

UKRAINE

Handbook on Open Local Government and Public Ethics

Original:

*Handbook on Open Local Government
and Public Ethics in Ukraine (English version)*

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Congress of Local and Regional Authorities of the Council of Europe

F 67075 Strasbourg Cedex
France

E-mail: congress.adm@coe.int

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The research work and writing of this third edition was carried out by Axon Partners, a Ukrainian legal advisory company, as part of the project “Strengthening democracy and building trust at local level in Ukraine” (2018–2021). The overall co-ordination was ensured by the Co-operation and External Relations Division of the Secretariat of the Congress of Local and Regional Authorities of the Council of Europe.

In 2021, six handbooks have been produced with context-specific information for Albania, Armenia, Georgia, the Republic of Moldova, Ukraine, and Kosovo*. They aim to preserve and share the lessons learnt and best practices identified during the implementation of co-operation projects implemented by the Congress of Local and Regional Authorities of the Council of Europe. In addition, the contents of the *Handbook* are available online on bE-Open platform at <https://www.coe.int/en/web/congress/beopen>.

* All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

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Foreword

Governments can function effectively only if they enjoy and sustain the trust of citizens in their commitment to delivering services and policies that serve the citizens. Open local government and a high level of public ethics are key to building confidence in the institutions of government. Local government, municipalities and their elected representatives and civil servants have a crucial role in fostering and sustaining trust-building and participatory decision-making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regards to central governments, and usually represent the first interface between citizens and elected representatives. The professionalism and integrity of elected local government officials and local administrations, and their ability to function in a transparent, responsive and accountable manner, are a prerequisite for the delivery of enhanced, fair and equitable services to citizens. Local and regional elected representatives must therefore act as role models in the areas of public ethics, transparency, accountability, and participatory decision-making.

In order to fulfil this role, elected representatives must be well versed in the principles and standards underpinning public ethics. Furthermore, they should understand the legislation in force and the mechanisms and institutions through which the laws are implemented and enforced at the local level. The government authorities should also raise awareness among the public so that they also understand their legal rights and know where they should turn to make a complaint.

However, we cannot ignore the fact that local authorities, as any public authority, are susceptible to corruption, which poses a major threat to the legitimacy of democratic institutions, as well as to the degree of trust that citizens place in their representatives and public officials. A deficit of transparency and shortfalls in public ethics are problems faced by all levels of government, including the local and regional levels. They undermine the provision of services to citizens and businesses alike and pose a threat to the universal access to basic services and to sustainable local economic development. The fight against corruption needs to be a long-term priority for local and regional governments and their associations. Concerted preventive action and the monitoring of corruption risks are both paramount

in order to foster economic growth, improve living conditions, and develop citizens' trust.

Where the decentralisation of power and financial resources advances, the quality of local governance becomes even more crucial. Therefore, along with the introduction and consistent application of criminal law provisions against corruption, it is essential to promote public ethics, transparency, accountability and participatory decision-making in order to reduce the risk of corruption and boost citizens' confidence in local and regional authorities.

The Congress of Local and Regional Authorities of the Council of Europe took a firm step in the promotion of ethical governance by adopting in 1999 the European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives. An advisory group revised this Code, which was then adopted as the European Code of Conduct for all Persons Involved in Local and Regional Governance in November 2018. The updated text addresses new challenges, including new forms of communication, the impact of digital technology and the need to respect the privacy of data, and enlarges the scope of its application to all actors involved in local and regional governance, and not just elected officials.

In its priorities for 2021–2026¹, the Congress underlines the importance of promoting the quality of local and regional democracy and citizen participation. At the same time, the Congress devotes its attention to the challenges arising from the Covid-19 pandemic and underlines the necessity of adapting work and activities to a new situation, including corresponding social, economic, and political changes. The thematic priorities of the Congress also include reducing social inequalities, and ensuring that digitalisation and artificial intelligence enhance citizen participation. The Congress underlines that local and regional authorities should be the main actors for change and points out the importance of the fight against corruption and clientelism, and the participation of citizens in decision-making processes, for the proper functioning of local and regional democracies.

The Congress is determined to sustain a comprehensive, long-term engagement in corruption prevention, and in this spirit has established the position of Spokesperson on Promoting Public Ethics and Preventing Corruption at the Local and Regional Levels. The publication of this *Handbook* and our intention to actively promote its use are further demonstration of our determination to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regards to public governance are changing. To renew and sustain confidence in public administration, we need to set up effective mechanisms for the implementation of, and compliance with, standards of ethical conduct. Preventing corruption, reducing its risks, and developing effective, accountable and transparent institutions at all levels are key components of just and inclusive societies.

With this in mind, this *Handbook on Open Local Government and Public Ethics* is aimed at local authorities, mayors, local councillors and civil servants, to support them in their efforts to improve the quality of local governance in their villages, towns and cities. The *Handbook* provides local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and domestic legislation, and providing case-law examples and good practices that can be applied and promoted by all local authorities.



Andreas Kiefer
Secretary General
Congress of Local and Regional Authorities
of the Council of Europe

Purpose and structure of the handbook

Transparency and citizen participation are key concepts in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions that the government is taking on their behalf, as well as to ensure that their own needs and views are taken into account in the decision-making process.

Effective application of tools to promote transparency and citizen participation, coupled with stronger accountability and public ethics, can help to drive out corruption and government malpractice. Both concepts also serve to help generate positive and enabling momentum to foster increased trust in public governance.

Finally, they help governments to draw on the skills, knowledge and experience of citizens to enable more informed decision-making, early identification of negative impacts of prospective policies, greater ownership of the resulting decisions, and the delivery of more effective public services.

The *Handbook on Open Local Government and Public Ethics in Ukraine* aims to support local authorities in their efforts to improve the quality of local governance in line with the principles of the European Charter of Local Self-Government (ETS No. 122) and its Additional Protocol on the Right to Participate in the Affairs of a Local Authority (CETS No. 207). It provides them with practical guidance on public ethics and accountability, transparency, citizen participation, and countering corruption, based on Council of Europe principles and guidelines, and drawing on international standards and examples of model legislation.

To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the *Handbook on Open Local Government and Public Ethics in Ukraine* includes specific information about domestic anti-corruption legislation, and provides examples of mechanisms and tools to raise standards in public ethics and accountability, transparency, and citizen participation. The *Handbook* provides a concise assessment of the most prevalent corruption risks and a set of good practices to introduce and implement public ethics and open government.

The implementation of the mechanisms included in this *Handbook* will also help local authorities contribute to attaining the United Nations' Sustainable Development Goals (SDGs)² of the 2030 Agenda for Sustainable Development,³ namely goals 5 (gender equality), 11 (sustainable cities and communities), 16 (peace, justice and strong institutions) and 17 (partnerships for the goals). In this regard, the implementation of open local government will serve as a powerful driver for deepening the commitment to good governance in the context of sustainable development.

The *Handbook* is structured in four main chapters:

- ▶ Chapter 1 – Public Ethics and Accountability:
This chapter highlights the importance and challenges of public ethics and accountability in Ukraine. It demonstrates the essential role that public ethics and accountability play in bringing about effective, transparent and participatory governance.
- ▶ Chapter 2 – Transparency:
This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. The account of each mechanism includes an introductory description and an outline of international standards. This is followed by four sections summarising key domestic laws and presenting practical guidelines and best practices which can serve as examples for local authorities in their efforts to enhance transparency.
- ▶ Chapter 3 – Citizen Participation:
This chapter introduces four citizen participation mechanisms, which have been selected to represent the diversity of approaches to citizen participation. Following the same structure as in the previous chapter, an introductory description is provided for each mechanism followed by an outline of relevant international standards. The concluding four sections summarise key domestic laws and present practical guidelines

and best practices which can serve as examples for local authorities in their efforts to foster and improve inclusive citizen participation.

▶ Chapter 4 – Corruption Risks:

This chapter introduces the most common corruption risks identified in Ukraine and outlines relevant international anti-corruption standards, along with the domestic legal framework pertinent to each form of corruption. This is then supplemented with examples of case law and good practices related to each type of corruption.

Chapter 1

PUBLIC ETHICS AND ACCOUNTABILITY

Introduction

Public ethics and accountability are essential concepts underpinning an effective local or regional authority. They refer to the culture, processes, structures and rules that ensure those in public office act in the wider public interest, rather than their own self-interest. They are an essential feature of good governance, and it is important that they are respected and monitored by relevant organisations.

Ethics embody the rules that define the conduct of public officials⁴ in order to ensure that the public is treated fairly and equitably. Ethics help officials make better decisions in the public interest and help people evaluate the decisions taken on their behalf by public officials.

Public accountability ensures that officials are openly answerable for the decisions they are taking on behalf of the public.

In the absence of public ethics and accountability, corruption and malpractice are able to thrive. As outlined in the final chapter, corruption is damaging to individuals, society, the economy and government in a number of respects. The prioritisation of public ethics and accountability can help curb the worst excesses of power and encourage more responsible and fairer decision-making by local authorities.

Even where corruption is not endemic, the absence of public ethics and accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between public ethics and accountability is complex, consistent and timely application of both can help to build and strengthen trust between the public and government.

Furthermore, public ethics and accountability can contribute to a positive environment where it is recognised that citizens and other stakeholders contribute to the quality of the decision-making process. Combined with citizen participation tools, public ethics and accountability can help to ensure that

citizens' personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Elected representatives should be aware of the process by which declarations of assets are monitored and by which body, and which sanctions can be applied, and how, in the event that an office-holder makes a false or incomplete declaration. They should know the rules governing whistle-blowing and which official or officials are responsible for considering whistle-blowers' complaints and reports of wrongdoing. Local authorities need to ensure in-house training for newly elected representatives and provide regular refresher training for all elected officials. Knowledge and understanding of the legal and institutional framework are essential if elected representatives are to succeed as role models of political integrity.

Finally, public ethics and accountability are key to improving public services because public services that are more responsive and accountable to people – and benefit from their insights, ideas, energy, and scrutiny – will work better for people and the community as a whole.

Taken together, public ethics and accountability help to ensure that decision-making and resource allocation are fair, efficient and effective, which in turn helps to enable a flourishing democracy, economy and society. To this end, the Congress of Local and Regional Authorities of the Council of Europe adopted the European Code of Conduct for all Persons Involved in Local and Regional Governance,⁵ encouraging local and regional authorities and associations of local and regional authorities to design appropriate educational programmes in integrity management and to implement advisory services to help their staff to identify and deal with potential ethical risk areas and conflict-of-interest situations.

Transparency and citizen participation are important mechanisms for promoting public ethics and accountability in central and local government. A recent report for the European Committee of the Regions on "Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern Partnership Countries" found that lack of transparency was the main vulnerability in all of the cases assessed.⁶ This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

General domestic context

Corruption is one of the most pressing problems in Ukraine, which determines society's request for changes in public ethics. For instance, during 2017–2020, corruption was constantly among the top 3 most important issues for Ukraine, and the solution to the corruption problem became an issue of the highest relevance.⁷

Corruption is also a key factor hindering economic reforms in Ukraine. According to a survey of foreign investors, widespread corruption is the main obstacle to foreign investments in Ukraine (8.3 on a 10-point scale).⁸ From 2017 to 2020, the perception of corruption in local governments among the population increased from 3.66 points to 3.89 on a 5-point scale.⁹

After the 2014 Euromaidan Revolution, the Parliament of Ukraine, in close consultation with civil society and international organisations, brought anti-corruption legislation to a new level. On 14 October 2014, a package of anti-corruption laws, including the Anti-Corruption Strategy 2014–2017¹⁰ and the Law No. 1700-VII “On Prevention of Corruption”, was adopted. The Law also stipulates some significant provisions on ethical conduct (Section VI. Rules of Ethical Conduct). Those changes were a significant step ahead in the development of accountability and public ethics.

Other changes included the creation of special institutions, such as the National Agency on Corruption Prevention (NACP), the National Anti-Corruption Bureau of Ukraine (NABU) for investigation of corruption, the Special Anti-Corruption Prosecutor's Office (SAP) and the National Agency for finding, tracing and management of assets derived from corruption and other crimes (ARMA), as well as the State Bureau of Investigation (SBI), the National Council for Anti-Corruption Policy under the President of Ukraine, and the Economic Security Bureau. The High Anti-Corruption Court of Ukraine was established as per the Law 2447-VIII of 8 June 2018 and came into operation in September 2019. Amendments to the legislation have increased the penalties for corruption, including administrative or criminal liability for corruption-related offences.¹¹

The Draft Anti-Corruption Strategy for 2020–2024¹² and the Draft Law “On the Principles of State Anti-Corruption Policy for 2020–2024”¹³ have been discussed in the format of public consultations on the NACP online platform. The Anti-Corruption Strategy is a document that helps ensure the participation of all authorities in combatting corruption. The development and co-ordination of the implementation of the Anti-Corruption Strategy is

the responsibility of NACP, assigned to it at the legislative level. To ensure the document's relevance and high quality, NACP was engaged in the drafting of the Anti-Corruption Strategy undertaken by experts, civil society activists, international partners and all interested citizens through online discussions held in early July 2020.¹⁴

In October 2020, the Committee on Anti-Corruption Policy recommended that the Verkhovna Rada adopt as a basis the Draft Law "On the Principles of State Anti-Corruption Policy for 2020–2024".¹⁵ On 5 November 2020, the Verkhovna Rada voted on the Anti-Corruption Policy in the first reading.¹⁶ On 3 June 2021, the Draft Law was approved by the Verkhovna Rada, but on 15 June 2021, President Volodymyr Zelensky vetoed the Draft Law and returned it to the Verkhovna Rada with his proposals for revision.¹⁷ During the discussion of this document in the Verkhovna Rada, the members of the Parliament made changes that offered a legislative loophole for unscrupulous declarants enabling them not to indicate in their declarations movable and immovable property owned or used by their relatives. In view of that, the President of Ukraine sent the law back to the Parliament.

Ukraine has also established a legislative basis for the implementation of ethical values and norms of the civil service. The Law of Ukraine No. 889-VII "On Civil Service"¹⁸ indicates that the main duties of the civil servants include a duty "to adhere to the principles of civil service and rules of ethical conduct" (Article 8). Requirements to representatives of local authorities are stipulated in the Law of Ukraine No. 280/97-BP "On Local Self-Government";¹⁹ in particular when defining the main principles of local self-government: "..., transparency, collegiality,..., accountability and responsibility of their bodies and officials to territorial communities,..." (Article 4).

The issue of ethics in public bodies at national and local levels is stipulated in the General Rules of Ethical Conduct of civil servants and local self-government officials²⁰ approved by the State Agency of Public Service in 2016. The General Rules aim to strengthen the quality and reputation of civil servants and local self-government officials, as well as to ensure that people are well informed about the standards of conduct in public authorities.

Transparency and citizen participation have been formally recognised and accepted as the main pillars in the prevention of corruption and crucial to achieve public trust. Since 2011, Ukraine has been a member of the Open Government Partnership (OGP) – a multilateral initiative that aims to secure tangible commitments from governments to promote transparency,

empower citizens, fight corruption, and harness new technologies to strengthen governance.

In 2020, the OGP welcomed three Ukrainian municipalities (Khmelnyskyi, Ternopil and Vinnytsya) among the 56 new members of OGP Local. Their engagement in the OGP Local Programme will positively contribute to the transformation of local governments, ensuring they are more responsive to their residents, improving their efficiency and effectiveness, fostering transparency and open data, increasing accountability and building trust. Furthermore, a Platform for National/Local Dialogue on Open Government was created to increase dialogue between all stakeholders.²¹ The platform is to foster co-creation and exchange of good practices between the national and local levels on open government policies and new legislation, and to ensure the involvement of local authorities in the design, implementation and evaluation of the OGP Action Plan in Ukraine.

In 2021, the Verkhovna Rada adopted a law approving the Action Plan for the Implementation of the Open Government Partnership Initiative in 2021–2022.²² Therefore, Ukraine will start the implementation of its fifth Action Plan for 2021–2022. The implementation of previous OGP commitments provided solid guidance for the realisation of transparency and support for citizen participation.

Legislative reforms of 2015 brought e-democracy and e-governance to the fore. The main milestones achieved were the introduction of e-petitions and the regulation of open data, and the open use of public funds. Success stories, such as the implementation of the e-platform ProZorro, boosted public interest through the promotion of transparency and fair competition in the process of public procurement, thus significantly improving Ukraine's position on the international E-Government Development Index scale.²³ Despite considerable legislative improvements, the implementation of laws and governmental commitments remains a challenge.²⁴ The introduction of e-government is also a basic precondition for building an efficient digital economy and digital market in Ukraine and its further integration into the Digital Single Market Strategy for Europe.²⁵

Through the decentralisation reform, local authorities' influence and responsibilities are steadily increasing. Improving local governance, with special emphasis on transparency and citizen participation, is a key element in overcoming the multiple challenges Ukraine faces nowadays.

1.1. CODES OF ETHICS AND PROFESSIONAL CONDUCT

Codes of ethics establish basic principles by which public servants must abide, such as integrity, selflessness and openness. A code of conduct draws on the code of ethics to formulate standards and practices that should be applied to the particular circumstances of an institution.

A code of conduct sets out specific standards of professional behaviour expected in a host of situations and provides public officials with guidance for handling them. In addition, codes of conduct bring transparency and public accountability into governmental operations.

International standards

Well-designed codes of ethics and codes of conduct will help meet the growing expectations from the public, business leaders and civil society for greater transparency and integrity in government, and will place an onus on governments to ensure high ethical standards amongst public officials and elected representatives. As such, they can support the development of trust between the public and government institutions and officials. It is important that codes of conduct are in place for both civil servants and elected officials, and that training and guidance is provided to ensure a full understanding of the codes by all office-holders. Disciplinary measures and sanctions should be clearly stipulated and consistently applied in the event of noncompliance with the codes.

The following international conventions and standards relate to codes of ethics and professional conduct:

- ▶ The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct for Public Officials**²⁶ and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**²⁷ are the reference texts for local and regional authorities in Europe for ensuring political integrity.
- ▶ The **Committee of Ministers of the Council of Europe's Guidelines on Public Ethics**²⁸ consolidate in one single document Council of Europe core principles, standards and recommendations in this field, covering all categories of public officials, be they elected, appointed or employed. They are complemented by the **Guide on Public Ethics: Practical steps to implementing public ethics in public**

organisations,²⁹ a living document which provides case studies and examples from Council of Europe member states.

