Integrity and Inclusiveness of the Democratic Process in Ukraine -
Analysis of Interim Research Findings in the Regions

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About the Initiative

In the coming months, Ukraine will go through a series of elections, starting with the presidential election in March 2019, the parliamentary election in October 2019, and the general local elections in late 2020. In the past, especially prior to the 2014 Maidan "Revolution of Dignity", public office used to be associated with significant corruption risks, as there were widespread reports of abuse of power, conflicts of interest and a resulting low level of trust among citizens in elected democratic institutions. In the past four years, anti-corruption reforms have set new standards of expected behavior and have brought extraordinary transparency into the backgrounds of candidates, and the operations of elected representatives and political parties. This opens an unprecedented opportunity for a new generation of political leaders to emerge, with higher levels of integrity and better reflecting the diversity of the population, including by raising the number of women in elected office to a level much closer to parity.

The "Analysis of the Integrity and Inclusiveness of the Democratic Process in Ukraine in the Regions of Ukraine" is a research initiative implemented by UNDP Ukraine throughout November 2018-February 2019 with the financial support of the Global Affairs Canada, the Embassy of France to Ukraine, the Solidarity Fund PL/Polish Aid, and the Ministry of Foreign Affairs of Denmark. The project analyzed the conditions and parameters for integrity to take hold in the democratic process and for inclusiveness to be better provided for in the context of the upcoming electoral cycle but focused on the periods outside the electoral campaigns as such. The focus was on the long-term trends and the barriers and obstacles for integrity and inclusiveness to take hold in the democratic process of Ukraine. The effort was analytical and diagnostic, and aimed at the larger, longer term objective of building effective, accountable and inclusive institutions at all levels, including by substantially reducing corruption and ensuring responsive, inclusive, participatory and representative decision-making.

Summary

From November 2018 to January 2019, UNDP Ukraine undertook a research initiative on the integrity and inclusiveness of the democratic process in all 24 regions of Ukraine.[1] The research was conducted within its overall democratic governance programme[2] by a team of 24 regional analysts, with a core analysis team based in Kyiv.[3] The analysts gathered contextual information and data on how state institutions, political parties, media, businesses and civil society interrelate and affect the integrity and inclusiveness of democratic processes in the regions. They conducted interviews with representatives of local government bodies, political parties, businesses, media, civil society organizations and vulnerable groups and reviewed all relevant, publicly available sources. The present report is a synthesis of the interim findings from this research, and it includes an agenda for the deeper and further analysis to be conducted later in 2019 and 2020.

Introduction

In the five years since the Maidan "Revolution of Dignity", Ukraine has embarked on wide-ranging reforms designed to bolster democratic governance and accountability. However, despite much progress in implementing technical reforms in areas such as anti-corruption, public procurement and decentralization, the country continues to be marked by alarmingly low levels of trust in institutions, widespread disappointment among the public with the achievements of the reforms, and high degrees of pessimism as to the possibility of transformative change of the nature of politics and the exercise of power.

Commentaries on the Ukrainian political context frequently highlight the key influence of business interests in political and decision-making processes. This concerns not only nationally important business figures, often referred to as "oligarchs", but also powerful business interests at regional and local levels that use their economic and political weight to engineer political decision-making so as to protect and extend their own interests. The prevalence of such informal political structures overlaying and manipulating the formal political and institutional frameworks for their own interests not only affects the integrity of the formal democratic processes but also severely limits the possibility for a wider range of Ukrainian citizens to be properly and fairly included in representative bodies and decision-making affecting their lives and to hold their elected representatives accountable. The findings of election observation missions are often illustrative of these more systemic long-term deficiencies.

The research conducted in the context of this initiative is not related to the electoral process as such and is thus clearly distinct from election observation. While election observers focus on an electoral event and thus provide a snap-shot of the health of the democratic process at a particularly critical

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[1] Crimea and the non-government-controlled areas of Donetsk and Luhansk regions were not included in the research.

[2] The research initiative was financially supported by Canada, France, Poland and Denmark. The findings and characterizations included in this report are not attributable to these partners, however.

[3] The core team consisted of a project coordinator and a senior analyst, as well as a gender analyst and support staff. A methodological background note is included in Annex 1.

time, the Integrity and Inclusiveness Analysis looks at the broader context within which an election takes place. The integrity and inclusiveness of the democratic process determines the degree to which elections can be conducted on a level playing field. Often, election observation missions identify broader systemic deficiencies of the democratic process which affect the fairness of the election but are not designed to explore the deeper reasons by analyzing the complex characteristics of democratic governance. For instance, the ODIHR Election Observation Report for the October 2014 Parliamentary Elections identified "wide-scale corruption among electoral subjects" and "a high number of credible allegations of vote buying". It also found that "wealthy donor and business interests continue to wield disproportionate influence over the campaign process" and that the "media environment is generally affected by the lack of autonomy of the media from political or corporate interests". Overall, it diagnosed that "public perceptions of corruption are pervasive and undermine public confidence in the political and electoral processes".[4] However, it was not possible for the mission (and may not be covered by the specific mandate of EOMs) to go beyond sporadic evidence and to conduct a thorough and systematic analysis of these contextual constraints.

Notably, and given that Ukrainian business is overwhelmingly controlled by men, women are largely excluded from key positions of power in a political system in which real influence is frequently wielded behind the scenes by unaccountable business powerbrokers. When assessing the inclusion of Ukrainian citizens, the report considers the position of women, as well as vulnerable groups including people with disabilities, the Roma national minority, the LGBTI community and internally-displaced persons (IDPs). The research for this report focused on Ukraine's regions, and thus, when considering the results of reform efforts, it highlights the situation at the local level.

