

**Commission on Security & Cooperation in Europe:  
U.S. Helsinki Commission**

**“Ukraine’s Fight Against Corruption”**

**Committee Staff Present:**

**A. Paul Massaro, Policy Advisor, Commission for Security and Cooperation  
in Europe**

**Participants:**

**Oksana Shulyar, Deputy Chief of Mission, Embassy of Ukraine in the United  
States;**

**Orest Deychakiwsky, Former U.S. Helsinki Commission Policy Advisor for  
Ukraine;**

**Anders Aslund, Senior Fellow, Atlantic Council;**

**Brian Dooley, Senior Advisor, Human Rights First**

**The Briefing Was Held From 1:02 p.m. To 2:32 p.m. in Room 562, Dirksen  
Senate Office Building, Washington, D.C., A. Paul Massaro, Policy Advisor,  
Commission for Security and Cooperation in Europe, presiding**

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MASSARO: Good afternoon, and welcome to this Helsinki Commission briefing on “Ukraine’s Fight Against Corruption,” where we are also officially launching the Commission’s recent staff report on corruption in Ukraine. My name is Paul Massaro, and I am the anti-corruption policy advisor at the Helsinki Commission.

Kleptocracy is one of the greatest challenges facing the OSCE region today. Kleptocratic regimes abuse political power for personal gain by stealing state assets and laundering them into Western jurisdictions, where they will be safe under the rule of law that is nonexistent in their own countries. This practice not only destabilizes the countries from which assets are stolen, but corrodes the democratic institutions of the countries in which assets are hidden.

Today, the region finds itself engulfed in a transnational struggle for dominance between corruption and the rule of law. It is imperative that the rule of law win this fight.

Nowhere is this struggle clearer than in Ukraine, which has long struggled with institutionalized corruption. Now as never before in its history, Ukraine has an opportunity to implement reforms that will keep corruption in check in the country.

Ukraine has become the central battleground between corruption and the rule of law globally. A victory for the rule of law here would resound across the world.

Reforms have thus far seen some serious success, the most notable of which are the formation of a robust and independent anti-corruption architecture and reform of the energy sector, which has long been a main source of corruption in Ukraine. However, much remains to be done. The next step is the formation of an anti-corruption court, which will serve as the final piece of the anti-corruption architecture.

Ukrainian civil society has played a major role in pushing for these reforms, and continues to be world class in its determination to see the rule of law victorious in the country. Unfortunately, there has been a disturbing trend of harassment of civil society by the Security Service of Ukraine, the SBU, and through a new law that requires members of civil society to declare their assets down to the individual level. This needlessly complicates their personal and professional lives, and takes away from their important work.

All of these points and more are included in this new Helsinki Commission staff report, “The Internal Enemy.” Let me show it one more time.

It was no mean feat putting this together, and there is a tremendous amount of thanks to go around both inside and outside the Commission to those who gave up their precious time to make it a success. This report could never have come to fruition without the help of those who have been working on these and related issues for decades, two of whom – right next to me here – we are lucky enough to have with us today on the panel.

This was a remarkable learning experience for me, and I am grateful to have had the chance to work on a topic that I think deserves to be approached with a lot of hope. I look forward to seeing whether our distinguished panelists share my optimism.

First, we have Oksana Shulyar. Oksana is the current deputy chief of mission at the Ukrainian embassy here in Washington, a position she has held since last year. She is also the minister-counselor at the embassy. Before joining us in Washington Oksana served in the Ukrainian government at various posts, including deputy director of the Ukrainian presidential administration's foreign policy department, senior consultant on Ukraine for the OECD, and later legislative assistant to the head of the Committee on European Integration in the Rada. Thank you for joining us today, Oksana.

Following Oksana, we have my former colleague and friend Orest Deychakiwsky, who has temporarily come out of retirement today to once again offer his expertise on Ukraine. As many of you know, Orest is the former Helsinki Commission policy advisor for Belarus, Bulgaria, Moldova, Romania, and Ukraine. Though he retired earlier this year, he remains active in the community and has become a member of the Board of Directors of the U.S.-Ukraine Foundation, works as a senior advisor at the U.S.-Ukraine Business Council, and writes a regular column for The Ukrainian Weekly.

We'll then hear from Dr. Anders Aslund, who is one of Washington's premier experts on corruption in the former Soviet sphere and a frequent panelist at our events. We are glad to have him here with us once again. Dr. Aslund is a resident senior fellow in the Dinu Patriciu Eurasia Center at the Atlantic Council. He also teaches at Georgetown University. He is a leading specialist on economic policy in Russia, Ukraine, and Eastern Europe generally.

And finally, we will hear from Brian Dooley, a well-known name in the human rights community who we are happy to have here with us. Brian is a senior advisor at Human Rights First. In this capacity, Brian supports Human Rights First's work to contain and counteract a U.S. retreat from global leadership on human rights. Prior to his role as senior advisor, Brian directed Human Rights First's engagement with the U.S. government and with other partners to end threats and obstacles to human rights defenders.

And we will conclude with a Q&A session, so please start brainstorming your questions now.

I would like now to give the floor to our first panelist, Oksana, who will discuss the Ukrainian government's perspective on the problem of corruption in Ukraine and efforts to combat it. Oksana, the floor is yours.

SHULYAR: Thank you very much, Paul.

First of all, it's an honor to speak at this venue and with such distinguished panelists. Thank you very much for having me here. And thank you to everyone at the Helsinki Commission who contributed to the report for your in-depth focus on Ukraine and its

transformation. We believe this reflects wide support that Ukraine has in the U.S. Congress, bipartisan support, and from the U.S. administration.

I would like to state that Ukraine remains committed to advancing on the path of comprehensive reforms aimed at transforming the country in line with the European aspirations of the Ukrainian people. Ukraine continues strengthening its democracy through institutional capacity-building. This is done to eliminate corruption, to ensure rule of law, and the sustainable economic growth. This is, indeed, a tall order. This month we observed four years since Ukrainian people went onto Maidan, protesting against dictatorship, standing for justice, and for the European future of Ukraine.

Let me also remind you that Ukraine carries out fundamental transformations in the conditions of war waged by Russia against our sovereign nation. In 2014-2015, Ukraine's economy plunged by 16 percent following economic policies under Yanukovich regime, Russia's occupation of Crimea, and invasion in Donbas. The government had to engage into immediate response actions to halt this steep downfall, restore the macroeconomic stability, and avoid a speculated default on its debt. In conditions of the ongoing aggression against Ukraine, seizure of industrial and energy assets in Crimea and Donbas, Ukraine has been observing a small, however sustainable, economic growth of 2.3 percent in 2016, and is estimated to continue growing by 2 percent in 2017 and 3.2 percent in 2018, according to the IMF. I'm just giving this information to show the conditions in which Ukraine has to address its important tasks on the other internal front to ensure that the expectations that the Ukrainian people are responded to.

Also, I would like to add that implementing the strict IMF Extended Fund Facility program, which has provided four consecutive tranches upon strict conditionality evaluation and transparency requirement, this was unprecedented in Ukraine's history. And the IMF is also an important watchdog when it comes to transparency and anti-corruption.

