



### **Dr. Oleksiy Feliv**

**Dr. Oleksiy Feliv**, Managing Partner at INTEGRITES, has 20 years of experience in advising mainly foreign business in Ukraine. He specialises in large-scale projects in energy/renewables, construction and infrastructure, involving foreign investment and related project financing. Since 2022, Oleksiy has acted as an expert advisor in the Rehousing Ukraine Initiative. Initiated by the Affordable Housing Institute (USA) and supported by INTEGRITES, the initiative aims to help Ukraine readdress the housing and urban redevelopment challenge. Oleksiy is a member of the rehousing policy advisory group to the Ministry for Communities and Territories Development of Ukraine. Dr. Feliv is shortlisted for The Lawyer European Awards 2023 as European Managing Partner of the Year. His expertise is consistently recognised by The Legal 500 EMEA, Who's Who Legal and IFLR1000.



### **Tetiana Storozhuk**

**Tetiana Storozhuk**, joined INTEGRITES in 2022 as Senior Associate in the Real Estate and Construction practice. She is a real estate law practitioner with 16 years of experience. Her practice has been focused on development, construction and leases across a broad range of areas, including commercial real estate, infrastructure, retail, agribusiness, and others. Prior to pursuing her path with domestic law firms, Tetiana has obtained multi-faceted experience in the corporate sector. Her career includes managing the Real Estate legal division of one of the largest European grocery retail chains and serving as Head of Legal of a development company based in western Ukraine. Tetiana Storozhuk was admitted to the Ukrainian National Bar Association in 2012.

## **Build Back Better: Ukraine's Challenges and First Steps**

USD 150.5 billion. In June 2023, almost 1.5 years into the war of Russia against Ukraine, the Kyiv School of Economic indicated this amount in its damage assessment report<sup>1</sup> as a total documented direct damage to Ukraine's infrastructure calculated as replacement costs.

The second Rapid Damage and Needs Assessment Report ("RDNA2"), prepared jointly by the World Bank, the Government of Ukraine, the European Commission and the United Nations after a year of war, estimates the damages as of February 2023 alone at more

than USD 411 billion<sup>2</sup>. This estimate significantly exceeds the replacement costs calculated by KSE, as it includes reconstruction based on the principle of 'building back better' ('BBB').

The concept of 'Building Back Better Ukraine' was first introduced in Ukraine's National Recovery Plan in Lugano (Switzerland) in July 2022. The plan explicitly called for the construction of new, higher quality facilities using advanced, environmentally friendly technologies to replace those that were destroyed<sup>3</sup>.

Importantly, the idea behind this principle goes beyond the context. It originates from programs to rebuild countries after natural disasters, as in the case of the Indian Ocean countries affected by the 2004 tsunami. The concept is also well illustrated in the Unbreakable report, which was prepared by the World Bank Group to deal with the aftermath of natural disasters in the Caribbean islands. The report emphasizes the importance of building resilience to natural shocks through faster and more inclusive post-disaster reconstruction, with 'building back better' as a key principle. This approach aims to strengthen reconstruction efforts, speed up the recovery process for those affected, enable them to return to normal life more quickly, and place a strong emphasis on overall economic development<sup>4</sup>.

The BBB principle has also constituted the basis for the COVID-19 recovery efforts and was integrated into the 2021 Economic Recovery Plan introduced by the US President Joe Biden<sup>5</sup>.

At the same time, Ukraine's recovery from war naturally calls for its own approach to the action needed. We believe it should include measures that address both the country's future security and economic well-being, requiring a combination of immediate and long-term solutions. This approach should aim to create a favourable, eco-friendly and energy-efficient environment to facilitate the return of Ukrainians

to their homes and the sustainable development of the country's economy.

Below we focus on the key challenges and the first steps Ukraine has taken so far in this regard.

