

Ukraine

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Capital: Kyiv
Population: 45.2 million
GNI/capita, PPP: US\$7,840

Source: World Bank *World Development Indicators*.

Nations in Transit Ratings and Averaged Scores

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
National Democratic Governance	4.75	5.00	5.00	5.50	5.75	5.75	6.00	6.00	5.75	5.75
Electoral Process	3.00	3.50	3.50	3.50	3.75	4.00	4.00	3.50	3.50	3.50
Civil Society	2.75	2.75	2.75	2.75	2.75	2.75	2.50	2.25	2.25	2.50
Independent Media	3.50	3.50	3.50	3.75	4.00	4.00	4.25	4.00	4.00	4.00
Local Democratic Governance	5.25	5.25	5.25	5.50	5.50	5.50	5.50	5.50	5.25	5.00
Judicial Framework and Independence	4.75	5.00	5.00	5.50	6.00	6.00	6.00	6.00	6.00	5.75
Corruption	5.75	5.75	5.75	5.75	6.00	6.00	6.25	6.00	6.00	5.75
Democracy Score	4.25	4.39	4.39	4.61	4.82	4.86	4.93	4.75	4.68	4.61

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. If consensus cannot be reached, Freedom House is responsible for the final ratings. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The opinions expressed in this report are those of the author(s).

EXECUTIVE SUMMARY

Since the ouster of former president Viktor Yanukovich and his semiauthoritarian regime by the remarkable Revolution of Dignity in 2014, Ukraine has faced significant challenges, first from Russia's military intervention and second by the urgent need to rectify the country's obvious shortcomings in democracy and rule of law.

In 2016, the dispute with Russia remained unresolved. Crimea is still annexed and the rights of the local population, especially the indigenous Crimean Tatars, are widely violated. The internationally mediated Minsk Agreements of February 2015 for Donbas in eastern Ukraine did not result in a resolution of the conflict there, and the affected territories remained under de facto Russian control and without a stable ceasefire. Despite internationally sponsored attempts at peace-building, Russia continued to deliver arms, military equipment, ammunition, and unregistered military personnel as "volunteers" to the conflict zone. During the "ceasefire" in 2016, the Ukrainian army lost 211 officers and soldiers.¹ The total number of deaths since the start of the conflict in April 2014 has reached almost 10,000 people from both sides,² including 2,000 civilians. The de facto, Russian-managed local administrations in Donbas were strengthened institutionally during 2016 with the removal of less-controllable elements, sometimes through mafia-style violence. The transformation of the "Donetsk People's Republic" (DNR) and "Luhansk People's Republic" (LNR) into Russian-controlled provinces has been mostly accomplished, making it less and less likely that Ukraine will accept their reintegration under continued Russian dominance.

Despite these severe security challenges, the Ukrainian government has managed to stabilize the economic and political situations, a trend that continued in 2016. In April, a new cabinet of ministers was appointed following the resignation of Prime Minister Arseniy Yatsenyuk and his cabinet. The new prime minister, Volodymyr Groysman, is the former speaker of the Verkhovna Rada (parliament). The ruling coalition narrowed with the withdrawal of three minor factions: Radical Party of Oleh Lyashko, Yulia Tymoshenko's Batkivshchyna (Fatherland), and Samopomich (Self-Reliance). This left only two political parties—Petro Poroshenko Bloc and People's Front—in the coalition, making it fragile and dependent on non-coalition political parties and individual members of parliament on a case-by-case basis. At the same time, the current coalition is strong enough to avoid early general elections to the Rada, which the opposition strongly desires.

Despite a drop in his public opinion ratings, President Petro Poroshenko strengthened his political position during the year. In contrast to Yatsenyuk, who was widely perceived to act as Poroshenko's "equal," the new prime minister, Groysman, was publicly viewed as being controlled by the president. Unlike Yatsenyuk, Groysman has no political backing of his own, which makes him dependent on coalition factions, especially the president's party. At the same time, Groysman took steps to secure his relative political independence during the formation of his cabinet, notably resisting the president's pressure regarding the appointment of the first deputy prime minister and other important ministers.

