

Work in Progress: Ukraine's State-Civil Partnership to Reform the Security Sector

Julia Soldatiuk-Westerveld
Bob Deen
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Clingendael Report



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Executive summary

Reforming Ukraine's large security sector and overcoming its Soviet-era legacies has been a major challenge since independence. Ukrainian civil society has been vociferously demanding a transition towards a transparent and well-governed security sector that upholds the interests of the population rather than keeping it under control. This is also a priority for the Ukrainian Government and its international partners, as a prerequisite for further integration with the European Union and NATO. This report therefore analyses the changing role of Ukrainian civil society by investigating seven examples of key reforms of the security sector and puts forward recommendations for Ukraine's international partners regarding their cooperation with Ukrainian civil society organisations (CSOs).

The previously antagonistic dynamic between the security sector and the public had already markedly changed in 2014 after the Euromaidan protests and Russia's aggression against Ukraine. Civil society came to the aid of the state and stepped in to fill important gaps in the provision of both internal and external security. It also gained more access to decision-makers and to reforms, but certain Soviet-era legacies in the security sector such as the Security Service of Ukraine (SBU) nonetheless remained resistant to change. Russia's full-scale invasion in 2022 gave this already changing dynamic a new impetus. Ukrainian civil society now appears to have found a 'fast track' straight to the top of Ukrainian security sector governance, driven by a strong common sense of purpose to ensure the survival of the Ukrainian state and to pursue its European integration aspirations.

Civil society now acts as an intermediary between the authorities and the public. It provides advocacy and educates the public about the dilemmas and strategic choices faced by the authorities. This has at least partially reversed a long-held pattern of mutual distrust of the citizenry and the security sector. CSOs also directly support the under-resourced authorities with much-needed expertise and analysis, which is essential when the capacity of the civil service to formulate strategic choices is severely strained. CSOs and volunteer movements even exercise a degree of 'direct oversight', raising matters of concern first behind the scenes and through the media or with international actors if they feel that this is warranted. They are therefore an important part of democratic control over Ukraine's armed forces, especially in a situation of martial law where regular Ukrainian politics are temporarily curtailed and power is concentrated more in

the hands of the President and the National Security Council. This ‘fast track’ nonetheless appears to somewhat bypass Parliament. There is a clear need to further institutionalize the mechanisms through which civil society participates in security sector governance.

An investigation of seven examples of how civil society has contributed to security sector reforms shows a mixed pattern of success and remaining challenges where international engagement remains crucial. Through initiatives such as the Independent Anti-Corruption Commission (NAKO) there have been significant improvements in military procurement and, to a lesser extent, the transformation of Ukraine’s sprawling military-industrial complex (formerly known as UkrOboronProm), but this process is not yet complete.

The same applies to safeguarding the human rights of the armed forces, since the underdeveloped military justice system requires significant reform. Civil society actors and volunteers also sometimes take over service delivery from the State and directly provide invaluable assistance to the military in terms of logistics, medical aid and care for veterans and demobilized personnel – for which more international support is urgently required. In some cases the State may have even outsourced too much to civil society and is only now re-establishing its role. After an unruly decade in which volunteer battalions were instrumental in defending the country but posed potential risks to its internal stability, these battalions have now largely been successfully integrated into the armed forces and territorial defence structures.

In terms of internal security, civil society has been very effective in cooperating with international actors such as the EU Assistance Mission (EUAM) to reform the Ministry of Internal Affairs and the police, but less so in reforming the inherently secretive SBU. Crucial legislation that was painstakingly drafted with input from civil society and international partners was withdrawn due to the full-scale invasion. The external and internal threats posed by Russia are of such a pervasive nature that a further reform of the SBU in wartime is extremely complicated. Those who resist reforms due to vested interests can point to the war as the perfect argument to block reforms, which makes it all the more important that civil society has access to policy debates – and as much information as is reasonably possible in an adverse security environment.

The international community in general and the EU in particular is supportive of the new dynamic of multifaceted interaction and the growing trust between civil society and the authorities – and it is important to reinforce it through

financial assistance to both, civil society and public sector. While there is a clear need for continued oversight and monitoring to combat corruption and prevent backsliding, there is an equally large need for capacity-building, expertise and support. This applies particularly to the local level, where capacity is limited and constructive civil society involvement is even more needed.

The report concludes with eight recommendations for Ukraine's international partners:

- **Strengthening of not only civil society itself, but also the institutional mechanisms** would enable a more sustainable form of the current constructive and high level of participation.
- In order to ensure that Ukrainian authorities can meet the high expectations of society and preserve the newfound trust, it is important **to invest not only in the monitoring of State performance, done by the CSOs, but also in increasing the capacity of civil servants** to improve that performance at the national and local level.
- Since the authorities are operating in short-term crisis mode and have limited capacity for research or strategic thinking, **there is a clear need to support CSOs that assist the authorities with fact-finding, analysis and specific expertise.**
- The authorities and civil society should be encouraged and supported by international partners to **jointly negotiate and regularly revise the balance between security-related restrictions on the information space and the freedom of the media.**
- International support is needed to enable civil society to meet the pressing and short-term need for the **care and reintegration of demobilized military personnel, veterans and the families of the fallen**, as state initiatives might take too long.
- By building on the positive experiences with the creation of NAKO as a **specialized, civil society-led commission in the security sector, international partners can contribute to increasing transparency in military procurement and in the reform and governance of the military-industrial complex**, including former UkrOboronProm subsidiaries.
- **International partners could help to explore the possibilities for the reintroduction of a specialised military court and justice system in Ukraine.**
- Despite the adverse security environment, the **reform of the SBU needs to be resumed without delay and with the full participation of non-state oversight actors.**

Abbreviations

| | |
|--------------|---|
| CREEC | Clingendael Russia & Eastern Europe Centre |
| CSO | civil society organisation |
| DCAF | Geneva Centre for Security Sector Governance |
| EU | European Union |
| EUAM | European Union Advisory Mission for Civilian Security Sector Reform |
| INGO | international non-governmental organization |
| JSC | joint-stock company |
| MoD | Ministry of Defence |
| MoIA | Ministry of Internal Affairs |
| NAKO | Independent Anti-Corruption Commission |
| NATO | North Atlantic Treaty Organization |
| NGO | non-governmental organisation |
| SBU | Security Service of Ukraine |
| US | United States |
| USD | United States dollar |
| ZSU | Armed Forces of Ukraine |

Introduction

Since 2022 the eyes of the international community have been on Ukraine's efforts to simultaneously defend itself against Russia's full-scale invasion, implement far-reaching reforms and rebuild its war-torn regions. In reality the country has already been fighting for nearly a decade: both against Russian aggression and against Ukraine's own post-Soviet legacy – including in the only partially reformed security sector.

Since the Euromaidan protests and the start of the conflict in the Donbas in 2014 Ukraine has gone and is still going through a profound transformation, driven to a large extent by Ukrainian civil society. International partners therefore place great confidence in – and donate significant resources to – Ukraine's civil society. Together with the Ukrainian public they see the role of civil society as being key not only to promote the democratic reforms that would be required for Ukraine to join the European Union (EU) and the North Atlantic Treaty Organization (NATO), but also for the recovery and reconstruction processes.

Within the broad spectrum of comprehensive reforms that Ukraine should undertake, the security sector is one of the most difficult, especially in the midst of armed conflict. Ukraine is not only threatened by Russia's external military aggression but also by its attempts to destabilize it from within. But the common interest of civil society and the authorities in defending the country against these existential threats has also altered the dynamics of civil society's interaction with the security sector. This has created new opportunities for cooperation in a relationship that was traditionally marred by mutual distrust. This report therefore posits the following as its central question: *which role has Ukrainian civil society played and could further play in the reform of Ukraine's security sector – and how international partners can best support it in this process.*

In order to answer this broad question, in Chapter 1 the report will first set out the conceptual and methodological framework by defining the key concepts and outlining the functions that civil society actors typically fulfil in reform processes. It will also trace the development of Ukraine's civil society since independence, in particular in its interaction with the State. Chapter 2 will then analyse how civil society contributes to security sector governance and interacts with the Government and Parliament, in particular regarding monitoring,

oversight and civilian control over the armed forces. Chapter 3 will then briefly outline seven case studies of how civil society has had various levels of success regarding specific reforms of the Ministry of Defence (MoD), the armed forces of Ukraine (ZSU), the military-industrial complex, the Ministry of Internal Affairs (MoIA) and the Security Services of Ukraine (SBU). It concludes with a set of recommendations for Ukraine's international partners, including the European Union and the Government of the Netherlands.

The methodology of this research combines a literature review and an analysis of primary sources and secondary literature with policy interviews and field research during two visits to Ukraine in April and July 2023.¹

1 The authors are grateful to New Europe Centre and the diplomatic services of the Netherlands and Ukraine for their support for the research project and the research visit to Kyiv, Ukraine.

1 The transformation and functions of Ukrainian civil society

Ukraine's civil society is often seen as a driving force behind the country's remarkable change. There are now well over 20,000 civil society organisations (CSOs) that are active in practically every sector of societal relevance, including in security sector reform. But this has not always been the case. This chapter will explore the development and growth of Ukrainian civil society since the country's independence in 1991, starting with a definition of 'civil society' and which functions CSOs generally fulfil in reform processes. It then concludes with a brief analysis of the difference between national and local NGOs, in particular in terms of their cooperation with international stakeholders.

Concepts and definitions: civil society and the security sector

'Civil society' is a broad concept that means many different things to different people. How civil society is understood also depends on the national, regional and (geo)political context. Within the scope of this report, 'civil society' is defined as all non-governmental organisations (NGOs), community groups, professional associations, unions, religious groups and other social movements that are organized *independently from the state*.²

The same applies to 'security sector'. While Ukraine's security sector comprises a large variety of actors, this research will focus on what the Geneva Centre for Security Sector Governance (DCAF) has defined as the 'narrowest' definition of the state security sector that includes both the state security providers (such as the police, the armed forces, intelligence) and the actors that provide governance and oversight over the security sector, such as

2 For how civil society differs in democracies and autocracies, see: Magdalena Kamont, "[Civil Society, Democracy and Authoritarianism](#)," Utblick Magazine, Published December 5, 2021.; Adam Jezard, "[Who and What is 'Civil Society'?](#)," World Economic Forum, Published April 23, 2018.

Parliament, the Ministry of Internal Affairs and the Ministry of Defence.³ Non-state actors are part of this narrow definition of the security sector and include academic institutions, non-governmental organisations (NGOs) and the media (see Figure 1). This report will particularly focus on the interaction between these state and non-state actors.

Figure 1 Definitions of the security sector (source: DCAF 2015)⁴

| Not compatible with SSR | Narrowest | Narrow | Broad | Broader | Broadest |
|--|-----------|--------|-------|---------|----------|
| State security providers only e.g. police, armed forces, intelligence, etc. + | | | | | |
| State security providers AND security oversight and management bodies, including civil society and justice institutions involved in oversight e.g. parliaments, ministries, courts, ombuds-institutions, women's groups, academia, media, among others. + | | | | | |
| State justice institutions closely linked to security provision e.g. actors in criminal justice or entire justice sector. + | | | | | |
| Non-state security and justice providers e.g. commercial security providers, community security groups, customary justice providers. + | | | | | |
| External actors supporting national SSR efforts e.g. in transition or post-conflict contexts. + | | | | | |
| Armed non-state actors e.g. armed groups that use force to achieve political or criminal goals outside the remit of state control, including criminal or political organizations. | | | | | |

3 Geneva Centre for Security Sector Governance, [The Security Sector: Roles and Responsibilities in Security Provision, Management and Oversight](#) (Geneva: DCAF, 2015:6).

