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Executive Summary

On November 30, 2023, the National Democratic Institute (NDI) in Ukraine organized and facilitated a roundtable discussion on the democratic challenges that Ukraine has overcome in 2023 and potential opportunities to address ongoing challenges, in 2024 and beyond. The discussion was attended by representatives of civil society organizations, think tanks, government agencies, public authorities and international organizations. The following document is a representation of the views expressed by participants during the discussion.

Key conclusions

- ▶ Ukrainian society needs to be united, both in the battle against the aggressor and in implementing reforms on the path to European Union (EU) membership. Only through genuine political dialogue and cooperation between all key stakeholders is it possible to succeed.
- ▶ Elections should be held in accordance with international standards and ensure equal access to the political process and media platforms for all participants. Both civil society and Ukrainian political forces consider it possible to hold national elections at these standards only after the end of the war, and no earlier than six months after the end of martial law.
- ▶ Decentralization of power in Ukraine should be continued, both in the face of Russia's ongoing aggression against Ukraine and during the recovery period.
- ▶ In a wartime democracy, ensuring political pluralism is a constant challenge. Ukrainian authorities need to adhere to the highest standards of democracy, pluralism, inclusiveness, accountability and transparency possible without sacrificing wartime security needs.
- ▶ Media pluralism will continue to be essential in preserving and developing a democratic society, protecting freedom of speech, and preventing excessive concentration of media influence. Ukraine should make efforts to expand this space, even in a time of war. Traditional media will need to adapt to a changing consumer culture, with a growing majority of Ukrainians receiving information on current events from social media platforms.

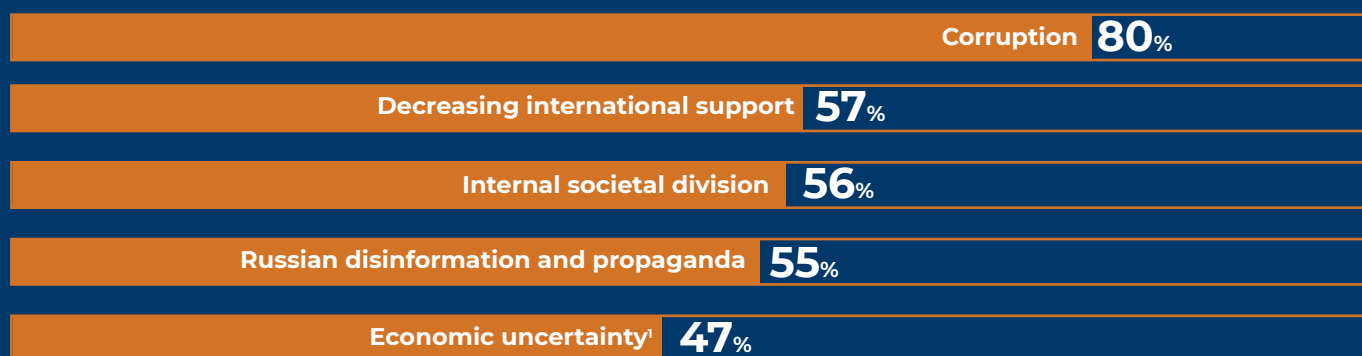
Ukraine's main objectives for 2024 were identified as:

- ▶ Searching for ways, including non-standard solutions, to guarantee Ukraine's security;
- ▶ Continuing judicial and anti-corruption reforms;
- ▶ Holding a transparent selection process and appointing independent lawyers to the positions of judges of the Constitutional Court of Ukraine;
- ▶ Reforming the law enforcement sector, primarily the National Police of Ukraine;
- ▶ Broadening public involvement in the implementation of reforms and the process of rebuilding the country;
- ▶ Implementing measures to achieve gender balance in decision-making processes;
- ▶ Developing the state policy on reintegration of veterans; and
- ▶ Implementing recommendations contained in the European Commission's report published on November 8, 2023.

Introduction

Russia's full-scale invasion of Ukraine more than two years ago has changed the rules of life, rights, and coexistence not only in Ukraine but around the world. However, this aggression has not stopped the reform process in Ukraine, which began in 2014. With every passing day, Ukraine is becoming stronger not only on the battlefield but also institutionally, implementing democratic reforms thanks to the assistance of partners who share Ukraine's values. The decision of the European Council to start negotiations on Ukraine's accession to the European Union is a significant incentive to increase the pace of reforms in Ukraine, especially in the areas of rule of law and justice.

Conflict and Russian aggression were not the only risks to Ukraine and Ukrainian society. According to the results of a nationwide telephone survey conducted by NDI on November 14-22, 2023, Ukrainians also identified the following as major threats:



On November 30, 2023, the National Democratic Institute (NDI) in Ukraine conducted its

third
political roundtable discussion in Kyiv

The event was held in a hybrid format, with participants joining both in person and online.

NDI convened representatives of

- ▶ state authorities
- ▶ civil society
- ▶ international organizations
- ▶ think tanks and others

To discuss the achievements in overcoming the challenges of 2023, identify the main democratic challenges facing Ukraine in 2024, and ensure mutual understanding and cooperation in addressing them.

The following content was gleaned from this discussion, which was held under Chatham House Rules. It therefore does not necessarily represent the views of any individual participant, those of NDI, or any associated donor organization.

NDI Ukraine expects to convene the next such meeting in June 2024, dedicated to discussing the status of solving the main challenges of the current year, finding ways to accelerate reforms, as well as opportunities to overcome obstacles to their implementation.

¹ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

Security

The war and preservation of the country are the main challenges Ukraine faces today. Meaningful, long-term reform will require a safe and secure nation, focused on its democratic future.

The situation in which not only Ukraine but the entire world has found itself after Russia's full-scale invasion of the territory of an independent state is a completely new reality. The norms of life, rights, and coexistence that were familiar to the whole world are now destroyed. This new situation requires all actors to make non-standard, dynamic decisions that will meet the realities of today.

The participants of the event noted that Russia violated all norms of international law back in 2014 by annexing part of Ukraine's territory, but it still remains a permanent member of the UN Security Council, and has diplomatic relations with all countries of the world (except Ukraine and Georgia). In these circumstances, Ukraine must find a way to preserve its sovereignty and independence, regain the temporarily occupied territories, the Russian dictatorship must be stopped, otherwise it will grow, with aspirations to "annex" more and more territories. Ukraine must relentlessly convey this message to its partners.

Recently, both national and international experts have commented on the fact that

Russia's approved state budget for 2024 allocates 40% of spending on military needs. In this environment, Ukraine will not be able to compete with Russia one-on-one. As long as the war continues, it will need substantial military aid from the West. After the war, its only option for guaranteeing long-time security and independence is to take measures towards NATO membership. North Atlantic integration is very important for Ukrainian security; Ukraine can defend itself only when allied with other states. However, it is worth remembering that NATO is not just a military bloc, but a political one as well. If a state wants to join NATO, it should follow certain democratic criteria. There remain many steps before Ukraine may be invited to join NATO at the next Summit in Washington, dedicated to the 75th anniversary of the Alliance (in July 2024).

Ten years ago, Ukraine found itself in a different reality: students were beaten on Maidan after Yanukovich reversed the country's European integration policy, hoping that the people of Ukraine were intimidated into silence and the country would become part of Russia. This failed, and since 2014, a number of significant reforms have been carried out, and Ukraine is on a path to Euroatlantic integration. In order for these reforms to continue and Ukraine's democratic future to be realized, the nation must successfully maintain its security.



Anti-corruption Reform

Anti-corruption reform continues to be a top priority for Ukraine's accession to the EU. A number of developments in the last year strengthen Ukraine's efforts to fight corruption, ensure transparency and accountability of public officials. These include wartime anti-corruption controls both to support democratic institutions and mechanisms and minimize corruption when Ukraine rebuilds after the war.

The panelists emphasized the importance of continuing the implementation of anti-corruption reform and stressed that their success is strategically linked to the effective implementation of other reforms, such as those related to the judiciary, parliament, antitrust efforts, law enforcement agencies, and others. Civil society continues to play an important role in monitoring the compliance of anti-corruption institutions with democratic principles such as the rule of law, transparency and accountability.

According to panelists, an important step in advancing anti-corruption control mechanisms is strengthening the independence of anti-corruption institutions. In

January 2024, the law previously adopted by Verkhovna Rada on strengthening the independence of the Specialized Anti-Corruption Prosecutor's Office (SAPO) came into force, signaling the first step in safeguarding SAPO's independence by excluding it from the Prosecutor General's Office and transforming it into an independent body with the status of a separate legal entity under public law². With the adoption of this law, Ukraine fulfilled one of the European Commission (EC) recommendations in the framework of strengthening the fight against corruption by improving the institutional capacity of anti-corruption bodies to carry out their activities. The adopted law also presupposed

the partial repeal of the so-called Lozovyi amendments³, which is a positive development in itself. However, the issue of closing criminal proceedings by a court at the request due to the expiration of the statute of limitations remains open.⁴

Another positive step which was recommended by the European Commission, and was the long-awaited selection of the National Anti-Corruption Bureau (NABU) head as a result of the open competition, which ensured the integrity and competence of the chosen candidate⁵. The institution has demonstrated promising results in cooperation with other anti-corruption agencies in ensuring investigations into high-

² Verkhovna Rada of Ukraine. The Law of Ukraine "On Amendments to the Criminal Procedure Code of Ukraine and Other Legislative Acts of Ukraine on Strengthening the Independence of the Specialized Anti-Corruption Prosecutor's Office" of 08.12.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3509-IX#Text>

³ For more information on the Lozovyi amendments, please see: Centre for Policy and Legal Reforms. Weekly analysis (December 06-12, 2023). Available in Ukrainian: <http://surl.li/qsfak>

⁴ Ibid.

