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## **COMMISSION STAFF WORKING DOCUMENT**

### **Ukraine 2023 Report**

#### *Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

#### **2023 Communication on EU Enlargement policy**

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# 1. INTRODUCTION

## 1.1. CONTEXT

On 28 February 2022, five days after Russia launched its unprovoked and unjustified aggression, Ukraine submitted its application for EU membership. On 17 June 2022, the Commission issued its opinion<sup>1</sup> and recommended to the Council that Ukraine should be given the perspective to become a member of the EU and that the country be granted candidate status on the understanding that seven steps, mainly in the rule of law area, are taken. On 23 June 2022, the European Council recognised the country's European perspective and decided to grant Ukraine the status of candidate country. The European Council invited the Commission to report to the Council on the fulfilment of the seven steps as part of its regular enlargement package. This report is the Commission's first annual enlargement report on Ukraine replacing the previous annual Association Implementation Reports. To complement its opinion on the membership application, the Commission published the analytical report<sup>2</sup> on the *acquis* alignment of Ukraine in February 2023.

Russia's war of aggression is still ongoing, causing the loss of tens of thousands of lives, livelihoods, millions of refugees and internally displaced persons, deportation and transfer of Ukrainian citizens, including children, to Russia and Belarus, massive destruction of physical infrastructure and further occupation of Ukrainian territory by Russia. Faced with this aggression, the Ukrainian government has shown a remarkable level of institutional strength, determination and ability to function. Since the beginning of the full-scale invasion and war of aggression, the EU has been supporting Ukraine diplomatically, financially, economically and militarily and through humanitarian aid on an unprecedented scale, amounting to EUR 82.6 billion. It has also issued 11 packages of sanctions against Russia. EU Member States host a large number of Ukrainians, of which close to 4 million are registered for temporary protection under the Temporary Protection Directive. The EU and its Member States have also supported efforts to ensure full accountability for war crimes and the other violations of international law committed in connection with Russia's war of aggression. To support Ukraine's repair, recovery and reconstruction process, the Commission, together with Ukraine and G7 partners, has set up the Multi-agency Donor Coordination Platform. The repair, recovery and reconstruction process is firmly embedded in Ukraine's EU accession path, ensuring investments go hand in hand with accession-related reforms. In June 2023, the European Commission proposed a dedicated medium-term financing instrument that will provide Ukraine with coherent, predictable and flexible support for the period 2024-2027. The new Ukraine Facility will support efforts to sustain macro-financial stability and promote recovery. The plan is for the Facility to be endowed with EUR 50 billion in grants and loans. The EU will continue to support Ukraine as long as it takes.

Despite the war and its impact on all levels of Ukrainian society and the martial law in place, the Ukrainian government and Parliament showed determination to carry out the necessary reforms required by the EU accession process, in particular the seven steps mentioned in the opinion. Support for future EU accession is higher than ever before. According to various recent opinion polls around 90% of Ukrainians support EU membership.

## 1.2. SUMMARY OF THE REPORT<sup>3</sup>

Despite Russia's full-scale invasion in February 2022 and its brutal war of aggression, Ukraine

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<sup>1</sup> COM(2022) 407 final

<sup>2</sup> SWD(2023) 30 final

<sup>3</sup> This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Ukraine, the EU Member States, European Parliament reports

has continued to progress on democratic and rule of law reforms. The granting of candidate status for EU accession to Ukraine in June 2022 has further accelerated reform efforts.

During the reporting period, **no elections** took place. Overall, the legal framework remains conducive to the organisation of democratic elections. Reform of the electoral legal framework should be continued to address outstanding recommendations by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

The work of the **Parliament** (Verkhovna Rada) continues to be marked by extraordinary circumstances related to the Russian military aggression. However, legislative tasks are carried out systematically, laying the ground for an uninterrupted democratic decision-making process. Key decisions, especially on defence/security questions, were adopted by clear cross-party majorities. Considerable attention was paid to legislation related to EU integration. The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive.

Ukraine has some level of preparation in the area of **public administration reform**, with limited progress made during the reporting period. While the Ukrainian public administration has proved its resilience during the full-scale invasion, reform has slowed or stopped in a number of sectors, in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the human resources management information system. The digitalisation of service delivery has reached a high level.

On **multi-level governance**, the achievements of decentralisation reform continued, with municipalities acting as a pillar of Ukrainian resilience. Overall, following the successful finalisation of the territorial part of decentralisation, other elements of the reform still need to be completed. Local self-government in the liberated territories and those near the frontlines should be gradually restored where the security situation allows it. The newly established Ministry of Restoration should synergise infrastructure and the regional development portfolio to stimulate locally driven recovery and reconstruction based on the systematic involvement of local authorities and associations. The local fiscal base needs to be strengthened.

On the **functioning of the judiciary**, Ukraine has some level of preparation and must continue its efforts. Despite the Russian war of aggression, Ukraine continued to deliver justice services and made good progress on the implementation of the 2021 reform of the judicial governance bodies focused on integrity and professionalism. The High Council of Justice and the High Qualification Commission of Judges were re-established following a transparent process with the meaningful involvement of independent experts. It will allow the government to start filling more than 2 000 judicial vacancies again and evaluating (vetting) the qualification of some 1 900 sitting judges, which was suspended in 2019. Despite significant challenges, the Ukrainian institutions showed remarkable resilience and introduced the necessary legislative and organisational measures that allow it to continue to provide justice services to citizens and companies during the war. In 2022, most courts maintained a clearance rate (ratio of the number of resolved cases over the number of incoming cases in a given year) of 100% or even higher.

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and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

In August 2023, Ukraine enacted legislation enabling a transparent and merit-based preselection of judges of the Constitutional Court in line with the Council of Europe's Venice Commission recommendations, and started the implementation process by establishing the Advisory Group of Experts and announcing the competitions to the Constitutional Court. Legislation on the selection of judges should still be improved, and a more transparent procedure needs to be introduced for the selection of management-level prosecutors. In August and September 2023, Ukraine adopted two laws for resuming disciplinary proceedings against judges and for establishing an independent service of disciplinary inspectors on the basis of a transparent and meritocratic selection procedure with a meaningful involvement of internationally-nominated experts. A new administrative court to handle cases involving the central government bodies and staffed by properly-vetted judges needs to be established, following the abolition of the Kyiv District Administrative Court. Legislative and institutional changes are needed to ensure stronger disciplinary system for prosecutors. To increase transparency, efficiency and access to justice, Ukraine should also continue its efforts on digitalisation of the judiciary. Systemic measures still need to be taken to advance the reform of enforcement of court decisions, including the enforcement of decisions of the European Court of Human Rights. To ensure the sustainability of rule of law consolidation efforts, Ukraine should continue legal education reform.

Since the start of the full-scale invasion, Ukraine has been confronted with an unprecedented number of **atrocities** committed by the Russian military. The Ukrainian institutions made considerable efforts to address this and bring the perpetrators of international crimes to justice. Multiple law enforcement agencies, following the guidance of the Office of the Prosecutor General, started investigating these complex crimes. Specialised investigation and prosecuting departments were established for this purpose. As a result, 107 951 incidents related to various atrocity crimes have been officially registered. 267 people have been indicted and 63 people convicted for war crimes by Ukrainian courts. There has been close international cooperation, including with the International Criminal Court and its Office of the Prosecutor, Eurojust, Europol and numerous EU Member States. To improve the effectiveness of investigation of international crimes and cooperation with the International Criminal Court, Ukraine should further harmonise its legal framework with the applicable international standards.

On the **fight against corruption**, Ukraine has some level of preparation. Some progress was made during the reporting period, in particular with the establishment and consolidation of a comprehensive anti-corruption institutional framework and the gradual building of a track record in investigating, prosecuting and adjudicating high-level corruption cases. Ukraine stepped up reforms in this area after receiving EU candidate status. New legislative, strategic and institutional improvements were pursued, including the adoption of the national anti-corruption strategy, accompanied by a comprehensive state programme for its implementation. The new Heads of the Specialised Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU) were appointed in July 2022 and March 2023 respectively, following transparent and meritocratic selection procedures with the involvement of independent experts. Since their appointment, NABU and SAPO have increased their cooperation and stepped up investigations into high-level corruption cases. The e-asset declaration system, suspended after the introduction of martial law, was restored and opened to the public, albeit with some potential weaknesses related to the verification powers of the National Agency on Corruption Prevention (NACP) and the data to be verified. The Parliament has also adopted a law that would weaken administrative liability related to e-asset declarations, but the President has not signed this law into effect. To ensure the impact and sustainability of anti-corruption efforts, Ukraine should continue building a credible track record of investigations, prosecutions and final court decisions in high-level corruption cases,

including the seizure and confiscation of criminal assets. Timely and steady implementation of the 2023-2025 state anti-corruption programme should also be pursued. Efforts are also needed to further streamline and improve substantive and procedural criminal law. To cope with increasing workloads, the number of NABU staff, SAPO prosecutors and High Anti-Corruption Court judges should be increased. Furthermore, SAPO should be further protected from possible undue interference by improving the selection procedures for the Head of SAPO and its key officials, increasing its organisational and procedural autonomy, and improving its accountability framework.

Ukraine has some level of preparation in the area of the fight against **organised crime**. Some progress was made. Ukraine has a dedicated strategic and institutional framework to fight organised crime and a good level of international cooperation. There is an increasing number of joint operations with EU Member States. Measures are being taken to tackle the illicit flow of firearms, human trafficking and cybercrime. The development of the e-case management system in the criminal justice chain was launched. The national asset recovery strategy was adopted. Russia's war of aggression had a profound impact on the institutional capacity to fight organised crime, but relevant institutions demonstrated resilience and continued their work. However, the legal framework and operational capacity to fight organised crime remain weak. Procedural gaps, jurisdictional overlaps, widespread corruption and underdeveloped IT infrastructure are also hampering the effective fight against organised crime. Inter-agency coordination needs to be strengthened further. Ukraine should also launch the national serious organised crime threat assessment in line with EU standards and build the capacity to implement it. The legal framework and institutional capacity still need to be improved as regards financial investigations, asset recovery and management. Transparent and merit-based selection of management and staff, along with a strong accountability system should be introduced in the Bureau of Economic Security, a key agency tasked to fight economic crime.

On **fundamental rights**, Ukraine complies overall with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. Citizens suffered severely from the large-scale violations of fundamental rights by Russia, which Ukrainian authorities and civil society have sought to remedy since February 2022. At the start of the full-scale invasion, Ukraine introduced martial law, which led to some restrictions of rights and freedoms, but these have so far remained largely in proportion to the actual needs and have been applied with caution. The number of registered discrimination against minorities, including against LGBTIQ persons and national minorities as well as antisemitic acts, has strongly decreased. On the rights of persons belonging to national minorities, Ukraine needs to address the remaining recommendations of the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023. Further efforts are also needed to ensure that persons with disabilities can enjoy their rights as per the UN Convention on the rights of persons with disabilities.

At the same time, important reforms have been introduced and adopted, such as the new media law. Ukraine also ratified the Istanbul Convention on preventing and combating violence against women and domestic violence in July 2022 and adopted the 2030 state strategy on ensuring equal rights between men and women, which should now be implemented. Only limited progress was made in the field of prevention of torture and ill treatment in prisons and other forms of detention, where a cultural change within state authorities needs to materialize and further measures are required to prevent and ensure accountability for such acts. A law on personal data protection, aligned with the EU *acquis*, should be adopted. The situation of children (but also of older persons) in care institutions as well as persons with disabilities remains difficult, but commitments on the deinstitutionalisation of childcare and to rebuilding

Ukraine in a barrier-free manner are promising and need to be implemented as a priority. Similarly, support for the Roma<sup>4</sup> community needs to be stepped up with a concrete and targeted action plan.

Given the breadth of issues concerning fundamental rights, in particular the numerous violations by Russia, the Ukrainian Parliament Commissioner for Human Rights faces serious challenges with its existing capacity to address the entire range of its responsibilities in a meaningful manner.

Despite the context of a full-scale war, Ukraine is in between some and moderate level of preparation in the area of **freedom of expression**. Good progress was made in the reporting period with the adoption of the media law in December 2022 and despite the war-time restrictions in access for media and journalists introduced. Ukrainian citizens enjoy freedom of expression, with critical media reporting available. However, media concentration has been observed due the collapse of the media and advertising market, particularly in the television segment. This has reduced people's access to pluralistic media in Ukraine. The situation of journalists remains precarious, both economically and – since the start of the full-scale invasion – physically. Ukraine needs to envisage new ways to ensure a post-war structure for pluralistic and independent non-online media (in particular television), including the long-term outlook of the public broadcaster and independence of the national regulator.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, the Ukrainian economy is between an early stage and some level of preparation towards **establishing a functioning market economy**. Since the full-scale invasion by Russia, the conduct of monetary policy, overall economic governance and the institutional and regulatory environment have faced considerable difficulties. Despite these challenges, the Ukrainian authorities have responded swiftly and with overall stability in mind, although the circumstances have also brought about some temporary setbacks on several important elements of a functioning market economy. In 2022, the economy contracted by 29.1%, showing more resilience than first expected. To contribute to financial stability and strengthen confidence in the domestic currency, the National Bank of Ukraine suspended the hitherto successfully managed inflation-targeting framework, fixed and devalued the exchange rate and raised its main refinancing rate. The banking sector remained fully operational and stable with ample liquidity, also thanks to previous reforms and supervisory forbearance measures. The state of public finances has deteriorated markedly due to the duration and cost of the war and its impact on the economic activity. This has undone the considerable fiscal consolidation and corresponding reduction in the debt stock that had been achieved in previous years before the pandemic. The significant internal and external population displacements, together with significant capital destruction, profoundly affected the labour market.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, Ukraine is at an early stage of preparation in terms of its **capacity to cope with the competitive pressure and market forces within the EU**. The war has severely damaged Ukraine's capital infrastructure and triggered a massive human exodus that has deeply affected the economy. Investment in research and innovation has been low, and educational outcomes have not met the needs of the labour market, despite rather high spending and relatively high formal levels of educational achievement. The structure of the Ukrainian economy remained concentrated in sectors with low added value. While trade integration with the EU has been advancing recently, including thanks to the implementation of the Deep and

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<sup>4</sup> In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.



Comprehensive Free Trade Area, it remains rather low. At the same time, the international response in support of Ukraine has been massive over the last year, and future reconstruction could also help support modernisation, in which Ukraine specialises in higher value-added chains, and help strengthen its competitiveness.

**On good neighbourly relations and regional cooperation**, Ukraine maintains good bilateral relations with other enlargement countries and with neighbouring EU Member States. These have been strengthened amidst Russia's war of aggression leading to further deepening cooperation with many of those countries, marked by a number of high-level visits and considerable humanitarian, military and financial support.

On Ukraine's **ability to assume the obligation of EU membership**, the country continued to work on alignment with the *acquis* in many areas.

The **internal market** cluster is key to Ukraine's preparations for the requirements of the EU internal market and is of high relevance for the implementation of the Deep and Comprehensive Free Trade Area. Some/good progress was made in the area of free movement of capital and intellectual property law. Some progress was achieved in several areas, particularly in financial services, free movement of goods, right of establishment and freedom to provide services, and company law. Progress was limited in the area of competition policy as well as consumer and health protection, with no progress in the area of freedom of movement for workers due to Russia's full-scale invasion of Ukraine.

The **competitiveness and inclusive growth** cluster and the related reforms are closely linked to the ability and capacity for recovery and reconstruction. This requires increasing competitiveness and building a sustainable and inclusive economy. Good progress was achieved in digital transformation and media and in the customs union. Some progress was made on taxation and education and culture. Limited progress was made in social policy and employment, enterprise and industrial policy, and science and research. No progress could be made – due to Russia's full scale invasion which demanded extraordinary economic policy measures – on economic and monetary policy.

The **Green Agenda and sustainable connectivity** cluster and the related reforms are also intricately linked to Ukraine's reconstruction during and after the war. Russia's war of aggression against Ukraine has been highly detrimental to the transport infrastructure, environment and climate. Progress was achieved in several areas within the cluster, with good progress on environment, some progress on energy and Trans-European networks, while progress was limited in the area of climate change and transport policy.

In the areas covered by the cluster on **resources, agriculture and cohesion**, progress was achieved in particular in three areas, namely some progress in agriculture and rural development, food safety and veterinary (SPS) and phytosanitary policy as well as in the area of fisheries and aquaculture. Progress was limited in regional policy and the coordination of structural instruments and financial and budgetary provisions.

In the **external relations** cluster, Ukraine has good level of preparation. As regards the foreign, security and defence policy, Ukraine has made good progress, as it has increased the alignment rate with relevant EU decisions and declarations of the EU's common foreign and security policy to 93% (2022). Progress was limited in alignment with the EU's trade policy.

### 1.3. ASSESSMENT OF THE IMPLEMENTATION OF THE SEVEN STEPS OF THE COMMISSION'S OPINION

*Step 1 - enact and implement legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on evaluation of their integrity and professional skills, in line with Venice Commission recommendations.*

In December and July, Ukraine adopted the necessary legislation that introduced a pre-selection process for the Constitutional Court judges on the basis of integrity and professionalism criteria, in line with the Venice Commission recommendations. Internationally-nominated members of the pre-selection body – the Advisory Group of Experts – obtained a temporary but decisive role in this body. Ukraine launched the implementation process. The Parliament and the Council of Judges announced competitions to fill the available vacancies in the Constitutional Court. The President and the Council of Judges appointed their members and substitutes to the Advisory Group of Experts, while the Parliament is continuing the appointment procedure. In September, the Venice Commission and the international donors, including the EU, submitted their nominations of members and substitutes of the Advisory Group of Experts. In October, the Cabinet of Ministers formally appointed them. With five appointed members and five substitutes, the Advisory Group of Experts became operational. **This step is completed.**

*Step 2 - finalise the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine.*

The Ethics Council completed the integrity vetting of the candidates for open positions in the High Council of Justice (HCJ). The HCJ became fully operational in January 2023 when it reached its quorum of 15 members. In June 2023, the renewed HCJ appointed 16 new members of the High Qualification Commission of Judges (HQCJ) out of a shortlist of 32 candidates proposed by the HQCJ Selection Commission, following a transparent and merit-based process, including an integrity and professionalism check. **This step is completed.**

*Step 3 - further strengthen the fight against corruption, in particular at high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions; complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor's Office through certifying the identified winner of the competition and launch and complete the selection process and appointment for a new Director of the National Anti-Corruption Bureau of Ukraine.*

Ukraine has further developed its track record in fighting corruption. Until the end of September 2023, 82 indictments against 203 persons were sent to court; should this trend continue, the number of indictments would double in 2023 compared to previous years. The High Anti-Corruption Court (HACC), until the end of September 2023, has significantly increased its overall performance and delivered 48 verdicts against 64 defendants in first instance, and 26 verdicts against 32 defendants in second instance. The cases investigated and adjudicated concerned prominent high-level public officials including former deputy ministers, former parliamentarians and high-level judges, e.g. the serving President of the Supreme Court. Ukraine appointed the heads of the Specialised Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU). Ukraine adopted a comprehensive State Anti-Corruption Programme in March 2023 and launched the IT system for monitoring its implementation, as well as the Unified Portal for Whistle-blower Reports.

The e-asset declaration system, suspended after the introduction of martial law, was restored

and opened to the public, albeit with some potential weaknesses related to the verification powers of the National Agency on Corruption Prevention (NACP) and the data to be verified. The Parliament has also adopted a law that would weaken administrative liability related to e-asset declarations, but the President has not signed this law into effect.