4 Geneva Centre for Security Sector Governance, [The Security Sector: Roles and Responsibilities in Security Provision, Management and Oversight](#) (Geneva: DCAF, 2015).

Functions of civil society in its relation with the authorities

This report builds on the typology developed by the DCAF. With regard to interaction with the Government, Parliament and armed forces, civil society can manifest itself in a number of functions, such as: awareness raising, advocacy, fact-finding, research and analysis, monitoring and public oversight, and service provision.⁵

An important function that civil society usually plays in countries in democratic transition is *monitoring and oversight*: by monitoring the use of public funds, overseeing the performance of the government, analyzing the government's actions and suggesting ways for improvement. If there are indications of alarming developments, civil society can investigate, signal and bring to attention any potential misuse or abuse of the laws, policies and standards.⁶

Civil society actors can facilitate interaction and enhance better understanding between the public and the security sector. They create a channel for communicating the views and expectations of the population concerning security governance, and for suggesting solutions for the improvement of state security provision, management and oversight on the one hand (*advocacy function*), and inform and educate the population about how security governance works, as well as about the problems and solutions in the security sector on the other hand (*awareness-raising function*). This in turn enhances public debate on what the security sector should look like and how to tackle challenges and problems, providing decision-makers with constructive solution options and generating demand for greater public involvement in the decisions on the use of available resources, setting standards for service provision and the implementation of the sector reforms.

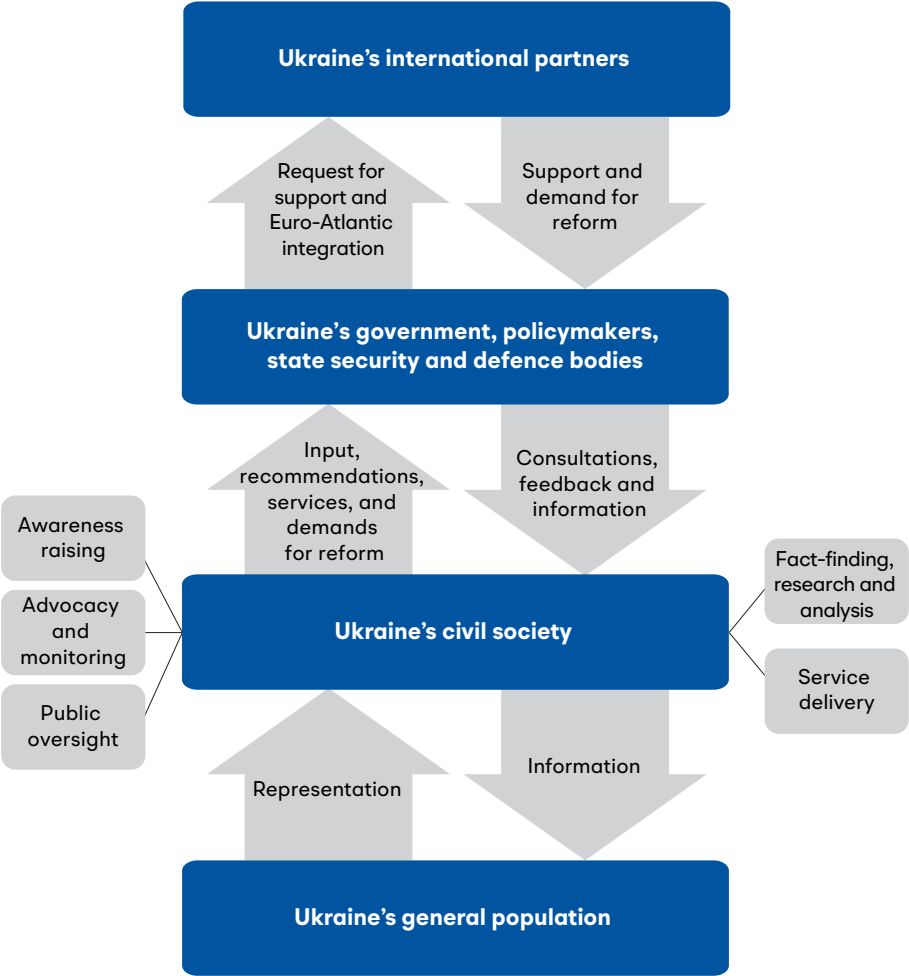
Civil society is a valuable partner for the government and the state security sector in particular, as it can provide specific skills and complementary

5 For an excellent overview of the civil society functions and definitions see: DCAF – Geneva Centre for Security Sector Governance, [Civil Society: Roles and Responsibilities in Good Security Sector Governance](#) (Geneva: DCAF, 2019) and Augustin Loada and Ornella Moderan, [Civil Society Involvement in Security Sector Reform and Governance](#) (Geneva: DCAF, 2015).

6 Augustin Loada and Ornella Moderan, "Civil Society Involvement in Security Sector Reform and Governance" in Toolkit for Security Sector Reform and Governance in West Africa, ed., Ornella Moderan (Geneva: DCAF, 2015).

knowledge on security and justice topics, community needs and interests (*service-provision function*). It can also offer an analysis of the interplay between different parts of the security sector – insights that are not easy to generate from within the government system (*research and analysis*).

Figure 2 Functions of civil society and its interplay with the government structures and the population



In some cases, civil society actors can take over some of the tasks of the government agencies or the authorities can delegate tasks to them, in particular when their capacity is constrained due to ongoing armed conflict. This can include neighbourhood watch programmes and patrols to encourage public participation in law enforcement, emergency response services provided on a volunteer basis, such as the fire services, search and rescue teams, or lifeguards, the provision of legal advice, and medical and social services.⁷ In the context of Ukraine, volunteer battalions have even played a key role in defending the country against external aggression, as will be further discussed in Chapter 3.⁸

While this report focuses specifically on the reform of the security sector, it should not be overlooked that both during and after armed conflicts civil society actors also play a key role in humanitarian and reconstruction efforts.⁹ The interaction between international, national and local actors in the context of the reconstruction process and its relations with the security sector are not specifically covered by the present report but would be equally worthy of further research.

The transformation of Ukrainian civil society since 2014

In the last decade before Russia's full-scale invasion, the Ukrainian state and society have undergone far-reaching transformations. This was caused not only by the Euromaidan protests of 2013-2014, the Russian annexation of Crimea and the eruption of hostilities in the east of the country, but also by Ukraine's renewed ambition to pursue Euro-Atlantic integration. Civil society has both been at the heart of this change – and has been profoundly changed itself. The Ukrainian public, the Ukrainian authorities and Ukraine's international partners all rely on elements of civil society as key actors to safeguard and promote the country's democratic reforms. This section will briefly trace the causes and consequences of this evolution of Ukrainian civil society and the impact on each of the different functions it fulfils as identified above.

7 DCAF – Geneva Centre for Security Sector Governance, [Civil Society: Roles and Responsibilities in Good Security Sector Governance](#) (Geneva: DCAF, 2019), 7.

8 More on this in: Rosaria Puglisi, [A People's Army: Civil Society as a Security Actor in Post-Maidan Ukraine](#) (Rome: Istituto Affari Internazionali, July 2015).

9 Ukrinform, [“Vidbudovuvaty Ukrainu Pislia Viiny Planuiut 80% Hromadskykh i Blahodiinykh Orhanizatsii”](#) [80% of Public and Charitable Organizations plan to Rebuild Ukraine After the War], Ukrinform: Multymediina Platforma Inomovlennia Ukrainy, February 21, 2023.

Influence of civil society on public trust in the government institutions

Due to its post-communist legacy of state repression followed by two decades of corruption and poor governance, Ukrainian society had a deeply-rooted mistrust of the Government in general and the security sector in particular. The security sector, in turn, traditionally viewed the public more as a potential problem than as a key constituency to listen to and protect.

Euromaidan and its tragic aftermath generated a large-scale citizen mobilisation that later transformed into a sustainable civic awakening.¹⁰ Having missed the opportunity to reform the state after the 2004-2005 Orange Revolution, civil society demanded an active role in the public oversight of state institutions, pressuring for reforms, transparency and accountability. This, in combination with the external security and defence challenges faced by Ukraine's government and the weakness of state institutions that required urgent assistance from civil society, has substantially increased society's participation, bringing an end to the post-Soviet legacy of social abstention from public and political affairs and mistrust in public institutions.

The result was greater democratic control, but CSOs found themselves increasingly in a role of *de facto* opposition to the authorities. During and after Euromaidan, Ukrainian NGOs developed a highly assertive way of articulating demands and publicizing issues of corruption, mismanagement and repression, which exacerbated the public's negative perception of the State and further eroded its already low trust, which in turn led to a decrease in legitimacy. This is not to say that civil society was the main influencer of public opinion and trust in the State. Adversarial political parties, first-hand experiences of corruption and the ineffectiveness of state institutions were the reasons for low public confidence. For example, in 2015, one year after Euromaidan, only 15.8% of Ukrainians expressed trust towards the Government, while even less than 10% trusted the Ukrainian political parties and only 24% trusted the President.¹¹

10 Kateryna Pishchikova and Olesia Ogryzko, [Civic Awakening: The Impact of Euromaidan on Ukraine's Politics and Society](#) (Madrid: FRIDE, July 2014).

11 Dzherela Truskavtsia, ["Dovira Ukraintsiv do 2015 Roku do Instytutiv Vlady Rizko Vpala i Trokhy Zroslo do Bankiv \(Opytuvannia\)"](#) [By 2015, Ukrainians' Trust in Government Institutions fell Sharply and Slightly Increased in Banks (Survey)], Dzherela Truskavtsia, Published January 2, 2016.