This report, primarily based on the findings of research conducted by the 24 regional analysts, explores the mechanisms by which political power is exercised in Ukraine, and how that affects the integrity and inclusiveness of the political process. While the research was conducted in the months leading up to the March 2019 presidential election, it did not focus on the election itself or on the campaign immediately preceding it. This was therefore not an election observation exercise and did not seek to duplicate the work of the various election observation missions. But in looking at the broader political context, it aims to complement the work of the EOMs and provide election observers with useful contextual analysis and background. The project's analysts in Kyiv provided briefings for the long-term observers of the various international observation missions.

The report represents the interim conclusions of the first phase of research and analysis. It is intended to continue the research exercise after the end of the presidential election and before the parliamentary election takes place later in 2019, as well as in advance of the local elections in 2020. The purpose of the research and analysis exercise is to identify bottlenecks and possible solutions for furthering the degree to which the democratic process in Ukraine is inclusive and based on the principles of integrity.

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[4] ODIHR EOM Report on the October 2014 Parliamentary Election.

A diverse political landscape

Ukraine is a large and diverse country, which is also reflected in considerable diversity in the political landscape in its different regions. While elections are contested by national political parties covering the whole country, as well as regionally based parties in many places, the political dynamics vary considerably from region to region, and even between towns within regions. The local political profile often bears little resemblance to the political dynamics at national level and can hardly be understood without consideration of the specific local dynamics of the region concerned, including, crucially, the involvement of powerful business interests behind the political parties and their representatives locally.

With few exceptions, political parties do not represent clear ideological positions, but are most often vehicles for their political leaders. When political power changes, as was the case following the 2014 Maidan revolution, parties that once held power often rapidly disappear, and new ones emerge reflecting the new balance of political power. Such developments tend to be accompanied by a widespread migration of party members from the previous parties of power to those that have replaced them. Thus, in many cases at regional and local level, prominent politicians and business powerbrokers continue to hold power, shifting from one party to another as the political winds from Kyiv change. In this way, local business elites manage to adapt to political changes and preserve their power and influence, whatever the outcome of elections or apparent changes of power.

Party politics, elections and the formal structures of power are to a considerable degree merely the visible surface of political life. Behind that surface the deeper informal structures of political power and business interests demonstrate remarkably greater resilience than the political parties that come and go. Regional and local authorities are closely connected with business in all regions of Ukraine, without exception. In Donetsk and Luhansk oblasts the situation is different at the regional level in the sense that are under special legal arrangement of military administration, and no Oblast Councils are currently in place. By attaching themselves to political power in this way, business elites protect and further their interests. But while this pattern is found throughout the country, the specifics vary from region to region. This in part reflects the varying economic profiles of different regions.

In some regions, notably in the east of the country, heavy industrial holdings predominate, in fields such as metallurgy, chemicals and mining. Such industries are often owned by nationally important business leaders that wield considerable influence at national as well as regional level. In many regions of the country, agriculture is as important. Agricultural concerns also seek to protect their interests through engagement with local councils. In the south of the country, with its major ports, and in some border areas regions are particularly vulnerable to corruption and criminal enterprises that seek to inveigle their way into political structures. In some regions in the west, service industries, including information technology, are important. Such industries attract foreign investment, which has the consequence that the businesses concerned do not engage directly in political life. Political competition in these regions is thus somewhat less affected by the influence and power of business interests than is the case in much of the rest of the country.

Business powerbrokers

Various factors motivate business interests to engage in political life. Of key importance for businesses of all sizes is the perceived need for a political "roof", to protect their interests through access to political power. Crucially, this need for political connections arises out of a deep-seated lack of confidence in the judicial system and law-enforcement agencies. Many business figures, particularly medium-sized and smaller businesses which are vulnerable to being captured or destroyed by rivals with more powerful political connections, well understand that their interests would be better protected by an effective and impartial judicial system. For example, in several regions large agricultural concerns use their strong political connections to bring pressure on smaller rivals over control of land. Lacking political heft, and without the option of recourse to impartial courts, such smaller businesses struggle to defend themselves. But in a country in which judges are still often seen as biddable and where law-enforcement is seen by many as corrupt and beholden to powerful interest groups, relying on the courts for protection does not appear to be a safe option to many. Thus, close engagement with political power is the only way of ensuring that their businesses can operate unmolested.

Frequently, important business figures are themselves members of elected government bodies. In some places several managers from a significant local company are members of a city or town council. Members of the Verkhovna Rada, the Parliament of Ukraine, are frequently also closely linked with local business interests and wield significant power on their behalf. And if business interests are not directly involved in politics in this way, in many cases they command local government deputies who are beholden to them and vote in accordance with their wishes. Party affiliation is often of little relevance, and many council deputies will in any case have changed their party, sometimes on multiple occasions. When council votes concern issues of interest to a particular local business figure, local deputies tend to vote according to the wishes of their patron. These patronage networks are frequently the most important political factor determining voting patterns, more significant than party affiliation. Understanding such patronage networks is usually the key to understanding how politics and decision-making works at the local level.

One effect of this concentration of power in shadowy patronage networks of business interests that overlay formal political institutions is that women are largely excluded, most businesses being controlled by men. A corollary of this is an inverse relationship between the level of prosperity of a town or region and the engagement of women in political life. Regions that are particularly depressed economically tend to have higher female representation in local councils, while the reverse is true in more prosperous regions.

