



PEACE NEGOTIATIONS  
POST-CONFLICT CONSTITUTIONS  
WAR CRIMES PROSECUTION

# UKRAINE: POST-CONFLICT GOVERNANCE AND TRANSITION FROM MILITARY TO CIVILIAN ADMINISTRATION

**Planning Document**

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## **Statement of Purpose**

The purpose of this Planning Document is to outline a sequencing of the policy efforts and initiatives that Ukraine will need to undertake to successfully transition from conflict to peace. The document builds upon a comparative state practice analysis of post-conflict transitions (Comparative State Practice) and an overview of policy recommendations for securing a successful transition from conflict (Policy Recommendations). The Planning Document predominantly focuses on transitioning from military administration to civilian administration in newly reclaimed areas of Ukraine.

## **Proposed Sequencing of Post-Conflict Interventions**

During the post-conflict stage and in preparation for the conclusion of the war, Ukraine will need to adopt several policies aimed at restoring democratic control led by civilian administration. On the one hand, Ukraine can develop and implement some policies already during active hostilities to limit disruptions caused by the war. For instance, different initiatives have already begun seeking and negotiating the repatriation of deported children. The Ukrainian government can further facilitate these efforts by creating a coordinated system for seeking, negotiating, and repatriating the children. On the other hand, some interventions will mostly take place after the conclusion of the war as they require access to currently occupied territories. These include validation questions such as reviewing documentation issued by occupying authorities to assess their validity. Due to limited access to occupied territories, such a review of documentation collected by the occupying administration in the present conditions is not possible.

To organize the interventions that will be required to be implemented, Ukraine may wish to categorize them into three stages: (1) interventions to be taken immediately, meaning during the active hostilities; (2) interventions to be taken after de-occupation of territories; and (3) interventions to be taken after the war (which may also overlap with interventions to be taken after de-occupation of territories depending on whether these events overlap). The third type of intervention differs in that it does not concern only occupied territories but even areas that are under Ukraine's control. Thus, they are more broadly applicable.

Further, several interventions within each of the stages are more generic and therefore will have to take place concurrently. For instance, to enhance legal and political certainty and democratic stability, Ukraine will have to address election matters, the rule of law, the return of children, and disarmament. These are

national post-conflict questions that do not concern a specific geographical area or stage of post-conflict. They are key matters that should be discussed and addressed in all stages and in the whole country, however the security conditions in Ukraine will determine when it is possible to implement relevant measures.

### *Interventions to Take Immediately*

Delving further into the interventions that should be undertaken during the war, Ukraine may begin formulating policies on elections, the rule of law, the return of children, and disarmament.

It is recommended that Ukraine develops objective standards for evaluating the appropriate timing for elections based on security conditions in the country and the existence of the necessary infrastructure. Developing such policies enhances transparency and strengthens democratic legitimacy as it ensures that how and when elections are conducted depends on objective security conditions and not on political will. With regards to elections, it is also recommended that Ukraine considers reforms aimed at guaranteeing inclusiveness. As discussed in the Policy Recommendations, a potential reform of elections may include the creation of mail-in ballot voting and absentee voting systems, enhancing the inclusiveness of political processes, and enhancing the cybersecurity of election processes.

Together with election reform, it is recommended to conduct a holistic review of the existing legislation affecting human rights such as freedom of expression, association and assembly, religion, and non-discrimination. Reassessing Ukraine's legal framework in light of international human rights standards will strengthen human rights protection and democracy and will prevent potential violations of human rights during the transition. As discussed in PILPG Policy Recommendations, it is also advisable to address legislation issues that may challenge post-conflict interventions; for example, amending Article 111.1 of Ukraine's Criminal Code and further specifying the application of Article 436-2. These interventions can be undertaken even during the conflict stage to ensure legislative clarity and prevent the misuse of these articles in contravention of human rights standards. This is particularly pertinent as prosecutions on the basis of these articles have already taken place and given rise to some criticism.

In addition to elections and rule of law issues, Ukraine may wish to begin establishing a national mechanism for coordinating the repatriation of children. Currently, this work is largely uncoordinated and suffers from duplication of efforts. Timely intervention in this area would improve the efficiency at which

Ukraine can search, negotiate, and repatriate the deported children. It will also ensure that this question is addressed as part of a bigger effort to strengthen Ukrainian national unity and to facilitate the return of Ukrainians to their homes.

Moreover, while disarmament will not happen during active hostilities, Ukraine may wish to begin formulating policies for weapons management and disarmament to be initiated after the war. This will foster trust among international donors and civil society regarding Ukraine's ability to transparently manage military aid and mitigate illegal weapons trafficking. Initiating conversations on this topic among policy-makers and adopting policies regarding disarmament will also lay the foundation for a peaceful transition. Ukraine will greatly benefit from the support of the international community which can play an important role in this process.

Lastly, as an immediate intervention, it is important to develop well-structured programs for the rehabilitation and reintegration of the deported civilians and refugees, focusing on their health and physical needs.

#### *Interventions to Take After the De-Occupation of Territories*

After the de-occupation of Ukrainian territories, it will be necessary to conduct a comprehensive review of legislation and official documents issued by occupying authorities to unify the Ukrainian legal system.

