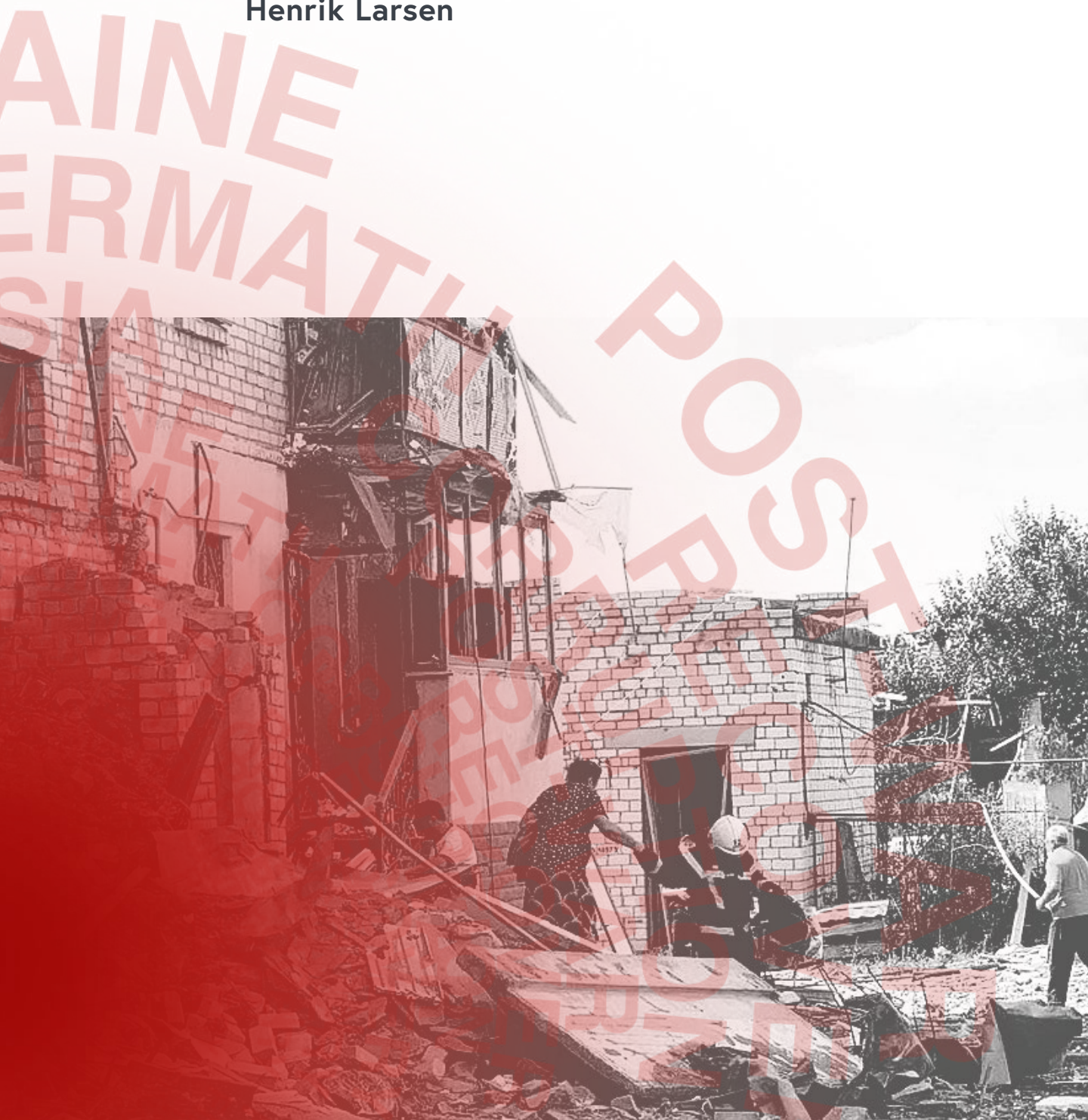




THINKING ABOUT POST-WAR UKRAINE

Henrik Larsen



As the war in Ukraine continues, it is not too early to consider the significant financial assistance that will be required to help Ukraine recover, once the war comes to an end. Henrik Larsen lays out a road map for how to ensure that post-war Ukraine can function as a bulwark against Russia, including imposing clear and measurable conditions for aid.

The transatlantic West has a significant interest in ensuring that Ukraine prevails in Russia's war of aggression. As the West shows unprecedented levels of solidarity, it is the supply of weapons — which types and how many — that occupies most of the debate about how to best support Ukraine. However, it is not too soon to evaluate the enormous funding that Western countries are committing to give Ukraine in order to ensure that it can continue to function as a state under the considerable duress of war and that it will be able to recover. Macro-financial assistance and the costs of reconstruction may exceed \$1 trillion, depending on how long the war will continue and how much further destruction it will cause.

Such a significant financial commitment requires Western supporters to consider how they can achieve a transformed post-war Ukraine that can function as a bulwark against Russian imperialism anchored inside the European Union. In such a scenario, Ukraine would need to embrace the rule of law and start to generate significant economic growth that would enable it to become self-sustaining, rather than in perpetual need of external subsidies. Political realism should guide this thinking. Ukraine's track record since the 2014 Euromaidan revolution shows the necessity of tackling the fundamental problem of backlashes against reforms. It also highlights that, when it comes to the most crucial issues, the country's elites have sought to undermine their official commitments to reform. Ukraine surely hopes to avoid the tragic fates of Turkey and the Western Balkan countries, whose prospects of joining the European Union after 15 to 25 years of waiting appear slim.

Making Ukraine's political-financial elites give up their power base begins with recognizing that supporting Ukraine does not ensure a convergence of interest in transforming its domestic governance. What Ukraine needs is not enhanced technical advice, but conditions that are linked to the enormous financial assistance it will be receiving in the coming

years. Western sponsors need a more dedicated and targeted plan for overcoming domestic resistance to change. This will require honesty in both diagnosing the problems and identifying the cure. The key challenge is how to tighten the financial bolts sufficiently and consistently enough over time to prevent backlashes against reform. Tough love, in other words, is needed to make sure that elite incentives do not deviate from an official commitment to economic liberalization and the rule of law.¹

This article proceeds in four steps. I begin by outlining the record of reform in Ukraine since 2014, based on my nearly five years serving as a political adviser for the European Union in Ukraine, to show that imposing conditions only works when linked to present elite incentives. In the second section, I engage the existing research on patron-client relations to show that Western actors with a geopolitical interest in supporting Ukraine can maintain leverage over the country's domestic politics only if conditions are agreed upon at the time that the formal commitment is made and if those conditions include measurable criteria, to the extent possible. The third section argues that conditions in the Ukrainian context ought to target the phenomenon of "grand corruption" and should ultimately rely on sanctioning non-compliance by withholding financial aid and other means of punishing Ukraine's elite. In the fourth section, I reflect on the sustainability of the Western commitment to Ukraine.

