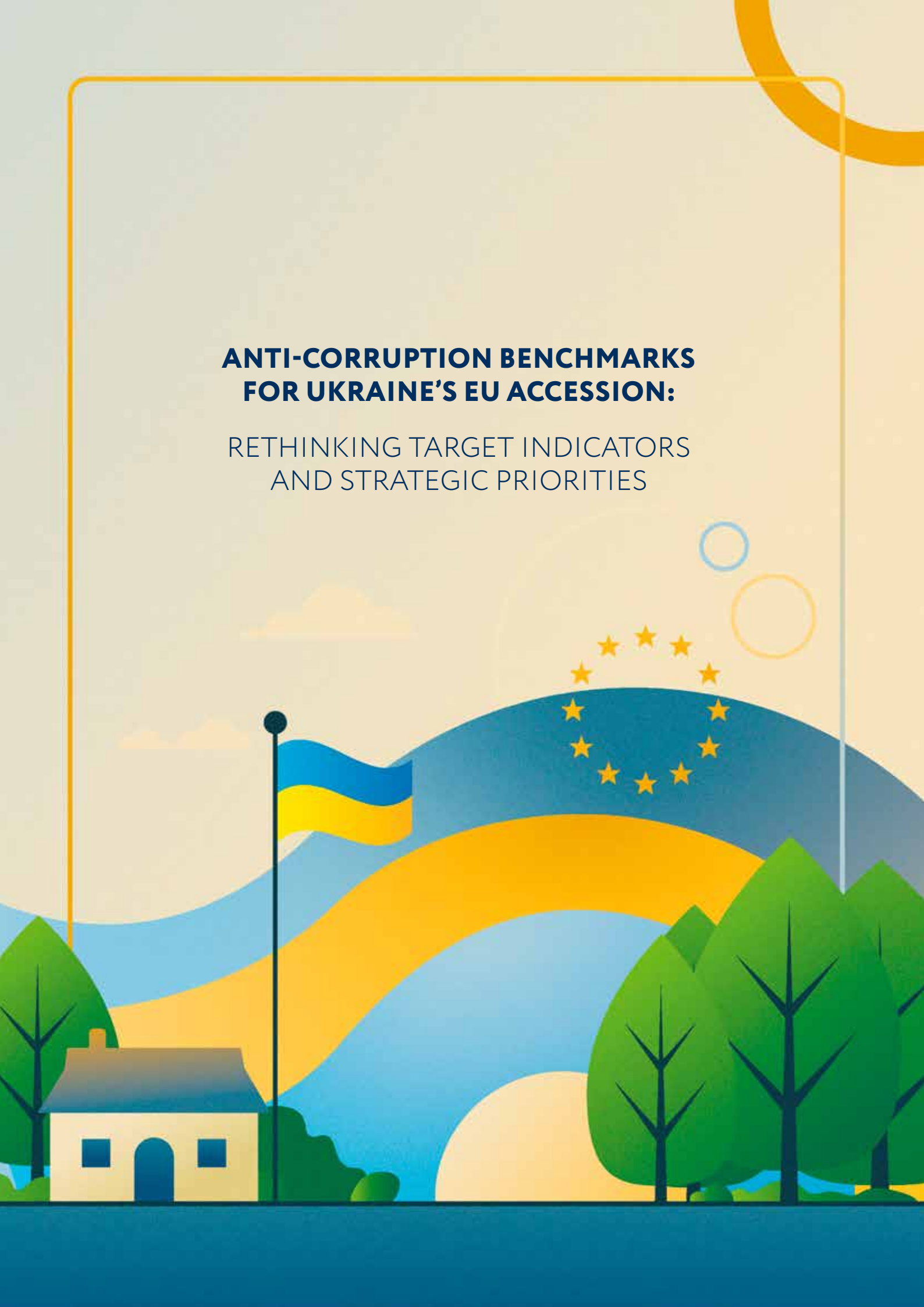


ANTI-CORRUPTION BENCHMARKS FOR UKRAINE'S EU ACCESSION:

RETHINKING TARGET INDICATORS
AND STRATEGIC PRIORITIES





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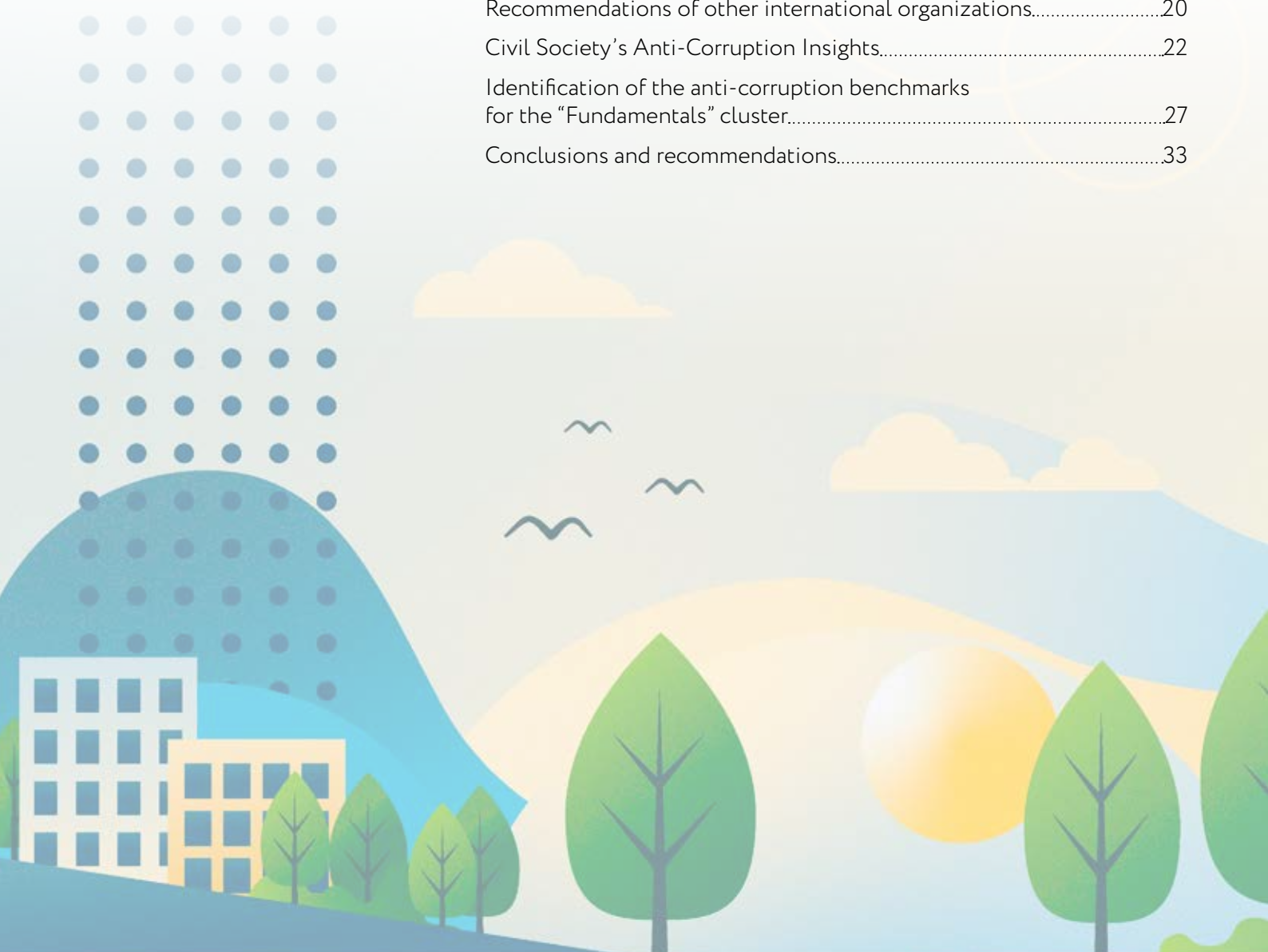
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The research analyzes anti-corruption reforms in Ukraine in the context of its integration into the European Union. The requirements of the “Fundamental Reforms” cluster, which are related to the rule of law and the fight against corruption, are studied. Particular attention is paid to the reports of international organizations such as the OECD and the European Commission, their recommendations, as well as the gaps that remain in anti-corruption policy and their implementation in Ukraine. The purpose of the research is to identify the key challenges facing Ukraine and to outline ways to improve the reforms needed to meet European standards by identifying anti-corruption benchmarks for the Fundamental Reforms cluster.

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LIST OF ABBREVIATIONS

ARMA - National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes

BES - Bureau of Economic Security

EC – European Commission

EU - European Union

HACC - High Anti-Corruption Court

NABU - National Anti-Corruption Bureau of Ukraine

NACP - National Agency on Corruption Prevention

SAP - State Anti-Corruption Program

SAPO - Specialized Anti-Corruption Prosecutor's Office

SBI - State Bureau of Investigation

SSU - Security Service of Ukraine

INTRODUCTION

UKRAINE'S MEMBERSHIP IN THE EUROPEAN UNION (HEREINAFTER – EU) IS A CONSCIOUS NATIONAL ASPIRATION DRIVEN BY A DEEP-ROOTED COMMITMENT TO THE SHARED VALUES OF DEMOCRACY, THE RULE OF LAW AND PROSPERITY. OVERCOMING THE PROBLEM OF CORRUPTION IS A CORNERSTONE OF THIS TRANSFORMATIONAL JOURNEY, AS CORRUPTION HAS LONG BEEN RECOGNIZED AS AN OBSTACLE TO UKRAINE'S FURTHER PROGRESS AND REMAINS UNDER SCRUTINY IN THE EU ACCESSION PROCESS. TACKLING THIS CRITICAL ISSUE IS A PREREQUISITE FOR THE IMPLEMENTATION OF COMPREHENSIVE REFORMS IN UKRAINE AND ITS SUCCESSFUL INTEGRATION INTO THE EUROPEAN FAMILY. ACHIEVING A REDUCTION IN CORRUPTION AND DEMONSTRATING A GENUINE COMMITMENT TO ANTI-CORRUPTION EFFORTS ARE VITAL PREREQUISITES FOR UKRAINE TO STRENGTHEN ITS PATH TO EU MEMBERSHIP AND TO TAKE FULL ADVANTAGE OF THE DEMOCRATIC VALUES AND ECONOMIC OPPORTUNITIES THAT COME WITH IT.

In general, the relevance of the problem of corruption and anti-corruption in Ukraine in the context of the European integration process is extremely important and is underlined by the dynamics of recent events. Despite the duration of the Russian invasion, Ukraine has made significant progress in implementing European standards and values. The European Commission's report recommending the launch of negotiations on Ukraine's accession to the EU underscores the recognition of the achievements and the importance of granting the country candidate status.

A significant step in this direction is the launch of the screening process, in which Ukrainian legislation will be assessed for compliance with EU standards (Acquis). The six thematic clusters, which are grouped into 35 chapters¹, will identify those areas of legislation in which progress needs to be made to make the legislation of candidate countries compatible with EU rules. The most likely area will be the prevention and combating of corruption, which falls under Chapters 23 and 24.

Anti-corruption is a constant topic of discussion during the negotiations. This determines its importance and relevance in the context of the European integration process. In this regard, it is necessary to develop benchmarks in the field of anti-corruption, which will become the basis for accelerated integration and achievement of EU standards. This is an important step to ensure that Ukraine's anti-corruption legislation meets the requirements and expectations of the EU, which is key to the successful completion of the country's European integration process.

The main objective of this analytical report is to develop

a set of concrete and measurable anti-corruption benchmarks for Ukraine for the fundamentals cluster. These benchmarks will not only contribute to the effective implementation of the most important anti-corruption measures, but will also take into account the general provisions of the previous recommendations in the context of Ukraine's accession process.

In order to formulate these benchmarks, we will conduct a comprehensive analysis of recent reports published by a number of international, European and national organizations monitoring the progress of anti-corruption reforms in Ukraine. These reports provide valuable insights into the progress and challenges of anti-corruption reforms in Ukraine. By carefully studying these authoritative sources, we ensure that the criteria proposed in this report are based on a thorough understanding of the current situation and the specific needs of the Ukrainian context.

This analytical report will briefly describe the general process of accession of any country to the EU, describe chapters 23 and 24 of the European Acquis, describe the experience of forming benchmarks in the Fundamental Reforms (Cluster 1) for the Western Balkans countries, analyses reports of international, European intergovernmental and national organizations on the fight against corruption in Ukraine, and on the basis of this analysis, identify benchmarks.

¹ Chapters of the acquis: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en

DESCRIPTION OF THE EU ACCESSION PROCESS: WHAT THE STATE SHOULD DO TO ACHIEVE IT

Ukraine is gradually moving towards membership in the EU. This process began as early as the declaration of independence: it was determined that Ukraine wanted to join the union of European states. For a long time, the parties have been building relations with each other, culminating in the signing of the EU-Ukraine Association Agreement in 2014. The Agreement allowed for the renewal of joint institutional mechanisms of cooperation, expansion of cooperation in a number of key areas, and strengthening of Ukraine's political association and economic integration with the EU. During 2014-2022, the parties interacted with each other within the framework of this Agreement - Ukraine approved relevant plans for its implementation, monitoring and performance evaluation, and the EU, in turn, carried out an external assessment of such implementation².

This situation was changed by the full-scale invasion of the Russian Federation in February 2022, which contributed to the decision to apply for membership in the EU. The application was officially signed on 28 February 2022, and since then, Ukraine's official path to EU membership has begun.

The process of accession to the EU is a complex and multifaceted one that requires the state to undertake a series of comprehensive reforms and transformations aimed at bringing its political, economic and social structures in line with the standards and requirements set by the EU. To embark on this path, the state must first demonstrate its commitment to the core values and principles of the EU, including democracy, the rule of law, human rights and the protection of minorities. This implies establishing and maintaining stable institutions that can guarantee the effective implementation and adherence to these principles. In addition, the candidate country must develop a functioning market economy capable of withstanding competitive pressures and market forces within the EU. This implies a wide range of economic reforms, such as privatization, liberalization or, conversely, increased regulation, strengthening of financial and regulatory institutions.

