



PROTECTING THE RULE OF LAW AND INVESTORS IN POST-WAR RECONSTRUCTION IN UKRAINE: ANTI-CORRUPTION STRATEGIES AND FOREIGN POLICY SAFEGUARDS

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ABSTRACT

All indications are that the war in Ukraine will not end in military victory for either side, but rather in political negotiations – likely under American pressure and with varying degrees of involvement from the European Union and some of its Member States – that will essentially proceed on terms dictated by Russia.

In plain language, this means that **Ukraine's security will not depend on its accession to NATO, which is highly unlikely, but on bilateral assistance treaties with the United States and European countries and, perhaps, on its future accession to the European Union.**

Europe will also play a major role **in Ukraine's reconstruction.** But for this reconstruction – which will require colossal long-term projects and therefore substantial investment – to be successful and for peace, even if imperfect, to be sustainable, **the credibility of the legal and institutional frameworks in place in Kiev must be beyond question.** As the country seeks to attract foreign direct investment, legal certainty, transparency and institutional fairness will be essential prerequisites.

However, recent cases of arbitrary sanctions, opaque enforcement practices and politically motivated legal actions, as illustrated by and **Philip** the cases of **Ronald M.**

Derrikson, Oleh Bakhmatyuk, Tamaz Somkishvili, Arnulf Damerau, Vadym Iermolaiev Morris , are very worrying.

This report therefore examines the misuse of legal instruments such as sanctions and asset freezes, the weakening of independent anti-corruption institutions, and the impact of these practices on investor confidence. Through detailed case studies, we illustrate how systemic governance failures, ranging from procedural violations to abuses of executive power, undermine the predictability and reliability necessary for the mobilisation of private capital. The July 2025 law placing the **NABU** ⁽¹⁾ and **SAPO** ⁽²⁾ under the control of the president further undermines progress in the fight against corruption and has sparked mass protests, revealing growing public mistrust of the government's approach to tackling this scourge.

The consequences of legal arbitrariness are profound: they range from declining investor appetite and capital flight to increased insurance premiums and erosion of goodwill towards the EU. As Ukraine approaches a pivotal moment on the path to possible European economic integration, its ability to protect property rights and uphold the rule of law will determine the success of its reconstruction and its credibility as a strategic partner.

This report examines the legality and procedural validity of sanctions imposed on entrepreneurs, as well as cases in which economic actors have been subject to disproportionate or opaque restrictive measures. The recurrent use of politically motivated coercive measures, combined with the absence of due process, risks discouraging private investment at a time when Ukraine needs it most.

It concludes with concrete recommendations for the Ukrainian authorities and EU stakeholders, including the creation of an independent investment oversight body, the establishment of transparency criteria for reconstruction funds, and the creation of a register of contested sanctions. Together, these measures can help anchor Ukraine's recovery in the values of justice, accountability and democratic integrity.

1. Introduction: corruption in post-Soviet Ukraine, a historical perspective

Before going any further, it is necessary to provide a brief historical overview.

In the post-Soviet space, corruption is not a phenomenon unique to Ukraine: it is present in all the independent states that emerged from the collapse and break-up of the USSR in December 1991. This was probably inevitable: the absence of a regulated market economy based on the concept of "fair and perfect competition" and including robust commercial and financial codes, the total obsolescence of the industrial apparatus, the inability of the "red directors" appointed to head economic entities for their political

¹ National Anti-Corruption Bureau of Ukraine, in Ukrainian: Національне Антикорупційне Бюро України or *Natsionalne Antykoruptsiine Biuro Ukrainy*.

² Specialised Anti-Corruption Prosecutor's Office; in Ukrainian: Спеціалізована антикорупційна прокуратура or *Specializovana antykorupciijna prokuratura*.

reliability rather than their ability to manage them, the lack of domestic capital available for investment and the timidity of foreign investors in the face of enormous needs favoured the emergence of unscrupulous captains of industry.

Often supported by organised crime (the only sector with significant liquid assets that could be mobilised immediately) and the *siloviki* (former members of the security services who were the only ones with real international experience), these predatory investors plundered the economy and divided up the spoils of the regime that had just collapsed.

In the specific case of Ukraine, six successive periods can be distinguished:

➤ **The Kravchuk era (1991-1994)**

The first president of independent Ukraine, Leonid Kravchuk **managed a transition that could only rely on weak institutions incapable of managing a market economy**. This resulted in the emergence and rapid growth of a **parallel economy that was beyond any control** (particularly, but not exclusively, fiscal) **and could only exist and develop thanks to the corruption of civil servants**. Economic power thus became concentrated in the hands of a small oligarchic elite.

➤ **The Kuchma era (1994-2005)**

Leonid Kuchma chose to **strengthen this oligarchy by creating financial and industrial conglomerates, the management of which was entrusted to his close associates**, notably through a series of completely opaque privatisations that **enabled the confiscation of state resources**. Corruption then became endemic and systemic.

➤ **The Yushchenko era (2005-2010)**

After coming to power following the **Orange Revolution**, Viktor Yushchenko made the **fight against corruption and bringing the oligarchs to heel his main promise**. This promise was not kept, **with reforms mainly boiling down to replacing Kuchma's allies with those of the new president**.

➤ **The Yanukovych era (2010-2014)**

The Yanukovych administration was marked by **widespread embezzlement of public funds**, which became one of the causes of the "**Maidan Revolution**" (2014).

➤ **The Poroshenko era (2014-2019)**

Under President Petro Poroshenko and **with a view to closer ties with the European Union, some progress began to be made**: anti-corruption institutions were created (such as **NABU** and **SAPO** in 2015), but their work was severely hampered by resistance from an oligarchy that had spent more than 20 years strengthening its influence over the political world.

➤ The Zelensky era (2019 to present)

Finally, **Volodymyr Zelensky was elected on a clear and ambitious anti-corruption platform** that secured him a comfortable majority. But despite his initial efforts, **his administration has been undermined by corruption scandals, particularly (and until very recently) in the defence sector.**

However, Zelensky has little choice. **Faced with the Russian invasion in 2022, he is aware that the fight against corruption is vital if he wants to retain the support of his Western partners and move towards European integration.**

A few figures illustrate how the situation has evolved

- In **2002**, according to a **poll by the Razumkov Centre**³, only **2%** of respondents believed that "almost no one accepts bribes", **60.5%** said they were personally aware of cases of corruption to obtain a legitimate decision and **47.5%** to obtain an illegitimate decision.
- In **the summer of 2022**, a **USAID** survey⁴ showed a **clear change in society's perception (and tolerance) of corruption**: while in 2021, 4% of Ukrainians believed that corruption was on the decline, a year later, 29% shared this view; In 2021, 43% of Ukrainians said they had never encountered corruption, but this figure rose to 64% in 2022. In 2021, 40% considered bribes to be "never justified", compared to 64% in 2022. Finally, while in 2021, 44% of Ukrainians said they were "willing to report corruption", this figure rose to 84% in 2022.
- In **2021**, Ukraine was ranked 116th⁽¹⁾ out of 180) in **Transparency International's** Corruption Perceptions Index, with a score of 32-33/100, thousands of convictions (6,860 in 2021) and (at least) €7 billion in annual losses⁵.
- In **2023**, one year after the start of the war, the country had made slight progress, ranking **104th with a score of 36/100**. However, the number of convictions fell sharply (2,420), which may reflect either a decline in corruption, a lack of effectiveness on the part of the specialised services, or finally a change in priorities due to the war⁶ ...
- Furthermore, respondents felt that corruption was on the rise (nearly 90% in 2023)⁷ and the fact that Ukraine remained stagnant in 2024, at ^{105th} place in the corruption index, seems to indicate a slowdown in the fight against corruption⁸.