Conditionality and Backsliding

Any discussion about making financial aid to Ukraine conditional should start with examining the country's record since the Euromaidan revolution in 2014, when the West similarly supported Ukraine against Russian aggression, although at a much smaller scale. This short history exposes a struggle between Ukrainian elites and Western sponsors, who were requiring that Ukraine overhaul its criminal justice system and reform its

¹ European Commission, "Opinion on Ukraine's Application for Membership of the European Union," June 17, 2022, https://neighbourhood-enlargement.ec.europa.eu/opinion-ukraines-application-membership-european-union_en; and "Lugano Declaration," Ukraine Recovery Conference, July 2022, <https://www.urc-international.com/urc-2022>.

economy. This struggle can roughly be divided into five phases that demonstrate that conditions work best when elites face a strong and immediate financial incentive. It also highlights that vested political or financial interests reassert themselves when this is no longer the case.²

In the first phase of the struggle, between 2014 and 2016, the Ukrainian elites had little choice but to comply with the conditions attached to the financial package from the International Monetary Fund, United States, and European Union (amounting to roughly \$40 billion) and to achieve a visa-free travel regime with the European Union. Western supporters' first target for reform was high-level corruption. They obliged Ukraine to establish a specialized anticorruption infrastructure covering the rule-of-law chain of prevention, investigation, prosecution, and asset recovery (but not adjudication). Their second reform target was the financial and economic sectors. Western sponsors required Ukraine to clean up its notorious banking sector, which was known for money laundering and insider loans, and to reduce the space for oligarchic rent-seeking in the gas sector by bringing retail prices up to world market levels. To increase accountability, Ukraine decentralized certain powers and resources to local authorities.³

The second phase, between 2016 and 2018, saw the reform initiatives beginning to lose steam, prompting the resignation of several publicly known reform promoters. Ukrainian lawmakers and intelligence agents tried to undermine the independence and investigations of the specialized anticorruption infrastructure, while political interference slowed the fight against illicit enrichment among state employees. In the area of economic reform, political interference similarly halted privatization or the introduction of independent supervisory boards. The national gas giant *Naftogaz* also showed signs of interference, while the government did not make the

retail price of gas match worldwide price increases, thus again increasing the space for oligarchic rent-seeking.⁴

In the third phase of the struggle, between 2018 and 2019, it became clear that extraordinary measures would be required to make Ukraine's political elites deliver tangible results when it came to the anticorruption and economic reform promises they had made following the Euromaidan. Despite judicial reforms and a countrywide re-evaluation of judges, the Ukrainian courts dragged out the adjudication of the mounting number of high-level corruption cases that would have threatened oligarchic or other vested interests.⁵ On the other hand, Ukraine's need of financial support to service the debts it incurred in 2014 and 2015 was a new chance to reassert conditions. Overcoming significant resistance from President Petro Poroshenko, the International Monetary Fund succeeded in making Ukraine establish a High Anticorruption Court to fill the missing adjudication link in the specialized anticorruption rule-of-law chain.⁶

The fourth phase, from 2019 to 2022, was marked by renewed hopes for reform with the election of President Volodymyr Zelensky, an outsider of the political system. Ukraine adopted long-awaited land reform and allowed international experts to be involved in the selection of judges under his leadership.⁷ However, several incidents would soon dash hopes of wider change: the dismissals of a reform-minded prosecutor-general and the head of *Naftogaz*, the resignation of the director of the National Bank, the Constitutional Court's annulment of crucial elements of the anticorruption and judiciary reform legislation adopted between 2014 and 2016, and the refusal to appoint a special anticorruption prosecutor to bring cases to the High Anticorruption Court.⁸

The fifth phase follows Russia's full-scale invasion of Ukraine in 2022. Although short, this period is telling with regard to Ukrainian elites' willingness to demonstrate progress at a moment when

2 Henrik Larsen, "Dilemmas of Aiding Ukraine," *Survival* 63, no. 1 (2021): 161–78 <https://doi.org/10.1080/00396338.2021.1881259>.

3 Valentyna Romanova and Andreas Umland, "Decentralising Ukraine: Geopolitical Implications," *Survival* 61, no. 5 (October/November 2019): 104 <https://doi.org/10.1080/00396338.2019.1662108>.

4 John Lough and Vladimir Dubrovskiy, "Are Ukraine's Anti-corruption Reforms Working?" Chatham House, November 2018, 10–30, <https://www.chathamhouse.org/2018/11/are-ukraines-anti-corruption-reforms-working>.

5 "Request for Standby Agreement and Cancellation of Arrangement under the Extended Fund Facility," International Monetary Fund, Jan. 8, 2019, 5, <https://www.imf.org/en/Publications/CR/Issues/2019/01/08/Ukraine-Request-for-Stand-By-Arrangement-and-Cancellation-of-Arrangement-Under-the-Extended-46499>.

6 Roman Olearchyk, "Ukraine Approves Corruption Court to Meet IMF Demand," *Financial Times*, June 7, 2018, <https://www.ft.com/content/e612672e-6a4f-11e8-b6eb-4acfcfb08c11>.

7 Leo Litra and Alyona Getmanchuk, "One Year of Zelensky's Presidency: One Step Forward, One Step Back," Institut Français des Relations Internationales, October 2020, 16, 21, <http://neweurope.org.ua/en/analytics/rik-prezidentstva-zelenskogo-krok-vpered-odyn-nazad/>.

8 John Lough, "Ukraine's System of Crony Capitalism. The Challenge of Dismantling 'Systema,'" Chatham House Research Paper, July 2021, <https://www.chathamhouse.org/2021/07/ukraines-system-crony-capitalism>.

they are critically dependent on Western supporters. Since Russia's invasion, Ukraine has taken significant steps related to anticorruption: It has appointed a special anticorruption prosecutor and a new director of the National Anticorruption Bureau, and has moved forward with several high-level criminal proceedings. It appointed a *Naftogaz* supervisory board through open competition.⁹ It has also liquidated the notoriously corrupt Kyiv District Administrative Court, which covered government bodies and had in the past served as a recurrent obstructor of reform. It should be added, however, that Ukraine has banned several (pro-Russian) political parties and has seized five strategic enterprises,¹⁰ but it has been hard to criticize these actions because of the war.

