defence sector. British support to Ukraine has been delivered mainly through NATO and bilateral channels. Bilateral support started in mid-March 2015, consisting of training for infantry, tactical intelligence, capacity building, and medical support. Then Prime Minister David Cameron announced in October 2015 that the UK will continue the deployment of 19 different training teams. There is also be a British liaison officer based in the US training force in East Ukraine. The MoD is assisting Ukraine with defence reform, and there is also

a British special defence adviser in the Ukrainian MoD.

Overall, the amount of the technical assistance provided by Britain isn't huge, but it is solid and has enabled a serious bilateral relationship to develop between the UK and Ukraine. The focus of British assistance is on enabling reform within Ukraine – particularly economic reform, anti-corruption measures, and improving the business environment. The newly established Good Governance Fund will provide £20 million for Ukraine, Georgia, Moldova, Serbia and Bosnia and Herzegovina in the financial year 2015-16. There is potential to expand this to a number of additional countries, with a focus on those that are particularly reform-minded, at threat from Russia, or that Britain has a particular interest in. This fund is comparable to former “know-how” funds in Eastern Europe, which Poland benefited from. The UK uses its resources to leverage wider funding opportunities, by providing seed-funding for the larger but much slower EU-funded projects.

The UK is also delivering projects in partnership with international financial institutions. These so-called “managed funds” provide particular technical assistance, for example with banking reform. The UK's Stabilisation Unit is also active in Ukraine, monitoring and reporting on the security situation on a regular basis. The UK government issued a call for Conflict Stability and Security Fund proposals for Ukraine in April, with budgets for projects ranging between £200,000 and £500,000. The Ukrainian CSSF initiative is currently under review, however, because it is not considered to have been a great success.

While proponents of Brexit claim that British leadership is weakened and British politics tamed by EU membership, the domestic squabbles that have been broadcast to the world stage and the inward-looking nature of the political establishment, has eroded trust across the Atlantic and with other partners.

British diplomacy efforts helped to coordinate and facilitate cooperation between NATO and the EU, in particular in delivering good strategic communications. Brits who worked on Ukraine in the Foreign and Commonwealth Office, as well as within the EU structures, have done an excellent job to date, and as such it is especially sad that the UK is about to leave the Union.

Sweden

Sweden was one of the main drivers or creators the EU's Eastern Partnership, perceiving the democratic and economic transition of the eastern neighbourhood as a key interest of the country. Sweden and its development agency – SIDA – is one of the most active players in Ukraine, and has had an established presence in the country for some time. Sweden's programme agenda is clearly driven by political rather than economic goals, with approximately 60 percent of its programmes concerning the strengthening of democracy, rule of law, and independent journalism, among other things.

The overall value of SIDA programmes in Ukraine is \$29.7 million (€26.5 million), of which the most important strands are governance, human rights and gender (€12.4 million), humanitarian aid (€5.8 million), conflict prevention and human security (€3 million), and energy generation and supply (€1.6 million). However, for the time being, Sweden does not engage in defence sector reform and military training as it is not part of NATO and has launched no bilateral initiative on any military dossiers. Despite this, Sweden is active in reforming the non-military security sector, both through EU programmes and missions as well as through bilateral cooperation.

On the political field, numerous bilateral meetings and consultations are held to assist and evaluate the political transformation process. Former Swedish politicians, diplomats, and officials are advising the current Ukrainian government, above all former Prime Minister Carl Bildt and renowned economist Anders Åslund. Sweden has also bilaterally granted Ukraine a \$100 million loan.

Sweden is firmly sticking to sanctions, despite the economic losses it faces from them. On Minsk, Sweden tends to remind other member states that above all it is Russia that needs to fulfil its obligations. Stockholm is very firm in maintaining that Ukraine needs to preserve its sovereignty above all, and that the Minsk process should not turn into a process in which big states prescribe to Ukraine what they should write into their constitution.

Poland

Poland has been one of the key supporters for Ukraine's transition ever since its independence. Poland has been one of the most determined member states on Ukraine, advocating for the Union not to let it fall off the agenda, even when relations have worn thin. During and shortly after the Maidan revolution, Polish

diplomats played a particularly active role in mustering EU support for transformative forces in Ukraine, as well as its new government. The Polish political establishment was particularly unhappy about being side-lined by Germany and France on the Normandy format, to which it was not party. However, once it became clear that involvement in that format would have made them co-owners of the Minsk-agreement, the bitterness quickly faded. Polish enthusiasm for Ukraine wound down in 2015, and Poland's influence within the EU diminished after the election of the conservative Law and Justice Party in late 2015.