Draft legislation was developed and registered in the Parliament that enhances the independence of SAPO and the effectiveness of the Criminal and Criminal Procedure Codes in the fight against high-level corruption. Also, a draft law increasing the staffing cap for NABU was registered in the Parliament.

Ukraine should still enact a law raising the legislative staffing cap for the NABU and remove from the law on corruption prevention the provisions restricting the NACP's powers to continued verification of assets that have already undergone the verification process and limiting NACP's powers to verify property acquired by declarants before joining the public service, without prejudice to the rules applying to national security during wartime.

***Step 4 - ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF); adopt an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine's security environment.***

In September 2022, the Parliament adopted a new law on ultimate beneficial ownership, while the Government subsequently adopted the necessary implementing legislation on the registration and verification of beneficial ownership information, identification of the ultimate beneficial owners and liability for violations. The Government has adopted a bylaw regulating the supervision of non-financial businesses and professions. Ukraine has also developed and registered a new draft law on targeted financial sanctions and adopted a bylaw on the evidentiary standards for listing of individuals and entities on the terrorist sanctions lists. The Office of the Prosecutor General issued instructions and methodological guidance to all regional prosecution offices on the investigation of money laundering offences and the application of financial investigations in proceeds-generating crimes, thus clarifying the regulatory framework on financial investigations. Furthermore, a new draft law on virtual assets has been prepared and is undergoing an approval procedure within the Government.

In May 2023, the President approved the comprehensive strategic plan for the reform of the law enforcement sector.

Ukraine further advanced the alignment of its anti-money laundering legislation with the FATF standards. In October 2023, the Parliament adopted a law removing a three-year time limitation and reverting to a risk-based approach for former holders of prominent public functions to be qualified as politically exposed persons to restore a FATF-compliant definition of politically exposed persons. The Commission can accept the definition of PEP's however the Commission encourages the Ukrainian supervisor (the NBU) to issue guidance making clear to obliged entities that the national list of PEPs is indicative and not exhaustive.

**This step is completed.** However, the Commission assessment cannot prejudice in any way the future assessment of Moneyval.

***Step 5 - implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation.***

Ukraine has prioritised systemic measures against oligarchs, in line with the Venice Commission recommendations issued in June 2023. Ukraine updated and continued to implement its Action Plan to reduce the influence of oligarchs, which includes systemic

reforms in key areas affected by the vested interests. Beside the reform of the judicial governance bodies and the Constitutional Court, adoption of a new media law, implementation of the state anti-corruption programme and the finalisation of the legal framework on the ultimate beneficial ownership, Ukraine has adopted and signed into effect legislation strengthening the Anti-Monopoly Committee of Ukraine and restoring the financial reporting of political parties and the verification functions of the relevant institutions.

Ukraine is also developing a comprehensive law on lobbying in consultation with international experts; public consultations have been planned. The Government also decided to postpone the implementation of the law on oligarchs that was criticised by the Venice Commission by amending the Government's Anti-Oligarch Action Plan and to prepare amendments to it within three months after the end of the martial law, taking into account the recommendations of the Venice Commission.

Furthermore, Ukraine should still enact a law regulating lobbying in line with European standards, as part of the anti-oligarch action plan.

***Step 6 - tackle the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the EU audio-visual media services directive and empowers the independent media regulator.***

Ukraine adopted the new media law in December 2022. In May 2023, it adopted further amendments to the advertising law to align its law with EU audio-visual media services directive and to address outstanding issues in its media law related to blacklisting and hate speech. **The step is completed.**

***Step 7 - finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission, and adopt immediate and effective implementation mechanisms.***

The law on national minorities (communities) was adopted in December 2022 and amended in September 2023, following the Venice Commission Opinion recommendations of June 2023 on that law. The follow-up Venice Commission Opinion adopted on 6 October 2023 acknowledges progress made, but also identifies a number of remaining issues where previous recommendations were not or only partially addressed.

Certain implementation mechanisms were adopted, among them the State Programme "Unity in Diversity", which are to be complemented by additional implementation measures, in particular a resolution on the methodology for language use in traditional settlements of persons belonging to national minorities or where they make up a significant part of the population.

In addition to that, in June 2023, Ukraine adopted a law extending the transition period for education in minority languages by one year for pupils who started their education before 1 September 2018 and, in October, registered a draft law in the Parliament to permanently exempt these pupils from the obligations of the Education Law. The Cabinet of Ministers is obliged, according to the final provisions of the revised Law on national minorities (communities), to prepare and submit to Parliament, within six months after the entry into force of the law, a draft law to revise the education law, the State language law and the media law.

Ukraine should still enact a law addressing the remaining Venice Commission recommendations from June 2023 and October 2023 linked to the Law on national minorities, also addressing the Venice Commission recommendations linked to the laws on State language, media and education.

## 2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

### 2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

Due to the Russian war of aggression, Ukraine temporarily invoked **martial law** on 24 February 2022, by Presidential decree and approved by Parliament. It has been extended eight times, with the current extension in place until 15 November 2023. Martial law authorises the military command and military administrations either independently or with the Ministry of Internal Affairs of Ukraine, other executive bodies and local self-government authorities, to introduce various restrictions on rights and freedoms of individuals as well as rights and legal interests of legal entities. The application of martial law has overall been proportionate.

While martial law is in place, elections are prohibited, as is amending the Constitution of Ukraine. Regular parliamentary elections due in October 2023 had therefore to be postponed.

#### 2.1.1. Democracy

Despite Russia's full-scale invasion in February 2022 and ongoing war of aggression, Ukraine has continued to make progress on democratic and rule of law reforms. The granting of EU candidate status to Ukraine in June 2022 has led to a further acceleration of reform efforts. Currently, a martial law is in place.

#### Elections

During the reporting period, no elections took place. Overall, the legal framework remains conducive to the organisation of democratic elections. The reform of the electoral legal framework should be continued to address outstanding OSCE/ODIHR recommendations.

Key recommendations in the latest OSCE/ODIHR election observation mission reports were addressed. The electoral code adopted in 2019 harmonised all electoral procedures. It introduced, among other things, an open-list proportional representation system and enfranchised internally displaced persons.

Following the 2020 local elections, work on a comprehensive revision of the electoral code has been ongoing, and the process has been transparent and inclusive.

#### Parliament

The work of the Parliament (Verkhovna Rada) continues to be marked by extraordinary circumstances related to the Russia's war of aggression. However, legislative tasks are carried out systematically, laying the ground for an uninterrupted democratic decision-making process. Key decisions, especially on defence/security questions, were adopted by clear cross-party majorities. Considerable attention was paid to legislation related to EU integration. The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive. Use of the urgent procedure to pass legislation is relatively limited. Comprehensive impact assessments of proposed legislation and legislative oversight of the executive, including monitoring the implementation of legislation, need to be strengthened.

On 23 February 2022, the Parliament endorsed the President's decision to introduce martial law due to the full-scale Russian military aggression. Despite the circumstances during the reporting period, the Verkhovna Rada conducts systematic legislative activity (including plenary sessions and committee meetings), taking an active part in the overall reform process.

The Parliament's rules of procedure are in place and are being amended successively in line with its roadmap for internal reform and capacity building. The code of conduct for members of parliament has not been adopted yet. The majority of rules related to integrity and prevention of corruption are regulated by anti-corruption legislation. In this regard, the obligation for members of Parliament to submit an electronic asset declaration each year has been suspended in connection with martial law.

There are currently 23 committees in the Parliament. All committees are responsible for both legislative and **oversight/control** functions. Ministerial reports, the consideration of interpellations as well as the assessment of candidates for public offices were carried out during online meetings. At the same time, overall parliamentary scrutiny, including the monitoring and implementation of legislation, should be strengthened.

The Parliament's rules of procedure do not regulate the issue of **gender balance**. At the same time, according to the government's rules of procedure, gender legal expertise is mandatory for all draft laws drafted by government. The percentage of female members of Parliament is currently at a historic high of 21%.

The Russian invasion and subsequent introduction of martial law had an impact on the **transparency** of parliamentary activities. At present, the sessions are not livestreamed on the TV channel Rada. Journalists are not authorised to attend the plenary meetings, while parliamentary requests, as well as requests for public information and by-name voting, are not available on the parliamentary website. Furthermore, due to security reasons there is no schedule of plenary meetings – they are to be called by the Chairman of the Parliament based on needs. Reinstating public consultations and scrutiny is crucial after martial law has been lifted.

As of January 2022, there were 370 registered **political parties** in Ukraine. In May 2022, the law prohibiting the activity of pro-Russian parties entered into force. Since then, 16 parties have been prohibited by court.

In 2020, an amended version of the law on political parties was prepared in a broad consultation and on the basis of a joint OSCE/ODIHR and Venice Commission Opinion. Work on the draft law was suspended after February 2022 and resumed in September 2022. OSCE/ODIHR provided legal expertise in the process.

The Law on restoration of financial reporting of political parties was adopted by the Parliament on 23 August and signed by President on 26 September. **Governance**

On **multi-level governance**, the achievements of decentralisation reform continue to be evidenced, with municipalities acting as a pillar of state resilience in mobilising bottom-up support, resetting basic social services, helping organise voluntary territorial defence and receiving large numbers of internally displaced persons.

At the same time, martial law gave rise to the creation of a large number of military administrations at local level. Ukraine should clarify, by law, the criteria for establishing them and for restoring local self-government in the liberated territories and those near the frontlines, where the security situation allows democratically elected bodies to perform their tasks.

Overall, following the successful finalisation of the territorial part of decentralisation, other elements of the reform still need to be completed. Draft constitutional amendments in particular, aimed at ensuring that decentralisation reform is sustainable and irreversible, have not yet been taken forward due to the ban on constitutional revisions during martial law. There was also limited progress in key legislative files aimed at clarifying the role of the tiers of local administration (regional, district, municipal) to delineate powers between central and local

levels and to put in place appropriate internal structures for municipal administrations. The rules of supervision of local authorities' activities, in line with the European Charter of Local Self-Government, have not yet been set up. Work should also continue on granting legal personality to municipalities under public law, based on European practice. The recently adopted Law on service in local self-government is likely to bring fairer and more transparent rules on the employment of officials at local level.

In institutional terms, the Ministry of Restoration was set up to merge previous infrastructure and regional development ministries. As a way forward, the new office should synergise both portfolios and organise resources accordingly, including via the Agency of Restoration, with a view to stimulate locally driven recovery and reconstruction. This will also require more systematic involvement of local authorities and associations in policy design and implementation, based on a formally embedded coordination mechanism. The Congress of Local and Regional Authorities, with its permanent office, is an advisory body under the President of Ukraine that has no such mandate established by law. Ukraine should refrain from enacting the law on urban planning in its current form as it creates integrity risks resulting from delegating excessive control powers in urban planning control from public to private entities, and leads to the disempowerment of local authorities in this sphere.

Fiscal decentralisation was maintained, with 64% of personal income tax (PIT), and PIT from the military staff allocated to municipalities in 2023. In parallel, certain local subsidies for delegated tasks decreased, and centrally established exemptions in local taxes were not compensated. The solid local fiscal base therefore needs to be ensured to avoid a disproportionate financial vulnerability of municipalities. This can be done through a fair distribution of PIT to municipalities where the taxpayers actually reside and a necessary extension of sources of local taxation.

### **Civil society**

Ukraine's vibrant civil society remains engaged in reform processes and in the response to the impact of Russia's aggression. Volunteer movements and informal civil society groups often act as the backbone of humanitarian action across the country, including in the liberated and in temporarily occupied territories of Ukraine. In many respects they are key to the country's resilience.

The legal framework continues to guarantee the rights of freedoms of association, expression and peaceful assembly. An ambitious multi-year civil society development strategy is in place, providing for more meaningful engagement with civil society. However, the impact of its full implementation is yet to be assessed, while the government should consider adapting it with respect to the ongoing war and an envisaged post-war recovery. The government should further expand its public funding programmes for civil society organisations and work on improving the dialogue and consultations with them. A draft law on public consultation that has passed first reading in the Verkhovna Rada already in 2021, should be adopted. Additional efforts are also needed to address and investigate the cases of pressure and threats against civic activists. Measures were taken to support the registration of civil society organisations and simplify rules on reporting and taxation, for instance the amendments to the Law on volunteering.

An empowered civil society is a crucial component of any democratic system and is recognised and treated as such by state institutions. Civil society remains a key element of Ukrainian democracy, maintaining social bonds and fabrics, and contributing to the resilience of society at large. Volunteer movements and informal civil society groups often act as the backbone of humanitarian action across the country, including in temporarily occupied territories or newly liberated regions, while many of its members now also serve in Ukraine's armed forces.

The expertise of Ukrainian civil society organisations on key sector reforms has made them an important partner for the government as well as for Ukraine's international partners. Since the start of Russia's war of aggression, Ukraine's civil society has not only maintained its critical watchdog function but has also stepped up its efforts in terms of service provision, volunteering, humanitarian and human rights action, complementing the work of public administration and government. COVID-19 restrictions introduced since 2020 and martial law since 2022 have not significantly restricted the activities of civil society organisations, but have limited their possibilities to monitor the work of public administration.

Ukraine has several strategic documents to foster civil society engagement, including the 2021-2026 national strategy for promoting civil society development of September 2021, the national barrier-free strategy, and the national human rights strategy. These documents have continued to be implemented despite the impact of Russia's war of aggression and martial law. The action plan for the implementation of the national civil society strategy until 2024 was approved in February 2023 and contains 43 tasks across all four specific objectives of the strategy, which aim at improving the system for public participation in government policy making, creating an enabling environment for civil society development and promote participation of CSOs in the social and economic development of Ukraine and strengthen intersectoral cooperation. As part of human rights strategy implementation, work is ongoing to improve the anti-bullying legislation.

The existing legal framework guarantees the rights to the freedoms of expression, peaceful assembly and association. Measures have been put in place to ensure a three-day registration for non-governmental organisations and one-day registration for charities. The non-profit status exempts civil society organisations from the obligation to pay 18% corporate income tax. Charitable and volunteer donations are also tax-exempt.

Public funding for civil society organisations in Ukraine is mandated by a respective governmental decree. This provides a mechanism to allocate public funding at both national and local level, and a number of calls for proposals have been launched by several ministries and state funds, especially since the launch of online contest-based public funding for projects via the e-governance platform VzaemoDiia in 2021, which facilitated CSO access to public funding while increasing the transparency of the procedure. However, since the start of Russia's war of aggression, levels of public funding for CSOs have been reduced and no new CSO institutional support mechanism has been established. The allocation of public funding via VzaemoDiia was suspended on 24 February 2022 and was only partially resumed in September 2022. Since then, 8 online contests have been held. Both the Ukrainian Cultural Fund and the Ukrainian Institute reported funding cuts for their activities.

As a result of Russia's full-scale invasion, a high number of people fleeing the war beyond Ukraine's borders, act as volunteers from abroad, extending range of volunteer movements by civil society. The law on volunteering, amended in 2022, improved for instance the legal standing of volunteers in relation to their hosting organisations. Continued improvements are needed to implement Ukraine's civil society development strategy for 2021-2026, which includes points to further develop the legal framework and expand the state programme of volunteering, also to cover social needs.

CSOs have been expanding their cooperation with public institutions, including on humanitarian response, assistance to internally displaced persons as well as mental health and psychosocial support services. The recently adopted anti-corruption strategy for 2021-2025 is a good example of interactions and consultation with CSOs and proper consideration of their inputs. The legal framework for public consultations requires further standardisation and consolidation to ensure equal and fair access to public policy making for all stakeholders. The



final adoption of the draft law on public consultation, which passed first reading in Parliament in March 2021, is still pending.

While there is an open and active civic space largely respected by Ukrainian authorities, there are still examples of pressure and threats against local civic activists in particular, in some cases leading to violence. The authorities should continue to condemn such attacks, and effective investigations should ensure that there is no impunity for such crimes. and that such practices will not become widespread as in the past. Incidents of past pressure and attacks against civil society representatives, before the full-scale invasion of February 2022, still need to be fully investigated and prosecuted. In the territories temporarily occupied by Russia, only volunteers and informal civil society groups and activists are able to operate due to restricted access. In order to maintain crucial links with the Ukrainian state and people of Ukraine for mutual support, these volunteers and informal civil society groups often face high risks to their safety.

### 2.1.2. Public administration reform

Ukraine has **some level of preparation** in the area of public administration reform (PAR), with **limited progress** made during the reporting period. While Ukrainian public administration has proved to be resilient during Russia's war of aggression against Ukraine, reform has slowed or stopped in a number of sectors, in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the Human Resources Management Information System. The digitalisation of service delivery has reached a high level.

In the coming year, Ukraine should in particular:

- ensure timely alignment of existing legislation with the Law on administrative procedures in all sectors covered by its scope;
- restore merit-based recruitment and the selection process, as well as implement job classification as a precondition for comprehensive salary reform;
- make progress in the country-wide roll-out of the Human Resources Management Information System.

#### Strategic framework for public administration reform

The 2022-2025 PAR **strategy** and its action plan were amended in December 2022 to take into account Ukraine's EU candidate status and requirements under martial law. Both the strategy and the action plan continued to be monitored via a PAR Coordination Council (advisory body that includes representatives of the government, Parliament, civil society and PAR experts' network), albeit less often (one meeting in 2022). Under martial law, PAR financial sustainability has been deprioritised, and public financing largely relies on donor support.

**Political support** for PAR remains uneven. While it has been demonstrated in digitalisation and service delivery, in other areas, in particular the civil service and salary reform, the practical measures fall short of the declared objectives.

#### Policy development and coordination

The **policy-making system** is well established. The Secretariat of the Cabinet of Ministers conducts quality assurance and coordination of draft documents at the final stages of the process. However, the actual capacity of the government in terms of **evidence-based policy-making** remains insufficient. The explanatory notes that accompany legislative proposals do not often meet required standards. Line ministries rarely estimate the cost of draft policy documents and legal acts (in 2022, only two out of 28 policy documents approved by the Cabinet of Ministers included information on the implementation costs). The creation of policy

directorates in ministries and recruitment to fill reform support posts intended to address these gaps and provide technical support in implementing priority reforms - is incomplete. By the end of 2022, less than 750 reform support posts had been filled out of 3 000 planned posts, with a declining trend in 2023.

Parliament shares the right of legislative initiative with the government. In practice, over 80% of legislation originates from Parliament. The drafts submitted by parliamentarians often lack proper explanatory notes and/or impact assessments, which affects the quality of laws.

There are no formal requirements or systematic practices for **monitoring** the implementation of policies and legislation. Monitoring of the mid-term action plan and of the annual action plan by the Secretariat of the Cabinet of Ministers is mostly conducted on an *ad hoc* basis, with no outcome or impact indicators. It is necessary to ensure proper standards for both *ex ante* and *ex post* regulatory impact assessments, in particular to prepare a framework for tackling the challenges related to recovery.

Planning and coordination mechanisms for Ukraine's European integration process are in place. However, the Government Office for Coordination on European and Euro-Atlantic Integration lacks resources to manage the process effectively from within the Cabinet of Ministers, while the capacities of line ministries vary. A functional framework to ensure that the European integration framework is incorporated into an improved national decision-making process is yet to be established.

#### Public financial management (PFM)

The current PFM reform strategy and action plan for 2022-2025 is broadly aligned with other strategic documents, including the 2022-2025 PAR strategy, and is subject to regular monitoring.