³ Zhdanov, I. (2002). *Corruption in Ukraine: essence, scale and influence*. *Connections*, 1(2), 33-50.

⁴ <https://www.rtbef.be/article/guerre-en-ukraine-l-invasion-russe-a-etouffe-la-corruption-en-ukraine-selon-un-responsable-anticorruption-11147165>

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Andreï Borovyk, Executive Director of *Transparency International Ukraine*, <https://cpi.ti-ukraine.org/en/>

2. Investment in Ukraine before the war

2.a. Foreign direct investment (FDI): trends and challenges

Between 2013 and 2021, the foreign direct investment (FDI) landscape in Ukraine was marked by **high volatility**. This turbulence was caused by **a series of destabilising events, including persistent political unrest, the outbreak of war in the eastern regions in 2014, and the global Covid-19 pandemic**. Despite these challenges, FDI has shown resilience, **peaking at 4.42% of GDP in 2016 and then declining slightly to 3.98% of GDP in 2021**, reflecting renewed investor confidence, which translated into net inflows of \$7.95 billion in 2021⁹.

The 2014 EU-Ukraine Association Agreement and the creation of the Deep and Comprehensive Free Trade Area (DCFTA)¹⁰ were key catalysts in stimulating European investment, particularly in sectors such as renewable energy, infrastructure development and green technologies. Nevertheless, long-term FDI flows remained moderate overall.¹¹ Investment outflows and repatriations have often exceeded new inflows, and geopolitical shocks have led to frequent stagnation or contraction in net FDI volumes.

2.b. Domestic investment: trends and vulnerabilities

Prior to the 2022 invasion, domestic investment played a moderate role in the Ukrainian economy. It had also proven to be highly sensitive to internal disruptions and external crises. The share of investment in GDP experienced significant fluctuations, falling during periods of instability such as 2014 and 2020.

In 2023, the investment ratio reached 21.6% in the third quarter before falling sharply to 14.8% in December, illustrating the fragility of investor confidence in the face of economic and geopolitical shocks¹².

2.c. The impact of war: investment and private sector activity

Russia's large-scale invasion in February 2022 led to the **immediate suspension of new foreign investment. It was not until 2023 that Ukraine began to experience a cautious recovery**, with nearly \$4.3 billion in FDI, including \$0.7 billion from new investors. The conflict led to a dramatic 28.8% contraction in GDP in 2022, followed by a partial recovery of 5.3% in 2023. **This recovery was supported by international financial aid, the location of domestic companies, and essential investments in infrastructure and energy resilience.**

⁹ https://backend.orbit.dtu.dk/ws/portalfiles/portal/391838933/4638_337-356.pdf

¹⁰ https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/ukraine_en

¹¹ <https://www.csis.org/analysis/untapped-market-impact-investing-ukraine>

¹² <https://www.ceicdata.com/en/indicator/ukraine/investment--nominal-gdp>

¹³The private sector was hardest hit by the economic impact of the conflict. **Average financial losses per company reached approximately £150,000.** Sectors such as construction suffered disproportionately due to damage to infrastructure, disruption to supply chains and declining investor confidence.

3. Future reconstruction: the role of investors and legal challenges

According to a comprehensive joint assessment by the Ukrainian government, the World Bank, the European Commission and the¹⁴, **Ukraine's total reconstruction and recovery needs are estimated at £524 billion (€506 billion) for the decade 2025-2035.** This figure represents **nearly 2.8 times the country's nominal GDP in 2024**, highlighting the unprecedented scale of the challenge ahead.

For 2025 alone, immediate investment needs are estimated at US\$7.37 billion. However, this figure is far exceeded by the projected funding gap of approximately US\$10 billion, underscoring the urgent need for coordinated investment strategies between the public and private sectors and sustained international support. Beyond humanitarian aid and military assistance, Europe's long-term security and economic resilience depend on Ukraine's successful transition to a stable, democratic and economically integrated partnership.

Private investors, both foreign and domestic, will be indispensable to this effort. **Public funds alone will not be sufficient to rebuild essential infrastructure, modernise housing, rehabilitate energy networks or restore agricultural and industrial production.** The private sector is expected to drive innovation, create jobs and provide capital in sectors ranging from transport and logistics to digital infrastructure and green energy. The European Bank for Reconstruction and Development (EBRD) estimates that more than 50% of total investment in reconstruction must come from private sources, including through blended finance mechanisms and public-private partnerships (PPPs).

But for this vision to become a reality, Ukraine must foster a legal and regulatory environment conducive to long-term investment. Predictability in contract enforcement, impartial dispute resolution and strong protection of property rights are not luxuries to aspire to, but essential preconditions. The legacy of selective justice, opaque decision-making, and politicised enforcement of regulations and decisions has consistently discouraged investors, particularly in sectors prone to capture by elites. Ukraine ranks 78th out of 140 in the World Economic Forum's Global Competitiveness Index in terms of judicial independence, and transparency remains a major concern according to several assessments by the OECD and *Transparency International*.

If Ukraine wishes to attract sustainable investment and anchor itself more deeply in the European economic space, it must make a decisive break with the patterns of the past. This requires structural reforms that anchor the rule of law and protect investors, regardless of their nationality or political connections, from arbitrary administrative or

¹³ <https://www.undp.org/sites/g/files/zskgke326/files/2024-02/UNDP-UA-assessment-war-impact-enterprises-ukraine-summary.pdf>

¹⁴ <https://news.un.org/en/story/2025/02/1160466>

judicial intervention. Without this legal basis, no amount of goodwill on the part of donors and no influx of capital can guarantee sustainable reconstruction.

In a report published in August 2023 on **the challenges of reconstruction in Ukraine**¹⁵, **the OECD stresses that the speed and effectiveness of reconstruction will depend as much on the quality of management tools as on the financial resources mobilised.**

The following challenges are highlighted:

- **Corruption:** strengthen internal controls, conduct external audits, establish early warning systems, leverage data analysis, and promote civil society participation;
- **Lengthy and complex procedures:** simplify legislation, speed up processes without compromising transparency, and strengthen institutional capacity;
- **Preferential treatment:** prevent discrimination based on the nationality or origin of the donor/investor; comply with EU non-discrimination principles;
- **Limited institutional capacity:** provide large-scale training for civil servants, set up advisory centres and develop technical guides and standards;
- **Proliferation of rules:** harmonise the legal framework for all types of financing (domestic and international) to reduce the administrative burden.
- **Attractiveness to foreign operators:** facilitate the participation of foreign companies through documentation in English, simplified procedures and fair access.
- **Centralisation and pooling:** centralise certain public procurement contracts to achieve economies of scale, while dividing contracts into smaller lots to support SMEs.

Visible progress has been made, but gaps remain and must be addressed to ensure a transparent and efficient reconstruction environment. As highlighted in an article published by **the École de Guerre Économique (EGE)** in Paris in November 2024¹⁶, several weaknesses persist despite visible improvements. Thus, despite an unprecedented level of international support for Ukraine, significant risks remain in terms of reconstruction fund management and institutional governance.