Apart from political support, Poland provided Ukraine with loans worth \$100 million (€89 million) on favourable conditions making Poland the second-biggest bilateral European creditor after Germany. Poland signed an agreement to increase the capacity of the gas inter-connector between both countries and is eager to become the second largest supplier of gas to Ukraine after Slovakia. The funds that the Polish Official Development Assistance (ODA) allocated to Ukraine increased significantly after the Maidan movement. According to preliminary estimates, Poland has allocated over \$12 million (€10.7 million) to Ukraine.

Due to the strong tradition of Polish-Ukrainian relations and cooperation, there is a large pool of experts, politicians, bureaucrats, and military personnel in the country that know Ukraine well and can be used for embedded assistance and advisory tasks. As Ukraine chose the Polish model of decentralisation, Polish experts are particularly engaged in administrative reform and well placed to offer assistance. Numerous city-partnerships and Polish civil society initiatives supplement this effort.

Poland has also opened up its market to Ukrainian seasonal workers. According to estimations, their number in the first half of 2015 exceeded 410,000. Poland issues the largest number of visas for Ukrainians in the EU. In the first half of 2015 Poland issued almost 435,000 visas for Ukrainians, 10 percent more than in 2014 in the same period. Poland took part in all multilateral military exercises with Ukraine and delivered non-lethal equipment to the Ukrainian army through NATO. Poland also trained 75 Ukrainian officers, and the Lithuanian-Polish-Ukrainian Brigade finally became operational in 2016.

While many international investors have shied away from Ukraine, Polish investment in Ukraine increased in 2015 – if only by a small margin. Poland

accounts for 5.5 percent of all foreign direct investment to Ukraine. Polish investments comprise of small and medium sized enterprises in western Ukraine.

Latvia

Like the other Baltic countries, Latvia, above all, tries to mobilise support for Ukraine within the EU and NATO. Given that it lacks many resources and that Ukraine is of strategic importance to it, Latvia has to work through international frameworks to have an impact. To the extent it can, Latvia supports Ukraine's transition with practical aid. A major part of the bilateral development aid – totalling \$23 million (€20.2 million) for all countries in 2015 – is allocated by Latvia to support Ukraine's reform process, with particular stress on the agriculture sector. Financial and human resources have also been allocated in the fight against corruption, advisory missions, and promotion of the reform process. Latvia has also frozen the assets of several Ukrainian oligarchs and provided training for customs personnel. Medical, financial and rehabilitation support has also been offered by Latvia to Ukrainian families and children from war affected zones. Latvia also contributes in NATO training initiatives for Ukrainian officers and specialised military personnel.

With regard to Russia's engagement in the war in Donbas, Latvia together with like-minded EU member states, has continuously pushed for a unified and strong EU response. Latvia actively supported the signing of the DCFTA with Ukraine and has voiced its support for Ukraine at most international platforms, including the Riga Summit, Civil Society Conference, OSCE talks, and the Baltic Sea Region Parliamentary Conference.

Lithuania

Lithuania tries to mobilise EU and NATO support for Ukraine due to its limited national capacity. Lithuania pushed for an early visa-liberalisation process, and the Lithuanian Minister of Foreign Affairs Linas Linkevičius is one of the most eloquent and outspoken diplomats in the EU on Ukrainian issues. In December 2014, upon the initiative of an MEP from Lithuania – Petras Auštrevičius –, an informal group called "Friends of European Ukraine" was created in the European Parliament. Lithuanian President Dalia Grybauskaitė was announced as "Ukraine's Person of the Year 2014" for "her solid support to Ukraine's independence, sovereignty, territorial integrity and European aspirations".

As with the other Baltic countries, Lithuania also musters outsized practical support. In 2015, Lithuanian support to Ukraine amounted to around €1.4 million, bilateral development cooperation projects received €535,000; contributions to international organisations, missions and projects amounted to €42,187; support for the education sector amounted to €460,000; medical support to the Ukrainian army was €127,000, and €449,000 was given for humanitarian aid.

Needless to say that there is – like in all the Baltic countries – also strong support for Ukraine from civil society and business communities – particularly regarding humanitarian assistance and medical support. Additionally, Lithuanian experts, former diplomats, judges, and others work for various Ukrainian reform-groups and institutions, including the National Security and Defence Council.