With the threat of war as a unifying factor, this negative trend has started to change: civil society has gradually realized that simply voicing demands and adopting a critical attitude towards the government is insufficient to build strong and transparent government institutions. Many CSOs now first try to pursue a more constructive dialogue and prefer to build feedback channels. The Government, in turn, has also changed its approach and has become more receptive and responsive to input from civil society. Especially since 2022, an increasing trust in state institutions has been one of the priorities of Ukraine's government, including in light of external attempts to destabilize the nation. Instead of bringing cases of misuse directly to the media, civil society now increasingly looks for ways to first raise the issue with the relevant government agency and even posits possible solutions. If the Government then responds and resolves the issue, it is then presented in a more positive light by both civil society and the media.¹²

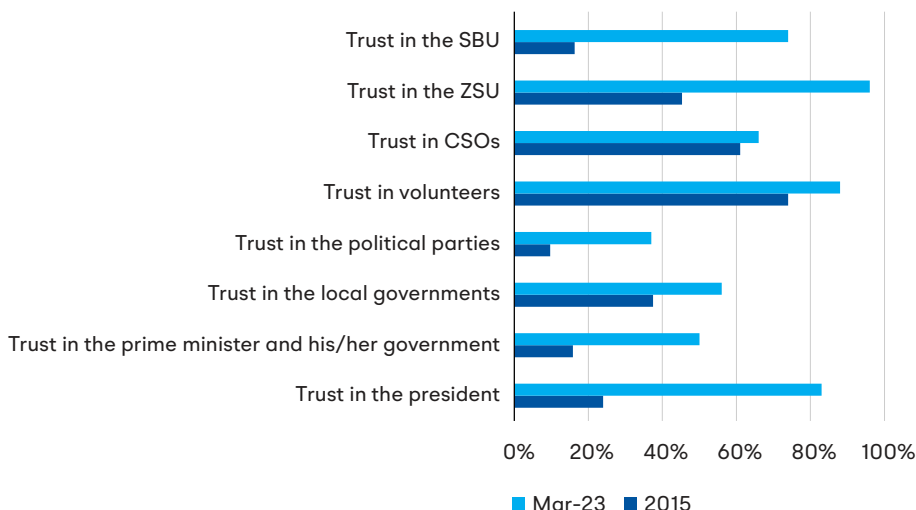
Combined with a general 'rallying around the flag' in wartime, this approach has contributed to an increase in trust in Ukraine's government institutions: in March 2023, 50% of Ukrainians indicated that they trust the Prime Minister and his Government, and the President's trust rating increased to 83%.¹³ The Armed Forces of Ukraine and volunteer organizations are now the two most trusted actors in Ukraine (see figure 2), while the Defence Ministry, civil society organizations, the Security Services of Ukraine (SBU) and local governments also have much higher trust ratings than in 2015 (see figure 2).¹⁴

12 Clingendael Policy Interview, Kyiv, April 2023.

13 Razumkov Tsent, "[Otsinka Hromadianamy Sytuatsii v Kraini ta Dii Vlady, Dovira do Sotsialnykh Instytutiv \(Liutyi–Berezen 2023r.\)](#)" [Citizens' Assessment of the Situation in the Country and the Actions of the Authorities, Trust in Social Institutions (February–March 2023)], Razumkov Tsent, Published March 15, 2023.

14 Dzherela Truskavtsia, "[Dovira Ukraintsiv do 2015 Roku do Instytutiv Vlady Rizko Vpala i Trokhy Zroslo do Bankiv \(Opytuvannia\)](#)" [By 2015, Ukrainians' Trust in Government Institutions fell Sharply and Slightly Increased in Banks (Survey)], Dzherela Truskavtsia, Published January 2, 2016.

Figure 3 Ukrainian public trust in Government Institutions
(source: Razumkov 2015, 2023)¹⁵



This more collaborative approach does not mean that the role of the CSOs that were specialised in transparency and government oversight was reduced. On the contrary: many Ukrainian CSOs have now routinely embedded oversight mechanisms in their work and in virtually all sectors there are specialised non-governmental actors that closely monitor the work of government institutions.¹⁶ High-level officials are often ordered to resign as a consequence of public dissatisfaction, as was for example the case with the Minister of Culture Oleksandr Tkachenko in July 2023. It is important to note in this regard that

15 Graph based on data from: Dzherela Truskavtsia, "[Dovira Ukraintsiv do 2015 Roku do Instytutiv Vlady Rizko Vpala i Trokhy Zroslo do Bankiv \(Opytuvannia\)](#)" [By 2015, Ukrainians' Trust in Government Institutions fell Sharply and Slightly Increased in Banks (Survey)]; Razumkov Tsent, "[Otsinka Hromadianamy Sytuatsii v Kraini ta Dii Vlady, Dovira do Sotsialnykh Instytutiv \(Liutyi-Berezen 2023r.\)](#)" [Citizens' Assessment of the Situation in the Country and the Actions of the Authorities, Trust in Social Institutions (February–March 2023)]; Liana Novikova, "[Dovira do Sotsialnykh Instytutsii ta Hrup](#)" [Trust in Social Institutions and Groups], Kyivskyi Mizhnarodnyi Instytut Sotsiologii, Published January 15, 2016.

16 One such example in the security sector is the Independent (Defence) Anti-Corruption Committee (NAKO), set up by Ukrainian civil activists and international experts in 2016 and transformed into a full civil society actor in 2019. A few other examples are DixiGroup in energy policy, EcoAction in environmental and social policy and Cedos in social and housing policy.

even while monitoring is broadly and firmly embedded in the work of civil society and remains important in order to continue the fight against corruption, civil society actors also increasingly realize and indicate that there is also a need to support the government in its reform efforts. This particularly concerns the provision of expertise and analysis, for which the Government lacks the necessary capacity. These actors are acutely aware that otherwise there is a risk that the Government will fail to meet society's high expectations not due to bad intentions, but due to a lack of capacity – which in turn could reverse the positive trend of increased trust and co-operation.

In this regard there is one additional development that is worth noting with some concern. Ukraine's vibrant civil society has been warmly embraced by international donors, who are keen to support it in its role to provide oversight and anti-corruption monitoring. This good intention nonetheless risks inadvertently causing a disbalance in the country's governance. With international funding, mostly directed at the capacity building of CSOs, and the recent government salary cuts, the incentives for talented civil servants to leave their posts for more favourable employment conditions at NGOs are increasing.¹⁷

A widespread practice in the last few years for increasing the capacity of the government was to employ a substantial part of the staff on a project basis – with temporary positions usually funded by international donors. This practice enabled government agencies to respond to short-term priorities and tasks, but it did not contribute to an increase of expertise and institutional capacity within the government sector that would be required for the development of long-term strategies and policies. As a result, most government agencies are struggling with a distinct lack of capacity, including in analysis and strategic thinking – which needs to be increased. Think-tank CSOs could in turn contribute with fact-finding and an independent analysis of cross-sectoral issues outside of the reach of government agencies.¹⁸ One example is a joint initiative that Ukraine's government and civil society are setting up: an international advisory group of experts who will support Ukrainian institutions in responding to the complex requirements demanded by the European Union as part of Ukraine's EU integration process.

17 Clingendael policy interviews, Kyiv, July 2023.

18 Clingendael policy interviews, Kyiv, July 2023.

Civil society advocating for reforms & the role of the media

The abovementioned combination of a more open, de-bureaucratized Ukrainian Government that shares the same objective with a more constructive and cooperative civil society has significantly increased society's trust in the government. This change is still fragile, however: society has strong expectations of an accelerated pace of reforms during and after the war, as well as further integration with the EU and NATO. Both civil society and the government are concerned that any stagnation in the reform progress or a democratic backslide in the aftermath of the war will lead to considerable disappointment in the state structures that may lead to political instability. This concern is further aggravated by a well-founded and widely-held fear that Russian interference and disinformation may exploit such disappointments to further weaken Ukraine.¹⁹ At the same time this fear of Russian meddling in the context of a far-reaching war has a dampening effect on civil participation and the freedom of speech.

Ukraine's pluralistic media landscape has traditionally allowed CSOs to manage the expectations of the population and to influence perceptions concerning society, politics and the government – despite the murky ownership structure of many media outlets. Historically, many media channels in Ukraine were closely affiliated to the major political parties that often used the media to benefit their own visibility; Zelensky's efforts to address this by targeting specific individuals through a 'de-oligarchization law' were criticized by the Venice Commission of the Council of Europe in June 2023, which insisted on a more systemic approach.²⁰

19 Clingendael Policy Interview, Kyiv, April 2023.

20 Sharing its view on the Law in question, the Council of Europe's European Commission on Democracy through Law (also known as the "Venice Commission") states: "While recognising that in the fight against oligarchic influence there is no one-size-fits-all and that in exceptional, extremely critical situations, [...] radical solutions – such as some measures of a personal nature – could appear to be justified, as a measure of last resort, on a temporary and exceptional basis, the Venice Commission considers that these can only be a supplement, not an alternative, to the "systemic" approach. However, if there were such a need, these measures would have to be designed with full respect for the standards of political pluralism and the rule of law, *inter alia* clear legal criteria, strong guarantees of an independent decision-making body and due process." Venice Commission, [Opinion: On the Law "On the Prevention of Threats to National Security Related to the Excessive Influence of Persons with Significant Economic and Political Weight in Public Life \(Oligarchs\)"](#) (Strasbourg: Venice Commission, June 12, 2023), 15.

In the meantime, the full-scale invasion and martial law have markedly changed the situation. After 24 February 2022, the 9 largest media channels agreed to align their programming in one “United News Telemarathon” (hereinafter: ‘Telemarathon’), aimed at providing the most urgent news and sending out a message of unity for the purpose of winning the war. Criticism of the actions of the Ukrainian government and the President, as well as reporting on common disagreements between the political parties have temporarily become something of a taboo.²¹ A similar concept, called “FreeDom”, has been introduced for the Ukrainian media channels catering to the Russian-speaking population in Ukraine. The content of the media programming is determined jointly by the media channels, but the government regulates the general informational framework.

This construction is not without criticism in Ukraine, and some actors are increasingly calling for it to be abolished.²² The media channels that participate in the Telemarathon are ironically somewhat reluctant to abolish it for financial reasons. Their advertising base and private investments have both shrunk due to the contracting Ukrainian economy and they are only eligible for state funding as long as they keep participating in the Telemarathon.²³ The restriction of media freedom has served its purpose to preserve a sense of a common goal and to deflect the threats of panic and instability due to Russian information warfare. It does, however, pose a significant challenge to the free media environment that civil society needs to function as an intermediary between the government and the population. In addition, the Telemarathon risks being used to filter out political opponents, who receive less air space than the representatives of the ruling political party.²⁴ For many reasons, including for civil society participation,

21 Ihor Burdyha, “[Novyi Zakon pro Media: Chy Ochikuvaty Obmezhen Svobody ZMI?](#)” [The New Media Law: Should We Expect Restrictions on Media Freedom?], Deutsche Welle, Published December 12, 2022.

22 Nataliia Dankova, “[Nedoliniinyi Kanal. Shcho Vidbuvaetsia za Lashtunkamy. “Yedynykh Novyn”](#)” [Non-linear Channel. What Happens Behind the Scenes of “Edynykh Novyn”], Detektor Media, Published January 23, 2023.

23 Koalitsiia Reanimatsiinyi Paket Reform, “[Monomarafon. Chomu Vlada Prypynyla Movlennia 5. Kanalu, Priamoho ta “Espresso”](#)” [Monomarathon. Why the Authorities Stopped Broadcasting Channel 5, Pryamoy and “Espresso”], Koalitsiia Reanimatsiinyi Paket Reform, Published April 19, 2022.

24 Clingendael Policy Interview, Kyiv, April 2023.; Aleksander Palikot, “[Wartime TV In Ukraine: Much-Needed Unity Or A ‘Marathon Of Propaganda’?](#),” RadioFreeEurope RadioLiberty, Published July 23, 2023.

Ukraine clearly needs to develop a strategy as to when and how to transition back to a more pluralistic media landscape with independent media outlets that are able to secure their own funding.

