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Legitimacy Under Fire: How Ukraine Governs Without Elections

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Ukraine confronts a legitimacy dilemma. With war precluding elections, Kyiv must govern without electoral renewal, even as the need for democratic legitimacy grows. The government's legitimacy is the basis for Ukraine's wartime resilience and essential for credible peace negotiations and EU accession. In 2025, non-electoral accountability worked when civil society and EU conditionality jointly reversed setbacks in the anti-corruption fight. Yet, accountability remains reactive, and centralised power requires safeguards. For Brussels, safeguarding legitimacy means opening negotiations on cluster 1 (fundamentals) to enshrine rule-of-law benchmarks and applying strict conditionality. For Kyiv, this means protecting state institutions.

The indefinite suspension of elections in Ukraine reflects constitutional provisions and the practical constraints of a full-scale war, including 10.8 million people needing humanitarian aid, almost 20% of occupied territory, and around one million in the armed forces.[1]

However, the absence of elections does not diminish the need for democratic legitimacy, crucial for Ukraine's survival and European path. With EU accession negotiations starting in June 2024, democratic standards have become EU accession criteria for Ukraine. They also underpin social cohesion, as an exhausted population maintains mobilisation.

With the war in its fifth year, the viability of security guarantees depends on the Ukrainian state's authority. Negotiations are shifting from contingency planning to a ceasefire. Ukraine's partners – including the US and European allies – must rely on Kyiv maintaining broad domestic support. A credible mandate strengthens Ukraine's negotiating position and increases the likelihood of Ukrainians accepting a peace agreement.

Ukraine's stability depends on its democratic safeguards working in war and peace. Its success rests on battlefield outcomes and upholding the democratic order. Only then will the sacrifices be sustainable.

1. REACTIVE ACCOUNTABILITY IN WARTIME UKRAINE

Ukraine's 2025 experience shows that reactive accountability, through civil society, independent institutions, and EU conditionality, can uphold wartime democratic legitimacy, but only when these forces unite in crises.

The July 2025 Crisis

In July 2025, Parliament passed a law placing the National Anti-Corruption Bureau (NABU) and the Specialised Anti-Corruption Prosecutor's Office (SAPO) under the Prosecutor General's authority, limiting their independence and powers. Days later, the largest protests since Russia's 2022 invasion erupted across Ukraine. The European Commission expressed its "strong concerns" and requested explanations. Within nine days, Parliament reversed its decision with an overwhelming majority.[2]

This episode reveals a pattern: When civil society mobilises, the EU invokes conditionality, independent institutions hold firm, Parliament reverses course to avoid domestic backlash and international isolation.

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November 2025 Investigations

In November, NABU and SAPO uncovered a $100 million procurement fraud in the energy sector involving senior figures from President Zelensky's inner circle, including former ministers.[3]

Anti-corruption authorities intervened with limited political interference, leading to the arrest of key energy sector figures. Two ministers resigned in late November 2025, followed by Zelensky's chief of staff, Andriy Yermak, after NABU searched his home. The fallout extended into January 2026, resulting in a comprehensive government reshuffle, with military intelligence head Kyrylo Budanov appointed chief of staff.[4] While some see this change as the militarisation of a civilian function, Zelensky presented it as a strategic renewal. These events suggest that accountability mechanisms can function even in wartime.

The investigations were possible because exposing the individuals involved did not threaten the government's stability. However, accountability constrained by political acceptability has narrow limits. Such accountability cannot validate the concessions Ukraine must make to end the war, resolve territorial disputes, or achieve political renewal. The outcome is that the government can punish "tolerable" transgressions but struggles to gain approval for 'difficult' decisions. This is why reactive accountability, however effective during a crisis, cannot indefinitely substitute for electoral renewal.

Crisis Momentum, not Routine

In its December 2025 conclusions on enlargement, the Council Presidency acknowledged Ukraine's efforts to strengthen the rule of law through judicial and public administration reforms, essential for EU accession.[5] While acknowledging progress by anti-corruption agencies like NABU and SAPO despite war challenges, this highlights a key limitation. Effective high-level action often relies on crisis momentum rather than routine processes.

To counter this, the EU and Ukraine should jointly establish sustainable oversight. Elements could include routine parliamentary scrutiny of emergency powers and crisis-independent procurement review.

2. LEGITIMACY AND WARTIME MOBILISATION

War demands centralised decision-making, swift procurement, resource redistribution, and operational secrecy. However, centralisation can weaken control and fairness that sustain legitimacy, decreasing citizens' willingness to obey the law when the state requires maximum commitment for prolonged resistance. In 2024, authorities exposed corruption within the Medical-Social Expert Commission (MSEC), where officials sold fake disability certificates enabling draft evasion. The scandal forced the Prosecutor General's resignation and led to the cancellation of over 4,000 fraudulent certificates and systemic reform.[6]

In January 2026, newly appointed Defence Minister Mykhailo Fedorov stated that about 200,000 soldiers were temporarily absent without leave, and around 2 million were permanently evading conscription.[7] Corruption scandals and perceived inequality fuel draft evasion, driving the state towards coercion, undermining its legitimacy. A September 2024 poll by the Razumkov Centre found that 82% of Ukrainians rated the government's performance in fighting corruption as poor.[8]

Legitimacy is essential for effective warfare, negotiations and peace implementation, beyond its impact on mobilisation. It should help Ukraine secure realistic, acceptable peace terms. Maintaining a credible mandate and accountability increases the likelihood of support for a compromise. However, this leads to a strategic dilemma. Renewing elections, which could enable difficult compromises, requires precisely the conditions for peace that these compromises are meant to achieve.