Estonia

To Estonia, mobilising EU and NATO support for Ukraine is also a priority due to the limited influence the country can have on its own. Over the past year, Estonia has directed the largest part of its bilateral development assistance and humanitarian assistance to Ukraine. Wounded Ukrainian servicemen have been brought to Estonian hospitals, Estonia has offered consulting resources in setting up e-governance digital solutions, it has provided scholarships and special programs for Ukrainian students, bilateral assistance to NGOs and international organisations, such as UNICEF and UNHCR, and dealt with Ukrainian internally displaced people.

Estonian officials and NGOs from the full spectrum of public sector and civil society are involved in advising Ukraine on reforms or providing assistance to ease the reform process. Estonia's overall bilateral development assistance is €11.5 million, of which Ukraine receives the largest share. The other recipients are primarily from the post-soviet space.

In Estonia, the Centre for the Eastern Partnership trains officials from EAP countries to meet European standards and procedures, and has been working closely with Ukraine. As in other Baltic states, governmental assistance programmes are supplemented by civil society cooperation as well as partnership programmes between individual cities and businesses.

Denmark

Denmark, together with Sweden, Poland, the Netherlands and the Baltic states, is part of the “Friends of European Ukraine” initiative, which seeks to make sure Ukraine continues to be a priority in EU discussions – for example in FAC meetings. Denmark is presiding over the Nordic council in 2016 and announced that it will continue its support for Ukraine via Nordic-Baltic (NB-8) cooperation.

Beyond the EU-framework Denmark has launched several projects in Ukraine which aim to support the country in fulfilling its obligations vis-à-vis the Association Agreement with the EU. These include an energy resilience project that aims to reduce dependency on Russian energy supply, a good governance project, and a project supporting independent media such as the *Kyiv Post* and the new public broadcasting agency.

Direct development aid via the Danish development cooperation initiative – DANIDA – amounts to 9.6 million Danish kroner (about €1.15 million) across 26 projects. This support represents 0.26 percent of the overall DANIDA budget. In November 2015 Denmark launched an investment facility project aimed at promoting Danish investments in Ukraine. There are also a range of civil society programmes in Ukraine run by Danish NGOs. In particular, the Danish Association for Investigative Journalism (FUJ), should be singled out for supporting independent journalists. Danish support for independent and investigative journalism in Ukraine has been very effective. While Danish support measures might not carry the financial weight of other nations, in terms of quality they should be highly commended.

Finland

Finland does not waver on the line that Ukraine has a right to determine its own future and model for modernisation. As a result of the Ukraine crisis, Finland has significantly increased its support for Ukraine in terms of financial assistance, humanitarian aid, OSCE monitoring, election monitoring and the provision of civilian expertise. According to estimations from the Ministry of Foreign Affairs, Finland’s total aid to Ukraine during the years 2014 and 2015 – including aid and funding provided through international organisations and different projects, direct financial assistance and humanitarian aid as well as the costs of sending monitors and experts – amounts to €17 million.

In 2015, Finland supported Ukraine with a total of €7.1 million in aid. In addition, Finland has spent about €1.9 million to send OSCE monitors, border security experts, election monitors and anti-corruption experts to Ukraine. Humanitarian aid accounts for €1.5 million of the total funds, and is channelled evenly through the World Health Organization (WHO), the UN refugee agency (UNHCR) and the International Federation of Red Cross and Red Crescent Societies (ICRC). Finland's reconstruction aid totals €3.5 million. Finland has also channelled €175,000 to Ukraine to support cooperation at the local level, mainly targeting civil society actors.

Romania

Since joining the EU in 2007 Romania has been a strong supporter for the Union's eastern neighbourhood policies, and later, the Eastern Partnership. Romania's approach to Ukraine has primarily been driven by strategic concerns. After the annexation of Crimea, Russia created an amphibious hub in the Black Sea that is seen as an immediate danger in Bucharest. Only a strong and western allied Ukraine can prevent further Russian expansion. Hence Romania does not shy away from supporting Ukraine's military sector, with €250,000 provided for bilateral technical and military assistance and €500,000 for NATO trust funds in 2015. Romania is one of the few countries where supplying lethal aid is discussed publicly, however the country would not do so unless there is wider support for such a policy among allies.