The legal basis and institutional architecture within the Ministry of Finance to support fiscal risk monitoring and management has been established. However, capacity tools need to be developed further and practically implemented. The legislative basis for implementation of a medium-term budgetary framework is in place. The medium-term budget declaration (2022-2024) was put on hold due to the war. The government remains committed to a medium-term budgetary framework; it has made an agreement with the IMF to present the 2025 budget with a comprehensive framework for 2026-2028, which must be preceded by a risk analysis in the next year. A public investment management diagnostic assessment was finalised in late 2022. It flagged a number of issues to be addressed, including strengthening the role for the Ministry of Finance as a gatekeeper of public investments.

**Budget transparency** and openness in budgeting are limited in Ukraine, as reported by the Open Budget Index, and worsened under martial law. It should be gradually restored where possible. The capacity of Parliament and the Accounting Chamber to oversee the budget process should be improved as a matter of priority.

On digitalisation, efforts are being made to digitalise public internal financial control procedures as well as the budgetary planning process. Good progress has been made on the digitalisation of tax and customs administration (e.g. New Computerised Transit System Phase 4 was introduced in customs in autumn 2022; call centre, e-cash register and Single Tax Account in tax), and security of data has been improved.

#### Public services and human resources management

Overall, the Law on civil service provides a sound regulation framework, although martial law has affected it significantly. The **merit-based recruitment and selection procedure** was

suspended (which was also the case under COVID-19 measures from March 2020 to April 2021). Long periods with a lack of procedures to safeguard a professional and depoliticised civil service, in combination with the widespread use of non-transparent direct appointments, has undermined the civil service' competitiveness and independence.

Gender representation in the civil service continues to be unbalanced. By the end of 2022, senior management comprised 70% men and 30% women, middle management 33% men and 67% women, and at the executive level 22% men and 78% women.

Digitalisation of the human resources framework remains insufficient. Development and use of the **Human Resource Management Information System (HRMIS)** – aiming to provide a digital platform for all HR transactions across government institutions for the purpose of policymaking, transparency and accountability – has progressed very unevenly since 2017. HRMIS, including its payroll module, has been launched as the main HRM IT system by only a limited number of institutions and currently provides information on around 15% of posts.

The current **job classification** model only covers responsibility based on the civil servant's place in the administrative and institutional hierarchy. A professional job classification model piloted by the National Agency on Civil Service (NACS) had no systematic follow-up. The **remuneration system** remains non-transparent and unequal. As a result, the ability to offer a competitive position varies across institutions. Overall, senior management turnover is considerable, which results in a lack of staff stability. Systematic efforts are needed to attract, recruit and develop highly professional and non-partisan senior management.

Regarding **professional development**, civil servants are obliged to undergo training each year. NACS adjusted the training programme under martial law. The Higher School of Public Administration was established in October 2022 as a state in-service training institution reporting to NACS, based on the Ukrainian school of governance. It is tasked with training civil servants, heads of local state administrations, their first deputies and deputies, local self-government officials and deputies of local councils.

#### Accountability of the administration

Parliament scrutinises the Cabinet of Ministers in line with the models operating in EU Member States (approval process of the government's political programme, annual reporting, regular Q&A sessions, member of parliament requests, etc.). Public administration is also scrutinised by the Ombudsman and the Accounting Chamber. However, the Accounting Chamber has not fulfilled its oversight functions according to international standards, given the lack of a registry of recommendations and in turn the lack of a monitoring framework.

A key development in the service delivery area was the enactment of the Law on administrative procedure in May 2022, which is essential for developing the **right to good administration**. The law unifies currently fragmented administrative procedures across various sectors. The government is also preparing amendments to sectoral laws and implementing legislation, internal rules and procedures, and working processes. Certain institutions have recently asked to be exempted from the application of the law. Ukraine should refrain from introducing new exemptions from application of the law (e.g. Tax Service) as it would drastically reduce its overall impact.

The constitutional **right to fair trial** has been maintained under martial law. Administrative courts have been operating on a regular basis, with some adjustments due to security considerations. However, following the abolition of the Kyiv district administrative court, access to justice in cases involving central government bodies is undermined, since the new court is not yet established while the temporary court is overwhelmed. The Ministry of Justice

suspended the operation of state-run registers and databases. Access to **public information** has also been restricted for security reasons and granted on a case-by-case basis. A number of measures have been taken to make public registers secure, for example storing certain data on servers outside the country. The right to compensation is provided for in the legislation and applied.

### Service delivery to citizens and businesses

The institutional and legal frameworks for public service delivery are in place to ensure a **user-oriented public administration**. A broad network of offline administrative service centres established locally have continued to perform well, despite war damage, thanks to their offices, remote workplaces and mobile centres.

Transforming **digital service delivery** ('State in a smartphone'), followed by the creation of the Ministry of Digital Transformation, continued to produce positive effects. The online portal for digital services (Diia portal) and the mobile application, currently provide more mature digital services. They are based on a remote qualified electronic signature and the full validity of digital documents and credentials. Both the Diia portal and Diia mobile application (17.3 million users) have played a crucial role in continuing to provide the public with access to extended number of digital services, including to internally displaced persons and Ukrainian refugees.

## **2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS**

### **2.2.1. Chapter 23: Judiciary and fundamental rights**

*The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.*

Ukraine has **some level of preparation** in implementing the EU *acquis* and European standards in the area of the judiciary, fight against corruption and fundamental rights. Despite Russia's war of aggression, **good progress** was made in this area and the relevant institutions continued operations, the delivery of vital services to citizens and reform efforts, demonstrating remarkable resilience. The efforts in the area of the judiciary, anti-corruption and fundamental rights need to continue and be further consolidated.

### **Functioning of the judiciary**

Ukraine has **some level of preparation** in the functioning of the judiciary. Despite the Russian war of aggression, **good progress** was made with the implementation of the 2021 reform of the judicial governance bodies during the reporting period. The High Council of Justice (HCJ) and the High Qualification Commission of Judges (HQCJ) were re-established following a transparent and meritocratic process with the meaningful involvement of independent experts. It enables the government to start filling more than 2 000 judicial vacancies and to resume the qualification evaluation (vetting) of sitting judges. Ukraine also adopted the law on a transparent and merit-based preselection of judges of the Constitutional Court, in line with the Venice Commission recommendations, and started implementing it. Legislation was adopted to establish a strong service of disciplinary inspectors and to resume disciplinary proceedings against judges. The new administrative court to handle cases involving the central government bodies and staffed by properly-vetted judges needs to be established following the abolition of the Kyiv District Administrative Court.

In the coming year, Ukraine should in particular:

- fill the open vacancies in the Constitutional Court of Ukraine in line with the adopted legislation; relaunch the selection of ordinary judges on the basis of the improved legal framework, including clear integrity and professionalism criteria and the strong role of the Public Integrity Council; resume the evaluation of the qualification of judges (vetting), which was suspended in 2019; introduce a transparent and merit-based selection of management-level prosecutors by amending the legal framework and taking the necessary institutional measures;
- establish the service of disciplinary inspectors following a transparent and meritocratic selection process and resume the handling of disciplinary proceedings against judges prioritising high-profile cases and cases nearing the statute of limitation; take effective measures to address corruption risks in the Supreme Court; strengthen the disciplinary system for prosecutors by improving the existing legal and institutional framework;
- complete a comprehensive IT audit, including the existing IT systems, business processes and organisational structure, and based on the audit results, adopt and start implementing a roadmap to modernise IT in the judiciary, including the development of the new case management system.

Russia's military aggression against Ukraine has posed major challenges to Ukraine's judicial system. By the end of April 2023, 12 members of its judicial staff were killed, 114 court buildings (15% of the total) were either destroyed or damaged by the hostilities, and a large number of case files were lost. The material losses suffered by the courts are estimated at EUR 47 million. The Prosecution Service has also suffered severe damage. 6 staff members were killed, 64 buildings of the prosecutor's offices were either fully or partially destroyed, while 173 buildings remain in the temporarily occupied territories of Ukraine. The material damage exceeds EUR 22 million. The administration of justice has been affected by air strikes, air raid alerts and frequent power outages. Parties to court proceedings were displaced internally or abroad, which disrupted the handling of cases. More than 80 000 cases related to war crimes, crimes against humanity and other war-related offences were opened, thereby shifting the work priorities and placing an additional burden on the criminal justice system. Administering justice in areas of active hostilities and temporarily occupied territories has become impossible. Despite these significant challenges, the Ukrainian judicial, prosecution and other justice institutions showed remarkable resilience by continuing to provide justice services to citizens and companies, while also implementing reforms. The necessary legislative, organisational and technical measures were taken to allow courts to swiftly adapt their work to the new martial law realities and protect court users, while providing continuous access to justice. In particular, legislation was adopted that allowed the territorial jurisdiction of courts to be changed and court cases to be relocated to other parts of the country if it became impossible to administer justice in a certain territory, along with the secondment of judges to other courts.

The **reform of the two key judicial governance bodies** – the HCJ and the HQCJ – was completed. This reform was triggered by insufficient independence of the judiciary from the executive and legislative branches, low public trust in the judiciary, high levels of corruption and the strong influence of vested interests in the work of courts. The reform started in July 2021 with the adoption of ambitious legislation that introduced robust integrity vetting for the HCJ sitting and candidate members, as well as integrity and professionalism checks of HQCJ candidates. The legislation envisaged a temporary yet decisive role for independent experts nominated by international donors, including the EU, in the respective selection and vetting bodies. The reform was fully aligned with the relevant Venice Commission recommendations,

focusing on strengthening integrity and public trust in the judiciary. By law, the HCJ is composed of 21 members. At the start of the reform, the HCJ had 15 members and 10 of them stepped down, leaving the HCJ with only five members, including the Head of the Supreme Court as the ex officio member. The Ethics Council, composed of three national and three international experts, completed the integrity check of four appointed HCJ members in May 2022, declaring one HCJ member as non-compliant. It then proceeded with the integrity check of the HCJ candidates. By January 2023, 11 new HCJ members – duly vetted by the Ethics Council – were appointed by the relevant appointing bodies. With these appointments, the renewed HCJ reached 15 members and became operational again. By June 2023, two more duly vetted HCJ members were appointed, increasing the HCJ's composition to 17 members.

The integrity and professionalism check of 301 HQCJ candidates by the Selection Commission, composed of three national and three international experts, was completed in March 2023. The competition included a thorough background check of candidates and an interview with the 64 best candidates. Based on the results of this second stage of the competition, the Selection Commission formed a shortlist of 32 candidates for further consideration by the HCJ. In June 2023, the HCJ appointed 16 new HQCJ members proposed by the Selection Commission, following a transparent interview and individual voting procedure, making the HQCJ fully operational.

The reform of the judicial governance bodies was finalised against the backdrop of a high-level corruption case involving the Head of the Supreme Court. This case became public in mid-May, when the National Anti-Corruption Bureau claimed to have uncovered an organised crime group that allegedly received a bribe equivalent to EUR 2 500 000 to influence Supreme Court decisions favouring a particular oligarch. The Head of the Supreme Court was dismissed and put into custody while the investigation was ongoing.

This corruption case highlighted on the one hand the robustness of the specialised anti-corruption institutions established with strong EU support after the 2014 Revolution of Dignity, and on the other the need to pursue reforms in the justice, law enforcement and wider public sector to address the existing corruption challenges and irreversibly consolidate integrity, efficiency and professionalism, while striking the right balance between independence and accountability. Effective integrity tools should be used to address corruption in the Supreme Court and other courts, including through the verification of integrity and asset declarations of judges, disciplinary framework and improved selection procedures with a strong focus on integrity and professional ethics. These measures should help in building public trust in the judiciary, which remains very low. Based on opinion surveys, public trust has been growing in recent years (in 2021, 15.5% of respondents trusted the judiciary, while in 2023 it was 24.8%). Foreign business associations continue to cite problems with the judiciary and the prevalence of corruption as some of the main obstacles to doing business in Ukraine.

Good progress was achieved with the reform of the **Constitutional Court** of Ukraine (CCU). In December 2022, Ukraine adopted a law to reform the selection procedure for future CCU judges. It was not fully compliant with the Venice Commission recommendations issued in December 2022. The internationally nominated members of the CCU pre-selection body – the Advisory Group of Experts – were not provided a temporary yet decisive role in the pre-selection procedure. This was recommended by the Venice Commission to restore trust in the CCU, whose reputation was damaged by corruption allegations against its judges and several controversial CCU decisions. In July 2023, Ukraine adopted amendments to the CCU Law, which implemented the outstanding Venice Commission recommendations contained in its Opinions on CCU reform from December 2022 and June 2023. Following the adoption of these amendments, the CCU selection reform has started to be implemented. The Parliament and the

Council of Judges announced competitions to fill the available vacancies in the Constitutional Court. The President and the Council of Judges appointed their members and substitutes to the Advisory Group of Experts, while the Parliament is continuing the appointment procedure. In September, upon the formal request of the Government, the Venice Commission and the international donors, including the EU, submitted their nominations of members and substitutes of the Advisory Group of Experts. In October, the Cabinet of Ministers formally appointed them. With five appointed members and five substitutes, the Advisory Group of Experts became operational and can proceed with the pre-selection of candidates to the position of the Constitutional Court. The reform of the CCU should continue with the adoption of a law on the constitutional procedure, in line with Venice Commission recommendations, to improve transparency and accountability in the work of the CCU and make the constitutional procedure more efficient.

In December 2022, the Parliament adopted a law abolishing the Kyiv district administrative court (KDAC), which handled disputes involving the central government bodies. Some KDAC judges were subject to numerous controversies and corruption investigations. Under the adopted law, KDAC was abolished and obliged to transfer its cases to the Kyiv region administrative court until a new Kyiv city administrative court is established. Delays in the transfer of cases and in the establishment of the new court, along with limited capacities of the Kyiv region administrative court to assume new obligations, undermined access to justice. The law did not regulate the status of former KDAC judges. Under the general rules, KDAC judges may be transferred to a court of the same level without the need for a competition. Before any such transfer, KDAC judges should complete the qualification evaluation procedure, including integrity vetting. The renewed HQCJ and HCJ must launch the establishment of a new administrative court to handle cases involving the central government bodies ensuring that this court is staffed with duly vetted judges. This will enable an efficient and fair handling of administrative disputes involving central government.

#### Strategic documents

The 2021-2023 strategy for the development of the justice system and constitutional judiciary identified the main reform areas in the justice sector, including the reorganisation of local courts, reform of the key judicial governance bodies, consolidation of the Supreme Court key function to guarantee uniformity of jurisprudence, development of alternative dispute resolution, selection of new judges, prosecutorial reform, as well as the reform of the Constitutional Court. Part of the reform measures contained in the strategy were duly implemented, in particular the reform of judicial governance bodies and the selection of CCU judges. No formal assessment of the implementation of the strategy was carried out. A new strategy for the reform of the justice system to respond to the challenges of wartime still needs to be developed, in a transparent and inclusive manner, and adopted.

In May 2023, the President of Ukraine approved a comprehensive strategic plan for the reform of law enforcement bodies for 2023-2027. Among other measures, it provides broad reform guidance for the prosecution service, including the strengthening of its coordination role over the law enforcement agencies and raising legal certainty and uniformity of practice in criminal procedures. An action plan, that will define the expected results, tasks and performance indicators for the strategic plan, is being finalised by the inter-agency working group and with the involvement of the EU experts. Its speedy adoption and steady and consequent implementation should lead to concluding the reform process in the area.

#### Management bodies

Several governance and self-governance bodies with different functions are responsible for managing the judicial system and prosecution service. In the judiciary, the HCJ is the key judicial governance body that appoints and dismisses judges, handles disciplinary cases against them and oversees the work of the State Judicial Administration, a body in charge of the daily administration of court resources. The HCJ had no quorum between February 2022 and January 2023, following the resignation *en masse* of 10 out of 15 of its members ahead of their vetting by the Ethics Council. The HQCJ, another important judicial governance body, deals with the selection and qualification evaluation (vetting) of judges. The HQCJ had not been operational since autumn 2019, when a judicial reform law dismissing all its members entered into force. It resumed its functions only in June 2023 when the HCJ approved its new composition. The Congress of Judges and the Council of Judges are the self-governance bodies that are composed of judges and that represent their interests. The Council of Judges is in charge of organising the Congress of Judges sessions and implementing its decisions. They take part in the formation of the HCJ and the HQCJ, while the Congress of Judges is also an appointing authority for Constitutional Court judges (together with the President and the Parliament). Considering the institutional complexity, functional overlaps, severe shortage of funding, the large number of vacancies and the challenges stemming from the war, the judicial governance system should be improved and optimised on the basis of an independent and professional functional audit.

In the **prosecution service**, the National Conference of Prosecutors is the highest self-governance body. It appoints some of the members of the prosecutorial governance bodies – the Council of Prosecutors and the Qualification and Disciplinary Commission of Prosecutors (QDCP) and approves their regulations. The Council of Prosecutors operates on a part-time, unpaid basis and deals with the appointment of prosecutors to administrative (managerial) positions and with the protection of prosecutorial independence, whereas the QDCP is responsible for selecting, promoting and dismissing prosecutors as well as conducting disciplinary proceedings. Given the scope of its competences and in view of the European standards and good practices, the Council of Prosecutors should become a full-time body with autonomous resources. The renewed Training Centre of Prosecutors deals with initiation and in-service training of prosecutors. The HCJ reviews complaints against the disciplinary decisions of the QDCP, a competence that could in the future be transferred to the Council of Prosecutors. The activities of the National Conference of Prosecutors and the Council of Prosecutors are financed by the Office of the Prosecutor General.

### Independence and impartiality

The **constitutional and legal framework** guarantees the **independence of the judiciary** from the legislative and executive branches. The Parliament and the President retain the prerogative to make limited appointments to judicial and prosecuting bodies, such as the Constitutional Court and the HCJ. Judges are appointed by the President upon submission of the HCJ according to the procedure prescribed by law. The allocation of cases to judges within a court is based on a random (automatic) system based on objective criteria established by procedural law which, in theory, cannot be influenced by a court president or other judges. However, due to the structural deficiencies of the judicial system, including limited resources, and the impact of the war of aggression, the automatic allocation of cases is not functioning properly.

The possibility that a judge, addressed by a request for their **recusal**, can still contribute to the review of such a request, remains an issue of concern. To ensure objectivity and impartiality in the decision-making process, decisions on the removal of a judge from a court proceeding should be taken without their participation and be subject to appeal.

The legislation provides **prosecutors** with a sufficient degree of independence and autonomy. However, the self-governance and governance bodies are still largely dependent on the Office



of the Prosecutor General, in particular for financing and organisational support, which should be addressed in line with the European standards. A random allocation of cases to individual prosecutors based on strict and objective criteria, including specialisation, and appropriate controls and safeguards against manipulation still needs to be introduced, along with an effective appeal mechanism for decisions on the disqualification of a prosecutor.

Despite the legal and institutional guarantees, the risks of undue internal and external interference in the work of the judiciary and the prosecution service persist, and further efforts by the competent institutions are needed to effectively reduce them.

#### Accountability and ethics

**Codes of professional ethics** and conduct exist for both judges and prosecutors. In November 2022, the Council of Prosecutors approved and published its commentary on the code of professional ethics of prosecutors. Both judges and prosecutors are obliged to submit an electronic **asset declaration** each year for the previous year and provide updates when necessary.

Following the 2014 Revolution of Dignity, Ukraine launched an extraordinary and generalised **qualification evaluation (vetting) of judges** based on professional competence, professional ethics and integrity requirements. Failure to pass the vetting represents grounds for dismissal. Some 2 500 sitting judges underwent this procedure, before it was suspended in the autumn of 2019, when the HQCJ was dissolved by law. Some 2 000 judges must still complete the vetting based on a transparent procedure, clear assessment criteria and with the proper involvement of the Public Integrity Council.