Institutionalising public participation and strengthening parliamentary oversight

While Ukraine does indeed have a rich history of social mobilisation and protest activism, much of it is *ad hoc* and there is a distinct lack of institutionalized mechanisms for public participation by civil society.²⁵ There are specific legislative provisions for civil society to participate, but in practice these are rarely used effectively and civil society tends to find its own ‘shortcuts’ into the governance process.²⁶ This is especially the case since the war accelerated in 2022. Every government agency has by law a citizens’ consultative board (“hromadska rada”), but in practice they are not used to a large extent. They are often inflexible or cannot meet the demand for expertise or advice. Instead, the ministries and state agencies create ad-hoc consultative groups of professional experts and NGOs that work closely with their government counterparts on strategic analysis and recommendations on most pressing issues.

While this approach of ‘whoever needs to be involved can be involved’ is effective in the current Ukrainian context, it has certain drawbacks. A first problem, which is also admitted by the government, is the lack of a feedback mechanism for civil society on how its analysis and recommendations have been used in policy development. This gives rise to distrust and frustration among CSOs, even if this is probably mostly due to the lack of capacity and time constraints on the government side. A second and related problem is that the process of selecting which CSOs are involved is not structured, which gives the Government an opportunity to select only those CSOs that it feels that it can work with. Other organisations then feel excluded and question how independent the ‘selected’ CSOs really are, especially since some of them were set up by (former) officials.²⁷

25 Puglisi, [A People’s Army](#), 5.

26 Clingendael Policy Interview, Kyiv, April 2023. See also Konstytutsiyni Sud Ukrainy, “[Pravo na Uchast v Upravlinni Derzhavnymy Spravamy](#)” [The Right to Participate in the Management of State Affairs], Konstytutsiyni Sud Ukrainy, Accessed August 2, 2023.

27 Clingendael Policy Interview, Kyiv, April 2023.

There is a clear need to further institutionalise this ad-hoc cooperation and to introduce a clear feedback mechanism by the state actors for the benefit of civil society, including with the necessary resources. This would be a way to preserve and 'lock in' the effective and constructive cooperation that has emerged between the government and civil society in the context of the Russian aggression.

The same is the case for the interaction between Parliament and civil society. Members of Parliament need to approve a large number of laws on a daily basis and many of them rely on the expertise of the relevant NGOs and think tanks to determine their position on the issue in question. The intensity of communication is high but has no institutionalized basis for a two-way communication channel between Members of Parliament and civil society. Parliament does have specialized commissions where civil society representatives are members thereof, but they do not cover all thematic areas (that are rapidly increasing due to EU and NATO legal requirements). Parliamentary committees also struggle with limited staff capacity and a lack of expertise. One example is the responsibility of the Parliamentary Commission on Foreign Affairs and EU Integration to self-screen Ukrainian legislation according to EU requirements, for which Parliament has neither the sufficient capacity nor the necessary expertise.²⁸

These shortcomings together with the prioritisation of the legislative process leaves Parliament with little capacity to execute its oversight function or to cooperate effectively with civil society. The introduction of wartime media freedom restrictions such as the Telemarathon has exacerbated this problem, since it has reduced the media coverage of parliamentary debates. Representatives of the opposition parties complain that they are disproportionally affected and that their work has become much less visible.²⁹

There are nonetheless intrinsic competitive characteristics within Ukraine's Parliament and domestic politics that safeguard the country's pluralism even in wartime. For example, initial concerns that the absolute majority that the ruling 'Sluha Narodu' party obtained in 2021 would lead to a toothless and compliant Parliament were unfounded; in fact, the internal divisions within the party appear to be so strong that the Government was rarely able to obtain a single-

²⁸ Clingendael Policy Interview, Kyiv, April 2023.

²⁹ Clingendael Policy Interview, Kyiv, April 2023.

party majority for any of its draft laws.³⁰ To enable a more institutionalised and sustainable form of public participation, it is nonetheless of key importance that even in wartime Parliament finds ways to execute its oversight function and cooperates effectively with CSOs.

Civil society stepping in to fill gaps in State capacity

Since the start of the full-scale invasion in 2022 the interests of civil society and the Ukrainian Government have become aligned more than ever before. All efforts are directed towards countering Russia's aggression and restoring the country from the damage caused by Russia's attacks on the one hand, and obtaining Ukraine's integration in NATO and the EU on the other. While NATO is viewed by both the public and the Government as a guarantor of Ukraine's external security, the EU is viewed as a guarantor of internal security, economic prosperity and democratic reforms.

These reform processes and diplomatic lobbying for political, economic and military support combined with the war and reconstruction efforts strain the Government's resources and create many gaps. Civil society has stepped in to fill these gaps at various levels.

At the international and strategic level, CSOs such as the International Coalition for the Ukrainian Victory or the New Europe Center reinforce Ukraine's intense global diplomatic efforts to advocate for economic and military support, as well as accelerated integration into the EU and NATO and a global isolation of the Russian Federation. Many of these CSOs were previously or simultaneously engaged in monitoring and oversight, which is sometimes difficult to combine. At the national and tactical level, CSOs support the defence industry and the military, for example through direct purchases of military equipment, crowdfunding, the adaptation of commercially available technology and training the military. And at the local or battlefield level, CSOs and volunteers provide direct medical and logistical support to the military.³¹

30 Tania Matiash, "[KVU: De-Fakto v Monobilshosti Lyshe 217 Deputativ](#)" [KVU: Only 217 Deputies have a De Facto Monomajority], LB.ua, Published January 5, 2022.

31 Clingendael Policy Interviews, Kyiv, April 2023.; Kateryna Zarembo, "[The Resilience and Trauma of Ukraine's Civil Society](#)," Carnegie Europe, Published June 1, 2023.

Some initiatives that were initially spontaneous volunteer movements have outgrown to become professional drone producers and suppliers of military equipment, others have transformed into training centres. Some of the leaders of the registered voluntary organisations have expressed political ambitions and continue working with their initiatives in the political realm.³² This experience has created a new generation of professionals with a proactive leadership attitude. These are the types of organisations that have potential if they are supported and team up with other actors to push for security sector reform.

Finally, since 2014 certain groups have organized themselves as volunteer battalions that played an important role in defending the country but also gave cause for concern about their ideology, political agendas and line of command. While some of these groups have indeed displayed militaristic and extreme nationalist tendencies and in the beginning appeared to be operating largely independently from the Government, by now they have been largely integrated into state structures.³³ Some were incorporated into the structures of the Ministry of Internal Affairs (MoIA) as part of battalions fighting in East Ukraine, others joined the forces of territorial defence units under the jurisdiction of the Ministry of Defence (MoD). The State appears to have largely but not entirely regained the monopoly on the use of force that was temporarily dispersed among a range of (para)military and volunteer formations after 2014.

The importance of localisation

While international attention typically first focuses on larger, institutionalised civil society actors that operate nationwide, local CSOs in Ukraine have proved to be invaluable in providing first response in crisis situations. In Eastern Ukraine, for example, local CSOs have supported internally displaced persons, provided first medical aid to injured civilians and soldiers alike and have delivered basic provisions to cities and villages in need. Because they are based directly at locations that need quick support, local CSOs have the best information about the situation on the ground and are the first to respond to the urgent needs of the population in stabilizing the situation.

32 Anna Myroniuk, "[Serhiy Prytula: 'Flawed Political System has not Vanished, it has laid Low Until War ends'](#)," The Kyiv Independent, Published June 19, 2022.

33 Puglisi, [A People's Army](#), 5.

Yet, their crucial role is largely underestimated by international non-governmental organizations (INGOs) which prefer to work with a few well-known large Ukrainian NGOs based in Kyiv, as they are better positioned to comply with the bureaucracy of the financial justification of INGOs. When it comes to the allocation of funding, the relations between INGOs and local partners are largely characterized by the low level of trust with emphasis on extensive financial reporting requirements and non-transparent decision-making on the side of international partners. As a result, despite almost 17 billion USD of international funding pledged to Ukraine since February 2022, local Ukrainian NGOs struggle to find sufficient support; many do not have the capacity to apply for international funding as their focus is on providing ad hoc emergency assistance. INGOs, in turn, are struggling to provide flexible, hands-on aid that can generate a long-term impact as they lack the practical experience and knowledge on the ground and are reluctant to cooperate with local civil society.³⁴ This is increasingly recognized by embassies on the ground that prioritize their support to smaller, regional NGOs.³⁵

34 KUNO, "Localisation of Humanitarian Aid in Ukraine," (roundtable discussion, Cordaid, The Hague, March 28, 2023); "[If not now, when?](#)," Natsionalna Merezha Rozvytku Lokalnoi Filantropii, Accessed August 24, 2023.

35 Such as the 'Matra' programme of the Dutch Embassy in Ukraine, but also for example by the Canadian and Swedish Embassies. Clingendael policy interview, Kyiv, April 2023.

2 The role of CSOs in security sector governance

Certain legacies of the Soviet era are still present. In the Soviet period, the oversight function of the security sector in Ukraine was carried out by bodies within the state security structure that were controlled by the Communist Party.³⁶ After the dissolution of the Soviet Union the quality of oversight and monitoring decreased and the security sector grappled to overcome past inefficiencies and structural deficiencies. The sector was therefore in urgent need of reform, including reinstating internal (inspectors, members of the judiciary, audit institutions, ombudsmen) and external (Parliament, civil society organisations, media, think tanks) oversight mechanisms, in line with Ukraine's stated objective to pursue democratic governance.³⁷

Good governance of the security sector is not only a requirement for Ukraine in light of its aspirations to join the European Union (EU) and the North Atlantic Treaty Organization (NATO), but also to make its security apparatus more resilient in the face of protracted high-intensity warfare.³⁸ Various assessments over the years have highlighted that Ukraine needs to institutionalise the mechanisms of public control and oversight in its security sector.³⁹

36 Anatoliy Grytsenko, [Civil-Military Relations in Ukraine: On the Way from Form to Substance](#) (Kyiv: NATO Fellowship Programme, 2000).

37 Geneva Centre for Security Sector Governance, "[Security Sector Reform](#)," DCAF – Geneva Centre for Security Sector Governance, Accessed August 3, 2023.

38 European Commission, [Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: Ukraine Relief and Reconstruction](#) (Brussels: European Commission, May 18, 2022), 3.; United States Embassy and Consulate in Poland, "[Fact Sheet: The 2022 NATO Summit in Madrid](#)," United States Embassy and Consulate in Poland, Published June 29, 2022.

39 For more information, see: Fredrik Wesslau, "[Guarding the Guardians: Reforming Ukraine's Security Service](#)," Security and Human Rights Monitor, Published July 20, 2021.; Philipp Fluri and Leonid Polyakov, "[Intelligence and Security Services Reform and Oversight in Ukraine – An Interim Report](#)," *Connections: The Quarterly Journal* 20, no. 1 (2021).; Anna Bulakh, [Security Sector Reform in Ukraine: Finding the Place for Civil Society](#) (Narva: International Centre for Defence and Security, February 2018).; Olga Oliker et al., [Security Sector Reform in Ukraine](#) (Santa Monica: RAND, 2016).; Polina Beliakova and Sarah Detzner, [Security Sector Governance in Ukraine: The Key Considerations for Policy Makers in 2023](#) (Edinburgh: PeaceRep – The Peace and Conflict Resolution Evidence Platform, April 14, 2023).