Over time, the EU has refined and expanded its accession criteria, adding new policy areas and country-specific requirements. In 2020, a revised methodology was introduced to "build trust by focusing even more on the fundamental reforms needed to succeed

on the path to the EU"³. The revised methodology placed greater emphasis on the Fundamental Reforms cluster, which is the first cluster to be opened at the beginning of the accession process and remains open until the end. This makes it the longest cluster in the negotiations. It includes Chapters 23 and 24 (chapters on the rule of law), Chapter 5 (Public Procurement), Chapter 18 (Statistics) and Chapter 32 (Financial Control). In addition, the new approach to the EU accession negotiations includes additional thematic areas in this cluster, such as the functioning of democratic institutions, public administration reform, and economic criteria. The chapters on the rule of law remain central to the negotiations, with a focus on fundamental aspects of the functioning of democratic institutions, public administration reform, and support for economic reforms. As a result, the overall pace of the negotiations in the Fundamental Reforms Cluster depends on fundamental reforms in the rule of law (Chapters 23 and 24), as well as in other thematic areas of the Fundamental Reforms Cluster⁴.

The main legal document governing this process is Article 49 of the Treaty on EU. The main stages of the accession process of any country to the EU include:

1. SUBMITTING AN APPLICATION FOR MEMBERSHIP

A country seeking to become an EU member submits a formal application to the Council of the EU. This application must meet the criteria set out in the Copenhagen criteria, which were established in 1993. They include:

- ▶ Political criteria (stability of democratic institutions, rule of law, respect for human rights, protection of minorities).
- ▶ Economic criteria (functioning market economy, ability to compete within the EU).
- ▶ Legislative alignment (the ability to fulfil membership obligations, including the implementation of EU legislation).

In addition to these criteria, the EU stressed that its institutions should also be prepared to accept new members. The Copenhagen criteria have become important benchmarks for new member states, providing potential candidates with significant incentives to implement political, legal and economic reforms. However, the decision on whether candidates meet these criteria remained political (formal), which made their application not always fully objective⁵.

² Ministry of Finance of Ukraine. Implementation of the Association Agreement with the EU. URL: <https://mof.gov.ua/uk/vikonannja-ugodi-pro-asociaciju> (access date: 17.11.2024).

³ Enhancing the accession process - A credible EU perspective for the Western Balkans. European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). URL: https://neighbourhood-enlargement.ec.europa.eu/enhancing-accession-process-credible-eu-perspective-western-balkans_en (date of access: 17.11.2024).

⁴ Početna - EU u Srbiji. URL: https://euinfo.rs/plac3/wp-content/uploads/2023/04/ToR_MEI_Horizontal_Cluster1_roadmap-for-democracy.pdf (access date: 17.11.2024).

⁵ Copenhagen Criteria. Oxford Reference. URL: <https://www.oxfordreference.com/display/10.1093/oj/authority.20110803095637775> (date of access: 17.11.2024).

2. PROVIDING AN OPINION ON THE APPLICATION

As part of this stage, the European Commission (hereinafter – EC) sends a special questionnaire to the countries that have submitted their applications. The answers to the questionnaire will form the basis of the Commission’s opinion on the application.

3. GRANTING CANDIDATE STATUS

If the EC, the European Parliament and the EU member states unanimously approve the application, the country is granted candidate status. However, this status does not mean automatic accession - the country has to go through a negotiation process.

4. ACCESSION NEGOTIATIONS

This stage is the longest and consists of sections or ‘chapters’ (*acquis*) dealing with various aspects of the legal system and economic policy. The 35 chapters of the European *acquis* cover the key issues necessary for the harmonization of the candidate country’s legislation with the EU⁶⁷. These chapters are aimed at fully adapting the country’s legislation and regulations to EU standards in all areas of life. The requirements relate to the adaptation of national legislation to the *acquis* Communautaire - the body of EU legislation⁸. Among the key chapters, which will be the focus of this report, are Chapters 23 and 24, which cover the judiciary and fundamental rights and justice, freedom and security, respectively. EU accession negotiations progress as clusters are opened and chapters are closed. The negotiation process is fully completed only when all chapters of the European *acquis* are closed. It is important to note that at the negotiation stage, Chapters are closed only conditionally and can be reopened in case of regression or significant expansion of the EU legal framework. Chapters 23 and 24 on the rule of law are considered “blocking chapters” because progress in this area affects the dynamics of the entire negotiation process, including the pace of opening clusters and closing other Chapters.

5. ACCESSION AGREEMENT

After successful completion of negotiations, an accession agreement is signed, which must be approved by the EC, the European Parliament and all EU member states. The candidate country must also ratify the agreement at the national level, usually through parliament and/or a referendum.

6. FINAL RATIFICATION AND ACCESSION

Once the ratification of the agreement is complete, the country becomes a full member of the EU with the rights and obligations set out in the treaty. The country must comply with all EU rules and regulations.

By following this complex process, a candidate country can work towards becoming a fully integrated and full member of the EU. This allows the candidate to benefit from the significant advantages of economic, political and social integration, including access to the EU single market, increased trade and investment opportunities, increased political influence, and social and cultural exchange. However, EU accession also requires a candidate to assume a number of responsibilities and obligations, such as bringing its laws and policies into line with the EU *acquis* Communautaire, participating in EU decision-making processes, and making a financial contribution to the EU budget. Fulfilling these requirements can be challenging, but the overall benefits of EU membership usually outweigh the costs for candidate countries that are willing to undertake the necessary reforms and adaptation.

6 They include the free movement of goods, labor, services and capital, public procurement, competition, intellectual property, financial services, economic and tax policy, social policy, education and culture, healthcare, transport, energy, environment, consumer rights and health protection, statistics, social rights, customs union, external relations, security and defense, judiciary and human rights, justice, freedom and security, science and research, financial control, financial and budgetary provisions, procurement, audit, agriculture and fisheries, regional policy and other provisions

7 Chapters of the *acquis*, European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). URL: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en (date of access: 17.11.2024).

8 EU accession process: step by step. URL <https://euneighbourseast.eu/uk/news/publications/proczes-vstupu-do-yes-krok-za-krokom/> (access date: 17.11.2024 p.).

DESCRIPTION OF CHAPTERS

23 “JUDICIARY AND FUNDAMENTAL RIGHTS” AND 24 “JUSTICE, SECURITY AND FREEDOM” OF THE EUROPEAN ACQUIS

Although the term ‘*acquis* communautaire’ refers to the entire body of EU law, it has been divided into 35 chapters for the purposes of negotiations. Chapters 23 and 24 of the European *acquis* are key to the EU integration process, as they focus on the rule of law and the protection of fundamental rights. According to the Copenhagen criteria, a candidate country must guarantee the stability of institutions that ensure democracy, the rule of law, human rights and the protection of minorities. These elements later became the basis for Chapters 23 and 24, which play a crucial role in accession negotiations by stimulating reforms in candidate countries. This concentration marked the beginning of a new approach to negotiations, which was introduced in 2012 during the next EU enlargement process. Since then, the EU has emphasised the importance of these chapters, requiring candidate countries to make significant progress in judicial reform, anti-corruption and minority rights as part of their accession requirements. This change has led to a more comprehensive and rigorous assessment of a country’s readiness for EU membership, ensuring that new members are fully committed to upholding the EU’s core values and principles.

Chapter 23 includes the judiciary and fundamental rights. The EU states that *«EU policy on justice and fundamental rights aims to maintain and further develop the Union as a space of freedom, security and justice. The establishment of an independent and effective judiciary is of paramount importance. Impartiality, integrity and a high standard of judicial decision-making are essential to ensure the rule of law. This requires a strong commitment to eliminating external influence on the judiciary and the allocation of sufficient financial resources and training. There must be legal guarantees of fair trial. Likewise, member states must effectively combat corruption, as it poses a threat to the stability of democratic institutions and the rule of law. A strong legal framework and credible institutions are essential to support a coherent policy to prevent and deter corruption. Member States must ensure respect for the fundamental rights and entitlements of EU citizens guaranteed by law and the Charter of Fundamental Rights»*.⁹

Chapter 24, on the other hand, deals with justice, freedom and security. This chapter covers *«the requirements related to the development of a comprehensive EU policy to address migration, asylum, border control, judicial cooperation in criminal and civil matters and police cooperation»*¹⁰. Candidate countries must demonstrate, firstly, the ability to effectively implement and apply EU policies and international norms in the field of justice, freedom and security, secondly, the availability of effective remedies for violations of rights, and thirdly, the ability to contribute to the Schengen area of free movement and implement relevant legislation. In particular, control over the EU’s future external borders is crucial for ensuring the integrity and expansion of the Schengen area.

Successful completion of these chapters is essential for the candidate country to demonstrate its readiness and commitment to the EU’s values, principles and policies. This ensures that the candidate country is fully prepared to take on the responsibilities and obligations associated with EU membership, contributing to the integrity and stability of the Union as a whole.

Chapters 23 and 24 of the European *acquis* emphasize the importance of values such as the rule of law, human rights and the fight against corruption, and in some respects, they provide very specific instructions. For example, in the area of human rights, there is an extensive list of directives that candidate countries must implement, as well as specific requirements for the fight against drugs. However, in certain sections of these chapters, the lack of clear criteria creates additional difficulties for candidate countries. This complicates the process of adaptation, as countries must not only declare their desire to adhere to European values, but also independently develop mechanisms for their implementation in national legislation.

Another important issue, according to the experts, is the correct formation of benchmarks for measuring the country’s progress in the negotiation process on the country’s accession to the EU. Different indicators and questionnaires can create a false impression of the situation in the country. This primarily concerns the issues of preventing and combating corruption. For example, surveys on the perception of corruption in society can sometimes give the impression that the level of corruption in a country can be accurately assessed by certain numerical indicators. However, it is extremely difficult to determine the actual levels of such crimes. For example, one can conduct surveys on corruption faced by citizens or on political corruption, but the results often depend on many factors and do not provide accurate data on high-level corruption. It is also possible to analyse the current legal and institutional environment and the performance of law enforcement agencies, but it remains uncertain whether the increase in convictions is the result of a more robust fight against

⁹ Chapters of the *acquis*. European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). URL: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en (date of access: 17.11.2024).

¹⁰ Ibid

corruption or whether it is an indication of an increase in the number of such offences¹¹.

SETTING BENCHMARKS IN THE FUNDAMENTAL REFORMS CLUSTER: THE EXPERIENCE OF THE WESTERN BALKANS

HISTORY OF THE DEVELOPMENT OF BENCHMARKS

The rule of law and respect for fundamental rights are among the fundamental values of the EU. Accordingly, high standards of compliance with these values are set as a condition on candidate countries to join the EU.

A high level of the rule of law is seen as one of the prerequisites for a candidate country's accession to the EU. However, the EU is disappointed with the experience of the fifth wave of enlargement (accession of Bulgaria and Romania), which failed to complete reforms of the judiciary and fight against organised crime and corruption by the time of accession¹².

That is why the negotiation framework for Croatia, approved in 2005, for the first time included a separate chapter of EU legislation, Chapter 23 'Judiciary and Fundamental Rights'. A system of benchmarks was also introduced¹³, in particular, Croatia had opening benchmarks for Chapters 23 and 24 and closing benchmarks for the same chapters.

In 2011, the EC proposed to extend the use of benchmarks to include interim targets called "interim benchmarks". Montenegro was the first country to face the challenge of implementing interim benchmarks, and it opened the negotiation process in 2012. The interim benchmarks are applied only to two chapters of EU legislation (chapters 23 and 24)¹⁴ to emphasise the EU's special focus in the negotiation process on the rule of law, anti-corruption and the fight against organised crime.

The negotiation frameworks of other candidate countries also provide for a special emphasis on Chapters 23 and 24, which are part of the Fundamentals cluster. This means that the Fundamentals cluster is opened first in the negotiations and closed last. For many years, EU member states have slowed down the negotiation process of these candidate countries for various reasons. North Macedonia was forced to change the name of its country because of a dispute with Greece and to amend its constitution because of a dispute with Bulgaria. These political demands were even included in the negotiation framework. All these issues in the Western Balkans are not directly related

¹² Ibid

¹³ Ibid

¹⁴ Moreover, there is currently a possibility for introduction of interim benchmarks for Serbia for Chapter 35. Chapter 35 is related to the normalization of relations with Pristina (Kosovo) which is unique for Serbia.

¹¹ The 100% Union: The rise of Chapters 23 and 24. Clingendael. URL: <https://www.clingendael.org/publication/100-union-rise-chapters-23-and-24> (date of access: 17.11.2024).

to the negotiation process, but they have a significant impact on its dynamics. Delays, as in the cases of North Macedonia and Albania, are often caused by political issues and sensitive bilateral relations, such as between North Macedonia and Bulgaria. However, even after the start of negotiations, progress on reforms remains slow, as evidenced by the examples of Serbia and Montenegro, which have been negotiating for more than a decade. Other candidate countries are at an even earlier stage. Therefore, the experience of Montenegro and Serbia is the most interesting for understanding how the anti-corruption indicator system works.

Croatia was the first country to have initial anti-corruption targets upon accession to the EU. It had to prepare a National Anti-Corruption Programme and related action plans, which included¹⁵:

- a) Establishment of an effective institutional coordination mechanism for the implementation and monitoring of anti-corruption efforts;
- b) the effectiveness of the legislation on the financing of political parties and election campaigns in combating corruption;
- c) measures to prevent conflicts of interest.

Montenegro and Serbia were also tasked with preparing action plans as initial anti-corruption benchmarks.

Interim benchmarks were not developed during the accession negotiations of Croatia. Montenegro and Serbia each received 14 interim anti-corruption benchmarks from the EC. Most of these benchmarks are similar for both countries. These include asset declarations, recruitment of civil servants, funding of political parties, impact of anti-corruption measures in sensitive areas, monitoring of investigations and punishments in the field of corruption prevention, and protection of whistleblowers. Other targets set for Serbia and Montenegro differ and/or take into account the specifics of the legislation of these countries.

The anti-corruption interim benchmarks set by the EC for Serbia and Montenegro can be divided into four groups:

- ▶ Strategic documents - the need to create action plans, strategies, roadmaps, etc. that describe further reforms in the field of anti-corruption;
- ▶ Legislative requirements - requirements to adopt necessary legislation, implement GRECO recommendations, etc. For example, adoption of a law on whistleblower protection, amendments to the law on political party financing, revision of the Criminal Procedure Code, etc.
- ▶ Institutional requirements - establishing new anti-corruption bodies or ensuring the capacity, independence and effectiveness of existing

ones. For example, Montenegro was required to establish an Agency for the Prevention of Corruption, and one of the interim benchmarks was to increase the capacity of the Ministry of Internal Affairs to investigate financial crimes and establish an Asset Recovery Office.

