



## Research Note

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# The War in Ukraine, Volunteers and Non-profit Organizations: Regulatory and Law-Related Challenges

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**Abstract:** The military invasion of Ukraine by the Russian Federation on February 24, 2022, and the further introduction of martial law affected all spheres of Ukrainian society, including the non-profit sector's activities. As a result, civil society institutions were forced to adapt to new public needs, as well as to emerging security challenges and new regulatory restrictions. In this research note, we examine on one side, how the martial law and previous legislation (and the related societal upheavals) have shaped the new roles and functioning of non-profit organizations in Ukraine and, on the other side, what the challenges to volunteers' and domestic non-profit organizations' activities in Ukraine deriving from these regulations and legislations. The identification of these challenges ensues from a survey of the Ukrainian non-profit sector as well as an analysis of Ukrainian regulation, statistical data, and recent scientific papers. Overall, we highlight a key discrepancy between Ukrainians' concept of charitable activities as well as humanitarian aid and the Western approach to the same concepts and suggest regulatory improvements to address other challenges identified to facilitate philanthropic activities in Ukraine.

**Keywords:** volunteers; non-profit organizations; martial law; Ukrainian non-profit sector; regulatory issues; civil society institutions

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# 1 Introduction

The full-scale invasion<sup>1</sup> that began on February 24th, 2022, redefined the role and functioning of civil society actors<sup>2</sup> in Ukraine. During the last decade already, non-profit organizations and volunteers have emerged as a dependable and powerful sector that addresses emerging humanitarian needs, such as providing aid to internally displaced persons, and assisting the state in fulfilling its obligations, including supporting national security. This shift has been rendered possible by the adoption of various legislations over the years and notably since the first Russian invasion in 2014.

In this research note, we identify the main regulatory and law-related challenges faced by civil society actors in Ukraine under martial law. We first explain how societal upheavals have shaped the role and the legal framework of volunteers and non-profit organizations in Ukraine. We show that the (legal) concepts of charitable activities and humanitarian aid have been enlarged to include military defense and related items. In security studies, civil society actors are considered part of the security and justice providers. Their roles include ensuring democratic oversight, engaging in research, debate, and advocacy, and enhancing security services and government security policy.<sup>3</sup> However, with the onset of the war, the role of civil society actors in Ukraine has expanded to include the provision of necessary military equipment to the armed forces. This expansion presents problematic issues for cross-border collaboration and fundraising for both Ukrainian volunteers and non-profit organizations. Moreover, the involvement of civil society actors in military provisioning contributes to the militarization of society,<sup>4</sup> thereby posing a threat to democratic governance (Kuehn and Levy 2020). In the second part, we highlight specific regulatory and law-related challenges faced by Ukrainian volunteers and non-profit organizations in Ukraine. We conclude by suggesting possible measures to alleviate these challenges.

The challenge assessment is based on an empirical survey that was conducted between January 15 to March 15, 2023. The analysis of legislation in this study provides a contextual framework for interpreting the questionnaire data, aiming to identify the formal constraints that shape the operational environment of civil

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1 The term «full-scale invasion» in this article denotes a distinct phase of the war with the Russian Federation that began on February 24th, 2022.

2 In this paper, we use the term «civil society actors» to refer to both non-profit organizations and volunteers.

3 More on this aspect refer to DCAF SSR Backgrounder, 2019 (DCAF 2019).

4 In 2023, Ukraine topped the Global Militarization Index, which ranks the most militarized countries, replacing Israel as the top-ranked nation (GMI, 2023).

society actors under martial law. This methodological integration enables an understanding of how these legal frameworks influence the emergence of regulatory and legal challenges faced by non-profit organizations and volunteers under martial law.

The survey questionnaire<sup>5</sup> was distributed through dedicated channels on Telegram and Facebook groups and contained two sets of open-ended and specific questions specifically targeting civil society actors.