⁵ Ukrayinska Pravda. (2023, March 6). Cabinet appoints Krivonos as NABU director: March 6, 2023. Available in Ukrainian: <https://www.pravda.com.ua/news/2023/03/6/7392169/>

level corruption cases. In addition, the law to increase the number of NABU staff was enacted on December 10th, 2023⁶, which allows for the expansion of the NABU number of employees from 700 to 1000 people by 2026. This was an important step to redistribute the workload of the agency and ensure the effectiveness and sustainability of anti-corruption work.

Marking a transformative stride towards combating corruption, the State Anti-Corruption Program for 2023-2025 (SAP), set into motion in March 2023, has opened avenues for the establishment of enduring anti-corruption controls in Ukraine. The SAP is a roadmap with concrete mechanisms and timelines for anti-corruption reform and harmonization with EU policies. Its implementation is expected to increase public intolerance for corruption, accelerate economic growth, ensure transparent recovery processes, and minimize the risks of corruption during Ukraine's reconstruction processes. Participants once again shared optimism regarding the implementation of the SAP. Experts also stressed the importance of ensuring transparency and accountability as guiding principles behind the anti-corruption reform.

The requirement to submit e-declarations for public officials and public access to declarations which has been restored with the help of civil society on October 12, 2023, is an important measure for ensuring transparency and accountability in times of war. Another long-awaited decision was the restoration of reporting of political parties in late December 2023.⁷ The adopted law mandated the resumption of the submission of reports by political parties and the restoration of NACP's functions of exercising state control over compliance with restrictions on political party funding.⁸

Among the challenges Ukraine is facing in its anti-corruption efforts, experts warned about the need to closely monitor the law on lobbying, passed by the Verkhovna Rada in February, 2024. The law raised concerns within the expert community. Civil society organizations have criticized draft laws on lobbying⁹ prepared by NACP and issued a statement that these draft laws were deemed to lack proper public participation and were seen to equate advocacy for socially important changes with lobbying¹⁰. The statement also points out that these draft laws impose significant restrictions

on the activities of NGOs, creating a disproportionate administrative burden. The NGOs argue that these provisions might contradict European Commission requirements, urging substantial revisions and the adoption of the Law of Ukraine "On Public Consultations," which will provide for mandatory public consultations on parliamentary initiatives.

According to the participants, another challenge is the anti-oligarchic law, which lacks specific measures to address the problem of oligarchization in Ukraine and has been criticized by the Venice Commission. Experts are convinced that the best solution for implementing anti-oligarchic reform is a systematic approach to ensuring reforms in other areas that create the basis for de-oligarchization – judicial, tax, implementation of the SAP, increased transparency of public procurement, media pluralism, anti-money laundering, public funding of political parties, etc. In addition, there is a pressing need to reform the law enforcement system, primarily the National Police, which is responsible for the pre-investigation of a large part of corruption offenses but lacks the structural capacity to exercise its responsibility fully.

⁶ Verkhovna Rada of Ukraine. The Law of Ukraine "On Amendments to Article 5 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" to Strengthen the Institutional Capacity of the National Anti-Corruption Bureau of Ukraine" of 08.12.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3502-IX#Text>

⁷ Verkhovna Rada of Ukraine. The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Improving State Financing and Control over the Activities of Political Parties" of 23.08.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3337-IX#Text>

⁸ National Agency on Corruption Prevention (NACP). (2023, December 27) The obligation of political parties to submit reports and inspections to the NACP has been restored. Available in Ukrainian: <http://surl.li/qsfeh>

⁹ In particular, draft laws "On Fair Lobbying and Advocacy in Ukraine" and "On Amendments to the Code of Ukraine on Administrative Offenses on Violation of Legislation in the Field of Lobbying and Advocacy".

¹⁰ Statement of NGOs on public consultations on draft laws on lobbying. Centre for Economic Strategy. 2023. Available at: <http://surl.li/peuga>

Inclusion of underrepresented groups

Ukraine's ongoing resistance to Russian aggression has brought to light the unique contributions of underrepresented groups to the country's vibrant democracy and wartime recovery. However, the Russian war against Ukraine has aggravated many pre-existing intersecting challenges faced by underrepresented groups and created new vulnerabilities.

Women, youth, LGBTIQ+ people, persons with disabilities, veterans, families of veterans, internally displaced persons (IDPs), refugees, and national minorities are actively involved in initiatives that support Ukraine's armed forces and their communities. However, they experience overlapping challenges, such as income reduction barring access to services and goods, social isolation, underrepresentation in politics and decision-making, as well as difficulties in accessing state services or humanitarian support. To ensure a successful recovery, underrepresented communities must have agency and ownership of political processes, making Ukraine stronger in its diversity.

The roundtable participants noted that the absence of requirements for mandatory public consultations on legislative initiatives of MPs and the President, as well as the Government's failure to comply with such requirements due to the need to urgently address issues of public life, often leads to the fact that citizens' voices, including those representing the needs of underrepresented and vulnerable groups in Ukraine, are not taken into account. In December 2023, CSOs worked together with NDI to develop joint recommendations for draft law #4254 "On Public Consultations," which included calls to extend public consultations to MPs, and to bring law into effect on the day following its publication and be implemented six months thereafter.

Draft laws are introduced by the Verkhovna Rada of Ukraine through closed-door discussions, which creates a risk for external corrupt influences on individual MPs while limiting the role of the public and civil society in lawmaking. Civil society organizations, including those representing the voices of underrepresented and vulnerable groups, have a limited set of advocacy and communications tools and skills to reach decision makers and speak on behalf of beneficiaries. In order to be successful, Ukraine's ongoing reforms and the European Union integration process must be as transparent and inclusive as possible in a democracy at war.

Participants expressed a consensus that elections in Ukraine should happen after the war is over. However, whenever elections are held, they will need to account for groups that were most affected by the war, including IDPs and those displaced abroad. The state voters' registry will need to be updated and audited, guaranteeing electoral rights for all eligible voters, wherever they may reside.

Continued development of media pluralism in Ukraine is crucial to ensure the inclusion of underrepresented voices and to counteract Russian disinformation, which often targets vulnerable



groups, such as ethnic minorities¹¹, religious minorities¹², residents of occupied and recently deoccupied territories¹³, LGBTIQ+¹⁴ people, and women¹⁵. National broadcasters, such as Suspilne, can play an important unifying role and facilitate public access to reliable information. Better communication strategies are needed on part of state institutions and NGOs to reach communities that are most vulnerable with information about available support.

In order to fulfill the requirements for the start of negotiations on Ukraine's accession to the EU, updates are underway to legislation on the rights of persons belonging to national minorities. In December 2022, after discussions with the European Commission, the Council of Europe, and civil organizations of national minorities, the Verkhovna Rada of Ukraine adopted the law "On National Minorities (Communities) of Ukraine"¹⁶. Adopting this law was one of the key recommendations by the Venice Commission since 2019, and was preceded by the transitional provisions of the Law "On Supporting the Functioning of the Ukrainian Language as the State Language." The Venice

Commission's recommendations on the law were released in June and September 2023, and the Verkhovna Rada of Ukraine accordingly amended a number of legislative acts in September and December 2023 to improve the overall legal framework for the exercise of the rights and freedoms of persons belonging to national minorities^{17 18 19}. With these legislative changes, the state is expected to ensure the proper implementation of constitutional provisions and international obligations undertaken by Ukraine within the framework of previously ratified international treaties, such as the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Proper implementation of these obligations and taking into account the Venice Commission's recommendations are needed for ensuring Ukraine's compliance with democratic standards, fostering social cohesion, and integrating all groups within Ukrainian society.

Ukraine's social cohesion is linked with the promotion of human rights, including those of the LGBTIQ+ communities. While

LGBTIQ+ Ukrainians still don't have access to a range of rights, public perceptions of equality are steadily improving. NDI's biannual survey of November 2023²⁰ indicates that 72% of Ukrainians agree with the statement that LGBT+ people should have the same rights as others, compared to only 29% of respondents agreeing with the statement in December 2021²¹. In addition, 73% of Ukrainians agree with the statement that LGBT+ people should be protected from discrimination. These numbers indicate the highest-ever public support for LGBTIQ+ inclusion in Ukraine.

Inclusion of underrepresented groups is important to a functioning democracy, and promotion of human rights is part of Ukraine's path towards European Union and NATO integration. Democratic institutions and organizations must become more inclusive, supporting every Ukrainian citizen and making them feel involved and appreciated. Inclusive and decentralized wartime and postwar recovery and a vibrant civil society representing the interests of all groups are a factor of Ukraine's success.

¹¹ Lesya Bidochko et al. "The ethnocide of Hungarians and the Jewish conspiracy. Russian disinformation about national communities in social networks." detector.media, May 26, 2023. Available in Ukrainian: <http://surl.li/pbnbe>.

¹² Lesya Bidochko et al. "'Canonical vs. Satanists'. A study of disinformation about religious communities on social media." detector.media, July 4, 2023. Available in Ukrainian: <http://surl.li/intnm>.