Also, the European Union visa-free regime, which was introduced in June 2017, was enabled following many years of implementation of the action plan, which included both the legislature and implementation parts in various fields, which also include the public sector and anti-corruption infrastructure and one of the sectors where we have observed many problems in the past, such as issuing of various documents and local authorities. So these had to be seriously brought in line with the European standards in order for the Ukrainian citizens to be allowed to travel freely into the European Union.

When we talk about ensuring transparency and fighting against corruption, we all expect tangible results and demonstrations. Let me brief you on a few positive examples from the recent time.

Responding to international recommendations on corporate governance, on November 22, 2017, the government of Ukraine approved a new composition of Naftogaz supervisory board. Naftogaz is Ukraine's biggest energy state-owned enterprise, and its transparency and efficient corporate governance are key to the economic health of the country, to transparency in the government, and to energy security and energy independence of Ukraine. So this move also included inclusion into the supervisory board six new directors, which represent Great Britain,

France, United States and Canada. And these are very respected experts and professionals, many of whom had held high ranks in the governments of these countries. Completing the Corporate Governance Action Plan was crucial for the transparency of this key energy state-owned enterprise, alongside the handover of authority from the government to the corporate bodies.

Then the banking sector in Ukraine is experiencing the most decisive restructuring and cleanup phase. I know that Mr. Aslund is a big expert and has spoken on this reform in Ukraine. Thank you very much for that. Just to basically brief you, the central bank of Ukraine restructured the dysfunctional banking sector by liquidating about 90 of Ukraine's 180 banks who had significant shortcomings with regards to liquidity, solvency, and excessive exposure to related parties. The ownership in Ukrainian banking sector has become transparent. One hundred of remaining banks disclosed their ultimate beneficiary owners.

Also, we introduced a database of beneficial owners of all Ukrainian companies. Ukraine became the first country in the world to join the Global Beneficial Ownership Register, the initiative of Transparency International, to promote transparency and prevent corruption. It was made public on the U.S. open data portal thanks to the joint efforts of the Ukraine state agency for e-governance and the Ministry of Justice of Ukraine.

Showing, again, appreciation for the Commission's work on the report, there are several very key issues you identified to tackle corruption in Ukraine – namely, finalize the reform of the judiciary of Ukraine; create a specialized anti-corruption court of Ukraine; strengthen and provide for political independence of NABU, National Anti-Corruption Bureau of Ukraine – I would like to use this opportunity to highlight a few other important steps which were taken by the government to enhance the anti-corruption institutional framework. In particular, Ukraine adopted all the legislation necessary to back up the functioning of other newly established anti-corruption bodies.

National Agency of Ukraine for Corruption Prevention, that operates the database for electronic declarations. The e-declaration system started operation on September 1<sup>st</sup>, 2016. So, as of October 2017, the register contained 1,517,682 declarations. As of August 2017, the agency began 313 full verifications of declarations of 244 subjects of declarations. Four cases were submitted to the NABU as the result.

To ensure transparency of political parties' funding, the other important field to introduce transparency into, the agency approved all necessary secondary legislation prescribed by the law on political parties of Ukraine, including rules on analysis of a report of political party on assets, income, expenses, and financial liabilities. In 2016 and the beginning of 2017, the agency drew up 171 protocol on administrative violations based on the analysis of reports of political parties. One hundred sixty-four protocols a month then were referenced to the court. These protocols were drawn up in relation to 132 parties.

Now I would also like to brief about the National Agency for detection, tracing, and management of proceeds from corruption and other crimes. This is the central executive body with a special status, which is authorized to form and implement the state policy in the field of tracing and finding assets which can be seized in criminal proceedings and/or management of the

assets that have been seized or confiscated in criminal proceedings. The agency has already received access to key databases, and has access to a bidding analytics module instrument for monitoring the public procurement databases, through by ProZorro. The agency is a partner of the EU Asset Recovery Office's platform and is engaged in various international meetings to address the issue.

The other cornerstone agency in the fight against corruption is the Specialized Anti-Corruption Prosecutor's Office, SAP. It gave us an opportunity to initiate anti-corruption investigations against the high-ranking officials, and is authorized to control the respect of the law during the detective and pretrial investigations by the NABU, support public prosecution in relevant proceedings, and represent interest of the state in court. In 2016, following pretrial investigations coordinated by the agency, 47 criminal proceedings were sent to the court, and 42 indictments followed. During the first half of 2017, 34 criminal proceedings were also sent out to the court. These are just figures to show that there is a big amount of work going on, which basically results in cases submitted to the court and in indictments. So there is a process going on in Ukraine which produces results.

In addition, the president of Ukraine launched the National Council for Anti-Corruption Policy, that carries out preparation for submission to the president's suggestions on anti-corruption strategy, analysis of prevention, and counteraction to corruption; assessment of the state of play on implementation of GRECO, OECD, and other leading international organization recommendations.

Every year Ukraine increases its funding from the state budget to fund the anti-corruption institutions to make them efficient and operational. The NABU, National Anti-Corruption Bureau, whose dramatic efforts and results are outlined in the report, indeed, is the brightest example of implementation of anti-corruption strategy of Ukraine. There are many prominent cases investigated by the NABU. I would like to briefly provide you just a few examples.

NABU exposed the judge of Dniprovskiy District Court of Kyiv on taking a bribe in the amount of 150,000 U.S. dollars.

NABU detained an investigator of the Prosecutor General's Office of Ukraine on the suspicion of abuse of official position and misappropriation of the property owned by the village council.

NABU detained a judge of a district court receiving more than 250,000 Ukrainian hryvnias, which would be equivalent to less than 10,000 U.S. dollars.

The ex-deputy head of our parliamentary committee on fuel and energy complex, nuclear policy, nuclear safety, was detained on suspicion of involvement in the stealing of eastern mining and concentrating plan for the amount of 17 million U.S. dollars.

NABU – and a few more involving the head of the accounting chamber of the parliament of Ukraine, members of parliament for obtaining illegal benefits from the so-called “amber case.”

So, basically, there have been many cases which address high-level corruption, and they do make a difference. There is a big resonance in the society, in the media. It shows to the people of Ukraine and to the international community that these newly-created institutions, they are not afraid to go against the big fish. And it is very important to support this effort.

Ukraine implements the strategy on reforming the judiciary and related legal institutions for a period 2015-2020. It is going step by step, and it is crucial to support the work of these newly-created anti-corruption institutions to build on their initial success.

With regards to another important caveat of the report, the reform of the judiciary. Ukraine adopted amendments to the constitution of Ukraine in the judiciary field, and the law of the judiciary and the status of judges. It significantly speeds up processes of restarting judiciary branch in Ukraine and the new ethic and professional rules. The law strengthens the existing measures in preventing conflicts in interest, enhances ethics code, and foresees the establishment of the anti-corruption court in Ukraine.

And anti-corruption courts – this is a very sound topic which is one of the crucial building blocks for the entire anti-corruption in system in Ukraine – are envisaged in our legislation. The relevant parliamentary working group is expected to present the draft, which should comply with the recent Venice Commission recommendation. As soon as the draft bill is prepared, the president will submit it for approval to the parliament. All existing drafts will be repealed, and the new draft law on anti-corruption courts is expected to be submitted to the parliament by the end of this year.