These risks include:

- **Oligarchic control over reconstruction:** the massive influx of international aid for reconstruction could be diverted by powerful interest groups, particularly in key

¹⁵ https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/08/public-procurement-in-the-post-war-reconstruction-of-ukraine-main-challenges_df1d3017/c427b561-en.pdf

¹⁶ <https://www.ege.fr/infoguerre/les-failles-que-lukraine-doit-combler>

sectors such as agriculture and real estate. Without strict regulation, these funds risk strengthening the influence of oligarchs to the detriment of the general population;

- **The instrumentalisation of the discourse on resilience:** while the discourse on Ukraine's resilience has proven effective in mobilising international support, it is sometimes exploited by corrupt actors. They use patriotism as a shield to conceal the misappropriation of funds, which undermines transparency and erodes the confidence of international partners.
- **Persistent institutional weaknesses:** despite efforts to strengthen institutions, Ukraine continues to face fragile state structures. Anti-corruption agencies remain underfunded and lack the authority to effectively combat illicit practices, hindering the implementation of sustainable reforms.

4. Case study – Patterns of arbitrary or politicised sanctions

4.a. The case of Oleh Bakhmatyuk (Ukraine): legal liability or political pressure?

Oleh Bakhmatyuk, once one of Ukraine's richest agro-industrial magnates and former owner of **VAB Bank** and **Finansy i Kredyt Bank**, has been at the centre of a highly publicised legal and political controversy since 2014, which intensified significantly in 2019. **Following the collapse of VAB Bank during the financial crisis that followed the Maidan revolution, the National Bank of Ukraine (NBU) and law enforcement agencies accused Bakhmatyuk of participating in a conspiracy to embezzle more than UAH 1.2 billion (approximately £35 million) in refinancing loans granted by the central bank.**

In November 2019, Ukraine's National Anti-Corruption Bureau (NABU) announced that it was investigating Bakhmatyuk for alleged embezzlement of these funds. Shortly thereafter, NABU issued arrest warrants, froze several of his domestic assets, and requested his extradition when Bakhmatyuk left the country, apparently for Vienna, Austria. **For his part, Bakhmatyuk has strongly denied all charges, claiming that the prosecution was politically motivated and constituted retaliation, particularly after he refused to sell key agricultural holdings, including *UkrLandFarming* and *Avangardco*, at below market value to business interests allegedly linked to influential oligarchs.**

This case quickly became **emblematic of a broader problem in the Ukrainian legal environment** after 2014: **the intertwining of economic crime investigations with opaque political or commercial rivalries.** While NABU and the Specialised Anti-Corruption Prosecutor's Office (SAPO) have made substantial progress in prosecuting high-level corruption cases, critics argue that selective targeting and procedural abuses persist. Mr Bakhmatyuk's legal team has consistently argued that the proceedings against him lack transparency, citing procedural irregularities and the absence of due process in the seizure of assets.

As of 2025, the case remains unresolved in the Ukrainian courts. No final decision has been made, and the extradition request is still pending in Austria, where local courts have raised questions about the fairness of the proceedings in Ukraine. Meanwhile, his agricultural conglomerates, once among the largest in Eastern Europe, have suffered operational setbacks, layoffs and financial instability.

This uncertain legal situation has broader implications for investor confidence in Ukraine. On the one hand, **it highlights the need to hold powerful economic actors accountable for any wrongdoing. On the other hand, it illustrates how even the appearance of politicisation in high-profile financial investigations can be damaging, discouraging investment, weakening confidence in reforming institutions and reinforcing the perception of justice dictated by the oligarchic elite.** The Bakhmatyuk case – even if Bakhmatyuk is a controversial oligarch – serves as a warning: without strong institutional safeguards, anti-corruption efforts risk being perceived not as impartial law enforcement, but as instruments of economic warfare.

4.b. The Philip Morris Ukraine case

In 2019, Philip Morris Ukraine, one of the largest foreign investors in the tobacco and consumer goods sector in Ukraine, **was unexpectedly hit with a \$23 million tax claim issued by the State Fiscal Service (SFS)**¹⁷. This claim was made despite the fact that the company had previously negotiated and settled its customs and tax obligations in an official agreement with the Ukrainian authorities. **The retroactive nature of this claim, which reinterpreted customs valuation rules and nullified the previous agreement, was widely seen as an attempt to obtain revenue through legal reclassification rather than due process.**

A rapid escalation ensued, with legal appeals, diplomatic interventions and widespread condemnation from the international business community. **The American Chamber of Commerce in Ukraine, the Association of European Businesses, and various diplomatic missions condemned the move, warning that it would undermine investor confidence at a time when Ukraine was seeking to demonstrate its credibility on reforms.** Under mounting pressure, the Ukrainian authorities ultimately waived the claim and the case was not pursued.

But the incident revealed several systemic weaknesses. First, it highlighted **the inconsistency of regulatory interpretation in Ukraine**, where government agencies have sometimes overturned their own binding decisions without much transparency or legal justification. Second, it underscored **how legal unpredictability disproportionately affects foreign investors**, who rely on reliable legal agreements to navigate unfamiliar regulatory landscapes. Third, it **served as a warning about the latent risks associated with fiscal and administrative governance in Ukraine**, particularly the

¹⁷ <https://ulysses.law/cases/ulysses-acted-for-philip-morris-in-settlement-of-investor-state-dispute-with-ukrainian-government>
<https://icsid.worldbank.org/cases/case-database/case-detail? CaseNo=ARB/21/3>

discretionary powers retained by tax and customs authorities even after official liberalisation efforts.

It is important to note that **the Philip Morris case is not an isolated incident**. It echoes similar measures taken against other multinationals in Ukraine over the past decade, where **tax enforcement has been used not as a neutral legal tool, but as a mechanism for pressure or negotiation**. Although the government at the time was committed to improving the investment climate, particularly after the 2014 revolution, cases such as this have eroded confidence and highlighted the ongoing need for institutional safeguards, judicial independence and investor protection mechanisms.

The final withdrawal of the claim was a relief for Philip Morris, but the damage to Ukraine's reputation as a reliable investment destination had already been done. This case remains a reference point in discussions on legal certainty, selective enforcement of the law and the urgent need for structural reform of economic governance in Ukraine.

Several lessons can be learned from the Philip Morris case:

- **First, it illustrates the key role of bilateral investment treaties (BITs):** faced with a tax claim deemed arbitrary and excessive by Philip Morris Ukraine, the company was able to invoke the protections offered by the BITs signed between Ukraine, Switzerland and the United States. Philip Morris initiated international arbitration proceedings before the ICSID (International Centre for Settlement of Investment Disputes), accusing Kiev of violating its obligations of fair treatment and protection against discriminatory or arbitrary measures under these treaties. This possibility of recourse to an independent international body served as leverage to obtain serious negotiations with the Ukrainian state. The threat of arbitration, which would have been costly and damaging to the state's reputation, prompted Ukraine to reconsider its position: in 2019, the dispute was settled amicably with the cancellation of the tax claim, demonstrating the ability of BITs to open dialogue and balance relations between investors and states.
- Secondly, this case shows that the existence of credible BITs encourages foreign investors to commit capital by giving them access **to an impartial dispute resolution mechanism**. The possibility of challenging internal administrative decisions before an international tribunal ensures greater legal certainty, which is essential in an environment where there may be risks of arbitrariness.
- Finally, **compliance with these treaties enhances a country's reputation within the international business community**. In this example, the favourable outcome for the investor demonstrates that a State can recognise its international commitments and restore confidence, whereas failure to comply with these commitments could have seriously damaged Ukraine's image as an investment destination.