- ▶ The **OECD Recommendation on Public Integrity**³⁰ shifts the focus from ad hoc integrity policies to a context-dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.
- ▶ The **Transparency International paper on Implementing Effective Ethics Standards in Government and the Civil Service**³¹ provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.

Domestic context

The importance of codes of ethics and conduct for public officials and elected representatives is widely highlighted in the national legislative framework and strongly supported by the civil society. For instance, creating a trustworthy public service is one of the objectives of the 2014–2017 National Anti-Corruption Strategy.³² Article 37 of the Law No. 1700-VII “On Prevention of Corruption” stipulates that local public authorities should elaborate and implement codes of ethical conduct in different fields of public administration.³³ Thus, the introduction of the code of ethical conduct for public officials is becoming an increasingly common practice.

Legislation

The Law No. 1700-VII “On Prevention of Corruption” (Section VI, Articles 37–44) provides rules for the ethical conduct of public servants and state officials.³⁴ These rules include respect of the rule of law and ethical norms, the priority of public interests, political neutrality for public servants, impartiality, competence and effectiveness, and abstaining from implementing unlawful decisions. The NACP monitors and oversees its implementation, and provides clarification and guidance on the rules of ethical conduct and prevention of the conflict of interest (Article 11).

Ethical principles are defined in the Laws “On Local Self-Government”,³⁵ “On the Status of Local Councillors”,³⁶ and “On Service in Local Government Bodies”.³⁷ On August 5, 2016, the National Agency of Ukraine for Civil Service issued an order “On Approval of the General Rules of Ethical Conduct of Civil Servants and Local Government Officials”.³⁸

Civil servants in their activities are guided by the civil service principles of ethics, based on the provisions of the Constitution of Ukraine, legislation on civil service and prevention of corruption, namely:

1. service to the state and society;
2. decent behaviour;
3. integrity;
4. loyalty;
5. political neutrality;
6. transparency and accountability;
7. conscience.

Guidelines

The National Agency of Ukraine for Civil Service has developed the “General Rules of Ethical Conduct for Civil Servants and Local Government Officials”.³⁹ The guidelines cover four blocs: general duties of civil servants and local authorities; use of official positions; use of state resources; exchange of information and obligation to provide access to public information. Every new public official must be informed about the rules of ethical conduct.

Within the project ‘Transparent Cities’, TI Ukraine provides guidelines for 100 largest cities in Ukraine, based on the assessment of each city in the fields of transparency and accountability of city councils.⁴⁰ There are guidelines on making websites more accessible, conducting public hearings via video links, adopting a code of ethics, etc.⁴¹ The methodology for assessing the transparency of cities evaluates the existence of local acts that would approve the codes or similar documents of local councillor ethics, as well as the ethics for the officials of local executive agencies and utilities.⁴²

Among the main criteria that determine the level of professional ethics are the following:

1. Is the Code of Ethics for Members of the Council or a similar document adopted at the municipal level and published? Does this document contain the principles of non-discrimination and gender equality?
2. Is there a Code of Ethics or a different local act adopted and published which regulates the rules of ethical conduct of local self-government

officials, the staff of municipal enterprises, institutions and organisations, community-founded associations or organisations where a 50% or higher equity stake belongs to the territorial community, as well as organisations that are partially funded by the community?

Other criteria can be found in the new 2020 City Transparency Ranking Methodology.⁴³

Good practices

Creating and introducing a code of ethics was one of the priorities of the project 'Local initiatives on ethical governance and transparency', implemented by Netchyntsi and Slavutych communities.⁴⁴ In the course of the project, the small community of Netchyntsi (Khmelnyskyi Region) elaborated a code of ethics based on public discussions with its local community. The experience of Netchyntsi was applied as a best practice to follow and implement in the neighbouring communities. Within this project, the local councillors of Fastiv (Kyiv Region) have implemented and enacted the code of ethics for the local councillors, and the youth of Fastiv initiated the Code of Fastiv Residents.⁴⁵

Lviv City Council was among the leaders in developing the code of ethical conduct for its officials. In particular, it details moral and ethical principles, standards of conduct for both employees and managers during performance of their duties, and has an annex with the list of categories of unacceptable behaviour, according to the nature of violations (abuse of power and resources, interpersonal and professional violations). Today, we observe a more balanced approach of city councils in the development of their codes of ethical conduct. Thus, international and domestic experts were involved in drafting the Code of Ethical Conduct for officials and employees of Lviv City Council, while the general public, businesses, and representatives of non-governmental organisations took part in its discussion. An innovation of the Code was the workers' right to appropriate working conditions, free from harassment, intimidation, threats, blackmail, or physical, psychological, financial, bureaucratic and administrative pressure.⁴⁶

A unique example of good practice comes from the city of Slavutych (Kyiv Region). The city had adopted the "Code of ethics, honour, good faith, fair and effective governance of the Slavutych territorial community" in 2007, and amended it in 2017 to take into account the residents' demands.

The text of the former code of ethics was updated during several public consultations facilitated by the Community Initiatives Support Office. This Support Office was created as part of the project as a permanent mechanism for monitoring the implementation of ethical standards and as an open platform for discussion between the local authorities and the community.

1.2. COMPLAINTS MECHANISMS

Complaints mechanisms allow citizens to provide feedback to public authorities on the standards of services they receive. They provide an important accountability mechanism which allows civil servants and elected officials to identify where public services are being delivered ineffectively, inefficiently or inequitably. When such mechanisms result in the prompt and effective handling of complaints, they can help to create the conditions for increased trust of citizens in government administration.

International standards

To ensure confidence in the mechanisms, local authorities should endeavour to consider and resolve each complaint promptly and comprehensively. Complaints mechanisms can be made more accessible by applying a one-stop-shop approach so that citizens do not need to search among different offices and websites.

If government takes a proactive approach to pre-empt the repeat of similar causes for complaint, complaints mechanisms can also help governments to identify new approaches to service delivery and to increase citizen participation. To this end, complaints mechanisms should be combined with periodic evaluations of service delivery, including the use of public opinion surveys, and exchange of experience and tools with other local authorities to encourage wider adoption of good practice and tried and tested tools.

There are no specific international standards for complaints mechanisms relating to public services. However, mechanisms and procedures for responding to complaints are incorporated into an international legal guarantee to the right to participate in the affairs of a local authority, and

there are a number of helpful civil society guidelines and handbooks. See for example:

- ▶ The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**⁴⁷ provides an international legal guarantee to this right, including the establishment of mechanisms and procedures for dealing with and responding to citizen complaints and suggestions.
- ▶ **Transparency International's Complaints Mechanisms: Reference Guide for Good Practice**⁴⁸ sets out guiding principles and good practices for establishing and implementing complaint mechanisms that provide safe channels for citizens to alert a public or private institution about any corruption risks or incidences.
- ▶ The **Danish Refugee Council's Complaints Mechanism Handbook**⁴⁹ describes how to set up and manage a complaints mechanism.
- ▶ **World Vision's Overview of NGO-Community Complaints Mechanisms**, with an overview of mechanisms and tools used by development agencies to receive complaints.⁵⁰

Domestic context

Complaints mechanisms fall under the citizens' right to address public authorities, as enshrined in Article 40 of the Constitution of Ukraine.⁵¹ The amendments to the Law "On Citizens' Appeal" adopted in July 2015⁵² allowed people to submit their appeals electronically. Now, most cities in Ukraine have dedicated platforms or other resources, enabling people to easily submit their appeals to the local authorities.

Legislation

The Law No. 393 "On Citizens' Appeal"⁵³ establishes the procedure for filing citizens' appeals and provides respective guarantees to the citizens. Appeals can be submitted in the form of applications (petitions), suggestions and complaints (Article 3 of the Law). Citizens are entitled to refer them to public authorities, local governments, state and municipal enterprises and organisations that are obliged to objectively consider citizens' appeals, take measures to remedy the identified violations, compensate citizens for any

breach of their rights and provide justifications for any decision taken as a result of the examination of the complaints.

The appeals may be filed verbally, in writing or electronically. An exhaustive list of requisites to be stated in the appeal is specified in Article 5 of the Law. It is important that electronic appeals can be filed without the use of a qualified electronic signature (previously known as the electronic digital signature), so that no formal obstacles prevent people from exercising their rights.

A violation of the abovementioned Law may lead to administrative liability (Article 212-1 of the Code of Ukraine on Administrative Offences⁵⁴). Also, a person whose rights were infringed may be entitled to compensation for the caused damages.

Guidelines

The manual *Tools of e-democracy in Ukrainian cities*⁵⁵ encourages local authorities to combine online and offline citizen complaint mechanisms. The online form simplifies the complaints procedure and complements the other instruments to ensure that people have ample opportunities to protect their interests and rights in the way they consider to be the most proper and convenient. The establishment of special citizen complaint centres and good accessibility and ease of the complaint process are highlighted as good practices.

The tutorial “E-Government and E-Democracy” also demonstrates the benefits of using e-democracy and provides real-life examples of implementing electronic mechanisms to submit complaints and suggestions.⁵⁶

Good practices

Odesa City Council has established a citizen complaint centre named ‘1535’ (1535.odessa.ua). Its dedicated website provides a well-structured overview of citizen complaints and the ensuing response of the public authorities. The interactive map allows one to see where the complaint is located. All complaints are categorised in three colours (*new* – red, *in progress* – yellow, and *processed* – green), and 12 themes, such as roads, parks, heating and water supply, among others. A special section of the website called “before and after” shows photos comparing the subject of a complaint (in most cases related to infrastructure) before and after

being repaired or resolved.⁵⁷ Such visualisation makes people aware of the efficiency and effectiveness of their local government, it increases trust and encourages citizen participation.

Lviv is leading in the implementation of e-government at the local level. The city has a Rapid Response Service “1580” (<https://1580.lviv.ua/>). It operates as an interactive online platform, Facebook group and a mobile application enabling city residents to submit complaints and proposals on various topics. One can also access the platform to see the appeals of other residents, see the map of work already done, “before-after” pictures and ratings of the best performers, as well as find other helpful information, etc. More than 183,000 complaints have been submitted via this Rapid Response Service.⁵⁸

The Open City project has created an internet platform (opencity.e-dem.ua) for the residents to interact with local authorities and utility providers. The platform allows people to report problems and refer complaints to the appropriate organisations for settlement. The platform operates in 86 different cities.

1.3. PROTECTION OF WHISTLE-BLOWERS

Corruption and other actions harmful to the public interest, including to public health, are more prevalent in organisations that lack a culture of transparency and oversight. A whistle-blower is a person who exposes information on illegal or unethical activities in a private or public organisation, and the rights of a whistle-blower who discloses wrongdoing, or acts and omissions harmful to the public interest, should be protected under “whistle-blowing” laws. Although usually an employee, the whistle-blower could also be a sub-contractor, supplier, unpaid trainee or volunteer. The protection of whistle-blowers is important also in the private sector, not least where they might uncover bribery to public officials or practices damaging to the environment or public health and safety.

International standards

Most whistle-blowers raise their concerns internally or with regulatory or law enforcement authorities rather than blowing the whistle in public. The protection of whistle-blowers, and an organisational culture that prioritises transparency and dialogue, serves to promote accountability, builds confidence in the integrity of government, and encourages the reporting of misconduct and corruption. Whistle-blower protection can motivate employees to report wrongdoing without fear of reprisals, and fosters transparency and trust within an organisation as well as outwards to citizens that ethics are upheld and misconduct detected and remedied.

The rights of whistle-blowers can be strengthened by stipulating clear processes and providing secure confidential channels for disclosure. Explicit remedies, including penalties, to redress reprisals against whistle-blowers should be introduced and consistently applied. Training of human resources staff in local government and government agencies needs to be complemented by awareness-raising among the public so that citizens and government employees alike understand the positive results from whistle-blowing in terms of sustained value for money, trust in public authorities, and quality of services.

The following international conventions and standards relate to the protection of whistle-blowers:

- ▶ Creating comprehensive and effective mechanisms to protect those who disseminate information in the public interest is a recommendation of both the United Nations and the Council of Europe,⁵⁹ as well as the Organization for Economic Co-operation and Development (OECD).⁶⁰
- ▶ The **Congress of the Council of Europe's resolution and recommendation on *The protection of whistle-blowers Challenges and opportunities for local and regional government*** call on "local and regional authorities to establish and disseminate a whistleblowing policy, with appropriate internal and anonymous reporting channels and to ensure that independent designated institutions exist to oversee and process the disclosure of information."⁶¹
- ▶ The **United Nations Convention against Corruption**⁶² is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by the **Technical Guide to the Convention**.⁶³

- ▶ The **EU Directive on the Protection of Persons who Report Breaches of Union Law** requires EU governments to meet minimum standards for establishing reporting channels and ensuring legal protection for whistle-blowers.⁶⁴
- ▶ The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**⁶⁵ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**⁶⁶ defines common international rules for effective remedies for persons affected by corruption.

Domestic context

Whistleblowers are defined as persons who disclose information about corruption, abuse of power, human rights violation and report other incidents causing harm or threatening public interests.^{67,68}

The protection of whistleblowers is a concept enshrined in law to encourage the reporting of misconduct, fraud and corruption, in particular by providing effective legal protection and clear guidance on reporting procedures, which can also help the authorities monitor compliance and detect violations of anti-corruption laws.⁶⁹ The risk of corruption is significantly higher in the environments where the reporting of wrongdoings is not supported or protected.⁷⁰ Whistleblower protection laws should provide comprehensive protection against discriminatory or retaliatory actions.⁷¹

The protection of whistleblowers in Ukraine is a very relevant issue today. The legal ground for the creation of guarantees for whistleblower protection is found in Article 60 of the Constitution of Ukraine, according to which “no one is obliged to execute obviously criminal orders or regulations”. Furthermore, under certain provisions of the anti-corruption legislation, whistleblowers are exempted from liability for disclosure of information.⁷² However, the above-listed provisions are not enough for whistleblower protection, as the provisions are largely declarative rather than of procedural nature, so there was a need for the law to create a legal framework for whistleblower protection.⁷³

Legislation

On 1 January 2020, the Law of Ukraine № 198-IX “On Amending the Law of Ukraine “On Corruption Prevention” Concerning Whistleblowers” came into force.⁷⁴ The new amendments established additional protection for the whistleblowers and their families.

The Law is a significant step forward in the protection of whistleblowers that provides strong incentives for reporting corruption, for example:

1. whistleblowers are released from legal liability for good faith reporting of corruption;
2. whistleblowers are entitled to pro bono (free) legal help, psychological assistance and confidentiality;
3. whistleblowers’ employers are prohibited from imposing disciplinary sanctions, or dismissing them;
4. whistleblowers’ employers are prohibited from rejecting a whistleblower or his/her relatives from consideration for a job because they have reported corruption.
5. whistleblowers have the right to report possible facts of corruption anonymously as well as receive monetary remuneration for a report, etc.⁷⁵

A whistleblower reporting corruption or a corruption-related offence where the estimated amount of the benefit or damage caused to the state exceeds 5,000 times the minimum living wage for able-bodied persons (i.e., more than UAH 11 million, as of July 2021) has the right to receive monetary remuneration. The amount of the remuneration shall be 10 per cent of the estimated amount of the benefit resulting from the offence or damage caused to the state.^{76,77}

The law established the legal foundation for the NACP to create and administer an anonymous and secure government-wide Whistleblower Reporting Channel (or “Portal”). The Portal will make it easier and safer for whistleblowers to report corruption and reduce the risks of unauthorized access to their communications.⁷⁸

Guidelines

In cooperation with the Ministry of Digital Transformation of Ukraine, the NACP presented the training course “Detector in law” to the attention of civil society.

The training course is to help the audience to learn about:

1. whistleblowing (rights and guarantees of protection under the law);
2. corruption in general and how to report corruption through government websites, etc.⁷⁹

TI Ukraine has prepared the first “Handbook for Corruption Whistleblowers” with practical aspects of protecting whistleblowers’ rights. TI Ukraine also participated in the follow-up work on the eventually approved draft of Methodological Guidelines for the NACP on Organisation of Work with Whistleblower Reports on Corruption.⁸⁰

Good practices

On the website <http://vykryvachi.trudovi.org/>, people can report corruption, ask a lawyer of TI Ukraine a question and find anti-corruption guidelines for any situation.

In 2019, a former employee of the Territorial Center of Social Services in Znamyanka (the Center) challenged his dismissal in court. According to the position of the plaintiff, the head of the Center was allegedly involved in embezzlement of the Center’s funds. The plaintiff announced this information at the plenary session of the city council, and after this announcement, he got fired. The whistleblower shared the same information on embezzlement with pre-trial investigation bodies. Znamyansk City District Court declared the dismissal of the plaintiff illegal. The court reinstated the whistleblower and ordered the Center to pay UAH 65,859 in favour of the whistleblower for the entire period of his forced absence.⁸¹

1.4. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICT OF INTEREST

Disclosure is the act of routinely publishing and updating particular types of information, sometimes required by law, such as the financial interests of public officials. It can support anti-corruption measures by requiring the routine publication of assets and interests that could represent a conflict of interest. A conflict of interest arises, or can be perceived to arise, when the private assets or interests of public officials can improperly influence policies and decisions taken during the exercise of their official duties.

International standards

Disclosure requirements can build citizens' trust in the transparency and integrity of local decision-making. They also assist public officials in having regularly updated information that prevents conflicts of interest arising among employees. Disclosure of financial assets also provides important information to help clarify if elected officials or civil servants do not have wealth that is disproportionate to their income, either protecting them from false accusations or serving as evidence in the case of suspected illicit enrichment.

Service delivery at the local government level, whether it be construction or tendering of waste-management services, is often subject to conflicts of interest due to the proximity of local entrepreneurs to government officials. Confidence of the public and business that competition for local government tenders, for instance, is open to all without discrimination will be much greater if both elected officials and civil servants involved in design of the tenders and assessment of tender submissions have completed declarations of assets and interests (including of close family members).

It is important that the institutions responsible for gathering and monitoring declarations are provided with protection against political or other interference in their work, for instance through oversight by independent ethics committees. Likewise, local government officials should be provided with clear guidance on what to declare, and also on prevailing anti-corruption legislation. A well-implemented and regularly updated and monitored assets declaration system can complement the work of an effective prosecution service.