Ukraine implements the new principle of formation and work of the High Council of Justice and High Qualification Commission of Judges. The new Supreme Court of Ukraine has been set up from scratch, via open, fair, and transparent competition with active participation of civil society. On 11<sup>th</sup> of November, 113 out of 120 judges who had won the competition were appointed by the president of Ukraine. The new Supreme Court will consist of 96 percent of people who never worked in the previous Supreme Court of Ukraine. About 25 percent of new judges came from advocacy and academia.

We owe our future success to our people, including Ukraine's vibrant civil society and many young professionals working at the new institutions. Despite some criticism and expectations to see a higher pace of reforms, we steadily observe that the multi-faced and multilayered puzzle of our anti-corruption system is getting assembled. Once again, we very much appreciate guidance and recommendations from our partners.

I want to conclude by sharing my very positive impression from a tweet sent by the U.S. ambassador, or by the U.S. embassy in Kyiv, when Ambassador Marie Yovanovitch held a meeting with the detectives and prosecutors from NABU and from SAP this morning. She shared how impressed she was with their dedication and how much they realize their mission. And it just really shows a lot of hope in these new institutions and in the people, and we hope that this will continue and will bring the comprehensive result. I believe we can see the glass more half-full than half-empty.

Thank you.

MASSARO: Well, that's great. So let it be known that Oksana definitely shares my optimism. That's good to know.

And thank you for highlighting Ukraine's commitment to continued reform. Thank you also for highlighting the macroeconomic stability that Ukraine currently has. That was certainly not certain after the seizure of Crimea and the invasion in the eastern Donbas, that Ukraine would be as economically prosperous as it is today. And also, the EU visa regime, which was a huge victory for Ukraine and should be highlighted. Finally, thank you for talking about how effective and meaningful these new anti-corruption institutions have been, but also the necessity of the anti-corruption court which the president a few weeks back endorsed. That was just music to my ears; I think music to a lot of people's ears, which is great.

So now I'm going to hand it off to Orest. Orest, as mentioned, was a policy advisor at the Commission starting in, '83?

DEYCHAKIWSKY: '81, but who's counting?

MASSARO: '81. OK, got it. Got it. And just left us last April. So he hasn't even been off the year yet and he's back. So, Orest, please.

DEYCHAKIWSKY: OK. Thanks a lot, Paul. Thanks for inviting me to speak, and for this opportunity to be with this distinguished panel. While at the Commission, I often served in Paul's role. I used to organize and moderate a lot of these. But being a speaker at one of these a new role for me.

Let me commend my former colleagues at the Commission for putting this report together, for providing historical context and background, for being balanced, and for the concrete, constructive suggestions and recommendations. There's a lot of issues one could address, so let me just share a few perspectives.

One would be on historical context. It's important to remember how Ukraine was, in many respects, starting from scratch in 1991 when it regained its independence. The Soviet legacy was incredibly devastating: the deaths of many millions and the genocidal famine Holodomor of the early '30s, World War II, the attempts to eradicate Ukraine's national identity, including through the destruction intelligentsia and the policies of Russification. Ukraine also suffered from considerable international isolation. It was, for all practical purposes, like the other captive nations, a colony of Moscow. It has no experience with market economies or democratic practices, having been warped by 70 years of Soviet Communist war, except for pre-war Western Ukraine. And, lest we forget, corruption was far from unknown in the USSR.

So these realities compounded greatly the difficulty of their transition. Newly independent Ukraine faced huge challenges. Not only did it have to develop state institutions, but also build a nation and national identity, and a market economy. So in its preoccupation with

state and nation building, Ukraine didn't devote sufficient attention to the need for economic reform. And it helped create the conditions for the free-for-all corruption and the rise of the oligarchs that the report discusses. Mind you, this isn't an excuse, but a partial explanation. The report provides a good understanding of the evolution of corruption throughout the last quarter century, underscoring its pervasiveness and depth, and its corrosive impact on the political system, the economy, on society, and on national security, making it more vulnerable to Russia.

Corruption's effect has ranged from weakening the moral fabric of society to discouraging badly needed foreign investment. And the lack of transparency, accountability, and the rule of law has slowed its integration into the transatlantic community. Despite the positive reforms in recent years, corruption does remain Ukraine's greatest internal enemy. I very much agree with the contention that Ukraine has done much more on reforms in the last nearly four years than in the preceding 23 years. On the plus side, as the report notes and as Oksana has highlighted, we've seen the establishment of anti-corruption architecture, notably NABU. There've been important legislative developments and key reform progress in various sectors, such as energy, banking, public procurement, privatization, business, health care, education, police, law enforcement, even in the justice sector, and in government with the e-declaration system. But more needs to be done for these measures to have tangible effects.

The battle of corruption does remain a dynamic process, but the dynamism isn't always in a positive direction. I was just looking at the pluses and minuses since the publication of the Commission's report a month ago. And we have seen movement in terms of reform legislation that could further remove opportunities for corruption and other steps, and hold individuals and institutions accountable. On the other hand, we've seen moves that, at a minimum, raise questions about the commitment to combat corruption by the authorities, and attempts, perhaps, even to try to roll back achievements – pushback, if you will, from the vested interest. So it's a decidedly mixed picture, and there are some fears that it's going to get tougher to implement reforms as the 2019 elections approach.

Now, a couple of ideas on what Ukraine needs to do. The report's recommendations cover this in detail, but I'm just going to highlight or maybe add one or two. Ukraine needs political leadership genuinely committed to combatting corruption. And the political class throughout Ukraine's independence has fallen dramatically short, has often been part of the problem and not part of the solution. It needs to display requisite political will. It needs to set a good example. And even today, we see political leadership that often does the right thing, but sometimes falls back to the old bad habits. Oligarchs still wield too much political influence, although arguably less than before. And there is a lot of argument as to whether that's the case. And among other things, civil society – the main driver behind the reforms – needs to be treated as an ally and a partner, and not as an adversary.

Too, Ukraine needs greater accountability of institutions and individuals. There has to be more progress legislatively and, crucially, the implementation of that legislation – something that's often been problematic in the past. And the genuinely independent institutions are critical, like NABU and, very importantly, the anti-corruption court that Oksana's discussed. Also, more bad actors, including senior officials, need to be brought to justice. And finally, corruption isn't just a high-level phenomenon. It pervades society. A values-based approach, the teaching of

ethics and moral principles – right from wrong if you will – is needed. And partners in this could be the educational system, religious institutions which, according to polls, the church is among the most respected institutions in Ukraine, political, cultural, intellectual, sports figures and other opinion leaders, if you will, as well as the NGOs and the media – which does and can play a crucial role.