But amending legislation alone is not enough; it also needs mechanisms to ensure and monitor its implementation as well as to have a feedback mechanism for shortcomings.⁴⁰ Special attention is required with regard to human security issues within the security sector and its depolitisation, in particular the independence of the security sector leadership from the political influence of the ruling party and the President.⁴¹ Several assessments prior to the full-scale invasion also highlighted the importance of the demilitarisation of the sector, i.e., prioritisation of the rule of law above the military command. This is especially relevant for non-military security providers (e.g. the police).⁴²

This chapter focuses on the analysis of how public oversight is ensured at the level of the key state governance actors responsible for the reform progress of the security sector: the Government, Parliament and the Office of the President; and on the current state of the reform efforts at the level of external and internal security actors, i.e. the Ministry of Defence (MoD), the Armed Forces of Ukraine (ZSU), the Ministry of Internal Affairs (MoIA) and the Security Service of Ukraine (SBU).

Legal basis and parliamentary control

Ukraine has established a solid constitutional and legal basis for reliable public oversight of the state security sector.⁴³ The Law on National Security of Ukraine, adopted in 2018, has redefined the roles of all actors involved in Ukraine's security sector and enshrined a prominent role for democratic-civilian oversight

40 Sarah Detzner, Polina Beliakova and Radmila Šekerinska, [Security sector governance \(SSG\) in Ukraine: International lessons, general principles & Ukraine's post-2014 progress](#) (Edinburgh: PeaceRep – The Peace and Conflict Resolution Evidence Platform, December 14, 2022), 9.

41 For more information, see: Bulakh, [Security Sector Reform in Ukraine](#); Cristina Gherasimov and Iryna Solonenko, [Rule of Law Reform after Zelenskyi's First Year: A Return to Business as Usual in Ukraine](#) (Berlin: German Council on Foreign Relations, May 2020).

42 For more information, see: Gustav Gressel, ["Guarding the Guardians: Ukraine's Security and Judicial Reforms under Zelensky"](#), European Council on Foreign Relations, Published August 29, 2019.; Razumkov Centre, [National Security and Defence](#) (Kyiv: Ukrainian Centre for Economic and Political Studies Named After Olexander Razumkov, 2015).

43 Grytsenko, [Civil-Military Relations in Ukraine](#).

within Ukraine's security sector.⁴⁴ This law stipulates the right of civil society to request information, conduct analysis and take part in public discussions. It does not include, however, clearly defined feedback instruments that oblige the authorities to provide information and involve non-state oversight actors in policy development on a structural basis.

As such, in practice things work differently: civil society organisations are involved at all levels of the security sector and provide important resources, analysis and input. But consultations are not formalised and are usually requested on an ad-hoc basis. This approach may work well in the short term, in particular while all state and non-state actors have a common interest – i.e., to resist the Russian invasion.⁴⁵ In the long run, though, the vulnerable fabric of this trust and collaboration would have to be better institutionalised to ensure its sustainability.

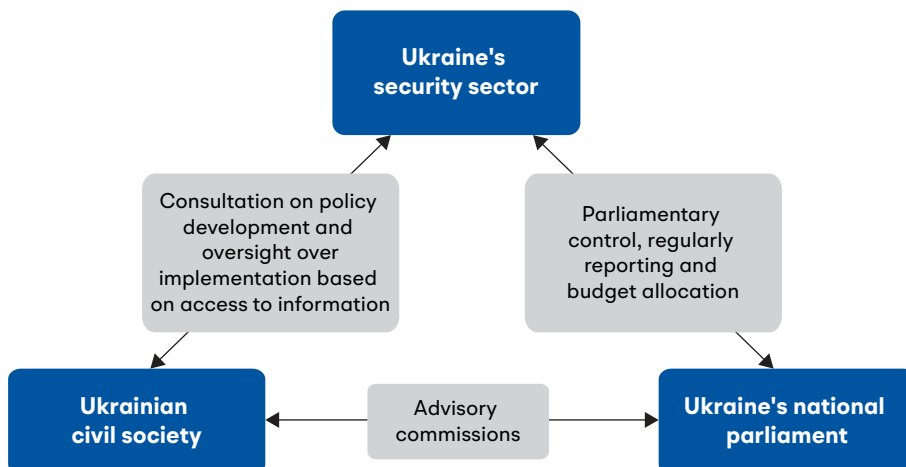
The basis for the oversight function of Parliament is institutionalised as well, empowering Verkhovna Rada to exercise parliamentary control. Among other things, it has the responsibility to define and regulate the activities and powers of the security and defence sector, to approve relevant budget allocations, to determine reporting requirements and the option to create thematic, investigative and temporary special commissions to investigate issues of public interest (see figure 4).⁴⁶

44 Svitlana Musiaka, "[Against all Odds: Ukraine's Defence Reform Process](#)," DCAF – Geneva Centre for Security Sector Governance, Published June 29, 2022.; Verkhovna Rada Ukraine, "[Zakon Ukraine: Pro Natsionalnu Bezpeku Ukrainy](#)" [The Law of Ukraine: On the National Security of Ukraine], Verkhovna Rada Ukraine: Zakonodavstvo Ukraine, Accessed August 3, 2023.

45 Clingendael Policy Interview, Kyiv, April 2023.

46 Verkhovna Rada Ukraine, "[Zakon Ukraine: Pro Natsionalnu Bezpeku Ukrainy](#)" [The Law of Ukraine: On the National Security of Ukraine].

Figure 4 (Triangular) Interactions between the security sector, civil society and Parliament



In practice, both Verkhovna Rada and civil society organisations (CSOs) still partly lack access to security sector processes related to information exchange, procurement and the drafting of strategies.⁴⁷ Parliament formally approves budgets and procurement strategies, but has a negligible influence on the actual direction of security policies, as discussed in chapter 1.

In order to balance the temporarily increased powers of the President and to maintain a degree of control over security affairs, in July 2022 Parliament established the Temporary Special Commission on Monitoring the Receipt and Use of International Material and Technical Assistance During Martial Law. This specialised commission engages in meetings with national and international civil-military relations experts and NGOs to improve its efficiency.⁴⁸ Another reason for its establishment was to ensure international partners that their military aid would not be abused, and to show that even in wartime Ukraine could function as a democratic state.⁴⁹ The supporting legal document describes the

47 Musiiaka, “[Against all Odds.](#)”

48 National Democratic Institute, “[Ukrainian Parliament Strengthens Accountability and Cooperation Mechanisms.](#)” National Democratic Institute, Published May 22, 2023.

49 Independent Anti-Corruption Commission, “[The Verkhovna Rada Created the Commission to Control the use of Western Weapons.](#)” NAKO, Published July 19, 2022.

Verkhovna Rada's right to oversee international military aid and its utilisation. There is however no mention of the possible role for civil society actors in this oversight process.⁵⁰

Civilian control over the military

Another step in the right direction towards civilian control over the military was the appointment of Oleksiy Reznikov as the Minister of Defence (MoD) of Ukraine in 2021. He became the first civilian minister to hold the post, following the adoption of the National Security Law in 2018, specifying that Ukraine's Minister of Defence and key positions are to be held by civilians.⁵¹ This law also increased the accountability of the armed forces towards the President and civil society. Before 2018 key positions at the MoD were held by individuals with military ranks, which in practice meant that the main military organisation of the country was accountable only to itself.

A risk which is usually present when armed forces lack civilian control is that they can be used to seize power and undermine the constitutional order. Interestingly, despite Russian narratives about 'coups' and 'juntas', in Ukraine only the opposite has happened in recent years. The only serious incident of the military turning against the civilian authorities was in 2014 when senior military commanders refused to comply with the orders of President Yanukovich to deploy the armed forces against the Euromaidan protesters.⁵²

Even if the institutional set-up, and particularly the role of Parliament, can be further improved and decision-making during wartime is understandably concentrated in the hands of a limited number of people, there is still democratic control over the armed forces. The key decision-makers outside the military are

50 Verkhovna Rada Ukrainy, "Postanova, Verkhovnoi Rady Ukrainy: Pro Zvit Tymchasovoi Spetsialnoi Komisii Verkhovnoi Rady Ukrainy z Rytan Monitorynhu Otrymannia i Vykorystannia Mizhnarodnoi Materialno-Tekhnichnoi Dopomohy pid Chas dii Voiennoho Stanu" [Resolution of the Verkhovna Rada of Ukraine: On the Report of the Temporary Special Commission of the Verkhovna Rada of Ukraine on Monitoring the Receipt and Use of International Material and Technical Assistance During Martial Law], Verkhovna Rada Ukrainy: Zakonodavstvo Ukrainy, Accessed August 3, 2023.

51 Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Natsionalnu Bezpeku Ukrainy](#)" [The Law of Ukraine: On the National Security of Ukraine].

52 Zagorodnyuk. "[Why wartime Ukraine's defense minister must be a civilian](#)", Atlantic Council, 18 November 2021.

either directly elected civilians such as President Zelensky himself, or civilians legally appointed by him such as Minister Oleksiy Reznikov and the Secretary of the National Security and Defence Council Oleksiy Danilov. Although it is presently unclear when Ukraine would be able to hold new Parliamentary and Presidential elections, for now there are no serious challenges to the democratic legitimacy of both the President and the Government. These challenges will increase if martial law is maintained for a longer period, but for now, the legal and practical difficulties in organizing an election during wartime appear to be greater than the payoff in terms of democratic legitimacy. This is especially the case if they would be held at short notice, under extremely challenging conditions and with an incomplete voter registry.⁵³

In addition, civil society itself keeps actively monitoring Ukrainian democracy and is very alert to any developments that would undermine it, regardless of its staunch support for the armed forces. Its capacity to provide oversight has grown exponentially since 2014. Previously the most prominent and professional NGOs were mostly those that served as watchdogs. By now the landscape of non-state actors that are exercising civilian control over Ukraine's democracy in the state security sector has further expanded and consolidated.⁵⁴ Apart from that there is a solid network of experts with a civil servant or a military background, who play a role in the security and military policy development process through consultations with Parliament and security and defence government agencies and through their influence on public opinion.

Obstacles to better cooperation between state and non-state oversight actors

This is not to say that it all works perfectly. While both state and non-state civilian actors legally have many specific rights and functions regarding oversight of Ukraine's security sector, in reality some obstacles remain. Especially non-state

53 See for example Lee Reany and Joel Wasserman, '[Wartime Elections in Ukraine are Impossible](#)', *Foreign Policy*, 11 July 2023.

54 Some prominent examples are the NGOs and think tanks like the Ukrainian Institute for the Future (which monitors and advises on the SBU reform and other security sector reforms), the Kharkiv Human Rights Group (which monitors the reform of the Security Service of Ukraine (SBU) and human security issues), the Centre for Defence Strategies, and the Center for Army, Conversion and Disarmament Studies.

actors frequently encounter obstructions when they try to fulfil these roles due to an institutional and deeply-rooted insistence on secrecy regarding all security-related matters.⁵⁵ While this is understandable in wartime, this reflex action was already present before the full-fledged invasion and is particularly present when it comes to civilian oversight of internal security actors, such as the MoA and the SBU. As the SBU has the mandate to *itself* determine what type of information should be classified or declassified, on this issue there is little accountability towards external parties.⁵⁶ Currently, there is still a tendency to consider almost any information within the government security agencies, such as the SBU, as classified.

