



## RESEARCH PAPER

### Implementing the Rule of Law in Ukraine: Pathway to the European Union

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#### ABSTRACT

Since 2014, Ukraine's sociopolitical and economic situation has rapidly changed. The 2022 start of the conflict with Russia, the Euro-Maidan crisis, the succession of administrations, the loss of Crimea, and its economic crises have created a vast and complex set of challenges for Ukraine's government and people. The preservation of Ukraine's legal system and judicial reforms to combat corruption are among the most crucial issues, particularly in light of the Copenhagen criteria for European aspirations. Politicians have abused the judiciary by passing laws that benefit the nation's elites to strengthen their positions and acquire control over them. Still, they have not been given the country's general populace any real opportunity. The Ukrainian courts, regrettably, have received a corrupt rating. The 2024 edition of the World Justice Report Index places Ukraine 88th out of countries that uphold the rule of law. The nation's system of government is closely linked to its acceptance of the rule of law. The path to the EU may be challenging but not unfeasible.

**Keywords:** Anti-Corruption, Constitution, Courts, Governance, Human Rights, Justice, Rule of Law

#### Introduction

Ukraine has been bestowed with beautiful landscapes, geographical size and importance, seasonal weather, agrarian lands, qualified and intelligent youth, the most attractive people on the continent, and freedom.

Ukraine has all the potential to become a permanent member of the European Union as it exists right at the doorstep of Eastern Europe; the geographical importance of the country can be analysed where Ukraine is at the point of convergence between the West and The Russian Federation. The government has mixed sentiments where, to its extreme west and centre, people are willing to join the EU and to the right, which is mostly the Russian ethnic, Ukrainian citizens are aligned towards The Russian Federation.

In Europe, the Judiciary protects both the people ruling and the ones in opposition, but in Ukraine, the people in power are protected, and if you lose the elections, you will stand for a trial and may be jailed. (Kuzio, 2015)

The sorry state of the rule of law and corruption has eaten the country like a termite eats the wood; Ukraine should not be labelled only, as corruption was inherited from the Soviet Union to the state of Ukraine. The country pledged to protect the rights of its individuals, and freedom of Life and speech was guaranteed in the making of Ukraine. One significant reason for corruption in Ukraine is the weak judicial system, non-transparent government, and the country's oligarchs and political elites.

It is believed that when politicians come into power, they first replace the judges and take the confidence of the judiciary; over the years, the disrespect of the Rule of law in Ukraine and abuse of power has led to the lost faith of people in repeated terms by the politicians ruling the country. That is because of the absence of the rule of law; imagine an ordinary man looking for justice will seek it through the court of laws, where it has been observed that the judicial system has deadlocks and plays at the hands of the Bureaucrats and its elites—controlling the national media and trying to maintain the balance between The Russian Federation and the West. (Yekelchik, 2015)

The situation of institutions for the future candidate members considered for the EU expansion could be imagined when the European Union agreed to spend around 600 million Euros till 2013 to reform the fields of legislation and economic and democratic reforms for Ukraine, Moldova, Georgia and Belarus. (Staab, 2011) Ukraine had already signed the agreement of accession with the EU in 2014; out of the three sets of criteria, which are political, economic and administrative, implementing the rule of law comes under the political criterion, which is directly concerned with the remaining criteria.

The Political criterion will cover democratisation, human rights, protection of minorities, gender equality, educational reforms, return of refugees and the rule of law; ultimately, it will cover the remaining economic and administrative criteria. (Staab, 2011)

### **Literature Review**

Staab, Andreas (2011). The book briefly comprehends European Membership and its requirements; it also covers one part of the Eastern enlargements of the candidate countries, including Ukraine. However, Ukraine applied for formal membership on August 28th, 2022, just days after the Russian invasion of its eastern and northern parts. The European Union signed agreements covering political cooperation, trade, environmental protection, and cultural collaborations. It also covers the challenges Ukraine might face in fulfilling the Copenhagen criteria for European membership.

Yekelchik Serhy (2015): The author's understanding of modern Ukraine with its post-Soviet era, including the roots of Soviet imperialism, is summed up at the finest. The role of oligarchs gives a grim picture of Ukraine's unsteady growth in political and economic spheres due to the influence of the former Soviet dominance. It covers areas of eastern regions where the justice system has not been fully implemented due to the ongoing conflict and which served as the powerhouse for the ousted president Viktor Yanukovich.