- ▶ Track records - a collection of statistics and other information that is provided to the EC on a regular basis. For example, on anti-corruption investigations, asset confiscation, cases of conflicts of interest, anti-corruption measures in sensitive areas, etc.

The Ministry of Justice regularly reports to the EC every six months on the implementation of interim benchmarks¹⁶. For monitoring, special tables (Track Record tables) are compiled, which include statistics provided by interim benchmarks.

Despite the fact that negotiations on Chapter 23 were opened with Montenegro in 2013, and with Serbia in 2016, progress in the fight against corruption remains moderate. In 2023, the EC assessed the readiness of both countries for membership in the fight against corruption as «some level of training.»¹⁷ In the report on Serbia, the EC stressed that «it is still necessary to create conditions for their (interim benchmarks) implementation.»¹⁸

The situation with the implementation of interim benchmarks by Montenegro is more positive. In particular, the document prepared for the 16th intergovernmental conference on Montenegro's accession to the EU states that «the EU agrees that Montenegro as a whole has fulfilled the interim benchmarks.»¹⁹ But it is also noted that «corruption remains a problem in Montenegro, and the need to intensify efforts to further implement effective anti-corruption policies based on the rule of law, as well as the proper management of EU funds.»²⁰

Among the clearly positive changes in the fight against corruption was the implementation of the indicator on the creation of the Agency for the Prevention of Corruption. The EC noted that the results in the field of preventing corruption in Montenegro have improved thanks to the work of the Agency. The latest public opinion poll on the Agency's activities showed that 78.5% of citizens trust its work²¹.

The problem of implementation of benchmarks and

¹⁶ United Nations Office on Drugs and Crimes. Republic of Serbia Enhancing the effectiveness of anti-corruption bodies Contribution for the 11th session of the Open-ended Intergovernmental Working Group on the Prevention of Corruption (June 9-10, 2020). URL: https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2020-June-9-10/Contributions/Serbia_EN.pdf (access date: 17.11.2024).

¹⁷ Strategy and Reports. European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). URL: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/strategy-and-reports_en (date of access: 17.11.2024).

¹⁸ EUR-Lex - 52023DC0690 - EN - EUR-Lex. EUR-Lex - Access to European Union law - choose your language. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0690> (date of access: 17.11.2024).

¹⁹ EUROPEAN UNION COMMON POSITION Chapter 23: Judiciary and fundamental rights. URL: <https://data.consilium.europa.eu/doc/document/AD-13-2024-INIT/en/pdf> (date of access: 17.11.2024).

²⁰ Ibid

²¹ Montenegro: In the Jaws of Corruption and Foreign Malign Influence. International Republican Institute. URL: <https://www.iri.org/resources/montenegro-in-the-jaws-of-corruption-and-foreign-malign-influence/> (date of access: 17.11.2024).

progress in the fight against corruption for the Balkan countries is due to several factors:

- ▶ Political will remains one of the main factors driving progress in reforms in the fight against corruption. For example, in Serbia and other Western Balkan countries, political elites would prefer to maintain the status quo and have little interest in reform²².
- ▶ Some of the interim benchmarks lack specificity and measurability, they are formulated in general terms and/or there is no problem in these formulations. Such formulations leave room for ambiguous interpretations and political bargaining when assessing the implementation of indicators.
- ▶ The lack of specific models in the EU of how certain requirements defined in the indicators should work leaves the candidate countries free to choose the model for implementing these reforms. As a result, countries can choose models that change only the shape, but do not address the essence of the problem²³.
- ▶ The implementation of benchmarks works better when the country has «intermediate rewards» (for example, participation of candidate countries in the work of EU bodies)²⁴. The process of joining the EU is long, especially for the countries of the Western Balkans, and the prospect of membership may be too remote to be an incentive to fulfill interim benchmarks.
- ▶ Analysis of the experience of different countries of the Western Balkans on various indicators shows that legislative changes are implemented easier than practical implementation²⁵.
- ▶ Benchmarks in the area of the rule of law appeared only after the fifth wave of enlargement. Some political forces in the candidate countries may consider such requirements unfair, as some existing EU members have problems with the rule of law and the effectiveness of the fight against corruption²⁶. However, no such detailed requirements were imposed on these countries upon accession. Therefore, the introduction of benchmarks may be described by Eurosceptic political forces as special obstacles to EU accession.

WHAT CHALLENGES HAVE THE WESTERN BALKANS FACED IN IMPLEMENTING THE BENCHMARKS AND HOW THEY CAN BE OVERCOME

Among the Western Balkan countries that already have experience in implementing the benchmarks in the EU Accession Process Framework cluster, namely Chapters 23 'Judiciary and Fundamental Rights' and 24 'Justice, Freedom and Security' are Serbia and Montenegro. Benchmarks are a product of the EC and the EU member states. In Serbia, there were no problems with the implementation of the opening benchmarks, which include the development of Roadmaps in the areas of Rule of Law, Democratic Institutions and Public Administration Reform. The situation started to get more complicated when the EC started the next stage and developed interim benchmarks, which were then sent to the Government of Serbia for implementation.

The interim benchmarks in Serbia were very general and difficult to measure and therefore to implement. Since the interim targets were developed for the first time for the Western Balkans, no one knew what they would look like in practice. The absence of clear, specific, measurable, achievable, meaningful and time-bound requirements of the European *acquis* makes it difficult for candidate countries to understand what reforms they need to implement. For example, an independent judiciary can be built in different ways. The rules that work well in EU member states with long democratic traditions may not be appropriate for countries in transition. In addition, measures that have proven effective in transition countries, such as extensive vetting of judges and prosecutors and possible dismissal, may sometimes conflict with European standards, such as the indefinite appointment of judges²⁷. Once the problems with the indicators became apparent in Serbia, it was impossible to change the situation. Serbia is currently due to receive its closing benchmarks and discussions are underway on how to influence their wording.

Analyzing Serbia's experience, Ukraine should develop interim benchmarks in parallel with the development of opening benchmarks, namely roadmaps, to be able to influence their formation. This task can best be accomplished by civil society, as it is inherent in its role as an active advocate for Ukraine in the EU. Another problem is the lack of clarity and transparency in the process of setting these benchmarks. Although the EC bases them on a screening process, questions remain as to how member states influence their development,

22 Reforming from the Bench - Marking Offside [Comparative Analysis] - EPI. EPI. URL: <https://epi.org.mk/post/8658?lang=en> (date of access: 17.11.2024).

23 Ibid

24 Reforming from the Bench - Marking Offside [Comparative Analysis] - EPI. EPI. URL: <https://epi.org.mk/post/8658?lang=en> (date of access: 17.11.2024).

25 Ibid

26 The 100% Union: The rise of Chapters 23 and 24. Clingendael. URL: <https://www.clingendael.org/publication/100-union-rise-chapters-23-and-24> (date of access: 17.11.2024).

27 Ibid

ANALYSIS OF REPORTS OF INTERNATIONAL, EUROPEAN INTERGOVERNMENTAL AND NATIONAL ORGANIZATIONS ON THE FIGHT AGAINST CORRUPTION IN UKRAINE

especially with regard to opening, interim and closing benchmarks. Given these peculiarities, Ukraine should conduct such an analysis and start working on interim benchmarks and propose them to the European community.

Thus, such work includes analyzing the relevant benchmarks in the anti-corruption sphere and proposing interim and closing benchmarks that Ukrainian civil society and the Ukrainian government can already actively advocate for, in order not to waste time and end up like Serbia, when it was too late to change anything²⁸.

Ukraine has long been actively engaged in reforming its judicial system and fighting corruption. The first important steps in this direction were taken after the Revolution of Dignity in 2014. Since then, under the close supervision of European and international partners, as well as with the support of civil society, the Ukrainian government has been implementing various reforms aimed at strengthening the rule of law and fighting corruption. Undoubtedly, the issue of preventing and combating corruption, along with the reform of the judiciary, has always been a priority on the reform agenda in Ukraine. This significantly differs the situation in Ukraine from that faced by the Western Balkan countries at the beginning of their negotiations with the EU.

At the same time, ongoing monitoring by leading European and international organizations allows us to assess Ukraine's progress in implementing anti-corruption reforms. This simplifies the process of tracking key reform indicators within the framework of the EU-Ukraine accession negotiations.

During the negotiation process within the Fundamental Reforms cluster, Ukraine faces many complex challenges and requirements. One of the key issues that Ukraine must address is the problem of corruption, which has long undermined the country's democratic and economic development²⁹. In order to join the EU, Ukraine must demonstrate a strong commitment to fighting corruption at all levels of government and society. This will require the implementation of strong anti-corruption legislation, the creation of effective law enforcement agencies, and the promotion of transparency and accountability in state institutions.

The current state of anti-corruption efforts in Ukraine is characterized by instability and lack of effectiveness. Despite the implementation of important reforms in this area, corruption remains a significant problem due to deep-rooted public attitudes and a history of corrupt practices³⁰. The conflict with Russia has further exacerbated the situation by disrupting trade and economic ties, creating new opportunities for corruption³¹.

To address these challenges, Ukraine needs to take comprehensive and multilateral measures. This includes strengthening the legal and institutional framework for anti-corruption efforts, enhancing the independence and capacity of law enforcement agencies, and building a culture of integrity and transparency in the public sector³². Ultimately, Ukraine's ability to successfully implement these anti-corruption measures will be a crucial factor in determining its readiness to join the EU.

Ukraine has long been under the scrutiny of its international and European partners, who monitor its progress in the fight against corruption. Western partners pay considerable attention to anti-corruption reforms in Ukraine for several reasons. First, given the substantial financial and military assistance provided to Ukraine, especially due to the ongoing conflict, corruption poses a serious risk to the effective and transparent use of this assistance. Prioritizing anti-

29 Sukhonos, V V., Pavlenko, L., Krukmal, O., IVANOVSKA, A., & Maletov, D. (2021, May 5). Forms of committing corrupt abuses of public finances and ways to counteract them in Ukraine., 10(39), 149-158. <https://doi.org/10.34069/ai/2021.39.03.14>

30 Ibid

31 Sardak, S., Radziyevska, S., & Yc, I. (2019, January 1). Exports of Ukraine as a global challenge for its future. *EDP Sciences*, 65, 09003-09003. <https://doi.org/10.1051/shsconf/20196509003>

32 OECD. (2013). Anti-corruption trends in Eastern Europe and Central Asia. In *Anti-corruption Reforms in Eastern Europe and Central Asia: Progress and Challenges, 2009-2013* (pp. 13-22). OECD Publishing. <https://doi.org/10.1787/9789264201903-4-en>

corruption measures allows Western partners to ensure that their support reaches the intended beneficiaries and contributes to Ukraine's stability and resilience. Secondly, corruption undermines democratic processes, reduces public trust and hinders good governance. Promoting transparency, accountability and the rule of law through anti-corruption reforms strengthens democratic institutions and practices in Ukraine, which is a strategic goal of Ukraine and is in line with the broader foreign policy objectives of Western partners. Third, fighting corruption is a prerequisite for stimulating economic growth and investment.

Creating a more predictable and transparent business environment will help Ukraine attract foreign investment and ensure sustainable economic development, which is critical for its long-term prosperity and integration with Western economies. In addition, corruption weakens state institutions, undermines the rule of law and creates vulnerabilities that can be exploited by malicious actors. Tackling corruption strengthens Ukraine's security sector, improves governance and enhances overall stability, which is particularly important in the context of the ongoing conflict. Finally, given Ukraine's aspirations to join the EU, compliance with the bloc's strict anti-corruption standards is a key objective. The EU has made it clear that the fight against corruption is a key condition for Ukraine's accession process, and by prioritizing these reforms, Ukraine is demonstrating its commitment to aligning itself with EU norms and values. Therefore, Western partners are prioritizing anti-corruption reforms in Ukraine to ensure aid effectiveness, strengthen democratic institutions, boost economic growth, improve security and support Ukraine's EU accession aspirations. These reforms are essential for Ukraine's long-term stability, prosperity and Euro-Atlantic integration.

As part of the negotiation process, Ukraine must, among other things, negotiate on the Fundamental Reforms cluster, which covers anti-corruption issues. In order not to repeat the path of the Western Balkan countries, which was complicated by a number of factors: lack of clear criteria, political component of negotiations, adaptation of reforms to national conditions and gradual establishment of benchmarks, it is necessary to understand what kind of reforms leading European and international organizations expect from Ukraine.

The sphere of preventing and combating corruption is characterized by its complexity and a set of blocks that in one way or another determine the progress/regress of the overall sphere. These include the issues of formulation and implementation of anti-corruption policy, independence of specialized entities for preventing and combating corruption, prevention of corruption, investigation of corruption and corruption-related offences, criminal, administrative, civil and disciplinary liability for corruption and corruption-related offences, international cooperation in the field of investigation of corruption offences, etc. Additionally,

this area often includes issues of preventing and combating corruption in the judiciary.

As we can see, this area covers a fairly wide range of issues, and all of them are extremely important. However, from the point of view of forming benchmarks, we should focus and form a list of blocks that would be both comprehensive and capacious. To this end, we should look at the reports of international and European governmental, intergovernmental and non-governmental institutions that have been monitoring Ukraine's progress in fighting corruption in recent years.

OECD'S ANTI-CORRUPTION ASSESSMENT AND RECOMMENDATIONS

The **Organization for Economic Co-operation and Development (OECD)**, which is an international organization that helps to set evidence-based international standards and find solutions to social, economic and environmental problems, including in the areas of transparency and good governance. The OECD assesses Ukraine within the framework of the Istanbul Anti-Corruption Action Plan³³, which covers the countries of Eastern Europe and Central Asia.

In 2024, the OECD released the 5th monitoring round assessment report under the Istanbul Plan on Ukraine's progress in preventing and combating corruption. The 5th monitoring round uses an indicator-based methodology to increase the objectivity, consistency and transparency of expert assessments. The assessment is based on international standards and the results of previous rounds of monitoring, focusing on the following areas: **anti-corruption policy, prevention of corruption (asset declaration), activities of specialized anti-corruption institutions and prosecution of corruption**, especially at the highest levels. The framework comprises nine areas of activity, each with four indicators and a set of benchmarks, which are further subdivided into elements to provide a detailed assessment. In other words, the OECD also sets its own benchmarks to assess Ukraine's progress in certain areas.