Disclosure is an important element in the conventions and standards against corruption listed elsewhere in this handbook. Of particular relevance are:

- ▶ The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct for Public Officials**⁸² and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**⁸³ require private interests to be declared, made public and monitored.
- ▶ The **Congress of the Council of Europe's Resolution and Recommendation on Conflicts of interest at local and regional level**⁸⁴ call on local and regional authorities to promote the proactive disclosure of declarations of interest prior to public request and to ensure that disclosure policies are accompanied by appropriate measures for resolving conflicts of interest.
- ▶ The **OECD's Managing Conflict of Interest in Public Service: Guidelines and Country Experiences**⁸⁵ provides practical instruments for modernising conflict-of-interest policies.
- ▶ The **OECD's Asset Declarations for Public Officials: A Tool to Prevent Corruption**⁸⁶ identifies the key elements of asset declaration systems.
- ▶ **Consultation, Participation & Disclosure of Information**, International Bank for Reconstruction and Development / The World Bank⁸⁷

Domestic context

The launch by the NACP of the electronic asset declarations system (public.nazk.gov.ua), which represents the single state database of asset declarations, and making these declarations accessible online are considered crucial accomplishments in the area of fighting corruption in Ukraine.⁸⁸ Further positive developments include the technical upgrade of the e-declaration system and strengthening the NACP's capacity to support system users.⁸⁹

The system has not only become a tool of public scrutiny and transparency but also an instrument for law enforcement agencies to hold those liable for corruption offences accountable. Despite several attempts to sabotage the system and obstruct its implementation, an unprecedented number of public officials have disclosed their assets and declarations of their conflicts of interest.

The system is relevant and applicable to local elected representatives and public officials.

Legislation

The legal regulations for the disclosure of asset declarations is provided in Chapter VII “Financial Control” (Articles 45–52) of the Law No. 1700 “On Prevention of Corruption”.⁹⁰ Since 15 July 2016, two Regulations⁹¹ of the Ministry of Justice announced the process of disclosure and initiated the launching of the electronic asset declarations system for those persons authorised to perform public functions, either at the national or local level.

National, regional and local officials, as well as members of their families, are obliged to disclose their assets (real estate, monetary funds, cash, loans, etc.) and to declare possible conflicts of interest (job position, contracting services, participation in public councils, etc.).⁹² This data remains open and available on the single public database of asset declarations.

The NACP was empowered to control the deadlines, examine lawful submission of declarations, the accuracy of the information, and monitor whether the declared assets correspond to the public official’s lifestyle. In case of misconduct, the NACP informs the special anti-corruption agencies. Misconduct could lead to disciplinary, administrative (Article 172-6 of the Code of Ukraine on Administrative Offences) or criminal liability (Article 366-1 of the Criminal Code).⁹³

The decision of the Constitutional Court of Ukraine No. 13-p/2020 of 27.10.2020⁹⁴ created a deep constitutional crisis⁹⁵ in the anticorruption field in Ukraine⁹⁶. The Court declared unconstitutional and, therefore, invalid, Article 366-1 of the Criminal Code of Ukraine along with a number of provisions of the Law of Ukraine “On Prevention of Corruption” regulating the NACP powers. Promptly after the decision of the Constitutional Court of Ukraine, the Ukrainian Parliament and the Cabinet of Ministers of Ukraine started gradually renewing the powers of the NACP⁹⁷ and bringing back criminal liability for submitting false declarations or failure to submit a declaration.⁹⁸ The work on strengthening criminal liability for these offences is still in progress.⁹⁹

The requirement to disclose conflicts of interest is also established by the Law of Ukraine “On Prevention of Corruption” (Articles 28–36). One should inform a direct manager (if any) or NACP/another designated body of the real or potential conflict of interest the next day after the person becomes aware of it. Afterwards, the conflict is to be settled as provided by the Law. The failure to disclose a conflict of interest can lead to disciplinary or administrative liability (Articles 172-4, 172-5, 172-7 of the Code of Ukraine

on Administrative Offences). In some cases, actions performed within the conflict of interest can also qualify as criminal offence.¹⁰⁰

Guidelines

The NACP website provides practical guidelines and extensive manuals for public officials on requirements as to the asset declarations and disclosure of conflicts of interest, and how to use the single state database of asset declarations.¹⁰¹ The NACP has also launched the Integrity Building Office responsible for awareness-raising and training activities and a user-friendly website “[Declare 2021](https://deklaruy.nazk.gov.ua)” (<https://deklaruy.nazk.gov.ua>) containing answers to the most frequently asked questions by those who fill out asset declarations.¹⁰² The website has been developed in collaboration with TI Ukraine. The NACP also provides interactive voice support for the preparation of e-declarations.

Good practices

Since 2016, a number of regional state administrations have offered special training courses for local public authorities on how to properly prepare and submit e-declarations.¹⁰³ The Mariupol City Council provides a general overview of the relevant information on e-declarations for local authorities on its website¹⁰⁴ and has prepared a manual for local government officials on anti-corruption legislation.¹⁰⁵

The Sumy Oblast Council provides a general overview of relevant information on e-declarations for local public authorities on the council’s website.¹⁰⁶ In addition to general information on e-declarations, the Cherkasy regional administration has systematised the information for different categories of public officials.¹⁰⁷ These actions can help public officials stay informed about their duties and avoid unintended mistakes in the process of disclosure.

Chapter 2

TRANSPARENCY

Introduction

The principle of transparency is applied to ensure that those affected by administrative decisions have comprehensive information about the results and implications of policies and about the process of decision-making. The public availability of information about government policies, programmes and activities enables citizens and local communities to gain a clear understanding of government actions, make informed choices, and participate in local decision-making processes. It also enables elected officials, those in government and those in opposition, to take informed decisions and to exercise effective scrutiny and hold the executive to account for their actions. In addition, access to information is essential for journalists and civil society representatives to effectively perform their watchdog functions and hold the government accountable.

Local government should make data available to the public in an accessible format and do so in a timely manner. This enables citizens and stakeholders to participate in decision-making processes from an informed perspective, and to monitor and evaluate government implementation of policies and decisions in order to hold public officials accountable for their actions. Transparency is achieved through a range of mechanisms, building on the right of citizens to access information. These include the disclosure of the financial assets and interests of senior public officials and elected office-holders, and the publication of information in accessible, intersearchable open-data formats.

According to the definition of the Open Knowledge Foundation, “open data is data that can be freely used, re-used and redistributed by anyone – subject only, at most, to the requirement to attribute and share alike.”¹⁰⁸ Therefore, the concept of open data goes beyond the availability of public information and focuses on its use, out of which additional economic, social and political benefits are generated.¹⁰⁹ To make it happen, the data published should be complete, permanent, non-exclusive, non-discriminatory,

and non-proprietary, as well as provided by primary sources, in a timely manner and in machine-readable formats.¹¹⁰

Limited access to public information negatively affects public trust towards public institutions, increases potential corruption risks, and restricts opportunities for various stakeholders to monitor government performance. It also inhibits citizens and stakeholders' efforts to participate in policymaking and to design evidence-based policy recommendations for positive changes. The practice shows that access to information legislation and proper enforcement measures are an essential part of the enabling environment for citizens' access to information.

Public procurement is considered to be one of the key areas susceptible to corruption. It accounts for around 12 percent of global gross domestic product,¹¹¹ and in most high-income economies the purchase of goods and services accounts for one-third of total public spending. In short, public procurement is a significant area for potential corruption, collusion and other illegal practices. To avoid public procurement-related corruption risks, electronic means and platforms operating through open data solutions are increasingly available and used by government authorities to reform state procurement tendering procedures. Combined with open contracting (where bids and contracts are made public), the increase in fully accessible, well-publicised procurement processes opens tendering to more bidders and reduces the scope for anti-competitive practices and bribery.

Another important component of transparency principles is the openness of the financing of political parties and election campaigns, as it is important for the electorate to know the sources of financing, and how the money is spent, in order to make informed decisions and to understand which financial, political or other interests are supporting particular candidates or parties. The transparency of political donations is a preventive measure against the use of money emanating from illicit and criminal sources in politics and elections.

Finally, to ensure that state resources are used in an economical, efficient and effective way, the independence and institutional capacity of the body responsible for external audit should be secured. Members of the wider public should have the possibility to familiarise themselves with reports and major recommendations issued by the auditor. External audit is important to identify major challenges in the public sector, improve transparency and performance of public institutions, and design evidence-based policies.

General domestic context

The level of transparency and open data in Ukraine has been changing for the better in the last few years. Ukraine is ranked 19th in the Global Right to Information Rating ¹¹² for the strength of its legal framework. The most significant law on open data was adopted on 9 April 2015 – the Law of Ukraine “On amendments to some laws of Ukraine on access to public information in the form of open data”,¹¹³ that introduced big changes in other legal acts. According to these changes, public authorities and local governments must publish and update their data to allow automated processing of such data electronically. The Law No. 183-VIII “On Open Use of Public Funds”¹¹⁴ was adopted to comply with the principle of accountability of open data government. According to this act, public and local authorities and state-owned enterprises must disclose their data, budget and financial information on the internet portal to allow the public to control the use of public funds.

Thanks to open access to information, a number of tools and mechanisms were developed, among which the ProZorro e-procurement system created in 2016, different websites, such as the single government open data website (data.gov.ua)¹¹⁵, which the media, as well as different activist organisations, have used to reveal numerous corruption cases.

Still, despite positive tendencies, challenges persist, and some issues remain underregulated. According to OECD studies ¹¹⁶, there is no established system of indicators for controlling and monitoring budgets and finances of local authorities. The other side of transparency and access to information needs to be taken into account, acknowledging their potential to decrease public trust. People see the revealed corruption, false decision-making and other government mistakes. And one of the tasks of the public authorities and local governments is to increase government credibility by raising public awareness.

2.1. ACCESS TO INFORMATION

Access to information is the legal right for citizens to request and receive information from public authorities. It is often enacted by Freedom of Information legislation. As an integral part of the right of freedom of expression, access to information is a human right¹¹⁷ and everyone should have the right to access information from public bodies and public agencies in accordance with the principle of maximum disclosure subject to only a narrow, clearly defined, set of exceptions proportionate to the interest that justifies them (e.g. grounds of security or data privacy).

International standards

Access to information supports accountability, oversight of government, and monitoring of corruption. It is also critical to informed citizen participation in decision-making, and is therefore fundamental for the effective functioning of democracies. Free access to information empowers civil society to monitor and scrutinise the actions of local authorities, it serves to prevent abuse of power by public officials, and provides data for informed public debate.

The proactive publication of the maximum amount of information in the most accessible formats serves to reduce the need for citizens and stakeholders to file individual requests for the release of information. As well as providing the maximum amount of information electronically, local authorities should prioritise the designation of Freedom of Information officers in their municipalities. Such officers should prepare and publish detailed recommendations for both citizens and local authorities, and provide clear guidance on the appeals process in the event that a request for information is not granted. It is also important to analyse information requests from citizens and stakeholder groups, in particular trends and duplication, so that the authorities can subsequently release such information on a proactive basis.

Access to information is a fundamental component of a number of the conventions and standards against corruption listed elsewhere in this handbook. It also underpins a number of key UN human rights documents. The following specifically relate to Access to Information:

- ▶ The **Council of Europe's Convention on Access to Official Documents (CETS No. 205)**¹¹⁸ affirms an enforceable right to information.

- ▶ The **Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government**¹¹⁹ call upon local and regional authorities to increase the use of open data and records management by their administrations, and to publish these in comprehensive, accessible and reusable ways.
- ▶ The **Aarhus Convention**¹²⁰ grants rights, including access to information, in decisions concerning the environment.
- ▶ The **OECD Recommendation of the Council on Open Government**¹²¹ identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.
- ▶ **Resolution 59 of the UN General Assembly** adopted in 1946, states that “freedom of information is a fundamental human right”, and Article 19 of the **Universal Declaration of Human Rights** (1948) states that the fundamental right of freedom of expression encompasses the freedom to “to seek, receive and impart information and ideas through any media and regardless of frontiers”.¹²²
- ▶ **Directive 2003/98/EC on the re-use of public sector information, nowadays called the Open Data Directive**,¹²³ previously known as the PSI Directive, encourages EU member states to make as much public sector information available for re-use as possible.

Domestic context

The strength of Ukrainian legal frameworks concerning the right to information is recognised to be of high level: in 2020, Ukraine ranked 19th in the global rating.¹²⁴ Advanced legislation on access to information has allowed journalists and activists to reveal multiple corruption cases. Nevertheless, there are still challenges in the enforcement of the right to access information, most of them relating to public servants’ poor knowledge of legal requirements and how to put them into practice. It was reported in 2017 that responses to the requests for access to public information were of poor quality, incomplete or provided with delay,¹²⁵ and such problems still remain relevant.¹²⁶ In 2020, the report on the provision of public information concerning COVID-19 showed that 34% of the answers to the relevant requests were late, and 30% of the answers were not provided in the format requested by the applicant.¹²⁷ Finally, there is no system to address the problem of

systematic underperforming or failing to properly disclose information by public authorities.

To overcome these challenges, some leading NGOs in Ukraine have initiated the Fund for the Right to Information Protection, and over 150 lawyers joined the Network of Defenders of the Right to Access Information¹²⁸ that was founded back in 2012.¹²⁹ The Network provides free expert legal assistance with the aim to guarantee legal protection of the right of access to information,¹³⁰ and support the implementation and ratification of the Tromsø Convention in Ukraine.¹³¹ The Tromsø Convention was ratified by Ukraine in May 2020. It is the first international document of binding nature that recognises the general right of access to official documents held by public authorities.¹³²

Legislation

The Constitution of Ukraine guarantees citizens' right to access information (Article 34, paragraphs 2 and 3).¹³³ The Laws No. 2939 "On Access to Public Information",¹³⁴ No. 2657 "On Information",¹³⁵ and No. 183 "On State Secret"¹³⁶ regulate access to information. In line with the Law "On Access to Public Information", no information held by public authorities can be restricted unless the information is confidential, secret, or for internal use only. The access to information may be provided (1) via official publications, websites and information stands or (2) in response to individual requests (Article 5 of the Law No. 2939).

In particular, according to the Law No. 2939 "On Access to Public Information",¹³⁷ national and local authorities are obliged to publish accurate, exact and complete information, as stated in Article 14. They are required to disclose different categories of information as listed in Article 15, including accessible information about the structure, mission, functions, budget of the organisation, laws that regulate their work, decision-making process, list of the mechanisms through which people can advocate their interests, reports about the sessions and the institutional work, action plans, etc.

Restriction of access to information must be based on the so-called "three-part test" (*tryskladovyi* test) of public information, as stipulated in Article 6, paragraph 2 of the Law No. 2939. The Law provides for the obligation to create structural units or appoint freedom of information officers by public authorities. The Law assigns some monitoring functions to the Secretariat of the Ukrainian Parliament Commissioner for Human Rights (Ombudsman's

Office).¹³⁸ However, international organisations recommend setting up or designating an independent authority to supervise and enforce regulations on access to public information.¹³⁹

The violation of the right to request and obtain information from public authorities can be punished by a fine of up to 80 non-taxable minimum income (UAH 1,360), as stated in Article 212.3 of the Code of Ukraine on Administrative Offences.¹⁴⁰ The unlawful refusal to provide journalists with access to public information can be punished by a fine or up to 3 years of imprisonment (Article 171 of the Criminal Code of Ukraine).¹⁴¹ Those persons whose rights and legal interests to access public information were violated are entitled to receive compensation for material and moral damages (Article 24.2 of the Law No. 2939 “On Access to Public Information”).

Guidelines

To ensure the right of access to public information, public authorities and other “information administrators” (Article 3 of the Law No. 2939), must designate special units or freedom of information officers who will provide information upon request. Also, the Law No. 2939 specifies that procedures for submitting requests and obtaining information are to be as simple as possible, and it guarantees the right to access the meetings of collegial bodies unless restricted by the laws.

The Ombudsman’s Office and leading NGOs in the field have developed a number of guidelines to help both information administrators and the public to cope with possible issues arising in the context of providing and obtaining access to public information:

1. There is a checklist for persons responsible for access to public information, explaining with examples how to make a decision on the possibility to disclose the requested information.¹⁴²
2. The most comprehensive guide prepared by the Ombudsman’s Office covers all crucial issues of the access to information procedure in the FAQ format. It provides detailed recommendations for the public and the authorities, explains how to appeal the decisions of information administrators and contains examples of requests, answers and refusals.¹⁴³
3. There is also a manual for local authorities explaining how to efficiently organise the work of information administrators and how

to deal with practical challenges while providing access to public information.¹⁴⁴

4. Finally, there is a manual providing more specific guidelines for creating a space in public buildings with the necessary conditions to provide access to public information.¹⁴⁵

Good practices

The website “Access to the truth” (dostup.pravda.com.ua) is a platform for the submission of electronic requests to holders of information, in accordance with the Law “On Access to Public Information”. To obtain information, the applicant must:

1. Go to the website “Access to the truth”;
2. Choose from a list the holder of information from whom you need information;
3. Submit a request by using a form on the website; and
4. Check your electronic or postal mailbox.

A request for information is a person’s request to the information manager asking to provide public information or documents that contain the information and are in his/her possession (for example, information on the use of budget funds or a copy of the decision of a city council session). In Ukraine, individuals (be it citizens of Ukraine, foreigners or stateless persons), public associations and legal entities have the right to access public information.

The publication *Examples of good practices of municipal transparency*¹⁴⁶ developed by TI Ukraine contains ideas and instruments to increase the degree of openness in Ukrainian cities. The purpose of featuring such examples is to help local authorities adapt the successful experiences of other municipalities to their own structures. The collection covers 86 transparency indicators, each of which contains examples of best practices and a link to the site of the relevant city council. In February 2021, TI Ukraine also released the results of the study on municipal transparency involving the 100 largest cities of Ukraine in 2020. The top five cities are Mariupol, Lviv, Drohobych, Vinnytsia, and Ternopil.¹⁴⁷

In 2017, the platform of access to public information ‘Ombudsman Plus’¹⁴⁸ monitored the implementation of the legislation on access to information in different regions of Ukraine and identified Vinnytsia and Odesa regional state administrations, Ternopil Oblast Council and Kherson City Council as best practice cases.¹⁴⁹ These local public authorities have achieved the implementation of the right of access to public information by following these steps:

1. they implemented the necessary regulations on access to public information in the local and regional legislation;
2. they provided timely and complete information upon request;
3. they provided access to information online, including information on financial resources;
4. they had proper conditions and created a space in their buildings to provide access to public information *in situ* (e.g. facilitating the access to meetings of local authorities).