Apart from the need for a protective 'roof', business interests also seek to further their goals through their direct connection with political power. Decisions concerning land allocation are of great importance to businesses involved in construction or agriculture. Land around the more prosperous large cities is particularly valuable. A business that does not have adequate political connections risks being shut out of key decisions over land allocation.

Political connections are also important to some types of business for gaining access to budgetary resources through government tenders. Local decisions are often taken behind the scenes, so that

there is little visible debate inside council chambers where decisions are formally approved. Often decisions involve conflicts of interest on the part of deputies whose business interests or those of their patrons stand to benefit directly. The beneficiaries of government contracts are thus usually politically well-connected firms, and local politics is in some places reduced to little more than the sharing out of benefits among different local interests, a mediation designed to keep all the key business interests satisfied. In investing in political parties and their election campaigns, local business powerbrokers thus expect a direct return on their investment, in terms of lucrative state contracts or favourable decisions on land allocation.

Political parties

The shadowy interplay between political and business interests, and sometimes even criminal interests, undermines and stunts the role of political parties as representative bodies accountable to the citizens that vote for them in elections. The nature of politics, with its subordination of formal political institutions to informal shadow structures linked with business, evokes demoralization and cynicism among many citizens, who see little prospect of their votes having a real impact and little prospect of real change in the way that politics operates in Ukraine.

Many parties function mainly at election time and have little activity or contact with citizens outside of the electoral cycle. That said, some parties do have more developed branch structures than others and have made efforts since 2014 to build their party structures and improve internal communication. Thousands of party activists have been trained in recent years, often by trainers who have themselves been trained by international organizations. Some express hope that such developments are leading to higher expectations among party activists to be included in decision-making and note an increase in the involvement of women in executive roles within parties, for example as trainers. Such internal party strengthening may indeed hold out hope of a more inclusive, representative politics developing in future, especially if it is aligned with higher expectations among party members and demands for inclusion.

However, the evidence of such developments fundamentally changing the nature of politics and the primacy of shadowy informal power structures over the formal political institutions, is thus far scant. Even among parties with well-developed internal structures and networks of members, at regional and local level it is usually still the powerful business patrons who make key decisions concerning local issues. And when it concerns the allocation of resources such as land or budgetary funds, it is those local power-brokers that have the defining influence. It remains very difficult for local council deputies to stand out against corrupt practices or decisions pressed upon them by the parties' business patrons. Local deputies who try to do so risk being excluded from resources, shut out from decision-making or expelled from the party.

One important indication of change is moves to increase the participation of women in political life. Following the example of the Verkhovna Rada, equal opportunity associations have been formed in many local councils. Some political parties have formed "women's wings". However, these rarely deal with issues of gender equality. Indeed, some of them rather focus on traditional stereotypes of women as caregivers etc. While there has been progress in promoting women in internal party structures, it is more often in administrative functions, such as heads of departments in party secretariats, rather

than in policy-making roles, which are still largely filled by men. Reflecting the key role in politics played by business interests, which are overwhelmingly male-dominated, women are rarely appointed to local government positions connected with the control or allocation of resources. Neither are women so often appointed to positions offering opportunities for corruption. In general, women are better represented at lower levels of local government, such as village or district councils, where the access to resources is less.

In the 2015 local elections, a 30 per cent gender quota was introduced for party lists. However, many parties did not implement the required quota. Party lists that did not meet the quota requirement were in the event allowed, as the Central Election Commission took the position that failure to comply with the provision did not entail any legal consequences. Notably, women rarely stood for the position of city mayor and were rarely in high positions in party lists for city councils. This reflects the fact that city governments control considerable financial resources and are thus of great interest to the overwhelmingly male business interests that stand behind most political parties. All except eight of the country's 144 cities of regional significance are headed by men. Not a single city that is a regional centre nor any city with a population of more than one million is headed by a woman. While the representation of women in local councils did increase modestly, the change was mostly only formal. In a number of cases, having been elected, women stood aside and gave up their positions to male colleagues on the party lists.

Some newer parties have made a stronger commitment to equal representation for women and men, but they are small parties with limited resources. On the other hand, in cases where a woman is a figure of authority and renowned in the community, parties are often eager to include her on their lists. The weak position of women in political life reflects the rarity of women playing prominent roles in society or business.

Political financing

The shadowy links between politics and business interests are underpinned by the opaque relationship between money and politics. Since the last general elections in Ukraine, regulations regarding party and campaign financing have been amended and tightened. State funding of political parties has been introduced, reporting requirements have been strengthened, and the National Agency for the Prevention of Corruption, which was established in 2016, has been given responsibility for overseeing compliance with the regulations.

Welcome as these changes are, considerable doubts remain as to whether the new mechanisms are sufficient to ensure transparent political financing. It is highly questionable whether the systems put in place will adequately go beyond verifying what is declared in parties' submitted accounts and enable identification of reportedly high levels of undeclared political financing that never finds its way into the books. Civil society activists warn that significant contributions go unreported, including donations in kind and sponsored media and online advertising, whose sponsors are not identified. In an infamous practice known in Ukrainian as "jeansa" (hidden political advertisement), media outlets owned by or affiliated with the same business interests that stand behind political parties broadcast sponsored material, both during election campaigns and outside campaign periods, that is often disguised as news reporting, backing favoured candidates or showing their opponents in a negative

light, but with no indication that it is sponsored. Furthermore, such opaque political activities reportedly also include large-scale direct distribution of funds through networks of supporters, i.e. vote buying. Serious monitoring of compliance with political financing rules would require sufficient resources on the ground in the regions, to identify unreported political activity.