Now, a few words about the U.S. role. The U.S., as you all know, has been a strong supporter of Ukraine's independence and democratic aspirations over the years. Not only various administrations, but Congress on a bipartisan basis – what a concept – including even prior to the reestablishment of Ukraine's independence. Primarily through State and USAID, the U.S. has provided concrete anti-corruption assistance and programs and initiatives, which have intensified in the post-Maidan era. And there's been some good work here and it's helped move the ball forward. And we need to maintain and even bolster our assistance, both to the Ukrainian government institutions engaged in anti-corruption reform, and also to civil society, especially NGOs with expertise and understanding of the complicated issues surrounding Ukraine's anti-corruption fight. And we need to stand with them and defend them when they're being attacked unfairly.

We also need to keep working with various international partners – the EU, Canada, the IMF especially, and other IFIs and international bodies – in engaging with Ukrainians on anti-corruption reforms. U.S. support, encouragement, and, when necessary, political pressure – private and public, including calling out the Ukrainian authorities – also has its place. And not only by the administration and Congress, but also by Ukraine's many friends in the U.S., including the Ukrainian-American community and a whole plethora of NGOs involved with Ukraine. The thoughtful and judicious use of various kinds of leverage, including conditionality of assistance in loan guarantees, reallocation of existing assistance where it can be the most effective, or even punitive actions against highly corrupt officials can also be utilized. Sometimes a bit of tough love is necessary, especially when there's backsliding or even stalling.

At the same time that we welcome and encourage the genuine progress that has taken place, we shouldn't underestimate the very real challenges in combatting corruption. And we can never forget that Ukraine is in a war where Russia's flagrantly violated the rules-based international order, and continues to do whatever it can get away with to destabilize Ukraine. And U.S. policymakers understand this, and the need to maintain support for Ukraine in its ongoing struggle to counter Russian aggression. Second, there is the recognition here among policymakers that reforms are tough, even in the best of circumstances, and even in countries that don't face nearly the challenges that Ukraine does. And, third, there's acknowledgement among Ukraine's supporters of the progress that has taken place, that we've all heard about. And it's real progress.

For these reasons, I believe and hope that Ukraine will continue to enjoy substantial U.S. support. And I don't fear the prospect of the kind of Ukraine fatigue that we've sometimes seen in the past. But while the U.S. won't abandon Ukraine, the levels and enthusiasm of our support do matter. So we should continue to have a balanced approach, to be politically and financially supportive, as well as encourage, cajole, and pressure when necessary. We need to be patient, yet vigilant. And in conclusion, it's essential to keep faith with the people of Ukraine and

encourage reforms in the government, in the Rada, in civil society in their anti-corruption fight. A stable, successful democratic rule of law in Ukraine, which brings the country closer to the Euro-Atlantic community isn't only good ipso factor, but ultimately it's the best antidote to Putin's predations and his continuing attempts to destabilize Ukraine – and not only Ukraine, but the West. And I, like my other colleagues, am optimistic, despite the challenges.

MASSARO: Great to hear that we're two for two with optimism. That's good. That's good. Optimistic on this side.

So, Orest, thank you so much for those comments. And thank you very much for highlighting the Soviet legacy because I belong to a generation in which most of us were born after the fall of the Soviet Union. To try to understand and conceptualize how communism was such an important, influencing force in the generation of corruption in these countries, as well as a historical legacy that has to be overcome, is sometimes a massive intellectual task. So I really rely both on Orest and the staff of the Commission to really understand the legacy of communism in Ukraine, the legacy of being part of the USSR, and its impact on corruption today.

I'd also like to thank you for highlighting the need for political leadership. I think that that's often overlooked when we take a more technocratic approach. We think we need to do this, we need to do this, we need to do this, get an anti-corruption court. But it's true, political leadership is arguably the most important thing that Ukraine needs now. And I'll say that political leadership is often thought of as something from the top. It's often thought of as political leaders in official positions – and that it is. But, part of doing this report, I was speaking with the civil society in Ukraine.

And the young people that are doing that job over there are some of the most incredible, determined people I've ever met. Some of them have landed in the Rada at this point, so they are political leaders. Others are still in the streets. But in any case, I think that if any one thing made me optimistic, it was this new generation of Ukrainians who just refuse to accept the country as it currently is and absolutely are determined to move forward. So thanks again, Orest.

And with that, I'll move to Dr. Anders Aslund. And Dr. Aslund has two big works that he's done in his life – two giant books on Ukrainian economic history, both of which were absolutely integral for me in writing this report. The first is "How Ukraine Became a Market Economy." And the second is, "Ukraine: What Went Wrong and How to Fix It." Is that right?

ASLUND: That's perfectly right.

MASSARO: OK, fantastic. And they were just both so, so helpful to understanding the issues. You'll see them cited a hundred times in this report. But, with that, I'd like to hand it to Dr. Aslund, the true expert on Ukrainian economic history. Thank you, Dr. Aslund.

ASLUND: Thank you very much, Paul. Congratulations on this report, which I think is really excellent. And I appreciate that it's very substantial, correct, and it's balanced, and it's

with very sensible policy recommendations. I hope that it will be very useful for the Helsinki Committee and for Ukraine.

Ukraine today is in a very interesting situation. On the one hand, it's very transparent and free. On the other hand, it's as corrupt as Russia. So this is a disequilibrium situation. What do you do in a disequilibrium? You move either towards full democracy, which Ukraine is close to, and control of corruption. Or, you return to the way that Ukraine was under Yanukovich, towards authoritarianism with continued corruption. So the big thing that the West should focus on today is to do more for more, as they say. More support should be available for Ukraine, but on such conditions so that Ukraine can make it. And the question here really is: What is the most central? And I think we are doing just right. The internal enemy is corruption. And that's what needs to be defeated.

First, I agree with what Oksana said here about the great economic reforms, which are important for fighting corruption, to take away the basis for the corruption, how people make the money. The most important was the unification of the energy prices, that took away eight percent of GDP in energy subsidies. Three quarters of these went to few gas oligarchs who traded gas. Second thing, was to count the state subsidies, which essentially went to the rich and powerful, and not to the poor.

The third was the closing of corrupt banks, half of the banks. And the best way of robbing a bank is to own a bank. An owner normally has 8 percent of the assets in capital. And a typical Ukrainian bank owner took 80 to 90 percent of that loans. That is 10 times the money that he has put up for a bank. And then you just return the keys to the national bank and say: Sorry, I didn't succeed. And now they have been cleaned out. The fourth thing is transparent ownership, as Oksana also emphasized. Fifth, e-declaration. And six, the transparent and competitive procurement in the public sector.

These are great economic reforms. And they should be emphasized. But the remaining problem is that property rights are very weak in Ukraine, as in all former Soviet republics, with the exception of Georgia. Mikheil Saakashvili's reforms still hold, so that you can go to court and win against the government or the rich and the powerful in Georgia. In other post-Soviet countries, you can't do that. And that includes Ukraine.

So let me focus here on the judicial sector. There are three big problems here. One is the prosecutor general's office. The second is the security service of Ukraine, SBU. And the third is the courts. Ukraine has now carried out very ambitious judicial reforms. But we have failed. You don't have it in the report, because your report was written before the failure was completed. (Laughter.) This year is that all new supreme court judges should be appointed from the top, which was the right thing. And there was the Citizens Integrity Council, that consisted of 20 NGO representatives that vetted them.