Apart from the security field, Romania is eager to use the DCFTA to boost its economic and trade-relations with Ukraine. After the Maidan, Romania also adopted a "Romania-Ukraine Joint Operation Programme", which began in 2014 and will run until 2020. The programme makes use of the ENP's instrument to boost neighbourhood relations along the Romanian-Ukrainian border and will fund projects to support education, research and development, culture, heritage-preservation, investment, infrastructure, transport and communication, and safety and security. Romania and Ukraine will contribute €6 million each, which will then be topped up by €60 million from Brussels. For Bucharest the programme serves two purposes – it stabilises Ukraine, and it helps to develop its own eastern and northern border-regions which remain poor.

Slovakia

Slovakia is a direct neighbour of Ukraine, which is home to a sizeable Slovak minority. Offering support to Ukraine is therefore an important priority to Slovakia. Even before the Maidan Slovakia had a strong interest in the DCFTA with Ukraine because it would boost its neighbourhood relations. Slovakia predominantly supports Ukraine through multilateral frameworks like the European Union Advisory Mission for Civilian Security Sector Reform Ukraine, the OSCE and United Nations Development Programme (UNDP). Ukraine will be one of the main focus areas of Slovakia's EU-presidency in 2016. Despite Brexit and the continuous disputes on the refugee crisis, the Slovak presidency tried to maintain the support effort for Ukraine in the EU's agenda.

Within the Visegrád Four, the burden for different strands of the reform effort is divided out between the Central European states. Slovakia is responsible for energy security and reform of the security sector in Ukraine, and its biggest added value has been the substantial support received for the reverse flow of gas to Ukraine – something that helped Ukraine to survive the winter and also increased the negotiation capacity of Kyiv towards Moscow.

Furthermore, Slovakia supports Ukraine's reform efforts in the areas of state governance, self-government, civil society, justice, rule of law and reform of administration, public finance, and anti-corruption reforms. Slovakia has also engaged in medical assistance and rehabilitation programmes, as well as de-mining trust-funds through NATO. In the case of the simmering conflict in the Donbas, Slovakia contributed humanitarian and development assistance to the value of €600,000.

Despite pro-Russian attitudes within some parts of Slovakia's political system and the desire to boost business-ties with Russia, Ukraine is far too important a neighbour for Bratislava to neglect. Hence Slovakia did rise to Russian pressure to interrupt gas-reverse-flows to Ukraine.

Bulgaria

Bulgaria is supporting a peaceful way out of the crisis in Ukraine with full respect to the sovereignty, unity and territorial integrity of Ukraine within its internationally recognised borders. Despite strong Russian influence in Bulgarian society, the government is stemming a huge effort in keeping up sanctions and explaining the West's policy to its own population. Diplomatically, Bulgaria is a strong supporter of the EU's position on Ukraine. However, with Bulgaria's own economic transition process still underway, its capacity to support Ukraine is limited.

Bulgaria contributes to NATO's Trust Fund for Ukraine, which helps rehabilitate wounded military personnel and the NATO Trust Fund for Logistics and Standardization. Since 2014 Bulgaria has contributed €50,000 per year towards humanitarian aid for Ukraine. This is delivered through the ICRC.

With Ukraine a de-facto neighbour of Bulgaria, just across the Black Sea, and the home of a sizeable Bulgarian minority, Bulgaria is a strong supporter of the DCFTA and Association Agreement. Improvement of neighbourhood relations and boosting trade are its prime interests. Hence Bulgaria offers advisory assistance to Kyiv on implementing the agreement and expertise in the areas of legislation, implementation of trade preferences, standardisation, sanitary and phytosanitary control, trade protection measures, investments, and improving the dialogue between private and public sectors.

Fence-sitters

B

France

On the diplomatic front, France has been very active within the Normandy Format to broker a more sustainable ceasefire between Russia and Ukraine. However, France has barely contributed to the support effort for Ukraine. The humanitarian assistance for Ukrainian refugees pledged by France is only a fraction of the German effort. There are few French operative personnel in EU missions working in Ukraine, and barely any visible effort being made to help the reform process.

Nevertheless, François Hollande fought to maintain sanctions in a very difficult domestic as well as European environment, and French diplomats engaged in the Minsk-contact group were effective negotiators. With more experienced personnel and employing more resources, France could have done much more on the issue. However the country's attention and resources were quickly absorbed by domestic squabbles and domestic terrorist attacks.