In the area of anti-corruption policy, the OECD identifies the following assessment indicators:

1. a sound and up-to-date anti-corruption policy;
2. an inclusive and transparent policy development process;
3. an effective policy implementation process; and
4. coordination, monitoring and evaluation of policy implementation.

According to the OECD, the three benchmarks of the first indicator are almost fully met³⁴. The only thing the experts emphasize is the lack of budget estimates for planning and implementation of the Anti-Corruption Strategy measures (not only those planned and implemented by the National Agency on Corruption Prevention (hereinafter – NACP). The second indicator contains two main benchmarks measuring the process of transparency and inclusiveness of engagement in the anti-corruption policy-making process, and they are fully met. The largest gaps are found in Indicators 3 and 4. Due to the late adoption of the Anti-Corruption

Strategy for 2021-2025 (actually adopted in mid-2022), the State Anti-Corruption Programme (hereinafter – SAP) was formed for only 3 years: 2023, 2024 i 2025. OECD experts also note the lack of an adequate budget for the implementation of the anti-corruption programme³⁵. Among the shortcomings of the process of coordination, monitoring and evaluation of the anti-corruption strategy is the lack of staff of the NACP. According to experts, *«the presence of only 5 employees³⁶ makes it impossible to properly and effectively coordinate, monitor and evaluate the implementation of more than 1000 measures by 95 agencies and 15 working groups»*³⁷.

In addition, the NACP has not published any monitoring/evaluation reports (primarily, the National Report on the Effectiveness of the State Anti-Corruption Policy Implementation) on the implementation of the SAP. An information system for monitoring the implementation of the SAP was launched³⁸, but it contains only a statistical set of data on the (non-)implementation of measures envisaged by the SAP.

In the **area of asset declarations**, the OECD identifies two main assessment indicators: 1) broad, transparent and digitalized asset disclosure; 2) impartial and effective audit and enforcement. According to the report, Ukraine has developed a sophisticated asset declaration verification system, which is administered, maintained and verified by the NACP. The agency has the right to access various databases to conduct these checks. Despite the existence of a developed legal framework, Ukraine lacks evidence of effective prosecutions for violations of financial control. Despite the fact that the NACP refers cases of potential violations, courts impose sanctions only in some cases. Effective inspection, enforcement and dissuasive sanctions are crucial for progress in this area. Therefore, the OECD experts recommend that the risk-based verification of asset declarations should be made unimpeded, focusing on high-level officials. The verification process should be streamlined, coordinated and carried out in cooperation with the NACP and other relevant institutions³⁹.

The OECD identifies the following performance indicators for **specialized anti-corruption agencies**: 1) specialization of investigators and prosecutors; 2) specialization in identifying, tracing, managing and recovering illicit assets; 3) appointment of heads of specialized investigative and prosecutorial bodies; 4) powers and transparency of specialized investigators and prosecutors.

35 We would like to disagree with this assessment, since a significant amount of state budget expenditures is currently directed to supporting the economy and military spending necessary to repel armed aggression. Therefore, it is obvious that other budget expenditures can be reduced by unpopular decisions.

36 As of the evaluation period.

37 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.2024).

38 Information system for monitoring the implementation of the state anti-corruption policy. URL: <https://dap.nazk.gov.ua/> (access date 17.11.2024)

39 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.2024).

33 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.2024).

34 Ibid

Most of the indicators are positively assessed by the OECD. This primarily concerns the capacity of Ukraine's specialized agencies to identify, trace, manage and recover illicit assets. The National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (ARMA) has this mandate. OECD experts note that Ukraine has a whole system of bodies responsible for identifying, tracing, managing and recovering illicit assets: ARMA, NACP, National Anti-Corruption Bureau of Ukraine (hereinafter – NABU), the Office of the Prosecutor General, and the Ministry of Justice. In their opinion, Ukraine should unify approaches to these issues and properly distribute powers among all involved actors.

The report also notes shortcomings in the independence of the head of the special investigative body (NABU), in particular, the lack of clear and transparent grounds for the removal of the head (director), a clear and consistent procedure for removal, and the publication of information on the results of removal. The activities of special pre-trial investigation bodies and prosecutors also need to be improved in terms of publishing information on closed criminal proceedings and the grounds for their closure. Currently, such information is provided in the report on registered criminal offences and the results of their pre-trial investigation, but this report lacks details of the grounds.

The last area in which the OECD assesses Ukraine's progress in **preventing and combating corruption is the prosecution of corruption**. In this area, the OECD mainly assesses statistical indicators of detection and investigation of various corruption offences, application of certain types of punishment for corruption offences, (non-)application of mitigating circumstances and/or exemption from criminal liability for corruption offences, changes in certain procedural rules for investigation of corruption offences, etc. This area includes the following indicators: 1) prosecution for corruption offences; 2) prosecution of legal entities; 3) application of property confiscation measures; 4) detection, investigation and prosecution of high-level corruption.⁴⁰

Assessing the implementation of all these indicators, the OECD estimates Ukraine's progress as «average.» According to OECD experts, Ukraine lacks successful cases of detection and investigation of bribery in the private sector, bribery with intangible and non-monetary wrongful benefit, bribery of foreign official. Also, Ukraine should adapt certain legislative provisions on the introduction of fuses against the abuse of special exemptions from liability for active bribery or abuse of influence in the field of official activity, in particular, special exemption is applied provided that the voluntary notification is valid for a short period of time and before law enforcement agencies independently

learn about the crime or vice versa, the prohibition of exemption from liability of the initiator of bribery. Separately, OECD experts emphasize the need to improve the statute of limitations for investigating corruption offenses in order to bring the perpetrators to justice, since often the national investigation bodies had to close the proceedings precisely because of the expiration of the statute of limitations.⁴¹

The report also pays special attention to the need to expand the types of non-property criminal liability for committing corruption offenses for representatives of the private sector, the legislative delimitation of procedures for confiscation of property as a form of criminal punishment, special confiscation and civil confiscation in order to optimize the use of each of these mechanisms and establish mechanisms for international cooperation to confiscate assets from abroad.⁴²

40 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.202)

41 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.202)

42 Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.202)

THE EUROPEAN COMMISSION'S REPORTS

EU AND ITS BODIES AND/OR PROGRAMMES ALSO PLAY CRUCIAL ROLE IN ASSESSING PROGRESS OF THE ANTI-CORRUPTION SPHERE. WITHIN THE FRAMEWORK OF THESE RELATIONSHIPS, THERE ARE SEVERAL COMPONENTS THAT WILL BE USEFUL IN THE FORMATION OF ANTI-CORRUPTION BENCHMARKS FOR THE NEGOTIATION PROCESS. FIRST OF ALL, WE WILL TALK ABOUT THE WORKING DOCUMENT OF THE EC⁴³, WHICH WAS ISSUED ON THE BASIS OF THE EVALUATION PROCESS OF UKRAINE'S APPLICATION FOR ACCESSION TO THE EU.⁴⁴

The EC report, which covers the period from 2022 to 2023, focuses on Ukraine's achievements in the fight against corruption and the implementation of anti-corruption reforms, which are critical in the context of bringing the country closer to EU standards. The EC report also focuses on the main areas of preventing and combating corruption: **institutional framework, legislative framework, strategic (political) framework.**

The report highlights the importance of *institutional development of anti-corruption infrastructure in Ukraine*: analyzes the work of the NACP to prevent corruption, in particular, the institutional capacity of the Agency, the implementation of the Agency's powers on financial control (electronic declaration), the protection of whistleblowers, the assessment of corruption risks and the prevention and detection of conflicts of interest. The Report notes that at that time (17.06.2024) there were shortcomings in the rules of automated verification of electronic declarations and the NACP should work to eliminate such shortcomings. The Agency should also focus on further simplifying and streamlining the methodology for assessing corruption risks, which should simplify the activities of both the relevant bodies and the Agency itself. To improve the system for resolving conflicts of interest, the NACP should strengthen internal procedures, increase the transparency of its work and systematically report to the public on such activities. It is also important to work closely with civil society and independent media, providing information on the importance of resolving conflicts of interest and the need to improve the legislative framework to cover all types of conflicts of interest.

Institutional development of specialized anti-corruption investigation bodies is also one of the areas that Ukraine should develop in the future. The Report notes that one of the key achievements was

the appointment of new heads of Specialized Anti-Corruption Prosecutors Office (hereinafter – SAPO) and NABU. These appointments, made on the basis of transparent and competitive selections involving independent experts, were an important step in ensuring the independence and effectiveness of these institutions. After the appointment of new heads of NABU and SAPO significantly intensified their activities, in particular in the investigation of cases of high level of corruption. Among the necessary reforms in this area, the Report notes the following: increasing the staff of NABU detectives, reforming the forensic expert service so that NABU could timely and freely obtain expert knowledge for corruption investigations, providing NABU with the ability to independently wiretap telephone conversations, improving interagency interaction between various pre-trial investigation bodies (Bureau of Economic Security (hereinafter – BES), State Bureau of Investigations (hereinafter – SBI), NABU, Security Service of Ukraine (hereinafter – SSU), National Police), to whom cases of corruption offenses are under investigation, limitation of powers of certain bodies of pre-trial investigation (SSU) on the investigation of corruption offenses, transparency and integrity control in the selection of personnel in the pre-trial investigation bodies.⁴⁵

Another important area is the **improvement of the legislative framework.** Ukraine has made significant progress in ratifying international treaties and adapting legislation to combat corruption, but there remain some gaps that need further improvement. In particular, the Criminal and Criminal Procedure Codes of Ukraine require further improvement to improve the effectiveness of investigations and trials in corruption cases. The report notes that it is necessary to prevent procedural delays, increase the terms of pre-trial investigation and improve the procedures for concluding plea agreements. In addition, the legislative framework for the protection of whistleblowers remains incomplete, which creates the need for its full alignment with EU standards to ensure the safety of whistleblowers and effective reporting of corruption (and not only) violations.⁴⁶

An additional problem is that the law on oligarchs, although it was adopted, has not yet been implemented. The Venice Commission recommended delaying its implementation and reviewing the feasibility after the war, which indicates the need for a more systematic approach to the issue of deoligarchization. Accordingly, instead of the personalized approach proposed by the law on oligarchs, it is worth applying a systematic approach that covers such areas as media, competition, financing of political parties, taxation,

⁴³ COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EUU Enlargement policy

⁴⁴ Review of Anti-Corruption Reforms in Ukraine under the Fifth Round of Monitoring. OECD. URL: https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html (date of access: 17.11.2024)

⁴⁵ COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

⁴⁶ COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

anti-corruption measures and anti-money laundering measures. This approach should be implemented in accordance with the recommendations of the Venice Commission. Reforming these aspects is a prerequisite for strengthening the legal and institutional framework of Ukraine, which will contribute to the effective fight against corruption and achieve the high standards necessary for integration into the EU.⁴⁷

Regarding the *strategic (political) framework*, the Report notes the following: in June 2022, the Verkhovna Rada of Ukraine approved the Anti-Corruption Strategy for 2021-2025, two years after the NACP, which is responsible for its development, submitted this document. The adopted strategy outlines extremely important anti-corruption reforms in various sectors and will play an important role in ensuring transparency and accountability in the reconstruction processes in Ukraine. At the same time, it is expected that the implementation of these reforms will gradually increase Ukraine's effectiveness in prosecuting and condemning high-level corruption. However, the delay in adopting the strategy at the level of the Verkhovna Rada of Ukraine significantly blocked the effective political framework and monitoring of the implementation of anti-corruption reforms, which indicates the need to revise the feasibility of adopting the strategy in the form of a national law.⁴⁸

Based on the strategy, the NACP developed the SAP, which was adopted by the Cabinet of Ministers in March 2023. The programme includes detailed and practical measures in various sectors and provides a strategic framework for strengthening key anti-corruption institutions. It contains clear key performance indicators for each state body. When developing the strategy and action plan, the NACP carefully took into account the results of sociological surveys and other studies, including recommendations and analysis of Ukrainian and international non-governmental organizations. The NACP also consulted with independent experts and the public.⁴⁹

The NACP is the agency responsible for coordinating, monitoring and evaluating the effectiveness of the implementation of anti-corruption strategy and SAP. It has the task to monitor the implementation of the measures provided by the program on a quarterly basis and, based on the results, provide relevant information to Ukrainian stakeholders. The current level of implementation of the program is satisfactory, in particular, the development and full operationalization of the open access system for monitoring the

implementation of SAP is well advanced.⁵⁰

In general, the report emphasizes that despite the difficult conditions caused by the war, Ukraine has made significant progress in implementing anti-corruption reforms, which indicates its readiness to continue to move along the path of Europe.⁵¹

At the end of October 2024, the EC issued another working report on Ukraine⁵² related to the EU's enlargement policy. This Report states that recent legislative changes have strengthened the operational capacity of the NABU and the SAPO, in particular, due to the increase in staff and institutional independence of the SAPO. However, there are still challenges in this area, for example, the lack of independent forensic services and the lack of independent wiretapping capabilities at NABU. According to European experts, it is critically important to strengthen the NABU's internal control mechanisms, namely the NABU's Internal Control Department. In addition, improving cooperation between the NABU and the SAPO through the full deployment of the eCase Management System remains a priority⁵³.

Strategic policy documents, such as the Anti-Corruption Strategy for 2021-2025 and the SAP for 2023-2025, provide a solid roadmap. Despite their existence, the implementation of the SAP remains slow due to staffing and budgetary constraints. It is recommended to evaluate the effectiveness of the current strategy as soon as possible and prepare for further reforms. The legal framework has made significant progress, especially in bringing it in line with international standards, but further legislative reforms are needed in areas such as whistleblower protection, plea bargaining and statutes of limitations for corruption offenses⁵⁴.

The adoption of the law on lobbying in 2024 was a notable step, introducing transparency and ethical standards for lobbying activities, with the NACP charged with oversight. The agency has also demonstrated independence and improved verification of e-declarations through risk-based assessment. However, efforts should continue to be made to expand the scope of asset declaration requirements and eliminate outdated databases. Ukraine's progress reflects its commitment to anti-corruption reforms, but continued efforts to bring legislation in line with EU and OECD standards, as well as institutional strengthening⁵⁵.