Another source of concern are the significant funds available to members of the Verkhovna Rada in the form of state subventions for regional and local socio-economic development. The extent of such subventions, introduced originally in 2005 and widely used under the pre-Maidan government, has burgeoned in recent years. They offer both opportunities for parliamentary deputies to favour connected businesses with the award of state contracts and to use the funds for projects that amount to political PR for themselves. They thus both reinforce the bonds between politics and business and grant parliamentary incumbents (in particular of MPs holding seats in majoritarian constituencies) a useful administrative resource that gives them an advantage over challengers. Not infrequently, the local companies selected to carry out the works financed by these funds also belong to or are otherwise affiliated with the respective MP or their close associates.

Such subventions are supposed to be used for the social and economic development of the regions. They are overseen by a commission of MPs under the Ministry of Finance, raising significant conflict of interest concerns. However, while the subventions are allocated for specific projects, the criteria for approving them are opaque. No objective, formula-based and transparent criteria have been officially stated or are detectable in practice. The allocations across different types of local contexts vary widely. In practice, MPs themselves play a key role in selecting them. Many of the subventions fund the type of activities that provide MPs with a PR opportunity, such as renovations of school or hospital buildings or local sports events. The system of subventions also appears to disadvantage women. Out of 49 female Verkhovna Rada deputies, only four benefited from subventions in 2017, amounting to only 1.4 per cent of the total disbursed. This is largely because subventions are mainly used by majoritarian MPs, and very few majoritarian MPs are women (4). Local councils in some regions also have the possibility to raise funds for projects in their districts and thus channel money directly to citizens.

Since these subvention-funded projects may respond to immediate community needs they are often popular with local constituents. However, the practice reinforces the quasi-feudal nature of local politics by reaffirming the classic role of local communities as recipients of 'gifts' from their political masters in exchange for electoral backing. Since it also bears significant corruption risks and is not based on any objective criteria it effectively gives incumbents a heavy advantage, against which challengers can hardly compete.

Media and political integrity

The media plays a crucial role in safeguarding political integrity, through their role in informing the public about political affairs. Ukraine's media landscape is diverse, with a high number of broadcast media outlets at national and local level. Although online and social media have been growing in importance, television channels continue to be the main source of political information for most citizens. In major cities, local media are of significant importance, with as many as 30 television channels in some larger cities with particularly intense competition among political and business

groups. Private media are generally beholden to the corporate interests that own them and to the political parties those interests support. Media owners often influence editorial policy, and commonly use media to support their preferred political options, undermine rivals, and increasingly to discredit civil-society organizations that challenge them. Regional media frequently exercise self-censorship, refraining from publishing material detrimental to their owners' interests or the interests of businesses that are well-connected with the authorities or of advertising clients. Journalists that challenge local political and business elites often experience pressure, including obstructions, threats and physical violence.

In contrast to the larger cities, in small towns and rural areas, there are very few alternative sources of news. Communal media owned by local councils or local state authorities have lately been going through a process of privatization. This process has often been marked by conflicts over such issues as premises. However, the content of privatized communal media has usually remained largely unchanged, meaning that they are often considered as closely associated with local authorities and do not engage in investigative journalism or sensitive subjects.

In 2016, the state broadcaster, comprising both national and regional channels, was transformed into a public service broadcaster. In most regions, the regional branches of the public service broadcaster are the main source of independent information, free of the influence of political and business powerbrokers.[5] However, the public broadcaster is severely underfunded, limiting its influence. Thus, the majority of the public depends for its information on private media outlets whose owners are closely linked with local political elites. To a considerable extent private media form part of the same nexus of business and political elites that stunts the development of genuinely representative and inclusive democratic processes.

Civic engagement

Mechanisms exist at local level that are designed to promote the participation of the public in decision-making through consultative councils, e-democracy and participatory budgeting. Such mechanisms provide forums for civil society to contribute to policy making. Many civil-society activists have taken a step further and entered local councils as elected deputies. Such activists have been a strong base of support and energy for the reforms espoused by the Maidan revolution. They have often been the sources and promoters of new ideas and practices locally. However, many of them have become disappointed following experiences of persistent resistance to change from within local government structures.

In general, civil society is much stronger in large cities than elsewhere, in part due to the lack of qualified people or funds in smaller places, but also due to an environment of intimidation and violence. Pressure on civil society has increased in recent years, especially during 2018. Some attacks on activists, such as the murder of Kateryna Handziuk in Kherson, have received wide international attention. Many others are less reported. In 2018 alone more than 50 activists have been subjected to physical attacks across Ukraine. Anti-corruption activists as well as LGBTI, gender activists and feminists in particular have been targeted. Activists are usually attacked by groups of men, often in

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[5] In addition, media supported by international donors are considered sources of independent information.

sports or paramilitary apparel, sometimes from far-right organizations, sometimes without active intervention by local authorities or police.

Mostly, civil-society activists can operate safely, so long as their activities do not touch on sensitive issues such as corruption, for instance related to the allegedly illegal activities by local authorities concerning the allocation of land or construction, or on the rights of LGBTI people. The more power and business are intertwined locally, the more dangerous anti-corruption activity can be. The southern regions of Ukraine appear to be particularly exposed to such risks. In larger cities, civil society is usually stronger, benefiting from donor grants that enable them to push agendas in areas that are often not popular with local elites, such as anti-corruption and LGBTI rights. The pressure and widespread violence against civil-society activists can be seen as a symptom of their success in challenging local power elites.