During these five phases, Western sponsors correctly identified economic reform and the rule of law as the two main paths forward for Ukraine to achieve higher levels of national wealth and state accountability. However, their encouragement failed to make Ukraine generate annual growth rates higher than around 2 percent after the fronts in the Donbas froze in early 2015. Public trust in Ukraine's law-enforcement institutions and the judiciary rose slightly after Euromaidan, only to fall back to the same very low levels of 10 to 20 percent as had existed prior to the launching of the reforms.¹¹

The discrepancy between the intended reforms and the actual results shows that Western sponsors underestimated the extent to which the Ukrainian political-legal system would be able to circumvent the reforms to which Ukrainian officials had officially committed. They adeptly avoided direct confrontations with Western sponsors, while referring to decisions by nominally independent, but in reality weak or biased, courts and state institutions. They welcomed the mass inflow of Western technical experts but did not give them political buy-in. Yet, the relative success in making Ukraine advance some reforms during periods of strong external dependence shows that there is room for Western supporters to use conditions to disincentivize backsliding.

Western vs. Ukrainian Interests

Research on patron-client relations can help to inform the dilemma that Western sponsors (the patrons) face vis-à-vis Ukraine (the client) and shed light on what they can do to attenuate it. The situation with Ukraine is obviously not the first time in history that Western countries have faced challenges in supporting a state while seeking to transform it at the same time. The United States and European countries faced similar dilemmas after World War II in countries that they occupied or were otherwise trying to make self-sustaining. Western patrons would be wrong to assume a harmony of interests with Ukraine. However, they can take steps to change Ukraine's incentives: offering a balanced level of reassurance, making conditions clear early on, and getting involved in Ukraine's domestic politics.

Western patrons need to walk a fine line where they seek to redress the client's flaws through means that it may consider undesirable or threatening, without contributing to the state's destabilization or collapse. In the beginning of their commitment to a client, Western patrons typically try to induce it into compliance by offering positive incentives. But their leverage to make the client undertake reforms that it would not ordinarily consider ultimately rests on their readiness to sanction non-compliance.¹² The client may become tempted to test the rigor of the conditions once it has become accustomed to receiving aid, whereas it is most susceptible to external pressure when it feels most vulnerable. This observation is crucial for the design of support to Ukraine.

Western sponsors need to strike a balance between offering low levels of reassurance of their support, which may leave Ukraine not only fragile but also unwilling to change, and offering high levels of reassurance, which may result in a moral hazard wherein Ukraine believes it has no real need to improve. If Western supporters pledge extensive political commitments to Ukraine from early on, their leverage decreases because they have already invested a great deal of political and financial capital, making it more difficult to change course at a later stage. However, offering

9 Mykhailo Minakov, "Fighting Corruption in Wartime Ukraine," Wilson Center, Feb. 13, 2023, <https://www.wilsoncenter.org/blog-post/fighting-corruption-wartime-ukraine>; and Sergiy Sydorenko, "What Are the Conditions for EU's €18 billion for Ukraine?," *Euractiv*, Jan. 17, 2023, <https://www.euractiv.com/section/europe-s-east/news/what-are-the-conditions-for-eus-e18-billion-for-ukraine/>.

10 Roman Olearchyk, "Ukraine Seizes Control of Five 'Strategic' Companies from Oligarchs," *Financial Times*, Nov. 7, 2022, <https://www.ft.com/content/c1eb81af-70d4-48f9-bba0-b96d654e19b6>; and Andrian Prokip, "Concentrating and Centralizing State-Owned Business in Ukraine," Wilson Center, Aug. 19, 2022, <https://www.wilsoncenter.org/blog-post/concentrating-and-centralizing-state-owned-business-ukraine>.

11 "Survey of Ukrainian Population Regarding Trust in the Judiciary and other Branches," USAID, April 2021, 7, https://newjustice.org.ua/wp-content/uploads/2021/06/2021_Survey_Population_Report_ENG.pdf.

12 Walter Ladwig, *The Forgotten Front: Patron-Client Relationships in Counterinsurgency* (Cambridge, UK: Cambridge University Press, 2017), 290–92.

a medium level of assurance would give Western supporters more room to tailor the punishments and rewards needed to compel Ukraine to comply with their requirements.¹³ If Western states commit with ambiguity from the outset, their leverage will increase because they will have more credibility to threaten to backtrack.

This is a recipe for managing the significant leverage that Ukraine has acquired over Western governments since Russia's full-scale invasion in 2022. The brutality of the unprovoked aggression has made Western publics feel unprecedented levels of solidarity with Ukraine. This has translated into the provision of significant military support and willingness to ensure Ukraine's financial survival. Ukraine is naturally capitalizing on this solidarity, having achieved the E.U. candidate status it has longed for since 2014, and now further seeking a clear path to NATO membership.

Hammering out the conditions of financial support early, rather than after the war ends, is necessary to prevent Ukraine's leverage over the Western capitals from assuming a life of its own, and to make sure that the West does not lose sight of its own interest in Ukraine's transformation. After all, Ukraine needs the West more than the West needs Ukraine. This gets to a core dynamic of the patron-client relationship: The patron risks finding itself in a diminished bargaining position in a situation in which it should intuitively dominate by giving an early and overly generous commitment to the client that undermines its ability to sanction non-compliance.¹⁴ The good news for the Western sponsors is that their commitment to fund Ukraine's recovery is sufficiently vague that they maintain the leverage necessary to negotiate the reforms that they expect in return.

Western countries need to consider which instruments in particular they want to leverage. They should be wary of tying military support to the domestic reform agenda. This would benefit

Russia on the battlefield and risks giving Moscow the impression that Western support may be waning. It would also be difficult to put humanitarian assistance on the line, especially as long as

It is not enough to simply define corruption as an issue that needs to be tackled within each state sector. Western sponsors need a strategy for how to dismantle this grand corruption that spans across all of them.