¹³ "'You, Khokhly, are noble waiting men'. A study of disinformation about people from the occupied and liberated territories in social media." detector.media, August 21, 2023. Available in Ukrainian: <http://surl.li/pbnda>.

¹⁴ Lesya Bidochko et al. "How Russian Agitprop Is Trying to Use LGBTQIA Issues in the Context of the War Against Ukraine." detector.media, September 29, 2023. Available in Ukrainian: <http://surl.li/knuqt>.

¹⁵ "Why propagandists talk about Ukraine and Ukrainian women as prostitutes, or the misogynistic dimension of Russian agitprop." detector.media, October 9, 2023. Available in Ukrainian: <http://surl.li/lmcml>

¹⁶ Verkhovna Rada of Ukraine. Law of Ukraine "On National Minorities (Communities) of Ukraine" of 10.12.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/2827-20#Text>

¹⁷ Verkhovna Rada of Ukraine. Law of Ukraine "On Amendments to the Law of Ukraine "On National Minorities (Communities) of Ukraine" on Certain Issues of Realization of Rights and Freedoms of Persons Belonging to National Minorities (Communities) of Ukraine" of 21.09.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3389-20#n2>

¹⁸ Verkhovna Rada of Ukraine. Law of Ukraine "On Amendments to Certain Laws of Ukraine Concerning the Consideration of the Expert Opinion of the Council of Europe and its Bodies on the Rights of National Minorities (Communities) in Certain Areas" of 08.12.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3504-20#n39>

¹⁹ These changes encompass amendments to the Laws of Ukraine "On National Minorities (Communities) of Ukraine", "On Media", "On Local Self-Government in Ukraine", "On Education", "On Complete General Secondary Education", "On Higher Education", "On Ensuring the Functioning of the Ukrainian Language as the State Language".

²⁰ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

²¹ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>



Euroatlantic Integration

2023 was a year of enormous progress on Ukraine's path to full membership in the EU and NATO. The EU has proved again that it stands with Ukraine by continuing to support Ukraine's fight for freedom and democracy by opening accession negotiations with Ukraine.

Putin's aggression has continued to unite Ukrainians in their desire for Euroatlantic integration. Prior to the full-scale invasion, NDI's polls demonstrated differences in public opinion on joining NATO between the more Russian-speaking regions to the south and east and the rest

of Ukraine. Two years later, results of the 2023 poll conducted in November found these differences had vanished: today, 89 percent of all respondents across Ukraine want to see their country join NATO. Support for EU membership is even higher, at 91 percent.

On October 17, the launch of the Ukraine Facility program over 2024-2027 was approved by the European Parliament²². The program has been developed to provide support for Ukraine's recovery through the path to accession to the European Union.

²² The Cabinet of Ministers of Ukraine. "The European Parliament approves the launch of the €50 billion Ukraine Facility program for 2024-2027". October 17, 2023. Available in Ukrainian: <http://surl.li/qsfgt>

Ukraine's Facility will provide EUR 50 billion in macro-financial support to Ukraine, which should be implemented over the period of 2024-2027. The amount of EUR 50 billion will be provided to Ukraine in the form of grants and loans, the core of which will be directed to the state budget to ensure macrofinancial stability (approximately 75 percent).

In November 2023, the European Commission issued a report²³ concluding that Ukraine had fulfilled most of the Commission's requirements to start negotiations on Ukraine's accession to the European Union and recommended to the European Council to begin negotiations with Ukraine. The revised methodology is based on four principles: credibility, stronger political steer, a more dynamic process and predictability for both sides.²⁴ The third principle – dynamism – suggests supporting the reform process by clustering the chapters, where the cluster on fundamental issues (rule of law, economic criteria and public administration reform) is central and the one that determines the progress of the negotiations²⁵. During the roundtable, experts highlighted that the European Commission will continue to focus on Ukraine's progress in implementing the recommendations of the cluster of fundamental issues.

On December 14, the European Council (EC) announced the decision to open negotiations on Ukraine's accession to the EU. The

next step is to adopt a framework for negotiations—after Ukraine completes outstanding reforms. The Commission says it is ready to report on progress in completing these reforms by March 2024. Ukraine is expected to continue implementing reforms, especially in the areas of the judicial system, anti-corruption and fundamental human rights, and to start working on a joint roadmap with the EC on how to implement EU legislation.

The start of full-scale war has also galvanized discussion about Ukraine's future in the North Atlantic Treaty Organization (NATO). In the Communiqué issued by the participants of the NATO summit in Vilnius held on July 11-12, 2023, NATO condemned an unprovoked war of aggression started by Russia against Ukraine and claimed that Ukraine's future is in NATO²⁶. According to the same document, it was decided to establish a NATO-Ukraine Council, a new joint body where Allies and Ukraine sit as equal members, and an invitation to join NATO will be extended to Ukraine when it has implemented the necessary additional democratic and security sector reforms and continues to demonstrate progress in interoperability, which will be regularly assessed by NATO Foreign Ministers through an adapted Annual National Program.

Despite Ukraine's expectation to receive a "clear signal" in support of its membership, in other words an invitation, NATO leaders have

stated that "the invitation for Ukraine to join the Alliance will be sent when the Allies agree and conditions are met". Which simplified the trajectory for potential membership and at the same time set unspecified timeframes and conditions for Ukraine's membership in NATO. Michal Szczerba, the President of the NATO Parliamentary Assembly (NATO PA) in his numerous statements calls for NATO Allies to stand firm in their support for Ukraine, and to do everything possible to help Ukraine advance towards membership until the next NATO Summit in Washington in July 2024²⁷.

Considering the experience of other countries, it is likely that the EU and NATO accession processes will take several years. For EU accession, Ukraine will have to satisfy essential conditions, known as Copenhagen criteria²⁸, which require the state to achieve stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy with the ability to operate within the EU; the capacity to effectively implement the rules, standards and policies that make up the body of EU law, and adherence to the aims of political, economic and monetary union. Reforms need to be implemented on the way to establishing functioning democratic institutions and ensuring the principle is valid the rule of law, which is not only a requirement of the EU but also a demand of Ukrainian society.

²³ Commission staff working document. Ukraine 2023 Report. European Commission. 2023. Available at: <http://surl.li/mzqyk>

²⁴ Revised enlargement methodology: Questions and Answers. European Commission. 2020. Available at: <http://surl.li/oxsdo>

²⁵ Ibid.

²⁶ North Atlantic Treaty Organization. "Official text: Vilnius Summit Communiqué". July 11, 2023. Available at: https://www.nato.int/cps/en/natohq/official_texts_217320.htm

²⁷ NATO Parliamentary Assembly. NATO PA's Acting President Michal Szczerba: Alliance must not waver in support of Ukraine. October 6, 2023. Available at: <http://surl.li/rsbnd>

²⁸ European Commission. Accession criteria. Available at: <http://surl.li/eukpz>

Centralization and Decentralization of Power

Decentralization is one of the most significant governance reforms that Ukraine has implemented since 2014. Despite facing great challenges posed by Russia's full-scale war, many municipalities have managed to provide local public services while also taking on additional responsibilities to contribute to the war effort. This has been done despite the substantial strain on their financial and human resources. It is worth noting that the transfer of powers from the central to the local level has helped pave the way for Ukraine's resilience in the face of Russian aggression.

During the discussion, participants emphasized the crucial need to continue the ongoing decentralization of powers and to maintain strong local governance, despite the ongoing war. A significant milestone in this direction was the adoption of the law on public service for local self-government bodies in May 2023. However, a major challenge lies in the realm of personal income tax allocation from local budgets and the transfer of additional powers to local governments. These issues are not consistently supported with proper funding, which makes them even more challenging to address.

When it comes to Ukraine's recovery, it is crucial to maintain and prioritize the principle of decentralization of power. Although the government initially aimed to centralize the process of recovery in the regions affected by the Russian aggression, it has become evident that involving civil society and local government is necessary and that the recovery process should be decentralized as much as possible to ensure effective and inclusive decision-making.

The experience of Denmark's²⁹ support for the restoration of Mykolaiv is an illustrative model of effective and targeted efforts that can help with the short-term and long-term recovery of a particular city or region. The ability of local communities to ensure the quality of recovery on their own is in question. This includes taking into account the strategic interests of the community, the functional purpose, and the need to restore certain facilities. One solution could be the establishment of local project offices (recovery offices) in all communities. This would increase the capacity of local communities in their efforts to implement recovery plans and contribute to the decentralization of recovery processes. Additionally, it would create new jobs, encourage Ukrainians to return from abroad and help keep active community residents from moving away. In the future, these offices would enable communities to successfully implement powerful projects in various fields on their own.

The speakers agreed that the successful recovery of Ukraine will be contingent upon continued decentralization reform. It should be noted that the risks prompted by weakened decentralized institutions could undermine the democratic resilience of Ukraine and discourage international donors and investors.

Participants expressed serious concerns about autocratic tendencies while the country is fighting to safeguard its democracy. In addition to restrictions on decentralization, they noted pressure on the local governments and mayors in various cities such as Rivne, Sumy, Poltava, Lviv, Kyiv, and Vinnytsia. This is yet another factor which could hinder the success of decentralization reform and the preservation of strong local governments. Participants classified the dismissal of mayors in Rivne and Chernihiv as undemocratic and outside the rule of law. Government officials should avoid chasing political ratings and instead focus on solidifying gains made through decentralization.