Civil-society activists are also undermined by attempts by local officials, business figures and the media they control to discredit them in the eyes of the public. They are sometimes publicly attacked as "grant eaters" and accused of causing harm for communities. Although widespread across Ukraine, such attacks are especially effective in smaller places, where there is less of a critical mass of civil-society activists providing mutual support and solidarity. Civil-society activists are further undermined by the promotion of so-called "alternative civil-society" organizations, that are sometimes funded from state budget programmes or by local businesses and politicians, and which either support the local authorities or the businesses that sponsor them.

The involvement of the public in local decision-making is often more declarative than real. The general pattern is that authorities are willing to take account of civil-society input so long as its initiatives do not threaten the established patterns of resource allocation or local business interests. Advisory consultative councils often do not function effectively. Many include representatives of the "alternative civil-society" groups that are linked with representatives of government structures. Representatives of such groups often serve to provide a "window dressing" of public consultation, while in fact neutering civic engagement in decision-making, legitimizing decisions of the authorities, participating in tendering committees, extinguishing initiatives by independent civil-society bodies and marginalizing such independent bodies in the region. Some local officials also note that members of the public often lack the competence to carry out advisory functions, asserting that they participate in consultative councils in order to obtain some kind of preferences. Furthermore, civil society is often fragmented, and rarely succeeds in carrying out joint advocacy campaigns.

One of the more successful forms of public engagement in towns, regions and the new amalgamated territorial communities formed under the decentralization process, is 'participatory budgets'. These help to activate local residents and promote new leaders. Local budgets include a line for local development based on local initiatives, for which the public can vote. However, in some instances local authorities have used participatory budget lines to finance undertakings that would normally be financed from other budget lines, such as school renovations. In such cases, public employees are sometimes pressurized to vote in line with the wishes of the local authorities.

The use of electronic petitions is often popular among local residents, especially in cities. However, they do not always function effectively. In some places the petitions are considered at council sessions,

which means that it takes place in a public forum. However, in other councils the petitions are reviewed by the mayor or executive committee. Also, particularly in regions where petitions are popular, there are sometimes competing petitions supporting opposing positions.

Inclusion of women and vulnerable groups in the democratic process

The impediments to inclusion for women in political and decision-making processes have been discussed above. The research findings confirmed the prevalence of systematic gender inequalities, including a low level of participation by women in democratic processes, specifically in higher political positions, patriarchal culture, lack of political will and deeply-rooted gender stereotypes combine to form major challenges to gender equality in Ukraine today. The extent of women's participation in politics and women's access to decision-making can be viewed as a key indicator of gender equality in the society. More specifically, gender equality in decision-making can be viewed in the context of whether women are in the position of making or influencing public decisions on the same level as men.

While the need for more effective women's participation in democratic processes is generally well-recognized and openly discussed, other groups face even greater challenges. Members of the LGBTI community, the Roma national minority face a problematic and sometimes especially hostile environment. The conflict in eastern regions of Ukraine has also created a new vulnerable group, IDPs, numbering around 1.5m people.

The LGBTI community in Ukraine is largely excluded from public life, as well as subjected to widespread threats and physical violence. In 2018, the number of attacks on LGBTI activists has increased significantly. Official statistics may not reflect the real extent of the problem, because law enforcement agencies are usually reluctant to register statements regarding attacks on members of the LGBTI community, while members of the LGBTI community, intimidated and desperate as they are, rarely call the police. The Nash Svit Centre monitoring network documented 358 cases of acts motivated by homophobia/transphobia, discrimination, and other violations of LGBT rights in Ukraine in 2018, up from 226 in 2017.

These attacks have been recorded especially in larger cities. This increase in attacks has taken place in tandem with an increase in public activity and visibility on the part of the LGBTI community. Pride marches and marches of equality have taken place in an increasing number of towns, albeit under significant police protection and often with hostile counter-action. However, despite this greater visibility in some larger cities, in most regions of Ukraine there are no organizations supporting the LGBTI community. People face intimidation and exclusion from the public life of the community. Those public organizations that do work with LGBTI communities often do so quietly, avoiding publicity because of the threat of attack and pressure. When a member of the LGBTI community files a complaint with the law-enforcement authorities regarding an attack based on his or her sexual orientation, police most often do not record that the crime was based on intolerance or discrimination, but rather record it as an act of hooliganism.

The LGBTI community has faced not only rising far-right hostility and attacks, but also an increasingly negative environment promoted by many local-government bodies. This is part of a broader trend of

local authorities calling for support for traditional family values and opposing moves to promote either equality between women and men or rights of LGBTI people. Sexist and homophobic statements during council sessions often go unchallenged.[6]

The picture is not altogether bleak, however. For example, in 2017, Kyiv City Council adopted a statement supporting the ratification of the Istanbul Convention against violence against women. Some council deputies participate in equality marches. Police have provided effective protection for Pride and Equality Marches in a number of towns. But the wider environment in local government is much less supportive. In 2018, more than 40 councils wrote letters to the central authorities on "protecting the institution of the family in Ukraine and the prohibition of the promotion and equalization of same-sex relationships". While some political parties have a generally more supportive stance on both gender equality and LGBTI rights, their representatives aver that as such issues are not widely supported by voters, they dare not risk offering publicly support on such sensitive matters.

The Roma community is highly marginalized socially, economically and politically, even in places where they are compactly settled. Many Roma also face rampant discrimination, including from state authorities and law-enforcement bodies, as well as violent attacks, including from far-right groups. The position varies from place to place, including within regions. In some settlements Roma are better integrated than in others. But the broad picture is highly worrying. The number of attacks on Roma has increased in recent years, and especially in 2018, when eight attacks and two murders were recorded. Violent attacks are not confined to regions where Roma are more numerous, but also take place in places where their numbers are small. Roma are largely excluded from the wider community life and from political processes. They often face problems with access to social, medical and education services, especially as they often do not have passports. In some places, Roma children are in effect segregated in school. Roma also often face petty discrimination such as being excluded from bars or nightclubs. In general, local government bodies do little to help integrate Roma communities, or to protect them from discrimination and violence.