The nodal questions of the survey were aimed to assess the resilience and flexibility of civil society actors in adapting their activities to legal regime of martial law. They also sought to identify the spheres of activity of these actors, explore the legal and operational challenges they faced, and uncover their networking and communication capabilities in the context of the ongoing war (refer to Appendix A of this paper for the specific questions). In total, 717 legal entities and individuals were reached, out of which 226 individuals and entities initiated the survey by providing their responses. Ultimately, 61 participants completed the entire survey, resulting in a completion rate of 27 %.

Out of the 61 participants who submitted their answers, 48 responses were used for analysis. 13 responses were excluded due to inconsistent information. Among the 48 valid responses, 17 were from individual volunteers, and 31 were from representatives affiliated with non-profit organizations. Respondents had the option to allow their data to be published in the paper. Of the 48 participants who completed the survey, 8 agreed to have their data published in the paper (available in Annex B).

## 2 The Rise of Civil Society Actors in Ukraine and Their (Legal) Role in Wartime

Over the past thirty years, civil society actors in Ukraine have been significantly influenced by the country's geopolitical instability, which has shaped their roles and activities. This period has witnessed the gradual emergence of legislation regulating the activities of non-profit organizations and volunteers.

The analysis of the legal regulation enables the identification of the following distinct periods: 1) establishment of legislation based on the Law of Ukraine «On Associations of Citizens» (1991–2012). This period was characterized by the adoption of acts regulating the status of associations that gradually received separate legal regulation (e.g. youth organizations, charitable organizations, political parties, public organizations); 2) the creation of the legal basis for cooperative

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5 The survey is accessible via the link <https://form.typeform.com/to/gzaKBjYI>.

organizations (1991–2003). 3) establishment of legislation based on the Civil Code of Ukraine and the Economic Code of Ukraine (2003 – until today). This period is characterized by the adoption of acts by the new concept of a system of legal entities, as well as the demarcation of types of economic activities; 4) the formation of legislation based on acts regulating financial services (1991–2006). This period was characterized by the establishment of the status of the stock exchange, non-state pension funds (2003), and credit unions (2001) (Kochyn 2020, 56–57 and Kochyn 2019, 225).

The president's rejection to sign the Association Agreement with the European Union in 2013 and the widespread protests that followed this decision (Revolution of Dignity, also known as Euromaidan) were pivotal in transforming civil society actors in Ukraine toward a dual function: providing a check against power and serving as a powerful instrument of self-organization and resistance against the full-scale invasion of the Russian Federation in 2022 (Vytkovska 2023, 54).

In 2015, the legislator amended the Law of Ukraine «On Charitable Activities» introducing a new sphere of charitable activity: «strengthening the national security and mobilization readiness and ensuring the protection of the population during the times of peace and war». Amendments were also made to the Law of Ukraine «On Volunteer Activities » introducing the provision of assistance to the Armed Forces of Ukraine and other military units during wartime as a new sphere of volunteerism. After February 2022, amendments were made to the decree of the Cabinet of Ministers of Ukraine «On the Transportation of Humanitarian Aid» to include specific defense items, such as military helmets, body armor, thermal imagers, and unmanned aerial vehicles along with their components in the items for humanitarian aid.

These legal changes implemented with martial law allowed civil society actors to automatically perform war-related activities, without changing their founding documents and without impact to their non-profit status. Due to inadequate material support of the armed forces,<sup>6</sup> the activities of many civil society actors since 2014 (and even more after February 2022) supplemented state functions that were either not being fulfilled or were being carried out inefficiently (Pankova 2016, 29; Zarembo 2017, 48). Civil society actors started participating in evacuations, aiding internally displaced persons, coordinating humanitarian assistance, and procuring ammunition for Ukrainian military units, including lethal weapons (Vitkovska 2023, 53). For example, in 2022, the Ukrainian charitable foundation «Come Back Alive» became the first charitable organization in Ukraine to receive permission from the State Export Control Service of Ukraine to purchase goods for military

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<sup>6</sup> In 2014 only 4% of Ukrainian military troops were provided with the necessary equipment, including life-saving helmets and bullet-proof jackets (Zarembo 2017, 47).

purposes from abroad, including lethal weapons. They purchased the Bayraktar (unmanned aerial vehicle complex) at a total cost of \$16,502,450 directly from the Turkish company Baykar and further transferred it to the Main Directorate of Intelligence of Ukraine.