Ukraine is at war. However, Western countries can and should use the amounts required for Ukraine's post-war recovery, estimated at between \$500 billion and \$1 trillion,¹⁵ and its macro-financial needs, currently estimated at \$115 to 140 billion, as leverage.¹⁶ This requires a contractual understanding of what Western donors expect of Ukraine in return for their enormous investment. Western countries have too much at stake in the geopolitical rivalry with Russia to risk Ukrainian insolvency. But it is possible to fine-tune their macro-financial assistance and reconstruction allocations in a way that changes Ukrainian elite incentives.

Western patrons want a reformed Ukraine and are presumably not in disagreement about what reforms are needed after so many years of joint presence there. However, there may be disagreement between Western governments about if and when to apply sanctions. The Ukrainian government will likely seek to exploit the existence of multiple patrons by appealing to the most lenient in the group, such as the Eastern European states — especially Poland, Lithuania, Latvia, and Estonia — which see a stronger geopolitical imperative for keeping the financial flows to Ukraine open. G7 countries, especially Germany and the United States, have a more principled approach and carry more sway because they provide most of the finances, including via international institutions like the European Union, the International Monetary Fund, the European

13 Stephen Biddle, "Policy Implications for the United States" in *Proxy Wars: Suppressing Violence through Local Agents*, ed. Eli Berman and David A. Lake (Ithaca, NY: Cornell University Press, 2019), 265–67; and Ladwig, *The Forgotten Front*, 292–99.

14 Douglas J. Macdonald, *Adventures in Chaos. American Intervention for Reform in the Third World* (Cambridge, MA: Harvard University Press, 1992), 259–65.

15 Steven Arons, "Ukraine Reconstruction May Cost \$1.1 Trillion, EIB Head Says," *Bloomberg*, June 21, 2022, <https://www.bloomberg.com/news/articles/2022-06-21/ukraine-reconstruction-may-cost-1-1-trillion-eib-head-says>; "What Would a 'Marshall Plan' for Ukraine Look Like?" *World Economic Forum*, Feb. 3, 2023, <https://www.weforum.org/agenda/2023/02/marshall-plan-for-ukraine/>; Zerkalo Nedeli, "Конференція з відновлення України в Лугано: уряд оцінив план відбудови у \$750 мільярдів" [Conference on the Recovery of Ukraine in Lugano: Government estimates the reconstruction plan at \$750 billion], July 4, 2022, <https://zn.ua/ukr/ECONOMICS/konferentsija-z-vidnovlennja-ukrajini-v-luhano-urjad-ot-siniv-plan-vidbudovi-u-750-miljardiv.html>.

16 "Ukraine: Request for an Extended Arrangement Under the Extended Fund Facility and Review of Program Monitoring with Board Involvement," International Monetary Fund, March 31, 2023, <https://www.imf.org/en/Publications/CR/Issues/2023/03/31/Ukraine-Request-for-an-Extended-Arrangement-Under-the-Extended-Fund-Facility-and-Review-of-531687>.

Investment Bank, the European Bank for Reconstruction, and the World Bank. It is in the interest of the bigger contributors, therefore, to settle on the conditions of financial aid clearly and with measurable benchmarks from the outset.

Making conditionality work, in turn, requires Western actors to play a dedicated role in Ukraine's domestic politics, particularly by exploiting the split between the broader electorate and the political elite. The former is overwhelmingly pro-European, with 92 percent in support of joining the European Union.¹⁷ The public's preferences for domestic reform align closely with those of Western sponsors and, despite the flaws in Ukraine's democracy, the people do periodically remove their political leaders from office when their performance is found lacking. The political elites, as described above, have traditionally acted as gatekeepers, resisting change that would threaten the vested interests underwriting their own power.¹⁸ Western supporters should therefore weigh in on the domestic scene to exert pressure on the elites. They ought to appeal to the popular demands for prosperity and justice and ally with the reform-minded civil society. This will require some diplomatic activism but not overwhelmingly so. The key is to clearly state expectations and design the aid package from the beginning so that, if conditions are not fully met at any point, there will be no or extremely limited room for discussion. Ukrainian elites do not have alternative patrons and they cannot appear to their domestic audience to be in conflict with the country's Western supporters.

It is worth comparing the West's dilemma with regard to Ukraine today with the more recent experience in Afghanistan, where the United States and its NATO allies upheld a client state that was, in the end, immune to their demands that it become self-sustaining. The decision to finally withdraw in 2021 took so long because of the investment of so much blood, treasure, and political capital, making it difficult to cut losses.¹⁹ Ukraine faces fewer obstacles to undergoing political change than Afghanistan did. Nevertheless, the West's recent history in Afghanistan does highlight the risk of an open-ended engagement that does not have enforceable redlines to prevent government abuse.

The West's dilemma with Ukraine is also worth comparing to E.U. enlargement. The prospect of E.U. membership no longer has the wide public appeal that it had 10 or 15 years ago in the Western Balkans and Turkey, all countries that struggle with stagnant economies and problems with the rule of law and democracy. One cannot exclude the possibility that the Ukrainian public will experience similar disillusionment if reforms again disappoint and if the European Union, in turn, gets fatigued with Ukraine. Yet, the continued difficulties in fighting corruption in Romania and Bulgaria more than 15 years after their E.U. accession serve as a warning against prematurely letting candidates into the European Union, because membership is a major source of Western leverage.

Imposing Conditions in the Ukrainian Context

Understanding that Ukrainian elites are basically non-cooperative when it comes to domestic reform carries with it a recognition that Western countries are, at least partially, in a game of coercive bargaining. Below, I outline four main principles that Western policymakers should apply when crafting the conditions for providing financial support to Ukraine.

Face the Root Problems

First, Western governments need to identify and dismantle the root problems that explain why, since 2014, successive pro-European governments in Ukraine have failed to establish the rule of law and a reasonably competitive economic environment. In 2021, the European Court of Auditors, the institution tasked with monitoring the spending of taxpayers' money through the E.U. budget, highlighted the problem of "grand corruption" in Ukraine. Policymakers on both sides of the Atlantic need to pay due attention to these findings.²⁰

Ukrainian oligarchs — a handful of very wealthy individuals who benefited disproportionately from post-Soviet privatization — have continued to cultivate informal links to the media, political parties,

17 Tobias Gerhard Schminke, "Ukraine: 92% Want EU Membership by 2030," *Euractiv*, March 3, 2023, <https://www.euractiv.com/section/politics/news/ukraine-92-want-eu-membership-by-2030/>.