In the light of the recent Paris attacks, France will try to find solutions with the US and Russia to not only contain, but destroy the so-called Islamic State group. In the end, no trade-offs were made, because Vladimir Putin and Hollande were at odds about how to progress in Syria and what the end goal of the war should be. Russia was also unwilling to consider France as a serious negotiating partner and wanted to talk to Washington instead. There is anxiety in Europe about the next potential French president – Nicolas Sarkozy or Marine Le Pen – who are virtually indistinguishable on Russia and Ukraine. In the event that either is elected leader France would be much more eager to come to terms with Russia or even offer some support for Russia's actions in both Ukraine and Syria.

The Netherlands

In April 2016, the Netherlands voted to reject the EU-Ukraine Association Agreement in a non-binding referendum. Although only 32 percent of the population came out to vote, the decision shocked the Dutch government. The Hague was heading the presidency of the Council of the European Union at the time and was trying to keep the war in the Donbas on the European agenda, particularly as the downing of MH-17 – most likely by Russian servicemen – caused almost 200 Dutch fatalities. The Netherlands have therefore been supportive on sanctions despite losing one of their biggest export markets for agricultural goods. However, with growing right-wing pressure to “take the referendum seriously” the Netherlands faces a dilemma. Europe won’t renegotiate the Association Agreement over a non-binding referendum for the reason of internal cohesion. But on the other hand the Dutch government is not yet ready to explain this to its electorate – hence the Association Agreement hangs in limbo.

Ukraine does not receive Official Development Aid (ODA) from the Dutch government. However, in 2015 the Netherlands supported Ukraine in strengthening the rule of law and good governance within the context of the Matra European Partnership Programme. It provided financial aid to the value of €1 million to set up a media project in the Donbas that was aimed at training journalists about how to work in conflict zones. The Dutch government has also provided non-lethal material assistance to Ukraine, such as helmets, blankets, and other supplies. Within NATO, the Netherlands is part of an initiative that assists Ukraine with defence reform, under the auspices of the NATO-Ukraine Joint Working Group on Defence Reform.

Belgium

Belgium neither obstructs nor supports sanctions or Ukraine. Belgium does not take its own initiative on supporting Ukraine but sticks to the decisions and programmes of multilateral organisations, specifically the EU and NATO. Since the Maidan movement various officials have visited Ukraine and several official declarations of support have been issued, which also insisted that both sides comply with the Minsk Agreements.

After the Paris and later the Brussels attacks, the fight against terrorism became Belgium’s number one priority, at the expense of Ukraine. There were, and are, voices that would like to engage Russia on the fight against terrorism,

and who therefore perceive Ukraine as an obstacle to closer cooperation with Russia. However this is not the official government line.

Czech Republic

Although the Czech Republic supports Ukraine's territorial integrity and sovereignty, there is a growing distrust towards the Ukrainian political establishment among Czech political leaders and the state administration. The Czech Republic and particularly President Miloš Zeman is wavering on sanctions, and discussing how to preserve – or even expand – its economic interests in Russia. With the refugee crisis stirring up a domestic identity debate, the political debate on Russia is volatile. There is no clear position on Russia or Ukraine.

Ukraine belongs among the priority countries of the Czech Republic's transition promotion assistance. Its priority areas are the reform of the educational system, free media and support for NGOs. Overall, support for Ukraine in the framework of this programme is about €550,000. A further €200,000 has been provided from the humanitarian assistance programme with €780,000 earmarked for humanitarian aid supplies. The Czech Republic is one of the major contributors to the Visegrád fund (alongside Poland and Slovakia). The fund provided €3.4 million in grants to various civil society and cultural projects in Ukraine. Ukraine is by far the largest recipient of the fund among all non-Visegrád countries.

The Czech Republic does not provide or have future plans to provide direct budgetary support for Ukraine, and the country has cancelled all its licences for exports of weapons to Ukraine. It does not plan to provide military or security support.

Ireland

Ireland has stressed its political support for the territorial integrity and sovereignty of Ukraine, however it has also stressed the importance of maintaining an open dialogue with Russia on key issues. Due to geographic distance and limited resources, Ukraine is not at the heart of Ireland's foreign policy, and so Ireland sticks with the European consensus.

In 2015, Ireland provided a total of €202,000 to two NGOs for humanitarian relief and gender-based violence response programmes in eastern Ukraine. This funding represented an increase of €17,000 on the previous year's funding.