### **Is it worth waiting for the war to end?**

Ukraine's reconstruction cannot be postponed until the war is over. That would only exacerbate the conditions that are already taking a toll on the country's economy and driving up emigration rates. It is vital that the reconstruction needs are addressed urgently to mitigate the economic impact of the war and provide stability for the people, at least, in the areas of first priority.

According to the RDNA2, the following five priority areas for near-term reconstruction have been identified: energy infrastructure, housing, critical and social infrastructure, private sector support



and humanitarian demining. The estimated cost of these efforts in 2023 is USD 14.1 billion<sup>6</sup>.

Reconstruction is already underway, funded through a combination of domestic resources, lending programs, donations, grants, and significant international support. For example, USD 3.3 billion of the required funding has already been allocated from the national budget with the remainder expected to come from donors and the private sector.

To coordinate this immediate financial support and plan for Ukraine's future economic recovery, the Multi-Agency Donor Coordination Platform for Ukraine was established following the decision by G7 leaders on 12 December 2022. This platform is working closely with the Ukrainian authorities to define, prioritize, and plan for strategic needs in line with Ukraine's reform objectives and European path, taking into the account the conditions set by major donors for financing and structural support<sup>7</sup>.

The first reconstruction efforts have already been undertaken with the involvement of international

organizations, whose work emphasizes the importance of energy efficiency and minimising environmental impact. These include the United Nations Development Programme (UNDP) and the United Nations Office for Project Services (UNOPS). In April 2023, for example, two new projects for future reconstruction were launched, aiming to renovate and modernise over 100 schools in 14 regions of Ukraine<sup>8</sup>.

Ukraine is also creating resources to respond as quickly and easily as possible to situations that require urgent solutions. In particular, in 2022, Ukraine launched the United24 donation platform to streamline the collection of funds in three key directions: defence and demining, humanitarian and medical assistance, and reconstruction of Ukraine. The platform which allows one-click donations to Ukraine from anywhere in the world, has successfully raised approximately USD 485 million<sup>9</sup> as of October 2023. The system works by channelling funds to the National Bank of Ukraine, with relevant ministries overseeing priority purposes. These are mainly projects such as repairing residential



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buildings, schools and hospitals, addressing urgent reconstruction needs or mitigating other negative consequences of the war.

As a result, we can see that recovery in priority areas has already begun. Of course, the BBB principle will not be applied in every case, especially where immediate action is required to restore damaged property and straightforward rehabilitation solutions are more appropriate. Nevertheless, we expect to see a wider application of this principle in future long-term or large-scale projects.

#### **Building Back Better: Drawing on international experience**

The incorporation of smart solutions and green technologies for efficient resource use has already made its mark on the Ukrainian market, particularly in privately funded projects supported by the multilateral institutions like the EBRD, the EIB and the IFC.

However, the key priority areas for post-war reconstruction are now shifting to the public sector. This poses a challenge due to the time-consuming bureaucratic procedures that may not be in line with the urgent needs.

Ukraine faces a great lack of financing and requires international support in both financing and international expertise to rebuild the injured or destroyed assets based on the 'BBB' principle. This will require direct involvement of international

financial institutions and experts, as well as the improvement of a legislative framework to promote effective cooperation between the public sector and international partners.

In pursuit of this goal, Ukraine has embarked on a gradual legislation reform aimed to harmonise its national building codes with the EU regulations. Launched more than a decade ago, this initiative now introduces the possibility to use national standards harmonised with the EU norms, often referred to as 'EU codes'. This move significantly simplifies the work of foreign architects who may be involved in the design process. However, involvement of the local professionals is still needed to formalise and adapt the developed documentation to the Ukrainian legislation requirements.

Moreover, public restoration projects require compliance with national regulations, including Ukrainian requirements to reporting on the performance of works, which complicates the work on for projects financed and performed by the international partners with involvement of foreign experts and contractors. Additionally, the procurement procedure may be considered irrelevant for such projects, despite being mandatory in Ukraine. To regulate these issues, the international intergovernmental agreements can be established. One illustrative example of such agreements is the recent Framework Agreement between the Government of

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Ukraine and the Government of the Republic of Austria, which outlines cooperation in the construction and modernisation of healthcare facilities in Ukraine<sup>40</sup>.