People with disabilities are generally well-organized and have well-established public organizations that represent their interests. To some extent they are engaged in local decision-making through accessibility committees. However, the focus of such bodies tends to be on implementing social-assistance projects rather than on inclusion in political and public life. Moreover, in many cases local authorities view 'inclusiveness' only as 'accessibility' but not as the inclusion in decision-making processes. Politicians' interest in people with disabilities tends to rise at election times, when they are often included in election campaigning in the form of receiving some symbolic aid. The participation of people with disabilities in democratic processes, including elections, is in all regions complicated due to the general inaccessibility of infrastructure, in particular of public buildings and public transport, and for people with visual impairments, the inaccessibility of information materials and e-democracy tools.

The position of Internally Displaced Persons (IDPs) varies from region to region, in part depending on their numbers. The highest numbers of IDPs are found in the government-controlled areas of Donetsk

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[6] It should however be noted that in recent months, a growing number of cities have signed up on the European Charter for Equality of Women and Men in Local Life.

and Luhansk regions, in the locations closest to the homes that they have fled. In some regions IDP representatives are highly active in public life. But in regions where their numbers are insignificant, they tend not to have their own organizations, which means that their problems are generally not a priority issue for the local authorities or community. An important factor promoting official concern for IDPs is the engagement of international organizations which provide funds for the local communities where they reside. However, local authorities often regard IDPs as a burden, requiring housing, social assistance etc. Crucially, as IDPs are not able to vote in local elections (or in majoritarian constituencies in parliamentary elections), they are often of little interest to local authorities unless there are directives from the central government about their care, international projects or public pressure. If the IDPs are not organized, local authorities often ignore their needs. Generally, IDPs are not adequately included in local decision-making processes.

Reform impact

Since 2014, progress in implementing democratic reforms has been uneven. Evidence has yet to emerge that the nexus between business interests and politics is being seriously challenged, or that political life and decision-making processes are becoming more genuinely inclusive. Cronyism and corruption continue to be the defining features of Ukrainian political life in the eyes of many citizens, which seriously hampers the emergence of democratic processes based on integrity and inclusiveness. That said, taken together the various reform efforts may over time have the effect of changing the rules of the game to the extent that the space for corrupt practices is diminished and that a more level playing field for democratic processes emerges.

As already indicated, lack of confidence in the judicial and law-enforcement systems, and the lack of real progress in tackling the corrupt connections between the judiciary and the power elites are severe impediments to transformative change in the way politics and decision-making take place. Simply, a pliable judiciary is a vital element in the maintenance of control by the informal business elites and their patronage networks, to protect their impunity and their assets. Only once legally constituted businesses, operating within the law, can see that their legitimate interests are effectively and impartially protected by genuinely independent courts, are they likely to desist from relying on shadowy political connections to protect themselves against corrupt and rapacious rivals and their political clients.

Another important reform that has the potential to narrow the space for corruption locally concerns public procurement. The introduction of the electronic procurement system ProZorro has often been cited as making a significant contribution in tackling some of the most egregious examples of corruption in the system of public tenders by introducing a degree of transparency hitherto unknown. It is also claimed that the system has saved the state budget significant amounts of money. Nevertheless, many councils and businesses have found ways of avoiding the constraints of the ProZorro system. For example, as ProZorro only applies to tenders above a certain threshold, one scheme to avoid its strictures is to slice up contracts into amounts that fall below the threshold. Unfavoured companies taking part in the tender process are sometimes excluded on procedural grounds. Also, tenders can be framed in such a way as to be aimed at a particular favoured bidder. In some circumstances there can be procurement without open competitions. Operating the ProZorro

system as intended is especially challenging in small towns, when there are often very few potential bidders for contracts, and they are in any case closely connected with the local authorities.

Another promising reform that could potentially shakeup power relationships at the local level and encourage greater civic involvement in decision-making is decentralization, in particular fiscal decentralization and the amalgamation of local communities into larger, more viable units. This process, initiated in 2015, has progressed unevenly around the country. It involves the amalgamation of towns and villages into new territorial communities with greater budgetary resources and power than was hitherto the case. While there were initial promising indications, it has become apparent that the results have not always been as positive for the quality of democratic governance as was hoped. In some cases, it appears that the incumbent local elites have adapted and used the decentralization process to further their own ends.

Local powerbrokers, business interests and agrarian groups have often been instrumental in determining whether the new amalgamated communities have been set up smoothly or not. For example, in some places a dominant local powerbroker has seen in decentralization an opportunity to strengthen and extend his (it is almost invariably his) influence over a wider area through the creation of a new amalgamated community. By contrast, in other areas competing local powerbrokers have been wary of promoting a new amalgamated community in case their interests might be threatened if their rivals were to prosper from the change. Such rivalries between competing interests have sometimes been a factor in determining the boundaries between new communities.

Furthermore, as the opportunities arising out of greater access to budgetary resources have become apparent, local business figures have often become interested in the new amalgamated communities, drawn to the resources the reform has opened up. One unintended consequence of this is that in some places the participation of women in the new amalgamated communities has actually been lower than in the village councils that preceded them. The participation of women in village councils had generally been higher than in other tiers of local government.