Bogdani (2011) The book covers Turkiye's candidacy, but due to the issues related to human rights and cultural and religious hindrances, the progress of Turkiye has stalled the application process as a full-fledged member of the European Union. On the other hand, Ukraine had swift and positive accession by the European Council; comparing the issues of human rights and culture issues, Ukraine had previously been warned by Hungary not to exclude the Hungarian language from the national curriculum. Due to the full-scale war waged by The Russian Federation, Ukraine has removed the Russian language from their national curriculum and has since promoted the Ukrainian language entirely (Yaseen, Muzaffar & Aman, 2022).

### **Material and Methods**

The research methodology in any study encompasses the strategy or plan for conducting research, utilising qualitative or quantitative data collection techniques. This study employs a qualitative methodology centring on the documented literature as the limitations encountered when acquiring the primary data were limited. External

secondary data has been gathered from many books, a global corruption index report, the UNDP report, government figures, and other online sources.

### **Theoretical Framework**

The theoretical concept of the research has been taken from the expression "Rule of Law", which originated from the French expression 'La Principe de Legality' (the guideline of principality) and alludes to a legislature dependent on standards of law and not of men. In a clear, comprehensive sense, the Rule of Law infers that the Law is supreme and is above each individual. Regardless of status, no individual is ruled or managed and is above the law. In a minor sense, the standard of law explains that the authority to govern may just be exercised as per the laws already constituted, which were received by the actual sources of law. The principles of the Rule of Law are intended to shield against administrative specialists' self-assertive actions. The standard of law has been depicted as an "exceptional and changeable rule of our political convention". The standard of law midway involves "the valuations of familiarity and restriction, encapsulated in the motto of "Supremacy of law, not men". The term supremacy of Law doesn't elucidate how the principles are created or anything explicit like the essential rights or the edict standards or equality.

In the light of the Dicey's theory, Law has three main principles:

**Absenteeism of Subjective Power or Authority of Law:** Dicey elaborates on the total matchless quality of law and 'None is punishable or can legitimately be made to undergo in the body or ignore aside from an unmistakable violation of law set up in the ordinary legal procedure under the courts of the land. Dicey believed that all people, whether on the off chance that he is a typical man or a representative of the government, will certainly observe the law. ([www.lawteacher.net](http://www.lawteacher.net))

Dicey believes that no one should be punished for anything other than a rupture of law, which already exists. In addition, more than the committed offence needs to be verified under the steady gaze of the ordinary courts as per conventional patterns.

**Uniformity under the Law:** the theory, in the subsequent rule, indicates the fairness of law or equality to all subjects of all classes of individuals to the constitution that everyone ought to obey, which is controlled by the ordinary law courts. No one is to be exempted from the law, which applies to everyone. Indeed, the representatives of the government ruling or being ruled are responsible for adhering to existing rules, and there can be no other distinctive courts for settling their disputes.

The Constitution is a consequence of common law that must be adhered to: Dicey explains that in numerous nations, privileges, e.g., the right to freedom of the individual, opportunity, and arrest, are all coded by the written law of a Country. Unlike in the United Kingdom, these rights are a consequence of the legal choices arising from the argument between the gatherings. The Constitution isn't the only source of the outcome of the civil liberties and privileges of the people.

### **Court of Laws**

The country's judicial system is highlighted in the 1996 Constitution of Ukraine. Ukraine has an established hierarchy of the court of laws that comprises:

#### **Courts of Appeal**

It combines criminal and civil courts, comprising regional and Kyiv courts.bn (Cameron, 2016)

## **Supreme Court of Ukraine**

The Supreme Court is the highest court within the jurisdiction of checking reviews relevant to the unequal application of the principles by the cassation courts and cases in which Ukraine has violated the International commitment and its obligations.

## **Constitutional Court of Ukraine**

The constitutional courts assess the statutes and legislative acts of the Parliament; they evaluate whether the cabinet and the president are working by the law. It also gives advice and commentaries on the constitutional laws and framework. (Orlyk, 2000)

## **Determinants of the Rule of Law**

Although there are a series of determinants measuring the rule of law and the factors that affect the governance, a few of them are identified as follows:

### **Codified Document**

The constitution is the state's fundamental law; the country must have a codified constitution in a documented written format, ensuring that the legislature and judiciary exercise their powers within the prescribed limits without ambiguity.

### **Equality and Fair-Play**

Plato's ideal state centuries ago had one pillar of equality: being fair to the community will not require any laws, as the justice system of Plato explains. Equality before the law is essential when it sees everyone as equal, regardless of status and position. The Ukrainian judicial structure comprises courts and special courts with clear instructions and specialities.