It should be noted, however, that **Philip Morris is a large and influential company. As a powerful multinational, it has the legal and financial capacity to mobilise these**

instruments when necessary. However, **not all investors have the same access to these protections.** Many smaller or less influential foreign investors cannot rely on the same resources or diplomatic clout. This highlights a major problem: investor protection under BITs must be applied equally and transparently, regardless of the size or influence of the investor. Without this, perceptions and realities of arbitrariness persist, weakening investor confidence and undermining the fundamental purpose of these treaties.

4.c. The case of Vadym Iermolaiev: overview of systemic risk

Vadym Iermolaiev, who holds Cypriot nationality from , **is a leading Ukrainian entrepreneur and industrialist who has played a central role in the economic development of Dnipro, Ukraine's fourth largest city.**

Over the past two decades, he has built a diversified portfolio that includes real estate, manufacturing and investment activities under the umbrella of the **Alef Estate Group**. His companies have created thousands of jobs and contributed significantly to the modernisation of regional infrastructure.

However, at the end of 2023, Mr Iermolaiev was unexpectedly subjected to special economic sanctions on a personal basis for a period of ten years by presidential decree in Ukraine. This decree, issued under Ukraine's "sanctions law," froze his assets, imposed trade and economic restrictions, and was subsequently extended by a second decree in June 2024. **These sanctions were not accompanied by any formal charges, court decisions, or public justification.**

A legal opinion commissioned to assess the sanctions against Iermolaiev **identified multiple procedural violations and serious concerns regarding the rule of law:**

- The presidential decrees contained **no factual or legal justification**, thereby violating the requirement for transparency and precision under Ukrainian law;
- The **sanctions were allegedly based on a criminal case (No. 4202300000000610) involving the director of a Crimea-based entity, but Iermolaiev is neither a suspect, witness, nor party to that case;**
- The only existing criminal conviction in connection with this case resulted in a **minor fine imposed on a person unrelated to Mr Iermolaiev;**
- The **Ukrainian Security Service (SBU) and the National Security and Defence Council (NSDC), asked by the court to provide evidence, refused to disclose their documents, citing their confidential nature**, thus leaving no evidence admissible for judicial review;
- **Two legal actions brought by Mr Iermolaiev's legal team, seeking to invalidate the presidential decrees (No 850/2023 and No 376/2024), were repeatedly postponed by the Supreme Court of Ukraine.** A request to merge the two cases for reasons of efficiency was also rejected without clear grounds.

This legal quagmire **highlights how state sanctions mechanisms, originally intended to counter real threats to national security, can be misused for political or economic purposes.**

In Mr Iermolaiev's case, **the sanctions appear to result from a misinterpretation of his professional background in Crimea, where his companies ceased operations and dissociated themselves from Russian-linked entities in 2015,** in accordance with Ukrainian law. Confusion between different companies operating under similar names, one of which was registered under Russian law without Mr Iermolaiev's involvement, appears to have played a key role in this misjudgement.

Furthermore, **Mr. Iermolaiev has publicly supported Ukraine's sovereignty and its armed forces, and has suffered significant personal and commercial losses as a result of Russia's occupation of Crimea in 2014 and large-scale invasion in 2022.**

The implications of this case are considerable. For foreign investors and domestic investors alike, **the Iermolaiev case sends a clear warning: legal status and political loyalty may not offer protection when repressive tools are used arbitrarily.** Sanctions that do not comply with due process rules not only undermine the credibility of the Ukrainian legal system, but also erode international confidence at a time when Ukraine is seeking billions of dollars to finance its reconstruction. They illustrate the urgent need for procedural safeguards, transparency standards and independent judicial oversight, particularly when targeting individuals who have played a constructive role in Ukraine's economic transformation since the fall of the Soviet Union.

4.d. The Derrickson case: lessons to be learned from the fraud perpetrated against a foreign investor in Ukraine during peacetime

The case of Ronald M. Derrickson, a successful Canadian businessman, is a **striking example of the dangers faced by foreign investors in opaque and corrupt business environments.** His story, detailed in the book *Ukrainian Scorpions - A Tale of Larceny and Greed*¹⁸, is not a case of arbitrary sanctions, as in the situation of Mr Iermolaiev, but **a case of outright theft committed by companies, made possible by systemic collusion between Ukrainian political, judicial and commercial actors.**

In the early 2000s, **Derrickson invested more than \$28 million in Ukraine, mainly in the Dnipropetrovsk region.** Its projects included the acquisition of more than 8,000 hectares of agricultural land, the construction of a grain processing plant, the importation of Canadian agricultural equipment, and community investment initiatives such as a dental clinic and a nursery.

His goal was both profit and development. **He sought to prove that large-scale foreign investment could thrive in post-Soviet Ukraine while bringing tangible benefits to local communities.**

¹⁸ *Ukrainian Scorpions – A Tale of Larceny and Greed*, Grand Chief Ronal M Derrickson, ECW Press, 2023.

After several years of successful operation, **Derrickson's Ukrainian partners orchestrated a secret plot to illegally transfer ownership of his Ukrainian holding company through a chain of fictitious entities**, with the beneficiary of this scam linked to a Ukrainian parliamentarian. Derrickson's company was stripped of its assets and quietly put up for sale on the Polish market without his consent or any compensation.

Despite having legal title and complete documentation, Derrickson found himself confronted with law enforcement agencies unwilling to act, even in the face of credible evidence; judges who delayed or dismissed cases, probably under political pressure; diplomatic inertia; a lack of meaningful intervention by Canadian authorities; and, finally, threats of violence and rumours that "armed mercenaries" would be called in to recover his property by force.

Unlike Iermolaiev, who faced opaque presidential decrees and state sanctions, the Derrickson case unfolded as a civil and commercial expropriation disguised as a legitimate transaction. But **in both cases, the underlying mechanism was institutional complicity**:

- In Derrickson's case, **contract law and criminal law were misused to facilitate the theft of assets**;
- **No criminal proceedings were ever brought against those responsible**:
- **The Ukrainian courts awarded no compensation to the plaintiff** after more than a decade of litigation.

4.e. The case of Tamaz Somkishvili

Tamaz Somkhishvili is a **businessman with British and Georgian nationality**. He is also a **renowned philanthropist** and a **leading investor in Ukraine**.

In 2007, he won a **tender for the reconstruction and rehabilitation of Kharkivska Square in Kyiv, becoming the developer of one of the largest urban real estate projects of the decade**. The investment was expected to exceed \$100 million and involved an initial payment of nearly \$14 million to the city council.

Despite the initial success and launch of the project, **the Kiev City Council cancelled the agreement, refusing to provide the land or reimburse the investor**. The costs and losses incurred were assessed by international experts, and the courts initially ruled in Somkhishvili's favour: in 2019, in the first instance, they ordered the Kiev City Council to compensate him for his losses. However, appeals have multiplied and, at the time of writing, the case is still pending before the courts. In 2022, against the backdrop of the war, Somkhishvili proposed mediation and even offered to waive his claim against the city council, but the proposal was rejected. This was followed by a widespread campaign of disinformation and defamation against him.

As soon as the dispute became public, defamatory accusations multiplied, including the allegation – obviously very serious in the context of the ongoing war – that he had participated in the repair of Russian military aircraft in Georgia. These allegations were reported by the Ukrainian media in 2022, without any concrete evidence being presented.