The survey included a question aimed at identifying whether civil society actors had transitioned their activities to military-related endeavors after 24<sup>th</sup> of February 2022. Among the 48 representatives of non-profit organizations and volunteers who responded to this question, 28 confirmed that the full-scale invasion had affected their involvement. The survey also revealed that both non-profit organizations and volunteers participated in fundraising campaigns to procure military equipment, such as helmets and body armor. Additionally, they coordinated the delivery of humanitarian aid from abroad, including providing vehicles to the frontline. Volunteers were also involved in activities such as weaving protective nets, assisting in frontline evacuations, and volunteering at humanitarian aid warehouses.

These new spheres of charitable activities and humanitarian aid interventions pose a challenge in cross-border collaboration and fundraising due to the war-related nature of the activities. In wartime, widely accepted nonprofit sector's activities can include involvement in emergency relief efforts, such as aiding refugees, providing shelter, delivering humanitarian assistance (Salamon 1996, 14). Traditional interventions also revolve around food and nutrition, healthcare, water and sanitation, and education in emergencies (Daniels 2012, 23).

However, military defense activities and items do not conform to the conventional humanitarian interventions recommended by the European Commission.<sup>7</sup> The same is true for the classification of national security activities as philanthropic activities. Western countries perceive philanthropy as the use of private resources for the public benefit (Sulek 2010). European countries (in which the major international donors donating to Ukraine have their seat) exclude military defense and other political support,<sup>8</sup> while the United States and the United Kingdom include political support activities within the definition of charitable activities (e.g. political lobbying).<sup>9</sup>

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7 Military assets and capabilities may be used only in very limited circumstances in support of humanitarian relief operations as a 'last resort, see the European Consensus on Humanitarian Aid (2008/C 25/01), § 61.

8 In European Countries, such as France, Portugal, Switzerland, donations to political parties may be deducted from the taxable income but charitable tax-exempt organizations may not pursue them as their main activity

9 For the United States of America, see Internal Revenue Service, Publication 557, Tax-Exempt Status for your organization, January 2023, 14 and Form 8871, Political Organization Notice of Section 527 Status and for the UK, see The Charity Commission, Guidance Political activity and campaigning by charities, 12 October 2022.

To make their case, Ukrainian scholars emphasize the positive impact on Ukrainian society of collaboration between the civilian sector and the military units during armed conflicts (Kaidalov 2022, Trukhan 2019). Under such perspective, amendments to the Law of Ukraine «On Volunteer Activities» and «On Charitable Activities» and to the decree on «On the Transportation of Humanitarian Aid» could be seen as means to facilitate such collaboration for the common good. The truth remains that this discrepant concept of philanthropic activities and humanitarian aid, as permitted by legal and regulatory amendments in Ukraine, is in contrast with donors' and supporters' countries' conceptual and legal approaches, which is a true challenge for Ukrainian civil society actors and for the country itself.

### 3 Other Regulatory and Law-Related Challenges Identified

On top of the conceptual discrepancy between the Ukrainian new definition of charitable activities and humanitarian aid, and the one prevailing in today's Western countries, the survey also identified additional regulatory and law-related challenges. The following three are the main ones for volunteer activities under martial law:

*Challenges in operating the banking system.* These issues were mentioned by 10 respondents (out of 31 volunteers). Among the problems identified were restrictions on international payments. 3 out of 10 respondents who answered this question pointed out it as a problem. The other issue mentioned was limits on withdrawals from banking cards. This issue was mentioned by 7 respondents (out of 10 volunteers answered this question).