Another common practice involves direct financing and further project coordination by the international partners, as evidenced by examples of financing by the European Union with subsequent management by NEFCO.

These cases of international support for Ukraine's reconstruction make it possible to attract international experts and contractors who can share their valuable experience with Ukraine.

#### **Navigating safety and risk insurance as a critical puzzle in the war**

“How the security risks are managed?” This is one of the first questions coming up from foreign investors and financial institutions looking into Ukraine's reconstruction and investment opportunities.

At the government level, cooperation with the international financial institutions to address war challenges is already underway, and we have great results in this regard.

One of the vital priorities is to create favourable conditions for financing Ukrainian exporters, enabling them to resume the supply of Ukrainian products. Equally important is the development of logistics and infrastructure that

can address new challenges and re-establish trade connections.

The second major issue is the coverage of political and war risks. Typically, political and war risk insurance is not available during period of martial law. Therefore, since the outbreak of the war, both international partners and the Ukrainian government have focused on the issue of ensuring coverage of these risks.

Thanks to substantial efforts, the political risk insurance instrument is already provided by the Multilateral Investment Guarantee Agency (MIGA) in a total amount of approximately \$196 million<sup>41</sup>. One of the fresh examples is the allocation of \$9.1 million to cover an industrial park construction project in western Ukraine against war risk and civil disturbances for up to 10 years<sup>42</sup>.

Furthermore, the US Development Finance Corporation (DFC) has also committed to provide debt financing and credit risk coverage for private projects. They are currently working on several applications for insurance of Ukrainian projects worth about USD 200 million<sup>43</sup>.

Currently, nearly every government has announced political and military risk coverage for their companies. In particular, the national export credit agencies (ECAs) from countries such as Germany, France, Italy, the United Kingdom, Sweden and Japan have already committed to

provide military investment risk insurance to their nationals involved in reconstruction efforts in Ukraine<sup>44</sup>. Indeed, this commitment will facilitate the application of ESG principles and other green policies to these projects.

Lastly, the forthcoming adoption of Draft Law No. 9015<sup>45</sup> will expand the powers of the Ukrainian ECA to provide similar insurance coverage for investments in Ukraine. This legislative development is an important step in enhancing Ukraine's ability to attract investments and support reconstruction efforts.

With all these outcomes in place, it is obviously that 2024 will be a year of opportunities to rebuild Ukraine and its economy.

1. The total amount of direct damage to Ukraine's infrastructure caused due to the war as of June 2023 exceeded \$150 billion. Article published on KSE's website is available [HERE](#).
2. Report looks at the Russian invasion's toll after one full year. Materials published on the World Bank's website are available [HERE](#).
3. Ukraine's National Recovery Plan. National Recovery Council, July 2022. Materials are available [HERE](#).
4. Build Back Better: Achieving resilience through stronger, faster, and more inclusive post-disaster reconstruction. Report is available [HERE](#).
5. The Build Back Better Framework. President Biden's Plan to Rebuild the Middle Class. Materials are available [HERE](#).
6. The second meeting of the Steering Committee for the Multi-Agency Donor Coordination Platform for Ukraine took place. Materials are available [HERE](#).
7. The information about Donor Coordination Platform for Ukraine is available [HERE](#).

8. The information is available on the Mininfrastructure's website [HERE](#).

9. Please refer to the website of the United24 platform [HERE](#).

10. The text of the framework agreement is available in Ukrainian [HERE](#).

11. The information is available in Ukrainian [HERE](#).

12. The information is available in Ukrainian [HERE](#).

13. The information is available in Ukrainian [HERE](#).

14. The information is available in Ukrainian [HERE](#).

15. The information about the draft law is available in Ukrainian [HERE](#).