Tamaz Somkhishvili has addressed Ukrainian President Volodymyr Zelenskyy several times through open letters¹⁹ and letters sent by his legal team to draw his attention to this matter. These initiatives have gone unanswered by the President.²⁰

The Wolf Theiss law firm, acting as legal counsel to the investor, then conducted an investigation. The results of this investigation speak for themselves: there is **no evidence of Somkhishvili's financial or operational cooperation with any Russian company or Russian military project.**

The investigation report, officially submitted to the Ukrainian and British authorities, led to the closure of all proceedings: **Ukrainian foreign intelligence formally confirmed that it had "no evidence" linking Somkhishvili to these accusations²¹.**

Somkhishvili and his legal advisers were subjected to intimidation, personal threats and an orchestrated media campaign to discredit them and force the city council to refuse any compromise. This pressure, together with the local authorities' refusal to comply with court decisions or compensate the investor, illustrates the fragility and vulnerability of the investment climate in Ukraine for foreigners.

However, there is a bilateral investment treaty between Ukraine and the United Kingdom which, in theory, aims to protect British investors against expropriation and discrimination and to guarantee fair and equitable treatment. In particular, it offers the possibility of recourse to international arbitration in the event of a dispute with the Ukrainian state.

In the case of Tamaz Somkhishvili, as with other foreign investors, this framework has not provided effective protection: despite numerous appeals, court rulings in his favour and international expert opinions, the Kiev City Council and local authorities have refused to enforce these rulings and pay compensation, and have continued to appeal to the courts to rule in their favour.

Unlike the Philip Morris case, where strong international and diplomatic pressure led to an amicable settlement and the payment of compensation, Somkhishvili did not benefit from such support. **The ILO was unable to enforce the return of the land or the payment of compensation due to a lack of local political will and weak international enforcement mechanisms. This situation highlights the practical limitations of the**

¹⁹ <https://georgiatoday.ge/open-letter-from-somkhishvili-to-president-zelensky/>

²¹ The report and accompanying evidence (official letters, court publications) are available from international law firms and establish the defamatory nature of the campaign.

protections offered by BITs when they are not backed by genuine political commitment or strong external pressure.

4.f. The case of Arnulf Damerau and Cosmolot

Arnulf Damerau is an **Anglo-German businessman, co-owner of Cosmolot, one of Ukraine's leading online gaming platforms**, and a major foreign investor in the country. Cosmolot has established itself as **one of Ukraine's largest tax contributors**, embodying Western capital investment in the national private sector.²²

In 2024, **Damerau publicly denounced an extortion attempt by senior Ukrainian officials**, directly naming members of Zelenskyy's presidential cabinet and representatives of the security services. **He claims that fictitious charges were brought against Cosmolot and that its accounts were frozen in order to force him to cede half of the company to an offshore entity in exchange for the withdrawal of legal proceedings.**^{23 24}

According to Damerau, **the extortion operation accelerated during a meeting in Vienna in December 2023, when a Ukrainian intermediary offered him a "solution" in exchange for a major stake in Cosmolot.** Damerau claims to have provided European and American authorities with evidence, including the names of the individuals involved, photographs and documentation of the facts. He insists that **this mafia-like practice is reminiscent of a previous experience under President Yanukovich, during which he lost €25 million** as a result of similar pressure on an infrastructure project.

The most recent accusation against Cosmolot concerns alleged tax fraud of €560 million, following a raid by the Economic Security Bureau. Damerau retorts that these proceedings are unfounded and purely motivated by a desire to take control of his company. He stresses that Cosmolot has always complied with tax rules, as validated by the authorities a few months earlier. The presidential team declined to comment on the case.

Damerau has pledged to bring the case before the Ukraine Recovery Summit in Berlin, explaining that such practices deter foreign investment and seriously damage Ukraine's image with European authorities.

Evidence and refutations provided by Cosmolot

- Transmission to Western agencies (European and American) of documents establishing the facts (specific names, correspondence and photographic evidence)²⁵;

²² <https://www.afpc.org/publications/bulletins/ukraine-reform-monitor/ukraine-reform-monitor-no-11>

²³ Ibid.

²⁴ <https://komersant.ua/spivvlasnyk-kosmolota-zvynuvatyv-ukrainskykh-chynovnykiv-u-velykiy-koruptsiya-sprobakh-vidibraty-biznes/>

²⁵ <https://www.ft.com/content/47ab8286-248d-4fec-80ce-b08ed1409243>

- Transparent and validated tax history, with regular payment of significant taxes proven by the Ukrainian authorities themselves a few months before the crisis.²⁶
- Official communication via public statements and professional networks to publicly challenge the legitimacy of the accusations.²⁷

The Damerau case illustrates **the unstable and high-risk environment faced by foreign investors in Ukraine**. Recurring problems of corruption, abuse of power and fabrication of charges are major obstacles to the country's economic attractiveness, undermining both the security of investments and Ukraine's international reputation.

Nevertheless, **Arnulf Damerau has adopted a very conciliatory stance**. *"I don't want to talk about what is happening to me as a businessman trying to invest in Ukraine, because those responsible for this situation are in the minority and are betraying the young generation of Ukrainians who are fighting with all their might to give their country a European future. This is a country that aspires to join NATO and the European Union, but what is happening there now – because of a small minority – gives me a feeling of déjà vu of the darkest days of Yanukovych,"* Damerau told the **Ukrainian media outlet Komersant**²⁸.

4.g. The case of journalist Svitlana Kryukova: domestic sanctions against a media figure and their rule-of-law fallout

On 19 January 2025, **Presidential Decree No. 38/2025 put into effect an NSDC decision imposing personal sanctions on eighteen individuals**. Among them was **Svitlana Kryukova, a Ukrainian journalist and former deputy editor-in-chief of Strana.ua**. The measures were set for ten years and included asset freezes and sweeping economic restrictions. The decree placed Kryukova, alongside politicians and other public figures, in the category of persons deemed to be collaborating with or supporting Russia's war effort.

Kryukova publicly rejected these accusations and, on 14 March 2025, **filed a claim with the Supreme Court to annul the decree**²⁹. Shortly after the announcement of sanctions, **reports emerged of her car being set on fire in Kyiv**³⁰. Although the perpetrators were never officially identified, Kryukova herself linked the attack to the **broader campaign of pressure**. This episode underscored the **atmosphere of intimidation** surrounding her case and raised further questions about the safety of journalists who come under political scrutiny.

²⁶ <https://komersant.ua/en/sud-rozblokuvav-rakhunky-kazyno-cosmolot-dokument/>

²⁷ https://www.linkedin.com/posts/cosmolot_official-statement-from-arnulf-damerau-main-activity-7158148014220439552-MFi5

²⁸ <https://komersant.ua/en/sud-rozblokuvav-rakhunky-kazyno-cosmolot-dokument/>

²⁹ <https://komersant.ua/en/zhurnalistka-kryukova-proty-prezydenta-ukrainy-vpershe-sanktsiy-rnbo-namahaiutsia-skasuvaty-u-sudi/>

³⁰ <https://unn.ua/en/news/car-of-sanctioned-ex-journalist-svitlana-kryukova-set-on-fire-in-kyiv-police-investigate-circumstances>

The case illustrates a broader and increasingly controversial practice: applying NSDC “sanctions” to Ukrainian citizens. Sanctions are traditionally designed as international instruments, targeted at hostile states, organizations, or foreign individuals who threaten national security. **Their use against a country’s own citizens, however, is a profound distortion of this tool**³¹. Legal scholars and human-rights advocates argue that this practice bypasses established criminal or administrative procedures, replacing due process with opaque executive action. The evidentiary thresholds remain unclear, judicial review is limited, and the overall process is vulnerable to political manipulation.