When another monitoring round with the same methodology¹⁵⁰ was conducted in 2018, Sumy City Council and Lutsk City Council showed great improvements in their practices and were recognized to have the highest level of access to public information among the city councils of Ukrainian regional centers.¹⁵¹

A city bot “Nazar”¹⁵² implemented by such cities as Mariupol, Berdiansk, Zaporizhia, Drohobych, Ternopil, Lutsk and Slavutych shows an example of how access to public information can be provided to the public in the most convenient way. The city bot “Nazar” operates via popular messengers and provides up-to-date information as to the work of utilities, the schedule of repairs and maintenance works, and timeframes for addressing municipal emergencies.

2.2. OPEN DATA

Open data is the publication of data and information in a format that may be freely used, modified and shared. The OECD states that open data is “a set of policies that promote transparency, accountability and value creation by making government data available to all”. By making data generated through the activities of public bodies available, government becomes more transparent and accountable to citizens. It also supports business growth and the development of services centred on citizens, and provides important data for research and innovation by public bodies, the private sector, and civic stakeholders.

International standards

The promotion of open data through one-stop portals can further increase the scope for interoperability of datasets in terms of search and analysis. The results can improve the efficiency and reach of service delivery and reduce corruption. Awareness-raising among stakeholder groups, the media, businesses, and the wider public can result in effective co-operation among different stakeholders and improvements in solutions on transportation, recreation facilities, parking zones, health services, and much more.

It is important to adopt consistent open data standards for all open data to ensure maximum interoperability and searchability of data. Local authorities should also ensure that qualified staff manage the municipality’s open data publication, and train relevant employees in open data standards.

Open data is a relatively new phenomenon without officially endorsed standards. However, a number of useful guidelines exist:

- ▶ The **Congress of the Council of Europe’s Resolution and Recommendation on Open data for better public services**¹⁵³ explain its importance for improving local democracy.
- ▶ The **Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government**¹⁵⁴ call upon local and regional authorities to increase the use of open data and records management by their administrations.
- ▶ The **United Nations Guidelines on Open Government Data for Citizen Engagement**¹⁵⁵ introduce policy guidelines and good practice recommendations.

- ▶ This **World Bank Toolkit**¹⁵⁶ starts from the basics, through to planning and implement, as well as avoiding common pitfalls.
- ▶ The **Five Star Open Data Deployment Scheme**¹⁵⁷ provides five steps to fully opening data, explaining the costs and benefits of each.
- ▶ The **International Open Data Charter**¹⁵⁸ sets out six principles for open, timely and interoperable government data.
- ▶ The **OECD Recommendation of the Council on Open Government**¹⁵⁹ identifies on-demand provision of information and proactive measures by the government to disseminate information as an initial level of citizen participation.

Domestic context

Ukraine has a well-developed open data ecosystem, and it keeps improving it. At this stage, the 2020 EU Open Data Maturity Report, prepared by the European Data Portal on an annual basis, places Ukraine in the category of fast-trackers.¹⁶⁰ It includes assessment of four dimensions of open data: (1) **'policy'** covering relevant national strategies and policies, (2) **'impact'** measuring the impact of the re-use of open data in terms of political, social, environmental, and economic impact, (3) **'portal'** assessing how the national open data web portal is tailored to the needs of its users, and (4) **'quality'** focusing on such properties of open data as data formats, machine-readable, high-quality and suitable to a linked data approach.¹⁶¹ With these estimation criteria, Ukraine has a maturity score of 84%, whereas the average score in Europe is 78%.¹⁶²

On 9 April 2015, a major step was made towards open data in Ukraine with the adoption of the Law No. 319-VIII "On amendments to some laws of Ukraine on access to public information in the form of open data",¹⁶³ introducing significant changes in other relevant legal acts. These changes obliged public authorities and local governments to publish and update on a regular basis public information in the form allowing automated processing of such data by electronic means. What is even more important, the Law No. 319-VIII clearly stipulated that any person is free to copy, distribute and use such open data, including for commercial purposes, separately or in combination with other information, or by including it in their own products.

Open data must be provided free of charge on the webpages of the authorities and on the single government open data website (data.gov.ua),¹⁶⁴

that was updated in 2021. Alongside the update of the single government open data website, the Ministry of Digital Transformation also launched a chatbot in Telegram @DataGovUa_bot, where the function of notification about the update of selected data sets is available.¹⁶⁵

The provision of open data in Ukraine has enabled significant progress for public control of the national and local budgets,¹⁶⁶ public procurement¹⁶⁷ and beneficial ownership disclosure.¹⁶⁸ They also boosted many private initiatives and businesses in the field of data analytics and monitoring, such as [Opendatabot](#), [Vkursi](#) and [YouControl](#), further promoting business openness and convenient access to data.

In 2019, the Ministry of Digital Transformation was established instead of the State Agency for E-Governance. Now it is responsible for the implementation of the open data policy, providing support to local authorities and raising public awareness.¹⁶⁹

In May 2021, the Ministry of Digital Transformation launched the Centre of Competencies in the field of open data “Diia.Open data” ([diia.data.gov.ua](#)).¹⁷⁰ It is intended to raise awareness of different groups of society as to the access to open data, help people monitor the work of public officials and create new services with the use of open data.¹⁷¹

Legislation

The provisions on open data constitute an integral part of the legislation on access to public information. In particular, Article 10-1 of the Law “On Access to Public Information” sets the regime for ‘public information in the form of open data’ meaning the data in the form allowing its automated processing by electronic means, free access to it, as well as its free further use. To bring these provisions to life, the Cabinet of Ministers issued the Decree No. 835 on 21 October 2015, defining the sets of data to be published in the form of open data.¹⁷² These data sets are available on the official websites of relevant state bodies and on the Unified Government Web Portal of Open Data ([data.gov.ua](#)). Such provisions have substantially reduced the workload of the information administrators concerning requests for public information and made the work of specialists more efficient.

In March 2021, the Cabinet of Ministers of Ukraine adopted the Decree No. 407 adding the financial statements of the companies to the list of public information in the form of open data.¹⁷³ This step was highly anticipated by the

society. Although starting from 1 January 2018, the Law “On Accounting and Financial Reporting in Ukraine” clearly stated that the financial statements of enterprises do not constitute a trade secret/confidential information or information with limited access and should be provided at request,¹⁷⁴ both companies and tax authorities refused to provide them when requested.¹⁷⁵ The Decree No. 407 eliminated this problem, and the financial statements are now publicly available on the single government open data website (data.gov.ua).¹⁷⁶

Guidelines

Since March 2017, the Open Data Roadmap for Ukraine¹⁷⁷ has provided an extensive list of practical recommendations that public authorities may follow in order to comply with the international standards on open data. All these recommendations are based on six major principles, according to which: data should be open by default, timely and comprehensive, accessible and usable, comparable and interoperable, provided for improved governance and citizen engagement; and for inclusive development and innovation.¹⁷⁸

The detailed recommendations on publication of the specific sets of open data have been developed by the Ministry of Digital Transformation.¹⁷⁹ In particular, they include recommendations for the publication of 14 different open data sets managed by public authorities and 64 sets managed by local governments.¹⁸⁰ The information administrators may also study the methodological recommendations on depersonification of the open data sets.¹⁸¹

In addition to the available guidelines, the Ministry of Digital Transformation has training and educational programs on open data both for private professionals and information administrators.¹⁸²

Alongside the recommendations developed by governmental bodies, documents drafted by NGOs and private initiatives also provide helpful guidance on how to handle open data. In particular, the independent media texty.org.ua has published a manual “Open data: formats and rules of creation”,¹⁸³ whereas the “Data of the cities” project team introduced a handbook on “Open data for cities. Practical aspect”.¹⁸⁴

Good practices

The Ministry of Digital Transformation has developed the “Typical solution for the local portal of open data” that local governments can use.¹⁸⁵ Mariupol was the first city to get a non-exclusive license to use this solution and launch its local open data portal (data.mariupolrada.gov.ua).¹⁸⁶ The portal gives access to the sets of open data from 19 spheres.¹⁸⁷ “InfoHub” section of the portal contains instructions on the requirements to the data sets, detailed recommendations for information administrators, users of the portal and software developers willing to use the data sets through API, as well as other useful information.¹⁸⁸

Another city, Kolomyia, has launched its local open data portal¹⁸⁹ with the help of the “Data of the Cities” project implemented by the Civic Network OPORA and TechSoup with the support of the National Endowment for Democracy. This web portal was developed on the open CKAN platform and has published 801 different sets of open data.

However, local governments do not only publish open data on the web portals for the use of the residents, they also use open data to develop their own services. For example, Lviv has launched the LvivCityHelper bot that operates in Telegram and Facebook Messenger and, based on open data, provides answers to the frequently asked questions concerning daily life in the city. The CityHelper bot solution is now available to other cities that can file applications on the project’s website.¹⁹⁰

2.3. PUBLIC PROCUREMENT

Public procurement refers to the process by which public authorities, including local authorities, purchase work, goods or services. It is an essential part of public service provision for local and regional authorities; efficient and cost-effective procurement is key to good governance.

International standards

As procurement involves a large proportion of public expenditure and the transfer of public resources to the private sector or non-profit organisations, it is particularly vulnerable to corruption. Public authorities should deploy new technologies to increase transparency over public procurement and

encourage new economic actors to enter bidding processes in the confidence that free and fair competition is applied. By posting all tenders on a common online platform, the occurrence of unpublished tenders and direct awards will be minimised. Use of open contracting and open bidding solutions also allows greater scrutiny of the process, further reducing the scope for corrupt practices. Open contracting systems include a preventive effect, because officials will refrain from manipulating the contracting process if they know that comprehensive disclosure of the bidding and contracting processes will be revealed.

Local authorities should ensure that there is a comprehensive system in place to monitor compliance with public procurement legislation, and that there is a responsive mechanism for reviewing appeals and complaints, including prompt and comprehensive replies. Authorities should also monitor contract implementation, in particular time extensions and cost increases, to ensure that the benefits in terms of value for money and quality of delivery are not compromised during contract implementation.

The following international conventions and standards relate to public procurement:

- ▶ The **Congress of the Council of Europe's Resolution and Recommendation on Making public procurement transparent at local and regional levels**¹⁹¹ and the **OECD Checklist for Enhancing Integrity in Public Procurement**¹⁹² provide guidance for enhancing transparency and promoting integrity in procurement.
- ▶ The **OECD Recommendation of the Council on Public Procurement**¹⁹³ promotes a strategic and holistic use of public procurement systems across all levels of government and state-owned enterprises. The online **Public Procurement Toolbox**¹⁹⁴ provides policy tools, specific country examples as well as indicators to measure any public procurement system.
- ▶ The **WTO Agreement on Government Procurement**¹⁹⁵ establishes rules requiring that open, fair and transparent conditions of competition be ensured in government procurement.
- ▶ The **EU Directive on Public Procurement**¹⁹⁶ ensures the best value for money for public purchases and guarantees the respect of the EU's principles of transparency and competition.

- ▶ The **UNCITRAL Model Law on Public Procurement**¹⁹⁷ is a legal template available to governments seeking to introduce or reform public procurement legislation for their internal market.
- ▶ The **European Bank for Reconstruction and Development (ERBD) Guide to Electronic Procurement Reform**¹⁹⁸ provides information on and assistance with designing and implementing domestic eProcurement reforms.
- ▶ **Open Contracting Data Standard (OCDS)**,¹⁹⁹ providing open data standard for publication of structured information on all stages of a contracting process: from planning to implementation.
- ▶ **UNODC's (United Nations Office on Drugs and Crime) Guidebook on anti-corruption in public procurement and the management of public finances**,²⁰⁰ which provides good practices in ensuring compliance with article 9 of the United Nations Convention against Corruption.
- ▶ **World Bank's Annual Reports**²⁰¹ – Benchmarking Public Procurement, which have been assessing public procurement regulatory systems in different countries

Domestic context

Public procurement refers to the process by which public authorities, including local authorities, purchase work, goods or services.

As public procurement is an essential part of public service provision for local and regional authorities, efficient procurement is key to good governance. However, procurement involves a large proportion of public expenditure and the transfer of public resources to the private sector or non-profit organisations, hence it is particularly vulnerable to corruption.²⁰²

Therefore, public authorities have to increase transparency of public procurement, with the help of new technologies, and allow greater scrutiny. Open contracting systems will also create a preventive effect, because officials will refrain from manipulating the contracting process if they know that the details will be revealed.

Created in 2016, the ProZorro (prozorro.gov.ua) e-procurement system has significantly enhanced transparency in public procurement and contributed to fighting corruption at all levels of governance. Owing to the high level

of transparency of the ProZorro platform, all users are able to detect procurement procedures that may entail a violation of law, as provided for in Article 9 of the Law No. 922-VIII “On Public Procurement”²⁰³ which concerns civic oversight. However, improvements to the public procurement system are still needed, in particular, mechanisms for public requests for investigation and information on actual payments per procurement agreement in order to further increase transparency in decision-making.

Legislation

In 2015, the Ukrainian Parliament adopted the Law “On Public Procurement”. Since then, this law has facilitated the creation of an e-procurement system, bringing e-democracy and e-governance to a new level. Open procedures and competitive selection now take place exclusively on the electronic platform ProZorro, which has boosted transparency and has significantly improved Ukraine’s position in the international E-Government Development Index scale.²⁰⁴ Similarly, the DoZorro portal (dozorro.org) offers a database for real assessment of purchasers, suppliers and individual tenders that allows to monitor public procurement effectively.

Ukraine continued on its path to reform by becoming a fully-fledged member of the World Trade Organization’s Agreement on Government Procurement in 2016 and by adopting the Resolution No. 175 of the Cabinet of Ministers “On the Public Procurement Reform Strategy and Action Plan (Roadmap)”²⁰⁵ which addresses the development of the public procurement system from 2016 to 2022 in compliance with the provisions of the “EU – Ukraine Association Agreement”²⁰⁶

In September 2019, the Parliament of Ukraine adopted a number of amendments to the Law “On Public Procurement” with the aim of bringing the national legislation on public procurement in line with the Directives 2014/24/EU²⁰⁷ and 2014/25/EU²⁰⁸ of the European Parliament and of the Council. On 19 April 2020, those amendments came into force. The amendments are generally deemed positive, as they aim to increase the level of control and transparency of the procurement procedure and eliminate a number of existing critical issues that were widely abused and taken advantage of. The law introduces a number of significant changes to public procurement procedures.²⁰⁹

- ▶ Below-threshold procurements are now regulated by the introduction of simplified procurements, which contracting authorities are to make using the electronic procurement system (“Prozorro”);
- ▶ As a general rule, if the value of a procurement item equals to or exceeds UAH 50,000 but is less than UAH 200,000 for goods/services or less than UAH 1,500,000 for works;
- ▶ For natural monopolies, if the value of a procurement item equals to or exceeds UAH 50,000 but is less than UAH 1,000,000 for goods/services or less than UAH 5,000,000 for works.

The new version of the Law also introduced measures for identifying price dumping more easily, adopting non-price criteria for assessing proposals, and leading to more professional procurement due to the transition from “tender committees” to “authorised procurement officials”. Besides, the new version of the Law significantly expanded the list of violations for which officials can be held administratively liable, and it increased the amount of fines for such violations.²¹⁰

Moreover, according to Article 62 of the Law “On Prevention of Corruption”²¹¹, legal entities participating in public procurement procedures where the expected value equals or exceeds UAH 20 million must have established and authorised anti-corruption programmes (that is, a set of rules, standards and procedures for detecting, combating and preventing corruption within a legal entity’s list of activities).

Public procurement efficiency is also enhanced by the Law “On Electronic Documents and Electronic Document Management”,²¹² “On Electronic Trust Services”,²¹³ “On Access to Public Information”,²¹⁴ “On the Antimonopoly Committee of Ukraine”²¹⁵ and a number of by-laws enforcing transparency and efficiency in the public procurement system in Ukraine.

To respond to the challenges caused by COVID-19 and the need to ensure the procurement of goods and services, the Ukrainian Parliament adopted the Law “On Amendments to Some Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)”²¹⁶ which amends the Law “On Public Procurement” to ease the procurement process for goods, works or services necessary to prevent the spread of COVID-19.

Guidelines

The Ministry of Economic Development and Trade of Ukraine (MEDT), in line with the Law “On Public Procurement”, has developed the special Information Resource of the Authorised Body in the field of public procurement.²¹⁷ Its aim is to disseminate information on the application of public procurement legislation, as well as on the effective implementation of the public procurement policy by the Authorised Body.

The ProZorro Infobox (infobox.prozorro.org), a knowledge centre on public procurement, provides information for customers and suppliers about all the innovations in the ProZorro system, amendments to the applicable laws, and gives answers to all the questions of the participants of procurement procedures. It also shares methodological materials, explanatory notes, on-line training courses and a forum for discussing public procurement issues among customers, suppliers, and representatives of the ProZorro team and the MEDT.

In 2019, the MEDT developed the “Guidelines on ethical conduct in public procurement”²¹⁸ for public authorities, local self-governments and other organisations engaged in public procurement. The Guidelines are not a legally binding document, yet it provides important recommendations for public authorities and local self-government to ensure accountability and transparency. Specific sections of the Guidelines relate to openness and transparency during all stages of public procurement, non-discrimination and prevention of corruption.

Good practices

For four years of its existence, Prozorro has shown great results in reducing public expenditures. In 2020, the competition at the auctions allowed for the total savings in the amount of 55.9 billion hryvnias representing a difference between the expected price of goods and services and the amount of the concluded contracts.²¹⁹

Between March and May 2021, there have been almost 177 thousand purchases in Ukraine made through the ProZorro e-procurement system, most of which related to medical equipment, pharmaceutical products, and emergency and security equipment to combat the COVID-19 pandemic. The number of purchases is growing rapidly. The degree of transparency in public procurement was substantially enhanced with the introduction

of a business intelligence tool (covid.dozorro.org) which enables the search and monitoring of information concerning COVID-19 procurement conducted by national and local authorities.

2.4. EXTERNAL AUDIT

External audit is the regular, independent scrutiny of accounts and financial information to ensure that public money is used appropriately and effectively. External audits are undertaken in accordance with relevant laws and rules to support those external to government to hold it to account. As well as audit of the financial statements of local budget institutions, external audit can look beyond finances to assessing the performance of government against its own objectives, or in providing programmes and services.