### **Political Culture**

Political culture shapes the population's perception and action about politics and its importance. Responsible governments can help shape it through awareness, education, public gatherings and experiences from the past. The political culture differs from state to state. The essential parts include political beliefs, values, rituals, symbols, traditions, folklore, and heroes. Simultaneously, the political culture of Ukraine had a considerable impact and inspiration from the soviet style inclination towards the ideological teachings of Marx and Leninism. Still, the failure of repeated government has put a break on the country's youth. Former politician Yulia Tymoshenko was very famous among young people when she promised to provide them with jobs; Viktor Yanukovich, the former president who fled Ukraine during the Euro-Maidan crisis, became famous because he started a better pension system for the old age citizens, The recent President before Zelensky, Petro Poroshenko became the hero when during his government Ukraine signed the accession agreement with the European Union and Ukraine was allowed to become a visa-free regime to the EU countries in 2017. People in Ukraine have their heroes and villains in the form of benefits and prospects they have been provided.

### **Ideology**

Political Ideology comprises principled ideals, regulations, rules, and symbols of a social movement, class, association or a group of people who believe that a civilisation should work; it provides a cultural sketch for a collective order. Unfortunately, Ukraine is a developing country, and people are underpaid in many professions; according to their needs, he who satisfies their needs is not less than a saviour, but if the government fails to

respond to their needs, it might turn into a place of war as previous government have seen in the form of Orange to Revolution of Dignity, fall of governments and a new hope in the form of elections made on promises and guarantees.

### **Civil Society**

Civil society associations take part in the mindfulness rising to make people aware of corruption and build information about debasement for more individuals. In their mindfulness-raising endeavours, they may draw on existing reports or direct their observations or examinations and afterwards report the discoveries through agreeable news sources or web-based life. Another qualification among awareness-raising endeavours is between those tied in with sounding 'alarms' on explicit instances of misuse and those that are a piece of specific campaigns. An essential example of raising awareness is the Transparency International Index. (Catalina, 2000)

Common society associations take part in advocacy for administrative changes and for public sector changes. They can do so through calm campaigning endeavours; however, frequently, the promotion appears as public campaigns and is completed by alliances comprising like-minded associations. To maximize impact, activists may likewise use different entertainers' assistance, such as the media or worldwide partners. There are a few ways in which common society associations can utilize direct activity. Associations with adequate weight and assets can document claims against degenerate on-screen characters when there is probably some level of trust in the autonomy of the legitimate system. They can likewise exert pressure on authorities or demonstrations by sorting out showings or open activities for which they mobilize their supporters.

Instead of legitimately facing defilement, civil society associations can likewise reinforce their ability and that of others to become increasingly compelling at battling corruption. Instruction and preparation are some such limits fortifying. Against Corruption instruction can be focused on different activists to prepare them in abilities, for example, checking at authorities, to teach them respectability standards, or at the overall population to expand information about corruption. (Danilo, 2014). Another type of capacity strengthening involves building alliances with, for example, government actors, organisations, and worldwide actors. This kind of capacity strengthening has the advantage of creating a large number of partners who are enthusiastic about and able to fight corruption.

### **Environmental Factor**

The environmental factor is outside the immediate control of common society associations, and they are often identified with the political, institutional, and legislative context in which activists work against corruption. Assorted arrangements of such natural components are featured in the writing. A broadly shared view, for example, is that the enemy of defilement activism is ordinary, progressively compelling in democratic systems and commonwealths experiencing democratization. Some authors underline the significance of explicit properties of popular government for the adequacy of hostile to debasement activism, for example, the rule of law, political rivalry, regard for everyday and political freedoms, and media opportunity. The external factor most regularly referenced in investigations of the adequacy of hostility to anti-corruption activism, be that as it may, is the presence of political will among applicable political experts.

Beyond the institutional, political, and administrative conditions, further environmental variables noted in investigations of hostility to anti-corruption activism incorporate the contribution of international actors and the idea of the common society in which individual common society association's work. Some have contended that solid giver responsibility and backing for hostile to defilement activity, particularly regarding

European reconciliation, can be utilized to apply pressure on specialists who may somehow or be hesitant to participate. (Alexandru, 2009)

### **Separation of Powers**

In a democratic country, the separation of powers ensures freedom of rights and safeguards the community's interests. It also prevents the power abuse concentrated in a single person's hands.

Checks and Balances (privileges of common control and impact) ensure that the three forces interface impartially and adjustably. The disinterest of forces is a central component of the Regulation of Law and is valued in the Constitution. The disunion of powers is additionally revealed in the way that specific capacities must not be concentrated in the hands of unchanged individuals. Subsequently, the Federal President can't simultaneously be a member of the National Council or an adjudicator named minister or chosen to be a fellow of the National Council must be concisely adjourned from their legal responsibilities.