There were no general elections in 2016. On 17 July, provisional elections for the Verkhovna Rada took place in seven single-mandate constituencies, bringing partial success to both the coalition and the opposition. On 11 and 18 December, the first local elections were held in newly amalgamated communities established under local governance reform that began in 2015. At the same time, the failure to expediently replace most of the Central Election Commission members, whose terms expired in 2014, poses a challenge to the legitimacy of any elections. Political parties have started to release official reports on their budgets, and they received the first installments of public funds as a result of the reform of political financing introduced by recently adopted legislation.

Civil society remains the strongest element in Ukraine's democratic transition. The sector is playing a crucial role in driving reforms aimed at building functional democracy and the rule of law. Since the revolution, civil society has grown in terms of capacity and diversity. At the same time, the war and Russia's occupation have emboldened extremist organizations, which are increasingly influential in shaping the public sphere and political debates around their agenda through direct action, including violence.

The Ukrainian media landscape is pluralistic, and criticism of the government is widespread. At the same time, the largest media outlets are still controlled by oligarchs, making them dependent

on outside political and business agendas. A new public broadcaster has been formally established, but its effective operation has been delayed due to bureaucratic resistance and budget constraints. The number of attacks against journalists remains high. Well-known political journalist Pavlo Sheremet was killed on 20 July in Kyiv, and the investigation into his death has been inconclusive. The Inter TV studios were attacked by unknown individuals in September.

Local governance reform continued in 2016, including further voluntary amalgamations of local communities. Fiscal decentralization brought more financial independence to the municipalities and local communities, as local budgets increased by 35 to 50 percent on average in comparison to the previous year.³ However, the process has slowed due to the lack of further legislative changes, including some that require constitutional changes.

Judicial reform finally accelerated after a long period of stagnation with constitutional amendments and new framework legislation introduced in July. The new legislative provisions stipulate, in particular, that the reappointment of judges will occur only after assessing their skills and credibility. However, it would be premature to assess the effectiveness of the reform as the implementation phase only started on 30 September.

The government undertook significant institutional steps in 2016 to counter corruption. Three new national anticorruption agencies were established and started functioning: the National Anti-Corruption Bureau, Anti-Corruption Prosecutor Office, and National Agency for Corruption Prevention. The reform of public procurement procedures was accomplished, and a transparent online mechanism, “ProZorro,” was introduced for all procurements. The first phase of e-declarations resulted in 107,050 public officials declaring their assets by the end of 2016⁴ despite evident resistance. The disclosures demonstrated the deeply rooted culture of nontransparent personal enrichment among the Ukrainian ruling class, which will continue to be a challenge for sustained transparency. The government accomplished energy tariff reform by raising tariffs to the market level and equalizing the various tariffs for consumers, which had been a cause of corruption in the energy sector for decades.

The anticorruption accomplishments of 2016 were the result of synchronized efforts by local civil society and the international community, and have laid foundations for a more sustainable anticorruption policy in the future. It is clear, however, that further improvements are possible only if Ukraine’s political leadership applies sufficient political will.

Score Changes:

- **Civil Society rating decreased from 2.25 to 2.50** due to the growing impact and visibility of intolerant, extremist organized groups in the public space.
- **Local Democratic Governance rating improved from 5.25 to 5.00** due to the strengthening capacity of local governments as a result of ongoing decentralization reforms and the growing financial sustainability of local authorities.
- **Judicial Framework and Independence rating improved from 6.00 to 5.75** due to the launch of judicial reform implementation pursuant to the newly adopted law and constitutional amendments.
- **Corruption rating improved from 6.00 to 5.75** due to the creation of the new national anticorruption agencies and the beginning of their operation, public procurement reform implemented with essential anticorruption implications, introduction and publishing of the first e-declarations for public officials, the beginning of political party finance reform, energy tariff reform, and the initiation of reform of the management of state-owned enterprises.

As a result, Ukraine’s Democracy Score improved from 4.68 to 4.61.

Outlook for 2017: Despite international efforts, there are few opportunities to resolve the territorial conflict in the east. Ukraine is unlikely to accept the Russian scenario of Donbas’s reintegration as a Russian protectorate, and no other option is realistically available. Ukraine’s economy most likely will continue its gradual revival, but economic growth will remain slow. The narrow parliamentary

coalition could well survive, but an atmosphere of pessimism and lack of confidence, growing energy tariffs, and external efforts to destabilize the country could provoke turbulence. Most likely, some reformists will be forced to quit the government under pressure from populists, even if the cabinet survives. Judicial reforms, improvements in the investment climate, and countering corruption are key policy areas, but reforms will move ahead slowly. Political parties will maneuver with a view to the future elections, either regular or early, which may further reduce political support for reforms. The international players who advocate for reforms in Ukraine may be preoccupied with growing global problems that reduce their attention to Ukraine's issues.