The problem was that 25 judges, candidates of judges who were not appointed supreme court judges, did not pass this vetting. But the Citizens Integrity Council said that they are very corrupt. And they put a cloud over 60 others. And that's out of 133 who were appointed. And if this is to be the top, and it's such a poor top, we can say that the judicial reform, which seemed

very ambitious but complex, has failed. It was not obvious. You wonder why it failed? Well, because the final word was with the high council of justice, which consisted of 21 representatives of the old-style lawyers in Ukraine – judges, prosecutors, and law schools.

So the courts are out. The prosecutor general's office was supposed to be reformed. A reform law was adopted in 2015. And not much changed. It's still not pursuing the function. And the business community now claim the prosecutor general's office and the SBU are the worst institutions when it comes to the corporate raiding, that is the theft of enterprises, to put it more clearly. And SBU has never been reformed. It has a few thousand offices who are supposed to fight economic crime. They should not be there. This should be a service that looks up on the security of a state and not deals with economic crimes. This should just be cut out.

So these are the three big problems. And then you wonder: how can we solve that problem? Then, as has been mentioned here, civil society and the West have pushed for setting up anti-corruption bodies. The national anti-corruption bureau is truly independent. The head was appointed by a foreign judge, an Italian judge, with support from the West. The anti-corruption prosecutor is also doing the job. So Oksana here mentioned the many things that these people have done, but the problem is that not one single sentence has been meted out after these investigations and prosecutions. Nor can it happen, because there is no independent anti-corruption court.

And this has been a demand all along. And it should have been done long ago. Oksana mentioned now that a law will hopefully be presented to the parliament or a draft law before the end of the year. This is vital to get done. This is the possibility of getting it done. Instead, we are now seeing there has been major attacks against NABU, because NABU has been too dangerous, too bold going after the corruption. So, I cite here anti-corruption actions and this weekly bulletin from this week. They have a headline, "This is War: Attacks Against NABU." And I'll just quote two lines here: "The pressure is happening in three main directions: legislative threats, NABU audit, and criminal cases against NABU director. Loyal, independent law-enforcement agencies are being used in these attacks." This is the critical issue.

And therefore, I think that it's very good that we have this discussion, because this is what has to be done. And it's very good to get this opportunity to focus on this single demand. And I should also emphasize that the IMF has not given any tranche to Ukraine. It should give one since April. It should be once a quarter.

There's one key demand. The IMF understands this importance of fighting corruption, and wants therefore to have an independent anti-corruption court established before it gives another tranche. The European Union has the same position. I think the U.S. government has the same position. So this is really the critical issue.

There are some things happening – the World Bank and EBRD are now giving money for – because of the establishment of an independent supervisory board for Naftogaz, but for the main thing – an independent anti-corruption court is crucial, and I should say also that civil society and the Western community are, in Ukraine, beautifully unified. And we have a large number of parliamentarians, a large part of the government and presidential administration. So,

certain people are one side, but it's not necessarily institutions as a whole, apart from the three that I specifically mentioned. Thank you.

MASSARO: Well, thank you so very much, Dr. Aslund, both for talking a little bit about the reforms that have been successful, and in-depth about how they have been successful. And I think it's really important to highlight what has been achieved, because things have been achieved, but that major problems do remain, specifically, as you said, the Prosecutor General's Office, the SBU and the courts. I think it is rather rare in history – I could be wrong – where you have such unity of purpose, both within the West, within the civil society community, within the reform movements in Ukraine –, there is one thing that we're all pushing for, with one voice, and that is the anti-corruption court. And the president is pushing for it now, too, so, I think there's a lot of hope that this will happen.

So with that, I'm going to count you as an optimist, Dr. Aslund. You don't need to comment on that, though. We'll move right on to Brian Dooley, from Human Rights First, who will talk about civil society in Ukraine; specifically, the activists we've been talking so much about – and some of the troubles they've been having recently. Dr. Aslund talked a little bit about that, but I don't want to spoil your presentation, Brian, so I'll hand it off to you.

DOOLEY: Thank you very much, and thanks, of course, for inviting me to speak here today, and also for the report, which I find very valuable. We are about to produce a report ourselves in the next week or two on what's happening in Ukraine. We last did a report there in 2014 in the early days of the Poroshenko presidency, around corruption and what needed to be done. And our focus this year has been on attacks on civil society in various countries – on Northern Ireland, on Egypt, on Poland and Hungary and Bahrain. And we were worried at reports we had about how fast and how far this pendulum was swinging against civil society in Ukraine, so we decided to have a closer look, and I have to say that what we found there was fairly alarming.

First of all, let me talk about what's happened in the last six months. There have been a couple of pieces of legislative assaults on anti-corruption activists. The first, in March, which required them to declare their personal assets, which is now law. Now, this not just targets anti-corruption activists; it also targets the people they do business with. So if you are running an anti-corruption NGO, it's not only you who has to declare your personal assets, but the company, the people who run the company, who sell your office photocopying paper, or, if you have an event where you have coffee and sandwiches, the people who supply the coffee and sandwiches are also covered under this law. So you can imagine the chilling effect that this has. Who wants to do business with an NGO when you're going to have to declare that stuff? It's an ostracizing effect on NGOs.

Then, in July, President Poroshenko sought to introduce an NGO law which would actually make the situation worse. So basically, many of these things would cover all the NGOs, just not those who specifically deal with anti-corruption. So you have a couple of legislative assaults – and I have to say, looking at a wider, bigger picture of assaults on civil society across the world, this is fairly classic now. But I wanted to tell two stories; the fight against corruption

in Ukraine is obviously a very dense, multi-layered problem, but I think there are two vignettes here which are illustrative.

The first is around those who are trying, and have had some real success in breaking the cartel which used to rig prices for medicines. So a couple of NGOs have really done some fantastic job here – one called Patients of Ukraine, one called the All-Ukrainian Network of People Living with HIV/AIDs; they've helped expose corruption and actually changed the pricing structure. They managed to stop what had been happening up until 2014, where the Department of Health was required to buy its medicines from within Ukraine and had to go through a very small number of middlemen to rig the pricing. They've broken that; now the Department of Health is allowed buy medicine from abroad, and the price of drugs has fallen pretty dramatically.

There have been huge savings for the country. The government's own figures say that procurements now are 39 percent cheaper than they were, saving around \$15 million. A brand-name pill for leukemia that used to cost about \$90 in 2014 can now be bought for less than \$2. There are huge savings in the medicines for TB, for hemophilia, for hepatitis. This is a real success, and it's thanks, partly, in major part to these anti-corruption NGOs. There's plenty more examples here in the Patients of Ukraine annual report – apologies for anybody there – the public display of the “c” word – (laughter) – but there we are. They have all sorts of stats of how they've managed to break the cartel, introduce real reform and bring down the pricing.

However, in the last six months, they've been targeted with judicial harassment. The General Prosecutor's Office has opened cases against them, SBU has opened up cases against them, and now they're being caught up in an onslaught of tax and judicial attacks. Having cases opened against them means, they tell me, now that their offices can be legally bugged. So what was a success story is now being turned into a story of disaster because of the authorities targeting them.