International standards

- ▶ The **International Public Sector Accounting Standards**²²⁰ focus on the accounting, auditing, and financial reporting needs of central, regional, and local governments, related governmental agencies, and the constituencies they serve.
- ▶ The **International Standards of Supreme Audit Institutions**²²¹ website contains a complete collection of professional standards and best practice guidelines for public sector auditors.
- ▶ A number of the conventions and standards for combatting corruption include provisions and clauses relating to external audit.

Domestic context

In the course of sweeping decentralisation reforms, local budgets grow significantly, but the external audit of local public authorities remains underregulated. As stated in the OECD study “Maintaining of the momentum of decentralisation in Ukraine”, “there is no adequate system of indicators for monitoring, evaluating and controlling the finances and budget of the subnational level”.²²² As a result, there is an increasing number of educational initiatives that empower individuals and teach local authorities to properly develop, implement and control public budgets.²²³

Although the external audit remains not a very common practice, public information requirements enhance the accountability of the local governments, as well as provide the public with necessary tools to control the use of public funds. For example, to ensure proper implementation of the principle of transparency and publicity of the budget process (Article 7 of the Budget Code),²²⁴ the Parliament has adopted the Law No. 183-VIII “On Open Use of Public Funds”.²²⁵ According to the Law, public authorities, local government bodies, state and municipal enterprises must publish information about the use of public funds on the Single web portal on the use of public funds (spending.gov.ua).

Additionally, in 2018, the Ministry of Finance of Ukraine initiated the development of the government web portal on the budget for citizens (openbudget.gov.ua)²²⁶ to implement the ‘Concept of creating an integrated information and analytical system “Transparent Budget”’ adopted by the Cabinet of Ministers of Ukraine.²²⁷ The portal provides information about the budget process and its participants and presents national and local budgets indicators. The portal also contains the BOOST-analysis tool developed according to the World Bank methodology. It is designed to analyse budgets at all levels: from the small village to the big city and the state, in terms of both revenues and expenditures.

Legislation

Chapter V of the Budget Code of Ukraine sets rules on the oversight and audit of public finances. In line with the Code’s Article 110, and Article 15 of the Law No. 576 “On Accounting Chamber”,²²⁸ the Accounting Chamber of Ukraine (ACU) provides financial audit of the money transferred between the national and local budgets. The ACU defines the fairness, lawfulness and effectiveness of such transfers between the administrators and recipients of public funds.

While the ACU acts on behalf of the Parliament, the State Audit Service of Ukraine,²²⁹ the State Treasury of Ukraine,²³⁰ and local finance authorities perform financial control on behalf of the executive (Articles 111–113 of the Budget Code). They oversee compliance of local authorities with the budget legislation, even though the co-ordination of these institutions remains poorly regulated.

A violation of the budget legislation (all forms of violations are listed in Article 116 of the Budget Code of Ukraine) leads to administrative (Article 164-12

of the Code of Ukraine on Administrative Offences)²³¹ or criminal (Articles 210–211 of the Criminal Code of Ukraine)²³² liability.

Guidelines

As part of an assessment of fiscal risks associated with local governments, the International Monetary Fund (IMF) recommends local authorities to roll out the internal audit function to all budget entities: *“international experience suggests that seeking to strengthen the internal control framework within budgetary institutions — where managers are given greater flexibility but in an environment of robust transparency and accountability — is the best solution to promoting good public financial management outcomes”*.²³³

According to the IMF, the key elements of a strong and modern internal control regime are:

- ▶ Enhanced flexibility for managers in executing their budgets;
- ▶ A shift away from control over inputs toward attainment of outcomes;
- ▶ A clear legal requirement for senior managers in budgetary institutions to establish a sound internal control regime;
- ▶ Strengthened reporting regime, requiring agencies to produce a publicly released annual report with Annual Financial Statements;
- ▶ External audit of the annual reports of all agencies.

The OECD recommends Ukrainian authorities to extend the remit of the Accounting Chamber of Ukraine to subnational governments in order to improve external audit and the governance of public investments across levels of government for regional development in Ukraine.²³⁴

Also, under the auspices of the United Nations Peacebuilding and Reconstruction Program, a handbook on financial activities of the local government has been developed. It contains a chapter on transparency and accountability in the system of financial management of local governments.²³⁵ The handbook provides helpful guidance on how local governments can effectively initiate and facilitate the system of public control and participatory audit of the local budget and financial assets of the municipal enterprises.

Good practices

Open local budgets and the engagement of civil society during the audit process are useful practices to overcome some of the external audit's limitations.

An innovative example of such approach is the initiative for a comprehensive external public audit of the Okhtyrka City Council.²³⁶ Local public authorities and the Civic Council of Okhtyrka (Sumy Region) agreed upon the following principles of the external audit:

- The Civic Council can initiate external audit of all public finance spheres, and local authorities are obliged to consider the results;
- The auditors are appointed by the Civic Council, taking into account their professional qualifications;
- The results of the public audit must be published in the media.

Such initiatives by local public authorities help draw on the skills and experience of the public for the delivery of more effective public services.

Another example of the combination of public and government audit is offered by the project 'Effective and fair local budgets' in Mykolaiv.²³⁷ The City Council closely collaborates with the civil society on improving the effectiveness of the local budget, based on the results of a public audit.

2.5. FINANCING OF POLITICAL PARTIES

Financing of political parties and election campaigns is a necessary component of the democratic process. It enables the expression of political support and competition in elections. Principles governing the financing of political parties should include fairness in the distribution of state funding, strict rules concerning the transparency and limits on the size of private donations, ceilings on campaign expenditure, full transparency of funding and expenditure, independent election commissions, independent audit of campaign finance, and the consistent imposition of proportionate sanctions on candidates and political parties that violate the rules (such as fines or a reduction in state contributions to future election campaigns).

International standards

Clear rules and transparent reporting of political campaign financing and expenditures are essential to sustain trust in political candidates, political parties and government institutions. An imbalance in funding of political parties may result in an unfair advantage, handing undue influence to powerful narrow interests, running the risk that policies will be “captured” by narrow private interests, serving their goals over the public interest.²³⁸

Mechanisms and rules on limits on party political financing, and on state financing of political campaigns, should be designed in a way that provides a level playing field for the different political candidates and parties competing in elections and serves to preserve the political forces’ independence from financial supporters.

The following international conventions and standards relate to the financing of political parties:

- ▶ The **Congress Resolution 402 (2016) on “The misuse of administrative resources during electoral processes”**,²³⁹
- ▶ The **Guidelines and report on the financing of political parties** (Council of Europe, Venice Commission, 2001),²⁴⁰
- ▶ The **Compilation of Venice Commission Opinions and Reports concerning Political Parties** (Council of Europe, Venice Commission, 2013),²⁴¹
- ▶ The **Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns**.²⁴²

Domestic context

Financing of political parties means the activities of the state, legal entities and individuals, regulated by law and carried out in order to ensure the financial capacity and functioning of political parties.²⁴³

In order to prevent any illegal influences over political process and not to undermine representative democracy, it is crucial to ensure transparency of the financing of political parties. A reasonable balance between public and private funding, fair criteria for the distribution of state contributions to the parties, strict rules concerning private donations, a threshold on parties’ expenditures linked to election campaigns, complete transparency of

accounts, the establishment of an independent audit authority and meaningful sanctions for those who violate the rules²⁴⁴ are important principles designed to properly regulate the financing of political parties.

Nowadays, political parties in Ukraine can get funding from two sources: (1) contributions from individuals and legal entities and (2) state financing.²⁴⁵ The state financing of political parties was introduced as part of the overall anti-corruption reforms launched after the Euromaidan Revolution.²⁴⁶ The new provisions were designed to ensure accountability of the funding of political parties and reduce the influence of private capital. They took force on 1 July 2016.²⁴⁷ The legislation meets international standards for establishing effective financing and ensuring transparency of party finances. It was positively assessed by the Group of States against Corruption (GRECO),²⁴⁸ the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe.²⁴⁹

In May 2021, the NACP officially launched the Unified State Register of Reports by Political Parties– the POLITDATA (<https://politdata.nazk.gov.ua>).²⁵⁰ It simplifies the reporting process for political parties, as well as enhances the level of transparency of the funding process. The register is designed to provide the public with free access to information and is a convenient tool to scrutinize the revenues and spendings of the political parties. The information from the register is available in the form of open data and can be automatically processed via open API.²⁵¹

Legislation

Financing of political parties is regulated by the Law of Ukraine “On Political Parties” (Sections IV and IV-1).²⁵² Although generally political parties are allowed to receive private contributions, the Law imposes a number of limitations on the sources of private financing. In particular, the parties cannot get contributions from state and municipal enterprises, public authorities and local governments, minors and incapacitated persons, foreign governments, foreign legal entities and nationals, unregistered civic organisations, charity and religious foundations, and other political parties. Furthermore, to prevent lobbying and corruption, Article 15 of the Law sets conditions for private funding of political parties.

The state funding of political parties constitutes another source of their income. At the expense of the state budget, Ukraine finances the statutory activities of political parties, as well as reimburses the expenses related

to the election campaigns (Article 17-1). State financing is provided to the parties which have received not less than 5% of the total number of the votes and got into the parliament (Article 17-3).

The political parties are obliged to conduct an annual internal financial audit of their activities. A political party that has received state funding must also undergo an external independent audit of its financial statements. Finally, the political parties and their local branches are required to quarterly submit their financial statements to the NACP. The statements are submitted electronically and are further included in the Unified State Register of Reports by Political Parties (Article 17 of the Law).

The government control of compliance with the statutory restrictions on the financing of political parties is performed by the NACP.²⁵³²⁵⁴ The violations of the applicable requirements as to the sources of funding of political parties, as well as reporting obligations, may lead to administrative (Articles 212-15, 212-21 of the Code of Ukraine on Administrative Offences) or criminal liability (Article 159-1 of the Criminal Code of Ukraine).

Guidelines

TI Ukraine, together with the TI Latvia, Latvian anti-corruption experts and other NGOs, published a handbook on Latvian Experience regarding control of political finance "[Control of Political Finance. From A to Z. The Latvian Experience](#)"²⁵⁵ where they described the best practices of Latvia in this area. The handbook aims to provide Ukrainian state authorities, local governments, civil society and media with special instruments.

The International Foundation for Electoral Systems created a manual on political finance for political parties²⁵⁶ in order to raise awareness of Ukrainian political parties on the reform of the financing of political parties and its nuances. The manual contains practical advice to party representatives on how to comply with the new legal requirements and avoid common mistakes in financial compliance.

On its website, the NACP Integrity Building Office also publishes guidelines and video instructions on the reporting obligations of political parties and operation of the Politdata register.²⁵⁷

Good practices

In 2020, five parliamentary political parties received 283,5 million UAH of state financing for their statutory activities.²⁵⁸ It is of the great interest of the society to ensure that these funds are used properly, and the political parties do not resort to illegal practices in the course of their activities. The NACP monitors how the political parties comply with the applicable requirements with great attention. As a result of the review of financial statements of political parties for the first quarter of 2021, NACP submitted 48 protocols on administrative offences to the court. The NACP also passed 11 reports on the detection of signs of criminal offences to the police.²⁵⁹ It is important that the controlling practices of the NACP are not limited to reviewing the financial statements of the political parties. To reveal violations more effectively, the NACP is actively cooperating with international and national NGOs and anti-corruption organisations to implement best practices of monitoring political party expenditures. For instance, the NACP uses information from investigative journalists and social media²⁶⁰ to verify the sources of contributions of different political parties.

The legislation in the field also enables NGOs and other private initiatives to monitor how the political parties adhere to the requirements on their funding. In particular, the analysis and monitoring of the political parties' activities are carried out by the Committee of Voters of Ukraine, a national NGO that works in the field of election observation and monitors the activities of different actors of the political system.²⁶¹ CHESNO Movement, another local civic organisation, has created a database of politicians and parties called PolitHUB,²⁶² and an instrument for convenient analysis of the financial statements of the political parties.²⁶³

Chapter 3

CITIZEN PARTICIPATION

Introduction

“The right of citizens to participate in the conduct of public affairs”, including at the local level, is explicit in the European Charter of Local Self-Government,²⁶⁴ and the Additional Protocol to which states that “the right to participate in the affairs of a local authority denotes the right to seek to determine or to influence the exercise of a local authority’s powers and responsibilities”.²⁶⁵ When local authorities consult with, and engage, citizens on the design of, and evaluation of, public services, they pave the way for better policy outcomes and also for greater mutual trust between citizens and government.

Citizen participation involves outreach to a range of local stakeholders, such as civil society activists, journalists, members of academia, business representatives, local communities, and active citizens. It is important that it is inclusive, taking into consideration the views of the wider public, expert stakeholders, and representative groups, including the vulnerable and marginalised. Moreover, stakeholder engagement must include outreach to those whose lives and interests will be affected by the implementation of the decisions under consideration. To ensure that such stakeholders are identified, public consultations should be launched before a commitment to action has been made or before a draft decision has been tabled. A more open consultative process first invites stakeholders to discuss and identify the problems, challenges and opportunities, then examines the different policy scenarios, before any decisions are drafted.

Participatory mechanisms can be grouped in the following categories that reflect different levels of engagement:

- ▶ informing the public about local priorities, government programmes and plans;
- ▶ holding consultations with the public and/or particular groups of people regarding public policies and collecting their experience or expertise;

- ▶ collaborating with the public and/or particular groups of people to develop solutions to local problems (including co-creation processes such as in the formulation of Open Government Partnership (OGP) Action Plan commitments);
- ▶ engaging local communities in decision-making processes through deliberative processes, voting (such as participatory budgeting and referenda), and other decision-making tools.

According to the Additional Protocol, “the law shall provide means of facilitating the exercise” of the right of citizens to participate. In order to ensure that the above-mentioned forms of participation are genuine engagement rather than token exercises, the consultation process around the formation of new policies and legislation needs to be backed up by laws, regulations and guidelines, and also by strong political will.

Inclusive policymaking must at the same time be effective, and the public should be well informed about their rights, opportunities and ways they can participate in local decision-making. The policymaking processes need to be clearly stated well in advance to enable citizens and stakeholder groups to prepare their submissions and interventions. Timeframes with clear entry-points for citizen engagement need to be published to ensure that citizen participation is a meaningful exercise, and the local authorities should provide feedback to those who make policy proposals or recommendations. The local authority should ensure that the viewpoints and positions of stakeholders are properly reflected and considered when adopting policies, and feedback should provide clearly stated reasons for the decisions to adopt proposals, or not to adopt them. This inclusive approach ensures that policies are relevant, evidence-based, cater to intersectional needs, and are responsive to public demands.

Local authorities also need to employ officials trained in managing public consultations and ensuring that the feedback to citizens is prompt and comprehensive.

Such inclusive approaches ensure that local authorities make better and more relevant decisions that reflect public interests and are well understood by all citizens. In tandem, local communities can develop a sustained capacity to voice their concerns, design solutions and monitor their proper implementation, resulting in improved public trust towards local service delivery.

General domestic context

At the legislative level in Ukraine, people are provided with various rights, opportunities and mechanisms enabling them to participate in decision-making processes. Under the amendments to the law “On Citizens’ Appeal”;²⁶⁶ individuals can submit their complaints electronically, and most of the local authorities have special online platforms and websites allowing people to send the appeals, petitions and conduct public consultations. The adoption of such amendments has significantly increased the number of public petitions submitted through different petition mechanisms²⁶⁷. There are several platforms and portals, each for a different level of governance, established in Ukraine.

The Ministry of Digital Transformation, established in 2019, manages the development of e-instruments as one of its main tasks in order to promote and support open policymaking. Besides the educational programs and trainings for the public in the field of digitalisation and e-governance, the Ministry has introduced an open policymaking platform to improve the interaction between local authorities and the public.²⁶⁸

Nevertheless, despite the variety of mechanisms, people refer to it with a grain of doubt and mistrust.²⁶⁹ Consequently, one of the goals of Ukrainian local authorities should be improving public awareness, offering trainings on the development and involvement in local policymaking. Within the framework of the Strategy for reforming public financial management system for 2017–2020, approved by the Cabinet of Ministers of Ukraine, the Ministry of Finance issued “Guidelines on mechanisms for public participation in the budget process at the local level”²⁷⁰ engaging people in the administration of public funds and increasing trust and openness.

3.1. OPEN POLICYMAKING

Open policy making is a broad term describing policy development that is transparent and participatory. It describes a way of making policy and decisions that draw on the latest interactive tools that open up policy-making to different stakeholders in an increasingly digital world.. There is no one-way to do open policy making: different policy decisions will need different approaches.

International standards

Open policy making approaches enable governments to reach more informed and better designed policy outcomes through collaborative approaches that draw on a variety of perspectives and expertise. Different digital tools and analytical techniques are deployed so that policy is more evidence-based and data-driven. Models of engagement can include a representative citizens panel, crowdsourcing of policy ideas, or the use of collective intelligence to draw on the knowledge and expertise of a diverse public.

By the use of open data and citizen engagement, more informed, inclusive decisions can be reached, and more innovation applied in both the policymaking process and the resulting policy decisions. To maximise the possible gains of open policy making, local authorities could set up an open policy making team that publishes the data used to inform and shape policy decisions. and trains public officials in working with data to inform policymaking.