3. PREPARING FOR PEACE: THE LEGITIMACY CHALLENGE

A realistic settlement might entail difficult trade-offs, potentially including territorial questions and constraints on sovereignty and security arrangements. The

government needs democratic legitimacy to negotiate commitments and ensure compliance. It must restore electoral democracy, organise reconstruction, and maintain public support during the transition to peace.

War creates a paradox. The centralised authority enabling military resistance can undermine the collective reflection needed for peace. Lasting solutions require broad debate to examine proposals and find compromises. The European Commission noted that laws to strengthen civil society engagement have been suspended until martial law ends.[9] This illustrates how wartime centralisation restricts the debate needed for sustainable peace.

Recognising this challenge, President Zelensky has advocated holding presidential elections alongside a referendum on peace terms after a ceasefire to reinforce the mandate for any agreement. Parliament is preparing the necessary draft legislation, potentially ready by late February 2026. A recent poll found around 55% of Ukrainians favour a referendum on peace terms.[10]

However, significant hurdles remain. The Central Election Commission estimates that credible election preparations require at least six months after martial law ends.[11] A ceasefire must hold long enough to end martial law, triggering the six-month electoral preparation period, creating a strong incentive for spoilers to disrupt preparations.

As peace preparations peace continue, polls show ongoing concern about the president's excessive influence over state institutions.[12] This feature will shape negotiation dynamics and the country's stability.

Agreements negotiated by a government without a strong mandate risk failing due to domestic backlash. The longer elections are postponed, the harder it becomes to transform wartime unity into a consensus-based peace and democratic renewal.

EU conditionality is essential. External pressure can sustain accountability while domestic electoral mechanisms are restored.

4. EU CONDITIONALITY: A TEMPORARY BRIDGE

EU conditionality establishes external accountability without electoral renewal in Ukraine. In accession negotiations, the EU guides candidates on compliance with EU law, the acquis communautaire. Anti-corruption authorities, judicial independence, and media pluralism remain relevant, even during martial law. Non-compliance can prompt negotiation suspension or cut of EU financial assistance. The EU's 50 billion assistance to Ukraine depends on reforms aligned with the accession process. The Ukraine Facility translates these requirements into benchmarks.[13]

In its December 2025 conclusions on enlargement, the Council Presidency reaffirmed that accession progress depends on the rule of law and fundamental rights. When Parliament in 2025 decided to place NABU and SAPO under the Prosecutor General's Office, the Commission's warning about a possible impact on EU funding galvanised Ukrainian civil society and parliamentary opposition. The Council Presidency welcomed the restoration of NABU/SAPO's autonomy and announced it would remain vigilant.[14] Conditionality increases the cost of backsliding.

Yet, conditionality cannot substitute electoral legitimacy. External pressure may prevent setbacks, but it cannot generate the ownership and political capital required for compromises or reforms.

This limitation makes electoral renewal urgent. As long as accountability depends on external requirements rather than a domestic mandate, Ukraine's reform trajectory remains fragile. In the long term, the political accountability that elections provide is essential.

5. GOVERNANCE DEFICITS AND REFORMS

Eroding Mandates

Civil society and parliament agree elections should wait until the fighting ends. While confidence in political and judicial authorities has waned, surveys show high trust in the armed forces. A Kyiv International Institute of

Sociology (KIIS) poll at the end of 2025 found that 59% trusted President Zelensky, despite the 2025 corruption cases, reflecting his ability to maintain national cohesion.[15] However, as broader institutional trust declines, this creates a personal rather than institutional mandate, deepening institutional fragility. Emergency provisions initially seen as temporary, have become permanent, potentially risking democratic erosion.

Centralising Power

While Zelensky retains majority support for his wartime leadership, polls suggest a divided but significant public view that power dynamics under Zelensky contribute to authoritarian tendencies: A KIIS poll in June 2025 found 41% of Ukrainians believed the country was moving toward authoritarianism, versus 50% toward greater democracy, while June 2024 KIIS polling indicated 43% perceived democratic deterioration.[16] Ukrainian investigative reporting has echoed these concerns, as has international media.[17] The country's television output is unified under the state-controlled 'Telethon' format, restricting media pluralism.