Ukraine has a semi-presidential democratic parliamentary system in which the people directly elect the Head of the state. The people elect the members of the Parliament (Verkhovna Rada) through a separate mode of election, and the Prime Minister is elected among three candidates introduced by the President himself by the legislature. Although the country has a mixed democratic system, the President has controlled most of the parliamentarians. The president has also influenced and controlled the Judiciary over the years, which is why politicians have misused and abused their positions, and the Judiciary has been played at the hands of the Oligarchs and the elites.

Ukraine during the 2000s was capitalist even under its worst conditions. The new rich ordinarily owed their instant riches to their government connections, if not their political arrangements, yet some likewise originated from criminal backgrounds. Organised crime converged with enormous business and the political class to make an invulnerable ruling elite concerned distinctly with its improvement. Its garish showcase of wealth brought to Kyiv and other substantial urban communities brand-name boutiques and luxurious vehicles, yet social pressures were stewing in private neighborhoods. The gap between rich and poor developed quickly, fueling well-known hatred against uncontrolled corruption and political control. (Yekelchik, 2015)

Business magnates in the previous Soviet republics who had gained colossal wealth and impact during the progress from a socialist to a capitalist economy came to be known as Oligarchs. The decision of this old Greek political term is exceptionally fitting here. Oligarchy, or rule by a small gathering, is something contrary to a democratic system, and business oligarchs are the best image of crony capitalism, in which both financial chances and political choices are held for a small group of elites. (Chapman, 2015)

Unlike developed Western democratic governments, enormous legislative issues and huge businesses have consolidated in Eastern Europe. Oligarchs in independent Ukraine host bankrolled and controlled political parties, purchase parliamentary seats for themselves to guarantee immunity from punishment, and work as cabinet ministers. To be sure, previous President Poroshenko himself is a significant oligarch, worth an expected US\$1 billion.

### **Ethical and Moral Respect**

Rules of conduct, which form our practices and change our nature towards our professions, guide us and ensure the right towards the proper conduct of our life; having

absorbed ethics as our daily dose, they transform them into our morals, which we follow by heart and mind.

### **Employment and Wage System**

Many people believe that public sector employees are underpaid. A recent survey in the regions of Donetsk Oblast reported that people have confidence in the police. If a crime is reported, it would be good to get better results, ensuring the government increases their wages and provides them health insurance and other financial benefits. (Security & Justice, 2013) Again, the corruption in the police and other departments was inherited from the Soviet times; former President Poroshenko introduced new young recruits, especially females, so that their love and patriotism towards the country guarantee safety and swift response to tackle crimes; besides, he also increased the salary to a reasonable level.

A recent survey on the length of service and education shows that the salary of Ukrainian police officers increased from \$500US\$ to \$1500US\$, which was part of the Police transformation initiated by the former government led by Poroshenko.

Legitimacy regarding order and security must be maintained to bring the law into order. The Rule of law must be negotiated and advanced with all its regulatory factors. It can only be implemented through an intelligent political process that requires moral and ethical respect.

Nearly 2000 years ago, the ancient Greeks set up their state on an ethical basis, which means they highly regarded the law. Systematic reforms and execution of the Rule of law will significantly impact Ukraine's position worldwide. They will lift the confidence of its citizens in the pillar of justice. Simultaneously, it will improve the democratic governance and the human rights of the country (Muzaffar & Choudhary, 2017). Further, the government needs judicial reforms and proper implementation of these reforms with both public and private sectors to gain results which will benefit Ukraine's chances of qualifying for the political qualification of the Copenhagen criteria.

There has been some success in the energy sector, banking sector, administrative services, police service, procurement, and taxation until 2019. Although the country has created the National Anti-Corruption Bureau, significant progress and results are needed to transform the country into a transparent state (Batool, Asmat, & Muzaffar, 2023). The areas of concern are customs, public sectors, and private enterprises.