Although there are no specific open policy making standards, the following are useful points of reference:

- ▶ The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**²⁷¹ provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation.
- ▶ The **Council of Europe's Guidelines for civil participation in political decision making**²⁷² sets out standards for engaging with citizens and civil society.
- ▶ The **Committee of Ministers of the Council of Europe's Recommendation on the participation of citizens in local public life.**²⁷³

- ▶ The **Congress of the Council of Europe’s Resolution and Recommendation on Transparency and open government**²⁷⁴ provide standards and mechanisms to enhance transparency and promote the involvement and participation of citizens in the local public life.
- ▶ The **Code of Good Practice for Civil Participation in the Decision-Making Process**, adopted by the Conference of International NGOs of the Council of Europe.²⁷⁵
- ▶ **Civil Participation in Decision-Making Processes. An Overview of Standards and Practices in Council of Europe Member States**, European Center for Not-for-profit Law (ECNL) for the European Committee on Democracy and Governance.²⁷⁶
- ▶ The **OECD Recommendation on Open Government**²⁷⁷ helps to design and implement successful open government strategies and initiatives.
- ▶ The **OECD’s Guiding Principles**²⁷⁸ support the development of a culture of openness.
- ▶ The **OECD’s Focus on Citizens: Public Engagement for Better Policy and Services**²⁷⁹ explores how to put open policy making into practice.
- ▶ The **OECD’s Observatory of Public Sector Innovation**²⁸⁰ lists useful toolkits and resources.
- ▶ The **Open Government Partnerships Guide**²⁸¹ and **Toolbox**²⁸² provide an extensive range of support.
- ▶ The **OECD Background Document on Public Consultation**²⁸³ defines consultation and provides a summary of consultation tools.
- ▶ Both **Australia**²⁸⁴ and the **UK**²⁸⁵ have both produced useful **toolkits**.
- ▶ The Royal Society of the Arts, UK, and the Forum for Ethical AI addressed some of the AI challenges posed by new technology in **Democratising decisions about technology. A toolkit**.²⁸⁶

Domestic context

Open policymaking became a regular practice in Ukraine after the 2014 Revolution. Both local governments and public authorities set up civic councils to involve people in the decision-making process.²⁸⁷

In May 2021, the Ministry of Digital Transformation of Ukraine introduced a powerful tool for e-government and open policymaking – the “SVOI” platform to improve the interaction between the local governments and the public (<https://toolkit.in.ua/>). With the help of the SVOI platform, local governments can easily build their websites, run chat bots in Viber and Telegram to communicate with the residents, launch their own systems for electronic petitions, allow for an effective system of participatory budget and electronic consultations, as well as use an ‘Open City Geosystem’. 41 Ukrainian communities have already participated in the project. Among the largest cities using the provided toolkit, there are Odesa, Lutsk, Vinnytsia, Kamyanske, Ternopil, Khmelnytskyi and Sieverodonetsk.

Legislation

Several laws in Ukraine contain provisions on open policymaking, such as the Law No. 2862-VI “On Social Dialogue”,²⁸⁸ the Law No. 1160 “On Principles of Public Regulatory Policy of Economic Activity”,²⁸⁹ and Resolution of the Cabinet of Ministers No. 996 “On Ensuring Public Participation in the Formulation and Implementation of Public Policy”.²⁹⁰ Furthermore, a draft law “On Public Consultations” is currently under development.²⁹¹

Resolution No. 996 regulates general procedures for public consultations, policy expertise and the involvement of stakeholders in advisory bodies. The resolution is not compulsory for local governments, which means they can choose whether or not to transpose such regulations into their by-laws.

Resolution No. 996 also defines typical provisions for civic councils – temporary advisory bodies established within public authorities and local governments to promote citizens participation in policymaking. In May 2019, the Cabinet of Ministers amended Resolution No. 996, updating the methods and principles of forming such civic councils. Thanks to this decision, it became possible to elect civic council members by online voting. This change is a useful tool to enhance the transparency of the process.

Guidelines

Within the project “Transparent cities”, the NGO TI Ukraine provides guidelines for 100 largest cities in Ukraine, based off individual assessments provided for each city.²⁹² The guidelines for open policymaking encourage city councils to allow the residents to participate in their consultations and

commission meeting, to publish draft bills twenty working days before being discussed and the full agendas of the sessions ten days ahead of the plenary session.

The “Civic Activist’s Handbook”²⁹³ developed by experts of the USAID project “Citizens in action” in collaboration with the Ukrainian Centre for Independent Political Research provides recommendations and an overview of mechanisms to involve citizens in open policymaking. For instance, it provides model regulations for local self-governance that allow the implementation of best practices of local democracy in line with the European standards of good governance.²⁹⁴

Good practices

NGO Youth Platform has launched a project for creating an effective youth participation model at the local level (<http://youthcouncil.com.ua/>). It provides extensive guidance on how to found advisory youth councils in the local governments. At the beginning, five youth councils were launched in the communities of Volyn Oblast,²⁹⁵ and now, many cities across Ukraine are participating in the initiative. This project provides a great example of how to engage young people in policymaking on the local level.

In Lviv municipality, different local issues that fall within the authority of local self-government can be subject to public hearings.²⁹⁶ The organisation of such public hearings is defined by the Regulations on the Procedure for Holding Public Hearings in the City of Lviv, which is an annex to the Charter of the Territorial Community of the City of Lviv.²⁹⁷ The secretariat of the Lviv City Council determines jointly with the initiator the date of the public hearing, and the relevant announcement is published on the Lviv City Council official website within five working days upon receipt of the request.

3.2. PARTICIPATORY BUDGETING

One of the crowdsourcing forms of citizen participation, participatory budgeting invites citizens and community groups to propose new initiatives or improvements to public services that should be funded by the local authority. Different models include voting by citizens, often online, on different projects. It provides a way for community members to have a direct say in how public money should be spent. It creates opportunities for engaging, educating, and empowering citizens. It can also promote transparency, which in turn can help reduce inefficiency and corruption.

International standards

Participatory budgeting began in Porto Alegre, Brazil, in the late 1980s and has spread worldwide. To ensure that participatory budgeting is inclusive and reaches out to different groups, including minority groups and the disadvantaged, both online and in-person information events need to be organised, and support provided to citizens and different community groups and stakeholders in how to prepare a proposal for consideration. The introduction of gender-sensitive participatory budgeting can increase outreach and accessibility and can be planned in close co-operation with local civic groups with a focus on inclusion.

Although there are no specific standards for implementing participatory budgeting, the following serve as important reference materials:

- ▶ The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**²⁹⁸ provides an international legal guarantee to this right, including the implementation of measures that would facilitate its exercise.
- ▶ The **Congress of the Council of Europe's Resolution on Gender budgeting**²⁹⁹ recommends introducing gender budgeting methods in the annual budgets at local and regional levels.
- ▶ The **OECD Policy Brief No. 22**³⁰⁰ provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.

- ▶ The **World Bank's book *Participatory Budgeting***³⁰¹ provides an overview of the underlying principles, analyses current practice and includes seven in-depth case studies.
- ▶ The **UN Habitat's 72 Frequently Asked Questions about Participatory Budgeting**³⁰² explores how to implement participatory budgeting.
- ▶ The **World Atlas of Participatory Budgeting**³⁰³ represents the widest compilation of data on the situation of these processes worldwide.
- ▶ The **UK's Participatory Budgeting Unit has a useful list of resources and toolkits.**³⁰⁴
- ▶ The **Subnational Open Budget Survey Questionnaire**³⁰⁵ of the International Budget Partnership sets out a range of metrics for measuring the openness of local government budgets.
- ▶ The **Principles of Public Participation in Fiscal Policy**³⁰⁶ of the Global Initiative for Fiscal Transparency.

Domestic context

In 2015 and for the first time in Ukraine, Chernihiv, Cherkasy, and Poltava introduced participatory budgeting. To date, the vast majority of the amalgamated communities have implemented this process of democratic deliberation and decision-making. The participatory budgeting suggests that local councils allocate a certain amount of the local budget to the residents. For these purposes, cities may use their own websites or special e-platforms allowing the residents to develop and vote for the projects to be funded by the local budget, for instance, "Public Project" (<https://pb.org.ua/en>) or "E-Dem. Public Budget" (<https://budget.e-dem.ua>).

Other ways of citizen participation in budget planning processes supplementing the participatory budget include open plenary sessions on budgeting, written public suggestions and requests on development and use of the local budget, public monitoring and performance assessment of budget spendings.

Legislation

No specific legislative acts on participatory budgeting have been adopted at the national level. Article 9 of the Law No. 280/97-VR "On Local Self-government"³⁰⁷ allows people to submit their own initiatives to the local council. Article 26, paragraph 20, states that, at plenary sessions of a city, town or village council, the council can provide self-organised residents with specific powers of self-governance and transfer funds for the realisation of their initiatives. In practice, each city, town or village that introduces participatory budgeting provides the necessary local regulations for the subsequent implementation of projects.

For example, in its Regulation on the Public Budget, Ternopil City has specific procedures for projects submission, review and consideration, further voting on the projects and determination of the winning ideas, as well as subsequent implementation of those projects. It is established that to be funded by the public budget, the projects should be aimed at improving community infrastructure (for example, streets, parks, roads, sports or children's playgrounds, institutions: schools, clinics, kindergartens, etc.). The submission of the projects, as well as voting on them, can be conducted online or in paper form. The result of the project must be publicly available, and all residents of the community should have free access to it.³⁰⁸

Guidelines

In the course of implementation of the 2017–2020 Strategy for reforming public financial management system, approved by the Cabinet of Ministers of Ukraine, the Ministry of Finance issued "Guidelines on mechanisms for public participation in the budget process at the local level".³⁰⁹ These Guidelines provide recommendations for the local governments on the development of their local regulations on participatory budgeting.

The handbook "Implementation and Improvement of the Participatory Budget: Practical Advice", drafted by the experts of the Polish-Ukrainian Foundation PAUCI within the Partnership for Local Economic Development and Democratic Governance Project implemented by the Federation of Canadian Municipalities³¹⁰, describes step-by-step algorithms by which communities can implement the participatory budget independently and successfully. It provides recommendations for seven stages of participatory budgeting:

- 1) Preparatory stage
- 2) Information and educational campaign
- 3) Discussion, preparation and submission of projects
- 4) Review of the projects
- 5) Selection of the projects through an open and public voting procedure
- 6) Projects realisation
- 7) Assessment and improvement

No doubt, effective participatory budgeting is impossible without active people who possess enough knowledge and skills to prepare and submit projects. To improve the awareness of local communities, some cities choose to run special education and training programs. For such purposes, Odesa City prepared helpful “Guidelines for organisation and conduct of training for community residents on the submission of projects under the “Public Budget” tool”.³¹¹

Good practices

Energodar City Council has been implementing participatory budgeting since 2018. The City Council approved UAH 10 million for citizen initiatives and projects in 2020, which makes it the most remarkable example in the Ukrainian context in terms of money spent per resident (Energodar has 54 000 inhabitants).³¹²

Another example is the amalgamated community of Vinnytsia, which is the first Ukrainian community to adopt School Participatory Budgeting in 2019. UAH 1 million was allocated for the implementation of 11 winning school projects aiming to strengthen active engagement of children and teenagers (10 to 18 years old) in the community.³¹³ In the same vein, the Poltava Regional Council implemented a school safety programme at the regional level to introduce Participatory Budget at the school level. More than 100 schools took part in the preparation and submission of their projects, and 34 projects were chosen for implementation in 2021.³¹⁴

The volunteer project “School of public budgeting” implemented by the leaders of the winning teams of participatory budgeting in Kyiv, with support of the City Council, teaches Kyiv residents how to successfully

participate in the public budget. They have founded courses on public budget and already helped 500 students to learn more about the nuances of participatory budgeting.³¹⁵ This initiative represents a very special local community that permanently seeks new ways to improve the city environment.

Within the local initiative on [“Strengthening democracy and building trust at the local level in Ukraine”](#) by the Council of Europe, the citizens of Dunaiivtsi, a small town in Khmelnytskyi Region, started using the participatory budgeting scheme in 2018, among other objectives such as implementation of the code of ethics, and open government tools. They bring together the experience of the older residents and youth to work on the local budget, and thanks to it, they provide changes to community life and create inclusive environment. The funds saved due to the economy and reasonable budget allocation allowed them to acquire modern rehabilitation equipment and implement several projects for the vulnerable segments of the town population.³¹⁶

Such examples of participatory budgeting allow local authorities to better identify and address the needs and problems that are most important for the residents by allowing them to voice their concerns and suggest feasible solutions in the format of project proposals. Moreover, the community feels increasingly engaged in the administration of public funds, thus developing a sense of ownership and responsibility. In the end, the dialogue between the residents and local authorities during the implementation of participatory budgeting promotes trust and citizen participation.

3.3. PUBLIC CONSULTATION

Public consultation is a formal, often legally required, process for citizens and other stakeholders to give their views at key stages of the policy process. It can be both online and offline, or a mixture of both. Its main goals are to improve efficiency, transparency and public involvement in important decisions. Done in a timely and effective way, public consultation can increase the quality of decision making, improve cost-effectiveness, render more sustainable policy solutions, and generate greater public trust in decision-making.

International standards

Different forms of consultation range from informing and consulting citizens to crowdsourcing ideas for policies, deliberative debates and assemblies where citizens can develop potential policy solutions to inform decision-making, and collaboration where social enterprises, civil society organisations or expert groups either participate in the design or delivery of services.

To improve both the inclusiveness and efficiency of public consultations, each local authority should aim to have a unit that takes responsibility for co-ordinating the guidelines and procedures for implementing public consultations, and for ensuring that they are in accordance with the prevailing legislation. Such a unit could also train officers in different departments on running public consultations. In the case of smaller local authorities with more limited resources, a unit in the central government's responsible ministry, such as a ministry of regional development, could provide such training and support on co-ordinating and updating guidance and procedures for public consultations at the local level.

Although there are no specific standards for implementing public consultations, the following are useful reference materials:

- ▶ The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**³¹⁷ provides an international legal guarantee to this right, including the establishment of measures to ensure citizen participation, such as consultative processes and local referendums.

- ▶ The **OECD Background Document on Public Consultation**³¹⁸ defines consultation and provides a summary of consultation tools.
- ▶ The **Council of Europe’s Guidelines for civil participation in political decision making**³¹⁹ set out the different types of civil participation in decision making.
- ▶ The **Committee of Ministers of the Council of Europe’s Recommendation on the participation of citizens in local public life**.³²⁰
- ▶ The **OECD Recommendation of the Council on Open Government**³²¹ supports initiatives for designing and delivering public policies and services, in an open and inclusive manner.
- ▶ **Reaching Out: Guidelines on Consultation for Public Sector Bodies** sets out good practice in the Republic of Ireland.³²²

Domestic context

The practice of public consultations has evolved significantly as part of the Ukraine’s Open Government Partnership action plans.³²³ In line with recommendations of the European Parliament Monitoring Mission to Ukraine, an online platform for public consultation of the Parliament (itd.rada.gov.ua) of Ukraine was created and duly incorporated into national legislation. The Government of Ukraine has also launched a thematic web platform for communication with the civil society and public consultations (kmu.gov.ua/gromadskosti). Among other functions, this web platform features indicative schedules for public consultations organised by the executive authorities.³²⁴ At the local level, Kyiv City Council regularly uses public consultations to involve the residents in the decision-making process.³²⁵

Multiple electronic platforms, such as a platform for online public consultations “Electronic Democracy. Public Consultations” (consult.e-dem.ua) and a system for public opinion polls “Your opinion” (vdmk.org) that can be used during offline public consultations and hearings, bring open policy-making to the fore by providing diverse tools for interaction between the residents and public authorities.

Legislation

The legal basis for public consultations is evolving. In fact, the draft Law “On Public Consultations”,³²⁶ which aims to provide a legally binding procedure for public consultations, is currently being developed.³²⁷ Herewith, legislative acts in different fields may require public authorities to organise public hearings in some specific cases.

General procedures for public consultation are set out in two resolutions of the Cabinet of Ministers of Ukraine: No. 996 “On the Procedure for Consulting the General Public on Establishing and Implementing the Public Policy”³²⁸ and No. 976 “On the Procedure of Civic Expertise of the Activities of the Executive Bodies”,³²⁹ Resolution No. 996 regulates general procedures for public consultations. However, the resolution is not compulsory for local governments, which means they can choose whether or not to follow such regulations on the local level.

According to this resolution, public consultations shall be announced and conducted by the executive authorities responsible for drafting acts. They can take place in the form of offline public discussions, e-consultations and surveys, as indicated in paragraph 11 of Resolution No. 996.

There are particular fields where public authorities are obliged to organise public consultations and take propositions into consideration, such as in the course of regulatory impact assessment in the field of economic activity³³⁰ when considering urban development³³¹ and environmental issues.³³² The complete list of such fields can be found in paragraph 12 of Resolution No. 996.

As relates to the local level, the Law of Ukraine No. 280/97-VR “On Local Self-government”³³³ allows residents to arrange public hearings where they can discuss urgent issues and submit their propositions to public authorities (Article 13).

Guidelines

Based on the Council of Europe analysis of public participation in decision making, it is recommended that local public authorities conduct public consultations on a regular basis in the form of online consultations, expert working groups and public hearings, in order to give the residents, civil society organisations, and other stakeholders a sense of ownership in decision making.³³⁴ Public authorities have to ensure that public consultation

participants have at least 30 days to provide their comments at each stage of the review process. As a result, public consultations also enhance impact assessment exercises and improve the quality and sustainability of the resulting decisions and laws.

Two online courses have been developed by the public authorities and leading NGOs in the field, explaining how to effectively organise public consultations. One is available on the Diia platform³³⁵ and provides helpful guidance on online public consultations. The second is published by the open courses provider “EdEra”³³⁶ and focuses more on the offline format. EdEra has also presented the handbook “Public consultations: step by step” that contains not only general explanations on the matter but also practical advice, templates, tools, checklists and additional online resources.

Experts of the USAID project “Citizens in action”, in collaboration with the Ukrainian Centre for Independent Political Research, developed model regulations for local self-governance that allow the implementation of best practices of local democracy in line with the European standards of good governance, including the model regulation on public consultation.³³⁷

Good practices

The project ‘Establishment of the Community Initiative Support Office in Slavutych’³³⁸ presents another example of good practice for the development of public consultation mechanisms between local authorities and the residents with the aim of implementing ethical norms and encourage citizen participation. The Community Initiative Support Office is an open platform for scheduled and unscheduled meetings of local authorities (government employees, town councillors, etc.) and civil society (non-governmental organisations, local activists, etc.). The Office contributes to shaping innovative ideas for improving community life and making constructive decisions with regard to the implementation of ethical standards. Moreover, it opens up additional possibilities for enhancing citizen participation and increasing public accountability.

The Mariupol City Council has adopted a procedure for holding public hearings.³³⁹ The procedure regulates the initiation, preparation and organisation of public hearings – including the recording of the results – as follows:

- Public hearings can be held on issues concerning either all residents or particular groups residing in certain city districts;

- Depending on the issue, a total of 50 or 75 signatures are required for initiating public hearings, or alternatively a collective request from at least three civil society organisations, associations of co-owners of multi-apartment houses, or people's self-organisation bodies;
- Public hearings are prepared in co-operation with their initiators;
- Two of the representatives of the initiator(s) shall act as Secretary and President of the hearing;
- The decision adopted following a public hearing is to be approved by simple voting majority and discussed at the plenary meeting of the City Council or its executive committee with the mandatory participation of the initiators of the public hearing.