From the standpoint of this report’s thesis, **Kryukova’s case demonstrates three central dangers.** First, it **blurs the line between exceptional national-security measures and ordinary domestic law enforcement.** Instead of being reserved for external threats, sanctions are transformed into a shortcut for silencing internal dissent. Second, the **secrecy surrounding the evidentiary basis undermines the principle of transparency.** Citizens and observers are denied access to the facts, leaving sanctioned individuals unable to mount a meaningful defense. This creates reputational uncertainty that extends beyond the individual, affecting investors, institutions, and the credibility of Ukraine’s legal system. Third, **once sanctions are applied to a journalist for speech-related reasons, the precedent threatens democratic freedoms more broadly.** It signals that property rights, banking access, and professional activity can be curtailed without the procedural safeguards guaranteed in a criminal court.

This is not merely a question of individual justice but of systemic integrity. Ukraine has every right and indeed an obligation to defend itself against wartime collaboration and hostile propaganda. Yet the migration of sanctions into the domestic sphere without adequate procedural safeguards constitutes a misuse of state power. Instead of reinforcing resilience, it weakens democratic foundations by fostering arbitrariness and undermining trust in institutions.

Kryukova’s litigation will not, on its own, settle the constitutionality of applying NSDC sanctions to Ukrainian citizens. However, as a high-profile case involving a journalist, it highlights the structural risks: executive overreach, erosion of due process, and the chilling effect on independent media. It also **demonstrates how democratic freedoms and human rights can be compromised when security tools are transformed into instruments of political control.**

The case shows that Ukraine must embed stronger safeguards to preserve both the rule of law and democratic freedoms in times of crisis. This requires transparent legal reasoning, clear evidentiary standards, expedited and independent judicial review, and the creation of a public register of contested sanctions. Only by aligning national-security needs with constitutional norms can Ukraine ensure that its fight against aggression does not come at the cost of its own democratic future.

³¹ <https://www.obozrevatel.com/ukr/politics-news/ukaz-zelenskogo-pro-personalni-sanktsii-proti-nizki-ukraintsiv-chomu-tse-ne-bude-pratsyuvati.htm>

5. Consequences of these abuses and excesses for Ukraine and Europe

The misuse or politicisation of legal instruments such as sanctions, asset seizures and criminal investigations, when deployed without transparency or due process, seriously threaten Ukraine's economic recovery and Europe's strategic interests. If these practices are not challenged, their cumulative in e effect could seriously damage Ukraine's economic prospects and undermine the foundations of its partnership with the European Union.

In particular, they will have the following effects:

- **Deter legitimate investors from participating in reconstruction:** as we have seen, Ukraine's reconstruction efforts are expected to cost more than \$500 billion over the next decade. While public donors and multilateral institutions will provide a significant portion of this amount, private capital is expected to contribute at least 50%. However, **inconsistent law enforcement, arbitrary sanctions and damage to the reputation of entrepreneurs, as in the Iermolaiev and Derrickson cases, undermine investor confidence.** Legitimate businesses may consider Ukraine too risky and choose to invest in more stable emerging markets offering better guarantees of legal recourse;
- **Undermine EU confidence in Ukraine's commitment to reforms:** since the 2014 Revolution of Dignity, Ukraine has committed to European integration, democratic reforms and the fight against corruption. **These commitments underpin key EU policy initiatives, including visa liberalisation, macro-financial assistance and pre-accession instruments.** When cases of legal abuse or selective enforcement occur, they directly contradict these promises of reform. The European Parliament has repeatedly warned that the lack of transparency in judicial practices and political interference in law enforcement remain major obstacles to Ukraine's accession. **Without tangible improvements, the EU could make its aid and reconstruction funding subject to stricter conditions, or even postpone accession negotiations altogether.**
- **Encouraging capital flight and hidden transactions:** when investors cannot rely on the courts, arbitration or administrative remedies to defend their rights, they often resort to informal mechanisms such as offshore structures, political patronage or exit strategies. This fosters a shadow economy in which capital is hidden or withdrawn rather than reinvested. **According to data from the National Bank of Ukraine, more than \$10 billion in capital outflows were recorded in 2022-2023 alone, largely due to investor uncertainty and legal insecurity.** Shadow transactions also create vulnerabilities to money laundering, illicit enrichment and regulatory arbitrage, reducing transparency in sectors critical to Ukraine's recovery.
- **Creation of governance models based on selective law enforcement and state capture:** Perhaps the most damaging outcome is the strengthening of a **governance model in which state power is used selectively to reward allies**

and punish dissidents or competitors. This risks replacing post-Maidan democratic aspirations with neo-oligarchic structures protected by a veneer of legality. Such conditions favour "legal practices" rather than "the rule of law," where legal instruments serve political objectives rather than justice. Comparative lessons from the Balkans, Moldova, and Georgia suggest that setbacks in reforms, often initiated by politicised law enforcement agencies, lead to long-term stagnation, disenchantment among young people and civil society, and increasing geopolitical vulnerability to external influences (e.g., Russian or Chinese).

- **Increased insurance and guarantee costs:** International financial institutions such as the World Bank's MIGA, CPIC, and private insurers assess legal risk when underwriting projects in fragile environments. A country known for arbitrary law enforcement or unpredictable regulatory measures will face higher premiums, stricter conditions, or outright exclusion from blended finance mechanisms. This increases the cost of doing business in Ukraine, particularly in capital-intensive sectors such as infrastructure, telecommunications, and defence industrial cooperation.

The success of Ukraine's post-war reconstruction will not be measured solely in kilometres of rebuilt roads or megawatts of restored electricity.

Rather, its true legitimacy will depend on Ukraine's ability to restore confidence in its institutions, the rule of law and its alignment with European democratic standards. Physical infrastructure can attract funding and expertise, but without functional and impartial institutions, no reconstruction can guarantee lasting stability or prosperity.

6. EU and Member State initiatives on investment and governance in Ukraine

The European Union has clearly expressed its support for Ukraine's reconstruction, linking disbursements and technical assistance to governance reforms. Several initiatives are already underway:

6.a. EU investment frameworks and guarantees

- The **European Fund for Sustainable Development Plus (EFSD+)** includes a component dedicated to reconstruction projects related to Ukraine;
- The **European Investment Bank (EIB)** and the **European Bank for Reconstruction and Development (EBRD)** have started to provide structured loans with conditions relating to the rule of law³²;
- The **European Investment Bank**, taking into account Ukraine's recovery needs after 2022, has started to put in place larger loan facilities **with non-financial**

³² <https://www.ebrd.com/home/what-we-do/where-we-invest/ukraine.html#>

preconditions. These could include **strengthening anti-corruption frameworks**, greater **transparency in public procurement** or the **creation of independent oversight institutions** in order to unlock successive tranches. These conditions are particularly important when EU budgetary support (via the Ukraine Facility) is used for macro-financial assistance implemented by the EIB.³³³⁴

6.b. Statements by the European Parliament and the Commission

The European Parliament, like the Commission, has expressed its strong and sincere support for Ukraine and its future reconstruction. However, many MEPs have raised concerns about judicial independence, the management of public funds and corruption.

For example, **Gunnar Beck (ID, Germany)**, in a written question during the debate on the MFF/facility for Ukraine (October 2023)³⁵, **argued that despite the €50 billion facility granted by the EU to Ukraine, widespread corruption in the country justified freezing the funds.** He described Ukraine as a "cesspool of corruption" and warned that financial aid should be reconsidered given the lack of judicial guarantees and transparency.