The key function of the HCJ – the handling of disciplinary cases against judges – was suspended in August 2021 with the entry into force of new legislation. The function previously held by HCJ inspectors has been transferred to a new service of disciplinary inspectors. The service was not established within the legislative deadline. There is also legal uncertainty as to the statutory limitation deadlines in relation to disciplinary complaints received by the previous HCJ composition. Some 11 500 disciplinary cases are currently pending with the HCJ. In August and September 2023, Ukraine adopted two laws for resuming disciplinary proceedings against judges and for establishing an independent service of disciplinary inspectors on the basis of a transparent and meritocratic selection procedure with a meaningful involvement of internationally-nominated experts. The disciplinary offences relating to judges' conduct should still be clarified and developed. The service of disciplinary inspectors should be urgently established to enable an effective and impartial handling of disciplinary cases.

In recent years, Ukraine has implemented prosecutorial reform. It includes the **attestation of prosecutors** – where all prosecutors in office are vetted by the HR commissions on the basis of integrity and professionalism criteria. Since 2019, out of 11 278 prosecutors who expressed their intention to pass the attestation, 8 351 prosecutors passed, while more than 2 700 failed and were dismissed. By August 2023, 2 754 lawsuits were brought to courts by prosecutors challenging various aspects of the attestation reform. The courts considered 2 082 lawsuits; 1 426 lawsuits were refused (including 713 by the Supreme Court) and 523 lawsuits were satisfied (including 218 by the Supreme Court). Even if a court satisfies a lawsuit, it cannot reinstate a prosecutor to their position – based on the legislative changes adopted at the end of 2021, such a prosecutor still has to complete the attestation. The system of **disciplinary responsibility of prosecutors** should be further improved, as aimed for by the state anti-corruption programme for 2023-2025. In particular, it is necessary to clarify the disciplinary offences to extend the range of disciplinary sanctions and the statute of limitation, as well as ensure that disciplinary proceedings can be launched *ex officio* by the Council of

Prosecutors and the heads of prosecution offices. The QDCP's capacities, as well as its human and financial resources, should also be strengthened.

### Professionalism and competence

Following the Revolution of Dignity, Ukraine has reformed its rules on the **selection of judges**, introducing more transparency and meritocratic elements. However, the relevant legal framework requires further refinement, in particular in view of the length and complexity of the selection process. The stages of selection and mandatory training should be optimised. At present, more than 2 000 judicial vacancies still need to be filled urgently. The renewed HQCJ should refine the judicial selection and qualification evaluation rules, including by developing and publishing clear integrity assessment criteria and a scoring methodology. Given the low level of public trust in the judiciary and recurrent judicial corruption cases, the sustained involvement of the Public Integrity Council (PIC) in both qualification evaluation and judicial selection procedures remains of critical importance. The PIC is tasked to provide reasoned opinions to the HQCJ on the integrity of sitting judges undergoing the qualification evaluation, as well as judicial candidates to higher-level courts. The new PIC, composed of 20 lawyers, journalists and civil society representatives specialised in anti-corruption and justice sector reforms, was formed in August 2023. It should help the renewed HQCJ to complete the qualification evaluation of sitting judges and to select new judges of high integrity. The new law improving the selection of judges was prepared in the Parliament's Legal Policy Committee and registered. Following the legislative changes, the HQCJ will have to adjust its own rules and procedures.

Since the introduction of new transparent and meritocratic rules on the **selection and career advancement of prosecutors** during the interim two-year prosecutorial reform period in 2019-2021, several rounds of external recruitments of junior prosecutors took place following the improved rules, which included multiple tests of legal and practical knowledge, general skills as well as integrity checks. As a result, 114 new prosecutors were appointed in the Office of the Prosecutor General, and 492 in district prosecution offices.

Moreover, during the interim reform period, a transparent selection procedure, including integrity, professionalism and leadership checks, was successfully piloted for management-level prosecutors. However, since the re-establishment of the Council of Prosecutors in autumn 2021, these positive practices have not been continued. The procedures for the selection of management-level prosecutors remain inadequate as they lack transparency and credible integrity, professionalism and leadership checks. The resources and capacities of the Council of Prosecutors to carry out its mandate in this area remain limited. These shortcomings should be addressed.

The rules governing the appointment and dismissal of the Prosecutor General make the position vulnerable to political and other undue interferences, creating risks linked to independence, integrity and ultimately public trust. In line with European standards and good practices, the selection procedure for the Prosecutor General should be made more transparent, objective and meritocratic, and the dismissal procedure should be depoliticised. In particular, the grounds for dismissal of the Prosecutor General should be exhaustive and clearly defined by law, while the dismissal procedure should be more transparent and credible.

The periodic performance evaluation of judges and prosecutors on the basis of clear rules and assessment criteria still needs to be established by the relevant judicial and prosecuting bodies. The use of performance evaluations would improve human resources management in courts and public prosecution offices.

The **National School of Judges** continued to provide training to judges of all instances. Despite war-related challenges and a drop in funding, it provided training to 10 158 people in 2022, in areas ranging from EU law to court management and IT skills. The school should strengthen its managerial and operational capacities, introduce comprehensive training needs assessment and training evaluation, modernise the training curricula and teaching methods, including trainings on judgecraft, ethics and integrity and improve international cooperation and connections with judicial training networks. The collaboration of the National School of Judges and the Prosecutorial Training Centre with the EU judicial training providers to address war-related training needs help to enhance institutional capacity and should continue.

High-quality and corruption-free **legal education** and training of justice and law enforcement professionals are key to consolidating the rule of law and fulfilling EU membership obligations. In recent years, Ukraine has taken a number of measures to improve legal education. Legal education standards were adopted and upgraded, standardised exams for entering law schools and master's degree programmes were introduced, and an institutional system for quality assurance was developed. However, progress has been uneven and further reform efforts are still needed, in particular for creating a clear institutional delineation of legal education and law enforcement training, strengthening the law school admission and licencing standards, ensuring a transparent and merit-based allocation of public funds for training future legal professionals, modernising curricula with a focus on ethics, practical training, EU law and international exchanges, implementing a unified state qualifications exam, and fighting against corruption and plagiarism.

#### Quality of justice

The judiciary is suffering from severe underfunding, which is further exacerbated by the war of aggression and its impact on public finances. The financial resources allocated to the judiciary met 63.4% of overall funding needs in 2022 and only 51.4% in 2023. In particular, non-judge staff in courts are heavily underfunded, which causes their outflow and disrupts the operation of courts. During the 2022 mid-year review, there were considerable revisions to the budget allocation for the judiciary. Costs for all local and appellate courts were cut by more than 10%, while cuts to other judicial institutions amounted to 15-20% compared with the initial allocations for 2022. The 2022 budgetary allocation for the judiciary, including the Supreme Court, local, appeal and specialised courts, was about EUR 491 million, compared with around EUR 656 million in 2021 (based on the exchange rate at the end of 2022). Once the public finance situation stabilises, the government should restore funding to the judiciary, while pursuing a carefully planned optimisation of the expenditures and the court network.

At the end of 2022, there were 4 643 judges in Ukraine, averaging 11 judges per 100 000 inhabitants, compared to the European average of 22.2 judges per 100 000 inhabitants that same year. In the last few years, a number of courts of first instance stopped hearing cases due to the severe shortage of judges and the absence of the HCJ. More than 100 courts in Ukraine operated at a 50% staffing level or even lower. Significant differences in workload remain between the courts across the country. In some cases, the workload of judges within the same instance and jurisdiction can differ multiple times. The government plans to address this problem by optimising the court network. However, amendments to the Law on the judiciary from December 2022 postponed optimisation to 1 year after the end of martial law. The judicial governance bodies should continue applying other measures, including the recruitment of new judges and secondments, to balance workloads.

There were some 9 500 prosecutors or 23 prosecutors per 100 000 inhabitants in Ukraine at the end of 2022, compared with the European average of 11.8 prosecutors per 100 000 inhabitants in 2020.

The Ukrainian courts use a unified judicial information telecommunications system. It includes case management, case allocation, electronic delivery and video conferencing functionality. Over the last few years, the State Judicial Administration has made efforts to interconnect the e-judiciary subsystems with the government electronic services portal Diia, the unified register of convicts, the social information system and others. An IT service for automatic notifications of court summons was also introduced, saving on postal costs. However, the system is largely outdated and underfunded. Its hardware, software and network infrastructure, along with the ICT management system, are in need of a thorough overhaul. To guide the development of a new e-judiciary system, an independent IT audit was launched in spring 2023. Based on the results of the audit, the e-judiciary system is expected to be upgraded to make the judiciary more efficient and transparent, as well as save costs and improve access to justice services for citizens and businesses.

After thorough preparation, including business process analysis, the prosecution service, with the support of the EU, has launched the development of a modern **e-case management system** named SMEREKA. Over the course of several years, it will digitalise the analysis and processing of criminal cases, starting with cases related to international crimes. This will boost efficiency, transparency and integrity in the criminal justice system.

In November 2021, the Parliament adopted a modern law on **mediation**. It lays the groundwork for mainstreaming mediation in civil, commercial and administrative disputes and in criminal procedures. Despite the war, implementation of the law continued and good progress was achieved. The government adopted legislation to ensure the provision of mediation services by free legal aid centres, while the Ministry of Justice approved an order for a register of mediators engaged in secondary legal aid and launched the first competitions for such mediators. Various mediation organisations and justice sector institutions continued to promote mediation services via training, online resources and awareness raising activities. The implementation of the law on mediation through adoption of additional sub-legislation, institutional capacity building and awareness raising among relevant target groups should continue.

An independent, professional and accountable Bar is a key prerequisite for access to justice and a functioning market economy. The Bar in Ukraine is in need of reform. The Law on the Bar should be aligned with the Constitution, applicable European standards and good practices. In particular, the self-governance system and resource management of the Bar should be improved and made more transparent and accountable. The qualification and disciplinary procedures for lawyers require significant improvements in law and in practice. The process for admission to the profession remains weak and prone to corruption risks, which undermines the credibility and independence of the profession.

In recent years, the Ukrainian judiciary has made major efforts to ensure the uniformity of court practice, which is a key element of the rule of law and legal certainty. Several procedural filters were introduced in the Supreme Court, and the Grand Chamber of the Supreme Court became operational. In addition to the existing register of judicial decisions, an electronic database of legal positions of the Supreme Court was created, to facilitate the identification of relevant guidance from the Supreme Court on the interpretation and application of specific legal norms. However, more efforts are needed in this area as divergent court practice, including within the same court, persists. Access to the Grand Chamber still requires the approval of the relevant Cassation Court, which undermines unification efforts. Further legal and institutional reform measures should be carefully calibrated and be based on a thorough assessment and inclusive consultations involving judges and subject matter experts.

### Efficiency

Despite the war-related funding and staffing challenges, most courts in Ukraine maintained 100% or even higher clearance rates in 2022. At first instance, the clearance rate was 105.5% in civil cases, 97.6% in commercial cases, 111.7% in administrative cases and 99.5% in criminal cases. At the appeal level, similar clearance rates are reported: 101% in civil cases, 103% in commercial cases, 99% in administrative cases, 98.9% in criminal cases. The general clearance rate of the Supreme Court was 107.9% in 2022. The clearance rate at the Constitutional Court was 68% in 2022. As for the number of pending cases at first instance courts, there were 231 177 civil cases pending at the end of 2022, including 59 856 unresolved for over a year, 34 168 commercial cases pending, including 10 417 unresolved for over a year, 119 471 administrative cases pending, including 25 544 unresolved for over a year, and 110 637 criminal cases pending, including 47 544 unresolved for over a year. At the appeal courts, there were 23 218 civil cases pending, including 3 716 unresolved for over a year, 6 446 commercial cases pending, including 379 unresolved for over a year, 32 487 administrative cases pending, including 1 305 unresolved for over a year, and 12 377 criminal cases pending, including 3 223 unresolved for over a year. At the Supreme Court, the total backlog of cases in 2022 was 19 252.

As for the disposition time (time needed for a case to be resolved in days), according to the latest CEPEJ statistics including 2021 data, it took 165 days to resolve a civil and commercial case (129 days in 2018, 122 days in 2020) and 52 days for a criminal case (271 days in 2018, 298 days in 2020).

Given the war-related challenges, including displacement of the population and businesses, deterioration of the economic situation and travel safety concerns, Ukraine should adopt legislation that formally introduces remote hearings and regulates the procedural aspects of such hearings, in full respect of the procedural rights of the parties. This would boost the efficiency of court proceedings and facilitate access to justice, including in times of war.

Ukraine has a high number of judgments of the European Court of Human Rights (ECtHR) pending execution among the parties to the European Convention of Human Rights. In particular, execution is pending for a significant period of time and structural reform measures are still required for the ECtHR judgments related to non-enforcement of domestic court decisions against state entities, judicial independence, unreasonable length of court proceedings, poor prison conditions and inefficiency of ill treatment investigations. These cases are subject to the supervision procedure before the Committee of Ministers of the Council of Europe. Despite several war-related challenges, the Ukrainian authorities have cooperated closely with the relevant Council of Europe bodies and made efforts to enforce outstanding ECtHR judgments during the reporting period.

To deal with the systemic problem of non-enforcement of domestic court decisions, the government adopted a special strategy in September 2020 and an action plan to implement this strategy in March 2021. The action plan envisaged among other things a revision of social-oriented legislation, additional enforcement mechanisms related to state-owned enterprises protected by moratoria, the improvement of legislation on bankruptcy, the introduction of efficient judicial control over the enforcement of court decisions, the improvement of enforcement procedures and expansion of powers of private bailiffs, and the creation of a register of court decisions rendered against state entities. Most measures in the action plan still need to be carried out.

In 2022, the number of new **enforcement** cases fell by more than half due to the war – from 4.1 million to 1.7 million. In June 2022, the Parliament adopted a law that prohibited enforcement cases from being opened in the temporarily occupied territories and in the war zone. In April 2023, another law was adopted to introduce a minimal protected amount on

debtors' bank accounts. This therefore improves the protection of fundamental rights during the enforcement procedure. It also duly addressed other war-related challenges, such as the transfer of enforcement cases and replacement of bailiffs, as well as enforcement proceedings that involve Russian residents.

The draft law to streamline the enforcement of court decisions and improve the status of private bailiffs has been pending a second reading since July 2021. Russia's war of aggression and sharp deterioration in public finances have slowed down reforms in this area. The government should resume these efforts where possible under the current context, as an effective enforcement system is not only a key pillar of the market economy and the rule of law, but also an indispensable prerequisite for swift economic recovery.

Ukraine took large-scale legal, institutional and practical measures to ensure the **security of court premises** and the safety of judges and staff. The only courts where security cannot be guaranteed by the Court Security Service are those that are located in the territories of Ukraine temporarily occupied by Russia. The Court Security Service should continue building its capacities to ensure effective security of the courts and their staff, including through improved risk assessments and risk response, and the deployment of security equipment and other measures.

### **Domestic handling of atrocity crimes**

Ukrainian authorities have been confronted with the unprecedented scope and gravity of atrocities committed by the Russian Army. This has led to an increased need to strengthen the capacities and provide expertise to investigate, prosecute and adjudicate core international crimes (also called atrocity crimes), while building on the experience that Ukraine had already gained since 2014. As a result, Ukraine started taking significant measures to advance its comprehensive framework for addressing atrocity crimes at domestic level.

Since Russia's full-scale invasion and war of aggression, a total of 107 951 incidents related to various atrocity crimes have been officially registered. 267 people have been indicted and 63 convicted for war crimes by Ukrainian courts. Due to the large number of crime scenes, several law enforcement agencies and authorities are involved in domestic investigations. The National Police of Ukraine and the Security Service of Ukraine created specialist units to investigate atrocity crimes and strengthen interinstitutional cooperation; the Interagency Working Group on Investigating War Crimes was established. The Office of the Prosecutor General also adjusted its institutional strategy and structures for prosecuting such crimes by restructuring its War Crimes Department and establishing nine regional war crime units within its service as well as the Conflict Related Sexual Violence Unit and Specialised Environmental Prosecutor's Office. Cases involving children are being investigated by the Department for the Protection of Children's Interest and Combating Domestic Violence. There are currently 2 944 criminal proceedings involving children as victims of various war crimes, including cases of forced deportation, recruitment of child soldiers, killings and sexual violence. The War Crimes Department developed and applied operational strategies and institutional synergies, aimed at improving the efficiency of investigations into crimes committed in territories of Ukraine occupied by Russia, after their liberation. The very high number of cases creates an intense workload and great amount of data recorded in criminal proceedings, thus raising risks of duplication. To address this problem, the Office of the Prosecutor General started creating a modern e-case management system (see 'Quality of justice' section above).

A dedicated war crimes prosecution strategy has been adopted and additional resources put in place with the support of international assistance providers, including the European Union Advisory Mission Ukraine, to improve investigations into such crimes. Ukraine cooperates

effectively with the Atrocity Crimes Advisory Group, a large multilateral initiative established by the EU, the US and the UK in May 2022 to provide strategic advice and operational assistance to the Office of the Prosecutor General in investigating and prosecuting international crimes in Ukraine. Relevant Ukrainian authorities advanced their coordination with the civil society organisations involved in documenting such crimes.

The Ukrainian domestic legal framework for criminal accountability for core international crimes needs to be adapted to international standards. As a matter of urgency, the Criminal Code of Ukraine should be amended to expand on the elements of core international crimes, incorporate criminal liability for committing crimes against humanity and criminal liability for commanders and other superiors for international crimes committed by the forces under their effective command and control as one of the essential means for prosecuting such crimes. Ukraine has not yet ratified the Rome Statute.

Ukraine cooperates closely with stakeholders at international level for bringing perpetrators of atrocity crimes to justice, in compliance with the principle of complementarity. Following the filing of two ad hoc declarations by the Government of Ukraine accepting the jurisdiction of the International Criminal Court (ICC), Ukraine proactively collaborates with and supports the ICC's Office of the Prosecutor (ICC OTP). This cooperation resulted in high-level investigations and arrest warrants being issued on 17 March 2023 by Pre-Trial Chamber II against the President of Russia Vladimir Putin and the Presidential Commissioner for Children's Rights Maria Lvova-Belova for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied territories of Ukraine to Russia. In March 2023, the ICC and Ukraine signed a memorandum of understanding to establish an ICC country office in Ukraine to further strengthen their cooperation. Ukraine also closely cooperates with the independent International Commission of Inquiry on Ukraine. It was established by the UN Human Rights Council in March 2022 to report on all alleged violations and abuses of human rights, violations of international humanitarian law and related crimes in the context of the Russian war of aggression against Ukraine.

Together with Poland and Lithuania, Ukraine is a founding member of the Joint Investigation Team (JIT) that was set up in March 2022 to enable the exchange of information and facilitate investigations into core international crimes committed in Ukraine. Estonia, Latvia, Slovakia and Romania also became JIT members, and the US Department of Justice signed a memorandum of understanding to improve coordination between the JIT partner countries and the US authorities in their respective investigations in connection with the war in Ukraine. Furthermore, the ICC OTP became a participant in the JIT. Europol received an official invitation to join the JIT in mid-August 2023 and discussions are ongoing about the UK signing a memorandum of understanding like the US.