²⁹ V. Faraponov. Denmark's support for the restoration of Mykolaiv is a model for Ukraine's post-war recovery. November 2, 2023. Available in Ukrainian: <http://surl.li/qsfbz>

Political Pluralism

A survey conducted by NDI from November 14 to 22, 2023 reveals that 93 percent of Ukrainians believe it is essential for Ukraine to operate as a fully functioning democracy. Respondents highlighted equal justice for all (67 percent), freedom of speech (60 percent), and free and fair elections (46 percent) as the pivotal features of such a democracy.

However, several challenges persist in fully implementing the principles of political pluralism, including the limited access of opposition representatives to national media, coupled with the lack of political balance and proportionality in representing diverse political positions in the editorial policies of the state TV marathon, and restrictions on parliamentary diplomacy³¹. Additionally, due to martial law, access to the Verkhovna Rada building remains significantly restricted, and the Rada TV channel, designed to cover parliamentary activities, has ceased live broadcasting, thereby limiting opportunities for public monitoring.

For more than 3.5 years, political parties have not submitted their financial reports to the NACP due to COVID-19, and martial law. On December 26, 2023, the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improving State Financing and Control over the Activities of Political Parties” (No. 3337-IX) came into force.³² This law restored the obligation of all political parties to report on their finances and property, as well as the functions of the National Agency on Corruption Prevention (NACP) to verify these reports. Furthermore, the law provides for state funding not only for parliamentary parties but also for parties that received 3 percent of the vote in the elections but are not represented

in Parliament (previously this figure was 5 percent). This provision will come into effect after the next parliamentary elections.

There was also progress in the preparation of the draft law “On Political Parties”, by a special working group co-led by MP Victoria Podhorna (Servant of the People Faction). The latest update of the draft law was prepared in August 2023 based on recent legislative developments, results of public discussions, and consultations with representatives of various state bodies.

Furthermore, as a result of the ninth Jean Monnet Dialogue (November 10-12, 2023), Ukrainian legislative leaders have demonstrated the ability to reach a consensus on critical matters related to political pluralism.³³ They agreed to set an example of unity, inclusiveness, transparency and accountability for all democratic actors in Ukraine and expressed the commitment to inclusivity in parliamentary diplomacy, particularly regarding international forums, and engagement in inter-party diplomatic activities. Fraction leaders addressed necessary institutional reforms on future elections and rights for opposition groups. Their statement also affirmed an agreement to ensure minority representation in leadership positions within the Verkhovna Rada Committee on Freedom of Speech.³⁴

Moreover, there have been significant shifts in public opinion regarding the permissibility of criticizing public authorities. According to polls conducted by the Kyiv International Institute of Sociology in October 2023, 70 percent of Ukrainians now deem criticizing public authorities appropriate, compared to only 26 percent in May 2022³⁵. Additionally, NDI research conducted in November 2023 revealed a decline in public trust across almost all state institutions, with political parties and courts registering minimal levels of trust (7 percent and 10 percent, respectively). Particularly noteworthy is the substantial decrease in trust levels for the Prime Minister (from 48 percent to 27 percent), the President of Ukraine (from 80 percent to 63 percent), and the government (from 36 percent to 21 percent). Consequently, as public support for authorities wanes and the perceived legitimacy of criticism rises, changes in the rhetoric of key political actors can be anticipated in the near future.

Amidst a full-scale war, it's evident that maintaining political pluralism poses an enduring challenge. Thus, supporting the ongoing implementation of these measures and sustaining a comprehensive discourse on the safeguarding and advancement of pluralism in wartime democracy emerges as a crucial task for Ukrainian society in 2024.

³¹ Initiatives by the Verkhovna Rada leadership to establish new rules for MPs' business trips and the formation of Ukrainian delegations to inter-parliamentary assemblies faced criticism from civil society and certain national media.

³² Verkhovna Rada of Ukraine. The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improving State Financing and Control over the Activities of Political Parties” of 23.08.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3337-IX#Text>

³³ The ninth meeting in the Jean Monnet Dialogue format was held with the participation of the Verkhovna Rada of Ukraine. Official website of Verkhovna Rada of Ukraine. 2023. Available in Ukrainian: <http://surl.li/peuln>

³⁴ Some necessary actions have already been taken, such as the appointment of Yaroslav Yurchyshyn, a representative of the opposition Holos faction, as chairman of the Verkhovna Rada Committee on Freedom of Speech on December 9, 2023. Ukrinform. 2023. Available in Ukrainian: <http://surl.li/peumu>

³⁵ Dynamics between May 2022 and October 2023 of the perception of the appropriateness of criticism of possible erroneous and incorrect actions of the authorities. KIIS, 2023. Available at: <http://surl.li/qlqdw>

Media Pluralism

As the second year of the full-scale war draws to a close, the role of free, independent, and resilient media in Ukraine has never been so crucial. Media shapes how Ukrainians understand and perceive the war, as well as the future of the country. To this end, Russian disinformation campaigns aimed at discrediting Ukraine, Ukrainian political and military leadership, and on undermining the will of Ukrainian society, poses a constant challenge. Furthermore, Ukrainian media have had an especially challenging last two years in terms of financing and human capital. There are no simple solutions to these problems.

Ukrainian media have to survive and adapt to an environment that has changed significantly over the last few years, not only due to the full-scale war. Social media networks have become increasingly popular, fundamentally altering the way Ukrainians consume information. According to a nationwide telephone survey conducted by NDI in November 2023, 68 percent of respondents said they received information about the war and current events from social media and messaging apps.³⁶ This trend is especially worrying given the popularity of Telegram, a Russia-linked social media platform that is not responsive to traditional civil society outreach or advocacy.³⁷ Among Ukrainians that report using social media, 70 percent use Telegram daily, and 94 percent of them said they receive information about the war and current events on Telegram.³⁸

³⁶ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

³⁷ Loucaides, Darren. The Kremlin Has Entered the Chat. Available at: <https://www.wired.com/story/the-kremlin-has-entered-the-chat/>

³⁸ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

During the conference, participants voiced concerns that while Telegram can not be held accountable either by Ukrainian or by international legal authorities; therefore, the only way to enact control over the platform in Ukraine would be to ban it completely. However, participants noted that this is unlikely due to its popularity and since the Ukrainian government and media have already invested a lot of time and effort into communication efforts on Telegram.

Telegram is not the only problem, as underlined by participants of the conference. Other social media platforms, such as YouTube (used daily by 66 percent of Ukrainians³⁹), operate using algorithms that may be manipulated by malign actors. Ukrainian researchers found that recommendations on YouTube may promote content that is threatening and dangerous both for the individual viewer and Ukraine's national security.⁴⁰

The new "Law on Media" is intended to level the playing field. It provides news pages on social media, including Telegram channels, with an opportunity to register as a media organization and gain various benefits, such as the ability to obtain accreditation

and participate in a co-regulation framework.⁴¹ However, as of November 30, only 24 news pages on social media were officially registered.⁴² Since this process is voluntary, it is important to persuade bloggers and social media pages to get official registration. This would lead to a more transparent and accountable media environment. In this regard, participants of the conference recalled two important documents adopted by the EU– the Digital Services Act and Digital Markets Act– both of which serve as examples of a more rigid regulation framework for digital media that Ukraine might adopt.

The United TV Marathon continues to be a problem for media pluralism in Ukraine. Seen by some participants of the conference as a tool that could be exploited by the government, the United Marathon enjoys increasingly less trust from Ukrainians. According to research by the Kyiv International Institute of Sociology (KIIS), between May 2022 and December 2023, the share of those who trust the Marathon decreased from 69 percent to 43 percent.⁴³ Ukrainian media organizations are criticizing it too.⁴⁴ As the trust continues to decrease, the utility of the United Marathon is under question.

Relatedly, Ukrainian media, especially local and hyperlocal outlets, continue to be understaffed and under-resourced. After the Russian full-scale invasion, the advertising market, which has been one of the main sources of revenue for independent media, has shrunk significantly. Even though the market has partially recovered,⁴⁵ it has not reached the level observed prior to the full-scale war. Therefore, media, especially local and hyperlocal outlets, desperately need external funding and capacity-building support.

As Ukraine faces its most challenging period yet, media pluralism will play an increasingly crucial role in preserving and fostering a democratic society, protecting freedom of expression, and preventing the undue concentration of media influence. A strong, resilient, and trusted media environment is a primary safeguard of any democracy– and even more so when that democracy is facing constant information attacks. For these reasons, it is important for the government, civil society, and international community to ensure that media organizations have the resources, legal, and regulatory framework to operate freely.

³⁹ Ibid.

⁴⁰ Kulchynsky, Roman et al. The Piggyback Trick. How YouTube Algorithms Promote Conspirology and Propaganda. November 28, 2023. Available at: <https://texty.org.ua/d/2023/youtube-recommendations/en/>

⁴¹ Rozkladai, Ihor. Telegram and media: a game without rules. July 31, 2023. Available in Ukrainian: <https://cedem.org.ua/analytics/telegram-ta-media/>

⁴² Dankova, Nataliya. Who owns the registered online media. November 6, 2023. Available in Ukrainian: <http://surl.li/qsfnf>

⁴³ Hrushetskyi, Anton. Trust of the telethon "Yedyni Novyny." December 28, 2023. Available at: <http://surl.li/qsfnno>

⁴⁴ Méheut, Constant and Mitiuk, Daria. 'It's State Propaganda': Ukrainians Shun TV News as War Drags on. The New York Times. January 3, 2023. Available at: <http://surl.li/ownqr>

⁴⁵ Lohvynovska, Veronika, Karpushyna, Yuliia. The Ukrainian advertising market is recovering. May 14, 2023. Available in Ukrainian: <http://surl.li/qsfpo>

Role of the Parliament

Despite facing numerous challenges, since the full-scale invasion by Russia, the Verkhovna Rada of Ukraine has successfully ensured the continuity of parliamentary work following the spirit of the Constitution of Ukraine and in line with the Rules of Procedure. This is an important achievement for Ukrainian democracy.