Let me tell you another story, too, about an anti-corruption group in Kharkiv, which also scored great success. The Anti-Corruption Centre there up in Kharkiv – a small group of activists – managed to expose what was happening at the city council level, where, over the last 10 years or so, about 900 hectares, worth about \$400 million, had been given away to commercial developers by the city council. They exposed how this had happened; they tried to bring, successfully, cases in court, and now, the former mayor of Kharkiv, the deputy mayor and three directors of city departments are facing criminal procedures. Success story.

And then, in August, the chair of the Kharkiv Anti-Corruption Centre, was attacked on the street by two men. I went to see him in Kharkiv, and he told me that he was attacked in broad daylight near his home – a very brief attack – only lasted 20 or 30 seconds. He was hit with knuckledusters in the head; he had his ribs broken. He had his phone with him, cash with him, credit cards with him – nothing was robbed. This was clearly a message to him. A few weeks later, a colleague of his, also from the same Anti-Corruption Centre in Kharkiv, says he was attacked and threatened that if he carried on with his activities, he would be killed. So in both cases – and they're not the only two cases – you have people who have been achieving really significant reforms – are now subjected to attacks, either judicial or physical. Clearly,

there are people who are trying to intimidate them and scare them from stopping to do their work.

To bring it out, again, into the wider context of our work generally in other countries, this is fairly familiar – not just a spectrum of how these things work, but a pattern. You start with the stigmatization – the smearing in the media of activists. This leads, then, onto anti-NGO legislation. There’s an enabling environment here. Then the NGOs get hit with these politically-motivated tax audits, criminal cases, sometimes criminal prosecutions and jail. Then physical attacks, death threats, and you end up, then, with murder and you end up after that with impunity for the perpetrators. So we’re not quite there yet, but this is sliding very fast in a very alarming direction. What’s happened in the last six months is pretty frightening, I have to say.

Now, look, it takes a long time – I understand that – to establish a new politics in a country, to reform the security sector, to overhaul the economy. But some of these things can stop overnight. We will be recommending to the U.S. government that it calls for a repeal of the legislation which attacks NGOs and anti-corruption activists, that it calls immediately for the dropping of these politically motivated cases against these activists. In the meantime, that it stands very publicly with the activists – it was good – it was great, actually, that the U.S. ambassador went to see Dmytro Bulakh, the guy who’d been attacked. But U.S. officials ought to be going and visiting these people in their offices publicly, ought to be going to the court cases to observe what’s happening, and ought to be saying whether, in its view, these court cases are meeting international standards legally.

If you look at that list of what’s happening in Ukraine, similar to other places in the world, right – stigmatization of activists, check. Media attacks, check. Anti-NGO legislation, check. Death threats, physical attacks, check, check. I am not particularly optimistic that things are going well, but these things can be stopped in the next couple of months. These things can be stopped overnight. You can drop the cases, you can repeal the law, you can say we’re not going to prosecute anti-corruption activists. Other things take time; I get that. But really, in the coming weeks and the coming months, this is a big test for Ukraine and for the U.S. government. Thank you.

MASSARO: Well, thank you so much, Brian. And it sounds like we have a goal from the briefing, then: we want to turn Brian into an optimist. We’ve just got to repeal the NGO legislation and stop the stigmatization, and –

DOOLEY: Stop beating people up.

MASSARO: Stop beating people up! (Chuckles.) Yeah, it’s as easy as that, yeah.

And thank you so much for those stories as well. I think that those on-the-ground stories are both inspiring and very disturbing. Again, I had a chance to speak with some of these people, and they expressed the same concerns to me. However, unlike you, I did not have the chance to actually get on the ground there and see some of the stuff that’s going on. So it’s incredible to hear that from you. And also, to hear about this process of how it happens – the stigmatization, anti-NGO legislation, hit with cases and prosecutions, threats, murder, impunity.

You're right. I've never heard it put like that, but I've been with the Commission now going on four years, and I've seen it happen in so many countries. And it is always the same pattern. So here's to hoping that we can reverse that in Ukraine.

So we're going to head into the Q&A section now. I will start off with one question, but I hope that you guys will have questions as well. I guess we might take some questions from social media as well, if there are any. So, I have a question here, and this is something that I was talking about with someone else that I'd consulted with for this report, and that is, small and medium-sized enterprises, unlike their big, oligarchic brethren, are major victims of corruption. Have they been engaged? And how can we better mobilize them in Ukraine's fight against corruption? Let me start with Brian, and then maybe go to Dr. Aslund. I don't know if you've ever worked with small and medium-sized enterprises or if they work with civil society.

DOOLEY: No, not much, I have to say, although let me reiterate the example there, which isn't exactly your question, but the NGOs who want to engage with, and have to engage with small and medium-sized enterprises just to keep going to buy their office equipment – these enterprises are now being targeted to try and prevent the NGOs from functioning.

MASSARO: Fantastic. Dr. Aslund, do you have anything to say to that?

ASLUND: Sure. Basically, the strong enterprise organizations are AmCham and the European Business Association. The biggest Ukrainian business organization is the old Ukrainian Union of Industrialists and Entrepreneurs, whose chairman is the old gas oligarch, Dmytro Firtash, who is wanted by U.S. Department of Justice, and you can guess how much it does for small and medium-sized enterprises. So there's very little of defense for small and medium-sized enterprises, and reason is that there are very few, because they are the ones, as you rightly pointed out, who are suffering the most from this kind of environment.

So essentially, in Ukraine, you have two kinds of enterprises: big enterprises that can defend themselves by informal means – say that two-thirds of the parliamentarians are businessmen. Why you want to be a parliamentarian if you are a businessman? Because you have parliamentarian immunity, which means that you don't need to pay anybody. If anybody comes and demands money from you just to pay a contract, you say sorry, I have parliamentarian immunity; you can't sue me. And that is really used like that on a big scale, which makes it very difficult to pursue banking in Ukraine.

And the medium-sized enterprises are very few, because they are not protected. So the alternative is to be in the underground. Probably half the Ukrainian economy is in the underground, and the underground here is two things. One is that you're not registered and doing work; one is that not all the activity is being registered. And there is one strong sector of medium-sized enterprises – that is high-tech computer services companies, which is a bit more than three percent of GDP. And they are simply not so vulnerable, since they don't have much physical premises to talk about, where sitting hammering away on the laptops wherever they are, and then you are not so much subject to problems. So this is the substantial, promising, modern, and sophisticated and well-earning sector.

MASSARO: Yeah, we noticed when we were in Minsk that high-tech has even been able to take root in Belarus, which is incredible.

So would you guys like to say anything to that, or should we go ahead and move on?

SHULYAR: Well, first of all, if I may also follow up on Brian's remarks, the law that would force NGOs to declare their assets and their operations caused very big discussions in Ukraine, not only in NGO sector, but also in the political sector, and there also was a big international attention into this law. And as a result, it didn't go into effect. It is now subject to discussion in the special working group, and it's not effective. So as of now, NGOs do not have to declare. So it's still a matter of discussion.

On the SMEs – let me also remind you that SMEs were one of the biggest driving forces behind the revolution of dignity, and behind the Orange Revolution previously. So these are one of the most vibrant parts of the Ukrainian society that are very politically sensitive and active. And after the revolution of dignity, many of the small and medium enterprises also started participation in civil society movements. They formed advocacy groups, various platforms for discussion. So I would say that they are very, very active.