In July 2023, the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) was launched in The Hague, to support international efforts to secure evidence for the prosecution of the crime of aggression and facilitate the process of case building. The ICPA constitutes a standing structure to improve coordination on the collection, retention and analysis of evidence between JIT members investigating the crime of aggression under their respective national laws. As part of the ICPA, Ukrainian senior prosecutors work side by side with prosecutors from the EU and US, in close coordination with the ICC OTP. In mid-September 2023, a Register of Damage Caused by the Russian Federation Against Ukraine was formally established, as per a resolution of the Council of Europe (May 2023). The Register of Damage will receive and process information on claims of damage and evidence; categorise, classify and organise such claims, assess and determine the eligibility of claims for inclusion

in the Register and record the eligible claims for the purposes of their future examination and adjudication.

Ukraine co-chairs the work streams of the Ukraine Accountability Dialogue Group, an international effort aimed at promoting exchange and coherence across the range of accountability initiatives and related donor support. In November 2022, the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) invited Ukraine to attend its future open sessions as well as part of the closed sessions upon specific interest of Ukraine and subject to agreement of all member states. The Genocide Network also considered to grant Ukraine observer status on an ongoing basis.

### **Fight against corruption**

Ukraine has **some level of preparation** in the prevention of and fight against corruption. There was **some progress**, in particular with establishing and consolidating a comprehensive anti-corruption institutional framework and the gradual building of a steady track record in investigating, prosecuting and adjudicating corruption cases. This includes high-level convictions and cases moving forward in the courts against officials previously considered ‘untouchable’. Ukraine stepped up the implementation of reforms in the area of anti-corruption and continued to strengthen the anti-corruption framework after receiving EU candidate status. New legislative, strategic and institutional improvements were pursued, including the adoption of the national anti-corruption strategy in June 2022, accompanied by a comprehensive state programme for its implementation adopted in March 2023, as well as the restoration of financial reporting of the political parties. Ukraine has also restored the system of electronic asset declarations, along with the verification functions, taking into account the situation under martial law. The adopted law included some provisions which potentially weaken the verification system, but their effects still need to be monitored in practice.

The work conducted in particular by the Specialised Anti-Corruption Prosecutor’s Office (SAPO) since its new head was appointed in July 2022, led to globally increased effectiveness of the anti-corruption institutions. The new head of the National Anti-Corruption Bureau of Ukraine (NABU) was selected in early March 2023, after a transparent and merit-based procedure.

The Ukrainian authorities are committed to making continued efforts to achieve steady progress, but its sustainability needs to be monitored and further supported. The main challenge is to ensure that the outcome of the work of anti-corruption institutions is systemic and irrevocable, also in view of long-term reconstruction efforts and the need to ensure and maintain safeguards for the accountable management of foreign funding and investment. Efforts to strengthen the independence of key anti-corruption institutions and increase their capacity need to continue, and further allocation of technical, financial and human resources will be important. Sectors most vulnerable to corruption require targeted risk assessments and dedicated measures to ensure robust corruption prevention.

In the coming year, Ukraine should in particular:

→ continue to further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, including the seizure and confiscation of criminal assets, as well as ensure timely implementation of the 2023-2025 state anti-corruption programme, including appropriate monitoring and allocation of relevant resources and remove undue legal restrictions on the verification powers of the National Agency for Corruption Prevention (NACP), in order to ensure the effectiveness of the electronic asset declaration system, without prejudice to the rules applying to national security during wartime;



- revise the Criminal Procedure Code and the Criminal Code to enable higher efficiency and outcomes in high-level corruption cases, e.g. by preventing procedural delays, introducing reasonable time limits for pre-trial investigations, and improving the regulation of plea bargain agreements; increase the number of judges of the High Anti-Corruption Court by reactivating the Public Council of International Experts and enable the court to adjudicate certain cases in single judge composition;
- enact legislation to improve the selection procedures for the SAPO head and key officials, to strengthen the institutional independence of SAPO by transforming it into a separate legal entity, and to increase its level of procedural autonomy as well as establish robust mechanisms for external and internal control and discipline.

### Track record

Ukraine has introduced some reform measures and stepped up efforts to build a credible track record of investigations, prosecutions and convictions of high-level corruption cases, and to some extent the seizure and confiscation of criminal assets. The country continued to pursue a rigorous reform path to facilitate the effective functioning of key anti-corruption institutions for ensuring sound operational capacities.

In 2022, NABU, responsible for the investigation of high-level corruption, initiated a total of 456 criminal proceedings (2021: 633; 2020: 792). By the end of September 2023, NABU started 501 proceedings. Based on the results of its investigations, and under the procedural guidance of SAPO, 54 indictments for corruption offences against 132 people were sent to court in 2022, which constitutes a stable number also compared with previous years (2021: 57 indictments against 127 people; 2020: 67 indictments against 106 people). By the end of September 2023, 82 indictments against 203 persons were sent to court and it can be anticipated that the track-record will significantly increase, with the number of indictments likely being doubled in 2023 compared to previous years.

The High Anti-Corruption Court (HACC) was launched in September 2019 as the main court for adjudicating high-level corruption cases investigated and prosecuted by NABU and SAPO. It became operational following a transparent selection procedure of 39 judges for the court with the involvement of international experts (Public Council of International Experts). The court functions as a court of first and second instance and is independent from the ordinary judiciary in Ukraine, although the Supreme Court has the competence to hear cassation cases on verdicts delivered by the HACC. In February 2023, the judges selected a new president of the court.

The HACC has continuously increased its overall operational performance and output since its launch. In 2022, it delivered 37 verdicts against 56 defendants in first instance and 22 verdicts against 27 defendants in second instance, which constitutes an increase over previous years (2021: 34 verdicts against 41 defendants in first instance, and 25 verdicts against 29 defendants in second instance; 2020: 22 verdicts against 25 defendants in first instance, and 8 verdicts against 10 defendants in second instance). By the end of September 2023, the HACC has significantly increased its overall performance and delivered 48 verdicts against 64 defendants in first instance, and 26 verdicts against 32 defendants in second instance. To enable the court to cope with the increased caseload, which is also caused by its mandate being extended to e.g. civil confiscations, its capacity should be strengthened by selecting and appointing new judges in 2024, with the involvement of the Public Council of International Experts. Furthermore, the Criminal Procedure Code should be amended to allow certain cases to be adjudicated in single judge composition.

The cases investigated and adjudicated by the anti-corruption institutions concerned prominent high-level public officials including former deputy ministers, former parliamentarians and high-level judges, e.g. the serving President of the Supreme Court who was arrested in May 2023 for bribery. Similarly, in 2022, NABU and SAPO uncovered suspected high-level embezzlement, including in the management of PrivatBank, Ukrnafta, Ukrgazbank, the State Fiscal Service of Ukraine, as well as Naftogaz in 2023.

The Asset Recovery and Management Agency processed a total of 4 401 requests in 2022 on the finding and tracing of assets that can be seized and confiscated in criminal proceedings received from relevant authorities. A total of EUR 864 364 in equivalent revenues were transferred to the State Budget of Ukraine from the management of seized assets and EUR 24 361 679 in equivalent revenues from the sale of seized assets. The HACC applied special confiscation in 10 criminal proceedings in 2022 for a total of approximately EUR 1 million.

During the first half of 2023, the NACP sent 26 cases to courts for administrative offences involving the violation of conflict of interest rules (2022: 72; 2021: 937; 2020: 239). The overall percentage of persons against whom an administrative fine was imposed was 14% during the first half in 2023 (3 people), compared to 18% in 2022 (11 people), 2% in 2021 (4 people), and 7% in 2020 (4 people). During the first half of 2023, the NACP did not conduct comprehensive verifications of asset declarations due to the suspension of this task, mandated by the application of martial law in March 2022. However, a total of 1 610 comprehensive verifications of asset declarations were completed in previous years (2022: 124; 2021: 1 043; 2020: 443), and the agency detected 220 cases of administrative offences (2022: 18; 2021: 171; 2020: 31), 253 cases of criminal offences (in 2022: 38; 2021: 119; 2020: 96), including 12 cases of unfounded assets (2022: 2; 2021: 10; 2020: 0) and 1 case of illicit enrichment that were transferred to courts and relevant law enforcement agencies. A total of 24 people (2022: 5, 2021: 17, 2020: 0) were found guilty of committing an administrative offence; 7 people (2022: 5, 2021: 2, 2020: 0) were found guilty of committing a criminal offence in the first half of 2023. The Constitutional Court issued a decision in 2020 partially rendering unconstitutional the provisions on control and full verification of declarations as well as the criminal responsibility related to false declaration. The immediate result was that a large number of criminal cases had to be terminated. Despite the subsequent restoration of the powers of the NACP and the Criminal Code article on false declaration by the Parliament in accordance with Venice Commission recommendations, the non-retroactive effect of criminal law provisions caused an accountability gap.

The NACP granted 16 whistle-blowers and their close relatives protection out of 27 applications. A total of 46 criminal proceedings for corruption and corruption-related offences were registered and carried out based on the reports of whistle-blowers, including for high-level corruption.

Findings from sociological surveys show a significant decrease in recent years in the share of citizens who have directly experienced corruption (in 2013, the share was 60%, in early 2020 not more than 40%). There has been a gradual increase in comparative corruption level indexes for Ukraine. In 2013-2022, Ukraine's performance in the Corruption Perceptions Index (CPI) increased from 25 to 33 points (maximum score is 100). The result in 2022 is the highest since the updated CPI methodology was launched and Ukraine now ranks 116 out of 180 countries in the CPI.

According to the survey 'Corruption in Ukraine: understanding, perception, prevalence' conducted each year by the NACP, in 2022, 29% (42% in 2021) believe that corruption has increased, while 16% (6% in 2021) believe it has decreased. Among business representatives,

46% believe corruption has decreased and only 16% that it has increased in 2022. There is an increase in the share of the population with a negative attitude towards corruption – in 2021, the share was 49% and in 2022 57%. More are willing to report corruption cases than in previous years. Also, the share of the population and business representatives that support the activities of whistle-blowers has increased – 65% of the population and 86% of business representatives support these activities.

### Institutional framework

#### *Prevention measures*

The National Agency on Corruption Prevention (NACP) is the special agency responsible for the prevention of corruption in Ukraine. The maximum number of NACP employees is 408, but the actual number of employees in employment relationships remains significantly lower (approximately 85% of this figure). Its main mandate is anti-corruption policy, financial control (asset declarations), compliance review of political party financing, whistle-blower protection and conflict of interest resolution. The most relevant functions of the agency were suspended with the application of martial law in March 2022 due to national security concerns, including the verification of e-asset declarations and political party financing compliance review.

Three years after a full restructuring and change of governance model under the new head of the agency, selected by an international selection commission, the agency has delivered good results and there are strong signs of its growing independence from political and vested interests. The agency has also started to engage in addressing possible corruption risks linked to the large-scale reconstruction of the country. The term of the agency's head will expire in January 2024 and the credible and transparent selection of a new head by an international selection commission, as required by law, will be an important priority for Ukraine.

An independent external assessment of the effectiveness of the NACP's activity in 2020-2021 was conducted by an expert commission composed of three international experts appointed by the Cabinet of Ministers based on a proposal by international donors, as required by law. In its final assessment report published in July 2023, the commission concluded that the agency was effective and independent overall but made a set of recommendations to strengthen it further. The agency and other relevant stakeholders should implement these recommendations swiftly.

The advanced **electronic asset declaration** system has proved to be a key tool for preventing corruption. However, the obligation for public officials to submit asset declarations was fully suspended with the application of martial law in March 2022, together with other restrictions on access to a number of state registers, in order to address security concerns and protect sensitive information during wartime. In September, the Parliament adopted a law restoring the e-asset declaration system and its verification functions by the NACP. The adopted law included some provisions that limited the verification powers of the NACP and closed the e-asset declarations to the public. The President vetoed the adopted law as regards the public access to the declarations. At the end of September, the Parliament re-adopted the law addressing the President's request, while maintaining the other provisions that could create potential weaknesses. In September, the Parliament also adopted a law that weakened the administrative liability for non-submission/false information in the e-asset declaration, but the President has not signed it into effect. Deficiencies in the rules of the automated verification of the e-asset declarations continue to exist and should be addressed by the NACP in the medium term.

Effective implementation of **procurement** rules in all sectors and full use of the related electronic procurement system should help in further preventing corruption in the public services sphere.

Ukraine has made progress in strengthening its comprehensive framework for the protection of **whistle-blowers**. Some outstanding issues include further increasing its effectiveness, more awareness raising about the essential role of whistle-blowers, and launching a unified portal for their reports.

**Corruption risk management** in public institutions is proactively handled by the NACP. It applies a detailed model methodology and provides guidance in developing institutional anti-corruption programmes. Corruption risks in draft laws and sectors vulnerable to corruption are successfully assessed and addressed. However, further targeted streamlining and simplification of applied processes and methodologies would increase effectiveness. To strengthen the institutional ownership and effectiveness of the corruption risk management system, approval of the institutional anti-corruption programmes could be transferred from the NACP to the heads of the relevant state institutions.

Ukraine's **conflict of interest** framework is comprehensive and largely aligned with international anti-corruption standards. The NACP is well positioned to conduct monitoring and control over compliance with conflicts of interest legislation. It is also tasked with guidance, consultations, training and awareness raising. To strengthen the conflict of interest framework, the NACP should improve internal proceedings and take measures to further increase transparency and outreach of its work, including by reporting systematically to the public. More public awareness raising about the importance of the conflict of interest framework in detecting and preventing corruption is needed. Strong engagement with civil society and independent media in Ukraine is key. The legislative framework should be further improved to also cover apparent conflicts of interest.

Several legislative proposals on **lobbying** regulations were registered but not adopted yet. The NACP has launched the process of preparation of a new law on lobbying. The anti-corruption strategy and state anti-corruption programme require drafting and the approval of lobbying regulations by April 2024. To build up mutual trust of stakeholders and reach consensus on the best approach on a lobbying regulation framework for Ukraine, an open and participatory discussion should be pursued, including a wide stakeholders' engagement (in particular, civil society groups) and extensive public consultations. It will be important to ensure that lobbying regulations do not preclude or limit legitimate activities of civil society or put a disproportionate administrative burden on them.

The Council of Europe's Group of States against Corruption issued its interim compliance report in March 2023, where it assessed the measures taken by Ukrainian authorities to implement the 31 recommendations of the Fourth Round Evaluation Report on corruption prevention in respect of members of parliament, judges and prosecutors. Overall, 15 recommendations have been implemented; nine have been partially implemented satisfactorily; and seven recommendations remain unimplemented. Ukraine should swiftly act on the outstanding recommendations in order to ensure further progress.

#### *Law enforcement*

Key anti-corruption institutions responsible for investigating and prosecuting high-level corruption have remained fully operational despite the war. However, limited budget allocations have caused challenges to their operations. Structural issues with the legal framework, overall capabilities and functioning remain, with a continuous need to further strengthen their independence and operational autonomy. The deployed electronic case management system for NABU, SAPO and HACC has been put into practice but still requires full integration with the unified register of pre-trial investigations and the unified judicial information and telecommunication system. Specialised high-quality training is available to

the staff of anti-corruption institutions, including through international technical assistance providers.

In July 2022, the new head of SAPO was appointed by the Prosecutor General following the finalisation of a selection process that was largely transparent and merit-based, but which lasted more than 18 months. After the appointment, the office stepped up inter-agency cooperation with NABU and reactivated high-profile cases. Despite significant progress, SAPO still needs to further strengthen its political and administrative independence from the Office of the Prosecutor General and other institutions. Particularly outstanding issues: improve the selection procedure for SAPO head and key administrative positions of SAPO by aligning it with the procedures applicable to NABU/NACP, strengthen SAPO's institutional independence, and increase its procedural autonomy as well as establish robust mechanisms for external and internal control and discipline. In early 2023, a draft law to address these issues was registered in the Parliament, but was rejected by the responsible parliamentary committee without substantive discussions in February 2023 due to the lack of political consensus. In September, several new draft laws strengthening the SAPO's autonomy were registered in the Parliament.

The new Director of NABU was appointed in March 2023 by the Cabinet of Ministers following a merit-based and transparent selection process conducted with the participation of international members in the selection commission. NABU has been successfully leading complex high-level investigations and is among the most trusted law enforcement agencies in Ukraine. It urgently needs additional staff to work on investigations (detectives, analysts, technicians), with staffing issues being particularly acute in the three regional offices. A draft law has been registered in the Parliament to increase the number of NABU staff from 700 to 1 000. Another reform priority should focus on the reform of the forensic services, to ensure that NABU has a timely and uncompromised access to forensic expertise in its high-level corruption investigations. Similarly, NABU should be able to conduct wiretapping without the need to rely on the Security Service of Ukraine for its practical implementation.

Among other law enforcement agencies, the National Police of Ukraine and the State Bureau of Investigation (SBI) were given powers related to corruption investigation. The Bureau of Economic Security (BES) does not handle corruption cases as such, but its activities aimed at protecting the economic security of the state are closely related. SBI is responsible for investigating corruption involving public officials unless the pre-trial investigation of the crimes falls under the jurisdiction of NABU. BES was created to succeed the tax police (branch of the State Fiscal Service) in protecting the economic security of the Ukrainian state and investigating sophisticated financial crimes, including potentially touching on corruption. At the same time, the Security Service of Ukraine (SSU) has almost unlimited powers, including those related to the investigation of corruption cases. The problems of SBI, BES and SSU include limited public supervision and accountability, lack of inter-agency cooperation as well as the fact that staff is selected in processes that lack integrity control and transparency. Delineation of investigative competences is often disregarded or interfered with in practice by having criminal cases investigated by SBI and the Security Service of Ukraine that fall within the exclusive investigative powers of NABU. It will be important to introduce legal safeguards that will prevent interference in the exclusive investigative powers of NABU by other law enforcement agencies and, in this context, also progress with the SSU reform in line with EU's recommendations.

### Legal framework

Ukraine has ratified the most important international treaties to prevent and combat corruption, including the UN Convention against Corruption and the Council of Europe Criminal and Civil

Law Conventions on Combating Corruption. As part of its aspirations to become a member of the OECD, in February 2023 the OECD Council agreed on the proposal of the Working Group on Bribery in International Business Transactions (WGB), to invite Ukraine to become a Participant to the WGB so as to facilitate its accession to the OECD Anti-Bribery Convention. Corresponding amendments to the Criminal Code, Criminal Procedure Code and Tax Code, and to other legislative acts are being prepared for the full implementation of the norms of the OECD Anti-Bribery Convention and the recommendations of the OECD Council.

The domestic legal framework is broadly aligned with international standards and allows Ukraine to conduct complex criminal investigations into corruption cases. However, the Criminal Procedure Code and the Criminal Code should be further improved to enable higher efficiency and better outcomes. The amendments should be aimed at preventing procedural delays, increasing time limits for pre-trial investigations and improving the grounds and procedures for concluding plea bargain agreements. The legal framework on **whistle-blower protection** should be completed and fully aligned with the EU *acquis*.

To reduce the influence of oligarchs on politics, in September 2021 the Parliament passed the Law on prevention of threats to national security associated with the excessive influence of people with significant economic and political weight in public life (**oligarchs**). The adoption of the law and the announced preparation of the register of oligarchs led some of those possibly affected giving up ownership of certain assets to avoid meeting the criteria for being identified as an oligarch under the law. Moreover, the war has disrupted economic activity, with oligarch-owned businesses being particularly affected. This has led to a decrease in profitability and resources, which has limited their ability to influence the political and media spheres. Similarly, martial law has resulted in restrictions on the media and with it, the ability of oligarchs to shape public opinion and exercise traditional influence through the media channels they control or controlled.