Hollowing out the Judiciary

In its 2025 report, the European Commission assessed that the judiciary suffered from severe understaffing, high workloads, and weak integrity and capacity across judicial and prosecutorial institutions.[18] Unfilled judicial positions undermine the capacity to resolve property disputes, prosecute corruption cases, and adjudicate electoral complaints - essential functions for transition and reconstruction. Unresolved disputes and eroded institutional capacity will undermine elections and reconstruction efforts after hostilities end. Today's governance deficits risk becoming tomorrow's political crises.

To prevent post-war governance crises, Ukraine must act now with EU support. Restoring the judiciary's effectiveness involves speeding up judicial appointments with technical help from the Ukraine Facility and resuming performance-based practices in the civil service. To safeguard political space, the government should set media pluralism standards under martial law and create forums for civil society to debate peace scenarios. Strengthening local administrative capabilities is essential for wartime governance and post-war rebuilding.

The EU can support these efforts through strict conditionality and technical assistance. However, institutional reforms depend on Ukraine's political will. Without it, wartime centralisation may become a permanent feature that clashes with EU membership.

6. RECOMMENDATIONS: PROTECTING ACCOUNTABILITY, FACILITATING TRANSITION

Maintaining accountability under martial law while preparing for the post-war transition requires coordinated action from both Ukraine and the EU: institutional reforms that Ukraine must implement and EU support to enable them.

Priority tasks for Ukraine:

The 11 December 2025 joint statement[19] by EU Commissioner for Enlargement Marta Kos and Ukrainian Deputy Prime Minister Taras Kachka reaffirms Ukraine's commitment to implementing the recommendations of the 2025 enlargement report, particularly in the fundamentals cluster, as well as the roadmaps on rule of law, public administration reform, and the functioning of democratic institutions, together with the action plan on national minorities.

Within this framework, Ukraine has prioritised ten specific measures for implementation in 2026. Five measures directly address the structural challenges identified in Section 5 - independence of anti-corruption institutions, executive interference with prosecution, and judicial integrity:

- Strengthening NABU and SAPO's independence and protecting their jurisdiction, including expanding their coverage to all high-risk positions

- Reviewing the Prosecutor General's selection and dismissal procedure with the Venice Commission to align with European best practice
- Reforming the State Bureau of Investigation through an independent comprehensive review of its institutional framework, integrity mechanisms, and oversight functions
- Appointing, without delay, internationally vetted judges to the Constitutional Court and members of the High Council of Justice
- Selecting additional High Anti-Corruption Court judges through transparent, merit-based procedures, with extended involvement of international experts
- Adopting the Anti-Corruption Strategy and State Anti-Corruption Program by Q2 2026

Beyond these immediate implementation priorities captured by the Joint Statement, Ukraine must also maintain focus on foundational requirements for eventual democratic renewal, identified in the Commission's 2025 enlargement report:

- Restoring electoral and judicial capacities, including the Constitutional Court's authority to rule on disputes and clear timelines for credible elections after a ceasefire
- Protecting media pluralism under martial law and enabling public debate on peace scenarios and post-war governance

All of these measures build institutional capacity for democratic renewal when elections can resume.

Priority tasks for the EU:

The Joint Statement reaffirms the EU's political, financial, economic, humanitarian, military, and diplomatic support for Ukraine, its commitment to advancing Ukraine's accession to the EU, and its determination to support Ukraine in achieving a just and lasting peace.

In the author's assessment, translating these commitments into reality requires EU action in the following areas:

Enforcement of conditionality:

- Strict application of the Ukraine Facility benchmarks for anti-corruption institutions and media pluralism
- Linking financial disbursements to reform progress, as demonstrated in the NABU/SAPO case

Integrity of the accession process:

- The unanimity rule, which allows one or more delegations to block negotiation cluster openings, needs to be revised. The EU should adopt a more flexible decision rule that safeguards oversight without enabling indefinite obstruction—through qualified majority voting where legally possible, and otherwise through procedural constraints on objections (including time limits, written justification tied to accession criteria).[20]
- Opening of all negotiation clusters where the Commission assesses that the technical criteria are met
- The Commission must present its delayed proposals for EU institutional adaptation for enlargement.[21]

Financial commitment:

- Inclusion of the possible accession of Ukraine and other candidate countries in the planning and negotiation of the 2028-2034 multiannual financial framework
- Allocation of budget lines for pre-accession assistance and post-accession integration

CONCLUSION

Ukraine faces a dilemma: precisely when accountability is essential for wartime resilience, peace preparations, and post-war recovery, martial law suspends normal democratic processes:

Crisis-driven accountability can prevent backsliding, but this reactive approach cannot generate the political capital needed for painful compromises or build the institutional legitimacy required for sustainable reforms. Without elections, Ukraine risks being governed by leaders lacking public support for essential compromises. Such a government would struggle to rebuild dispute resolution institutions and to pursue EU integration with weakened democratic legitimacy.

Without credible EU conditionality and commitment, Ukraine's reform momentum would lose its external anchor. But EU support cannot replace domestic legitimacy. The challenge is turning crisis-driven accountability into lasting institutional guarantees. Only then can wartime legitimacy lead to democratic renewal and Ukraine emerge from war as the democracy its citizens are fighting for.

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