Main Report

National Democratic Governance

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
4.75	4.75	5.00	5.00	5.50	5.75	5.75	6.00	6.00	5.75	5.75

- The Revolution of Dignity in 2014, which ousted the regime of President Viktor Yanukovich, ushered in a new period of transition from kleptocracy and semiauthoritarianism to functional democracy and the rule of law. Ukraine’s painful transformations are not likely to be fast, as the “old system” is deeply rooted in the practices of governance and therefore not easily eliminated. While the scope of positive change is significant, it is not yet fully consolidated.
- The conflict with Russia still poses an existential threat to Ukraine. More than just a territorial, cultural, or ethnic dispute, the Russia-Ukraine conflict is, to a large degree, about identity. Russia and its president, Vladimir Putin, are attempting to challenge the very core of Ukraine’s national identity by claiming that Ukrainians are a “single people” with Russia. Putin perceives a successful and democratic Ukraine as a vital challenge to the sustainability of his regime.
- Under these circumstances, it is unlikely that the conflict with Russia will be resolved soon. Crimea remains under Russian occupation, and the civil rights of the local population—including indigenous Crimean Tatars, Ukrainian speakers, and opponents of the occupation—are widely violated. In 2016, the Russian Supreme Court banned the Mejlis, the representative body of the Crimean Tatars, labeling it an “extremist organization.” Crimean Tatar leaders are either banned from visiting Crimea (e.g., Mustafa Dzhemilev and Refat Chubarov) or arrested (Ilmi Umerov and others).
- A stable ceasefire has not been reached in Donbas. Despite internationally sponsored attempts at peace-building—including the Minsk Agreements, which involved Germany and France and were signed in September 2014 and updated in February 2016—Russia continues to deliver arms, military equipment, ammunition, and officially unregistered military personnel as “volunteers” to the conflict zone. In 2016, the Ukrainian army lost 211 officers and soldiers, despite the ceasefire,⁵ and the total number of deaths since the conflict began in April 2014 has reached almost 10,000,⁶ including 2,000 civilians.
- During 2016, the de facto Russian-managed local administrations in Donbas have been institutionally strengthened. The buildup of the Russian-controlled statelets, “Donetsk People’s Republic” (DNR) and “Luhansk People’s Republic” (LNR), has been mostly accomplished. In these occupied territories, independent political activities and political parties are banned, nongovernmental organizations (NGOs) do not operate, and a free press is nonexistent. It is unlikely that these territories will be efficiently reintegrated into Ukraine as Russia is unwilling to withdraw from the conflict zone, and Ukraine, in turn, is averse to the restoration of the lost territories as de facto Russian political and military protectorates. Political components of the Minsk Agreement, including elections in the conflict zone and constitutional reform in Ukraine, cannot move forward without ensuring security, a stable ceasefire, and establishment of at least basic prerequisites for free and fair elections in accordance with OSCE standards.
- Despite the ongoing conflict in the east, Ukraine’s government has managed to stabilize both the economic and political situations. At the same time, public confidence in the main political institutions—and leading public officials—continued to decline in 2016.⁷
- The ruling coalition has shrunk as three minor factions—Radical Party of Oleh Lyashko, Yulia Tymoshenko’s Batkivshchyna (Fatherland), and Samopomich (Self-Reliance)—withdrew from the coalition. Only two political parties (Petro Poroshenko Bloc and People’s Front) remain in the coalition, making it fragile and dependent on non-coalition political parties and individual members of parliament (MPs) who support the coalition on a case-by-case basis while pursuing their own interests.