The parliament is gradually resuming work in a more open format, but the challenges and restrictions of wartime continue to affect the parliament's activities. Due to security factors, it is currently impossible to ensure the regular work schedule of the session as it would be under normal circumstances. For instance, during the ninth session, two to four days per month were allocated for the plenary meeting being continued without closure to ensure continuity.

While security factors affect parliamentary transparency and openness, it is crucial to strike a balance between security measures and transparency by involving a wider range of media and civil society representatives. In 2023, the Ukrainian Parliament made progress in several areas. After a delay of several days due to security issues, broadcasts of plenary sessions were resumed; the official web portal provided access to information on voting results and transcripts of meetings. Additionally, some information was returned to the official website, such as details on MPs, their activities, factions, and committees. Some committees also effectively engaged specialized communities in lawmaking, particularly in the area of European integration. The Parliament also adopted amendments to the Law "On

Committees of the Verkhovna Rada of Ukraine" allowing Verkhovna Rada

committees to hold meetings via videoconference during martial law in Ukraine.

There are several challenges facing citizens and journalists trying to access the parliament due to security restrictions in the government quarter. One possible solution to this problem would be the opening of a parliamentary press center. Additionally, it is important to provide information about the agendas of meetings in advance, and there are already some mechanisms that have been developed for this purpose for the next session. However, some information, such as details about MPs' aides and the Verkhovna Rada Secretariat, is still lacking on the official web page. Effective communication between the parliament and citizens is also a concern. These issues are confirmed by the results of the nationwide NDI survey⁴⁶ conducted from November 14-22, 2023. The survey found that the parliament has one of the lowest levels of citizens' trust among state institutions, with only 1 percent of respondents fully trusting and 13 percent trusting the institution.



⁴⁶ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://sur.li/qsepx>

The current parliament has an increased responsibility towards many historical challenges related to European and Euro-Atlantic integration, business continuity during the war, maintaining the legitimacy of the VRU current convocation due to martial law, and ensuring the legitimacy of the first post-war elections, as well as challenges related to the process of recovery and development of Ukraine.

To fulfill these tasks, it is essential to ensure quick decision-making and effective tools to work out the political consensus and prioritize some spheres, especially the Legal Approximation of Ukrainian Legislation to the EU acquis. To achieve efficiency, these tasks might require amendments to the parliamentary RoP, while taking into account the need to ensure an effective and high-quality legislative process.

It is equally important to provide mechanisms for the opposition to influence the decision-making process without turning it into a filibuster, especially in the second reading stage.

On August 24, 2023, the parliament passed a law on law-making activity. The law includes provisions related to the development of draft laws, such as planning legislative work, using public policy documents, concepts of normative legal acts, law-making initiatives, standards of law drafting, expertise, monitoring, and assessment of the effectiveness of law-making acts. The law also amends the Law on Committees of the Verkhovna Rada and the Verkhovna Rada RoP, regarding the improvement of regulation of the development and adoption of the Plan of Legislative Activities of the Verkhovna Rada, and legal monitoring of legislative acts.

The parliament uses different tools to reach a consensus between political forces. These include committee meetings and closed-to-media Conciliation Board meetings. The latter format helps to focus on substantive issues rather than political statements and is in line with recommendation #11 of the European Parliament's Needs Assessment Mission⁴⁷. In addition, since the start of the full-scale invasion, the Verkhovna Rada and the European Parliament, in partnership with NDI, managed to restore conducting Jean Monnet Dialogue, a political mediation instrument for building consensus away from the media and political spotlight, by holding the 8th JMD in April in Lublin and 9th JMD in November in the Zakarpattia region. As a result of the 9th round of the Dialogue, all MP factions and group leaders agreed on joint conclusions⁴⁸, which include such important agreements around priorities for Ukrainian democratic development as the need to collaborate toward European accession; continue the institutional reform of the Verkhovna Rada to strengthen parliamentary oversight functions, as it also reflected in the European Commission's report; to reach agreement on opposition rights, including minority representation in the distribution of leadership positions in the parliamentary Committee on Freedom of Speech; prompt discussion and adoption of the Code of Ethics at least in the first reading; providing an inclusive approach to parliamentary diplomacy⁴⁹. During the JMD, Ukrainian legislators also agreed to hold free and fair parliamentary and presidential elections after the war and the end of martial law, providing sufficient time to prepare based on the current electoral code.

An additional important issue to improve is the government's role in the legislative process, cooperation between parliament and government on different stages of the legislative process, and parliamentary oversight. Some progress has been made in establishing communication between parliamentary committees and respective ministries by inviting ministries' representatives (at least at the level of the Deputy Minister) to committees' meetings when considering relevant draft laws. Also, on November 15, the first meeting of the Working Group on improving legislative work, legislative impact assessment, and improving the results of the implementation of laws was held to improve the efficiency of interaction between the Verkhovna Rada and the Cabinet of Ministers.

Participants discussed other issues, including the often uncoordinated processes for providing amendments to the Verkhovna Rada Rules of Procedure (RoP) and the need to harmonize these with other legal acts. They also pointed out the need to regulate lobbying and public consultations in Ukraine with proper public engagement and constructive manner. The strengthening of the Parliamentary Research Service was highlighted, the adoption of the law on independent parliamentary service, with draft law #4530 being adopted in the first reading. Additionally, the meeting addressed the concerning trends regarding the influence of the President's office over the law-making process, although a significant part of such draft laws was related to the war.

⁴⁷ European Parliament. Report and Roadmap on integral reform and capacity-building for the Verkhovna Rada of Ukraine. European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine. Available at: <http://surl.li/qsfpk>

⁴⁸ Verkhovna Rada of Ukraine. Conclusions for the 8th round of Jean Monnet Dialogue, April 27-29, Lublin, Poland. Available at: https://www.rada.gov.ua/en/news/News/top_news/236021.html

⁴⁹ Verkhovna Rada of Ukraine. "One of the results of such an agreement may be the appointment of Yaroslav Yurchyshyn, MP, as a Chairman of the respective parliamentary committee". Available in Ukrainian: <https://www.rada.gov.ua/news/razom/244636.html>

Gender Balance in Political Life and Role of Women in Recovery Processes

Due to the full-scale invasion of Ukraine, the recent progress in women's political participation is now in danger. This is due to the effects of martial law and the general masculinization and militarization of Ukrainian culture. If efforts are not concentrated on preventing the backsliding, women's voices may not be heard during Ukraine's reconstruction and recovery processes, which will ultimately weaken these processes and Ukrainian democracy as a whole. Gender equality should be integrated into all policies and regulations from the outset, at all levels, and become a cross-cutting topic. Women have enormous leadership potential and strong support by society but are currently at risk of disengaging from political processes due to a lack of empowerment, encouragement, and access to inclusive processes.

According to NDI's latest nationwide survey⁵⁰, there is an unprecedented level of support for greater gender balance in the political life of Ukraine. The survey revealed that 79 percent of respondents want a better balance of men and women in politics, which is significantly higher than the previous level before the full-scale invasion.

During the conference, participants raised concerns about the lack of women's representation in decision-making processes. According to the report by the European Commission⁵¹ as of November 8, 2023, gender representation in the civil service is still unbalanced, with 70 percent men and 30 percent women in senior management positions, and 22 percent men and 78 percent women at the executive level at the end of 2022.

Ukraine has been making progress towards achieving gender equality. However, the growth in the number of women parliamentarians and women members of local councils has been slow. Furthermore, the formation of civil-military administrations during the large-scale invasion has resulted in a decrease in women's participation in decision-making and political processes.

It is necessary to work together to change the Rules for Crossing the State Border by Citizens of Ukraine. These rules were altered by the Government in January 2023 (Resolution #69), and they limit the rights of women in elected office at the local and national level, and in state-owned enterprises to travel abroad. This restriction limits their ability to conduct public diplomacy,

volunteer, raise funds, and bring aid from other countries to their communities. Over 100 female local councilors resigned from their positions in 2023 due to this change, highlighting the need for swift action to support advocacy efforts to modify the Rules.

It is crucial to start preparing for Ukraine's post-victory elections and ensure adherence to the 40 percent gender quota in the electoral processes. However, it is not enough to just comply with this legislative norm; active promotion and cultivation of women's involvement in political parties and procedures is necessary to create a more inclusive and representative political environment. Additionally, internally displaced persons and refugees, who are mostly women, face unique challenges, and it is important to establish strong

⁵⁰ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

⁵¹ European Commission. Report on Ukraine 2023. November 8, 2023. Available at: <http://surl.li/qsfaq>

mechanisms that enable them to participate in the electoral process freely. This multifaceted approach highlights the significance of addressing gender equality within political structures and enabling vulnerable populations to vote, ultimately contributing to a more democratic and inclusive development in Ukraine.