With regard to the international payments, the National Bank allowed banks not to apply limits on the payments made by volunteers using their payment cards in UAH (the Ukrainian hryvnia, the national currency) abroad for the purchase of military goods (such as body armors, helmets, military and tactical uniforms, drones, sleeping bags, walkie-talkie), provided that they simultaneously meet the following requirements: the operations carried out by the volunteer are typical for this individual and the volume of transactions made on their accounts exceeds the equivalent of 100,000 UAH (2700 USD) per month until July 21<sup>st</sup>, 2022; the submission of a letter from a state agency or military unit regarding cooperation with the volunteer and the ordering of goods for the corresponding purpose, if the amount of such an operation exceeds the equivalent of 400,000 UAH (10600 USD) per month; the provision of an approximate value (estimate) of the goods and the delivery

times for the order; informing the bank by the volunteer about the collection of funds for the payment of the items (Resolution of the National Bank 2022).

Respondents pointed out that such a condition made the changes useless in practice since quick collaboration with military units on the frontline and obtention of the confirmation letter is a utopia.

In terms of the limits on withdrawals, the limit was set at 100,000 UAH per day (2,700 USD). As mentioned by the surveyed volunteers, this hinders their efforts to promptly meet all essential needs and conduct necessary purchases, particularly in light of emerging needs.

*Coordination and communication challenges.* Surveyed volunteers mentioned the increased use of social media platforms, notably Telegram and Facebook, to coordinate their activities. Among the 13 respondents who answered the question (out of 31 surveyed volunteers), 11 confirmed it. 8 (out of 13) respondents also confirmed receiving requests for assistance through social media. Thus, it can be argued that the web portals and platforms<sup>10</sup> institutionalizing volunteer resources online including digital platforms launched (e.g. People for Ukraine) or supported (e.g. SpivDiia launched by the Office of the President of Ukraine) by the government (Ivaniuk 2022, 28) felt short on expectations.

*Taxation of volunteer activities.* Since the Russian invasion in 2014, tax reductions and deductions have been provided to volunteers through designation and registration of an account with the Register of Volunteers as a collecting funds account<sup>11</sup> whose amounts are not included in the taxable income<sup>12</sup> and through new tax deductions on cash donations or in-kind gifts.<sup>13</sup> Despite these benefits, the survey shows a lack of knowledge of these tax incentives, as well as insufficient registrations with the Register of Volunteers. Among 17 respondents (out of 31) who answered the question on affiliation to the Register of Volunteers, only 7 indicated that they had registered there. 3 of them indicated that they have registered since they contractually agreed to do so with a non-profit organization and that accountants or legal advisors carried out the registration process for them. The reasons given for non-registration were (i) the inability to register or make amendments online, for instance to change the designation of

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**10** For example, such a platform as «Palanytsa info» (available via the link: <https://palyanytsya.info/>) serves as a database of organizations providing humanitarian and volunteer assistance to the population throughout Ukraine.

**11** By paragraph 2.1 of the order of the Ministry of Finance of Ukraine «On Approval of the Procedure for the Formation and Maintenance of the Register of Volunteers» dated October 30, 2014, № 1089.

**12** According to Article 165 of the Tax Code of Ukraine (Tax Code of Ukraine 2010).

**13** According to amendments made to the Tax Code in 2022, the tax deduction includes the amounts of money, or the value of the property transferred by the taxpayer as donations or charitable contributions to non-profit organizations up to a limit of 16 % of the total taxable income for the reporting year.

fundraising bank accounts (4 individuals), (ii) an outdated interface of the register (1 individual), (iii) the unawareness of the procedure or of the opportunities that a registration with the Register of Volunteers would bring (6 respondents).

The survey results also have shown a lack of interest as well as ignorance in relation to tax deductions. 19 out of 31 respondents declared that they had no intention to claim a tax deduction or even submit a tax declaration. Reasons therefore are a lack of knowledge about the submission process of tax declaration or a lack of knowledge about the possibility of getting a tax deduction.

The fact that the administrative and/or criminal penalties in relation to deficient tax reporting or non-reporting are inapplicable during the period when Ukrainian martial law is in effect may contribute to this attitude. The legislator has exempted individuals and legal entities from administrative or criminal liability for non-submission or untimely submission of such a reporting during the period of martial law and for three months after the end of its application. During the period of martial law, authorized bodies do not carry out checks for the timely and complete submission of reporting and documentary evidence of a reporting nature (Khomytenko 2022, 29).