In terms of their presence in political decision-making, I would look into the other side of it, that many of the reforms that the government is carrying out, including the banking reform, the education reform, the public sector reform, the procuring reforms, they are to benefit SMEs, to open them more opportunities to participate in the political – to be more present and vibrant in the economy, because when you have the transparent banking sector, this is where the SMEs can step in and can thrive. And when you have the transparent electronic procurement, they can go and be part of this bidding system. So I would say that the reforms largely target SMEs, and also to ensure the property rights, as mentioned. So they can also defend their property rights vis-a-vis big companies and have the same rights as them regardless of the size of their businesses. Thank you.

MASSARO: Yes, absolutely, Oksana, and I think that there's a big hope that as Ukraine successfully combats corruption, more of these businesses will move in and form, and eventually you will have a massive sector that's able to combat corruption and even be more effective on that front.

Could you elaborate on the NGO law? My impression was that it is in force, and I've been told by activists that they are being made to do these disclosures. Was that your impression as well?

DOOLEY: Yeah. And maybe just to clarify, I think we're talking about two – actually three, but really two separate buckets, right? The March one, which has targeted only anti-corruption activists, which is, as I understand it, law and in effect- and then the July proposals, which are in two parts, which as I understand have not been passed into law but would widen that net to include NGOs who are working beyond anti-corruption issues. Is that your understanding?

SHULYAR: Well, our understanding is that this is still a very, very active discussion around this legislation framework as a part of a general e-declaration system. So there are a lot of concerns and there is still a discussion, and there is a belief that it will be established in a democratic order.

DOOLEY: OK, so as I hear it, certainly anti-corruption activists believe that if they buy anything over \$2,000 they are now obliged to declare that. They believe they have to do that now.

SHULYAR: I'm not aware about the technicalities about the issue, but I will certainly communicate the concern, and many of the cases that you have mentioned, they will be taken seriously. Thank you.

MASSARO: Could we take any questions from the audience? Matthew, please.

Q: Thank you. Thank you very much, Paul. My name is Matthew Murray. I want to express my appreciation for you organizing this session today. It has been very detailed and granular, and I think you've put a lot of issues out there that need to be addressed.

I want to make two comments. One is directly to Oksana and the Ukraine government, and this is just to say that the world is watching around the question of whether you are going to go ahead and create this specialized anti-corruption court. There are a number of groups that have a stake in this, both within the Ukraine, but also outside of Ukraine because this is a growing best practice around the world to try to create the independence that is needed to adjudicate what are very complex cases in any society, at any time. It's always very hard to make a case for corruption because of the evidence, the nature of the burden of proof on evidence, and intent, and all those things.

And specifically and practically to offer you some support, a group of us in the United States have gotten together to self-organize, and we're now called the Anti-Corruption Advocacy Group, and we started with about 15 members and we now have about 170 members. And our goal in doing this – we started this last February – was to make sure that the United States was playing its role and organizing civil society here in the United States to fight systemic corruption issues here in the United States, but also to be better at helping our allies and partners abroad, including in Ukraine, and one of the culminating moments of this effort was an event that was recently hosted by the Hudson Institute that had a focus on national security and anti-corruption, and during that discussion – what this is all leading to is there was a special session devoted to what expertise is available to help build capacity and institutionalize specialized anti-corruption courts here in the United States. And there are folks from the State Department there, there are several legal experts, former judges, former prosecutors, and we have come up with what you might call a surge capacity that could be deployed to help you operationalized this court in the event that you do indeed pass the legislation. So that's just something I want to offer in the way of practical advice.

One other quick comment, Paul, and then I'll cede the mic. On this question of optimism versus not, I think what's quite remarkable about this event today is how detailed the discussion

actually is, and that in itself is a very good sign. The level of accountability that Ukrainian leadership is being held to is very high. And Oksana, I think you did a very good job of explaining where you think progress is being made and acknowledging where more progress could be made. So I want to congratulate you on that, and I just want to say that I think what this bill is down to at this stage is that you have something that very few other countries in the world have, which is the actual capacity to implement these reforms among the civil society leaders that may be being unnecessarily prosecuted.

And you have, in the students, and young judges, and prosecutors, and lawyers that are graduating from Ukrainian law schools a tremendous asset who could very capably and effectively be deployed to populate the courts, especially this anti-corruption court. And so, with that asset, you can do a lot. And so I think everybody is kind of holding their breath at this moment hoping that the civil society leaders who are out there courageously trying to help you in government who are doing the reforms get their moment, are given the space they need, and given the encouragement and the reward for what they are doing.

But thank you again for your leadership on this.

SHULYAR: Thank you.

MASSARO: Oh, absolutely, and I want to give Oksana a chance to respond, but first I want to make sure – for those in the audience that don't know, Matthew Murray is former deputy assistant secretary with Commerce under the previous administration, and he has worked at the Helsinki Commission quite a lot over his time there with my predecessor, Shelly Han, who covered second dimension issues before I did. He spent time in Vienna, he worked with the assistant secretary, was a commissioner to prepare for those events, and really did a lot of good work on these issues. So, getting to know him has been a really great experience for me, and thank you so much for coming today, Matthew.

I'm going to hand it over to Oksana, though, if you would like to say anything in response.

SHULYAR: Thank you very much. Thank you for recommendations for the initiativeness for forming the group that can really help us in this time. We will certainly have to follow up on this.

I also wanted to thank for greater support of the United States to this whole effort. I didn't mention in my remarks that the new national police was also built and initiated with the help of the United States, and also with the help of many experts. So there are good examples of really taking best practices from the United States' expertise, willingness of the Ukrainian society, energy of the new people, and making a big change. It's really important to build on that, and it is a very important moment when there is a capacity, but it will be game changing once the capacity is full, and so I hope that we will get there sooner than later.

MASSARO: Thanks, Oksana.

Any other questions, comments? Yes, please.

Q: Hi, my name is Christina Arabia. I'm a security assistance monitor at a project of Center for International Policy.

I'm curious. As we're awaiting President Trump's decision to transfer defensive weapons to Ukraine, are there any concerns about this affecting current anti-corruption efforts going on in the country, and is there any anti-corruption body that is prepared to oversee this?

MASSARO: Would you like to direct your question to anyone in particular?

Q: Whoever wants to answer it.

MASSARO: Give it to Orest. He'll answer anything.

DEYCHAKIWSKY: Well, I'll just maybe tangentially touch upon it. I think this is sort of an independent process; that I don't think the two will be linked.

I will say this: one sector that has undergone some reforms but where there is still a long way to go is the defense sector in Ukraine, OK? And from what I understand, on a tactical level things have improved in that more equipment gets to where it should go – like to the front lines – than sometimes used to be the case in the past.

You also have some challenges in terms of the whole procurement process, so on a strategic level I understand there are some problems. You have this secrecy law on procurement which even includes things like buckets and socks, for instance, so there's a lack of transparency, so there's a lot of people – where even Rada members I've heard who are in charge of the budget, or even ministers are frustrated because they don't know enough about the defense budget because of those security concerns. So there's been some recommendations to amend that legislation to kind of make the whole process more open and transparent, especially also when it comes to UkrOboronProm.