47 COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

48 COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

49 COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

50 COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

51 COMMISSION STAFF WORKING DOCUMENT Ukraine 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU

52 EUR-Lex - 52024SC0699 - EN - EUR-Lex. EUR-Lex - Access to European Union law - choose your language. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024SC0699> (date of access: 17.11.2024).

53 Ibid

54 Ibid

55 EUR-Lex - 52024SC0699 - EN - EUR-Lex. EUR-Lex - Access to European Union law - choose your language. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024SC0699> (date of access: 17.11.2024).

A separate component of Ukraine-EU cooperation is the **Ukraine Facility Plan**, the EU's financial support programme for Ukraine. It is expected that in 2024-2027, 50 billion euros from the EU will be allocated to finance the state budget, stimulate investment, and provide technical support in the implementation of the programme⁵⁶. The plan envisages the implementation of reforms in several areas, including the prevention and fight against corruption, to further Ukraine's integration into the EU.

A separate Chapter 4 of the Plan is devoted to anti-corruption and anti-money laundering. The chapter analyses Ukraine's recent successes in the anti-corruption sphere: the appointment of heads of specialized anti-corruption agencies (SAPO, NABU, NACP), promotion of the independence of such institutions, and the adoption of strategic regulatory documents - the Anti-Corruption Strategy and the SAP. The chapter also sets out reform priorities for the duration of the plan (2024- 2027), which will be divided into three areas:

1. Further development of the institutional capacity of the anti-corruption bodies: the aim of this reform is primarily to increase the overall efficiency of the anti-corruption infrastructure and implementation of anti-corruption policy; to strengthen the direct fight against corruption by improving the process of investigating corruption offences. The reform will include three main areas: increasing the staff of the SAPO, appointing a new head of the NACP⁵⁷ and increasing the staff of the High Anti-Corruption Court (hereinafter – HACC).
2. Improving the legal framework for a more effective fight against corruption: the key goals of the reform are to strengthen the main anti-corruption institutions and optimize the criminal justice process, which will increase the efficiency of high-level corruption cases while protecting it from procedural abuse and undue interference. The reform will be implemented in the following areas: adoption of amendments to the Criminal Code and the Criminal Procedure Code of Ukraine to improve the institution of plea bargaining; cancellation of the rules on calculating the pre-trial investigation period from the moment of registration of criminal proceedings to the notification of suspicion; establishment of rules on the possibility of considering certain cases by HACC judges alone; adoption of a new Anti-Corruption Strategy and the Action Plan for the period after 2025; adoption of an action plan for the implementation of the Strategy for the Return of
3. Anti-Money Laundering Measures: The purpose

of this reform is to reduce the risks of money laundering by coordinating the efforts of all stakeholders involved in this process and creating a Unified Register of Bank Accounts of Individuals and Legal Entities. This reform envisages the following measures: adoption of an action plan to minimize risks in the area of prevention and counteraction to legalization (laundering) of proceeds of crime, terrorist financing and financing of proliferation of weapons of mass destruction; planning and conducting a National Risk Assessment; adoption of legislation on the establishment of the Unified Register and technical support for its operation.

⁵⁶ Ukraine Facility The European Union's financial support program for Ukraine. URL: <https://www.ukrainefacility.me.gov.ua/> (access date: 17.11.2024).

⁵⁷ Completed as of now

GRECO RECOMMENDATIONS

Another European monitoring mechanism for anti-corruption reforms in Ukraine is the **Group of States against Corruption (GRECO)**, an organization established by the Council of Europe to monitor the organization's anti-corruption standards in its member states. The main objective of GRECO is to increase the capacity of member states to fight corruption by monitoring compliance with the Council of Europe's anti-corruption standards, identifying shortcomings in national policies and encouraging them to implement necessary reforms. GRECO also provides a platform for the exchange of best practices in the prevention and detection of corruption⁵⁸. GRECO monitoring is conducted through: 1) horizontal assessment, which assesses and provides recommendations for improving legislation and procedures, and 2) compliance assessment, which assesses the implementation of the recommendations.

To date, the most recent GRECO report is a compliance report on Ukraine's implementation of the recommendations made in the 4th round of Ukraine's evaluation (2017)⁵⁹. GRECO provides a number of recommendations for Ukraine aimed at improving the effectiveness of anti-corruption measures, especially in the context of preventing corruption among MPs, judges and prosecutors. In particular, in the context of preventing and combating corruption, it is about:

1. Improving the effectiveness of control over financial declarations: It is important to ensure proper oversight of the submission and verification of financial declarations of public officials. This includes the development of an automated verification system that can automatically compare data from different registers and identify inconsistencies. Appeals mechanisms should also be put in place to allow individuals to appeal against sanctions imposed for filing irregularities.
2. Ensure NABU access to assets and databases: The NABU should have unimpeded access to full asset declarations submitted to the NACP, as well as to all national and regional databases necessary to verify these declarations. This includes access to bank accounts and financial data to ensure effective criminal investigations.
3. Improve the rules on acceptance of gifts: the threshold for acceptable gifts for officials should be lowered and the concept of hospitality should be clarified to avoid undue influence on officials through gifts. In addition, it is important to establish internal procedures for the evaluation and reporting of gifts received, as well as rules for

the return of inappropriate gifts.

4. Transparency and consultation in the legislative process: legislative proposals should be discussed with a sufficient level of transparency, including public consultations and expert hearings in parliamentary committees. It is also important to establish clear rules on fast-track legislative procedures and apply them only in exceptional and justified cases.
5. Development and adoption of a code of conduct for MPs: A code of conduct for members of the Verkhovna Rada of Ukraine should be developed and adopted, including detailed guidelines for its practical application. This should cover the prevention of conflicts of interest, rules for accepting gifts, interaction with third parties, etc.
6. Preventing the circumvention of restrictions on MPs' business activities: It is important to take additional measures to ensure compliance with legal restrictions on MPs' involvement in business activities. This may include enhanced monitoring and detection of violations through digital tools and other means of control.
7. Regulation of interaction of MPs with lobbyists⁶⁰: legislation should be developed to regulate the interaction of MPs with lobbyists and other third parties seeking to influence the legislative process. This should include clear rules and mechanisms to control such activities.
8. Strengthening internal mechanisms for monitoring the ethics of MPs: It is important to ensure that there are effective internal mechanisms for monitoring compliance with ethical standards in the parliament. This includes the introduction of proportionate and dissuasive sanctions for breaches of ethical standards⁶¹.

⁵⁸ About GRECO - Group of States against Corruption - [www.coe.int. Group of States against Corruption](https://www.coe.int/en/web/greco/about-greco). URL: <https://www.coe.int/en/web/greco/about-greco> (date of access: 17.11.2024).

⁵⁹ In fact, the 5th monitoring round of the evaluation took place in 2022. However, due to the full-scale invasion, Ukraine was excluded from this round of evaluation.

⁶⁰ Completed as of 2024

⁶¹ GRECO. FOURTH EVALUATION ROUND. URL: <https://rm.coe.int/grecoeval4rep-2016-9-fourth-evaluation-round-corruption-prevention-in-/1680737207> (date of access: 17.11.2024).

RECOMMENDATIONS OF OTHER INTERNATIONAL ORGANIZATIONS

In addition to its European partners, Ukraine also actively cooperates with international organizations that, as part of their assistance to Ukraine, can set requirements for the provision of such assistance and monitor their implementation. One of the largest partners in this case is the **International Monetary Fund (IMF)**. On 31 May 2023, the IMF Executive Board approved a four-year Extended Fund Facility (EFF) programme for Ukraine. The EFF programme is being implemented in two phases (military and post-war). It provides access to USD 11.6 billion in Special Drawing Rights (equivalent to USD 15.6 billion) of IMF lending and is part of a USD 122 billion support package for Ukraine. Disbursements under the programme depend on the results of its monitoring⁶². The latest to date is the 4th round of monitoring⁶³.

The IMF's analysis of Ukraine's governance monitoring report highlights a number of key areas that require further attention and improvement to strengthen the country's anti-corruption infrastructure and improve the management of state assets. The IMF emphasizes that it is important for the Ukrainian authorities to quickly select independent auditors nominated by international partners to conduct the first external audit of the NABU, which should assess internal controls and safeguards against information leakage and vested interests (to be completed by the end of September 2024⁶⁴).

Ukraine should urgently continue implementing key anti-corruption reforms, including ensuring that NABU has access to forensic expertise, upgrading the skills and increasing the staff of NABU, appointing new anti-corruption judges and providing them with the necessary resources, and amending the legislation on criminal liability of legal entities. In addition, the Criminal Procedure Code of Ukraine should be improved to optimize the processes and consequences after the expiry of pre-trial investigations, which will balance prompt and comprehensive investigation of criminal offences with respect for the rights of participants in the judicial process.

Another important international instrument aimed at preventing and combating corruption is the **United Nations Convention against Corruption (UNCAC)**. The

Convention is a global and universal instrument aimed at preventing and punishing corruption and promoting international cooperation in the fight against it. It was created to establish global standards and mechanisms for combating corruption, including measures for prevention, criminalization of corrupt practices, international cooperation, recovery of assets derived from corruption and support for anti-corruption authorities. The Convention is binding on countries that have ratified it and provides for the implementation of measures aimed at increasing transparency and accountability in public administration, business and society in general. It also provides a framework for international cooperation in the investigation and prosecution of corruption cases, as well as for the return of illicitly obtained assets to their countries of origin.

The Convention provides for an implementation review mechanism that assesses how States Parties are implementing the provisions of the Convention. This mechanism was launched in 2009 and provides for regular reviews of the implementation of countries' obligations under the Convention. The process includes a self-assessment by states of their own implementation efforts and an inter-state mutual review, where one or two states parties assess the implementation of the Convention by another country. The monitoring process includes an analysis of the legislative, institutional and practical implementation of the UNCAC provisions, in particular in the areas of prevention of corruption, criminalization of corrupt practices, international cooperation and recovery of stolen assets. The results of the assessments are summarized in official reports, which are discussed at the international level. To date, the most recent report on Ukraine's implementation of UNCAC is the 2012 report, which obviously does not meet the objectives of this study, as its recommendations are outdated.

In parallel to the official reviews of a state party, civil society organizations can also prepare their own parallel reports. These reports provide an alternative perspective on a country's implementation of the UNCAC and often highlight issues that may have been missed or under-reported in the official reports. Parallel reports prepared by non-governmental organizations may include more critical analysis, specific examples of violations or successes in the fight against corruption. Such reports help to ensure transparency and accountability of the implementation process, and serve as an important tool for improving anti-corruption measures in UNCAC member states. Such a report was recently prepared by the Institute of Legislative Ideas⁶⁵ as part of the UNCAC civil society coalition and highlights the challenges of implementing Chapters 2

62 National Bank of Ukraine. The IMF Board completes the fourth review of the Extended Fund Facility program and approves the disbursement of a USD 2.2 billion tranche. THE IMF BOARD APPROVED THE ALLOCATION OF A TRANCHE OF USD 2.2 BILLION. National Bank of Ukraine. URL: <https://bank.gov.ua/ua/news/all/rada-mvf-zavershila-chetvertiy-pereglyad-programi-rozshirenogo-finansuvannya-ta-zatverdila-vidlennya-transhu-obsyagom-22-mld-dol-ssha> (access date: 17.11.2024).

63 International Monetary Fund. Ukraine: Fourth Review of the Extended Arrangement under the Extended Fund Facility, Request for Modifications of a Performance Criterion, and Financing Assurances Review-Press Release; Staff Report; and Statement by the Executive Director for Ukraine. URL: <https://www.imf.org/en/Publications/CR/Issues/2024/06/28/Ukraine-Fourth-Review-of-the-Extended-Arrangement-under-the-Extended-Fund-Facility-Request-551207> (date of access: 17.11.2024).

64 Ibid

65 New Civil Society Report on Ukraine: Challenges in anti-corruption legislation implementation due to resource shortages, lack of political will, and the Russian invasion | UNCAC Coalition. UNCAC Coalition | A global civil society network promoting the implementation and monitoring of the United Nations Convention against Corruption (UNCAC). URL: <https://uncaccoalition.org/uncacparallereportukraine/> (date of access: 17.11.2024).

(Prevention of Corruption) and 5 (Asset Recovery) of the Convention. The main recommendations of this report on preventing and combating corruption are as follows:

1. Proper implementation of the SAP: Ukraine needs to intensify the implementation of the SAP, while ensuring that the legal and regulatory framework is properly amended as required by the AA. In addition, Ukraine should strengthen the role of anti-corruption programmes (policies) in the activities of the authorities.
2. Strengthening the NACP's capacity: It is necessary to (a) expand the NACP's territorial presence and provide it with resources to effectively monitor the implementation of anti-corruption measures at the local level; (b) increase the NACP's capacity to verify asset declarations of officials, in particular by expanding resources and introducing mechanisms to monitor changes in the lifestyle of officials;
3. Civil Service Reform: The reintroduction of full-fledged competitions for civil service positions and the introduction of appeal mechanisms for the results of these competitions are key to ensuring the transparency and fairness of the selection process.
4. Strengthening control over political party financing: it is recommended to close legislative loopholes that allow circumventing the rules of political party financing and to increase the effectiveness of liability for violations in this area.
5. Protection of whistleblowers: it is necessary to (a) improve the mechanisms for protecting whistleblowers, ensure anonymity and confidentiality of their reports, and increase liability for violations of whistleblower rights; (b) improve the platform for protection of whistleblowers by involving all state bodies in its work, which will improve the protection of persons reporting corruption;
6. Termination of the practice of exclusion of certain goods from the scope of the Law of Ukraine «On Public Procurement»: it is necessary to refrain from exclusion of certain goods, works or services from the scope of the Law of Ukraine «On Public Procurement», which will help to maintain transparency and competition in procurement processes.
7. Strengthening the capacity of regulatory authorities to review procurement processes: Increase the capacity of regulatory authorities to monitor procurement processes to ensure compliance with the law and transparency of the use of budget funds.
8. Strengthening the protection of the rights of journalists and civil society activists: ensure reliable protection of the rights of journalists and civil society activists engaged in anti-corruption activities to prevent their harassment and obstruction of their work.
9. Ensuring the political independence of the Prosecutor General: It is important for Ukraine to ensure the political independence of the Prosecutor General through an open competition for this position.
10. Implementation of the provisions on verification of ultimate beneficial owners: provisions on verification of information on the ultimate beneficial owners of legal entities should be implemented and liability should be ensured for failure to enter or timely update data in the Unified State Register.
11. Intensify efforts to recover assets from abroad: Ukraine should strengthen the work of the competent Ukrainian authorities to recover assets transferred abroad⁶⁶.