While being in force since May 2022, the law on oligarchs has not been implemented. In June 2023, the Venice Commission, in its Opinion on the law on oligarchs, assessed the personal approach of the law on oligarchs as difficult to reconcile with the principles of political pluralism and the rule of law and thus recommended postponing its implementation and reassessing its necessity after the end of the war. It recommended that Ukraine addresses de-oligarchisation through a systemic approach in relevant areas, such as media, competition, financing of political parties, taxation, anti-corruption and anti-money laundering.

Ukraine has duly prioritised systemic measures against oligarchs, in line with the Venice Commission recommendations from June 2023. In particular, on the basis of the Government's anti-oligarch action plan, Ukraine pursued the reforms of the judicial governance bodies and the Constitutional Court, adopted a new media law, continued to implement the state anti-corruption programme and finalised the legal framework on the ultimate beneficial ownership. In addition, in August, legislation strengthening the Anti-Monopoly Committee of Ukraine and restoring the financial reporting of political parties and the verification functions was adopted and later signed into effect. In September, the Government revised its anti-oligarch action plan to postpone the implementation of the law on oligarchs and to prepare amendments to the law within three months after the end of the martial law, taking into account the recommendations of the Venice Commission.

### Strategic framework

The Parliament approved the anti-corruption strategy for 2021–2025 in June 2022, 2 years after the NACP, responsible for developing it, submitted the document. The adopted strategy outlines highly relevant anti-corruption reforms across sectors and will also play an important

role in ensuring transparent and accountable reconstruction efforts in Ukraine. Furthermore, the implementation of these reform measures is likely to increase Ukraine's track record on prosecutions and convictions of high-level corruption cases over time. The delay in the adoption of the strategy at the level of the Parliament significantly blocked an effective policy framework and the monitoring of the implementation of anti-corruption reforms. The need for having the strategy adopted as a national law should be reconsidered.

On the basis of the strategy, the NACP developed the state anti-corruption programme (SACP), adopted in March 2023 by the Cabinet of Ministers. The programme contains detailed, actionable measures across sectors and also provides a strategic framework for strengthening the key anti-corruption institutions. It includes clear key performance indicators for each government body. In drafting the strategy and action plan, the NACP carefully considered the findings of sociological surveys and other research, including recommendations and analysis by Ukrainian and international non-governmental organisations. The NACP also consulted independent experts and the public.

The NACP is the agency responsible for coordinating, monitoring and evaluating the effectiveness of the implementation of the anti-corruption strategy and the SACP. It is tasked with monitoring the implementation of measures provided in the programme each quarter. Based on the outcomes, it then provides quarterly information to relevant Ukrainian stakeholders. The current level of implementation of the programme is reasonable, in particular the development and full operationalisation of the open access information system for monitoring the implementation of the SACP is well advanced.

### **Fundamental rights**

Ukraine generally complies with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. The government has made continued efforts and progress, despite the war, on aligning its legislation with international standards and the EU *acquis*. The reporting period was marked by the Russian invasion of Ukraine, resulting in major violations of fundamental rights by Russia in Ukraine. Dealing with the consequences of these massive violations and devoting attention to mitigating measures was at the centre of the work of the Ukrainian authorities and human rights civil society organisations over the reporting period and will represent a challenge for Ukraine's prosecution, judiciary and society in the years to come.

The introduction of martial law and other measures in the interests of national security led to a limited number of restrictions of rights and freedoms. Their full re-establishment at the end of martial law in transparent and pluralistic structures (including for the media), and in accordance with European standards, should already be envisaged while military operations are still ongoing.

The new media law as well as the Law on national minorities (communities) of Ukraine were adopted in December 2022. Ukraine ratified the Istanbul Convention and adopted an updated national action plan on the implementation of United Nations Security Council Resolution 1325. It also adopted the 2030 state strategy on ensuring equal rights between men and women.

In, the coming year, Ukraine should in particular:

- adopt legislation to transpose and to implement the provisions of the Istanbul Convention;
- finalise the review of existing legislation on the rights of persons belonging to national minorities, including in education, media and on the use of state language' and in the law on national minorities in line with the recommendations of the Venice Commission Opinion of June 2023 and of its follow-up opinion of 6 October 2023;

- introduce annual public reporting to the Parliament on the work of the Prosecutor General's Office and the State Bureau of Investigation in investigating acts of torture and protecting victims, and organise a review of the performance of the National Preventive Mechanism;
- ensure application of the legislation on the rights of persons with disabilities and that restored and reconstructed infrastructure is compliant with barrier-free environment standards.

Ukraine has ratified most **international human rights instruments**. Human and fundamental rights are generally respected in Ukraine, and the government has shown commitment to protecting them. In July 2022, the country ratified the Istanbul Convention. Ukraine has yet to accede to the Rome Statute of the International Criminal Court and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and to the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe (Convention 108+).

However, the Russian invasion of Ukraine has had a negative impact on the enjoyment of fundamental rights by many Ukrainian citizens, in particular those in areas of active hostilities, in territories temporarily occupied by Russian forces or in their proximity. At the same time, the government has maintained its respect of human and fundamental rights and has shown commitment to protecting them and further aligning them with the EU *acquis*.

Considering Russia's full-scale invasion, Ukraine has achieved considerable progress in implementing the 2021-2023 national human rights strategy and its action plan. The introduction of martial law in February 2022 and its ongoing extension has not led to an increased level of violations of fundamental rights, and is handled cautiously by Ukrainian authorities. At the same time, the details for a return to the full application of all fundamental rights still need to be worked out. It should take place in consultation with civil society and should aim at strengthening the freedoms of Ukrainian citizens and re-establishing the pluralism and openness of Ukrainian society – specifically after the restrictions stemming from the COVID-19 pandemic and Russia's full-scale invasion – while closing the remaining gaps with European standards and rules. The reintegration of territories currently not under government control will also require careful attention in terms of the application of fundamental rights, especially on the reintegration of those territories under Russian occupation since 2014. This should be done in the form of an update to the national human rights strategy and its action plan.

As a result of Russia's blatant violations of international humanitarian law and international human rights law, many Ukrainian citizens were exposed to deliberate targeting and indiscriminate shelling by Russia. This has resulted in killings, together with the loss of homes and basic services such as heating, light, water and sanitation. Many Ukrainians were victims of extrajudicial executions, torture and mistreatment, as well as with sexual and gender-based violence committed by the Russian military. Millions of Ukrainians were displaced. Many civilians, including children, were forcibly transferred to areas temporarily under the control of Russian armed forces or deported to the Russian Federation and Belarus. Human rights violations and abuses by Russia and its proxies in temporarily occupied territories of Ukraine continued unabated amid the lack of independent international actors on the ground. The large number of international crimes, war crimes and human rights violations committed by Russia poses an enormous challenge for Ukraine's institutions to ensure effective investigations and prosecutions across the entire country. At the same time, additional mechanisms (also non-judicial) will be needed to overcome the consequences of Russia's brutal war and restore justice in all Ukrainian territories.



Ukrainian authorities have devoted significant efforts to ensuring full accountability for war crimes and the other most serious crimes committed by Russia, including the crime of aggression. At the same time, Ukraine has yet to ratify and implement some relevant international laws and conventions, such as the Rome Statute of the International Criminal Court.

In June 2023, there were 9 656 **applications pending before the European Court for Human Rights**. The Court delivered judgments on 356 applications and found breaches of the European Convention on Human Rights in 151 out of 154 cases, relating mainly to the right to respect for private and family life, the right to a fair trial, the right to liberty and security of person and the prohibition of torture and inhumane or degrading treatment or punishment. In the reporting period, there were 1 901 new applications allocated to a decision body. There are currently 580 cases under enhanced supervision by the Committee of Ministers.

Civil society organisations highlight problems with implementing the decisions of the European Court of Human Rights adopted in favour of applicants living in Ukrainian territories temporarily occupied by Russia. Applicants are effectively unable to provide the Ministry of Justice of Ukraine with duly certified powers of attorney given their lack of access to the government-controlled territory, institutions and legal representatives.

On the **promotion and enforcement of human rights**, the Ukrainian Parliament Commissioner for Human Rights is designated as the national human rights institution and accredited by the Global Alliance of National Human Rights Institutions with ‘A’ status (largely compliant with the Paris Principles). In 2022, the Commissioner’s office received 42 485 petitions, including 562 collective petitions from 7 779 people and 41 923 individual petitions. Its staff conducted 2 031 monitoring visits and processed 3 784 draft legal and normative acts. Parliament appointed on 1 July 2022 Dmytro Lubinets, previously Chair of the Parliamentary Committee on Human Rights, to the post of the Parliament Commissioner for Human Rights. In the reporting period, the institution of the Parliamentary Commissioner has shown an active and independent approach, with efforts to adapt the institution to its existing responsibilities by organising it around 9 fundamental fields of work, including issues associated with the war of aggression (war crimes, release of prisoners of war, return of Ukrainian children) and extending its presence to Ukraine’s regions.

On the **prevention of torture and ill treatment**, in 2022 Ukraine amended relevant legislation by changing approaches to the use of forced feeding of convicts and detainees, strengthening responsibility for acts of torture and introducing a mechanism for the conditional early release for people sentenced to life imprisonment. Despite these legal improvements, torture and ill treatment remains a systemic feature of Ukraine’s prison system. In addition, the main recommendations of the European Committee for the Prevention of Torture issued in its 2020 report have not been addressed. These covered among others poor material conditions of detention and the need to transfer medical care in prison to the general health system and should be addressed.

A Human Rights Monitoring Department was established within the National Police under the Ministry of Internal Affairs. The aim among other things is to monitor observance of human rights and fundamental freedoms by the police in relation to police conduct. In addition, the pilot project Custody Records is being implemented in police units to improve standards of protection of the rights of those in police custody and ensuring detainees’ rights. At the same time, cooperation between the State Bureau of Investigation, prosecuting authorities and prison authorities remains weak, and the ill treatment investigation mechanism during the pre-trial and prison sentence stage suffers from a lack of efficiency. There are still limited operational and human resources capacities and limited operational independence of the State Bureau of

Investigation to investigate ill treatment allegations, despite the establishment of a dedicated department in 2019. The ineffective investigation into allegations of torture and cases of obstruction of justice are rooted among others in a general culture of mutual protection of law enforcement officers within the criminal justice system.

As to statistics on cases of ill treatment or torture, 30 criminal proceedings with allegations of torture and 990 with allegations of abuse of power by a law enforcement officer were registered in 2022; 11 and 94 people respectively were notified of suspicion, and 6 and 58 criminal proceedings respectively were forwarded to the court. At the same time, the Office of the Prosecutor General reports that 484 criminal proceedings with direct allegations of torture were initiated in 2018-2022, with 60 people found guilty, but only 15 receiving a prison sentence. This highlights how criminal courts do not follow through on the seriousness of the practice of torture and thereby contribute to an atmosphere of impunity enjoyed by law enforcement and prison staff. A permanent body needs to be established that involves civil society organisations and the Human Rights Commissioner to consistently monitor and follow up on alleged torture in the prison system.

To implement the Optional Protocol to the UN Convention against Torture in Ukraine, legal amendments made in 2012 assigned the Ukrainian Parliament's Human Rights Commissioner the functions of the National Preventive Mechanism. This is based on the Ombudsman+ model, with a strong focus on joint work with civil society organisations. In 2022, the Human Rights Commissioner delivered 141 mandates to the representatives of civil society to conduct visits to detention places. However, an inadequate methodology for prison visits and the delayed publication of reports raises questions over the effectiveness and performance of the National Preventive Mechanism. The mechanism continues to suffer from limited financial resources and limited capacities of the Human Rights Commissioner's office.

The **prison system** and detention centres remain an issue of concern. The prison population has fallen sharply in recent years, from 60 621 in 2017 to 42 694 in December 2022. Despite this positive trend, most of the long-standing problems identified by the European Court of Human Rights, the Council of Europe's Committee of Ministers and the European Committee for the Prevention of Torture remain. The issues are primarily linked to the material conditions of detention, very poor healthcare services, the use of detainees for prison duties and the widespread use of violence by guards. The penitentiary system was already under-resourced before Russia's war of aggression and since many facilities have been badly damaged and some completely destroyed, complicating also the provision of basic services. Despite the national strategy on human rights of 2021 and the multi-annual strategy for reforming the prison system of 2022, the key challenges facing it have not been addressed. The poor detention conditions in Ukraine have at times served as grounds for foreign courts to refuse extradition requests from Ukrainian institutions. This undermines Ukraine's fight against serious crime, including corruption and organised crime.

Medical care in places of detention is under the responsibility of the Ministry of Justice. Numerous recommendations by the European Committee for the Prevention of Torture to transfer responsibility for prison healthcare to the Ministry of Health have not been addressed.

Probation was introduced in 2015-2016. In 2022, 110 000 people were under probation. It is available through the country, with 600 offices and 3 000 probation officers. Remote monitoring was recently introduced for certain cases. There is a special probation infrastructure for juveniles, separate from adult probation. Together with conditional early release, probation is the main alternative to detention.

As a result of Russia's war of aggression against Ukraine, the Office of the High Commissioner for Human Rights and non-governmental organisations documented around 1 000 cases of arbitrary detention of civilians perpetrated by Russia and close to 100 cases of arbitrary detentions by Ukraine. So far, there is no designated body or institution responsible for addressing this issue in Ukraine.

On **personal data protection**, Ukraine continued working on alignment with the EU *acquis*. The current key legislative act that regulates data protection is the Law on personal data protection of 2010. It lacks sufficient detail and is not sufficiently enforced. Ukraine has ratified ILO Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data. The Ukrainian Parliament Commissioner for Human Rights is the authority in charge of checking compliance with data protection legislation, but lacks the appropriate resources to do this effectively. A draft law on personal data protection was introduced in Parliament on 7 September 2022 and should be adopted to meet the requirements of both Convention 108+ (not yet signed and ratified by Ukraine) and the General Data Protection Regulation.

The Constitution of Ukraine as well as related legislation and policies provide for the right to **freedom of religion and belief**. In general, Ukrainian public authorities enforce these norms, and incidents of hate speech and intimidation due to religion are infrequent. Religions are represented among others in the Ukrainian Council of Churches and Religious Organizations and are in dialogue with public administration mainly via the State Service for Ethnic Affairs and Freedom of Conscience. Representatives of religions are effectively collaborating with the Ukrainian administration to support Ukrainians during the war and fight disinformation campaigns that have the objectives to incite inter-ethnic and inter-religious conflict. At the same time, a number of issues are not yet fully regulated in Ukraine, such as the restitution and redistribution of church property, and the establishment of principles of relations between state and religious organisations in the spheres of education, social work and humanitarian activities.

The creation of the new Ukrainian Autocephalous Orthodox Church at the beginning in 2019 did not lead to significantly heightened tensions among Orthodox churches and communities, but to a large part of orthodox believers moving away from the Moscow Patriarchate, which is still ongoing. Since Russia's invasion, and as a consequence of its full support by the Moscow Patriarchate of the Russian Orthodox Church, Ukraine has taken legal measures since November 2022 against the Moscow-affiliated Ukrainian Orthodox Church. This includes sanctions against some members of the church hierarchy accused of supporting Russia's war of aggression and conducting searches of various church premises in application of legal standards and practices. With these measures, Ukraine aims to prevent foreign interference from Russia through a religious entity, while not targeting ordinary followers of the church.

Regarding the fight against antisemitism, in September 2021, Ukraine adopted a law on the prevention and countering of antisemitism, which defines antisemitism, prohibits anti-Jewish acts and adds civil liability. Despite stereotypes widely spread by pro-Russian disinformation, antisemitism in Ukraine is significantly less widespread and has been falling continuously in surveys for the last decade. In 2022, the lowest number of acts of antisemitic vandalism was recorded in 20 years of monitoring, with no cases of antisemitic violence. As stated by Jewish representatives in June 2023, previously existing low levels of antisemitism have been practically non-existent in Ukraine since the start of Russia's fully-scale invasion. Concrete efforts have been made regarding Holocaust education and remembrance. Activities to preserve Ukraine's Jewish cultural life and heritage are supported by the state and civil society and are increasing. Ukraine is not a member of the International Holocaust Remembrance Alliance and has not adopted its definition of antisemitism. Ukraine has not appointed a national coordinator

on combating antisemitism. Progress has been made regarding the restitutions of properties confiscated by the Soviet regime.

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## Freedom of expression

Ukraine is in between some and moderate level of preparation in the area of freedom of expression. Overall, it made **good progress** in strengthening its legal framework during the reporting period, in particular with the adoption of the Law on media. This is a notable achievement in the challenging context of Russia's full-scale invasion, in particular due to its vibrant public civic space and diversity of media outlets, including at regional level. According to the Reporters without Borders global ranking of freedom of media, Ukraine improved its position 27 places from 106<sup>th</sup> to 79<sup>th</sup> place.

Before the beginning of the Russia's war of aggression against Ukraine, the general context was favourable to media freedom and allowed for critical media reporting. In the current challenging context of martial law, Ukraine has taken some decisions on restricting access for media and journalists in specific areas and spheres but applied these generally with restraint. A significant drop in advertising revenue has also had an impact on the media market in the country and led to the concentration in particular of TV programmes and decrease the access to pluralistic media.

In the coming year, Ukraine should:

- develop, together with the community of journalists, simplified rules for reporting from the combat zone and adjacent areas, taking into account the security concerns;
- ensure the independence of the national regulator by providing adequate funding, including for necessary adjustments to its structure in line with the new Law on media.
- develop a roadmap to support the re-establishment of a pluralistic, transparent and independent post-war media landscape.

## Intimidation of journalists

There have been a limited number of reports on instances of obstructing work and attacks on journalists by individuals. The most recent was on journalists covering victory day commemorations in Poltava and reporting from the Kyiv-Pechersky monastery, both with adequate follow-up by law enforcement. Incidents from previous years are generally being followed up as well. However, the past general practice of intimidating journalists is still to be found, in particular in local and regional contexts. Historical cases such as the murders of Georgiy Gongadze in 2000 and Pavlo Sheremet in 2016 have been followed up with renewed efforts in recent years, but still need to be concluded. A special police unit was established in 2019 to investigate attacks on journalists.

Since March 2023, officers from the Security Service of Ukraine (SSU) have repeatedly questioned journalists seeking military accreditation. The awarding of accreditation is not considered to follow fully transparent procedures, but no arbitrary arrests of journalists have been reported. In the same period, new rules on reporting from the combat zone and adjacent areas have been introduced, but rules are not sufficiently simple or are applied on an indiscriminatory basis. Independent journalism in the temporarily occupied territories of Ukraine is only possible with severe risks to life at the hands of Russian forces and will need to be re-established once the Russian occupation is ended. In addition, eight journalists have

been killed by the Russian Army while performing their professional duties and 42 have died due to shelling by the Russian Army or in detention while not working.

Ukraine has taken some steps to align with the Commission's recommendation on the protection, safety and empowerment of journalists. Media Center Ukraine was established at the start of Russia's full-scale invasion to support foreign journalists, together with a hotline for legal advice to journalists and media. In March 2023, the action plan for implementation of the information security strategy was adopted to clarify among others the rules on access and use of information as well as the protection of journalists' rights. The Parliament resolution of March 2022 on the value of freedom of speech, guarantees of activities of journalists and mass media underlined the importance of independent journalism for public authorities in Ukraine.

### Legislative environment

The main achievement in the area of freedom of expression was the adoption of the Law on media in December 2022, which modernised the regulation of the entire sector and made an important step towards alignment Ukrainian legislation with the EU's Audiovisual Media Services Directive. It established the detailed rights of journalists for accreditation and obliges the public authorities to facilitate and support the work of journalists. It also empowered the independent media regulator, which will now need sufficient resources to ensure its independence and sufficient capacities.