In addition, Ireland has provided a total of €7.5 million in un-earmarked global core funding to the ICRC. The ICRC is very active in eastern Ukraine, and an element of that funding will go towards the work in Ukraine. However, no precise figures are available because the way this money is spent is down to the ICRC rather than the Irish government. Ireland has also contributed approximately €4 million, indirectly through the EU, to Ukraine's macro-financial assistance programme.

Hungary

Viktor Orbán's advances towards Russia, his criticism of sanctions, and opportunism in advancing Hungarian economic interests – particularly on the energy-sector – vis-à-vis Russia are highly problematic and undermine European cohesion. The Hungarian Ministry of Foreign Affairs often treats the war in Ukraine as if it were already frozen and engagement with Russia were inevitable. The Hungarian stance on Russia is highly problematic, and there is great suspicion amongst other EU member states whether Hungary will hold the ranks on sanctions in the future. In 2014 Hungary suspended reverse-flow deliveries of gas to Ukraine due to Russian pressure, indicating that Budapest might make other pro-Russian turns in the future. Only the Ministry of Defence dares to regard Russia's behaviour as a threat. Nonetheless, Hungary provides significant assistance to Ukraine.

Ukraine is a direct neighbour of Hungary, and home to a sizeable Hungarian minority. With Hungary's eastern regions heavily underdeveloped, economic transition in Ukraine is also regarded as a tool to promote the country's own economic interests. Hence the Hungarian development assistance to Ukraine is confined to the west of Ukraine, particularly the Transcarpathia *oblast*.

In the military field, Hungary offers language training and wounded soldier-rehabilitation on a limited scale. Hungary also sent a NATO liaison officer to Kyiv in March 2015. In cooperation with other Visegrád countries, transition support (technical and advisory assistance) was offered to Ukraine in various sectors. Hungary chose to fund SMEs, which is in line with the new trade focus of Hungarian foreign policy. The Eastern Partnership programme of the Hungarian

MFA focuses on infrastructural development, and renovation of buildings in order to improve their energy efficiency in the region. Hungary's contribution in 2015 was 155 million HUF (€500,000). As of February, Hungary had already offered 340 million HUF (€1 million) to support public institutions in Transcarpathia.

Hungary has also offered 100 million HUF (€320,000) for IDPs in Ukraine. The government closely cooperates with charities (usually religious) to deliver the support and distribute it on the ground. In the framework of "twinned city" cooperation, Hungarian towns and villages collected donations, offered summer-camps, and humanitarian assistance for towns and villages in Ukraine.

In April 2016, Hungary announced a financial package to ease the worsening economic situation of Hungarians in Transcarpathia. It amounted to 650 million HUF (€2.1 million) out of which 486 million HUF (€1.57 million) was allocated for about 2,000 teachers, 50 million HUF (€161,300) for about 400 priests and ministers to complement their salaries and 116 million HUF (€374,000) for meals for about 4,000 children. As of October 15, the package was further expanded to include teachers of music and art schools who teach in Hungarian (100,000 HUF/€319 per person this year, altogether 35 million HUF/€111,742), for doctors who work in Hungarian (150,000 HUF/€479 per person per year) and for health sector employees with university degrees (100,000 HUF/€319 per person per year).

The Hungarian assistance would in principle be a good example for cross-border neighbourhood programmes – if it were not so narrowly focused on providing for Ukraine's Hungarian minority.

Portugal

Despite being relatively distant from Ukraine geographically, Portugal is a strong supporter of the Ukraine's reform agenda and the ongoing democratic transition process in the country. During his visit to Ukraine, Portugal's secretary of state Bruno Maçães also held several meetings with political and administrative authorities in Kyiv, Mariupol and Rivne. In all these meetings Maçães confirmed Portugal's support to Ukraine reform agenda, underlining the imperative to fight corruption. He also met with representatives of Portuguese companies investing in Ukraine.

In 2015 the Portuguese government provided financial assistance to Ukraine in the framework of two cooperation projects under NATO's practical support to Ukraine – the NATO-Ukraine Cyber Defence Trust Fund and the NATO-Ukraine Military Career Management Trust Fund.