⁶⁶ New Civil Society Report on Ukraine: Challenges in anti-corruption legislation implementation due to resource shortages, lack of political will, and the Russian invasion | UNCAC Coalition. UNCAC Coalition | A global civil society network promoting the implementation and monitoring of the United Nations Convention against Corruption (UNCAC). URL: <https://uncaccoalition.org/uncacparallereportukraine/> (date of access: 17.11.2024).

CIVIL SOCIETY'S ANTI-CORRUPTION INSIGHTS

It should be noted that a coalition of NGOs and think tanks of Ukraine issued a **Shadow Report to Section 23 «Justice and Fundamental Rights» of the EC Report on Ukraine in 2023**⁶⁷. The report analyzes the results of monitoring the status, problems and recommendations for their solution in the areas covered by Chapter 23 «Justice and Fundamental Rights» of the EC Report on Ukraine for 2023, which is part of the EU Enlargement Package. The report is divided into sections, one of which is devoted to the fight against corruption. The range of outlined problems in this section is quite wide: from the analysis of the implementation of the Anti-Corruption Strategy and the SAP to individual issues of pre-trial investigation of corruption offenses.

The report addresses the issue of the Anti-Corruption Strategy for 2021-2025 and the implementation of the SAP. One of the main problems is that many SAP measures are formulated as large-scale tasks, but only one common measure is provided for their implementation. This makes it difficult to monitor and track progress or backsliding in the implementation of the program, which creates opportunities for performers to avoid these measures or delay their implementation until the deadline of December 31, 2025. In addition, the timing of some activities is not always realistic, especially given the possibility of personnel changes and other circumstances. Some measures need to be revised, as they have lost relevance due to changes in the regulatory framework and objective circumstances, although the problem itself remains important. There are also no measures to solve new problems that arose during the martial law, in particular in the transport sector, which is critical for the economy of Ukraine. Recommendations to address these gaps include reviewing and reformulating large-scale SAP events, dividing them into more specific tasks, as well as revising the timing of events taking into account the realistic capabilities of the performers. It is proposed to analyze and revise the essence of individual measures, taking into account new circumstances and changes, so that new measures are aimed at achieving the expected strategic result in accordance with current conditions. It is also recommended to provide for indicators of the implementation of measures not only for their registration, but also for successful advocacy and adoption of regulatory legal acts. Regarding the implementation of the SAP, the main problem is the low percentage of timely measures. According to public monitoring, only 7.4% of measures were completed on time as of November 2023, and 18% as of March 2024. At the same time, the official monitoring of the NACP

also indicates an insufficient level of implementation of measures.⁶⁸

The problem is also the lack of effective sanctions for violator performers, which avoids responsibility for failure to comply with measures. The NACP does not have sufficient capacity for meaningful monitoring of the implementation of the SAP and needs expert support, in particular through the «Public Feedback» tool, whereby everyone can leave feedback and/or comments on the implementation/performance of a specific measure envisaged by the SAP. SAP executors may lack human and financial resources for the full implementation of activities, which may become a formal reason for non-fulfillment. Recommendations for eliminating these problems include conducting a legal discussion on the possibility of applying measures of influence to executives in case of failure to comply with the measures of the SAP, as well as giving the NACP the right to make instructions to relevant managers.⁶⁹

It is proposed to create an opportunity to leave non-personalised public feedback in the Information system for monitoring the implementation of the SAP to increase transparency and accountability of executives, as well as to include representatives of development partners and civil society in the Coordination Working Group on Anti-Corruption Policy. Regarding the Anti-Corruption Strategy, the report emphasizes the importance of retaining the current version of the law, which provides for the approval of the strategy by the Parliament, in order to maintain political responsibility and the will to fight corruption.⁷⁰

A separate section is also devoted to the activities of specialized anti-corruption institutions, in particular NABU, SAPO, NACP and HACC, in terms of appointment of heads, independence, selection and evaluation of staff, disciplinary liability, as well as external audit and interaction between the agencies. The main problems relate to the lack of transparency and clarity of competition procedures, political influence on the selection process, insufficient detail of the grounds for dismissal, ineffective internal controls and disciplinary procedures. Other challenges include the lack of adequate external audit, difficulties in the interaction between the anti-corruption agencies and other state institutions, and insufficient institutional capacity to perform their functions effectively.⁷¹

To address these gaps, it is recommended to amend the legislation to elect only one candidate to the leadership positions of the NABU and the SAPO, to strengthen the procedural weight of the head of the

67 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analytcs/shadow-report-justice-2/> (access date: 19.11.2024).

68 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analytcs/shadow-report-justice-2/> (access date: 19.11.2024).

69 Ibid

70 Ibid

71 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analytcs/shadow-report-justice-2/> (access date: 19.11.2024).

SAPO, in particular to give him the right to initiate criminal proceedings and approve investigative actions against MPs, to create appropriate conditions for transparent competitions in the NACP, to strengthen internal control and disciplinary responsibility in anti-corruption institutions, and to improve external audit of the NABU and the SAPO. With regard to cooperation between the agencies, it is necessary to improve the internal organisational structure, provide the NABU with the ability to conduct wiretaps, and expand the possibilities of electronic criminal proceedings, in particular for the defence. In addition, it is important to conduct an analysis of the implementation of strategies for the development of anti-corruption institutions and take its results into account when formulating new strategic documents.⁷²

This section also includes the application of anti-corruption and criminal law provisions on liability for criminal corruption offences. In this context, there are a number of challenges and problems. The Plenum of the Supreme Court, which is empowered to provide clarifications on the application of legislation in court cases, has not issued any such clarifications since its establishment. This has led to uncertainty in law enforcement, particularly in cases involving allegations of abuse of power or misappropriation of property. In particular, most of the acquittals in 2022 and 2023 concerned criminal proceedings under Articles 191 and 364 of the Criminal Code of Ukraine, which indicates a lack of effectiveness in proving the guilt of the accused.⁷³

In addition, the analysis of the effectiveness of the implementation of the state anti-corruption policy revealed shortcomings in the definition of criminal offences in the Criminal Code of Ukraine. Article 364, which regulates the abuse of power or official position, was found to be too broad, leading to ambiguous interpretation and difficulties in law enforcement. Similar problems arise with Article 369², which establishes liability for abuse of influence, but does not contain a definition of extortion, which also creates difficulties in its application.⁷⁴

In addition, the problem of statutes of limitations in corruption cases remains unresolved. HACC often releases individuals from criminal liability due to the expiry of the statute of limitations, which undermines the effectiveness of the fight against corruption. Although a draft law has been registered in the Parliament that proposes to abolish the statute of limitations for grave and especially grave corruption crimes committed during martial law, this approach may not be effective as it only covers a limited range of offences and does not take into account the specifics of corruption investigations.⁷⁵

Another important aspect is the confiscation of illegally obtained assets. Although the HACC has issued more than 150 verdicts providing for the confiscation of assets, only a small proportion of these decisions have been fully enforced. This indicates that there are significant difficulties in implementing asset confiscation verdicts, which casts doubt on the effectiveness of anti-corruption policy in this area. In addition, the number of assets recovered in 2023 decreased significantly, indicating problems in the work of the ARMA. The institutional capacity of ARMA remains insufficient, which limits the agency's ability to perform its functions effectively. At the same time, the Action Plan for the Implementation of the Asset Recovery Strategy for 2023-2025, which should include specific steps to improve the work of state bodies in this area, has not yet been approved.⁷⁶

To improve the situation, it is recommended that the Supreme Court provide clarifications on the application of criminal law in corruption cases, which would contribute to greater certainty in law enforcement and increase the effectiveness of the fight against corruption. It is also necessary to clarify the provisions of the Criminal Code, in particular Article 364, to bring them in line with Ukraine's international obligations, and to define the term «extortion» in Article 369-2 to improve law enforcement. It is important to hold public consultations on the harmonisation of Ukrainian legislation with the OECD Convention to ensure compliance with international anti-bribery standards. In addition, the grounds for suspension of the statute of limitations in corruption cases should be expanded and criminal liability for certain corruption offences, including those related to obstruction of the investigation, should be strengthened. It is also necessary to approve an action plan for the implementation of the Asset Recovery Strategy and to improve the procedures for confiscation of property, bring them in line with international standards and ensure transparency in the enforcement of confiscation judgements.⁷⁷

The Shadow Report also paid attention to the issues of e-declaration and the NACP's performance of its financial control powers. In December 2023, the Parliament of Ukraine adopted Law No. 3503- IX, which largely meets the requirements of the EC to eliminate problems in the institution of electronic declaration. In particular, this law supplemented Article 51-3 of the Law of Ukraine «On Prevention of Corruption» with a new part that clarifies the procedure for conducting a full verification of declarations. Now, the verification covers only those objects that were not verified in previous periods, unless the NACP received new information or new data sources. At the same time, part 7 of Article

72 Ibid
73 Ibid
74 Ibid
75 Ibid

76 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analytics/shadow-report-justice-2/> (access date: 19.11.2024).

77 Ibid

51-1, which previously did not allow verification of the grounds for *acquisition* of real estate and vehicles acquired before the election or appointment of a person to the position, was excluded. Despite the positive changes, the Law still contains provisions that need to be improved. For example, MPs are allowed not to declare leased real estate of up to 75 m² if they are compensated for the costs of such real estate. This may lead to incomplete information in the declarations. In addition, it is possible to conceal full information about assets by indicating them in different sections of the declaration, which would not be considered a violation. This may create problems in the declaration practice, as such rules may be used to avoid disclosure of certain information. Another problem is the exclusion from the list of declarants of the heads of separate divisions and branches of legal entities, which reduces the number of persons who may be held liable for illicit enrichment or subject to civil forfeiture. This may be disproportionate to the requirement to disclose property information. At the same time, the new right of the declarant to get acquainted with all the materials of the full inspection may create an opportunity to use this information to influence the investigation or to demand materials of criminal proceedings.⁷⁸

Despite these problems, the report positively assesses the NACP's efforts to provide comprehensive explanations to declarants, as well as attempts to integrate various databases into the asset declaration register to facilitate the process of filling out declarations. However, such explanations are becoming increasingly voluminous, making it difficult for declarants to find the information they need. It is also important to observe how the new provisions of the law will function in practice and whether they will be effectively used to detect and prevent corruption.⁷⁹

Lifestyle monitoring remains an important element of financial control. By the end of 2023, the NACP had conducted 552 such monitoring, which resulted in 31 referrals to the SAPO and 13 to other anti-corruption agencies. However, so far, only a small proportion of the materials have been further developed into criminal or civil cases. Although the NACP has taken some steps to improve lifestyle monitoring, much work remains to be done. In particular, there is no clear distinction between lifestyle monitoring and full verification of declarations, which may lead to confusion and unjustified interference with the private life of declarants. The NACP has made some progress in terms of financial control over e-declarations, but many challenges remain. For example, the automated verification of declarations, which was introduced in late 2023, has been criticised for its imperfections and inability to detect serious irregularities. Declarations that contain

significant amounts of cash, cryptocurrency or foreign assets are often automated without due regard to these risks, which undermines the effectiveness of the entire process. This points to the need for a comprehensive assessment of financial control business processes and amendments to legislation to improve the declaration verification procedure.⁸⁰

The reintroduction of political party reporting in Ukraine faces a number of serious challenges that need to be addressed to ensure transparency and accountability of the political process. The main problem is that the reporting obligation of political parties was suspended for more than three years, first due to the COVID-19 pandemic and then due to martial law. This resulted in the parties' activities remaining outside public scrutiny, which significantly reduces the level of trust in political institutions.⁸¹

One of the challenges was the resumption of reporting by political parties, which was introduced too late, which negatively affected the systematic and consistent nature of this process. In addition, problems in the legal framework were identified, including inadequate requirements for reporting on internal party audits, which creates opportunities for abuse and concealment of information.⁸²

At the NACP level, there are difficulties with verification of political party reports. Insufficient training, lack of practical experience and absence of transparent criteria for reviewing reports create risks of a formal approach to controlling the activities of parties. This can lead to real abuses and corruption schemes going unnoticed.⁸³

An additional challenge is the system of sanctions for violations in the area of state funding of political parties, which remains disproportionate and insufficiently balanced. For example, state funding can be withdrawn for minor violations, which threatens the stability of the party system. At the same time, only symbolic fines are imposed for minor violations, which does not encourage parties to comply with the law.⁸⁴

Another concern is the effectiveness of the POLITDATA⁸⁵ electronic reporting system, which, although launched in 2021, still has technical problems and is not user-friendly enough. It does not provide the necessary transparency and accessibility of information to the public, which complicates the analysis of political finance.⁸⁶

To address these challenges, Ukraine should take several key steps. First, the NACP's capacity should be strengthened by attracting additional human

80 Ibid

81 Ibid

82 Ibid

83 Ibid

84 Ibid

85 Unified State Register on Political Parties Financial Reports. URL: <https://politdata.nazk.gov.ua/> (access date: 17.11.2024).

86 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analyticts/shadow-report-justice-2/> (access date: 19.11.2024).