This trend of secrecy slowly starts to change as civil society becomes more assertive and the Government feels compelled to respond. Ukraine sometimes struggles to strike an effective balance between democratic demands for transparency and national security imperatives to maintain secrecy. An example is a discussion with the Independent Anti-Corruption Commission (NAKO) (a Ukrainian NGO that, among other things, focusses on Ukraine's defence and security sector) on whether the employment selection process and asset and income declarations of the SBU should be considered as classified information, as it can be used to cover corruption practices.⁵⁷ It is questionable whether such full transparency on the recruitment and income of the personnel of the security services is desirable or effective; in many EU countries, including the Netherlands, such information is kept classified to protect the intelligence services' personnel and their families. It might be preferable to have the oversight function executed by a special parliamentary commission, with a specific assignment to exercise control over the security services in a context of confidentiality.⁵⁸

55 Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Natsionalnu Bezpeku Ukrainy](#)" [The Law of Ukraine: On the National Security of Ukraine].

56 Emiliia Dieniezhna and Oksana Nesterenko, "[Transparent and Accountable Security Service of Ukraine: Mission \(Im\)Possible?](#)," NAKO, Published January 15, 2021.

57 Dieniezhna and Nesterenko, "[Transparent and Accountable Security Service of Ukraine](#)."

58 Clingendael Policy Interview, The Hague, July 2023.

Another point of concern is insufficient coordination between the state and non-state oversight actors in Ukraine which, to be fair, is also a challenge for similar institutions in other European countries as well.⁵⁹ NGOs and state oversight agencies seem to work in parallel and almost in an atomised fashion, without communication between them. The new prospects for EU and NATO integration could provide an impetus for increased cooperation in this regard.⁶⁰

59 Jos Boonstra, [Building Civil Society Oversight Capacity of the Security Sector in Ukraine](#) (Groningen: Centre for European Security Studies, December 2019), 6.

60 An example is the initiative of the Centre for European Security Studies and the Centre for Army, Conversion and Disarmament Studies to organize 'networking' sessions with both state and non-state actors. These sessions reportedly resulted in constructive, working relationships between both oversight parties.

3 Role of CSOs in seven ongoing reform processes in the security sector

The following section will assess Ukraine's successes as well as the challenges that remain with regard to seven ongoing reforms in the security sector, and in particular the role that CSOs play in these processes. It particularly examines how Ukrainian CSOs interact with state providers of external security, such as the MoD, the armed forces and territorial defence units. It also compares this to the reforms of actors providing internal security, such as the Ministry of Internal Affairs and the State Security Service.

Shedding light on Ukraine's previously murky military procurement system

Since 2020 Ukraine has made considerable strides in the reform of its military procurement system. The Law on Defence Procurement, adopted in 2020 and updated in 2023, has laid a solid base for transparent procurement procedures and control mechanisms in line with the European Union-Ukraine Association Agreement requirements on transparency.⁶¹ CSOs were strongly involved in the drafting process of the law. It includes, for example, an obligation for the Ministry of Defence to share quarterly reports on state defence procurement on

61 Musiiaka, "[Against all Odds](#)"; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro oboronni zakupivli](#)" [The Law of Ukraine: On Defence procurement], Verkhovna Rada Ukrainy: Zakondavstvo Ukrainy, Accessed August 3, 2023. The manner and degree of public involvement is further explained in four other Laws of Ukraine, see: Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Hromadski Obiednannia](#)" [The Law of Ukraine: On Public Associations], Verkhovna Rada Ukrainy: Zakondavstvo Ukrainy, Accessed August 4, 2023.; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Zvernennia Hromadian](#)" [The Law of Ukraine: On Appeals of Citizens], Verkhovna Rada Ukrainy: Zakondavstvo Ukrainy, Accessed August 4, 2023.; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Dostup do Publichnoi Informatsii](#)" [The Law of Ukraine: On Access to Public Information], Verkhovna Rada Ukrainy: Zakondavstvo Ukrainy, Accessed August 4, 2023.; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Informatsiiu](#)" [The Law of Ukraine: On Information], Verkhovna Rada Ukrainy: Zakondavstvo Ukrainy, Accessed August 4, 2023.

its website, so that these are accessible to the general public for review. These quarterly reports detail all of Ukraine's defence procurement transactions – except for those details labelled as 'closed procurements'. It also states that the wider public should be involved in the planning and implementation of Ukraine's defence procurement. Its implementation, however, was delayed due to difficulties in the coordination between Ukraine's various government bodies. Russia's 2022 full-scale invasion prompted Ukraine's Cabinet of Ministers to impose temporary restrictions on public access to defence procurement for security-related reasons, aiming to resume its implementation after the end of the war.⁶²

Nonetheless, in order to maintain civilian oversight an amendment to the law in February 2023 provided Parliament with the right to request specific information regarding procurement from Ukraine's government, including classified dossiers.⁶³ This is in line with the European practices of civilian oversight of the security sector primarily by parliamentary control, rather than oversight solely by civil society – and could potentially be a solution to the ongoing struggle in keeping the balance between transparency and security in Ukraine's defence procurement landscape.

Reforming Ukraine's sprawling military-industrial complex

The transformation of Ukraine's defence-industrial complex is also underway. Its reform has been a long-standing contested subject within the Ukrainian security sector. UkrOboronProm, a conglomerate of Ukrainian state-owned

62 Musiiaka, "Against all Odds."

63 Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Vnesennia Zmin do Zakonu Ukrainy "Pro Oboronni Zakupivli" Shchodo Zaprovadzhennia Prozorosti v Oboronnykh Zakupivliakh \(Krim Vidomostei pro Zakupivli Tovariiv, Robit i Posluh Oboronnoho Pryznachennia, Shcho Stanovliat Derzhavnu Taiemnytsiu\) iz Zabezpechenniam Zakhyshchenosti Derzhavnykh Zamovnykiv vid Voiennykh Zahroz na Period Dii Pravovoho Rezhymu Voiennoho Stanu v Ukraini](#)" [On the Introduction of Amendments to the Law of Ukraine "On Defence Procurement" Regarding the Introduction of Transparency in Defence Procurement (Except for Information on the Procurement of Defence Goods, Works and Services, Which Constitute a State Secret) to Ensure the Protection of State Customers from Military Threats During the Period of the Legal Regime of Martial Law in Ukraine], Verkhovna Rada Ukrainy: Zakonodavstvo Ukrainy, Accessed August 3, 2023.

defence companies, had been unprofitable for years, with a reputation of having inefficient management practices.⁶⁴

In 2010, Ukraine's state defence companies were compelled to join together, creating UkrOboronProm. The supposed goal was for the then president Viktor Yanukovich to be able to easily control state defence companies by joining them together under one umbrella organisation and appointing political allies to oversee the companies and their respective directions. His successor president Petro Poroshenko did not take action to reform UkrOboronProm, but instead placed his own allies within the corporation. Another issue with regard to UkrOboronProm was related to sustaining inefficient business practices. Profitable UkrOboronProm subsidiaries could transfer their gains as subsidies to other loss-making parts of the conglomerate. As a result inefficient and perhaps redundant companies were kept afloat in an unsustainable manner. The first substantial attempt to reform UkrOboronProm was made under the Zelensky administration, in 2021.⁶⁵

The year 2021 marked the starting point for a broader transformation of Ukraine's defence-industrial complex.⁶⁶ The reform envisioned a 4-step transformation of Ukraine's defence-industrial complex from a state-owned enterprise into a joint-stock company. This should make individual subsidiaries more competitive and efficient, attract international investments, depoliticize the defence-industrial sector,⁶⁷ and create an efficient system capable of providing Ukraine's military with the equipment it needs.⁶⁸

64 Musiiaka, "[Against all Odds.](#)"

65 Roman Romaniuk, "[“Monsters, Inc.”: How Zelenskyy is Transforming the Defence Industry and how This will Affect the Course of the War.](#)" *Ukrainska Pravda*, Published May 15, 2023.; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Osoblyvosti Reformuvannia Pidpriemstv Oboronno-Promyslovoho Kompleksu Derzhavnoi Formy Vlasnosti](#)" [The Law of Ukraine: On the Peculiarities of Reforming Enterprises of the Defense-Industrial Complex of State Ownership], Verkhovna Rada Ukrainy: Zakonodavstvo Ukrainy, Accessed August 4, 2023.

66 UkrOboronProm, "[Pro reformu](#)" [On Reform], UkrOboronProm, Accessed August 3, 2023.

67 A board of six supervisors, of which three persons are independent, has been established to decrease political influence over Ukrainian state-defence companies, see Romaniuk, "[Monsters, Inc.](#)".

68 Communications Department of the Secretariat of the Cabinet of Ministers of Ukraine, "[UkrOboronprom will be Transformed into the Ukrainian Defence Industry Joint Stock Company, says Denys Shmyhal.](#)" Government Portal: Official Website, Published March 21, 2023.; UkrOboronProm, "[Pro reformu](#)" [On Reform].

At the time of writing this report, the first of these goals has been achieved: in June this year UkrOboronProm was dissolved and replaced with the Joint Stock Company (JSC) “Ukrainian Defence Industry” with the Herman Smetanin as the new chief executive officer, and a board of independent supervisors currently being formed. Earlier in May the company signed a strategic partnership agreement with the German company Rheinmetall, with operations planned to start in July 2023.⁶⁹

Ukrainian civil society, in particular the Ukrainian CSOs State Watch⁷⁰ and the Independent Anti-Corruption Commission (NAKO), played a significant advocacy and oversight role in the drafting of the Law on Reforming Ukraine’s Defence-Industrial Complex and the implementation of the reform. Together with international experts, NAKO secured independent audit services for UkrOboronProm, participated in the selection of directors for UkrOboronProm’s subsidiary companies, and insisted on the implementation of standards as required according to the Organisation for Economic Co-operation and Development within UkrOboronProm’s organisation.⁷¹ The creation of the JSC “Ukrainian Defence Industry” was praised by NAKO, which continues to closely monitor the reform of the sector.⁷²

The role of NAKO in the reform of one of Ukraine’s most strategic sectors shows that non-state oversight and anti-corruption agencies can operate independently and effectively in Ukraine – if they are sufficiently resourced and backed by international actors. This offers promising perspectives for oversight in other sectors as well. Continued international attention does contribute to the ability of organisations like NAKO to operate independently. It needs to be added, however, that the involvement of high-profile international officials is often helpful to reach this level of influence, as the example of NAKO showed.

69 UkrOboronProm, “[UkrOboronprom and Rheinmetall Create a Joint Venture](#),” UkrOboronProm, Published May 17, 2023.

70 See the risk assessment of the implementation of the Law on Reforming Ukraine’s Defence-Industrial Complex, presented by State Watch, “Shcho Vidbuvaetsia z Reformoiu Oboronno-promyslovoho Kompleksu – Doslidzhennia StateWatch” [What is Happening with the Reform of the Defence-industrial Complex – StateWatch Research], State Watch, Published November 18, 2021.

71 Independent Anti-Corruption Commission, “[Cabinet of Ministers has Launched the Transformation of UkrOboronprom](#),” NAKO, Published March 22, 2023.