3.4. PUBLIC PETITIONS

Public petitions enable citizens to raise issues with public authorities. The number of signatures collected can indicate the level of support for the issues raised. They aim either to raise the profile of the issue or to demand that specific actions be taken. Petitions are often inspired by civil society activity, but they are increasingly submitted through official, often online, platforms whereby petitions with a defined number of signatures will receive an official response.

International standards

It is important that the official response is provided promptly, and that clear and well-argued reasons are provided for the decisions taken or not taken in response to a public petition.

For public petitions to become a tool that resonates with the wider public, local authorities and civil society organisations should raise awareness of the nature of petitions and the procedures for gathering signatures and submissions of the petitions in their municipalities. Clarity should also be given on the status of electronic signatures to ensure that there is full transparency about the conditions that a public petition must satisfy to receive an official response.

The following international conventions and standards relate to public petitions:

- ▶ The **Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)**³⁴⁰ provides an international legal basis for this right, including the establishment of measures to ensure citizen participation, such as public petitions.
- ▶ The **OECD's Promise and Problems of e-Democracy**³⁴¹ provides information on the value and challenges of establishing an online petitioning platform.

Domestic context

Public petitions fall under the right of citizens to address public authorities, enshrined in Article 40 of the Constitution of Ukraine.³⁴² Since July 2015, it is possible to submit electronic petitions, which has significantly boosted the use of the public petitions mechanism.³⁴³ As of 2021, electronic petitions have become the most widespread instrument of e-democracy in Ukrainian cities.³⁴⁴

One of the most significant projects to introduce local petitions online is the project "Vzaemodiia" (<https://vzaemo.diiia.gov.ua/>). It is an online platform allowing the public to communicate freely with local government agencies and participate in decision-making at the local level. On this platform, community members can create and submit e-petitions to local self-government bodies of territorial communities. Local governments are obliged to respond publicly to the petition if it collects the required number of signatures. The petition can relate to different topics such as landscaping and construction, ecology, economy and finance, housing and communal services, land relations, education, health care, law enforcement, industry and entrepreneurship, family, youth, children, social protection, labour protection, transport and roads.

The e-democracy portal E-DEM (petition.e-dem.ua) is another system for local petitions. The purpose of the system is to help local governments by providing them with an already-made and unified online tool and a package of draft local regulations to ensure compliance with the Law No. 577-VIII "On Amendments to the Law of Ukraine 'On Citizens' Appeals' Concerning Electronic Appeals and Electronic Petitions".³⁴⁵ More than 200 local governments are already using this platform.

In addition, public petitions can also be submitted online through the specific Electronic Petitions portal of the President of Ukraine (petition.president.gov.ua). This resource also allows to monitor the status of all petitions sent to the President of Ukraine.

Legislation

The provisions on public petitions are included in the part of domestic legislation governing citizens' appeals. The Law No. 393 "On Citizens' Appeals"³⁴⁶ defines and regulates the procedures for public petitions. Electronic petition is regarded as a special form of collective citizens' appeal (Article 23-1). The Law guaranties citizens' right to submit their petitions to the President of Ukraine, the Verkhovna Rada of Ukraine (the parliament), the Cabinet of Ministers of Ukraine, as well as to local self-government bodies through their official websites or the website of the organisations collecting signatures in support of the e-petitions. This means that all the listed official bodies and local governments are legally obliged to provide the means for people to submit such petitions. Access to the e-petition systems must be free of charge and protected against automatic completion of forms.

An electronic petition addressed to the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine will be considered only if it collects at least 25,000 signatures in its support within three months.

Requirements for the number of signatures in support of an electronic petition to a local self-government body and the deadline for collecting signatures are to be determined in the charter of a particular territorial community. As a rule, the number of required signatures in any petition addressed to local authorities depends on the size of the community. The numbers vary between 50 signatures for less than 1 000 residents up to 1 000 signatures for over 1 million residents,. If a petition reaches the necessary number of signatures, the local council needs to convene a plenary session to consider the petition.³⁴⁷

The procedure of consideration of electronic petitions addressed to the President of Ukraine is additionally regulated by the Decree of the President of Ukraine No. 523 / 2015.³⁴⁸

Guidelines

The Association for Community Self-Organisation Assistance of Ukraine provides the following recommendations to local public authorities:³⁴⁹

- ▶ Introduce the necessary amendments in the statutes in order to provide the public
- ▶ with the possibility to submit e-petitions and to define the necessary number of signatures;
- ▶ Launch a custom-made system for public petitions or use the state platform for the e-petitions (petition.e-dem.ua);
- ▶ Review the petition formulas and ensure a reasonable number of necessary signatures, especially if the current threshold is too high, in order to encourage citizen participation;
- ▶ Ensure that all deadlines and requirements for the review of the petition are met;
- ▶ Publish not only the answers, but also the whole petition process review;
- ▶ Conduct training courses that will allow special units and public servants who are responsible for the review of petitions to identify and prevent the publication of prohibited content (e.g. issues violating constitutional rights, war propaganda, incitement to violence, etc.);
- ▶ Provide practical recommendations for the citizens on e-petition mechanisms and procedures.

Good practices

Kyiv City Council has developed effective mechanisms for the successful introduction and implementation of e-petitions.³⁵⁰ Kyiv City has its own platform for e-petition submission.³⁵¹ When a public petition is successful, the Mayor appoints a person responsible for its implementation. Together with the petition's author, they prepare a roadmap for the implementation of the petition and provide monthly reports about the process. On the website for e-petitions of Kyiv City Council, the entire chronology of the process of a petition implementation is published (including information on who is responsible for certain assignments, what decisions have been made, etc.). Such transparent communication dissuades residents from maliciously discrediting public petition processes, builds trust and fosters citizen participation in local affairs.

Chapter 4

CORRUPTION RISKS

Introduction

In the absence of ethics and public accountability, corruption and malpractice are allowed to thrive, which undermines the foundations of a peaceful, prosperous and just society.

Corruption is a major challenge to democracy and the rule of law. It results in decisions and resource allocation that do not reflect the interests of the public and concentrates political power in the hands of the few. It in turn causes political leaders and institutions to lose legitimacy and public trust, which reduces their ability to govern.

Corruption poses a great threat to sustainable development, increasing poverty and inequality. Consequently, strengthening local self-government and their active participation in the fight against corruption is one of the essential preconditions for democratic development. Corruption at the local level is a specific phenomenon and requires a specific approach tailored to municipalities.

Corruption also causes local and regional authorities to be inefficient and ineffective in exercising their duties. It results in decisions being made not on the basis of what is in the interests of society at large, but what is in the self-interest of decision-makers and their associates. It leads to public money being misspent, with contracts being awarded to inferior providers and budgets being misallocated. At its worst, it enables public officials to misappropriate money and resources, using their position to get rich to the cost of those they have a duty to serve.

One of the major challenges for societies worldwide is the development of accountable and transparent systems that provide effective public services. Because of their proximity to the public, local governments are well positioned to deal with this challenge and to fight and prevent corruption at local level.

Under the current trend of decentralisation, local authorities are given not only resources, but also the discretionary power to use those resources. Thus, local governments have the potential to either reduce corruption and improve public services at the local level or, conversely, increase corruption and worsen the quality of service delivery.

Corruption can also result in public officials being appointed on the basis of favouritism rather than merit, meaning that local and regional authorities do not have access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces even more the efficiency and effectiveness of the administration.

Inefficient and ineffective organisations, staffed by individuals who gained their positions on the basis of criteria other than merit, result in poor-quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, they result in significant human costs, including poverty, deaths, illness, and restricted life chances.

Finally, corruption harms economic development. It leads to public money being directed to uncompetitive businesses, rather than those that offer more innovative or cheaper products and services. Uncompetitive markets, coupled with the negative impact of corruption on the quality of local public services and infrastructure, means that businesses do not have a solid foundation (of staff, security, investment, etc.) on which to build. In the end, this may cause private and international investors to avoid investing in an area.

General domestic context

Corruption has been one of the most demanding problems in Ukraine. After the Revolution of Dignity, fighting corruption has been established as a key priority of the government policy in Ukraine, reflecting the strongest public demand.³⁵² In order to reduce corruption and make the changes transparent and clear to the society, the government, with the support and in close consultation with international organisations and local initiatives, has developed and applied two complementary approaches.

The first one is ratcheting down the corruption opportunities through legislation reforms in different sectors. On 14 October 2014, a package of

anti-corruption laws, including the Law No. 1700-VII “On Prevention of Corruption” and the Anti-Corruption Strategy 2014–2017³⁵³, was adopted.

The other driving force of the changes is the establishment of efficient institutions to prevent and fight corruption, such as the National Agency on Corruption Prevention (NACP), the National Anti-Corruption Bureau of Ukraine (NABU) for investigation of corruption, the Special Anti-Corruption Prosecutor’s Office (SAP), the National Agency for finding, tracing and management of assets derived from corruption and other crimes (ARMA), the State Bureau of Investigation (SBI), the National Council for Anti-Corruption Policy under the President of Ukraine, and the Economic Security Bureau. In September 2019, the High Anti-Corruption Court of Ukraine started to operate. Over two years of its existence, the High Anti-Corruption Court (HACC) has examined cases of embezzlement, misuse or misappropriation of another person’s property, abuse of office by public officials, abuse of power, acceptance of an offer, promise or receipt of an undue benefit and bribes by public officials, and has considered more than 19,000 motions and complaints.³⁵⁴

However, despite the positive trends, Ukraine’s achievements in fighting corruption in the forms prevailing in Ukraine, such as bribery, nepotism (or “kumivstvo”) and patronage are still low. Moreover, the Ukrainians’ attitude to everyday corruption is ambiguous. For example, while considering this phenomenon shameful and immoral and condemning corrupt officials in power, 25.5% of Ukrainians claimed to have given a bribe over the past year³⁵⁵. The patronage networks that have benefitted from being in power in Ukraine have been resisting these reform attempts, and in some cases, oligarchic interests hold substantial influence across the Ukrainian government and economy.³⁵⁶

In view of these contradictions between the reforms and fighting corruption on one side and reluctance to the changes and spreading democracy on the other side, the role of the local authorities is increasing. With the improvement of local governance using the tools of public procurement, open data and citizen participation, and with the help of newly created institutions, there is a way to overcome the problems and continue the anti-corruption movement.

4.1. BRIBERY

Bribery is the promise, offer, acceptance or solicitation of a personal advantage (e.g. gift, loan, reward, favour, etc.) in exchange for an unethical or illegal action. Bribery results in decisions not being taken in the public interest, which reduces public trust in institutions and leads to poor public services.

International standards

The following international conventions and standards relate to bribery:

- ▶ The **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**³⁵⁷ establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions. It is the first and only international anti-corruption instrument focused on the “supply side” of the bribery transaction.
- ▶ The **International Anti-Bribery Standard 37001**³⁵⁸ specifies a series of measures to help organisations prevent, detect and address bribery.
- ▶ The **OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance**³⁵⁹ which supports the convention on combating bribery.

Domestic context

International and national surveys on the perception and experience of corruption in Ukraine indicate that bribery is widespread in the country. In 2017, 25.5% of Ukrainians claimed to have paid a bribe over the past year.³⁶⁰ Those who paid a bribe mainly did it to access public health services (46.3%), higher education institutions (22.5%) and local public authorities (13.6%). At the same time, 29% of Ukrainians replied that they refused to pay bribes.

In 2020, 32% had some experience of bribery in medical institutions, 19% – in educational institutions, 11% – in the police.³⁶¹

Establishing the National Anti-Corruption Bureau of Ukraine has led to an economic effect in the form of compensation for damages caused by crimes, return of illegal income, penalties in favour of the state, and prevention of theft which only in 2020 amounted to UAH 1.93 billion (approx. 63 million

EUR), of which UAH 1.14 billion was returned to the state, and UAH 805.6 million was prevented from being stolen.

Legislation

The Ukrainian legislation uses the notion of “unjustified benefits” (nepravomirna vyhoda) instead of the term “bribery”. The Law No. 1700-VII “On Prevention of Corruption” of 14 October 2014 provides the following definition: *“Unjustified benefit means money or other property, preferences, advantages, services, non-monetary assets, and any other benefits that are being illicitly promised, offered, delivered, or received by the person, who is authorized to perform public or local self-government functions”*.³⁶² This definition expands bribery to the non-monetary forms of received benefits.

In line with Article 368 of the Criminal Code of Ukraine, receiving or providing unjustified benefits can be punished by a fine, community work, deprivation of the right to hold certain office positions or engage in certain activities, or imprisonment, depending on the degree of the crime.

Examples of case law

In late January 2020, NABU detained three people while they were trying to bribe the Head of the State Property Fund (SPF). They offered the Head of SPF USD 5 million a year (the first tranche was USD 50,000) if he appointed “their” director to the Odesa port plant, which is almost entirely owned by SPF. The accused person pleaded guilty and was given a 5-year suspended sentence.³⁶³

The acting head of the State Geocadastre refused to issue orders to a person for permission to develop land management projects. Thus, he deliberately created the conditions under which the person was forced to give him a bribe. In the 2021 court decision, the acting head was found guilty of bribery and condemned to imprisonment for a term of 9 years and 6 months with deprivation of the right to hold positions in public authorities and local self-government (except for elected ones) for a term of 3 years, with confiscation of all property belonging to him.³⁶⁴ The decision is currently under appeal.

A judge of Malynovsky District Court of Odessa demanded and received a bribe of USD 2,500 for expediting the trial and making the necessary decision in a dispute over an apartment. In 2020 the first instance court

sentenced the judge to 7 years of imprisonment with deprivation of the right to hold the position of a judge or any other position in law enforcement bodies for a term of 3 years, with confiscation of all property.³⁶⁵ However, the term of imprisonment has been reduced to 5 years in the appeal decision. Currently, the cassation proceedings are pending.

4.2. CONFLICT OF INTEREST

A conflict of interest is where an individual is in a position to derive personal benefits from the actions or decisions they take in an official capacity. Conflicts of interest – either if they are actual, perceived or potential³⁶⁶ result in decisions that are, or are considered to be, unfair and self-interested. This reduces public trust in institutions and results in worse outcomes for the public.

International standards

- ▶ The **Committee of Ministers of the Council of Europe's Recommendation on Codes of Conduct for Public Officials**³⁶⁷ and the **European Code of Conduct for all Persons Involved in Local and Regional Governance**³⁶⁸ cover the general issues normally thought to be necessary for avoiding such conflicts.
- ▶ The **Congress of the Council of Europe's Resolution and Recommendation on Conflicts of interest at local and regional level**³⁶⁹ propose a set of measures to mitigate the risks of conflict of interest and ensure that it is identified at an early stage.
- ▶ The **OECD's Guidelines for Managing Conflict of Interest in the Public Service**³⁷⁰ identify principles and standards for developing policies.
- ▶ The **Congress of the Council of Europe's Resolution and Recommendation on Making public procurement transparent at local and regional levels**³⁷¹ and the **OECD Checklist for Enhancing Integrity in Public Procurement**³⁷² provide guidance for enhancing transparency and promoting integrity in procurement.

Conflict of interest is also covered by the following international standards and guidelines:

- ▶ The **United Nations Convention against Corruption**³⁷³ is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by this **Technical Guide to the Convention**.³⁷⁴
- ▶ The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**³⁷⁵ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**³⁷⁶ defines common international rules for effective remedies for persons affected by corruption.
- ▶ The **European Union’s Convention against Corruption Involving Officials**³⁷⁷ aims to fight corruption involving officials from the EU or its Member States.
- ▶ The **OECD Recommendation on Public Integrity**³⁷⁸ shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.

Domestic context

Local authorities’ exposure to conflicts of interest in Ukraine is considered to be very high and widespread because, unlike Members of the Parliament, local councillors can combine their representative functions with other employment or entrepreneurship. At the same time, local councilors have limited understating of the very notion of “conflict of interest” which prevents them from proper fulfillment of their roles and duties. For instance, a survey of local authorities conducted in Cherkasy Region in 2015 showed that only 15% of staff and local councillors fully understood the meaning of conflict of interest and its regulations.³⁷⁹

Legislation

The Law “On Prevention of Corruption”³⁸⁰ differentiates between the potential (Article 1.8) and the real conflict of interest (Article 1.12). While the former indicates the potential for the private interest of an official to affect impartiality in decision-making, the latter indicates that a contradiction between the private interest of the person and public functions of the civil

servant or representative has already occurred. The violation of the law only occurs in decision-making when a conflict of interest has not been properly reported and resolved.

Since the definition of private interest is not limited to financial or material interests, such corruption risks as nepotism and patronage (described below) are considered as subtypes of the conflict of interest, and they are regulated by the same legislation.

Prevention and regulation mechanisms on conflicts of interest are provided in Chapter V (Articles 28–36) of the Law of Ukraine “On Prevention of Corruption”, in Article 59-1 of the Law of Ukraine “On Local Self-Governance in Ukraine”,³⁸¹ and in the NACP practical manual.³⁸² The two main steps for prevention are: first, a decision-maker must report a conflict of interest, and second, abstain from making decisions on the issues under the conflict of interest.

At the local level, the special permanent commissions of local councils (Article 59-1 of the Law “On Local Self-Governance in Ukraine”) are responsible for consulting, monitoring and controlling the prevention and regulation of conflicts of interest.

When a real conflict of interest is revealed, the NACP exhorts action from the authority involved. If the conflict of interest is not resolved within 10 days, the NACP reports an administrative violation.

According to Article 172-7 of the Code of Ukraine on Administrative Offences, in the case of a real conflict of interest, a fine can range from 100 to 800 non-taxable minimum incomes, equivalent to UAH 1,700 and UAH 13,600, and the deprivation of the right to hold certain offices or engage in certain activities for one year.³⁸³ Information on corruption-related offences is collected in a single open database of individuals involved in corruption (corruptinfo.nazk.gov.ua),³⁸⁴ which damages the image of the perpetrator.

Examples of case law

Conflict of interest is mostly prevalent in decisions concerning the use and ownership of land or business ownership by public officials. For instance, a member of a village council has participated in the voting session on a decision that allowed his son to use the land. Berdiansk City Court imposed a fine amounting to UAH 1,700 as a penalty.³⁸⁵

The Deputy Head of the Western Branch of the State Enterprise Ukrainian State Radio Frequency Center awarded himself and his son-in-law a material bonus without reporting a conflict of interest. The court imposed an administrative fine in the amount of UAH 3,400.³⁸⁶

The NACP has found that during the adoption by the Sotnykivka Village Council of a decision on the permission for citizens to develop a land management project for land allocation, the Deputy Head had a private property interest. The Deputy Head wanted to get the permit to develop the land management project, with the intention to acquire that land plot later. However, she did not report the conflict of interest and participated in the voting. The report on the administrative offence was forwarded to the court.³⁸⁷

4.3. EMBEZZLEMENT

Embezzlement is the illegal appropriation of money, goods or other resources by an official to whom they have been entrusted. This results in the loss of public money, which reduces the capacity of authorities to act in the interests of the public, resulting in worse services and outcomes for people. It also undermines public trust in government.