- In April, a new cabinet of ministers chaired by Prime Minister Volodymyr Groysman, the former speaker of Ukraine’s Verkhovna Rada (parliament), was appointed following the resignation of former prime minister Arseniy Yatsenyuk and his cabinet. Groysman’s cabinet successfully continued a number of essential reforms relating to governance and the development of democratic institutions. In particular, the government launched a civil service reform in accordance with legislation adopted in 2015. Open competitions for vacant job positions at the highest levels of civil service have been conducted. A newly established body, Commission for the High Corps of the Civil Service, is tasked with selecting leaders of regional administrations and the state secretaries of ministries. Civil society voices are included with 4 representatives of the sector among the 12 Commission members. However, at the same time, the government has a strong hand in the commission, and most appointees are favorable to the president’s administration.
- With Yatsenyuk’s resignation and Groysman’s appointment, President Petro Poroshenko strengthened his political position despite the decline of his personal public confidence ratings.⁸ Some observers identified a growing trend towards concentration of power in the hands of the president.⁹ In contrast to Yatsenyuk, who was widely seen to act as an “equal” to Poroshenko, Prime Minister Groysman was perceived as being under the president’s thumb. Unlike Yatsenyuk, Groysman does not have his own base of political support, which makes him dependent on coalition factions—particularly from the president’s political party. At the same time, by withstanding pressure from the president during the selection process for cabinet ministers, Groysman managed to secure his relative political independence. Despite Poroshenko’s influence, Groysman independently selected the first deputy prime minister, Volodymyr Kistion, as well as cabinet members including the social policy minister, Andriy Reva.

Electoral Process

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
3.00	3.00	3.50	3.50	3.50	3.75	4.00	4.00	3.50	3.50	3.50

- No regular elections were scheduled in Ukraine in 2016. On 17 July, provisional elections for the Verkhovna Rada took place in seven single-mandate constituencies, bringing partial success to the coalition (three elected MPs) and to the various branches of the opposition (four MPs). Elections were competitive and basically free, but bribery of voters through various “charity funds” associated with certain candidates was widely detected.¹⁰ Various parties and individual contenders used “gray money” to mobilize and motivate voters.¹¹
- On 11 and 18 December, the first elections were held in 184 newly amalgamated communities, out of the 360 that were established by the local governance reforms started in 2015. Yulia Tymoshenko’s Batkivshchyna (Fatherland) party, currently in opposition, fared best in the elections gaining 33.5 percent of seats in the new communities’ councils.¹² Observers reported some irregularities mostly relating to the professional competence of the polling commissions’ members.¹³
- The Central Election Commission (CEC) faced a crisis of legitimacy, which has not yet been resolved. On 3 June, President Poroshenko submitted a proposal to the parliament to dismiss 12 members of the CEC whose terms in office expired in June 2014, and to appoint 11 new CEC members. Due to a lack of support in the parliament, illustrated by the failure of major political factions to agree on the new CEC members, the legislature has not yet considered any of the nominees. As a result, 12 out of the 15 CEC commissioners retain their positions, even though they should have been replaced in 2014.¹⁴
- On 18 September, the election of deputies of the State Duma of the Russian Federation for the so-called Republic of Crimea took place on the territory of occupied Crimea. Ukraine officially appealed to foreign governments and international organizations not to recognize the new convocation of the State Duma due to the illegality of Russia’s occupation.¹⁵

- Political parties have started to release official reports on their budgets and received the first installments of public funds as a result of the reform of political financing. However, in their first reports, many large parties failed to provide accurate data: in particular, according to the Committee of Voters of Ukraine, spending for parties’ central and local staff salaries and political advertisements have not been properly reported.¹⁶

Civil Society

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2.75	2.75	2.75	2.75	2.75	2.75	2.75	2.50	2.25	2.25	2.50