Participants highlighted women's unequal engagement in economic processes compared to men as another barrier. This is due to existing gender stereotypes regarding professions and caretaking roles associated with women. To address this issue, the government has developed a strategy to reduce the gender pay gap⁵² from 18.6% to 13.6% by 2030 and plans to increase the level of women's economic activity. An inclusive and comprehensive approach to rebuilding infrastructure should be applied to support human development and motivate women to return to Ukraine after a forced stay abroad. The availability of jobs, kindergartens with extended daycare, school transport, and child nutrition in schools are also key

prerequisites for women to return to Ukraine and enter or re-enter the job market.

It is crucial to ensure that the younger generation is raised without any form of discrimination, including based on gender. To ensure that women and men have equal rights and opportunities in education, the government has approved the Strategy for the Implementation of Gender Equality in Education until 2030 at the end of 2022.

Due to the war, the number of cases of gender-based violence (GBV) against women has been increasing, which can take forms of domestic violence, sexual exploitation, and conflict-related sexual violence. During the first five months of 2023, the number of reported cases of domestic violence increased by 51% compared to the same period last year, due to increased stress, economic hardship, unemployment, and conflict-related trauma. The cases of gender-based violence (GBV) might grow further due to difficult economic situation, trauma exposure, and PTSD among the population. The preventive efforts are especially important and may include awareness raising about

GBV, the work of mobile teams in the communities, interaction with the families of the military, and integration of IDPs into the communities. Rehabilitation for GBV survivors is crucial. Proper implementation of the provisions of the Istanbul Convention will help address GBV and must be set as a priority for the government.

Despite more than 62,000 women serving in the Armed Forces of Ukraine, women are still vulnerable to discrimination in the army. Out of the 62,000, 43,000 women hold military positions, and 5,000 of them are currently serving on the front lines. The gender-based discrimination in the military can take various forms such as sexism, sexual harassment, and lack of gender-specific uniforms, protective equipment, and hygiene products.

The government should address the issues of women veterans, provide them with employment opportunities, and help them become economically independent, as well as strive to avoid any (re)traumatization. It is essential to draft respective legislation and introduce gender-sensitive norms and standards into the military to ensure that women are not discriminated against.

⁵² Government portal. Government plans to reduce the gender pay gap from 18.6% to 13.6% by 2030. October 14, 2023. Available at: <http://surl.li/qsfqs>



Judicial Reform

One of Ukraine's achievements in implementing reforms on its way to EU membership is launching the work of the reformed judiciary. Ukraine managed to verify the integrity of candidates to the High Council of Justice (HCJ) and select candidates for the High Qualification Commission of Judges (HQCJ), and these bodies have already begun their work with the new members. The next steps include the selection and appointment of honest judges, optimization and improvement of the efficiency of the courts.

Seventeen members of the HCJ⁵³ were appointed as of November 30, 2023. Thus, the HCJ is plenipotentiary, although four positions remain vacant – two under the quota of the President of Ukraine and two under the quota of the Congress of Advocates of Ukraine. And while the President can appoint members of the HCJ at any time, the Congress of Advocates will likely be able to do so only after the termination of martial law. The HCJ has also appointed 16 members of the HQCJ⁵⁴, but it does not function in full as two members are serving in the Armed Forces of Ukraine.

It is beyond argument that the resumption of the work of the HCJ and HQCJ was made possible by the adoption of the relevant laws by the Verkhovna Rada, which almost completely fulfilled the recommendations of the Venice Commission.

The absence of the HCJ and HQCJ has deepened the crisis of the justice system and these bodies are facing serious challenges, including vetting and appointing a large number of judges. However, participants noted that the focus of the judicial system should not be shifted from the quality of judges to their quantity. It would be unacceptable to appoint anyone as soon as possible because of the insufficient number of judges in the courts. This has been the way to appoint judges in Ukraine for the last 30 years, and everyone knows the consequences. Today, Ukraine

needs to look for opportunities for renewal. New judges need to be appointed according to a proper procedure with a new composition of the HQCJ and the Public Integrity Council (PIC). The main thing is to make sure that judges of general jurisdiction courts are honest lawyers. A higher proportion of honest judges will help the judicial system to cleanse itself.

The European Commission's report calls for a renewal of the Supreme Court and elimination of corruption risks. The country will face dismissals of judges, some politicians will be promoting narratives about the collapse of the Supreme Court and the system as a whole, but the Supreme Court needs to be renewed. Society must realize that it will be difficult, judges of the Supreme Court will have an additional workload and it will complicate the work of the Supreme Court, but the system must use this chance for renewal.

Also, during the discussion, the participants drew attention to the fact that it is unacceptable for the Verkhovna Rada of Ukraine to adopt laws with provisions that may minimize effective participation of the public in the process of assessing the integrity of judges or level the institutional capacity of the PIC as provided for in the draft Law of Ukraine "On Amendments to the Law of Ukraine On the Judiciary and Status of Judges and Certain Legislative Acts

of Ukraine on Improving Judicial Career Procedures" adopted by the Verkhovna Rada on first reading (Reg. No. 10140-d of November 17, 2023)⁵⁵ (adopted as the Law of Ukraine on December 09, 2023)⁵⁶.

In the context of the discussion of judicial reform, it was noted that the prosecution is not being reformed, although Ukraine needs to introduce transparent selection of prosecutor's office leadership and change the procedure for dismissal of the Prosecutor General. Thus, some issues cannot be resolved without amending the Constitution of Ukraine (e. g. resignation of the Prosecutor General by a vote of no confidence in the Parliament), and it is prohibited to change the Constitution of Ukraine during martial law. So, it will be a task for the future.

Finally, Ukraine needs to get rid of the Soviet legacy in legal education and change the attitude of the state towards the legal profession. So far, Ukraine has failed to improve legal education. In particular, constitutional law should take its rightful place among the branches of law instead of being an appendage of state law. The study of human rights and the rule of law should be the priority in legal education, followed by the study of the state system. If Ukraine manages to raise the quality of legal training to the appropriate level, it won't have to constantly change judges and members of the bodies that vet, select, and appoint them.

⁵³ High Council of Justice. Composition of the High Council of Justice. Available in Ukrainian: <https://hcj.gov.ua/rubric/sklad-vyshchovi-rady-pravosuddya-0>

⁵⁴ High Qualification Commission of Judges of Ukraine. Composition of the Commission. Available in Ukrainian: <https://vkksu.gov.ua/rubric/sklad-komisiyi>

⁵⁵ Verkhovna Rada of Ukraine. Draft Law "On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Legislative Acts of Ukraine on Improving the Procedures for Judicial Career" of 17.11.2023. Available in Ukrainian: <https://itd.rada.gov.ua/billInfo/Bills/Card/43233>

⁵⁶ The version of the Law adopted by the Verkhovna Rada does not contain the mentioned provisions.

Constitutional Review

By introducing the legislation on the competitive procedure for the selection of judges to the Constitutional Court of Ukraine, Ukraine takes another step toward reforms and membership in the European Union.

The Verkhovna Rada of Ukraine has adopted the Law of Ukraine No. 3277-IX⁵⁷ of July 27, 2023 “On Amendments to Certain Legislative Acts of Ukraine on Clarification of Provisions on Competitive Selection of Candidates for the Position of a Judge of the Constitutional Court of Ukraine”, which implemented the recommendations of the Venice Commission and received positive feedback from the national expert community. With the adopted amendments to the legislative acts, it is now possible to elect professional and, most importantly, honest judges of the Constitutional Court of Ukraine. Participants noted this will reduce corruption and political pressure on the judges of the Constitutional Court of Ukraine, and help avoid “ordered” political decisions of the Court.

Ukraine has already begun to implement the legislative

provisions. Thus, an Advisory Group of Experts was created on the principle of the hybrid model that has already proven its worth in Ukraine: the Group includes both national and international experts and has already begun its work⁵⁸. The meeting of the Advisory Group of Experts approved the Regulations on the Advisory Group of Experts; the draft Methodology for Assessing Moral Qualities and the Level of Competence in the Field of Law of Candidates for the Position of a Judge of the Constitutional Court of Ukraine is being developed during the discussion,⁵⁹ and was approved on December 4, 2023⁶⁰. This kind of assessment will not be easy, since the first requirement for candidates for the position of a judge of the Constitutional Court of Ukraine is high moral qualities, while for judges of general jurisdiction courts, the requirement of professionalism is paramount.

Participants called for deliberative thinking about how to assess the high moral qualities of candidates for the position. At the same time, the participants of the roundtable noted that at the request of the Secretariat of the Constitutional Court of Ukraine, which is responsible for the organizational and technical support of the activities of the Advisory Group of Experts, international partners provide help to the Secretariat in this endeavor.