Preliminary conclusions and agenda for further inquiry

Despite efforts by reformists in Ukraine's political institutions and in civil society, the organizing principle of political life that determines the integrity and inclusiveness of the democratic process appears to have changed little in the five years since the Maidan Revolution. In the country's regions, politics and decision-making continues to be dominated by a debilitating nexus of business and political interests existing in the shadow of the formal institutions of power but controlling them. This corrupted system perpetuates itself through the control and apportioning of resources within the closed circle of power. Many Ukrainian citizens meanwhile feel left excluded from genuine and inclusive participation and are frustrated that the interests of the political elite in them only surge at election time. Women in particular are ill-served in a system which is overwhelmingly male-dominated. While the representation of women has increased somewhat in local councils, their numbers are not at a critical mass level that would fundamentally change the traditionally male-dominated political culture. They are thus rarely in positions that determine overall policy directions and the allocation of resources. Young people and vulnerable groups such as Internally Displaced Persons, the LGBTI community, Roma and people with disabilities are also to a greater or lesser degree

not fully included in political and public life. In the case of LGBTI people and Roma in particular, they are not only excluded but face marginalization and physical violence.

This comprehensive research exercise has thrown greater light on the obstacles that hinder Ukraine from building institutions with integrity that genuinely include all its citizens. It has also raised questions about avenues for closer research and examination, including:

- To what extent do political parties have effective internal mechanisms for communication and decision making? Are parties making greater efforts to increase the participation of women, young people and other less represented groups in political life?
- How does the dynamic between local party organizations and business patrons function? Are the internal dynamics within parties changing since 2014? Is there pressure within political parties, among activists, for greater inclusiveness?
- How does political finance work locally? To what extent are political and campaign contributions reflected in the party books? Is there regulation locally to ensure compliance with the rules?
- How are state subventions allocated? Are they used as a state resources for incumbent candidates? What are alternative forms of financing local development that are transparent and not politically instrumentalized?
- What has been the local impact of public procurement reform? Has greater transparency resulted in more open decision-making on public tenders locally?
- What has been the impact of decentralization and the creation of new amalgamated communities? Have local business interests found opportunities for themselves to benefit from the increased resources at local level? What has been the impact of decentralization been on the inclusion of women, young people and vulnerable groups?

The first phase of the initiative on the analysis of the integrity and inclusiveness of the democratic process provided research findings and an interim baseline analysis of the state of affairs in Ukraine's 24 regions. It aimed to understand the overall institutional and contextual setting in which the democratic process and individual electoral events take place and in which political power is exercised, in particular at the local level, also examining the broader civil society, transparency, and human rights parameters which affect democratic participation locally.

The second phase of the initiative will be conducted well in advance of the parliamentary elections in 2019 and again in advance of the local elections 2020. It will continue to analyze the conditions and parameters for integrity to take hold in the democratic process and for inclusiveness to be better provided for. The focus will be on the long-term trends and the barriers and obstacles for integrity and inclusiveness to take hold in the democratic process of Ukraine. The effort will be analytical and diagnostic, but will aim at the larger, longer-term objective of building effective, accountable and inclusive institutions at all levels, including by substantially reducing corruption and ensuring responsive, inclusive, participatory and representative decision-making.

Methodological background

UNDP assists the Government, civil society and people of Ukraine in advancing democratic policies and practices needed to accelerate progress on sustainable human development; empowering civil society; promoting decentralization and local governance; advocating for human rights and gender equality; ensuring that all Ukrainian citizens can enjoy access to justice; and supporting anti-corruption efforts in Ukraine. UNDP focuses on the promotion of open government practices, rule of law and human rights, greater transparency and accountability at all levels of the government as well as citizens' engagement in policy- and decision-making processes.

UNDP supports inclusive politics programming in some 70 countries globally, including work to encourage the transparency and accountability of political parties in and outside of parliaments; their representativeness of women, youth, and marginalized groups; their capacity to promote national dialogue on key development issues such as democratic governance; and their connectedness with civil society.

The right to take part in government, directly or through freely chosen representatives, and the right to equal access to public service are fundamental human rights enshrined in the Universal Declaration of Human Rights (Article 21). The UDHR equally stipulates that the will of the people shall be the basis of the authority of government; and that this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. Whereas an elaborate mechanism of observing elections exists (through Election Observation Missions that deploy short term and long-term observers) and specialized international institutions have a specific mandate to conduct such observations and issue recommendations as required, there is no systematic effort to date to analyse and understand the democratic integrity context <u>prior</u> to the electoral period. In particular, certain areas merit specific attention, including infringements of the integrity of the democratic process, which may come in the form of abuse of administrative resources, media control or other forms of limiting the space for political contenders, including limiting civil society space or the infringements of human rights of possible participants in the democratic process.

UNDP has developed a methodology to conduct **'Institutional and Context Analysis' (ICA)** which refers to analyses that focus on political and institutional factors, as well as processes concerning the use of national and external resources in a given setting and how these have an impact on the implementation of UNDP programmes and policy advice, in particular in the area of democratic governance. An ICA is designed to focus on how different actors in society, who are subject to an assortment of incentives and constraints, shape the likelihood of programme success.[7]

Another relevant methodological approach developed by UNDP and applied in Ukraine in recent years is the **Sector Integrity Vulnerabilities Assessment (SIVA)** - a risk assessment methodology for identifying where opportunities for corruption and system weaknesses exist within sectors and public sector institutions. It moves on from the formal procedures of submitting questionnaire-based corruption risk assessments that rely on participation from the institutions that suffer vulnerabilities, to the use of individual discussions with key informants (experts). SIVAs examine the lapses in the system that allow corruption to occur without direct accusations on the interviewee by focusing on

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[7] See Institutional and Context Analysis - Guidance Note, UNDP Oslo Governance Centre (2012)

how the current system of operations could allow lapses in integrity rather than focusing on personal liability.