- Civil society remains the strongest element in Ukraine’s democratic transition. It plays a crucial role in driving reforms aimed at building a functional democracy and rule of law. Civil society coalitions and networks, such as the Reanimation Package of Reforms, help drive reforms through drafting and advocating legal acts, and communicating vital reforms to the media and wider society. Civil society actors continue to play a vital role in the implementation of various reforms, such as countering corruption (by direct engagement in the establishment of new anticorruption bodies and promotion of the e-declarations launch), public administration and civil service reform (through participating in the commissions and nominating new civil servants), public procurement reform (by supporting the introduction of the “ProZorro” e-procurement system), and decentralization and local governance (through capacity-building in the amalgamated communities).
- At the same time, the trauma of invasion and occupation have empowered extremist and far-right groups, which play an increasingly visible role in Ukraine’s public life and shape the political agenda, including through violence. Far-right groups use public holidays to demonstrate their strength, such as the march of the Azov Civic Corps, the political wing of the Azov Battalion, at the Day of Ukraine’s Defenders on 14 October. The attack on media outlet Inter and the release of personal information about journalists who have worked in Donbas (see “Independent Media”) showed how extremist actions can gain public support and may have tacit approval from officials. Official tolerance for radical groups may pose a threat to pluralism and civic initiatives.
- Volunteerism remains an important civil society phenomenon. It assists internally displaced persons (IDPs) and provides supplies for the armed forces, creating a strong civil-military linkage. Volunteer organizations are the most trusted civic group in Ukraine, with a public confidence rating of 63.7 percent.¹⁷
- New civil society initiatives are emerging to mobilize people locally and regionally with the aims of establishing civic control over local administrations, creating and maintaining public spaces, developing local civic infrastructure, and building a sustainable culture of civic participation. The Ivano-Frankivsk-based Warm City (Teple Misto) network is one of the most notable civil society initiatives, comprised of small- and medium-size businesses, NGOs, and individual civic activists working for the sustainable development of the city.¹⁸ The overall diversity and heterogeneity of civil society is also growing. Conflicts emerge where different values are at stake: for instance, there is visible conflict between LGBT communities and various right-wing groups claiming to defend “traditional values.” The latter groups are inclined to use violent methods against opponents, as happened in Lviv during an LGBT festival in March 2016.¹⁹ At the same time, KyivPride, another LGBT festival held in Kyiv in June, demonstrated well-organized cooperation of activists with the police, which helped to prevent any violation of the freedom of assembly.

Independent Media

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017

3.75	3.50	3.50	3.50	3.75	4.00	4.00	4.25	4.00	4.00	4.00
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- The Ukrainian media landscape is pluralistic, and criticism of the government is widely presented. At the same time, the largest media outlets are still controlled by oligarchs, hence dependent on their political and business agendas.
- Citizens enjoy access to various sources of information, and while television remains the main source for the majority of people, its dominance is decreasing. Whereas 89 percent of Ukrainians watched TV news daily in 2014, this figure decreased to 79 percent in 2016.²⁰ At the same time, 62 percent of Ukrainians use the internet, a 7-percent increase compared to the previous year.²¹
- Some popular TV channels are owned by members of the political opposition or the former regime. TV Inter is owned by Opposition Bloc members Serhiy Lyovochkin and Dmytro Firtash; Yevhen Murayev, of the pro-Russian “For Life” party, owns the media outlet NewsOne; and Channel 112 and Channel 17 belong to offshore companies controlled by allies of former president Viktor Yanukovich.²² As a result, criticism of the government features widely in the media. Critical coverage is also available via neutral or even state-owned TV outlets. In particular, the comprehensive investigation of offshore entities initiated by the release of the Panama Papers, including those owned by President Poroshenko, was broadcasted by the state-owned “First” Channel. The main TV channels reported the disclosures made by top officials in the newly instituted e-declaration of property, including information concerning their cash deposits and luxury lifestyles.
- Some domestic and international media expressed concern over emerging patterns of pressure on journalists. In particular, in October the leading news website Ukrains’ka Pravda published an open appeal to the Ukrainian authorities showing evidence of surveillance of investigative journalists.²³
- A public broadcaster has been formally established, but its operation has been delayed due to bureaucratic resistance and budget constraints. At the end of October, Zurab Alasania, director of the potential National Television and Radio Company, resigned due to what he described as a lack of political will to support the broadcaster, as well as an inability to resolve bureaucratic burdens associated with Ukraine’s hosting of the Eurovision Song Contest in 2017.²⁴ The main political players are not likely to be interested in the fast success of the public broadcaster, as it challenges the usual way state-owned media is used for political purposes.
- Journalists continue to face a high number of attacks. On 20 July, well-known political journalist Pavlo Sheremet was killed in the center of Kyiv. The murder investigation has brought nothing to light so far.²⁵
- Continuing conflict with Russia raises challenges and dilemmas for Ukrainian media freedom. The limits of legitimate restrictions on media freedom in the context of Russia’s “information war” are a subject of ongoing disputes, specifically regarding the propaganda-driven Russian TV channels that have been banned in Ukraine since 2014.
- In September, the studio of popular nationwide TV channel Inter was attacked by a group of unidentified individuals. Equipment was broken and the building suffered fire damage. Inter is owned by key stakeholders of the former regime, namely, Serhiy Lyovochkin, who was chief of staff to former president Viktor Yanukovich, raising concerns that the attack’s target was the current political opposition. Inter also voiced suspicions that the attack was orchestrated by the Ministry of Internal Affairs and committed by far-right radicals close to Minister Arsen Avakov. However, Inter is perceived as more than just an opposition player in Ukraine. Leaked e-mails written by Maria Stolyarova, a Russian citizen and former chief of Inter’s information service, disclosed direct connections between Stolyarova and armed Russian proxies in Donbas.²⁶ Despite the fact that Stolyarova was fired from the position and deported from the country before the leak, the incident fueled negative public perceptions of the channel.