18 Louis-Alexandre Berg and Naomi Levy, "When Aid Builds States: Party Dominance and the Effects of Foreign Aid on Tax Collection After Civil War," *International Interactions* 46, no. 3 (March 2020): 454–80, <https://doi.org/10.1080/03050629.2020.1735383>; and Hadley J. Swedlund, *The Development Dance: How Donors and Recipients Negotiate the Delivery of Foreign Aid* (Ithaca, NY: Cornell University Press, 2017).

19 Henrik Larsen, "Afghanistan's Significance for NATO Strategy," *The RUSI Journal* 167, no. 4-5 (2022): 45–47, <https://doi.org/10.1080/03071847.2022.2133741>.

20 "Reducing Grand Corruption in Ukraine: Several EU Initiatives, but Still Insufficient Results," European Court of Auditors, September 2021, <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=59383>.

and the government, which has given them influence over the law-enforcement agencies, the courts, and state-owned enterprises. Their abuse of high-level power and state capture thus hinders competition and growth, harms the democratic process, and helps to justify petty corruption in society at large. The European Court of Auditors concluded that the European Union had not leveraged its financial and technical support sufficiently to dismantle or reduce Ukraine's problem of grand corruption.

Grand corruption is an essential, if not *the* essential, problem that Western sponsors should seek to tackle. State capture by powerful political and economic elites is entrenched throughout Ukraine's public institutions and its economy. Oligarchs exert disproportionate influence on public opinion through the control of major media outlets and on the legislative process by funding parties and individual members of parliament in exchange for favorable legislation (such as beneficial tax regimes, import or export restrictions, and state aid). They exert control over the government through monetary rewards, allowing them to influence the appointment of high-ranking law enforcement officials, judges, and managers at state-owned enterprises. This allows oligarchs to manipulate the rule-of-law system and, via satellite companies, to benefit from privileged links with state-owned enterprises. It is not enough to simply define corruption as an issue that needs to be tackled within each state sector. Western sponsors need a strategy for how to dismantle this grand corruption that spans across all of them. It is a difficult task that will likely encounter enormous resistance. However, Ukraine is currently highly dependent on its Western creditors, making it the right moment to demand unprecedented action to weaken the oligarchy's unhealthy links to the media, politicians, the rule-of-law system, and state-owned enterprises.²¹

Apply Conditions Broadly

The second principle follows from the first: Western supporters should impose conditions consistently across all the areas of state reform that are essential to addressing the root problem of grand corruption. They should avoid repeating the mistakes of the 2014–22 period, when they focused

on the most important sectors for macro-financial stability in the beginning, only to switch priorities over time when it became clear that existing institutions were unreliable or that backlashes had to be redressed. Western policymakers should maintain focus on the rule of law, in order to build public trust, and on economic reform, to stimulate growth. But they should also demand changes in order to reduce or eliminate the informal power links as described above.

To reduce state capture and increase market competition, Ukraine needs to empower its anti-monopoly institutions to enforce competition law: sanctioning abuse and breaking up or ensuring independent regulation of monopolies. It also needs to empower independent supervisory boards to oversee state-owned enterprises and, when markets have stabilized after the war, proceed with the privatization process. Ukraine needs to remove various legal moratoriums that allow oligarchs, through satellite companies, to benefit from privileged ties to state-owned enterprises that continue trading without servicing their debts.

To break the oligarch-influenced media landscape, Ukraine should be commended for making its public broadcaster operational, but it needs to fulfill measures to ensure the independence of media regulation and ownership transparency in accordance with E.U. legislation. Zelensky's anti-oligarch law, adopted before the war, allows the government to ban individuals from funding political parties or participating in the privatization of major companies.²² The law has already caused two oligarchs, Poroshenko and Rinat Akhmetov, to rescind control over their media holdings.²³ It may be the right way forward, provided that designations of individuals are not political. This will require Ukraine to remove the competency from the National Security and Defense Council, which is formed by the president.²⁴

Addressing the problem of elites stealing from state coffers requires demonstrating an enhanced risk of getting caught and punished. Therefore, Ukraine needs to establish a credible track-record of high-level anticorruption adjudications in the High Anticorruption Court and of asset recovery back to the state budget. The key to avoiding selective justice, and the perception thereof, is to ensure the

21 For an overview over the oligarchs, their influences, and wartime losses, see Dmytro Goriunov et al., "Oligarchic Ukrainian Capital," Center for Economic Strategy, February 2023, <https://ces.org.ua/en/oligarchic-ukrainian-capital-the-research-ces>.

22 "President Immediately Signed the Anti-Oligarchic Law Passed by the Verkhovna Rada," President of Ukraine, Nov. 5, 2021, <https://www.president.gov.ua/en/news/prezident-nevidkladno-pidpisav-uhvalenij-verhovnoyu-radoyu-a-71445>.

23 Eugen Theise, "Has Ukraine's Anti-Oligarch Law Had an Impact?" *Deutsche Welle*, Feb. 26, 2023, <https://www.dw.com/en/has-ukraines-anti-oligarch-law-had-an-impact/a-64810387>.

24 Ioseb Dzakumashvili, "Why Ukraine's Anti-Oligarch Bill Is So Problematic," *Emerging Europe*, Nov. 18, 2021, <https://emerging-europe.com/news/why-ukraines-anti-oligarch-bill-is-so-problematic/>.

independence of the agencies and institutions in the specialized anticorruption rule-of-law chain. The commendable investigative and prosecutorial progress made on these cases since Russia's full-scale invasion should be sustained. Meanwhile, Ukraine should reboot its fight against illicit enrichment among public servants by checking declared assets against information held in other state registers.

Ukraine needs to reform its existing law-enforcement agencies and judiciary after many mixed or unsuccessful attempts since 2014. It should increase the independence of the Prosecutor-General's Office, notably by recruiting from the local and regional offices, and to reduce the powers of the Security Service of Ukraine, bringing it in line with European standards for intelligence agencies. This would need to be complemented with measures to strengthen the independence of criminal investigations within an expanded National Police. Ukraine needs to make final decisions in ongoing disciplinary cases against judges throughout the country by strengthening safeguards for the independence of the responsible institution, the High Council of Justice. It should also establish a credible and transparent selection process, notably integrity checks of candidates, for appointing judges to the Constitutional Court so it does not, once again, obstruct reforms that it has taken years to establish. The widespread problem of corruption calls for giving the highest priority to re-evaluating judges and officials in leadership positions and otherwise politically exposed positions with the utmost integrity.