International standards

As one type of corruption, embezzlement is covered by the following international standards and guidelines:

- ▶ The **United Nations Convention against Corruption**³⁸⁸ is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by this **Technical Guide to the Convention**.³⁸⁹
- ▶ The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**³⁹⁰ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**³⁹¹ defines common international rules for effective remedies for persons affected by corruption.

- ▶ The **European Union's Convention against Corruption Involving Officials**³⁹² aims to fight corruption involving officials from the EU or its Member States.

Domestic context

Embezzlement is widespread in Ukraine, especially in the field of public procurement, which is one of the most corruption-prone areas in the country. For instance, the OECD Monitoring of the Istanbul Anti-Corruption Action Plan from 2015 estimated that about 75% of funds allocated for procurement had been embezzled through various schemes between 2010 and 2014, amounting roughly to UAH 150 billion.³⁹³

According to the Prosecutor General's Office of Ukraine, it registered 14 249 criminal offences related to the misappropriation of funds and property of state enterprises and other entities financed by the state and local budgets in 2016–2019. The established amount of material damage was UAH 2,288,470,600, while the seized property was worth 1,011,185,400 UAH.³⁹⁴

Legislation

Embezzlement falls under the category of economic crimes or crimes against property in the Criminal Code of Ukraine. According to Article 191, paragraph 2, the penalty for embezzlement in public office can reach 5 years of imprisonment or 3 years of deprivation of the right to hold certain public offices or engage in certain activities. Depending on the embezzled amount, the penalty can increase up to 12 years of imprisonment, and 3 years of deprivation of the right to hold certain public offices or engage in certain activities, and confiscation of property.

Examples of case law

In 2020, a criminal case in Vinnytsya Raion Court offered an example of embezzlement. The head of the village council issued an illegal official document according to which he was awarded a bonus in the amount of 2,417 hryvnias.

He was found guilty of embezzlement based on Part 1 of Article 366 and Part 2 of Article 191 of the Criminal Code of Ukraine. In total, the court imposed a fine in the amount of 250 non-taxable minimum incomes,

equivalent to 4,250 hryvnias, sentenced him to two years of imprisonment with deprivation of the right to hold positions related to the performance of organisational and administrative functions in institutions and organisations of any form of ownership for a period of 3 years.³⁹⁵

4.4. NEPOTISM

Nepotism is the exploitation of an official position to unfairly benefit a family member or friend (e.g. through giving a job or favour). Nepotism, and other forms of favouritism, results in local and regional authorities not having access to the brightest and best talent. This, in turn, creates a fertile environment for further corruption and reduces the efficiency and effectiveness of the administration.

International standards

As one type of corruption, nepotism is covered by the following international standards and guidelines:

- ▶ The **United Nations Convention against Corruption**³⁹⁶ is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by this **Technical Guide to the Convention**.³⁹⁷
- ▶ The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**³⁹⁸ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**³⁹⁹ defines common international rules for effective remedies for persons affected by corruption.
- ▶ The **Congress of the Council of Europe's Resolution and Recommendation on Fighting nepotism within local and regional authorities**⁴⁰⁰ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- ▶ The **European Union's Convention against Corruption Involving Officials**⁴⁰¹ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

In the 2016 Ukrainian Municipal Survey,⁴⁰² 56% of respondents indicated that nepotism was a “significant problem”, and 29% identified it as “somewhat of a problem”. Nepotism in Ukraine is close to the phenomenon of *kumivstvo* (the “godparent relationship”) or to cronyism. In the case of cronyism, the exchange of favours and privileges is based on close friendship ties.

Legislation

In Ukraine, there is no specific law on nepotism. However, the Law “On Prevention of Corruption” and the Law “On Civil Service” provide several indirect regulations and limitations to nepotism.

Section 27 of the Law “On Prevention of Corruption”⁴⁰³ prohibits public officials from being in direct subordination or having in direct subordination any close persons. In case such subordination occurs, an official is obliged to report and undertake measures to resolve the situation, as in the case of conflict of interest. Accordingly, the subordinated person is required to either change the position to avoid direct subordination to the close person or to resign.

In 2020 the Law “On Amendments to Certain Legislative Acts of Ukraine Concerning Restrictions on Joint Work of Related Persons” was adopted. It stipulates that local councillors of Ukraine, members of the Verkhovna Rada of the Autonomous Republic of Crimea, elected representatives of local councils, village, settlement, city mayors may not be directly subordinated to their relatives or be directly subordinated in connection with the exercise of powers to their relatives. The law withdraws the exception of hiring a close person as an assistant consultant of a local councillor, member of the Parliament or elected representatives. Thereafter such form of nepotism is prohibited.⁴⁰⁴

Examples of case law

An administrative case in Vasylivka Raion Court became an example of nepotism.⁴⁰⁵ The head of the department of culture and tourism of a raion state administration did not report her husband’s direct subordination, who was the director of the town’s Centre for Culture and Leisure. She also employed her son. Additionally, she assigned her husband a payment for his work from the raion budget.⁴⁰⁶ At the same time, the husband assigned

payments to his wife since she had a position of responsibility in the abovementioned centre. On top of that, their daughter co-ordinated an administrative department of the centre.⁴⁰⁷ In total, the court imposed a fine in the amount of 300 non-taxable minimum incomes, equivalent to UAH 10,200. The charges were based on Article 172-7, paragraphs 1 and 2 of the Code of Ukraine on Administrative Offences about decision making under conditions of an actual conflict of interests.

In another case, the chief doctor of Hnivan Municipal Non-Profit Enterprise allowed a bonus to be added to his wife's salary. He did not take steps to prevent an actual conflict of interest between the private interest and representative powers. The chief doctor was fined UAH 3,400, which is a typical penalty for such kind of administrative offences.⁴⁰⁸

4.5. EXTORTION

Extortion is the use of coercion to obtain money, goods, services or some other advantage from an individual or institution. Beyond the damage it does to the victim, extortion reduces public trust in government and can discourage business growth and investment in the area.

International standards

As one type of corruption, extortion is covered by the following international standards and guidelines:

- ▶ The **United Nations Convention against Corruption**⁴⁰⁹ is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by this **Technical Guide to the Convention**.⁴¹⁰
- ▶ The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**⁴¹¹ aims to co-ordinate criminalisation of corrupt practices and improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**⁴¹² defines common international rules for effective remedies for persons affected by corruption.

- ▶ The **European Union’s Convention against Corruption Involving Officials**⁴¹³ aims to fight corruption involving officials from the EU or its Member States.

Domestic context

In 2017, 26% of those who reported giving a bribe did so due to direct extortion. Another 27% were indirectly asked for a bribe. 25.7% reported giving a bribe in order to persuade public officials to fulfil their duty.⁴¹⁴

On 20 May 2019, the Ukrainian Crisis Media Centre presented the results of the study “Statistical analysis of court decisions in criminal cases related to corruption”, which analysed 36,410 court decisions in criminal cases issued during 2014–2018. According to the key findings of the study, the share of crimes related to obtaining illicit gain (inter alia, through extortion) is paramount,⁴¹⁵ which shows the scale of the problem in Ukraine.

The study shows that the most common punishment for corruption crimes is a fine – almost 51% of court cases. At the same time, only 10% of court decisions end up with imprisonment.⁴¹⁶

Legislation

The Criminal Code (Article 354, note 5) defines extortion as a *«demand to provide unjustified benefit with a threat to take actions or omit to act using one’s position, the authority granted, power, or service position in relation to the person who provides unjustified benefit, or deliberate creation of conditions under which a person is compelled to provide unjustified benefit in order to prevent harmful consequences for his/her rights and legitimate interests»*. In line with Article 368, paragraph 3 of the Criminal Code of Ukraine, extortion of unjustified benefits can be punished by imprisonment for five to ten years and deprivation of the right to hold certain offices or engage in certain activities for three years, and confiscation of private property.

Examples of case law

In 2021, a criminal case in Holosyivsky Raion Court in Kyiv became an example of extortion. By prior agreement with the head of the relevant Executive Service Department, a public bailiff informed the person whose car had been seized by the executive service that he could lift the arrest from the car in exchange for USD 1,000. The bailiff said that otherwise, he would not make the decision to lift the arrest and release the vehicle and would not speed up the implementation of this decision. The court condemned both officers to 7 years of imprisonment with confiscation of all property and deprivation of the right to hold positions related to the performance of organisational and administrative functions for a period of 3 years.⁴¹⁷

Investigations of the National Anti-Corruption Bureau of Ukraine have addressed several cases of bribery. For instance, in October 2016, the head of a village council faced charges of illegally demanding and partially receiving an unjustified benefit of approximately USD 100,000 for granting the use of 600 hectares of land to an entrepreneur. The NABU finished the investigation, and the Special Anti-Corruption Prosecutor prepared an indictment and brought the case to Zarichnyi Regional Court of Sumy, which is yet to reach a final verdict.⁴¹⁸

On 17 August 2016, Malynsk Raion Court of Zhytomyr Region passed a judgement on a case involving the head of a regional council and the head of a state administration.⁴¹⁹ They were accused of extorting and receiving an unjustified benefit in the amount of UAH 40,000 from a farmer who wanted to rent a land plot for agricultural purposes. Both defendants were sentenced to two and half years of imprisonment. However, on 13 November 2017, Zhytomyr Regional Court of Appeal overturned the initial verdict and initiated a new criminal procedure under the original jurisdiction.⁴²⁰

4.6. PATRONAGE

Patronage is the use of an official position to appoint a person in a public office based on favouritism, often in exchange for political support. It can be closely linked to the concepts of clientelism, cronyism and nepotism. Patronage results in decisions being made not on the basis of what is in the interests of society at large but what is in the self-interests of the decision maker and their associates. It violates the boundaries of legitimate political influence and the principles of merit and leads to public money being misspent.

International standards

As one type of corruption, patronage is covered by the following international standards and guidelines:

- ▶ The **United Nations Convention against Corruption**⁴²¹ is the only legally binding universal anti-corruption instrument.
- ▶ It is supported by this **Technical Guide to the Convention**.⁴²²
- ▶ The **Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173)**⁴²³ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- ▶ The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**⁴²⁴ defines common international rules for effective remedies for persons affected by corruption.
- ▶ The **Congress of the Council of Europe’s Resolution and Recommendation on Fighting nepotism within local and regional authorities**⁴²⁵ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments.
- ▶ The **European Union’s Convention against Corruption Involving Officials**⁴²⁶ aims to fight corruption involving officials from the EU or its Member States.

Since the misuse of administrative resources during electoral processes is the most widespread manner to use patronage as a form of corruption, the following international standards are of relevance:

- ▶ The **Congress of the Council of Europe’s Resolution on the Misuse of Administrative Resources during Electoral Processes: The Role of Local and Regional Elected Representatives and Public Officials**⁴²⁷ provides international standards and best practices to tackle the misuse of administrative resources.
- ▶ **Joint Guidelines of the Venice Commission and OSCE/ODHIR for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes**⁴²⁸ aim to assist decision-makers in adopting laws and initiating concrete measures to prevent misuse of administrative resources.

Domestic context

Patronage is considered to be widespread, despite the existence of legislative regulations, and remains a problem in Ukrainian politics. The situation when a politician provides an executive position to a person based on a personal relationship rather than merit creates a vicious circle of favouritism. The favour of giving the job creates pressure to return the favour and blurs the boundary between political office and executive positions. In other words, due to patronage, bureaucracy loses its impartiality, however it remains difficult to prove it at the same time.

Legislation

The Law No. 889 “On Civil Service” of 10 December 2015⁴²⁹ obliges civil servants to be politically impartial. Article 10 of the Law⁴³⁰ states that civil servants must implement legal directives independently of their own political views or the political affiliation of the authority. Besides, civil servants of the highest category are not allowed to be members of a political party or be local councillors. It is prohibited for all civil servants to be involved in political campaigns or events organised by political parties or to use public office for any political purposes. Article 10.3 of the abovementioned law explicitly prohibits the use of administrative resources and reduces corruption risks related to patronage.

Example of case law

Cases of illegal political influence on appointments and the work of executive public officials rarely reach the court since they are difficult to prove. The following case offers an example in which a former minister realized that illegal political influence was undermining his impartiality, still the outcome of the case rather demonstrates the ineffectiveness of protection provided by the current legislation.

In 2016, a former Minister for Economic Development and Trade reported illegal influence of some Members of Parliament on the work of his ministry. The National Anti-Corruption Bureau of Ukraine investigated the case⁴³¹ and issued an indictment against the executive director of a national company for the illegal influence exerted by him on the former Minister. According to the allegation, the aim of the alleged influence was to become the Deputy Minister of Economic Development and Trade. However, by the Decision of Solomyansky District Court of 8 August 2019, the criminal proceedings were closed, and the accused was found not guilty.

Conclusion

Local government plays a critical role in sustaining the well-being of citizens, delivering services, and providing the first point of contact between people and public administration. The proximity with citizens can help ensure that public authorities and services are truly responsive and accountable, attuned to people's needs and aspirations, improving people's lives and strengthening their trust and confidence in local institutions.

Local governments are taking important strides in improving the legal framework towards more open and inclusive decision-making. It is essential to involve citizens and other residents in decision-making from a very early stage in the policymaking process. Local governments should translate laws and policies on open government into practice and increase their efforts to ensure transparency, accountability and the meaningful participation of citizens in policy- and decision-making. As well as being important qualities of local democracy, transparency and civic participation can help deliver effective public services, combat and prevent corruption, and build citizens' trust in government.

The mechanisms outlined in this handbook present a variety of ways in which local and regional authorities can prevent corruption, reduce its risks, and develop effective and accountable institutions at all levels. Other reforms, such as the protection of whistle-blowers and support for independent media and civil society, are equally critical to building open government, public ethics and accountability.

The Congress of Local and Regional Authorities of the Council of Europe is committed to supporting local governments in their efforts to improve the quality of local democracy, prevent corruption, raise standards of public ethics and accountability, and promote transparency and citizen participation.

Glossary/abbreviations

CEDEM – the Centre of Democracy and Rule of Law, NGO, before 2016 – the Media Law Institute;

Code of Ethics – a set of the most important values, principles, standards of behaviour and ethical norms that determine the way of forming the relationship between government and citizens;

Eidos Centre – non-governmental analytical resource organisation, established to unite the efforts of the public to build civil society, democratic institutions and effective local self-government in Ukraine;

Istanbul Anti-Corruption Action Plan – a sub-regional peer review programme launched in 2003 in the framework of the Anti-Corruption Network of OECD;

NABU – the National Anti-Corruption Bureau of Ukraine;

NACP – the National Agency on Corruption Prevention. A central executive body with a special status. It is responsible for the development of anti-corruption policy and prevention of corruption;

NGO – non-governmental organisation;

Ombudsman – the Ukrainian Parliament Commissioner for Human Rights;

Public hearing – joint meetings of citizens with representatives of local authorities, at which proposals for solving current problems of the city are discussed and approved;

SPF – the State Property Fund of Ukraine, the executive body administrated by the Cabinet of Ministers;

TAPAS Project – the USAID/UKaid Transparency and Accountability in Public Administration and Services project;

TI Ukraine – Transparency International Ukraine, the regional chapter of Transparency International, a global anti-corruption NGO;

Tromsø Convention – the Council of Europe Convention on Access to Official Documents;

USAID – the United States Agency for International Development;

The Specialized Anti-Corruption Prosecutor's Office SAPO – an independent structural unit of the General Prosecutor of Ukraine and is primarily responsible for supporting and overseeing criminal investigations launched by NABU;

National Agency of Ukraine for finding, tracking and management of assets derived from corruption and other crimes (abbr. – Asset Recovery and Management Agency or ARMA) – a special governmental body authorised to formulate and implement state policy in the sphere of tracing, finding of assets that are subject to seizure and that are aimed to be seized, as well as management of seized assets in criminal proceedings;

National Council for Anti-Corruption Policy – an advisory body, the main task is to assist the President of Ukraine in exercising his powers;

SBU's department of Financial Investigation Service – an independent body that investigates economic crimes;

High Anti-Corruption Court of Ukraine – the Ukrainian court established on 11 April 2019. The court handed down its first sentence on 30 October 2019. Cases concerning corruption in Ukraine are to be brought directly to this court. The court jurisdiction covers crimes that caused damage of an equivalent of at least 31 thousand USD. Appeals are considered by a completely separate Appeal Chamber of the High Anti-Corruption Court;

Open Government Partnership (OGP) – a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance;

The Organisation for Economic Co-operation and Development (OECD) – an intergovernmental economic organisation with 38 member countries, founded in 1961 to stimulate economic progress and world trade. It is a forum of countries describing themselves as committed to democracy and the market economy, providing a platform to compare policy experiences, seek answers to common problems, identify good practices and coordinate domestic and international policies of its members.

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In 2019, a significant part of the population attributed corruption in the central government (21.6%) and corruption in the courts, police, and prosecutor’s office (15.4%) to the most pressing problems. As part of this study, taken on January 16–29, 2019, 11,000 respondents in all regions of Ukraine (excluding the population of the Autonomous Republic of Crimea and the occupied territories of Donetsk and Luhansk regions) aged 18 and older were interviewed. The sample is representative upon the main socio-demographic indicators. Statistical error excluding design effect is +/- 0.9% (see Press release on the results of the poll “Ukraine on the eve of the presidential election”);

As part of this study, taken on October 4–9, 2019, 2015 respondents aged 18 and over were interviewed in all regions of Ukraine (excluding the population of the Autonomous Republic of Crimea and the occupied territories of Donetsk and Luhansk regions) in a sample representing the adult population upon the main socio-demographic indicators. The theoretical sampling error (excluding the design effect) does not exceed 2.3% (see Citizens’ assessment of the situation in the state and government activities, the level of trust in social institutions and politicians // Official website of the Razumkov Center. Available at: <https://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/otsinka-gromadianamy-sytuatsii-v-kraini-ta-diialnosti-vlady-riven-doviry-do-sotsialnykh-institutiv-ta-politykiv>;

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