As for non-profit organizations, the top challenges to their activities brought (or unsolved) by martial law according to the conducted survey seem to be:

*Restricted access to the public registers.* 8 (out of 11) respondents (out of 17 surveyed non-profit organizations) mentioned this challenge. Martial law gives information officers<sup>14</sup> the leeway to restrict access to state registers - thus allowing a restriction on the right to information (Hryshko 2022). The use of this leeway (Turchenko 2022, 111) prevents philanthropic collaboration across the country, as well as with international donors, primarily because the legal status of a counterparty cannot be verified and access to legal documents is hindered.

*The accounting of charitable assistance and reporting.* Respondents to the survey (12 out of 17 respondents) have articulated a request for assistance in collecting and keeping records for financial and tax reports. The measures available under martial law are inappropriate. First, dedicated accounting standards are missing (see also Zalunin 2016, 963). Secondly, the suspension of the duty to keep records of charitable

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<sup>14</sup> See Resolution of the Cabinet of Ministers of Ukraine № 263, dated March 12, 2022, granted the authority to ministries, central and local executive bodies, state-owned and communal enterprises, institutions, and organizations under their jurisdiction to suspend or limit the operation of information and communication systems and public electronic registers owned or managed by them. See also Resolution of the Cabinet of Ministers of Ukraine № 480, dated April 19, 2022, that partially lifted the operational restrictions on the State Register of Property Rights to Real Estate. Nonetheless, access to and modifications of registries remain the exclusive prerogative of state registrars, officials of the Ministry of Justice, and notaries.



activities<sup>15</sup> is ineffective if charitable organizations must nonetheless file the tax and financial reports (Resolution of the Cabinet of Ministers of Ukraine 2022b).<sup>16</sup>

## 4 Conclusions

The martial law adopted following the Russian invasion in 2022 tried to reconcile the role of civil society actors in general and in the defense of Ukraine. The concept of public purpose activities was redefined, presenting significant challenges for Ukrainian civil society actors. Eventually, funding for these actors will become increasingly constrained once self-funding capacities are exhausted. However, Western definitions of philanthropy typically exclude military support, complicating fundraising and collaboration with international donors. The challenge arising from the unacceptable and anti-philanthropic expansion – from a Western perspective – of the concepts of philanthropic activities and humanitarian aid to include military defense and related items remains unresolved and difficult to address but deserves further political attention.

Based on survey results and legislative analysis, this paper identifies the legal and regulatory challenges confronting civil society actors during martial law. Regulatory complexities such as banking restrictions, and tax intricacies further impede their effectiveness. Restrictions on international transactions for military procurement exacerbate these challenges. Addressing these issues requires comprehensive legal reforms, particularly crucial during wartime. Simplifying access to public registers, enhancing financial transparency, and clarifying tax incentives are vital steps that can be initiated promptly. Modernizing the regulatory framework should aim to balance security imperatives with the operational requirements of civil society, ensuring their effective functioning during the war. Additionally, although some legal and regulatory requirements were relaxed, these measures proved inadequate and sometimes counterproductive due to ambiguity and lack of tailored solutions.

To mitigate identified challenges, the following policy measures are recommended:

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<sup>15</sup> Resolution of the Cabinet of Ministers № 202, dated March 05, 2022. Regarding the absence of checks for the timely and complete submission of reporting and documentary evidence, see Kholmtyenko 2022, 29. For the lifting of administrative and criminal liability in that respect, see the Law of Ukraine «On Protection of the Interests of Entities Submitting Reporting and Other Documents during the Period of Martial Law or War» № 2115-IX dated March 3, 2022.

<sup>16</sup> Non-profit organizations submit tax and annual financial reporting (Article 133 of the Tax Code of Ukraine 2010). 11 (out of 17) respondents confirmed their intention to file financial reports and tax reports.