With regards to administration, Ukraine will need to, first, develop policies for recognizing, annulling, or replacing the documentation, such as birth and marriage certificates, issued by occupying authorities. First, it is necessary to develop an appropriate process for the assessment of documentation. Once this is determined, it will be necessary to establish a bureau for assessing the diplomas and licenses issued by the occupying authorities and create a transition period for this process. Third, Ukraine will likely need to introduce specialized education and training programs for certain professions in the de-occupied territories to ensure those who received training in Russian education systems are able to comply with Ukrainian standards. For instance, such training may be necessary for teachers and legal professionals.

In de-occupied territories, Ukraine will need to take measures that are specific to de-occupation in addition to measures that are generally applicable to post-conflict. Such measures may be implemented in parallel or in sequence depending on how the war ends and Ukraine's priorities. The sequencing may also

differ depending on the territory if the regaining of control over these territories takes place over a longer period of time and some territories are liberated quicker than others. Even where this is the case, it is important to ensure that interventions are consistent across all territories while addressing specific needs.

### *Interventions to Take After the War*

After the end of the war, it will be crucial to adopt policies in the area of disarmament, security sector reform, lustration, corruption, and economy as these issues cannot be fully addressed during active conflict. Most of the interventions in these areas will likely have to happen concurrently due to their interlinkages. For instance, the fight against corruption will impact the success of economic reform and reconstruction. Similarly disarmament will affect the success of security sector reform.

Immediately after the war, it will be necessary to engage in extensive disarmament processes, which begins with developing a clear outlook on the armed actor landscape. This process will then inform the policies needed for effective disarmament and reintegration of combatants into civilian life. As a second stage of the disarmament process, Ukraine will require the establishment of reintegration and rehabilitation programs for former combatants and prisoners of war that comprehensively address the psychosocial and economic needs of these combatants.

With regard to lustration policies, it is advisable that Ukraine amends the existing Lustration Law issued following the aggression in 2014 or issue new lustration legislation taking into account the present circumstances. Following the issuance of this legislation, Ukraine may be able to begin vetting its public sector to exclude from public administration individuals who supported and collaborated with the Russian authorities and committed human rights abuses during the war.

As mentioned above, tackling corruption is one of the most important tasks for Ukraine to ensure its democratic stability and development. In this regard, training public officials on anti-corruption practices and taking thorough action against those who have been engaged in high-level corruption cases, including through prosecution, helps address corruptive practices.

As regards the economy, in addition to rebuilding infrastructure and attracting investment, Ukraine will also have to develop social programs to support those affected by the war, including refugees and former combatants.

Security sector reform has already been a long-term process for Ukraine and will continue to require interventions following the war. In addition to the reforms already launched before the war, Ukraine will have to aim to strengthen civilian oversight of its military structures to enhance transparency and civilian control.

### Visualization of Sequencing

<b>Interventions to Take Immediately</b>				
<i>Seq.</i>	<i>Election Matters</i>	<i>Rule of Law</i>	<i>Return of Children</i>	<i>Disarmament</i>
1.	Develop objective standards for secure and transparent elections in line with high democratic standards	Amend Article 111.1 of Ukraine’s Criminal Code on Collaborators to comply with human rights and humanitarian law standards  AND  Specify the application of Article 436-2 of the Criminal Code of Ukraine	Establish a state institution for coordinating the repatriation of children and facilitate their reintegration into Ukrainian society	Develop a system for weapons management and disarmament after the war
2.	Reform election system to take into account the current challenges	Assess the existing and proposed legislation to ensure its conformity with human rights standards and its responsiveness to current challenges	Ensure the safety, rights, and basic physical and mental needs of children and other civilians	Engage with the international community to develop a strategic plan to implement disarmament measures

<b>Interventions to Take After the De-Occupation of Territories</b>		
<i>Seq.</i>	<i>Rule of Law</i>	<i>Administration</i>
1.	Review legislation issued by occupying authorities in a holistic manner	Develop a system for recognizing or annulling documentation issued by occupying forces
2.	Ensure uniformity in the Ukrainian legal system	Establish a bureau to assess diplomas and licenses and create a transition period for assessment
3.	Consider challenges that are specific to de-occupied territories when developing new legislation	Develop a program for introducing Ukrainian-focused specialization for those whose education and professional diplomas do not comply with Ukrainian standards

<b>Interventions to Take After the War (May Overlap with Actions to Take After De-Occupation)</b>					
<i>Seq.</i>	<i>Disarmament</i>	<i>Security Sector Reform</i>	<i>Lustration</i>	<i>Corruption</i>	<i>Economy</i>
1.	Map the armed actor landscape	Implement a well-structured plan to holistically address security challenges that arise in post-conflict and underlying issues	Amend or annul Lustration Law taking into account specific challenges that are related to de-occupied territories	Train government officials on anti-corruption practices  AND Take action against high-level corruption, including through prosecution and effective measures	Reform and develop social programs

2.	Establish reintegration and rehabilitation programs for military personnel and prisoners of war	Develop civilian institutions and civilian oversight structures for the military to strengthen civilian control	Vet new government officials and those involved in transitional justice efforts	Implement measures to prevent corruptive practice that arise in post-conflict especially in case of new streams of international funding	Develop strategies to attract investment
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