Ukraine's geographical position at the crossroads of Europe and Russia makes it vital in regional and international politics. The analysis clarifies that its proximity to Eastern Europe and the Russian Federation has always got a way to competing influences, with the West pressing for democratisation and inclusion into the European Union. At the same time, Russia strives to maintain its historical influence over Ukraine. This geopolitical location enhances Ukraine's significance while simultaneously generating internal and external conflicts. The results demonstrate that misconduct is a primary issue of Ukrainian, firmly rooted within its Soviet heritage. A weak system of law, inadequate government oversight, and affluent influence have perpetuated persistent corruption. The absence of a judicial system that is autonomous diminishes trust among citizens in the government structures and limits the progression at achieving EU standards. The results additionally indicate how judiciary shifts tend to be shallow in nature and how powerful politicians use the legal system to consolidate their grasp on control rather than enforce the rule of law. Rights of humanity safeguarding, independence of the judiciary, and democratic transformation are just some of the constitutional requirements for joining the European Union which are still not completely fulfilled. Based on the findings, the Ukrainian authorities' misuse of the press, neglect of power in politics, and enduring

corruption have impeded Ukraine's way to joining the European Union. Even after signing the 2014 accession treaty, Ukraine continues to have issues bringing measures into effect that comply with the needs of the EU.

## **Conclusion**

Appointment of the judiciary on neutral and qualified conditions, and awareness of respect for the rule of law and a heinous crime to be declared upon abuse of power and disrespect of the rule of law. A comprehensive and robust policy must ensure a just society with a solid judicial system, not penalize corrupt officials on a selective basis. Still, especially after establishing the high anti-corruption court, a prerequisite for the Copenhagen criteria, Ukraine must take strong measures to bring justice for good. It is the responsibility of the Ukrainian citizens not to mercy the criminals on petty punishments but on justifiable reasons.

The European Union sees Ukraine as a prosperous future investment in the form of its permanent membership. Still, it is simultaneously concerned with two major areas of fulfilling the association agreement provisions, mainly political reforms and the rule of law. The other area of concern for the EU members is the ongoing conflict in the eastern regions of Ukraine and the annexation of autonomous areas of Ukraine, e.g. Crimea and Sevastopol. (MacShane, 2014)

Ukraine has to accept Europe Day as one of their days of celebration on May 9th and adopt the European standards of living as European. (Bogdani, 2011). On August 21, 2024, the Ukrainian parliament approved the law, which ratified the Rome statute and became a member of the International Criminal Court. ([www.hrw.org](http://www.hrw.org)). It may be early to say that how long will Ukraine require to fulfill the provisions of the Copenhagen criteria as it is with war against The Russian Federation since February 2022.

## **Recommendations**

### **A strong link between Challenges and Solutions**

There must be developed a detailed strategy in boosting the judicial transparency, introducing the independent oversight regulatory bodies, and imposing a digital case management system to prevent corruption and its inefficiencies in the system. Ukraine can redefine its detailed, explicit, and defined measures to meet the Copenhagen criteria for the legal alignment with EU's standards and targeted reforms in managing governance procedures.

### **Outsourced elements**

There is a need to work on EU access, which mainly involves external pressures, collaborations, and assistance within the institutional structure. This means they must adopt an essential way to address such complexities where external elements might influence Ukraine's rule of law and get the depth of analysis to ensure freedom of rights and safeguard the community's interests.

### **Promote the Copenhagen Criteria**

The pathway towards the EU solely adheres to the Copenhagen criteria. During its benchmarking process with other EU states, Ukraine should examine such factors to learn more about how it can achieve this criterion, particularly with regard to the fundamental principles of human rights, democracy, and the rule of law.



**Examining the measure to strengthen institutional capacity**

A few actions are required to create the framework for check-and-balance institutional capacity, which might guarantee openness and boost public confidence in the legal system, ultimately helping judicial reforms. When it comes to insights into how the rule of law reforms might impact Ukraine's democratic stability, economic growth, and societal cohesion as it approaches the EU, they have to be very open and participatory in the process of detecting the areas where members of minorities reside and obtaining new revised population data to create such a framework in their respective constituencies.

**Evaluating the Geo-Political Context**

The persistent conflict with Russia poses some challenges to implementing the reforms. So, it is up to Ukraine to reconcile these initiatives with their security apprehensions while pursuing the EU aspirations. The most critical factors that constitute an intelligent political process are consensus building, stakeholder engagement, and the particular strategic sequencing of reforms to ensure long-term sustained success. For more detail, they need to draw more parallel ties with other nations that have already gone through the same EU integration process, which could provide them with a comparative perspective and highlight the main lessons and best practices for the future.

**Institutional Readiness**

A complete discussion must be conducted on whether Ukraine's current governance institutions can implement and sustain the rule of law reforms that are essential for assessing its preparedness for EU integration (Muzaffar, Fern & Yaseen, 2023). In short, Ukraine needs strict and swift judicial reforms to introduce European standards as required by the Copenhagen criteria, there are no shortcuts rather than the implementation of provisional articles and submit its report for the Eueopean teams to review its progress.

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