72 Independent Anti-Corruption Commission, “[A historic Step: SC UkrOboronprom Officially Ceased to Exist. What to Expect Now?](#),” NAKO, Published June 29, 2023.

Integrating volunteer battalions into the armed forces

When Russian forces and their proxies attacked Ukraine in the Donbas in 2014, Ukraine's political leadership at the time initially framed Ukraine's defensive operations as an 'anti-terrorist operation'. On paper this meant that Ukraine's defensive operation was a 'counterterrorism' operation – a matter of internal state security, and the responsibility of the SBU, not the ZSU. The SBU, however, did not possess the means and know-how to counter Russia's hybrid-style attack. Having said that, the ZSU also did not have experience in this kind of insurgency warfare. Additionally, communication between the SBU and the ZSU was troublesome. Among other things, these factors resulted in Ukraine's leadership struggling to maintain security in the face of Russia's assault and this contributed to the destabilization of Ukraine's state security.

As Ukraine's internal security situation further deteriorated as a result of the government's failure to regain control over the management of the war in its eastern territories, Ukrainian 'volunteer battalions' took up arms and joined the fight on the frontlines. Meanwhile Ukrainian CSOs started collecting and distributing much-needed support and equipment for combat operations to the volunteer battalions on the frontlines.⁷³ In so doing, Ukrainian non-state security providers and CSOs significantly enhanced Ukraine's ability to defend itself in the early days of the war, but it posed a challenge for the State to maintain control over defence operations and preserve its monopoly on the use of force.

In response, the Government established a National Guard and the Special Police under the mandate of the MoA, and the Territorial Defence Battalions under the mandate of the Armed Forces of Ukraine. Volunteer battalions were urged to disband and formally join official structures. The Government's strategy worked and one year after the initial invasion nearly all of Ukraine's non-state security providers were incorporated into Ukraine's police and military organisations.⁷⁴ In order to remain in control of volunteers and to manage their forces, the Ukrainian government established the Territorial Defence Forces in 2022. The Territorial Defence Forces act as a gateway between the military volunteer realm and the military professional forces, providing volunteers with

73 Beliakova and Detzner, [Security Sector Governance In Ukraine](#), 6.

74 Puglisi, [A People's Army](#), 11-12.

training opportunities and absorption into the ZSU's reserve forces.⁷⁵ It appears that for now Ukraine has managed to maintain the high levels of volunteerism and civil society participation that enhance its capacity to resist Russian aggression, while nonetheless ensuring that the State can again fulfil its responsibility to maintain its monopoly on the use of force.

A quiet tragedy: demobilization of military personnel & veterans

Ukraine's government has been struggling to address the socio-economic challenge posed by the great numbers of veterans who have entered into Ukraine's demographics since 2014. It is estimated that after the war about 10% of the Ukrainian population will consist of veterans, their families, and families that lost members who served in the military during the war.⁷⁶ The two greatest challenges for the veterans in reintegration into society is the lack of non-military-related employment and a shortage of post-service (mental and physical) rehabilitation facilities.⁷⁷

While the Ukrainian state struggles to respond to challenges connected to the reintegration of Ukraine's veterans, CSOs fill the gaps left by the government to support the veterans.⁷⁸ One such example is the Veteran Hub in Kyiv. Here veterans can connect with a variety of NGOs which can help them with

75 Beliakova and Detzner, [Security Sector Governance In Ukraine](#), 7.

76 Stanislav Pohorilov, "[Pislia Viiny Veterany ta Yikhni Rodychi Skladut 10% Naselennia Ukrainy – Minveteraniv](#)" [After the War, Veterans and Their Relatives will Make up 10% of the Population of Ukraine – the Ministry of Veterans], *Ukrainska Pravda*, Published December 22, 2022.

77 Ukrainskyi Veteranskyi Fond and Ministerstva u Spravakh Veteraniv Ukrainy, [Druhe Anonimne Onlain-Opytuvannia Sered Veteraniv ta Diiuchykh Viiskovosluzhbovtziv "Portret Veterana. Blok "Potreby Veteraniv"](#) [The Second Anonymous Online Survey Among Veterans and Active Military Personnel "Portrait of a Veteran. Block "Needs of Veterans" (Kyiv: Ukrainskyi Veteranskyi Fond and Ministerstva u Spravakh Veteraniv Ukrainy, Published February 12, 2023, 32.; Clara Bauer-Babef, "[WHO Warns of Lack of Rehabilitative Care in Ukraine](#)" Translated by Daniel Eck, Euractiv, Published March 8, 2023.

78 For an analysis of the government's reintegration of veterans, see Julia Friedrich and Theresa Lütkefend, [The Long Shadow of Donbas: Reintegrating Veterans and Fostering Social Cohesion in Ukraine](#) (Berlin: Global Public Policy Institute, May 2021), 3.

psychological help, legal aid, support in finding employment and to engage with their community.⁷⁹

Meanwhile, Ukraine's government is gradually modernizing its comprehensive veteran care programme 'Policy of Heroes', which is among the top-ten reform priorities for Ukraine's government.⁸⁰ This is an important step, but it will take time and resources that the country lacks. The veterans need support now, especially at the local level after they return. The most urgent need, apart from mental support, is to have access to work and avoid social isolation. Initiatives like the Ukrainian Veteran's Foundation that provides grants for veterans to start their own business and contribute to local economic recovery are good examples of how civil society can contribute.⁸¹

Who guards the guardians? Ukraine's military justice apparatus

After the abolishment of the military courts in 2010 there were multiple attempts to reinstate them in Ukraine, especially in the light of the ongoing war.⁸² The main difference in approaches to military justice that were proposed is whether the military justice system should be subordinated to the Ministry of Defence or be placed within the system of the general judiciary.

The debate is revolving around three major concerns: guaranteeing the impartiality of judges, the funding of the military justice apparatus, and the education of the military judges. Before 2010 military courts were subordinated to and funded by the Ministry of Defence, which argues that the military courts should be reinstated under its supervision. There is a significant reluctance to return to this system, not least because it would be difficult to ensure that it is fully independent from the military chain of command: military judges usually have military ranks. The alternative would be to integrate these military

79 Lauren Van Metre and John Boerstler, "[The Trip from Donbas: Ukraine's Pressing Need to Defend its Veterans](#)," Atlantic Council, Published September 21, 2020.

80 Communications Department of the Secretariat of the Cabinet of Ministers of Ukraine, "[Prime Minister: New Veterans' Policy is Among the Government's Top 10 Reform Priorities for this Year](#)," Government Portal: Official Website, Published June 30, 2023.

81 "[Hranty vid Ukrainskoho Veteranskoho Fondu](#)" [Grants from the Ukrainian Veterans Fund], Agency Regional Development Zhytomyr, Accessed August 7, 2023.

82 Mindia Vashakmadze, [Military Justice in Ukraine: A Guidance Note](#) (Geneva: DCAF, 2018), 1.

courts into the courts of general jurisdiction. This is also far from ideal, as the latter are not equipped to deal with military-related offences. Appointing and training military judges within the general legal training programme is a costly endeavour which, at this point in time, the country's political leadership simply cannot afford. Currently military law issues are included in the general education programme for judges.⁸³

In the meantime, Ukraine has begun taking steps towards creating military police force in order to ensure discipline and good order in the armed forces. While this draft law is in the making, in January 2023 President Zelensky signed a law that was aimed at standardizing and increasing the severity of punishment for Ukrainian military personnel transgressing the laws and customs of war and combat.⁸⁴ According to the NAKO this law was drafted without public consultation, without the involvement of an expert committee and under great time pressure.⁸⁵ The Ukrainian NGO Reanimation Package of Reforms argued that the Law does not take into account that a large portion of Ukraine's current military are not professional soldiers, but often serve on a draft or volunteer basis. Increasing the severity of punishment could inadvertently damage their trust in their leadership.⁸⁶ This hastily adopted law generated widespread frustration and critics among Ukraine's public and civil society. It showcases the dilemma in which the Ukrainian government often finds itself, when the optimal solution – comprehensive military justice reform – is not available in the short term, and the political leadership has to settle for a far less ideal and unpopular alternative. In this context CSOs are of crucial importance, both for providing expertise and for acting as intermediaries in order to explain these dilemmas to society.

83 Clingendael Policy Interview, April, July 2023.

84 Independent Anti-Corruption Commission, [Analysis of the Law of Ukraine: "On Amendments to the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offenses, and other Legislative Acts of Ukraine Related to Special Aspects of Military service in the Context of Martial Law or Combat Environment"](#) (Kyiv: NAKO, N.d.).

85 Independent Anti-Corruption Commission, [Analysis of the Law of Ukraine: "On Amendments to the Criminal Code of Ukraine"](#), 3.

86 Koalitsiia Reanimatsiinyi Paket Reform, "[Zaklykaiemo Narodnykh Deputativ ne Pidtrymuvaty Zakonoproiekt № 8271, Yakyy Dodatkovo Posyliuie Kryminalnu Vidpovidalnist dlia Viiskovosluzhbovtziv](#)" [We call on People's Deputies not to Support Draft Law No. 8271, Which Additionally Strengthens Criminal Liability for Military Personnel], Koalitsiia Reanimatsiinyi Paket Reform, Published December 12, 2022.

Reforms of the Ministry of Internal Affairs: regaining the trust of the public

The comprehensive reform of the MoIA began in 2014 in response to widely held grievances over corruption and in particular the large-scale abuse of power by the police during the Revolution of Dignity. It started with the abolishment of the “Berkut” riot police that were despised for their police brutality against Euromaidan protesters but also led to a wider restructuring and reform of the police force that is largely perceived to have been successful.⁸⁷ It significantly increased the trust of the population in the police structures: from 10% of trust in the national police before the reform in 2012, to 71% in 2023.⁸⁸

While this report does not purport to give an exhaustive overview of the numerous reforms conducted since 2014, a few stand out in particular.⁸⁹ First, specialised police units were created to better separate the controlling, investigative and supporting functions of the police (including the Public Security Police, the criminal police, the judicial police and specialised rapid response police units). Second, other public security providers such as the State Border Guard Service, the State Migration Service and the State Emergency Service were demilitarized and reformed. In light of the interplay between internal and external threats the National Guard was also created as a military formation within MoIA with certain law enforcement functions.⁹⁰ It played an active role during the anti-terrorist operation in the Donbas and in the de-occupation of

87 Beliakova and Detzner, [Security Sector Governance In Ukraine](#), 6.; Viacheslav Shramovych, “Dva Roky Politsii: Reforma chy Zmina Formy?” [Two Years of the Police: Reform or Change of Form?], BBC Ukraina, Published August 4, 2017.

88 Sotsiolohichna Hrupa “Reitynh”, “[Pravookhoronni Orhany Ukrainy: Dovira ta Otsinky Naselennia, Problemy Vnutrishnoi Bezpeky ta Hotovnist do Spivpratsi](#)” [Law Enforcement Agencies of Ukraine: Public Trust and Assessments, Problems of Internal Security and Readiness for Cooperation], Sotsiolohichna Hrupa “Reitynh”, Published January 18, 2012. Also see recent research by Razumkov Tsent: Razumkov Tsent, “[Otsinka Hromadianamy Sytuatsii y Kraini ta Dii Vlady, Dovira do Sotsialnykh Instytutiv \(Liutyi–Berezen 2023r.\)](#)” [Citizens’ Assessment of the Situation in the Country and the Actions of the Authorities, Trust in Social Institutions (February–March 2023)].