78 Ibid

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resources and introducing a more efficient system for distributing inspections of political parties. Second, the system of sanctions should be revised to make it more proportionate and balanced. Thirdly, the POLITDATA system should be modernized, improving its functionality for ease of use and transparency. Finally, it is crucial to ensure public access to political party reports for a longer period of time, which would allow for long-term analysis and comparison of party performance.⁸⁷

Ukraine's corruption risk management, conflict of interest and whistleblower protection sectors face numerous challenges that need to be addressed urgently for the effective functioning of the anti-corruption system.⁸⁸

The main problem is the shortcomings in the implementation of anti-corruption programmes in state and local authorities. As of today, only 131 authorities have effective anti-corruption programmes in place, while 33 authorities have not fulfilled this requirement. This situation is alarming, as anti-corruption programmes are a key tool for managing corruption risks. Another serious problem is that the legislative list of entities obliged to adopt such programmes does not include village and town councils, district state administrations and separate structural units of local state administrations. This creates serious gaps in the prevention of corruption at the local level.⁸⁹

Another serious challenge is the anti-corruption expertise of legal acts conducted by the NACP. Although the quality of these reviews is generally not inferior to those conducted by the Ministry of Justice or a parliamentary committee, there are problems with the optional nature of this procedure and insufficiently clear legal requirements for reviewing its results. The conclusions of the expertise can often be ignored, as the law does not provide for clear deadlines and procedures for their consideration. This reduces the effectiveness of anti-corruption measures and gives room for manipulation.⁹⁰

In addition, there are problems with monitoring conflicts of interest. The NACP does not have a clear internal procedure for monitoring compliance with the law in this area. This makes it difficult to identify and resolve conflicts of interest, which is critical for ensuring integrity in the public sector. Although European recommendations⁹¹ on conflict-of-interest management were proposed in 2018, many of them have not yet been implemented. The situation is further complicated by the fact that there are still problems with understanding and correct application of the concepts of real and potential conflicts of interest in

court practice.⁹²

The institution of whistleblower protection also faces serious challenges. Ukraine does not have a separate law that would protect whistleblowers of socially important information that goes beyond corruption. Existing legislation does not fully comply with European standards set out in the EU Whistleblower Protection Directive. In particular, it does not provide for protection of persons who have facilitated whistleblowing or who have been perceived as whistleblowers. The legislation also fails to provide adequate protection for whistleblowers who report information with restricted access, which creates a risk of violation of their rights.⁹³

The Single Whistleblower Reporting Portal launched by the NACP in September 2023 also has shortcomings, especially in terms of ensuring anonymity and confidentiality of reports. In addition, the Portal does not fully comply with international standards, which reduces its effectiveness as a whistleblower protection tool.^{94, 95}

To address these problems, a number of measures should be taken. First, the list of entities obliged to adopt anti-corruption programmes should be expanded to include local councils and district administrations. Secondly, the legislation should be amended to ensure clear procedures for reviewing the results of anti-corruption examinations and their mandatory publication. Thirdly, the approach to monitoring conflicts of interest should be revised to ensure a more systematic approach to identifying and resolving such conflicts. It is also necessary to adopt a separate law that would provide broad protection for whistleblowers of socially important information and provide for the possibility of reporting restricted information without the risk of persecution.⁹⁶

The report also analyses the area of deoligarchisation. Legislative regulation of oligarchs' influence and lobbying in Ukraine faces many challenges that impede the effective fight against oligarchy and corruption. The Law «On Prevention of Threats to National Security Associated with the Excessive Influence of Persons with Significant Economic and Political Weight (Oligarchs)», adopted in May 2022, has not yet been implemented due to delays in creating a register of oligarchs and criticism from experts and the Venice Commission. The law grants the Security and Defense Council of Ukraine powers

87 Ibid

88 Ibid

89 Ibid

90 Ibid

91 MANAGING CONFLICT OF INTEREST IN UKRAINE AND THE NATIONAL AGENCY ON CORRUPTION PREVENTION (NACP). 2018. URL: https://euaci.eu/wp-content/uploads/2018/03/CoI_Sum.pdf (access date: 17.11.2024).

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93 Ibid

94 Міждисциплінарний науково-освітній центр протидії корупції. ПОЛІСІ-БРІФ: Ключові рекомендації щодо перезапуску роботи НАЗК у сфері захисту викривачів. URL: <https://acrec.org.ua/wp-content/uploads/2024/03/brief-web-portal-NN.pdf> (access date: 17.11.2024).

95 Shadow Report to the European Commission's 2023 Report on Ukraine: English version and addendum to the Report are now available | Лабораторія законодавчих ініціатив. Лабораторія законодавчих ініціатив | Agency for Legislative Initiatives is a leading analytical center of Ukraine. URL: <https://parliament.org.ua/en/analytcs/shadow-report-justice-2/> (access date: 19.11.2024).

96 Ibid

that contradict the Constitution of Ukraine, create risks of political influence and violate human rights. During and after wartime, doubts have been raised about the appropriateness and effectiveness of this law. The loss of oligarchs' assets during the war, the reintroduction of political party reporting and the adoption of the lobbying law partially address these issues, but further reforms are needed. The lobbying law adopted in 2024 also has shortcomings, as it does not provide effective control over lobbying activities and does not cover important aspects such as patronage. To address these issues, the legislation needs to be revised to strengthen existing institutions, control lobbying and ensure transparency. This includes introducing effective anti-monopoly measures, fighting corruption, and reforming the judiciary and other key institutions.⁹⁷

The Shadow report partly focused on the problems of investigating and prosecuting criminal corruption offences. Investigations of anti-corruption cases in Ukraine face numerous challenges, including jurisdictional issues. Criminal offences should be investigated by the relevant authorities, such as the NABU, the SBI, the SSU, the BES, and the National Police. However, in practice, there are often situations when several bodies investigate the same proceedings in parallel, which leads to complications in the process, loss of evidence and inadmissibility of the collected materials in court. The SSU, while not authorized to investigate corruption offences, is often engaged in this activity, which creates a risk of violating the presumption of innocence and other human rights. There have been proposals to equate corruption with high treason, which could lead to the transfer of relevant cases to the jurisdiction of the SSU, which is not in line with its core tasks. Failure to maintain jurisdiction can have serious consequences, including the inadmissibility of evidence, which leads to the acquittal of those who may have been guilty.⁹⁸

In addition, there are problems with public scrutiny and accountability of the National Police, the SBI, the BES and the SBU. Despite formal requirements for reporting and public oversight, real accountability remains limited. Reports on the activities of these agencies often do not contain full analysis or are not accessible to the public, which reduces the transparency of their work. The appointment of the heads of these bodies also raises questions, as the selection process is not always transparent and does not always ensure the appropriate level of professionalism and integrity. To address these problems, it is necessary to strengthen control over jurisdiction, ensure transparency and accountability of law enforcement agencies, and improve the procedures for selecting the heads of these institutions. It is also

important to involve international partners in the reform process to ensure that changes are objective and effective.⁹⁹

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98 Ibid

99 Ibid

IDENTIFICATION OF THE ANTI-CORRUPTION BENCHMARKS FOR THE “FUNDAMENTALS” CLUSTER

Our review of the reports of international, European and national organizations on anti-corruption reforms in Ukraine allows us to proceed to the identification of benchmarks that will be critical for shaping the fundamentals cluster negotiation framework. The identification of these indicators is extremely important, as they will serve as a basis for assessing Ukraine’s progress in fulfilling the requirements and conditions necessary for EU integration. The benchmarks will be divided into three dimensions: opening, interim and closing.

In our case, the opening benchmarks are the rule of law roadmap and the public administration reform roadmap to be prepared by the Ukrainian authorities. Additional introductory benchmarks can be set in the sections on public procurement and financial control, if necessary.

Interim benchmarks record progress in the implementation of anti-corruption measures and allow us to assess how well Ukraine is moving towards achieving its goals. They cover specific achievements in strengthening institutional capacity, building anti-corruption mechanisms and increasing transparency of public authorities. Interim benchmarks also include the results of key reforms that should ensure the effectiveness of the fight against corruption in the medium term. They are indicators of the country’s ability to maintain a sustainable reform process and overcome emerging challenges.

The closing benchmarks are the final stage in the process of assessing Ukraine’s progress towards EU accession. They reflect the achievement of the final results of anti-corruption reforms and are proof that Ukraine has successfully fulfilled all the requirements and is ready for integration into the EU. The baseline benchmarks may include full implementation of the national anti-corruption strategy, achievement of specific indicators in reducing corruption, and ensuring sustainable functioning of anti-corruption institutions and mechanisms. These indicators are the criteria by which Ukraine’s readiness for full EU membership will be assessed.

Based on our review and analysis of the reports of international, European and national organizations on anti-corruption reforms in Ukraine, we can identify the following main blocks in the field of preventing and combating corruption, within which interim and closing benchmarks will be formed (see Table), taking into account their importance and significance. These pillars are in line with the established assessment framework used in reports by international, European

and national organizations, and thus we will use standards and criteria already applied to Ukraine in the process of monitoring and evaluating anti-corruption efforts, ensuring coherence and consistency in this approach:

- ▶ **Anti-corruption policy:** this block covers the formation and implementation of the overall anti-corruption policy in the country. It includes the development, implementation and amendment of the legal and regulatory framework aimed at ensuring the effective fight against corruption. This includes strategic documents, legislative initiatives and mechanisms that form the basis for all other anti-corruption measures;
- ▶ **Prevention of corruption:** This block focuses on the implementation of specific instruments and mechanisms to prevent corruption;
- ▶ **Investigation and liability for disciplinary offences and administrative offences related to corruption:** this block covers mechanisms for detecting, investigating and prosecuting violations that are not criminal offenses but violate ethical and administrative standards;
- ▶ **Investigation and liability for criminal corruption offences:** this block covers the investigation and prosecution of corruption crimes.

TABLE «BENCHMARKS IN THE FIELD OF PREVENTING AND COMBATING CORRUPTION FOR THE DEVELOPMENT OF A NEGOTIATION FRAMEWORK FOR UKRAINE'S ACCESSION TO THE EU»

Benchmarks	ANTI-CORRUPTION POLICY
Interim	<p>The National Agency for the Prevention of Corruption ensures the proper implementation of the State Anti-Corruption Programme for 2023- 2025, so that the percentage of the SAP implementation will be at least 50% by the end of the Programme.</p> <p>The National Agency for the Prevention of Corruption ensured that its staffing levels were filled with highly qualified employees by 80% by the end of 2025, with appropriate training and professional development for new employees. This contributed to an increase in the percentage of completed actions envisaged in the 2023-2025 Annual Action Plan.</p> <p>The National Agency for the Prevention of Corruption, with the involvement of external stakeholders (national authorities, civil society, representatives of international organizations), ensures the development and adoption of the Anti-Corruption Strategy for 2026-2030. The new Strategy takes into account not only the unimplemented measures of the previous Strategy, but also the conclusions of monitoring its implementation, international experience gained during the period 2023-2025, and recommendations of external stakeholders on improving anti-corruption policy.</p>
Closing	<p>The National Agency for the Prevention of Corruption has ensured the sustainable development and implementation of the anti- corruption policy for 2026-2030. The Anti- Corruption Strategy for 2026-2030 was adopted on time and has a developed and approved State Anti-Corruption Programme. As of the end of 2030, the percentage of completed measures of the State Anti-Corruption Programme is at least 60%.</p> <p>The National Agency for the Prevention of Corruption has ensured a sustainable human resource capacity, with a permanent staffing level of at least 90% of highly qualified employees.</p> <p>As a result of the implementation of the Anti- Corruption Strategy for 2026-2030 and the State Anti-Corruption Programme, the country's ranking in the Transparency International Corruption Perceptions Index has improved by at least 10 points. The level of corruption in the priority areas identified in the Anti-Corruption Strategy for 2026-2030 has decreased, according to annual national surveys conducted by the National Agency, as well as data from leading international organizations monitoring the fight against corruption. Sustainable control over corruption risks is ensured by positive results of monitoring the implementation of anti-corruption policy.</p>

Interim

As of the beginning of 2026, the relevant authorities of the country have developed and adopted amendments to the legislation on the prevention of corruption in the field of financial control, taking into account the recommendations of international organizations such as the OECD and GRECO. These amendments are aimed at expanding the range of declaring entities; ensuring the completeness of information in the declaration of the declaring entity; bringing legislation and practice on lifestyle monitoring in line with the law; establishing appropriate legal liability for late submission of declarations; and expanding the technical access of the Unified State Register of Declarations to all tax bases.

As of the beginning of 2026, legislation was adopted to establish a competitive selection process with the participation of international experts for the heads of specially authorized entities in the field of anti-corruption, including the leadership of the National Police of Ukraine.

By the end of 2026, the NACP's capacity to detect conflicts of interest, including violations of the rules for resolving situational conflicts of interest, incompatibility, gifts, alienation of corporate property rights and post-employment restrictions, in the course of conducting full audits of declarations of declarants has been significantly improved. This was achieved by conducting full audits of declarations of declarants and increasing the number of completed cases to respond to such violations. As of the end of 2026, the NACP has achieved the identification of at least 10 cases of violations of the incompatibility rules annually (taking into account OECD recommendations). In addition, the number of cases referred to law enforcement agencies after verification of asset declarations has increased to 20 annually, which is in line with established international standards.

As of the beginning of 2026, the NACP conducted a technical audit of the Unified Whistleblower Reporting Portal for compliance with GDPR standards and ensured its full compliance with these standards. The audit confirmed that technical measures have been implemented to make it impossible to identify the IP address from which the whistleblower submits a report, and to eliminate potential risks that could allow identification in the future.

By the end of 2026, the Law of Ukraine "On Prevention of Corruption" was amended to expand the list of regular channels for reporting corruption. In particular, such channels include reporting to the Antimonopoly Committee, Verkhovna Rada committees, temporary investigative commissions and temporary special commissions of the Verkhovna Rada of Ukraine, the State Audit Service and other authorities performing control and supervisory functions.

As of the beginning of 2026, the legislation was amended to eliminate legal uncertainty that limits the exercise of whistleblower rights. It was ensured that the rights of whistleblowers provided for by law (in particular, the right to free legal aid, protection of labor rights, etc.) were granted automatically based on the fact of filing a report that meets the requirements of the law. Eliminate the dependence of the exercise of these rights on the formal recognition of a person as a whistleblower in the Unified Whistleblower Reporting Portal to avoid violation of the guarantees provided by law.

As of the beginning of 2026, the legislation and practical application of the Unified Whistleblower Reporting Portal were clarified to clearly define that internal reporting channels include not only channels within a single institution, but also channels leading to higher or subordinate bodies with control or supervision functions. As at the time of the amendments, the Single Portal and functionality did not provide clarity on the definition of reports to higher authorities as internal channels, a legal regulation was introduced to ensure that reports to higher authorities are also recognized as an internal channel, which guarantees the whistleblower the protection provided for whistleblowers. This helped to avoid situations where a person who reported to higher authorities was deprived of whistleblower status and relevant rights, including protection and free legal aid.