- Another dispute occurred regarding the website Mirotvorets (Peacekeeper),²⁷ which claims to be a “center for research of signs of crimes against the national security of Ukraine, peace, humanity, and international law.” In May, Mirotvorets released and subsequently updated a list of journalists registered by the “DNR” and “LNR” de facto authorities, implicitly accusing them of cooperation with Russian occupiers and armed separatists in Donbas. The release was widely criticized as a violation of media freedoms because it created a security threat to journalists working in the conflict zone.

Local Democratic Governance

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
5.25	5.25	5.25	5.25	5.50	5.50	5.50	5.50	5.50	5.25	5.00

- In 2016, the new municipalities created pursuant to the 2015 reforms received more significant financial independence. They also gained more real power over education, healthcare, social protection, territorial development, architectural and construction control, and, in the near future, authority over the land within the local self-governance bodies. The significant increase in local budgets had an immediate positive effect on local governance.
- With support of experts, donors, and the public, a sectoral decentralization project office was created by relevant ministries to coordinate decentralization policymaking. On 20 September, the Verkhovna Rada passed laws №4772 and №4773, which are designed to regulate the procedure for the voluntary unification of existing self-governance bodies.²⁸ Rules established by this draft legislation permit amalgamated communities to have direct access to the state budget, as well as allowing cooperation with neighboring communities without unnecessary bureaucratic procedures.²⁹
- The first wave of amalgamation saw the effective establishment of 159 communities made up of 9 towns, 120 rural districts, and 30 mixed districts. This number has grown to 366 by the end of 2016³⁰. The pace has since slowed: experts believe that the amalgamation process has been substantially and adversely affected by serious miscalculations, driving a rift between the central government and the regions.³¹
- The creation of amalgamated communities is just beginning. Further stages stipulate the replacement of state administrations and executive committees of district regional councils and the delegation of authority in economic affairs. The restructuring attracted newcomers to government; however, these fresh faces may lack the necessary skills in budgeting or managing major infrastructure projects and therefore need to gain practical knowledge “from scratch.”³² The complexity and diversity of reforms also causes delays and a lack of coordination, as they require concerted action by the different sectors including the ministries of education, social policy, health, and others. While there have been positive developments in such coordination, it is too early to speak about the real balance in actions and operations.³³
- Decentralization is among the top 10 reforms welcomed by citizens.³⁴ Foreign observers, such as the European Union (EU) representative in Kyiv and head of the Ukraine department in the Foreign Ministry of Germany, have welcomed the reform and its progress thus far.³⁵³⁶ Ukrainian experts have advocated for these decentralization reforms for a long time; the expert community pushed the government to reform the local governance system in order to connect authorities to the local level and increase the services provided to the population. The 2016 reform is not the first attempt to reach this goal, but for the moment, it is the most sustainable and successful.³⁷

Judicial Framework and Independence

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
4.50	4.75	5.00	5.00	5.50	6.00	6.00	6.00	6.00	6.00	5.75