Grand corruption also needs to be targeted in Ukraine's defense sector. The state-owned conglomerate of arms producers, *Ukroboronprom*, has traditionally resisted substantive changes to procurement practices because they may threaten its authority and its financial interests, which benefit from the lack of transparency. The time for this may not be right, as long as Ukraine is at war and most of the country's arms production has ceased or been moved outside the country. On the other hand, defense sector accountability is a national security issue for Ukraine and is necessary for a sustained Western commitment to supply it with weapons.²⁵

As a rule, Western supporters should have opinions about the processes and procedures for the enforcement of the law and the regulation of the economy but not necessarily about the specific

outcomes, e.g., who gets appointed or convicted. What is essential is to keep processes and procedures independent in order to reduce the likelihood of external interference or manipulation in favor of particular financial-political interests. The many successful and courageous investigations conducted by the National Anticorruption Bureau created in 2014 show that independence is key. In that sense, a proper technical approach to reform, such as the involvement of international experts in the vetting process to fill key positions, is the best safeguard. If the political will is not stable, the procedures for building state institutions and managing the economy should be.

Fine-Tuning Disbursements

The third principle is to leave no room for doubt that Western sponsors are ready to punish non-compliance. Enacting reforms that endanger vested interests will be a political struggle. Thus, seeing those reforms come to life will require pressuring Ukraine's elites into a situation in which they cannot reject, postpone, or imitate the fulfillment of conditions.

This means, first and foremost, a readiness to postpone or reduce scheduled macro-financial disbursements, accompanied by a public listing of outstanding requirements for their resumption. Delayed disbursement of funds may put Kyiv in the difficult position of having to take loans in the private markets at much higher interest rates. To cover a given budget deficit, the prospect of low-interest Western loans may tip Kyiv's incentives in favor of complying with conditions. This applies to the present as much as to the future. Whereas the United States is currently providing financial aid as non-repayable grants, the European Union, so far, is providing funds in the form of loans, which (like in 2018) provides an opportunity for reasserting conditions when repayments are due.

Enforcing conditions does not entirely have to come in the form of political brinkmanship, however. The European Union has cleverly offered to waive the interests of Ukraine's new debts, provided that the country complies with specific reform requirements.²⁶ It has also given Ukraine seven steps to fulfil before the commencement of accession negotiations (i.e., opening talks about the adoption

25 Andrew Higgins, "In Ukraine, Corruption Is Now Undermining the Military," *New York Times*, Feb. 19, 2018, <https://www.nytimes.com/2018/02/19/world/europe/ukraine-corruption-military.html>; and Andrew Radin, *Institution Building in Weak States: The Primacy of Local Politics* (Washington DC: Georgetown University Press, 2020), 199–202.

26 "Instrument for Providing Support to Ukraine for 2023 of Up to EUR 18 billion," European Commission, Jan. 16, 2023, 3–4, https://economy-finance.ec.europa.eu/system/files/2023-01/Memorandum%20of%20Understanding_EU-UA.pdf.



and implementation of the E.U. body of law),²⁷ which are closely monitored by Ukrainian civil society.²⁸

Western sponsors have other options for non-vital sanctions. One is taking away elite privileges. This concerns especially the European Union, which should restrict oligarchs and their close family members from entering and using their assets in E.U. countries — similar to the U.S. sanctions against Ukrainians involved in “significant corruption.” Western supporters should also be prepared to delay or suspend providing funding for reconstruction. This would resound negatively with the Ukrainian people as the country tries to recover from the destruction of war, while not ultimately threatening Ukraine’s fiscal survival.

To be able to successfully enforce conditions requires minimizing the room for discretion in assessing whether those conditions have been met. This will, in turn, require the criteria of those conditions to be as falsifiable as possible. Vague wording like “significant progress” and “concerted effort” leaves room for calibration or nuance and, still worse,

reduces credibility should the sponsors choose to withhold aid. Most aid programs allow for a significant degree of discretion because they lack baselines and targets, and because they measure output and activities.²⁹ Donors need to reduce the space for political leniency by measuring the implementation of reforms against targets and the impact of those reforms against relevant indicators.

Moreover, Western sponsors should agree with Ukraine on approximate time frames with regard to different state sectors: for example, one year for final decisions related to privatization or independent governance of state-owned enterprises, two years for demonstrating a track-record of high-level corruption convictions and executions, three years for law-enforcement reform, and five years for judicial reform. Adding a time-based assessment to the measurement of implementation and impact will reduce room for ambiguity about whether requirements have been fulfilled. Imposing time-based conditions in different state sectors should ideally bind into one overall recovery plan

27 Michael Emerson et al., “EU Accession Prospects of Ukraine, Moldova and Georgia,” Center for European Policy Studies, March 2023, 5–16, <https://www.ceps.eu/ceps-publications/eu-accession-prospects-of-ukraine-moldova-and-georgia/>.

28 “Candidate Check-3: Where Ukraine Is in the implementation of 7 EU Recommendations,” New Europe Center, Feb. 3, 2023, <http://neweu-rope.org.ua/en/analytiks/kandydat-check-3-de-ukrayina-perebuvaeye-u-vykonanni-semy-rekomendatsij-yes-shhodo-kandydatstva/>.

29 European Court of Auditors, *Grand Corruption in Ukraine*, 29, 44.

for Ukraine in a G7 + European Union + International Monetary Fund format.

Although a wartime situation obviously disrupts the running of the economy and the political-legal system, the design of most reform plans has already been considered at length since 2014 to fit the Ukrainian context and, thus, would not require extensive consultations. Western sponsors should be aware that political elites often seek to avoid responsibility by referring to events outside their control, especially court decisions, which may not be as independent as they want them to appear.

Coordination

The fourth principle relates to the need to minimize internal disagreement about applying conditions after they have been agreed upon. Three instruments stand out: compliance monitoring, independent audit of the spending of taxpayers' money, and the exercise of public diplomacy.