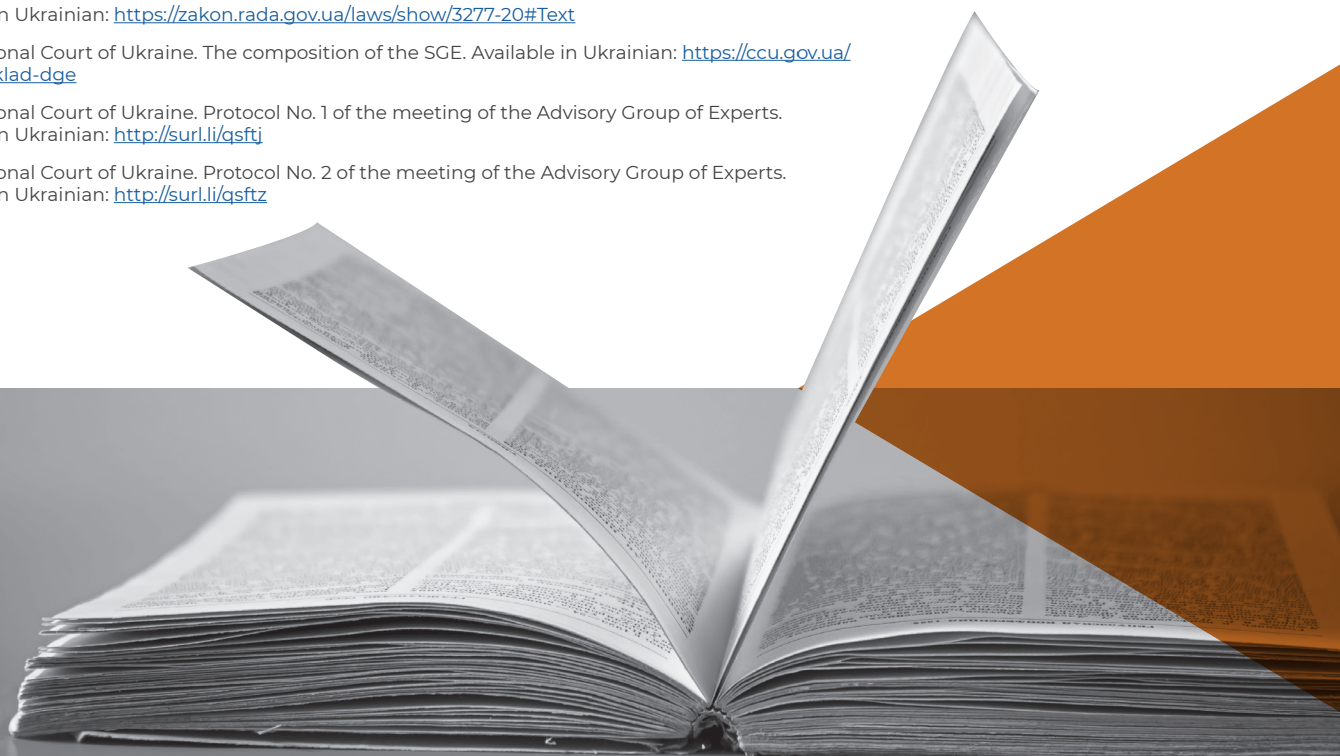
Ukraine is facing an important task – it needs to implement the provisions of the law not on paper, but in real life, appoint independent legal professionals to the positions of judges of the Constitutional Court of Ukraine and give up political control over the only body of constitutional jurisdiction in the country.

⁵⁷ Verkhovna Rada of Ukraine. The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Clarification of Provisions on Competitive Selection of Candidates for the Position of a Judge of the Constitutional Court of Ukraine” of 27.07.2023. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3277-20#Text>

⁵⁸ Constitutional Court of Ukraine. The composition of the SGE. Available in Ukrainian: <https://ccu.gov.ua/storinka/sklad-dge>

⁵⁹ Constitutional Court of Ukraine. Protocol No. 1 of the meeting of the Advisory Group of Experts. Available in Ukrainian: <http://surl.li/qsftj>

⁶⁰ Constitutional Court of Ukraine. Protocol No. 2 of the meeting of the Advisory Group of Experts. Available in Ukrainian: <http://surl.li/qsftz>



Veterans

The state policy on the reintegration of veterans into civilian life, the development of effective mechanisms for their social adaptation, physical and psychological rehabilitation, and their integration into communities remain relevant and need to be addressed as a matter of priority.

Government officials are debating the body that will make policy in the area of social protection of war veterans and their families⁶¹ – whether it will be the Ministry of Veterans Affairs of Ukraine or the Ministry of Social Policy of Ukraine. Moreover, 22 central executive bodies currently have some authority to make and implement policy in the field of veteran affairs, which complicates both the lives of veterans and the work of these bodies. The government needs to resolve the issue of the body that will be making policy in the field of social protection of war veterans and their families in the near future, develop a unified state policy in this area and effectively communicate this policy to all Ukrainians, and approve a single national program for veteran reintegration.

According to experts, there are about five million veterans in Ukraine. This number will grow, as the nation is still in a state of war with ongoing hostilities, and the list of legal grounds for mobilization is expected to be expanded, as the Verkhovna Rada adopted in the first reading a draft law that provides, inter alia, for a change in the conscription age from 27 to 25 years, the exclusion from the list of conclusions of military medical commissions of a conclusion on limited fitness for military service, and changes in the reservation procedure for persons liable for military service who work in public authorities⁶².

The state and society urgently need to find answers to critical questions: what awaits veterans upon their return to peaceful life; what approaches will be developed

for their employment, social adaptation, participation in the socio-political life of the country; what kind of state support will be provided; and how to create community centers where they can feel at ease.

Ukraine must adopt a new law on the status of veterans, since the current law, On the Status of War Veterans and Guarantees of Their Social Protection,⁶³ was adopted in 1993 and is outdated. Amendments to the law have been sporadic, fragmentary, and often populist, and the law does not meet the challenges of the current wartime context.

The state and society should take into account that the portrait of a veteran has changed after Russia's full-scale invasion of Ukraine. According to a survey conducted by the Rating Sociological Group, only 22.8 percent of the veterans participated in combat during the ATO/JFO⁶⁴ (Anti-Terrorist Operation in Eastern Ukraine/Joint Forces Operation).

More than 44 percent of the veterans among those surveyed believe that the state fails to fulfill its obligations to them, while 18.8 percent believe that it does fulfill these obligations. At the same time, the share of those who believe that the state does not fulfill its obligations at all has more than doubled (8.3 percent and 18.4 percent compared to the previous survey). A more in-depth study showed that veterans believe that the state fails to fulfill its obligations because of the bureaucratic difficulties they encounter when trying to obtain documents necessary to hold the status of a combatant, a member

of a disability group, to be eligible for social benefits, and so on.

According to the same survey, trust for the military and veterans remains high among Ukrainian society,⁶⁵ but respect for veterans is declining. This is an alarming signal, and an important indicator for understanding the level of social cohesion. According to the Rating Sociological Group, the total number of positive responses regarding respect for veterans in society in September-October 2023 is 79 percent of respondents. In January 2023, this figure was 91 percent. This indicates the potential emergence of negative phenomena that require a prompt response, as they can lead to a social crisis. Therefore, it is advisable to conduct in-depth research to identify indicators that provoke a decline in respect for veterans within society, and take measures to eliminate them.

Employment of veterans returning to civilian life is an important issue that needs to be addressed. Among those surveyed, 97% of employers are willing to hire veterans⁶⁶, but only 18% of them have a special adaptation program. This indicates the lack of real support for veterans in their future employment, and requires government intervention. The state needs to approve uniform standards and requirements for mandatory adaptation of workplaces for people with disabilities, including veterans, provide state preferences, including through state orders for companies that employ veterans, tax benefits, oblige employers at the state level to provide a legally fixed percentage of reserve jobs for veterans, and conduct appropriate awareness campaigns.

⁶¹ War veterans, persons who have special services to the Motherland, victims of the Revolution of Dignity (veterans), family members of such persons and family members of deceased war veterans, family members of deceased Defenders of Ukraine (family members of veterans).

⁶² Verkhovna Rada of Ukraine. Draft Law "On Amendments to Certain Legislative Acts of Ukraine on Certain Issues of Military Service, Mobilization and Military Registration". Reg. No. 10449 of 30.01.2024. Available in Ukrainian: <https://itd.rada.gov.ua/billInfo/Bills/Card/43604>

⁶³ Verkhovna Rada of Ukraine. Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" of January 01, 2024. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/3551-12#Text>

⁶⁴ Ukrainian Veterans Fund. Portrait of a veteran September – October 2023. Available in Ukrainian: <https://veteranfund.com.ua/analitics/portrait-of-veteran/>

⁶⁵ Sociological group "Rating". National survey #24 "Image of Veterans in Ukrainian Society". Available in Ukrainian: <http://surl.li/qsfvu>

⁶⁶ Ukrainian Veterans Fund. Twentieth national survey "Image of Veterans in Ukrainian Society". Available in Ukrainian: <http://surl.li/qsfwg>

Elections⁶⁷

Participants in the roundtable emphasized that, given the context of a full-scale war with Russia, elections should not merely serve as an end in themselves but rather as a crucial tool of democracy.

Their execution must adhere to international standards, ensuring equal access to the political process and media platforms. It was underscored that in the absence of elections, the existing state authorities might face a challenge of gradual erosion of their procedural and substantive legitimacy.

Indeed, Ukraine's first post-war elections will pose significant security and operational challenges and must be carefully planned and prepared, including by putting in place a comprehensive framework to enfranchise the millions of voters who have been displaced by war. Throughout 2023, several commentators suggested Ukraine proceed with elections despite Russia's full-scale invasion and the ongoing war.

In September, Civil Network OPORA mobilized civil society organizations (CSOs) to issue a public call warning Ukraine's leadership against conducting national elections during an all-out war, reminding the public and international community that holding elections during a high-intensity war may have negative consequences for the integrity of Ukraine's elections and the country's democratic future as a whole⁶⁸.