- The courts and prosecutors' offices continue to be the least-trusted public administration institutions, with only 8 percent of the population trusting the courts.¹ The system of law enforcement in Ukraine has not met the needs of society or international democratic standards for a long time. As such, judicial and anticorruption reforms are the most highly anticipated changes from the transition.
- In June 2016, the Verkhovna Rada launched new judicial reforms, amending the constitution and adopting an updated Judicial System Law, as well as new legislation on the execution of court decisions. Instead of four courts of cassation, there will be a new "High Court" with judicial recruitment based on open call and competition. The reform carries the possibility of the appointment of judges from outside the judicial system. The present quaternary judicial system, consisting of local courts, appeals courts, high specialized courts, and the High Court, will be changed into a three-component system made up of local courts, appeals courts, and the High Court.
- As part of the proposed changes, new procedures will be introduced regarding judges' qualifications and certifications, and an evaluation of judges' competencies, integrity, and ethics. Judges who fail the evaluation will be dismissed, as will judges who cannot prove information on the origin of his or her income. Members of the community may participate in evaluating judges and observing the competition for judicial appointments, facilitated by the new Citizens' Integrity Council created on 11 November.³⁸ The Council consists of 20 representatives from NGOs, and its functions include collecting, checking, and analyzing judges' information, as well as assisting in the work of the Higher Qualification Committee of Judges by evaluating how judicial candidates conform to ethical and professional requirements.
- Judges must declare all relatives working at courts, bar commissions, prosecutors' offices, or any other high posts. They may be subject to disciplinary action for failing to provide accurate information. The High Justice Council will play the major role in appointing and dismissing judges, with the parliament and the president playing a detached role in the decision-making process. The majority of High Justice Council members will be chosen by other judges by 2019.
- The reforms will also see a significant reduction of judges' privileges. For instance, judges will be subject to ordinary rules of detention in cases of arrest at the scene of a serious crime or immediately after its commission—these crimes include receiving an unlawful profit. In other cases, one must obtain consent for arrest or detention from the High Council of Justice. Judges have often enjoyed impunity, as permission to arrest or detain a judge was previously sought from the parliament, a political body that frequently could not respond to such situations. Another key reform relates to the enforcement of judgments. Along with the state executive service, private enforcement officials started operating in June, enforcing court decisions on business issues.³⁹ Competition should reduce corruption in this area and improve enforcement.
- The reform of prosecutors' offices remains one of Ukraine's obligations before the Council of Europe. Ukraine has failed to comply with this obligation since 1995. For a long time, the Law on the Prosecutor's Office, in force from 1991, maintained a centralized, militarized structure with an internal culture of unconditional subordination. The office attempted to regulate society and the state through surveillance of the population. The amended law adopted on 14 October 2014 serves to deprive prosecutors of the power of general surveillance, while providing for the transmission features of the new pretrial investigation body, the State Bureau of Investigation. This new law also envisions the creation of effective prosecutorial authorities and competition for positions in the newly created local prosecutors' offices in all regions of the country. In addition, competitions for positions in the Specialized Anti-Corruption Prosecutor's office (SAP)—which will carry out criminal investigations based on the activities of the National Anti-Corruption Bureau (NABU)—were held in the fall.⁴⁰ During the recertification of local prosecutors' offices in 2015, the staff was reduced by 20 percent, from 7,800 to 6,200 positions.⁴¹
- In May, Eka Zguladze resigned as deputy Minister of Internal Affairs; her resignation was followed in November by Khatia Dekanoidze, who left her position as head of the National Police.

Although some have assessed that these resignations were the result of external pressure, there were also personal reasons and preliminary agreements regarding the terms of their work underlying the resignations. Both Zguladze and Dekanoidze helped create the foundations for further transformation and reforms of the judiciary and the fight against corruption.

- Despite these efforts, the reform process continues to be hindered by the “old cadres,” who resist any changes to the bureaucratic system that has prevailed within the judiciary for decades. Thus, 84 percent of former executives were again appointed Prosecutors General at the newly created local prosecutors’ offices.⁴² The newly formed prosecutors’ agencies remain loyal to the Attorney Prosecutor General, and the prosecution therefore remains a tool in the hands of political power. These newly formed agencies only gain legal authority on 15 April 2017.
- The law on the State Bureau of Investigation, which will investigate cases involving law enforcement officials, judges, and high officials, entered into force on 1 March 2016. The selection process for the director and his or her deputies started in November. The Bureau is not expected to start work before 1 January 2017.