- Enhance the functionality of the existing Register of Volunteers with robust multi-factor authentication systems to facilitate automatic transmission of registered banking card information to relevant banks: enable volunteers to easily report charitable expenditures to the Register of Volunteers; enable the Register of Volunteers to issue online volunteer certificates, streamlining bureaucratic procedures.
- Promote voluntary tax compliance and increase awareness through informational campaigns.
- Raise awareness about existing tax and other types of incentives for nonprofits and charitable activities.
- Develop specific accounting standards tailored to nonprofit organizations to better accommodate their unique characteristics, amending relevant Ukrainian laws as necessary (e.g., the Law of Ukraine dated July 16, 1999, №996-XIV, «On Accounting and Financial Reporting in Ukraine»).

## Appendix A

1. Please describe what legal challenges did you (your organisation) face while carrying out charitable/volunteer activities under martial law?
2. Did you (your organisation) change sphere of activity to military and/or humanitarian since 24.02.2022, or was it the main activity before the war?
3. Do you (your organisation) have international partnerships with donor organisations, volunteers abroad? If yes, describe what difficulties did you (your organisation) face during your collaboration. If not, do you (your organisation) plan to develop such partnerships and how?
4. Does your organisation have a registered representative office abroad? If yes, please share your experience. If not, are you interested in registering a representative office abroad?
5. How do you (your organisation) choose the beneficiaries of your assistance?
6. Do you (your organisation) have partnerships with non-profit organisations, volunteers in Ukraine? If yes, describe what difficulties did you (your organisation) face during your collaboration. If not, do you (your organisation) plan to establish such partnerships and how?
7. What measures are you (your organisation) taking to avoid duplication, misuse or uneven distribution of assistance, if any?
8. Does your organisation keep records of charitable assistance received? If yes, what difficulties did your organisation face in the accounting process, if any?

9. Does your organisation plan to file tax and/or financial reporting for 2022? If yes, have you experienced any legal, administrative or practical difficulties in this respect? Please describe.
10. Have you (your organisation) ever purchased humanitarian and/or military goods from abroad? If yes, what problems did you (your organisation) face and were you (your organisation) able to resolve them and how?
11. Have you (your organisation) experienced any problems (e.g. administrative, legal) at customs during your volunteer and/or charitable activity related to the transfer of humanitarian aid? If yes, what problems did you (your organisation) face and were you (your organisation) able to resolve them and how?
12. Did you (your organisation) conduct any registration activities under martial law? If yes, did you face any difficulties (e.g. restrictions on free access to state registers, etc.)?
13. Have you experienced an «asset freeze» carried out by your bank while raising funds on your personal bank account? If yes, how did you solve this problem?
14. Do you plan to register with the Register of Volunteers? If you are already registered, please, share your experience.
15. Does your organisation employ internally displaced persons? If yes, has your organization faced any legal and/or administrative challenges in this regard? Are you aware of the incentives that this collaboration may bring, according to the Resolution of the Cabinet of Ministers on providing employers with compensation for the employment of IDPs? (Resolution of the Cabinet of Ministers of Ukraine 2022a)
16. Do you plan to reduce your taxable income base on the amount of charitable assistance donated in 2022 (use the right to a tax deduction for individuals)?
17. Have you (your organisation) experienced any other legal and/or administrative challenges in your volunteer/charitable activity under martial law? If yes, please, describe it in detail.

## Appendix B

Non-profit organizations and individual volunteers that provided the permission to publish their data in the paper:

- Valerii Baginsky, head of the charitable foundation «Svitanok Ukrainy», Kharkiv, Ukraine;
- Viktoria Vahrusheva, project coordinator of the charitable foundation «Nachvyli krainy», Lviv, Ukraine;
- Non-profit organization «Rotary Club Kharkiv Phoenix», Kharkiv, Ukraine;
- Francis Cardinal, volunteer, World Central Kitchen, Kharkiv, Ukraine;

- Vasiliy Kostromytskyi, head of the non-profit organization «Velodacha», Kharkiv, Ukraine;
- Svitlana Polunina, volunteer, coordinator of the project «First Mobile Library for Ukrainian children», Fiesole, Florence, Italy;
- Svitlana Khaustova, volunteer, Kyiv, Ukraine;
- Sergii Suhomlin, volunteer, Kharkiv, Ukraine.

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