The initiative will also be informed by relevant international studies and guidance texts, such as **"Deepening Democracy: A Strategy for Improving the Integrity of Elections Worldwide - Report of the Global Commission on Elections, Democracy and Security"** (International IDEA and the Kofi Annan Foundation, 2012); which found that electoral fraud and malpractice often take place months and sometimes years before an election and emphasized that elections with integrity – with an emphasis on inclusion, transparency, and accountability - can be catalytic for better governance, more substantiated rights, greater security and human development.

More specifically for the Ukrainian context, the study will draw from recent findings and recommendations of the **IFES Electoral Integrity Assessment (EIA)** methodology (2018) which maps vulnerabilities that stem from fraud, malpractice, or systemic manipulation and provides an in-depth diagnostic of where the legal framework has been (and can again be) manipulated, the types of fraud vulnerabilities, and where there are problems that in reality stem from malpractice. While the IFES assessment focuses on the electoral process per se, the analysis is equally applicable to and relevant for the pre-electoral context of integrity of the democratic process.

UNDP's Institutional and Context Analysis is conceptually grounded in a set of assumptions of how the democratic process works and interacts with integrity, from which a distinctive set of questions can be derived. These can be summarized thus:

1. **Development requires a change in power relations and/or incentive systems.** Groups establish systems that protect their privileges. Expect actors to support changes in the socio-economic and political order only when it does not threaten their own privileges. Many development interventions seek exactly such change. Ask: Over time, under what conditions have these societal actors made strides forward in democratic governance and integrity?

2. **The powerful reward their supporters before anyone else.** The analysis will focus on the logic of political survival. Those in power must reward those who put them there before they can reward anyone else. Ask: On whom do the powerful rely to keep them in power?

3. **All actors in society have interests and incentives.** Rather than assume that everyone in society 'wants democratic governance and integrity', it is assumed that some actors face incentives that potentially create conflict between their private and public interests. Broad groups (such as civil society or industrialists) often have opposing interests, as do groups within those categories. These include interests such as perpetuating the gender status quo, which may appear irrational or even harmful, but reflects deeply held views and emotions. Rather than enquiring about 'political will', we should instead Ask: What incentives exist for major actors to put public interests over their private interests?

4. **Resources shape incentives.** Sources of revenue shape the incentives of power holders to be more responsive to some groups than others. Ask: On what resources do the powerful depend, and how does the international presence and support provided by international partners affect this?

5. **All stakeholders in society have constraints.** The mere presence of an incentive does not mean an ability to act on that incentive. Traditions and institutions, both formal and informal, shape actors' ability to act on their incentives. Ask: What are the constraints on the power of key actors, and are there important informal rules that shape the nature of formal democratic processes?

The initiative was undertaken as part of **UNDP's Democratic Governance Programme**, which aims to promote a peaceful and inclusive society for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, including by substantially reducing corruption and bribery in all their forms and ensuring responsive, inclusive, participatory and representative decision-making at all levels.[8]

The modality included the deployment of a **team of 24 analysts in all regions of Ukraine** during a period of **three months** prior to the beginning of the pre-electoral period (November 2018-February 2019), with the aim to deepen understanding of the integrity of the democratic process through interviews with key stakeholders, data analysis and coordination with observers and informants in regions across Ukraine, including through an advisory group. The team of Research Analysts was coordinated by the National Research Coordinator and supported by the expertise of a Senior International Analyst. Other support staff was added as required (gender expert, project coordinator and project assistant - part time).

The National Research Coordinator developed a **methodological framework** drawing on the above UNDP and other tools available for probing democratic context and integrity. This was reviewed and finalized during an **inception workshop** convening all Regional Analysts, together with other relevant staff and experts. A specific set of research questions were elaborated prior to the deployment of the integrity analysts.

Two workshops/debriefings with regional experts were conducted to analyse the key trends and lessons learned from the initiative. Reports generated during the **primary phase of field work** (24 regional ones plus a national one) were compiled and systematized. **Summary findings and recommendations** were presented to national-level stakeholders committed to promoting the integrity of the democratic process as well as the 2019 electoral process. Information was exchanged with all relevant organizations supporting the advancement of electoral and political reform, and the preparations of activities aimed at increasing the level of integrity and public confidence.

During the first phase of the research, the analysis on all regions was conducted reflecting the following areas: general information about the region (socio-economic situation, business, population, law enforcement), politics (elections, decision-making processes, parties, civic engagement), media (media landscape, bias, freedom of speech, challenges), civil society and human rights, and participation of women, people with disabilities, Roma and LGBTI in the democratic process.

Within the framework of the study 591 interviews were conducted by the regional experts (in total, 250 women and 341 men were interviewed). They included 29 business representatives, 154 government representatives, 75 representatives of the vulnerable groups, 181 representatives of the public sector, 95 media representatives, and 57 representatives of the political parties. Additionally, the core team conducted more than 25 interviews with key informants at the national level. The overall national report was prepared based on the research and analysis of 24 local reports, communication with interested parties, analysis of the studies related to similar topics dated 2015–2018, and results of debriefing with regional experts in January 2019. It was not aimed at analyzing democratic processes at the national level, but it considered specific conditions (legislative, economic, political, etc.), in which Ukraine is developing, and national specificity.

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[8] As such, the initiative will directly contribute to the achievement of the Agenda 2030, in particular Sustainable Development Goal No. 16.