First, the G7 + European Union + International Monetary Fund format should monitor the recovery plan for Ukraine. They should follow the recommendations of a German Marshall Fund proposal that would empower a coordinator to publish regular evaluations of whether benchmarks are being reached and to be involved in decisions about whether to delay or withhold aid.³⁰ While leverage should be exerted via regular diplomatic channels, a consistent emphasis on relationship-building with Ukrainian interlocutors will encourage high officials, diplomats, and technical experts to see their jobs as benign capacity building.³¹ To avoid bowing to political pressure to protect underperforming or corrupt officials, Western supporters may wish to appoint a business leader to supervise the administration of reconstruction allocations.³²

Second, Western sponsors need to insist on the appointment of an inspector general who has a mandate to investigate cases of misconduct and publish accountability reports.³³ The model should be the European Court of Auditors or the U.S. Special Inspector General for Afghanistan

Reconstruction. Bureaucracies tend to ignore or reject critical analysis. Thus, any future inspector general for Ukrainian reconstruction would need to report directly to the donating political decision-makers. Auditors should be used to correct policy instead of evaluating policy failure a decade down the line.

Finally, Western sponsors should deliver the same, or at least similar, messages in the G7 + European Union + International Monetary Fund format to avoid contradictions and maximize the impact on Ukraine's domestic politics. The domestic legitimacy of Ukrainian politicians depends on their commitment to following a pro-European course, because the alternative may now be seen as treasonous. Calling out non-compliance with agreed-upon reform demands in the public space, or threatening to do so, will have a stronger impact on elites today than it would have before Russia's full-scale invasion. Unity is best assured by keeping messaging to evaluations of the agreed-upon implementation targets and impact indicators. Western supporters should ally with Ukraine's vibrant civil society, both centrally and in the regions, which knows the political landscape and the legal/economic context better than diplomats and, thus, is better placed to be able to warn about risks in reform legislation and its implementation.

Western Commitment

The amount of money that Ukraine's solvency and reconstruction will require is big by historical comparison. The estimated \$1 trillion needed for Ukraine's reconstruction and macro-financial stability stands in contrast with the U.S. Marshall Plan for Europe to recover from World War II, which cost approximately \$130 billion in today's money.³⁴ Even if the roughly \$300 billion of Russian state assets currently frozen by E.U. and G7 states could be used,³⁵ Ukraine's recovery requires a significant Western investment that deserves proper management.

30 Ronja Ganster et al., "Designing Ukraine's Recovery in the Spirit of the Marshall Plan," German Marshall Fund of the United States, September 2022, 18, <https://www.gmfus.org/news/designing-ukraines-recovery-spirit-marshall-plan>; and Heather A. Conley, "A Modern Marshall Plan for Ukraine. Seven Lessons for History to Deliver Hope," German Marshall Fund of the United States, Oct. 3, 2022, 8–11, <https://www.gmfus.org/news/modern-marshall-plan-ukraine>.

31 Biddle, *Policy Implications for the United States*, 269.

32 John Manza and Nicholas Williams, "5 Lessons for the Reconstruction of Ukraine," *National Interest*, June 17, 2022, <https://nationalinterest.org/blog/buzz/5-lessons-reconstruction-ukraine-203058>.

33 Thomas Kleine-Brockhoff and Ronja Ganster, *Postwar Planning Must Begin: What a Modern Marshall Plan for Ukraine Looks Like*, German Marshall Fund, Oct. 24, 2022, <https://www.gmfus.org/news/postwar-planning-must-begin-what-modern-marshall-plan-ukraine-looks>.

34 Benn Steil and Benjamin Della Rocca, "It Takes More than Money to Make a Marshall Plan," Council on Foreign Relations, April 9, 2018, <https://www.cfr.org/blog/it-takes-more-money-make-marshall-plan>.

35 Michael Emerson and Steven Blockmans, "The \$300 Billion Question – How to Get Russia to Pay for Ukraine's Reconstruction," Center for European Policy Studies, Report no. 4 (2022), <https://www.ceps.eu/ceps-publications/the-300-billion-question/>.

The calibration of support for Ukraine comes at a moment when the publics on both sides of the Atlantic expect their elected representatives to choose foreign commitments and to spend treasure more wisely. President Joe Biden ran for office promising a more restrained foreign policy, to win over voters who felt that the United States had overextended on its foreign commitments.³⁶ As for the European Union, it struggles with failures to transform the candidate countries in the Western Balkans and Turkey, and the decline in the rule of law in Hungary and Poland.³⁷

A comparative reality check shows that Ukraine is less democratic,³⁸ is much more corrupt,³⁹ has less press freedom,⁴⁰ has less human freedom,⁴¹ and offers fewer political rights and civil liberties⁴² than any member of the European Union. In terms of economic performance, its per-capita GDP never reached higher than 30 percent of the European Union's average.⁴³ Before Russia launched its full-scale invasion in early 2022, Ukraine's real GDP was at the same level as in 2013 before the Euromaidan, while its rule-of-law, corruption, and competitiveness rankings had only marginally improved.⁴⁴ It is true that, since 2014, Ukraine has had to deal with hostilities in the Donbas and other disturbances. But that only partially explains why successive pro-European governments were unable to produce better results. Unless Ukraine can show notable improvement, framing support for Ukraine as a defense of European liberal values only holds partially true.

The potential for Western weariness requires Ukraine to demonstrate that it is a foreign investment that will pay off in terms of security and prosperity for both Europe and North America. The

Marshall Plan, for example, gave the United States lasting geostrategic value in terms of the economic growth experienced in Western Europe, which otherwise might have turned to communism in the critical first years of the Cold War. Support for Ukraine today should similarly bring lasting value to the Western community: a prosperous country governed by the rule of law and resilient enough to become a Western bulwark against Russia.

Meanwhile, the Western debate about Ukraine's post-war future tends to focus on the transformative effect that the war will supposedly have on the Ukrainian state, while tending to neglect the country's difficult history in enacting reforms. The hopes for fundamental change seem inspired by the popular notion that "war makes the state."⁴⁵ But this warrants closer examination, as it entails no guarantee of economic liberalization and the rule of law.

It is true that the Russia vector, which many of the anti-reformist forces in Ukraine relied on to maintain their business empires, media holdings, and political networks, is now gone from the country's domestic politics.⁴⁶ As opposed to the situation after 2014, when a small minority in Kyiv-controlled territory remained supportive of or agnostic about Russia, Ukraine today is an almost entirely pro-European country.⁴⁷ The sacrifices that the people have made to defend their country against Russia increase the demand on the elites to deliver. Nevertheless, the durable effect on Ukraine's governance remains to be seen. When hostilities end, it will be the third time in the country's post-Soviet history that it will try to fundamentally break with its past — the other two being the Orange Revolution in 2005 and after the Euromaidan in 2014. The corrup-

36 Joseph R. Biden, "Why America Must Lead Again. Rescuing U.S. Foreign Policy After Trump," *Foreign Affairs* 99, no. 2 (March/April 2020), <https://www.foreignaffairs.com/articles/usa/2020-01-23/why-america-must-lead-again>.