In March 2022, in the context of martial law, the President signed a decree on a unified information policy by merging the programming of all national TV channels into a single information platform. This decision led to an expansion of government control over broadcasting and some restrictions. Some media outlets consider these restrictions disproportionate. Similarly, the exclusion of three private (opposition-affiliated) TV channels from terrestrial broadcasting (while the channels continue working and remain available through other means) has been criticised by the opposition on the same grounds. As regards defamation and blasphemy, these are not criminal offences in Ukraine. National legislation, the Law on media in particular, duly addresses the issue of hate speech. This ensures the free expression of views, while prohibiting genuine and serious incitement to violence and hatred.

### Implementation of legislation/institutions

The National Council of Television and Radio Broadcasting of Ukraine acts as an independent media regulator in Ukraine. The Council is a permanent collegial body that acts on the basis of the Constitution of Ukraine, the Law on media and other Ukrainian laws and regulates, supervises and controls media. It consists of eight members – the Parliament and the President each appoint half of the members for a five-year term. They are officials and work on a permanent basis. While performing their official duties, they cannot hold any other positions, including on public grounds, in state and non-state bodies, organisations, institutions and companies, or engage in other paid or entrepreneurial activities. They also cannot hold a representative mandate and be a member of a political party.

The selection and appointment of candidates takes place on a competitive basis. The National Council is financed exclusively from the state budget, which needs to be strengthened to address all aspects of its mandate and guarantee its independence. The Law on media significantly changed and expanded the functions of the regulator, while the remuneration of National Council members remains within the limits set by the previous law. Access to information for journalists is regulated in the context of access to public information legislation. The Ukrainian Parliament Commissioner for Human Rights is empowered to draw up protocols and receive appeals on administrative violations of access to information. However, this procedure is not effective enough and should be reformed.

### Public service broadcaster

Since 2017, Ukraine has had an independent public service broadcaster, Suspilne, which has three TV and three radio channels, regional networks and a digital broadcasting platform. Suspilne adheres to the standards of independent journalism, has the highest trust ratings among radio and television channels and is considered politically neutral and not subject to political influence. Its editorial standards are enshrined in the Editorial Charter, which is monitored by two bodies – the Editorial Board and the Supervisory Board of Suspilne. The broadcaster's standards are enshrined in the Charter and the Code of Ethics, which are monitored by the Supervisory Board and should ensure a clear separation between quality standards and daily editorial and managerial decisions.

A significant factor that influences Suspilne is its funding, which comes from three sources: the state budget, advertising revenues and donor funds. The main source is funding from the state budget, which has so far fallen short of the amount prescribed by the law.

### Economic factors

Ukrainian legislation does not include restrictions that limit or prevent the work of the media. The Ukrainian media landscape of the past few years has been increasingly dynamic and diverse, especially online media. Previously dominant media entities with non-transparent media ownership have been gradually losing ground but still retain a strong position, in particular in television. The onset of the Russian war of aggression has profoundly impacted the media landscape and it should be a government priority to ensure the re-emergence of full media pluralism and clear media ownership transparency, taking into account security considerations. The state budget provides limited financial assistance to address specific issues in media (children, young people, persons with disabilities, science, national minorities etc.), also in form of financial assistance and economic support to media.

### Internet

As regards internet freedom, since the beginning of martial law, the blocking of web resources has been conducted by an extrajudicial order on the basis of recommendations issued to providers of electronic communication networks and/or services of basic internet resources by the National Centre for Operations and Technology Management of Telecommunications Networks. In the context of Russia's full-scale invasion and its hybrid warfare including disinformation, these restrictions are legitimately rooted in national security concerns. However, the Ukrainian government should provide a clear vision for the re-establishment of previous rights and freedoms after martial law ends.

### Freedom of artistic expression

The freedom of artistic expression is not restricted and is guaranteed by the Ukrainian constitution. This is repeated in the Law on culture as well as in other related legislation. Intimidation of artists is rare and is followed up in general by Ukrainian authorities. Since 2014 and following further amendments of the Law on culture in June 2022, Ukrainian authorities have implemented a ban on Russian cultural figures and their artistic work in Ukraine in response to Russia's war of aggression against Ukraine and occupation of the part of its territory. The ban includes actors, musicians, writers and artists who do not condemn the aggression against Ukraine. The ban also applies to the use of symbols that represent Russia or Russian propaganda.

### Professional organisations and working conditions

Ukraine has a large number of journalism organisations that represent journalists, such as the National Union of Journalists of Ukraine and the Independent Media Trade Union of Ukraine. The latter is a member of the International Federation of Journalists and the European Federation of Journalists. Members of the National Union of Journalists and Independent Media Trade Union must adhere to standards of journalism – namely the Ethics Code of Ukrainian Journalists. Both are financed by contributions and donations. Cases of violation of the code are considered by the Commission on Journalism Ethics, a self-regulatory body of journalists and editorial offices in Ukraine. The Independent Media Council promotes high professional standards of journalism and self-regulation in the Ukrainian media sector by providing expert opinions, advice and recommendations based on international standards, national legislation and ethical standards of professional journalism. These professional organisations are involved in public councils that organise dialogue with the government and local authorities, for instance with Suspilne.

In general, the employment of journalists is precarious given the current wartime situation and is more difficult for freelance journalists. An amendment to the Law on state support of media, guarantees of professional activity and social protection of journalists adopted in 2023 provides for specific guarantees on the remuneration and social security for journalists, but does not include freelance journalists in its scope.

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The right to **freedom of assembly and association** is guaranteed by the Ukrainian constitution, and the government respects these rights. Existing legislation allows for a court to restrict these rights in the interests of national security and public order. A comprehensive law in line with international standards that would regulate the process of organising and conducting events to make full use of the freedom of peaceful assembly in Ukraine is still missing. Restrictions on these rights linked to COVID-19 are no longer in force. The introduction of martial law in February 2022 allows the government to introduce temporary restrictions on the right to peaceful assembly, for instance curfews, but it applies them with restraint. The Ukrainian constitution provides for the restriction of the freedom of association by judicial procedures for reasons of national security. On this basis, the government suspended by decree the activities of 11 political parties with claimed ties to the Russian government for the duration of martial law. Major concerns remain over the freedom of assembly and association in the territories of Ukraine that Russia temporarily militarily occupies, where Ukrainian citizens are deprived of these rights. These freedoms are to be restored by Ukrainian authorities after these territories have been liberated.

Issues of **labour and trade union rights** are covered in Chapter 19 – Social policy and employment.

On **property rights**, there has been a focus on modernising and strengthening these rights since 2013. The State Register of Rights to Real Estate provides official recognition and confirmation by the state regarding the origin, transfer or termination of rights to property. However, it is estimated to be only 40% complete and does not include the majority of property rights that were acquired before its introduction and that are still stored in the State Land Cadastre (land register), with a number of mismatches. The territories not under government control since 2014 possess much more limited confirmed property rights given the wide-scale violations of property rights by Russian-supported henchmen and their criminal activities. Before the full-scale invasion by Russia, progress had been made in revamping the State Property Fund, modernising the its procedures and also in continuing to privatise small and large assets. In 2022, the European Court of Human Rights adopted seven decisions against Ukraine, which

was found to be in violation of Article 1 of Protocol No. 1 to the European Convention on Human Rights. The government is following up on this.

Since the start of Russia's full-scale invasion, property rights in government-controlled territories have not been limited, apart from the possibilities for the Ukrainian armed forces to requisition property for their needs, in particular in areas near the frontline. The government undertook a number of measures to ensure the legal continuity of property rights and take war damages into account. In February 2023, Ukraine adopted among other things a real estate law on compensation. This enables people to claim and receive compensation for property that has been damaged or destroyed as a result of Russia's full-scale invasion. To monitor property damage and destruction, local military administrations provide reporting, the state digital services platform Diia also allows for self-reporting, and the state registry of damaged and destroyed property provides a loss reporting infrastructure for property rights. In February 2022, the Criminal Code of Ukraine was amended to protect citizens from self-interested property crimes during wartime.

In the area of **non-discrimination**, Ukrainian society remains open in general and tolerant towards respecting persons in vulnerable situations. The Ukrainian constitution guarantees protection against discrimination. The law on the principles of preventing and combating discrimination in Ukraine prohibits discrimination on different grounds with race, colour, political, religious and other beliefs, sex, age, disability, ethnic or social origin, family and property status, place of residence and language receiving explicit protection.

The Law on media adopted in December 2022 prohibits dissemination in the media and on platforms of shared access to videos of statements that incite hatred towards people and groups based on their national, racial or religious characteristics, as well as statements that incite discrimination based on their ethnic and social origin, citizenship, race, religion and beliefs, age, gender, sexual orientation, gender identity, disability or any other characteristic. The National Council of Ukraine for Television and Radio Broadcasting currently formalises the criteria for identifying such violations and has the authority to take response measures against any media outlets that commit such violations.

Ukrainian criminal legislation provides for punishment of hate crimes and hate speech based on three characteristics – race, nationality and religious beliefs – but does not cover sexual orientation and gender identity, which is recommended by the European Commission against Racism and Intolerance as a matter of priority. A draft law, prepared by the Ministry of Internal Affairs to include these other protected grounds, was introduced to Parliament in 2021, still has to be adopted. The National Police of Ukraine introduced a new data collection form to investigate hate crimes and offences as part of the reporting system. In the first 2 months of 2023, it launched a pretrial investigation into 26 criminal offences based on hatred.

The Ukrainian Parliament's Commissioner for Human Rights is the main holder of powers to combat discrimination. It is an independent body, with powers equivalent to the mandate typically attributed to national equality bodies. In 2022, it received 395 reports of discrimination on various grounds and in general ensures follow-up by the authorities. The capacities of police officers, prosecutors, judges and staff of the Ombudsperson of Ukraine should be increased to tackle discrimination, hate speech and hate crime through suitable training. The legal aid system should be strengthened to implement the legislation and combat discrimination, hate speech and hate crime effectively.

As regards **gender equality**, Ukraine has several laws in place, in particular the Law on ensuring equal rights and opportunities of men and women of 2005, the Law on principles of prevention and combating discrimination in Ukraine of 2012 and the Law on prevention of



domestic violence of 2018. However, this legislation is generally declarative in nature and provides only limited guidance to the application of these laws. The Cabinet of Ministers adopted the 2030 state strategy on ensuring equal rights and opportunities for men and women in August 2022. The strategy is a comprehensive document that addresses among others gender inequality and women's participation in public institutions, economics and environmental issues.

Institutionally, since 2017 the coordination of gender policy in the government has been entrusted to the office of the Deputy Prime Minister for European and Euro-Atlantic integration, where the Commission on Gender Policy was established in order to ensure the concerted and coordinated involvement of all executive bodies, allowing for a more effective horizontal approach on gender equality.

On 18 July 2022, Ukraine ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), which entered into force on 1 November 2022. The effective implementation of the Convention is still to be initiated in a situation of increased priority, as gender-based violence prevention has suffered major setbacks in 2022 when local budget subventions were reduced due to budget constraints, and social services being degraded near the frontline and in temporarily occupied territories of Ukraine, as well as in regions experiencing massive influx of internally displaced persons (IDPs). While the number of cases of gender-based violence documented by the police has decreased by almost 50% in the first six months of 2022 (773 cases compared to 1 508 cases during the same period in 2021), the number of non-documented cases is unknown and is likely to have increased. The number of such cases linked to post traumatic stress are likely to have increased as well, including in families of military personnel.

Conflict-related and gender-based sexual violence emerged as an important war-related issue with hundreds of confirmed cases against both sexes of all ages and an estimated large number of unreported cases. In the same period, Ukraine revised the National Action Plan on UN Security Council Resolution 1325 on women, peace and security to address the changing realities in the country and include measures on conflict-related sexual violence. To fully implement the action plan, Ukraine needs to ensure the inclusion of women in the reconciliation negotiation process and in the decision-making process conduct mandatory systematic training of law enforcement agencies and the military on women's rights. It should also include the detection of forms of violence against women in their respective institutions and capacity-building for police and armed forces as first respondents in cases of conflict-based sexual violence.

Similarly, further steps are needed to ensure justice with a gender-sensitive approach, fulfil obligations to prevent, investigate and punish sexual and gender-based crimes committed during armed conflicts. This includes aligning the legal framework with international standards. Ukrainian authorities have committed to establish a comprehensive response system, including one-stop response centres in the regions to assist the victims, as well as the establishment of investigation mechanisms. In May 2022, a memorandum of cooperation was signed between the government and the UN on the prevention and counteraction of sexual violence in wartime. Gender equality has also been defined among seven cross-cutting priorities of the government's recovery plan.

Since February 2022, all positions in the Ukrainian armed forces have been opened to women, and in March 2023 more than 60 000 women were serving in the armed forces, a large part being on the frontline of combat operations. This is accompanied by increased acceptance of equal rights for women soldiers in Ukrainian society. This implies the obligation to cater more to the needs of women soldiers and veterans in terms of equipment, protection against sexual

violence and harassment and medical support during and after combat, and reintegration support to civilian life once they retire from the armed forces.

Ukraine ratified the UN Convention on the **Rights of the Child**, acceded to the three Optional Protocols to the Convention and endorsed the Paris Commitments to protect children from unlawful recruitment or use by armed groups. It also ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). Ukraine has furthermore signed the Safe Schools Declaration, which aims at protecting children and ensuring their right to education in the context of conflict and war.

The last few years have seen progress, with legislation strengthening the social protection of children and support for families with children, and introducing the notion of the best interests of the child. There is however still a need to develop procedures and criteria to provide guidance for determining the best interests of the child, including of children in need of care and protection, and giving the best interests of the child due weight as a primary consideration. Similarly, there is room to strengthen integrated social services to prevent family separation, support alternative family placements and reintegration of children from institutions into families, including investing more resources into a minimum package of social services as the first steps towards meeting the provisions of the EU Child Guarantee and secure a social service workforce trained in integrated social services and corresponding case management approaches.

Since 2021, the state guarantees a right to all medical services, with equal funding and equal access for children. Monetary benefits are provided for children, with higher rates for children with disabilities. At the same time, remaining issues include a lack of available resources, limited data collection and monitoring policies on child rights, which should be solved. Efforts have been undertaken to protect children in civil and criminal proceedings, but further capacity building to support cases involving children needs to be envisaged.

The existing difficulties in ensuring the rights of the child have been exacerbated since the beginning of Russia full-scale invasion. According to OHCHR until 30 June 2023, 535 children were killed and 1 095 injured. Research indicates that a high number of children show signs of psychological trauma. In many cities, children cannot receive proper medical care due to constant shelling by Russia and the systemic destruction of critical infrastructure. The war limits access to education for children; 3 395 educational institutions have suffered from bombings and shelling and 363 have been completely destroyed. Many children depend on online education, which is complicated by a lack of access to technology, internet connectivity and electricity availability. The government established the Coordination Headquarters for the Protection of Children's Rights under Martial Law to address these challenges in light of the difficult wartime circumstances.

Before February 2022, Ukraine had the largest number of children in institutional care in Europe. These institutions are under-resourced and include outdated and inappropriate boarding schools run by the Ministry of Education, baby homes run by the Ministry of Health, and institutions overseen by the Ministry of Social Policy for children deprived of parental care by the courts. The 2017 Law on education introduced protection with special educational needs. Since then, the number of inclusive classes and accessibility of schools have increased significantly.

Since the Russian invasion in February 2022, a number of large institutional care facilities have been evacuated to neighbouring countries under very difficult circumstances, including to a number of EU Member States. Ukraine also asked host countries to keep groups of evacuated children together. In February 2023, the President's Office committed to the goal of zero

children in institutional care and comprehensive childcare reform. UNICEF has an agreement with the Ministry of Social Policy and the President's Office to support them in the deinstitutionalisation planning process, including the short-term ambition of reunifying or placing all children who are in institutions as quickly as possible in safe, supported biological or foster families.

Since Russia's full-scale invasion in February 2022 and even before in temporarily occupied areas of the Donbas, Russia started to forcibly transfer and deport at least 19 000 children from non-government-controlled territories of Ukraine, using the pretext of 'evacuation'. Ukrainian and international non-governmental organisations (NGOs) report on the forced 'russification' of Ukrainian children in Russian institutions and 'summer camps'. In 2022, Russia introduced legislative changes to allow Ukrainian orphans and children without guardianship to obtain Russian citizenship in a simplified manner, enabling Ukrainian children to be adopted by Russians. Ukrainian NGOs as well as the Office of the United Nations High Commissioner for Human Rights note that there is currently no functioning mechanism for reunifying children with their relatives in Ukraine. The identification and monitoring of missing children and their families also remains challenging.

In 2010, Ukraine ratified the UN Convention on the **Rights of Persons with Disabilities** and its Optional Protocol. The Law on the basis of social protection of persons with disabilities in Ukraine prohibits discrimination on the basis of disability and introduces quotas for companies. However, integrating persons with disabilities into the workforce remains limited. The application of the principle of reasonable accommodation for persons with disabilities remains rare. The National Strategy for Barrier-free Environment in Ukraine, covering the period up to 2030, was adopted in spring 2021. It provides a framework for empowering persons with disabilities to fully participate in society and ensures their fundamental rights. It is being implemented by way of annual action documents. This led to a number of actions in 2022, even though they were limited by the impact of the Russia's full-scale invasion. In June 2023, Ukraine adopted the action plan for 2023-2024. It provides for monitoring the barrier-free nature of the physical environment and transport, adapting them to the needs of persons with reduced mobility, as well as introducing new and improved state construction norms and standards. The government announced that all restored infrastructure should be compliant with barrier-free environment standards by 2024. This now requires consistent implementation at all levels of government.

As of 1 January 2020, 2.7 million persons with disabilities were registered in Ukraine, among them 160 000 children. This number is expected to have risen dramatically because of Russia's war of aggression. It includes only persons who were able to register their disability. This leads to barely relevant disaggregated data as Ukraine has not yet introduced the WHO's International Classification of Functioning, Disability and Health for the registration of persons with disabilities. Furthermore, there is limited legal capacity in Ukraine to enable persons with disabilities the opportunity to claim their rights. Persons with intellectual and psychosocial disabilities remain highly vulnerable due to exceptionally high levels of institutionalisation, including of children and infants, instead of family- and community-based alternative care. Previous reform attempts have not led to a sufficient reduction in institutionalisation, also due to the lack of capacity at local and regional level. This reform needs to be prioritised.

The situation for persons with disabilities remains very challenging as regards equal participation and opportunities. There is a distinct lack of accessible transportation, healthcare, social services and public buildings. Legislation does not provide incentives for employing persons with disabilities in the open labour market. Russia's invasion led to additional strains on public services for persons with disabilities due to the growing number of war victims

among veterans and civilians, the further extension of conflict-affected areas, as well as the forced displacement of persons with disabilities, their families and carers and the destruction of care infrastructure.

Overall, during the reporting period the general trend of increasing tolerance and acceptance of **lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ)** persons in Ukrainian society over the last decade was sustained. The trend towards a decrease in the number of attacks and hate crimes against LGBTIQ persons continues (–44% since 2020). Surveys conducted in 2022 show that a majority is in favour of same-sex partnerships and equal rights for LGBTIQ persons. The government clearly communicates its support for the rights of LGBTIQ persons and against hate crimes and discrimination. In addition, Kyiv Pride was held on 25 June 2023 in Warsaw together with the city’s Equality Parade, focusing on rights for LGBTIQ persons as well as on the support for Ukraine.