Slovenia

Although Slovenia does not recognise Russia's annexation of Crimea, the country has been careful not to blame Russia directly for the invasion in the Donbas, treating the conflict as an internal one that can be solved through direct negotiations between the parties. Assistance to Ukraine is limited even when compared to the size of the country. Slovenia offers some advice on administrative reform, and since the beginning of the war has contributed €219,500 to Ukraine. In 2015 in particular it contributed the following: €95,000 for post-conflict children rehabilitation; €50,000 for soldier rehabilitation; and €43,000 worth of donations in kind, the remaining €29,500 stemming from development assistance programmes of earlier years.

Spain

Searching for a new government and dealing with a domestic economic crisis, Europe's east has not been at the core of Madrid's policymaking since the events of Maidan. Hence there is, and has been, a certain amount of division or contradiction within the government on Ukraine and Russia. Some actors in Spanish politics, like Foreign Minister José García-Margallo y Marfil or the populist party *Podemos* have often demonstrated a level of understanding for Russian arguments about the war in Ukraine – those arguments being that Russia has legitimate interests in Ukraine, that the West has neglected the geopolitical environment of the Eastern Partnership, and that the EU preaches double standards. However, so far Madrid has had an overall interest in maintaining European unity and aligning with Germany. The Ministry of Defence took the lead in criticising Russia, citing the danger to European unity and cohesion above all. As such, Madrid's position on the annexation of Crimea has been very firm from the beginning.

Madrid has shown little commitment when it comes to offering bilateral support for Ukraine either in military terms, development aid, or financial assistance. There is a high level of distrust about whether Kyiv is able to

manage the support it receives, especially as incidents of corruption and waste have been brought to the attention of the Spanish government. In the early stages of the conflict, Spain provided non-lethal equipment, and later has supported Ukraine's reform agenda and participated in "twinning" structures. Madrid has also pledged to provide technical assistance in cybersecurity.

Despite of all the elites' preoccupation with domestic issues and the rise of pro-Russian *Podemos*, there is growing civil society support in Spain for Ukraine. Spain's own historical experience under Franco made the public particularly sceptical of Putin and more people are coming to understand and empathise with Kyiv's desire to emancipate itself from Russian influence. Last but not least, the current Spanish ambassador to Ukraine is one of the most active and outspoken supporters of Ukraine's reform movement.

Croatia

Croatia has continued to support EU efforts to assist Ukraine in its economic and political reform process, especially regarding its capabilities to carry out structural reform and state modernisation. Croatia considers the AA/DCFTA to be a crucial instrument in the fulfilment of the aforementioned goals.

As for development aid, Croatia, is a country that has encountered war-related challenges in its recent past, has focused on sharing know-how and experience acquired through its war and post-war democratic transition. Up until November 2015, Croatia has implemented and initiated the preparation of the following projects, related to know-how and experience transfer, and which amount to €200,000. The first project focuses on managing displaced persons and refugees; the second focuses on training of medics in the field of war psychiatrics and psychology; the third trains Ukrainian on how to document war crimes and crimes against humanity; the fourth focuses on how to reintegrate war veterans (NATO Military Career Transition); the fifth project focuses on installing anti-mine systems; and by extension, the sixth project focuses on anti-mine training.

As for humanitarian aid, Croatia has launched three aid programmes in Ukraine, amounting to €460,000. The first focuses on physical and psychosocial rehabilitation of wounded war veterans (in Croatia), the second on aid in the form of clothes and equipment for refugees and displaced persons (in Ukraine); and the third focuses on psychosocial rehabilitation of Ukrainian children (in Croatia).

Luxembourg

Given the size of Luxembourg its contribution to the European support effort has been limited. The country's attempts to facilitate an EU-Russian dialogue are rather influenced by the desire to salvage country's own financial interests in Moscow than to improve the situation on the ground. However, Luxembourg does not sabotage sanctions or the European support effort.

Malta

Malta has not provided any direct military support, development assistance, humanitarian assistance, or macro-financial support to Ukraine. Both the prime minister and foreign minister insist that Malta is “toeing the EU line” on Ukraine and providing financial and political support through the EU.

Cyprus

Cyprus is the strongest foreign investor in Ukraine (US \$11.7 billion of investment as of April 2015) because in essence it is a part of the offshore-banking system of Ukraine. But the same is true for Russia, which the island has strong relations with. Hence, Cyprus has walked a tight-rope through the crisis, trying not to alienate either side. As it remains heavily dependent on the EU, Cyprus has, in essence, stuck to the EU line. The country has contributed to the IMF's macro-financial stability programmes and provided in-kind humanitarian assistance.