Closing

By the end of 2030, the rate of corruption offences detected by the financial control mechanism and confirmed by investigations and court decisions increased by 40% compared to 2025, demonstrating its effectiveness as a means of preventing corruption.

As of 2030, all heads of specially authorized anti-corruption agencies were selected in open competitions with the participation of international experts, which increased trust in these bodies. Independent polls show a 20% increase in public trust in these institutions compared to 2025.

By 2028, a comprehensive law on whistleblower protection has been adopted that is in line with the EU Directive and international best practices in whistleblower protection. In particular, the law provides for the following key guarantees:

12. General scope of the law:

- The law applies to all organizations, regardless of ownership, including public and private sectors.
- The law covers all persons who have or have had a connection with the organization, including employees, contractors, volunteers, assistants to whistleblowers and family members. It also protects individuals who planned to make a report or who were mistakenly believed to be whistleblowers.

13. Comprehensiveness:

- A single law covering all areas and sectors has been adopted, providing comprehensive protection for whistleblowers, regardless of industry or field of activity.

14. Reporting channels:

- The law provides for a wide range of internal reporting channels, requiring organizations to create a variety of ways to report information.
- A full range of regular reporting channels is provided for, including two independent mechanisms, such as the Ombudsman or committees of the Verkhovna Rada of Ukraine.
- The possibility of reporting to third parties, such as the media, civil society organizations, trade unions or members of parliament, is defined. The law guarantees protection for whistleblowers even if disclosed through these channels.

15. Threshold for whistleblower protection:
 - A “reasonable belief of a violation” threshold is established, which covers protection for “honest mistakes” but does not provide protection for intentional false statements.
 - The motives for the whistleblower’s decision to report are not taken into account.
16. Anonymity and confidentiality:
 - The Law provides for the possibility of anonymous reporting. A person can submit information anonymously and is protected in case of further disclosure of his or her identity.
 - Practical measures are provided to protect anonymity, such as the provision of special secure letterboxes, telephone lines and electronic means.
17. Protection against reprisals:
 - Protection against any form of harassment, including reprisals in the workplace, is ensured.
 - Civil, criminal and/or disciplinary penalties are established for whistleblower retaliation.
18. Effective oversight and legal support:
 - Provides for adequate oversight by an independent body or court of the investigation of whistleblower complaints.
 - The burden of proof is placed on the employer in case of disputes with the whistleblower.
19. Legal guarantees:
 - Provisions in employment contracts or regulations that restrict a whistleblower from disclosing information are null and void.
20. Electronic technologies:
 - The law provides for the use of electronic technologies to ensure the anonymity of whistleblowers, which increases their security and trust in reporting mechanisms.

Benchmarks

INVESTIGATION AND LIABILITY FOR DISCIPLINARY OFFENCES AND ADMINISTRATIVE OFFENCES RELATED TO CORRUPTION

Interim

By the end of 2025, adopt legislative amendments that would eliminate gaps in disciplinary liability for corruption and corruption-related offences: (a) regarding subjects of disciplinary offences; (b) regarding grounds for disciplinary liability for corruption and corruption-related offences; (c) types of disciplinary liability; (d) subjects of disciplinary liability.

Closing

By the end of 2030, gaps in disciplinary liability for corruption offences will be fully eliminated. The subjects of disciplinary offences, grounds for liability, types of sanctions and bodies conducting disciplinary proceedings are defined and act in accordance with the updated legislation. The effectiveness of the system is confirmed by statistical data on the increase in the number of disciplinary proceedings and the effectiveness of the sanctions imposed. The number of cases of proper disciplinary action for violations increased by 30% compared to 2025.

Interim

By the end of 2025, legislative norms will be adopted and implemented to increase the transparency and efficiency of the Agency's activities in terms of introducing an external independent assessment (audit) of the National Agency's performance every two years with the participation of international experts based on proposals from donors who have provided Ukraine with international technical assistance in the field of asset recovery, tracing and management in the last two years prior to the assessment.

By the end of 2025, legislative changes are to be adopted to strengthen the independence of the Director of the National Anti-Corruption Bureau of Ukraine, including clarifying the procedures for dismissal to ensure greater autonomy and prevent undue political influence.

By the end of 2025, new legislation will be adopted that addresses key issues of investigation and prosecution of corruption offences, including (a) extending the statute of limitations and the timeframe for pre-trial investigation of corruption offences; (b) establishing non-property criminal liability for private sector entities involved in corruption offences, taking into account modern international standards of corporate liability in corruption cases; (d) By the end of 2026, international cooperation mechanisms for the confiscation of assets located abroad will be strengthened with the conclusion of formal agreements and the introduction of cooperation procedures with key partner countries.

Closing

ARMA's external audit mechanism has been successfully operating since 2025. Audits conducted by international experts confirm the transparency and effectiveness of the Agency's activities. The audit results are the basis for adjusting the Agency's future activities.

By the end of 2030, the National Anti-Corruption Bureau of Ukraine will demonstrate high independence in its activities, confirmed by the absence of political interference in its work. The procedures for dismissal of the NABU Director are in line with the law, which ensures stable and effective work of the Bureau.

By the end of 2027, the new legislation on criminal prosecution for corruption offences was updated and entered into force. Legislative provisions on statutes of limitations and investigation of cases have been amended in terms of the time when the statute of limitations begins to run and the grounds for suspending the statute of limitations, which has improved the quality and efficiency of criminal proceedings. The criminal liability of private sector representatives includes new types of sanctions, and the effectiveness of different types of asset confiscation has been improved by clearly distinguishing between them.

By the end of 2030, international cooperation in the field of asset confiscation is actively working, with a number of agreements with international partners, which has increased the number of cases of asset recovery from abroad by 50% compared to 2025.

CONCLUSIONS AND RECOMMENDATIONS

UKRAINE HAS LONG DECLARED ITS INTENTIONS TO INTEGRATE INTO THE EU, WHICH HAS BEEN ONE OF THE KEY STRATEGIC DIRECTIONS OF THE COUNTRY'S FOREIGN POLICY. HOWEVER, ON THE WAY TO REALIZING THESE AMBITIONS, UKRAINE HAS FOUND ITSELF IN EXTREMELY DIFFICULT CONDITIONS - REPELLING LARGE-SCALE MILITARY AGGRESSION BY THE RUSSIAN FEDERATION, WHICH HAS THREATENED ITS STATEHOOD AND NATIONAL SECURITY. THE WAR NOT ONLY DEPLETES THE COUNTRY'S ECONOMY AND RESOURCES, BUT ALSO COMPLICATES THE IMPLEMENTATION OF INTERNAL REFORMS THAT ARE NECESSARY TO BRING UKRAINE CLOSER TO EUROPEAN STANDARDS. DESPITE THESE CHALLENGES, UKRAINE CONTINUES TO WORK ACTIVELY TO IMPLEMENT REFORMS, INCLUDING IN THE FIGHT AGAINST CORRUPTION, WHICH IS ONE OF THE MOST IMPORTANT REQUIREMENTS OF THE EU.

These extraordinary conditions do not in any way diminish the high demands that the EU places on Ukraine in the accession process. The EU continues to follow the formal accession process for Ukraine, as it does for any other candidate country, as set out in the *Acquis Communautaire*, the body of EU legislation and standards. Over the past two years, Ukraine has taken several important steps along the way: it has applied for accession, been granted candidate status and started formal negotiations. A key part of this process is the development and agreement of indicators or benchmarks that measure the country's progress across all 35 chapters of the European *acquis*.

Of particular note are Chapters 23 and 24, which cover the judiciary and fundamental rights and justice, liberty and security, respectively. These chapters are fundamental for EU integration, as they relate to the rule of law, fair trial and the fight against corruption, the principles on which the EU is based. In the revised enlargement methodology, these two chapters have been placed in Cluster 1 (Fundamentals) alongside public administration reform, political (functioning of democratic institutions) and economic criteria, public procurement (Chapter 5), statistics (Chapter 18), and financial control (Chapter 32).

The area of preventing and combating corruption plays an important role in these processes. This underscores the importance of developing clear and specific indicators (opening, interim, closing) that are measurable and achievable. Such indicators should be based on the recommendations of international and national organizations, as well as on the findings of international partners who have already monitored anti-corruption reforms in Ukraine. This will ensure effective monitoring of progress in this area and

identify specific steps to achieve the goals set in the framework of the EU accession negotiations.

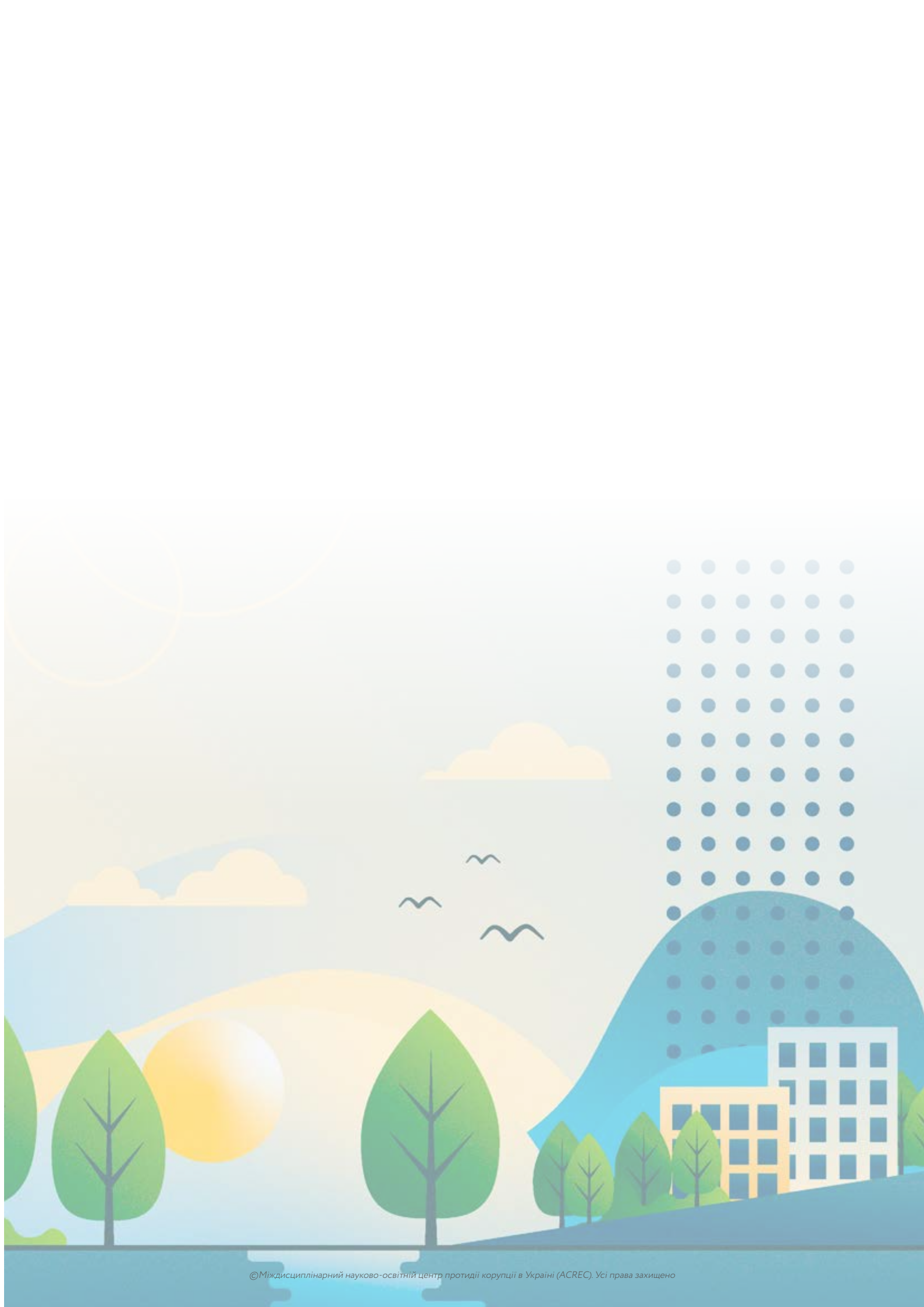
Therefore, the definition of these benchmarks will be a key step in the integration process and will create a basis for further reforms that will help Ukraine move confidently towards EU membership.

Our analysis of the reports of international, European intergovernmental and national organizations on the fight against corruption in Ukraine suggests the following:

1. The need for concrete reforms in the area of preventing and combating corruption is extremely urgent today. Although Ukraine has demonstrated its willingness to implement anti-corruption reforms for many years, this process has been limited by various internal and external factors, including the full-scale invasion that began in 2022. Nevertheless, Ukraine should help its European partners to clearly outline the concrete steps in the field of preventing and combating corruption that it intends to take in the coming years. The prepared benchmarks should be specific, measurable and achievable to ensure effective monitoring of progress in implementing anti-corruption measures.
2. The experience and lessons of the Western Balkans are important for Ukraine. An analysis of the experience of Serbia and Montenegro has shown that the area of preventing and combating corruption remains one of the most difficult in the process of negotiating accession to the EU. This experience points to the importance of implementing systemic reforms and sustainable monitoring of anti-corruption commitments. In Ukraine, benchmarks should take into account possible problems faced by other countries, such as the potential generality and breadth of the requirements, and seek to prevent these problems.
3. Despite the ongoing EU accession process, Ukraine should continue to implement the recommendations made by international and European organizations in the field of preventing and combating corruption. Implementation of these recommendations could bring Ukraine closer to European and global standards in the fight against corruption as soon as possible.
4. Most likely, the benchmarks in the field of preventing and combating corruption for Ukraine during the negotiation process will focus on the following areas: anti-corruption policy, prevention of corruption, investigation and liability for disciplinary offences and administrative offences related to corruption, investigation and liability for criminal corruption offences. This approach will allow to cover

the widest possible scope of anti-corruption activities in Ukraine.

Ukraine should prepare for lengthy and complex negotiations with the EU, as the EU accession process involves not only fulfilling basic requirements but also deep structural changes in many areas. Based on the experience of other candidate countries, such as Serbia and Montenegro, as well as current member states Croatia, Romania and Bulgaria, this process may take years and will require gradual adaptation of national institutions to European standards. One of the key success factors for Ukraine will be the development of a long-term reform strategy that would cover all critical areas, including anti-corruption, judicial reform, rule of law, transparency.



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