During debates on the loan cooperation mechanism for Ukraine (October 2024)³⁶, **Michael Gahler (EPP, Germany) and other MEPs stressed the importance of ensuring transparency and combating corruption in EU-funded reconstruction spending.**

In the 2022 annual report on the fight against fraud, many MEPs have already expressed concern about the inadequacy of controls on EU funds allocated to Ukraine, highlighting the weakness of monitoring of pre-accession aid, corruption and irregularities in the use of funds, as well as inadequate recovery mechanisms.³⁷

Finally, Michael Gahler, in his capacity as **AFET Committee rapporteur on Ukraine (July 2025)**, **urged Ukraine to accelerate judicial and anti-corruption reforms.** He expressed particular concern about the independence of the judiciary, merit-based appointments to anti-corruption bodies and political interference, stressing that progress in these areas is essential not only for EU accession but also for successful reconstruction and investor confidence.³⁸

7. Recommendations

In order to ensure the protection of European investors and to consolidate Ukraine's commitment to democratic standards and the rule of law, it is necessary to adopt a set of complementary and mutually reinforcing measures. **While certain mechanisms may**

³³ https://enlargement.ec.europa.eu/funding-technical-assistance/ukraine-facility_en

³⁴ <https://www.eib.org/en/press/all/2025-124-european-commission-and-eib-group-sign-eur2-billion-guarantee-under-ukraine-facility-to-support-country-s-reconstruction-and-resilience>

³⁵ https://www.europarl.europa.eu/doceo/document/CRE-9-2023-10-16_EN.html?utm

³⁶ https://www.europarl.europa.eu/doceo/document/CRE-9-2023-10-16_EN.html?utm

³⁷ <https://www.europarl.europa.eu/news/en/press-room/20231204IPR15632/protection-of-eu-funds-eu-should-do-more-to-detect-prevent-and-recover-frauds>

³⁸ <https://www.europarl.europa.eu/news/en/press-room/20250714IPR29625/ukraine-meps-encourage-eu-reforms-and-urge-opening-of-negotiation-clusters?utm>

appear overlapping, this deliberate institutional redundancy is indispensable: it provides multiple layers of protection against corruption and arbitrariness, thereby reinforcing investor confidence. The challenge lies in constructing a system of effective safeguards without degenerating into an excessive and paralysing accumulation of regulations.

A. Oversight and Investor Remedies

- **Create an independent investment oversight commission:** A permanent joint EU–Ukraine body should be created with a mandate to examine investor complaints concerning sanctions, expropriation, or regulatory abuse. While its opinions would be non-binding, the commission should have the authority to transmit cases to relevant EU institutions or recognised arbitration mechanisms, thereby ensuring international scrutiny and follow-up. Precedents for such monitoring bodies exist in EU enlargement contexts, where oversight commissions helped safeguard judicial independence and investor confidence;
- **Expand the Business Ombudsman Council into a Reconstruction Ombudsman Office:** The existing Business Ombudsman Council in Ukraine should be expanded into an independent EU-supported office with a specific mandate to address foreign investor complaints. This institution would provide expedited mediation procedures, facilitate dialogue with Ukrainian authorities, and publish annual reports highlighting recurrent obstacles. Building on a model already effective in Ukraine, such an office would strengthen investor trust during the reconstruction process.

B. Transparency and Accountability Standards

- **Decide on binding transparency standards for reconstruction funds:** before Disbursement of reconstruction funds should be conditional upon compliance with binding transparency benchmarks. These include:
 - systematic publication of decrees relating to sanctions, along with their legal reasoning;
 - clear evidentiary standards for imposing personal sanctions;
 - effective judicial appeal and redress mechanisms.

This approach, inspired by the EU’s rule-of-law mechanism applied to cohesion funds, should be adapted to Ukraine’s reconstruction to ensure both accountability and investor protection.

- **Develop a Centralised Procurement Portal (ProZorro 2.0):** Ukraine’s ProZorro system, while internationally recognized, will face unprecedented pressure during reconstruction. A “ProZorro 2.0” should be launched, integrating EU audits, open-data standards, and blockchain-based traceability. This would ensure that all

reconstruction-related contracts, tenders, and payments are digitally accessible, tamper-proof, and subject to continuous oversight;

- **Create an EU-Administered Register of Contested Sanctions:** An EU-hosted transparency portal should catalogue unresolved or disputed sanctions cases, including their legal status and related judicial decisions. Such a register would provide potential investors with objective reference points, helping them to assess risks on the basis of documented precedent rather than speculation, thereby reducing uncertainty and reinforcing the credibility of sanctions enforcement;
- **Launch a Digital Transparency Dashboard:** A publicly accessible online dashboard, developed in partnership with the EU, should enable real-time monitoring of reconstruction contracts, payments, and milestones. Incorporating open-data standards, the platform would enhance deterrence against misappropriation, improve donor and investor confidence, and allow civil society to play a watchdog role in ensuring accountability.

C. Anti-corruption Safeguards

- **Strengthen the National Anti-Corruption Bureau of Ukraine (NABU):** In 2025, NABU became the first Ukrainian law enforcement agency to successfully undergo an external, independent evaluation of its effectiveness³⁹. Conducted between March 2023 and November 2024 by a commission of international experts, the audit confirmed NABU's strong performance in detecting and investigating high-level corruption, with a low rate of acquittals and closed cases. Notably, NABU's work has led to 1,275 individuals brought to justice, 274 final convictions, more than 10 billion hryvnias reimbursed to the state, and 2.5 billion allocated to national defence;

At the same time, the evaluation identified systemic deficiencies, including insufficient whistleblower protection, risks of information leakage, lack of independent forensic capacity, and dependence on external technical resources. The EU should provide targeted support to implement the audit's recommendations, including:

- adopting and resourcing NABU's 2030 Development Strategy,
- reinforcing whistleblower and informant protection mechanisms,
- creating measurable performance indicators for detectives,
- strengthening institutional independence and forensic capacity.

This would consolidate NABU's credibility as a cornerstone of Ukraine's anti-corruption framework, which is critical for investor confidence;

- **Establish Whistleblower Protection Mechanisms:** A dedicated EU-Ukraine fund should be established to finance robust whistleblower protections. This should

³⁹ <https://nabu.gov.ua/en/news/zovnishniu-nezalezhnu-otcinku-zaversheno-nabu-pidtverdylo-efektyvnist/>

cover legal assistance, personal security measures, and financial incentives for substantiated disclosures, in line with OECD and EU best practices. Such mechanisms are vital to ensure that individuals exposing corruption in procurement, investment, or public spending can act without fear of retaliation;

- **Introduce Independent Procurement Auditors:** EU-certified auditing teams should be embedded within Ukraine's procurement agencies, with the authority to conduct unannounced verifications of tenders. These auditors should be empowered to suspend questionable contracts until irregularities are resolved. Such embedded oversight would add a critical layer of trust to Ukraine's public procurement system, particularly in sensitive reconstruction sectors;
- **Apply Anti-Corruption Conditionality to EU Funds:** The disbursement of EU financial assistance should be tied to verifiable anti-corruption milestones. These should include progress on judicial reforms, full enforcement of asset-declaration systems, and the implementation of transparency legislation. This conditionality would mirror the EU's rule-of-law mechanisms applied to cohesion funds and ensure that reconstruction financing directly reinforces institutional resilience.

D. Judicial and Disputes Settlement Reforms

- **Strengthen Judicial Capacity for Commercial Disputes**

Investors consistently cite Ukraine's judiciary as a major weakness. To address this, the EU should dedicate a significant share of its technical assistance to:

- specialized training for judges in commercial and investment law,
- expanding specialised economic courts,
- incorporating international best practices in arbitration and dispute resolution.