Slackers

C

Italy

In official declarations, Italy pays lip-service to the territorial integrity and sovereignty of Ukraine. However, beyond diplomatic politeness, Italy seems more concerned with preserving or re-establishing its economic ties with Russia. Unlike Finland, the Baltic States, Poland or Bulgaria, Italy hardly feels the consequences of sanctions, but complains the loudest about them. Many Italian politicians and policymakers think, like Russia, in terms of “great power politics” and “spheres of influence”. With the migration-crisis occupying the minds of politicians, and Italian officials particularly unhappy about the results of the western intervention in Libya, the temptation to fall for Russian arguments about a “division of spheres of influence” is strong.

The Italian Government perceives Russia as a key interlocutor, not only for Ukraine, but also for some other important dossiers such as Libya, Syria and the Iran nuclear deal. However, Italy deems Russian unilateral intervention in support of Assad as detrimental to any political solution in Syria. Rome would be ready to reach out to Russia exclusively in the case of concrete progress in the implementation of the ceasefire.

Italy has barely done anything to support Ukraine’s transition. In 2015, the Italian government earmarked an overall contribution of €200,000 for emergency humanitarian interventions to the International Red Cross Committee (IRCC). This is about the same amount of assistance Slovenia provides to the support effort.

Austria

Austria officially condemned the annexation of Crimea as a violation of international law but calls for Ukraine to take responsibility for their internal reforms. Although it toes the EU’s official line on Crimea, Austria was the first states to host Putin as an official guest after the Crimean annexation (June 2014) and made proposals for deepening economic relations during

that visit. This conversation took place at the same time that the EU was discussing the ramping up of sanctions against Russia due to the war in the Donbas. Sympathy for Putin is widespread among the political and administrative classes in Austria. Austrian diplomacy is heavily tilted towards a “Russia first” approach and the country prioritises the security of its own economic interests in Russia above support to Ukraine.

In May 2015, Foreign Minister Sebastian Kurz announced €1 million funding to improve the humanitarian situation in Ukraine. There is also some desire in the Foreign Ministry to be more pro-active in Ukraine as Austrian private investors “rediscover” the country. On the Ukrainian energy sector Austrian SMEs working on renewable energies and particularly bio-gas plants have seen favourable conditions as gas prices were liberalised. Austria is the fifth largest investor in Ukraine – however 70 percent of Austrian investment is in the banking-sector – despite, and not because of its political relationship. However, economic relations have been hampered by the fact that the Ukrainian government has black-listed Austria as a potential tax haven. There is no agreement between the two national banks on exchanging information on suspect financial transactions and cooperating on investigations in the financial sector. Vienna is the second home of choice for many oligarchs and affiliates of the Yanukovich regime, above all Dmytro Firtash. Austria has no ongoing development cooperation in Ukraine, and no governmental programmes to support reform efforts.

Greece

Greek-Russian relations have traditionally been strong, and even more so on the extreme left and extreme right. The war in Ukraine and the deterioration of European-Russian relations was a political shock for Greece. Representatives of the Russian *nomenklatura* – including Putin himself – frequently visit Greece. Verbal dissatisfaction with sanctions is aired frequently by Greece and threats of undermining side-deals – both on sanctions and on energy – undermine European cohesion. However, Greece is too dependent on Europe, and particularly Germany, to solve its own structural and monetary problems, limiting how far it can challenge Berlin on sanctions. Still, Greek Foreign Minister Nikos Kotzias made a number of proposals to Ukraine on how Greece can offer medical care for wounded soldiers and could facilitate access to Greece for Ukrainian citizens. However, due to the restrictive financial situation, none of these proposals has been realised yet. Greece has no ongoing development cooperation with Ukraine, and no governmental programmes to support reform efforts.

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Finally I want to dedicate this paper to the young and enthusiastic Ukrainians I have met over the last two years. From the trenches in the Donbas to the streets of Kyiv, they are fighting for a new Ukraine – free, fair and just. May their project succeed and their dreams come true. In the Austria I grew up in, corruption, nepotism, blackmail, espionage and scandal were everywhere. But our country changed, not at least because it joined the European Union. Now, walking the upmarket and renovated streets of Vienna, enjoying a Grüner Veltliner, old stories of the Lucona or Noricum scandal seem like a bad fairytale from a distant time. I hope that when my son is old enough to walk the streets of Kyiv, stories about Yanukovych and his regime feel just as outdated to any Ukrainian citizen.

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