As illustrated by the May and November 2023 NDI Surveys, the vast majority of Ukrainians (85 percent) agree that elections should only be held after the war ends, with opportunities for out-of-country voting.⁶⁹

President Zelensky's statement on November 6 deeming elections premature quieted down the discussions about conducting elections.⁷⁰ Similar statement was issued following the ninth Jean Monnet Dialogue (November 10-12, 2023) outlining that national elections would occur after the conclusion of the war and no earlier than six months after the cessation of martial law, based on the existing Electoral Code⁷¹.

This transitional period between the conclusion of martial law and the beginning of the first electoral process would allow the Central Election Commission (CEC) and other stakeholders to prepare for post-war elections, including an update of the State Voter Register, which was closed for security reasons on the first day of the full-scale invasion. It would also help address challenges stemming from the need to replace destroyed voting infrastructure and organize a comprehensive voter education

campaign to reach millions of forcibly displaced persons in Ukraine and abroad. To strengthen the call for resuming electoral reform, IFES Ukraine and Civil Network OPORA presented their joint Roadmap for Electoral Reform in Ukraine – 2023 Wartime Edition⁷². Furthermore, in the 2023 European Commission Enlargement Report on Ukraine⁷³, “the reform of the electoral legal framework should be continued to address outstanding OSCE/ODIHR recommendations.”

The aforementioned Roadmap for Electoral Reform in Ukraine 2023 outlines steps that Ukraine can take now to address the challenges of organizing and conducting democratic elections, including those related to the presence of a significant number of voters abroad. In particular, this refers to the reform of the voting system abroad, which includes the organization of electoral logistics abroad (for example, the creation of the necessary number of polling stations so that everyone can vote), the provision of mechanisms to prevent electoral offenses in a foreign electoral district and to bring offenders to justice, and the development of information and awareness campaigns for migrants abroad to engage them in the electoral process.

⁶⁷ The section pertaining to elections within the report has been prepared by the International Foundation for Electoral Systems (IFES).

⁶⁸ Ukrayinska Pravda. Civil society organizations against holding elections in Ukraine during the war. September 18, 2023. Available in Ukrainian: <https://www.pravda.com.ua/columns/2023/09/18/7420289/>

⁶⁹ Opportunities and challenges facing Ukraine's democratic transition. Nationwide Telephone Survey November 14 – 22, 2023. NDI Ukraine. Available at: <http://surl.li/qsepx>

⁷⁰ The President of Ukraine. The battle that determines the fate of the state and people is now underway; it is not the right time for elections – address by the President of Ukraine. November 6, 2023. Available at: <http://surl.li/mxldw>

⁷¹ The ninth meeting in the Jean Monnet Dialogue format was held with the participation of the Verkhovna Rada of Ukraine. Official website of Verkhovna Rada of Ukraine. 2023. Available in Ukrainian: <http://surl.li/peuln>

⁷² Roadmap for Electoral Reform in Ukraine – 2023. Wartime Edition. IFES Ukraine. Available at: <http://surl.li/qsfsy>

⁷³ European Commission. Ukraine Report 2023. November 8, 2023. Available at: <http://surl.li/qsfsj>

Ukrainians Abroad: Electoral and Demographic Challenges

According to the report of the Centre for Economic Strategy (CES), as of the end of June 2023, 5.6 – 6.7 million Ukrainians were abroad due to the full-scale war and the majority of them were women, with the largest group being women aged 35-49 years⁷⁴. Behind this figure lies a huge political, social, economic, and cultural resource that Ukraine cannot afford to lose during the war and in the recovery period. That is why the main discussions on Ukrainian refugees are centered around two complex aspects: ensuring that Ukrainians currently abroad (temporarily or not) exercise their constitutional right to vote and be elected in the event of elections, and the steps the state should take to bring them back.

⁷⁴ Ukrainian refugees: how many are there, their intentions & return prospects. Center for Economic Strategy website. September 4, 2023. Available at: <http://surl.li/pfbnq>

During the roundtable discussion, participants noted the importance of starting to prepare for the first post-war elections, and the need to guarantee Ukrainians abroad their electoral rights. The Electoral Code contains a provision denying the right to run in general elections to persons staying abroad for more than 90 days.⁷⁵ Given that the majority of migrants abroad are women, this provision poses significant risks for women who have been abroad since the beginning of the full-scale invasion and could become a real obstacle to women's candidacy for elected office.

According to the results of a sociological survey conducted at the initiative of the Ukrainian Women's Congress in cooperation with the Educational Foundation "MriyDiy" on the mood of Ukrainian women abroad after the start of the full-scale invasion, 43 percent of women who are currently abroad expressed their readiness to participate in politics.⁷⁶ This figure demonstrates that there are many socially and economically active Ukrainian women abroad who could be on the lists of political parties, take an active part in the electoral process and contribute to the recovery process. Relevant amendments to this provision of the Electoral Code have already been developed by the CEC and submitted to the specialized Committee in September 2022⁷⁷, but so far there have been no updates.

Roundtable participants also discussed the need to take steps to bring Ukrainians back from abroad. According to the Ministry

of Economy, over the next ten years, Ukraine will have to attract an additional 4.5 million workers to the labor market to carry out post-war recovery.⁷⁸ Thus, significant attention is being paid to those Ukrainians who are currently abroad but can return and help rebuild Ukraine.

According to the Info Sapiens survey commissioned by CES, the majority of Ukrainians (63 percent) currently residing abroad plan to return to Ukraine.⁷⁹ However, Ukrainians abroad may overstate their intentions to return, as they subconsciously adjust to the prevailing point of view in society (that if you are a patriot of Ukraine, you should return to Ukraine) and do not want to admit even to themselves that they will not come back.⁸⁰ Ukrainians abroad name various factors as incentives for their possible return, including the end of the war, the restoration of infrastructure, and improved living standards, but one of the most important is the opportunity to find work. The executive authorities and donors, such as the International Organization for Migration (IOM), are already discussing the development of programs that would link people abroad with employment opportunities in Ukraine, as this will be important in encouraging people to return to the country.⁸¹ For example, the idea of returning skilled Ukrainians from abroad by involving them in community recovery through the implementation of development strategies and community recovery plans was mentioned by

experts during the roundtable. Ministry of Economy is also actively working on its strategy for returning Ukrainians home, creating grant opportunities for people to start their businesses, as well as developing opportunities for changing qualifications and learning a new profession⁸². In the research conducted by the NDI civic partners Institute Respublika and the National Interests Advocacy Network (ANTS) on the Ukrainians relocated abroad⁸³, authors recommend a more systematic approach and emphasize the need for the Ministry of Foreign Affairs to develop a comprehensive state strategy for working with Ukrainians abroad. In particular, such a strategy, in their opinion, should include a vision of the return of Ukrainians and possible methods of their more extensive involvement in state processes.

The significant challenges facing Ukraine, including those related to reconstruction and social cohesion, cannot be successfully addressed without the inclusion of the issue of millions of Ukrainian refugees abroad. The main task for the Ukrainian government, donors, and civil society organizations is to start designing and implementing concrete steps as soon as possible on how to harness the potential of these Ukrainians, how to guarantee their rights, and how to encourage them to return and invest their resources (financial, intellectual, etc.) in building back a better Ukraine—a more democratic, inclusive and prosperous nation.

⁷⁵ Electoral Code of Ukraine. Book 3. Section XXIII, Article 134 (4). Official website of Verkhovna Rada of Ukraine. Available in Ukrainian: <https://zakon.rada.gov.ua/laws/show/396-20#Text>

⁷⁶ 68% of Ukrainian women plan to return to Ukraine from abroad – UWC study. NV.UA. January 4, 2024. Available in Ukrainian: <http://surl.li/pfcpd>

⁷⁷ Roadmap for Electoral Reform in Ukraine 2023 – in wartime conditions. OPORA website. October 18, 2023. Available in Ukrainian: <http://surl.li/peyfo>

⁷⁸ In the next 10 years, Ukraine will have to look for 4.5 million workers – the Ministry of Economy. *Economichna Pravda*. July 14, 2023. Available in Ukrainian: <http://surl.li/peyiz>

⁷⁹ Ukrainian refugees: how many are there, their intentions & return prospects. Center for Economic Strategy website. September 4, 2023. Available at: <http://surl.li/pfbng>

⁸⁰ Ella Libanova at the 7th UWC: my dream is for 50% to return. Ukrainian Women's Congress website. November 23, 2023. Available in Ukrainian: <http://surl.li/qsgfn>

⁸¹ Interview: Planning the post-invasion return of citizens to Ukraine. UN News. October 8, 2023. Available at: <https://news.un.org/en/story/2023/10/1142007>

⁸² Svyrydenko named the main factors for the return of Ukrainians from abroad. *Ukrinform*. October 25, 2023. Available in Ukrainian: <http://surl.li/pfbpv>

⁸³ Ukrainian Diaspora and Temporarily Protected Ukrainians After the Full-Scale Invasion. ANTS. Available at: <https://ants.org.ua/en/projects/post-war-recovery-of-ukraine/>

About NDI

National Democratic Institute (NDI) is a non-profit, nongovernmental organization, working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. NDI implements a range of programs in Ukraine supporting good governance and citizen engagement, political party strengthening and civil society development, election monitoring and political participation of women.



In case of any questions about this paper or NDI's work in Ukraine please contact us at ukraine@ndi.org.

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