This approach mirrors EU pre-accession support in Romania and Bulgaria, where targeted judicial reforms were central to restoring investor confidence and aligning with EU standards;

- **Promote specialised investment arbitration frameworks:** Within the framework of bilateral investment treaties (BITs) and the EU-Ukraine Association Agreement, a dedicated arbitration mechanism should be developed. This would guarantee investors access to neutral and reliable dispute resolution outside Ukraine's still fragile judicial system. By institutionalizing predictable arbitration, Ukraine would reduce the perception of legal risk and encourage long-term foreign investment;
- **Create a Cross-Border Sanctions Review Board:** A joint EU-Ukraine board should be established to review contested sanctions and tax investigations within defined timelines. By preventing indefinite uncertainty in sanction-related cases, such a board would align Ukrainian practice with European legal standards and provide investors with greater clarity and predictability.

E. Sector-Specific Integrity Protocols

- **NATO–EU Accountability Protocols:** Accountability mechanisms should be systematically integrated into all NATO–EU cooperation platforms in Ukraine. These protocols would cover military procurement, infrastructure tenders, emergency spending, and public–private partnerships (PPPs). Their design should build on NATO’s *Building Integrity Programme*⁴⁰, which has already proven effective in reducing corruption risks and strengthening transparency in defence and security institutions of allied states. Such mechanisms would ensure that reconstruction contracts in sensitive sectors are managed with integrity and subject to international oversight;
- **Oversight in Sensitive Sectors and PPP Conflict-of-Interest Regulation:** Reconstruction will heavily involve high-value contracts in armaments, energy infrastructure, and PPPs. To mitigate risks of corruption and oligarchic capture, PPPs should be subject to mandatory disclosure of relationships between private contractors, public officials, and investors. The EU and NATO should jointly develop oversight protocols for these sectors, drawing on lessons from *NATO integrity* programmes. This would reinforce public trust and ensure fair competition for foreign investors.
- **Expand Ukraine’s Beneficial Ownership Register:** Ukraine’s beneficial ownership register should be expanded, strengthened, and placed under EU-backed monitoring. This would guarantee that the ultimate beneficiaries of reconstruction contracts are transparently identified and accessible to both oversight bodies and investors. A robust register would be a powerful deterrent against opaque ownership structures and shell companies siphoning funds from reconstruction.
- **Capacity Building for Local Authorities:** Given the decentralized nature of reconstruction, EU-funded programmes should provide targeted training for municipal officials in procurement integrity, contract management, and compliance with EU standards. Reinforcing local administrative capacity would ensure that funds are used efficiently and transparently at the municipal level, where corruption vulnerabilities often emerge. This would also empower local governments to deliver reconstruction aligned with EU standards.

F. Investment Security and Risk-Sharing

- **Guarantee Facility for Reconstruction Investments (EIB/EBRD):** To reduce the perception of risk for private investors, the EU should mandate the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) to establish a dedicated guarantee facility for reconstruction projects. The mechanism should cover risks linked to political instability, expropriation, or arbitrary regulation. Following the precedent of the *European*

⁴⁰ https://www.nato.int/cps/en/natohq/topics_68368.htm

Fund for Sustainable Development (EFSD+), which successfully mobilized private capital in Africa and the EU Neighbourhood⁴¹, this facility could attract up to €135 billion in blended public and private financing. Such a guarantee mechanism would send a strong signal of confidence to international investors.

- **Green and Sustainable Investment Standards:** All reconstruction financing should be tied to EU Green Deal criteria, ensuring that projects contribute to decarbonization, resilience, and sustainability. This includes renewable energy, climate-resilient infrastructure, and energy efficiency in housing and transport. Embedding EU sustainability standards into reconstruction would not only future-proof Ukraine's economy but also align it more closely with the EU single market and long-term accession goals.

The cumulative effect of these reforms would be decisive. The work already undertaken by NABU illustrates their potential: 1,275 individuals brought to justice, 274 final convictions, more than 10 billion hryvnias recovered for the state, and 2.5 billion channelled into national defence. Yet systemic deficiencies remain: inadequate whistleblower protection, insufficient performance monitoring, lack of forensic independence, and persistent vulnerability to information leaks. Only through sustained EU–Ukraine cooperation can these weaknesses be effectively addressed, ensuring that reconstruction is anchored in legality, transparency, and trust.

8. Conclusion

With more than €500 billion to be committed over the next ten years – and that is only an estimate – **the reconstruction of Ukraine could be a powerful tool for economic recovery for a European Union that sorely needs it. It will also be a powerful lever for developing Ukraine's private sector and modernising its industry.**

But it also represents an incredible temptation for the Ukrainian oligarchy, which can only dream of appropriating all or part of these funds.

This is why the establishment of a fully effective anti-corruption system is a prerequisite for building trust between Kiev and its European partners. It will also demonstrate the country's willingness to align itself with the values of the rule of law and democracy that Europe seeks to promote.

However, there is still a long way to go. The cases we have discussed in this report illustrate the main obstacles standing in the way: if even long-standing Ukrainian entrepreneurs who support their country's sovereignty and economic development can be subject to opaque and legally questionable sanctions, without evidence, explanation or recourse, if court decisions or "tax investigations" can be used to harm investors or take control of their businesses, what real security do these investments enjoy?

⁴¹ https://international-partnerships.ec.europa.eu/funding-and-technical-assistance/funding-instruments/european-fund-sustainable-development-plus_en

These abuses not only undermine Ukraine's legal credibility, but also send a dangerous message to foreign and domestic investors: loyalty, legality and past contributions offer no protection in a system vulnerable to politicised law enforcement.

These concerns have been amplified by recent political developments. In July 2025, the Ukrainian Parliament passed a law placing the country's two main anti-corruption institutions, NABU and SAPO, under the authority of the Prosecutor General, a political position. President Zelensky's swift signing of the bill sparked massive protests in Kyiv, where thousands of citizens, particularly young people, expressed fears that the government would roll back the democratic gains of the 2014 Revolution of Dignity. Slogans such as "**Veto Law 12414**" and "**We are not fighting to become Russia**" reflected the frustration of a generation that had hoped for irreversible reforms.

This episode strikingly illustrates the fragility of the principle of separation of powers and, by extension, the independence of institutions in Ukraine. It also demonstrates the growing gap between official rhetoric on reforms and concrete policy choices.

As political analyst **Anastasia Fomitchova** warned, this law gives the executive unprecedented influence over anti-corruption investigations, thereby undermining one of the essential conditions for EU membership and financial support.

These developments, alongside the cases of Ronald M. Derrickson, Oleh Bakhmatyuk and Philip Morris Ukraine, reflect **a broader trend towards selective enforcement of the law and blurring of the boundaries between political interests and judicial procedure**. Ukraine risks replacing the rule of law with practices of "legal warfare," a change that could deter investors, trigger capital flight, and erode the very foundations of post-war recovery.

To avoid these consequences, **Ukraine must make a decisive break with the impunity enjoyed by elites and the opacity surrounding certain key institutions and their decisions. Legal safeguards, judicial independence, and transparency in sanctioning procedures must become non-negotiable pillars of the reconstruction effort**. European partners also have a role to play: by making aid and investment guarantees conditional on concrete rule of law criteria, they can help align Ukraine's recovery with the standards required for EU membership and long-term stability.

Ultimately, **the question is not whether Ukraine can be rebuilt, because it can. The question is whether that reconstruction will be built on solid legal foundations**. Only by placing fairness, accountability and due process at the heart of its recovery can Ukraine unlock the full potential of its partnership with Europe and secure a sustainable, investor-friendly future.