Corruption

2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
5.75	5.75	5.75	5.75	5.75	6.00	6.00	6.25	6.00	6.00	5.75

- Corruption remains one of the main challenges preventing Ukraine’s reforms from succeeding. Ukrainians no longer believe that the country’s difficulties are caused by the war in the east, instead naming corruption as the main reason for the current socioeconomic crisis.⁴³ Ukraine has made progress in legislative reforms over the last two years, which has been widely recognized by experts domestically and abroad. In particular, the country has adopted new anticorruption legislation, created new institutions to implement anticorruption policies, and taken steps towards transparency in political party financing and public procurement. At the same time, these changes are not enough if unsupported by governance practices, such as elimination of corruption from day-by-day administrative culture and efficient moves by the prosecutorial and judicial system against high-ranking corrupt actors.
- A new law creating the National Anti-Corruption Bureau of Ukraine (NABU) came into force in January 2015, and the institution was formally established four months later. By the end of 2016, NABU had presented more than 50 cases before the court and 12 decisions were implemented.⁴⁴
- On 26 April 2015, a new law entered into force providing for the establishment of the National Agency for Corruption Prevention (NACP), whose functions include approving ethics rules for public officials and verifying their declarations of assets and income. NACP started operating on 15 August after four of its five members were appointed by an independent commission consisting of the president, National Civil Service head, and representatives from civil society and the Verkhovna Rada. By the end of 2016, the NACP reported on its initial activities, including its work analyzing the development and implementation of anticorruption legislation.⁴⁵
- The first stage of the e-declaration process was accomplished by 30 October; as a result, 107,050 e-declarations were submitted in 2015 and are available online.⁴⁶ The declarations provide an essential range of public data to confirm whether officials’ lifestyles, assets, and properties correspond to their official incomes. E-declaration is considered a breakthrough, bringing transparency and responsibility to Ukrainian state officials at a level not reached before. The general assessment by civil society and international partners has been positive, providing that this is only the first step and investigations and punishment for unlawful enrichment will follow.⁴⁷
- In 2016, progress continued on public procurement reforms. A new Law on Public Procurement adopted in December 2015 requires the disclosure of information on public tenders, including bids, final beneficiaries of participating companies, and evaluation protocols. Use of an online system for public procurement called “ProZorro” has started, introducing accountable and transparent standards for procurement policy. Experts gave the launch of this pilot project a positive assessment. In particular, “ProZorro” received an international recognition in May at the

Public Procurement Awards competition as one of the best public sector procurement technologies in the world.⁴⁸

- On 1 April 2016, the web platforms “Public Procurement”⁴⁹ and “ProZorro”⁵⁰ became the only available instruments for the regular procurement for all central authorities and national state-owned companies. And from 1 August, all public procurements in Ukraine (including local ones) are processed solely via the “ProZorro” system. Public procurement reform has become a key milestone of Ukraine’s national anticorruption policy. According to assessment, the total amount of savings in the online system as of the end of October, before its full-scale introduction, has reached UAH 5 billion (\$1.85 billion).⁵¹
- The Law on the Civil Service was adopted on 10 December 2015. It affects the entire sphere of public administration, eliminating the post-Soviet legal framework and introducing a model based on international best standards. The law was formally enforced from 1 May 2016; however, its full operation requires additional institutional setups, such as the Commission of the High Corps of the Civil Service (authorized to select high-ranking public officials), which was finally established in July 2016 by results of the elections. Civil society continues its work to secure independence and authority within the Commission.⁵²
- A new open-data policy has resulted in making public the registers of property ownership (including real estate and vehicles) and mandatory publication of the ultimate beneficiaries of business entities. All registers are available online. The new e-registers facilitate the work of investigative journalists via the disclosure of politically exposed persons’ sensitive information. Overall assessment of the implementation of the Law on Access to Public Information has been positive. During the first five years of the law’s implementation, public access has grown, although the lack of enforcement measures to sanction non-compliant officials continues to hamper its effectiveness.⁵³
- Reform of the energy tariff system, accomplished in 2016, improved governance of Ukraine’s energy policy and has clear anticorruption implications. The government stopped the practice of hidden energy subsidies, which was a source of corruption for decades. By ending the purchase of natural gas from Russia, Ukraine also achieved relative energy independence from its dominant neighbor.
- A slight improvement in public service has resulted from the Ministry of Justice introducing changes to the law on registration for LLC and PE business entities, which reduced and simplified old procedures. The changes also introduced the long-awaited system of online services, including the possibility of using electronic keys and signatures to approve and send documents to various tax and state agencies.

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