37 Max Bergman, Otto Svendsen, and Sissy Martinez, "The European Union's Enlargement Conundrum: Assessing EU Enlargement Policy and Policy Options for Ukraine and the United States," Center for Strategic and International Studies, May 2023, 14–16, <https://www.csis.org/analysis/european-unions-enlargement-conundrum>.

38 "Democracy Index 2022," Economist Intelligence Unit, accessed May 26, 2023, <https://www.eiu.com/n/campaigns/democracy-index-2022/>.

39 "Corruption Perception Index 2022," Transparency International, accessed May 26, 2023, <https://www.transparency.org/en/cpi/2022>.

40 "Press Freedom Index 2022," Reporters Without Borders, accessed May 26, 2023, <https://rsf.org/en/index>.

41 "Human Freedom Index 2022," Cato Institute, accessed May 26, 2023, <https://www.cato.org/human-freedom-index/2022>.

42 "Freedom House Index 2022," Freedom House, accessed May 26, 2023, <https://freedomhouse.org/countries/freedom-world/scores>.

43 "Ukraine. Selected Issues paper," International Monetary Fund, April 2017, 10–11, <https://www.imf.org/-/media/Files/Publications/CR/2017/cr1784.ashx>.

44 "Ukraine Ranking," IMD World Competitiveness, 2021, <https://worldcompetitiveness.imd.org/countryprofile/overview/UA>; "Ukraine Data Sets," International Monetary Fund, accessed May 26, 2023, <https://www.imf.org/external/datamapper/profile/UKR>; "Ukraine," Transparency International, 2022, <https://www.transparency.org/en/cpi/2021/index/ukr>; and "Worldwide Governance Indicator," World Bank, 2021, <https://databank.worldbank.org/source/worldwide-governance-indicators>.

45 Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge, UK: Cambridge University Press, 1985), 170.

46 James Rupert, "Ukraine: How to Oppose Russia's Weaponization of Corruption," U.S. Institute of Peace, June 9, 2022, <https://www.usip.org/publications/2022/06/ukraine-how-oppose-russias-weaponization-corruption>.

47 Andrew Lohsen, "How the War Could Transform Ukrainian Politics," Center for Strategic and International Studies, May 17, 2022, <https://www.csis.org/analysis/how-war-could-transform-ukrainian-politics>.

tion cases emerging in 2023 from within the Ministry of Defense, from the frontline regions, and related to the arrest of the Chief of Ukraine's Supreme Court are astonishing for a country at war, but not surprising given its history. They show that misappropriation of funds remains a risk that undermines the trust that Western supporters place in Ukraine.⁴⁸

Amid the solidarity and enthusiasm for Ukraine's cause, it should be remembered that the European Union decided to grant Ukraine candidate status primarily because of Russia's aggression. But the country's integration into the union should ultimately be based on merit. In its report from June 2022 recommending granting Ukraine candidate status, the European Commission noted the following main shortcomings: a weak rule of law and oligarchic media influence; big monopolies, state-owned enterprises, and widespread corruption, which are inhibiting investment and growth; and outstanding gaps in the adoption of E.U. law.⁴⁹ The European Union has yet to come up with a plan for how to dismantle grand corruption.

One notable idea that has emerged from the expert community is that the European Union should adopt a "staged accession" approach to enlargement to give candidate countries medium-term goals and benefits to aim for, rather than the current membership/non-membership dichotomy.⁵⁰ This idea may be viable, but it should not become an excuse for ignoring the problems related to domestic unwillingness to reform. In the past, candidate countries were sufficiently motivated by the eventual accession carrot without a need for quasi-membership benefits along the road. If Ukraine is serious about joining the European Union, and if the European Union is serious about bringing it in, both parties are best served by facing the underlying obstacles from the outset.

Conclusion

Ukraine is a case that requires critical thinking about how to engage with and strengthen an important partner. It has a strong sense of nationhood that underpins an impressive fighting force, and it is by no means comparable to the fragile Middle Eastern countries that the West has tried to support over the past two decades. Ukraine is a

large European country whose destiny cannot be separated from NATO's security. Supporting Ukraine militarily and economically serves the defense of the post-World War II order — an order in which historical revisionism and wars of aggression cannot be allowed to succeed.

Russia's invasion of Ukraine has opened up the possibility for the latter to join the West as a member of the European Union. Ukraine faces a historic challenge: It needs to establish the rule of law and rid the oligarchy from its economy if it wants to be a member. The war may affect Ukrainian politics in positive ways, but it does not guarantee a qualitative change. Ukraine needs a fundamental break with the past in order to make gains in the rule of law and see economic growth match even the lowest E.U. levels. This will mostly be a domestic Ukrainian undertaking. Nevertheless, the West — with the prospect of a \$1 trillion investment — does have a responsibility, for the sake of its own taxpayers, to make sure these reforms take place.

The transformative experience of the war could become a transformative experience for the Ukrainian state, its citizens, and investors that would ultimately lead to increased public trust and economic growth. Ukraine's victory is not only about repelling Russian aggression. It is also about showcasing the country's reformed governance model to its own citizens (including those living under Russian occupation) and to the Russian people living under the autocratic Putin regime. Ukraine's domestic success would serve the broader interest of highlighting the benefits of the Western model in comparison to other illiberal contenders, especially China, illiberal forces in West-leaning countries like Turkey and Georgia, and the Global South. 🇺🇦

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Image: The State Emergency Service of Ukraine (CC BY 4.0)⁵¹

48 Orysia Lustevych, "Ukraine Is Locked in a War with Corruption as well as Putin – It Can't Afford to Lose Either," *The Guardian*, Jan. 30, 2023, <https://www.theguardian.com/commentisfree/2023/jan/30/ukraine-war-with-corruption-putin-resignations-russia>.

49 *Opinion on Ukraine's Application for Membership of the European Union*, European Commission, 5–19.

50 Michael Emerson and Steven Blockmans, "Next Step for EU Enlargement – Forwards or Backwards," Center for European Policy Studies, Nov. 23, 2022, <https://www.ceps.eu/wp-content/uploads/2022/11/next-steps-for-eu-enlargement-forwards-or-backwards.pdf>.

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