89 For a recent overview, see European Union Advisory Mission Ukraine, “[Progress in Reform](#),” EUAM Ukraine European Union External Action, Accessed August 4, 2023.

90 Serhii Kishchenko, [Reforma Systemy Orhaniv Vnutrishnikh Sprav: Analiz Derzhavnykh Rishen](#) [Reform of the System of Internal Affairs Bodies: Analysis of State Decisions] (Kyiv: Mizhnarodnyi Tsentr Perspektyvnykh Doslidzhen, 2015).

Ukrainian territory and resisting the Russian aggression in the populated areas on the frontline.⁹¹

With support from the European Union Advisory Mission for Civilian Security Sector Reform (EUAM) and other international actors, the MoIA underwent further significant reforms. These include, for example, the reduction of units and bodies to eliminate the duplication of functions, the introduction of a European model of training and qualification of personnel and unified standards of law enforcement training, and the establishment of mechanisms for monitoring and overseeing the activities of internal affairs agencies and separate officials. Ukrainian civil society has been closely involved in these reforms. In 2015, for example, the Reanimation Package of Reforms and the Kharkiv Human Rights Protection Group, both Ukrainian CSOs, assisted in drafting the Law of Ukraine: On the National Police. This law contributed to the institutionalisation of public involvement in the hiring process of police personnel by including selected members of the public in so-called 'Police Commissions'.⁹²

Another productive reform was the creation of the Patrol Police, which replaced Ukraine's Traffic Police and Militia Patrol and addressed corrupt practices in recruitment through the establishment of hiring centres independently from the MoIA that included civil society representatives and activists. Their presence and involvement in the process helped to prevent politicians and/or government officials in power from using their authority to favour certain individuals in exchange for their loyalty.⁹³ Attempts to replicate this model for the Criminal Police were less successful, partially due to less involvement from international partners and partially due to the circumvention of the procedures for civil society involvement during recruitment.⁹⁴ This example shows that the same legislation, if not scrutinised in practice, can yield different results.

91 Ivan Mahuriak, "[Den Natsionalnoi Hvardii: Vakoju ye Rol Viiskovoho Formuvannia u Viini z Rosiieiu](#)" [National Guard Day: What is the Role of the Military Formation in the War with Russia], 24 Kanal, Accessed August 3, 2023.

92 Nicholas Pehlman, "[Patrimonialism through Reform](#)," *Harvard Ukrainian Studies* 37, no. 3/4 (2020): 332-340.; Verkhovna Rada Ukrainy, "[Zakon Ukrainy: Pro Natsionalnu Politsiiu](#)" [The Law of Ukraine: On the National Police], Verkhovna Rada Ukrainy: Zakonodavstvo Ukrainy, Accessed August 14, 2023.

93 Robert Peacock and Gary Corder, "[Shock Therapy](#)" in *Ukraine: A Radical Approach to Post-Soviet Police Reform*, *Public Administration and Development* 36, no. 2 (2016): 84.

94 Pehlman, "[Patrimonialism through Reform](#)," 343-344.

Reforming the Security Service of Ukraine: the toughest nut to crack

The issue of depoliticization is even more relevant for the SBU, which has traditionally been used by successive Ukrainian politicians as an instrument to consolidate their power and keep tabs on their opponents. The SBU is part of the system ('sistema')⁹⁵ inherited from the Soviet Union in times when the political, economic and social aspects of citizens' lives were largely controlled by the state. Therefore, the SBU possessed a number of roles and functions that in a democratic state would be commonly separated between multiple state agencies to ensure efficiency and independence – including the competence to combat economic crimes in the fight against corruption. Its inherent high level of secrecy made the SBU itself an easy target for corruption schemes; the lack of transparency in how it operates contributed to the SBU becoming one of the state agencies with the lowest trust of society. SBU reform since 2014 has focused on depoliticization, restricting its mandate, increasing transparency and introducing more public control mechanisms.

SBU reform was a central point in the reforms promised and promoted by Volodymyr Zelensky in his 2019 electoral campaign and a long-standing request by both NATO and the EU. A comprehensive draft law outlining the reform of the SBU was developed in 2021, in extensive consultation with civil society and international partners such as the EUAM, EU and NATO Delegations, various embassies and the Parliamentary Committee on National Security, Defence and Intelligence.⁹⁶ The draft law however failed to address concerns raised by NAKO and civil society regarding extensive secrecy and restrictions on public control.⁹⁷ They argued, among other things, that the law should redefine which information should be considered as classified.⁹⁸ What needs to be addressed in the short term is civil society's need for access to government information as opposed to state restrictions on data in the interest of national security. While the latter is a legitimate restriction that is recognized by law, clear agreements with civil

95 For more on the concept of Sistema, see: Alena V. Ledeneva, [*Can Russia Modernise? Sistema, Power Networks and Informal Governance*](#) (Cambridge: Cambridge University Press, 2013).

96 Sluzhba Bezpeky Ukrainy, "[Reforma SBU](#)" [Reform of the SBU], Sluzhba Bezpeky Ukrainy, Accessed August 3, 2023.

97 Dieniezhna and Nesterenko, "[Transparent and Accountable Security Service of Ukraine.](#)"

98 Musiiaka, "[Against all Odds.](#)"

society on the classification of and access to information can ensure a balance between public oversight and the confidentiality of information.⁹⁹

In addition, in order to minimize opportunities for misuse for economic gain the SBU's competencies to investigate economic crimes could be transferred to other agencies and the information on the property and income declaration of the employees of the SBU should become accessible, at least for specialized public oversight actors as mentioned above.¹⁰⁰ It is likely that the process will have to be restarted almost from scratch since downsizing or reforming the SBU is currently difficult to imagine in light of the current security risks facing Ukraine.¹⁰¹ SBU reform remains the 'capstone' of security sector reforms and should remain high on the agenda.

99 Viktor Zaitsev, "[Civil Society of Ukraine as a Subject of Influence on Political-Military Decisions of the State](#)," *Political Science and Security Studies Journal* 2, no. 1 (2021): 86.

100 Dieniezhna and Nesterenko, "[Transparent and Accountable Security Service of Ukraine](#)."

101 Clingendael Policy Interview, Kyiv, April 2023.

Conclusion

This report has traced the transformation of Ukrainian civil society, which has fundamentally changed its relation towards the state in general and the security sector in particular. This transformation can be regarded as remarkable. Up until 2014 the relationship between the state and civil society was largely antagonistic, with the latter positioning itself in opposition to a system that appeared to be designed primarily to maintain political stability and control over the population rather than providing safety and security. The 2014 Euromaidan protests and Russia's aggression against Ukraine had already markedly changed this dynamic, with civil society coming to the aid of the state and stepping in to fill important gaps in the provision of both internal and external security. It also gained more access to decision-makers and spearheaded reforms, but certain Soviet-era legacies in the security sector such as the Security Service of Ukraine (SBU) and the habit of preferring secrecy over transparency nonetheless remained resistant to change.

The year 2022 changed everything, both due to Russia's full-scale invasion and Ukraine's perspective of EU and NATO membership. Ukrainian civil society now appears to have found a 'fast track' straight to the top of Ukrainian security sector governance and the state is much more responsive to its demands and suggestions. This is driven by a strong common sense of purpose, both to ensure the survival of the Ukrainian state and to pursue its aspirations of Euro-Atlantic integration. As a result there is a window of opportunity in which civil society increasingly fulfils a number of important functions with regard to the security sector that provide entry points for the support of international partners. It is important to note that nothing can be taken for granted and sustained efforts remain necessary to keep the pace of reforms and to prevent 'backsliding'.

The international community in general and the EU in particular is supportive of the new dynamic of multifaceted interaction and the growing trust between civil society and the authorities – and it is important to reinforce it through financial assistance to both, civil society and public sector. After decades of relative disengagement, Ukrainian society now has high expectations of the State. To preserve the common sense of purpose and the high levels of trust that have emerged as a result of the war, it is important that civil society also manages

these expectations and that the State is able to deliver on them. This applies particularly to the local level, where public capacity is even more limited and civil society is therefore even more needed.

Recommendations for Ukraine's international partners

- **Strengthening of not only civil society itself, but also the institutional mechanisms** would enable a more sustainable form of the current constructive and high level of participation. This includes instruments for the cooperation of CSOs with the Ukrainian Parliament, thereby building on the experience with the Temporary Special Commission on the use of international military assistance. It also requires robust consultative mechanisms within sectoral ministries that also include a feedback loop. The Civic Councils within sectoral ministries are currently not trusted and would require a significant overhaul and extension of their mandate. Networking sessions with both state and non-state actors in the security sector have proven useful in establishing constructive working relationships and could be further incorporated in regular government qualification programmes.
- In order to ensure that Ukrainian authorities can meet the high expectations of society and preserve the newfound trust, it is important **to invest not only in the monitoring of State performance, done by the CSOs, but also in increasing the civil servants capacity** to improve that performance at the national and local level. In their choice of employment conditions international organizations should also avoid contributing to a brain drain out of the public sector.
- Since the authorities are operating in short-term crisis mode and have limited capacity for research or strategic thinking, **there is a clear need to support CSOs that assist the authorities with fact-finding, analysis and specific expertise**. This particularly concerns the many complex requirements demanded by the European Union as part of Ukraine's EU integration process, including within the security sector. Ukrainian CSOs could benefit from much more exchange with their EU counterparts.
- The authorities and civil society should be encouraged and supported by international partners to **jointly negotiate and regularly revise the balance between security-related restrictions on the information space and the freedom of the media**. A strategy particularly needs to be developed on how Ukraine can transition back from the current restrictive Telemarathon format to a more diverse and media landscape that is also able to secure its own funding.

- International support is needed to enable civil society to meet the pressing and short-term need for the **care and reintegration of demobilized military personnel, veterans and the families of the fallen**, as state initiatives might take too long. This could include promoting job opportunities, small grants, education programmes and the inclusion of veterans on advisory boards on security-related matters.
- By building on the positive experiences with the creation of NAKO as a **specialized, civil society-led commission in the security sector, international partners can contribute to increasing transparency in military procurement and in the reform and governance of the military-industrial complex**, including former UkrOboronProm subsidiaries. This example shows that a combination of oversight and constructive partnership for reform is a realistic possibility, if it is sufficiently resourced, truly independent and endowed with an effective mandate.
- **International partners could help to explore the possibilities for the reintroduction of a specialised military court and justice system in Ukraine.** Close attention to the role of civil society in Ukraine's military justice system, will contribute preventing human rights abuses being committed both *by* and *against* the armed forces.
- Despite the adverse security environment, the **reform of the SBU needs be resumed without delay and with the full participation of non-state oversight actors**. This should focus, among others things, on the depoliticization of the organisation, the transfer of the authority to investigate financial crime to another institution and allow for a review of the integrity of SBU employees. Clarifying boundaries with regard to state and non-state oversight, with a particular focus on how to deal with classified information will benefit democratic practices and safeguard national security. An exchange of practices with institutions such as the Dutch Parliament's Committee on Intelligence and Security can be considered.