MASSARO: OK, I'd like to hand it off to Dr. Aslund.

ASLUND: Yeah, let me add a few, again, other things. Whenever you have a military and a war, you have less transparency, as Orest mentioned, and therefore it tends to be more corrupt as such. But when you have international cooperation, international integration, there tends to be less corruption. So, if anything, the war is there, anyhow, so is the secrecy. So if you have international cooperation, it would be positive if it's not an enormous amount of money, as we have seen in Afghanistan or Iraq. When you go over certainly this is very limited, so therefore that risk should not be. So my summing up of, again, the generalities would be it should be positive.

MASSARO: Thank you.

Other questions/comments? Yes, please. If you could say your name and office. Everybody has been doing it, so thanks for that.

Q: Hi, my name is Connor. I am staff in Congresswoman Elizabeth Esty's office, and I'm currently studying at George Washington University with a concentration in Europe and Eurasia, and security policies specifically.

So I found the briefing very interesting. Your connections to Georgian reform efforts, specifically seeing as Georgia is an interesting parallel to Ukraine as they've also dealt with Russian aggression in South Ossetia.

So what specific examples of Georgian reform do you think Ukrainian members of the Rada and other politicians should be looking at? And are they currently looking at those already? Thank you.

MASSARO: Boy, are you asking the right guy. Hit it, Dr. Aslund.

ASLUND: Yeah, thank you. If you look upon judicial reforms, there are three countries that have cleaned it all out: Estonia, East Germany – another country when it happened – and Georgia.

So when you want to do real reform of prosecution or courts, all of these three countries abolished the old institutions. They had the wrong structure in every regard and they had the wrong staff. What happened in East Germany where we have the best statistics is that about one-third were young East Germans, one-third were West Germans, and one-third were young former prosecutors and judges in these countries. So this is what should be done. And I would, to a considerable extent, blame the West for this. The institution that deals with this specifically is the so-called Venice Commission or the Council of Europe. The Council of Europe is an all-European institution not connected with the European Union, and they have taken law and order and constitutions as their big mandate, and they had a big role in the failed judiciary reform now in Ukraine. They accepted this halfway house; they should not have done so. They are pushing hard, fortunately, for an independent anti-corruption court where the judge is selected by independent foreign authorities.

So the answer is the Georgians cleaned out from the top and I should also take the three Baltic countries did this all with their old KGB. They just abolished the old KGB and set up new security services, and these three security services are very highly considered.

What has happened in Ukraine is that one of the current ministers said in November 2014 that he thought that two-thirds of SBU officers were Russian agents. Other statements are that it was one-third, there have been sackings, but there has not been a clean sorting out. SBU is a third institution that should be abolished as such because it's really the KGB in new clothes, and then you set up new institutions. But fault also lies with the West. The West has not had a clear conceptualization of how to do it.

MASSARO: Would anyone else like to respond? All right, we can do one more question. Yes, please.

Q: Thanks. Hi, thank you so much for this panel today. It was terrific. My name is Christopher Russell.

And I recently returned as a Fulbright Hillary Clinton public policy fellow at the young Public Defender's Office in Ukraine, the Kornazia Center.(Speaks in Ukrainian.)

(Continues in English.) And I had the opportunity during my time this past year to chat with the new specialized anti-corruption prosecutors, and while I didn't at all doubt their integrity or independence, I do notice that that Specialized Anti-Corruption Prosecutors Office does lack the independence that an organization like NABU has, and seeing that that's the real teeth of the fight against reform, I'm wondering how you think that a lack of independence might play out, and what needs to be done there as we look forward towards what could be a new anti-corruption court. How effective could that court be without an independent specialized anti-corruption prosecutor's office? Thanks.

MASSARO: Well, I'll see whether Dr. Aslund or Orest want to take this one, but I'll also say that in my research putting this report together, it was astounding how independent the SAPO – the Specialized Anti-Corruption Prosecutor's Office – was able to act despite it being under the prosecutor general essentially. But – I don't know, Orest, do you want to say anything about that?

DEYCHAKIWSKY: I'm sure Anders, but the thoughts that come to mind are, SAPO, NAPC, and especially NABU need to be left alone to be able to do their jobs most effectively. To me, I see the most problems has been discussed in terms of attacks on the integrity of NABU. That's a serious problem.

NAPC – a lot of activists criticize it for having some challenges and for being ineffective or even worse: scandal ridden. I'm sure you know there's all sorts of accusations and counter-accusations going on.

I agree with what you said about SAPO, but basically I don't know. I tend to focus more on NABU, and they need to be left to do what they can do best.

ASLUND: Yeah, general agreement there. The anti-corruption prosecutor was quite criticized in the beginning, and then they sort of gained courage and managed to stand up against the prosecutor general's office, but definitely it was because NABU presented good cases, and then they got their courage.

NAPC – I think it's a general view that it has failed as an institution; that it was supposed to do review of the declarations and essentially it hasn't. It has done a few dozens of them, and now it is part of a general attack against NABU, and it had no independence at all.

So the lesson is – which I think that everybody has understood – by everybody, I mean, civil society plus the relevant parts – reformist part of the government in the Western community – that the anti-corruption court needs to be fully independent. And I talked with some anti-corruption activists recently when they were in Washington, and they were very satisfied with the Venice Commission assessment of what should be done about an anti-corruption court. There, I think, we have it all clear, when formalized. I'm saying so not being a lawyer, but that's my perception.

MASSARO: Oksana?

SHULYAR: Just shortly, the procedure in which a special anti-corruption prosecutor is appointed and this institution that was designed in the most transparent way to pick the candidates, to have his appointment, and to ensure that SAP is completely independent from the whole prosecutor general office.

So far we have seen the good coordination between NABU and SAP, and of course, if there are any tensions seen from outside or there are discussions, I could say that no one has expected that this will be an easy exercise to bring new institutions, to bring new blood, and to expect that things will go very smoothly. There is a lot at stake, but there is a political will and there is the good, fundamental design of the system, and that is what's important. And of course it's obvious that not everyone will be happy with that. But it's important to focus on the fundamentals, to continue exposing the political will, and going step by step.

As I mentioned before, the whole exercise, the strategy for anti-corruption is from 2015 to 2020, and this is not the easy way, but it's important really to focus building up on the positive blocks while we do this. Thank you.

MASSARO: Oh, well, thank you all very much in the audience for coming today and offering some great comments and questions. And thank you so much to our distinguished panel here.

I wanted to make a quick plug before we close the briefing that tomorrow at 2:00, the Helsinki Commission will hold another briefing – if you are a Ukraine fanatic – this time with a report from the deputy head of the Special Monitoring Mission, which is in the Eastern Donbas right now taking a look at what's going on there, and his name is Alexander Haig, I believe? Hug, Hug. OK, fantastic. So that will be going on tomorrow at 2 p.m.

OK, so thank you so much. With that, the briefing will be over.

[Whereupon, at 2:32 p.m., the briefing ended.]