Existing legislation, for instance the Labour Code, already provides some level of protection against discrimination based on sexual orientation, and reforms to ensure equal rights are currently under way. The media law, adopted on 15 December 2022, bans hate speech and incitement based on sexual orientation and gender identity in media. The National Human Rights Action Plan 2021-2023 envisages progress in the status of LGBTIQ persons, for instance by amending the Criminal Code of Ukraine to apply the notion of the term ‘bias’ as regards sexual orientation and gender identity. The plan also suggests drafting a law that would provide for the elimination of discriminatory provisions that may violate the property and non-property rights of unmarried partners as well as the introduction of a registered civil partnership. Amendments to the provisions of the Family Code which currently discriminates same-sex couples compared with unmarried couples of the opposite sex are necessary. In March 2023, a draft bill on legalisation of same-sex marriage was introduced by MPs to Parliament and government has committed to approve the bill by the end of 2023. The judgment by the European Court of Human Rights of 1 June 2023 reinforced the requirement for the state to ensure the equal treatment of same-sex couples in Ukraine.

**Procedural rights** are outlined and protected among others in the Law on the judiciary and status of judges and in the Criminal Procedure Code. However, the implementation of existing rules and procedures suffers from a lack of efficiency and capacity of the judicial system. Ukraine’s legal system is not yet aligned with the EU *acquis* on procedural rights for suspects and accused persons in criminal proceedings, but measures are being taken in this direction: the presumption of innocence, the right to information about the main procedural rights, the right of access to a lawyer and the right to be present at the trial are provided. The Criminal Procedure Code provides for the translation of legal documents and persons involved in the criminal proceedings have the right for an interpreter at the expense of the State.

There are safeguards for children who are suspects and accused in criminal proceedings. During the reporting period, the free legal aid system showed a high level of stability, while legal services quickly adapted to the new conditions. In 2022, the right to free secondary legal aid was extended to people without documented Ukrainian citizenship, victims of criminal offences during hostilities and armed conflict, and to those deprived of their liberty in the context of Russia’s war of aggression against Ukraine. The country’s legislation on victim rights should be fully aligned with the Victims’ Rights Directive and Council Directive 2004/80/EC relating to compensation to victims of crime.

In 2022, the Ukrainian Parliament Commissioner for Human Rights received 5 105 reports on violations of procedural rights, 790 on administrative and civil proceedings, 3 628 on criminal proceedings and 687 on places of detention. They refer in particular to the violation of the right

of access justice, of the right to a fair trial for excessive length of the proceedings as well as violation of rights by law enforcement officials. The right to a fair trial is frequently violated, as shown by 61 decisions delivered by the European Court of Human Rights in 2022 in cases against Ukraine regarding violations of Article 6 of the European Convention on Human Rights. These issues reflect structural problems with the practices of the judiciary and law enforcement authorities. Recent law reforms have not yet led to a visible improvement in the situation, in particular as the COVID-19 pandemic and Russia's full-scale invasion have further burdened the wide application of appropriate standards and rules in law enforcement and the judiciary, in particular the rights of access to justice and the right to a fair trial within a reasonable time. A draft Law on excessive length of proceedings was registered in September 2022. It proposes reducing the terms of consideration of civil, commercial and administrative cases, introducing a protection mechanism and providing compensation for plaintiffs, but still needs to be adopted.

Regarding the **respect for and protection of persons belonging to minorities**, the wide range of national, ethnic, linguistic and religious identities in Ukraine continues to be an important element of Ukrainian society. Ukraine has been a party to the Council of Europe's Framework Convention for the Protection of National Minorities since 1998 and to the European Charter for Regional and Minority Languages since 2005. Since 2017, the legal framework for national minorities is being reformed but is not fully implemented yet. This was addressed by the Commission's opinion on Ukraine's application for EU membership, which recommends that Ukraine *'finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission and adopt immediate and effective implementation mechanisms.'*

In general, the rights of persons belonging to ethnic, linguistic, religious or national minorities are upheld in Ukraine. This is despite the efforts of the Russian regime to instrumentalise uses the topic of the Russian minority in its disinformation campaign in order to justify its illegal aggression against Ukraine. Civil society organisations and international organisations are very concerned about this high politicisation of the topic, while the issues to be addressed revolve mainly around those concerning the daily lives of persons belonging to national or linguistic minorities, such as education, language use in public life, media, civic participation and representation of national minorities.

On 13 December 2022, the Law on national minorities (communities) of Ukraine was adopted. It replaced the Law on national minorities adopted in 1992 as the main act regulating the rights of national minorities. It creates rules and structures for national minority rights in Ukraine. In the preparatory process, efforts were made to also consult representatives of national minorities. The adopted accompanying implementing measures address the structures of regional centres of national minorities, financial support to public associations of national minorities, the methodology for using minority languages and the creation of consultative bodies on national minorities, as well as a state programme 'Unity in Diversity' for national minorities, but the implementing bodies remain to be underfunded.

The Venice Commission Opinion of 10 June 2023 provided detailed guidance on the remaining issues and recommended amending the Law on national minorities (communities) as regards the use of minority languages in public life, administration, use of minority languages in media and books to ensure that the law complies with European standards. As indicated in the Venice Commission Opinion, Ukraine should also address earlier recommendations of the Venice Commission on the Law on education and the Law on State language. On 11 June 2023, Ukraine adopted a law extending the transition period for education in minority languages by 1 year for pupils starting their education before 2018. In October 2023, Ukraine registered a

draft law in Parliament to exempt these pupils from the obligations of the education law. This would allow Ukraine to reconsider the minority school system also in light of previous Venice Commission recommendations to ensure equal opportunities for persons belonging to national minorities, avoiding disproportionate interference with their rights. The amendment to the Law on national minorities was adopted on 21 September to accommodate some of the Venice Commission comments, in particular those directly relevant to the law on national minorities (communities). The Venice Commission follow-up Opinion of 6 October 2023 assessed the progress of the amending law, but also identified those recommendations that remain to be addressed. According to the final provisions of the revised law, within the six months following its entry into force the Cabinet of Ministers has to prepare and submit to Parliament a draft law to revise the education law, the State language law and the media law. These need to be in line with the recommendations of the Venice Commission.

The impact of Russia's war of aggression against Ukraine has severely affected national minorities, leading to disruptions to their social fabric by displacements of their members, challenges to guarantee education in minority languages as well as a general lack of state funding to implement adopted reforms. In the medium term, in particular after the end of the war, this will require a broad review of Ukraine's policies to enable the full application of the rights of persons belonging to national minorities.

The **Roma minority** remains one of the most marginalised communities in Ukraine and continues to face significant challenges. These include discrimination and antigypsyism, economic and social exclusion, lack of access to ID documents, lack of adequate education, continuing segregation in settlements, lack of poverty reduction and lack of adequate housing. There is a continued need for empowering women, for family planning programmes, increased protection of children's rights and the prevention of teen pregnancies, misappropriation of funds designed for child support as well as discrimination by police. These existing challenges were exacerbated by the impact of Russia's full-scale invasion, which led to the displacement of a large part of the Roma minority within the country and abroad. At its beginning, Roma faced additional obstacles in various regions, preventing an efficient evacuation. Instances of mob violence against Roma targeting both settlements and individuals were recorded in recent years. Civil society organisations point out that attention should be paid to the non-discriminatory nature of aid delivery in order to reach citizens without a full set of ID documents, as well as marginalised settlements, documentation procedures for Roma individuals should be simplified and accelerated, and the legalisation of Roma settlements should be ensured. Roma should also be included in the recovery and reconstruction efforts of Ukraine.

In July 2021, Ukraine adopted the strategy promoting the realisation of the rights and opportunities of persons belonging to the Roma national minority in Ukrainian society up to 2030. The strategy is being implemented only slowly and the related action plan, which needs to be fully aligned with the EU Roma strategic framework, developed with the full involvement of the Roma community and be given sufficient resources for its implementation, has not yet been adopted.

On 7 April 2023, the Ukrainian government adopted a state policy strategy on internal displacement until 2025, together with an operational plan for 2023-2025. The strategy aims to properly address all issues related to **internally displaced persons**, and this at all stages: from the decision to relocate these persons to the period when a person decides to return to the liberated and safe territory. Implementation of this strategy will heavily depend on the capacities and financial resources of the Ukrainian government. According to the International Organization for Migration (IOM), in June 2023, an estimated 5 088 000 were internally

displaced. According to the United Nations High Commissioner for Refugees (UNHCR), in June 2023, 6 303 500 people Ukrainians were registered as refugees. Across Ukraine, IOM estimates that 4 757 000 people have returned to their place of habitual residence in Ukraine following a period of displacement, 20% of whom returned from abroad. Income sources of internally displaced persons have been severely affected by the war. In addition, given the overall priority given to winning the war and the scale of the social emergencies created by the Russian war of aggression, increasing difficulties are reported in ensuring adequate state budget allocations for social services. Significant and continued reliance on external assistance is expected by relevant ministries in charge of social policies, with few plans at the moment in terms of self-sustainability. IOM data indicates that around one in four internally displaced persons (24%) that responded stated that monthly livelihood cash assistance was their primary source of household income. The vast majority (72%) of internally displaced persons who rely on social assistance reported a total monthly household income which – when divided by the number of people in the household – was equal to or less than UAH 2 500 (EUR 55), the subsistence minimum as of January 2023.

While **cultural rights** in Ukraine are respected and protected, also for national minorities as reiterated in the Law on national minorities (communities) of Ukraine, Russia systematically and purposefully carries out activities that violate the cultural rights of Ukrainians and specifically national minorities in the temporarily occupied territories of Ukraine. This concerns illegal archaeological excavations by Russia in Crimea, the looting of museums, archives, libraries and objects of movable cultural heritage in temporarily occupied territories, the nationalisation of Ukrainian cultural property, as well as persecution of the Orthodox Church of Ukraine in Crimea. It is very difficult for Ukrainian authorities to monitor and track looted objects as well as document cultural heritage and eventually reconstitute it after the liberation of temporarily occupied territories.

Russia continues its efforts to systematically destroy Ukrainian identity in the temporarily occupied territories of Ukraine. Under the Russian Federal Law No 19 (as of 17 February 2023), the four temporarily occupied territories of Kherson, Zaporizhzhia, Donetsk and Luhansk regions of Ukraine are to be integrated into Russia's federal education system. This includes clearing the educational space of anything Ukrainian (all school instructions are given in Russian only and there are no subjects related to Ukraine), militarising education and instilling Russian civic identity. Ukrainian authorities and citizens are currently unable to protect Ukrainian children against these illegal acts, but will need to prepare measures to reintegrate this portion of its population into its national education system.

The **citizen rights** of Ukraine are governed by the Law on citizenship of Ukraine. Anyone born to at least one Ukrainian parent automatically receives Ukrainian citizenship at birth, while foreign nationals can be naturalised after living in the country for at least five years. While only sole citizenship is permitted in Ukraine, in practice Ukrainian citizenship is not automatically lost if foreign citizenship is acquired, resulting in an estimated large number of Ukrainians possessing more than one citizenship, often with an additional EU citizenship.

### **2.2.2. Chapter 24: Justice, freedom and security**

*The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. Member States also cooperate with Ukraine in the fight against organised crime and terrorism, and on judicial, police and customs cooperation, all with the support of the EU justice and home affairs agencies.*

Ukraine has **some level of preparation** in implementing the EU *acquis* in the area of justice, freedom and security. Russia's full-scale invasion of Ukraine and the martial law regime

introduced in response have had a profound impact across the entire justice, freedom and security area. Law enforcement agencies are heavily involved in defending the country and protecting the population and critical infrastructure. Despite the war-related challenges, including significant losses of personnel and equipment and reduced financing, the institutions continue to demonstrate strong resilience and determination to deliver on their mandates. However, multiple shortcomings persist, many of which predate Russia's full-scale invasion. The legal and strategic framework is underdeveloped. Integrity and accountability mechanisms need further strengthening across the sector. Institutional cooperation and coordination remain weak, in particular as regards the investigation of organised crime, but also migration and border control. The smuggling of goods, including cigarette smuggling, is still not criminalised, despite being a low-risk and high-profit activity. Technical capacities for border control and surveillance need improvement, along with the anti-corruption measures. Legislation on visa policy and asylum is broadly aligned with the EU *acquis*. **Limited progress** was made in the reporting period. The overarching strategic plan for the law enforcement sector was adopted, while the preparation of a credible implementation plan is underway.

In the coming year, Ukraine should in particular:

- adopt a time-bound and measurable action plan for the implementation of the overarching strategic plan on law enforcement reform, including a strong anti-corruption component, taking the war-related context into account, and make tangible progress in implementing it;
- adopt and implement a context-adjusted migration policy strategy and revised integrated border management strategy, and ensure that corresponding action plans have indicators that allow for the proper assessment of implementation;
- adopt and start implementing legislation to criminalise the large-scale smuggling of goods, including effective prison sentences for damage to the state budget above a certain threshold.

### **Fight against organised crime**

Ukraine has **some level of preparation** to implement the EU *acquis* in this area. The country has a dedicated strategic and institutional framework to fight organised crime, along with reasonable knowledge and technical means, and a good level of international cooperation. Russia's full-scale invasion of Ukraine and the martial law regime have had a profound impact on the institutional capacities to fight organised crime. Like other institutions in the home affairs sector, the institutions that fight organised crime are heavily involved in the country's defence and civil protection efforts, demonstrating remarkable resilience and operational capabilities. There has also been a shift in priorities towards the investigation of international crimes and offences committed by Russian entities. Overall, the legal framework and operational capacities to fight organised crime remain weak. A number of legal and procedural gaps, jurisdictional overlaps and institutional fragmentation, the prevalence of corruption, the inefficient use of resources, the uneven level of professionalism and underdeveloped IT infrastructure are observed in this area. Strengthening inter-agency coordination remains crucial. More efforts are needed in particular to combat serious forms of organised crime, money laundering (including alignment with Directive (EU) 2018/1673 on combating money laundering by criminal law) and other financial crimes. Despite the difficult context and existing challenges, the outlook is positive as the country is determined to proceed with implementing the strategic approach, including the revision of the legal framework and the putting in operational use the national serious organised crime threat assessment (SOCTA).



**Some progress** was made at operational level, in particular through participation in an increasing number of joint operations with EU Member States and neighbouring countries. Investigations were launched against the criminal authorities ('thieves in law'). The number of seized, confiscated and destroyed firearms and ammunition as well as convictions for trafficking of small arms increased considerably. The Office of the Prosecutor General started developing the e-case management system in the criminal justice chain.

In the coming year, Ukraine should in particular:

- develop and adopt the national SOCTA and strengthen the institutional capacities to implement it, including intelligence-led policing, open-source intelligence, information management and analysis, inter-agency cooperation; establish a permanent national coordinator to fight organised crime;
- adopt and start implementing a credible action plan for the implementation of the 2023-2025 asset recovery strategy; improve the legal framework and institutional capacities for financial investigations, asset recovery and management;
- enact legislation enabling a competitive, transparent and merit-based selection, including a credible integrity check, of the new Head of the Bureau of Economic Security and other staff and carry out the selections based on the improved legislation, introduce a strong integrity and accountability framework within the Bureau and start applying it;
- continue improving the legal framework related to firearms and other small arms and light weapons (SALWs), conduct regular threat assessments and continue cooperation between national law enforcement agencies and the military to prevent the illicit possession and trafficking of firearms and other SALWs.

#### Institutional set-up and legal alignment

In 2022, the National Police of Ukraine had more than 110 000 police officers, which corresponded to approximately 270 police officers per 100 000 inhabitants, against an EU average of 335 officers per 100 000 inhabitants (Eurostat, 2019-2021). An attempt to reform the National Police was undertaken in 2019, aimed at increasing public trust in the police and strengthening its ability to deal with organised crime. Specialised police units were put in place to deal with terrorism, cybercrime and drugs.

Since late 2022, the Ministry of Internal Affairs has acted as a temporary national coordinator on organised crime, in line with the strategy and action plan for combating organised crime. It is critical to establish a permanent national coordination body to tackle organised crime and upgrade the inter-agency cooperation and coordination mechanisms, including business processes and IT infrastructure.

The Bureau of Economic Security (BES) was established in November 2021 and started operating in 2022. It was expected to become the central law enforcement and analytical body to fight financial crimes and protect the economic interests of Ukraine. However, its operational capacities remain very limited. Its track record in the first few years of activity raises questions about its effectiveness and coordination with other law enforcement agencies and institutions. BES remains heavily understaffed, with less than 20% of its positions filled. The head of BES was dismissed in April 2023. In May 2023, investigative media raised allegations of corruption against the acting head of BES. Legislation should be amended to enable the selection of the new head and other staff in a competitive, transparent, merit-based manner, including a credible integrity check.

The state financial monitoring service supervised by the Ministry of Finance performs the role of a financial investigation unit, assisting the law enforcement agencies in anti-money laundering investigations. The service prepares analytical reports and ensures data exchange with other countries.

The national agency for finding, tracing and management of assets derived from corruption and other crimes (ARMA) was established in February 2016. It is tasked with formulating and implementing state policy on tracing assets that are subject to seizure and managing seized assets in criminal proceedings. ARMA has access to a number of national and international databases. It has established cooperation with foreign asset recovery and management agencies and their networks. In January 2023, ARMA launched the unified state register of assets seized in criminal proceedings. The agency had no permanent head for almost 4 years. The initial competition failed to identify a suitable candidate in August 2022. A new competition, relaunched in late 2022, selected a suitable candidate. In June 2023, the Cabinet of Ministers appointed her. However, civil society raised concerns about the selection and appointment process and the integrity of the appointee. ARMA has been criticised for inefficiency and limited capacity, and also faces corruption allegations against its previous management.

Ukraine has a dedicated legal framework to fight organised crime. The Law on organisational and legal principles of combating organised crime was adopted in 1993, but is largely outdated with numerous shortcomings. An assessment of compliance of Ukrainian law with EU law and international standards in the area of organised crime is still pending. Legislation related to asset recovery and management remains deficient and in need of thorough revision. The legislation for tackling the proliferation of illicit firearms needs further improvement, in particular by expanding criminal liability for cross-border illicit trafficking of firearms and their parts/components within the meaning of the UN Protocol on Firearms. A new law on firearms is pending adoption. Ukraine ratified the Budapest Convention on Cybercrime in 2006, and its substantive law is largely in line with the Convention. Ukraine also ratified the First Additional Protocol to the Convention on Cybercrime and signed the Second Additional Protocol on enhanced co-operation and disclosure of electronic evidence in November 2022; it still needs to be ratified. In 2006, Ukraine made a reservation not to apply paragraph 1 of Article 6 of the Budapest Convention concerning the criminalisation of misuse of IT devices, including computer programmes, which contradicts the efforts to tackle organised crime involved in cybercrime. The national cybersecurity strategy of 2021 (its action plan was adopted in 2022) has a cybercrime component. The Law on **witness protection** exists, but is largely outdated as it was adopted in 1993.

A strategy and action plan on the fight against organised and serious crime are in place. The strategy on combating organised crime was approved in September 2020, while the action plan for implementing the strategy was approved in September 2022. The key priorities of the strategy include the renewal of legislation, setting priorities and strengthening analytical capacities, operationalisation of SOCTA, a stronger focus on criminal networks, the involvement of the civil society and the establishment of a national coordinator – an interdepartmental commission for combating organised crime. The overarching strategic plan to reform the law enforcement sector for 2023-2027 was approved by the President in May 2023 as part of the pre-accession reform steps set out in the June 2022 Commission Opinion on Ukraine's membership application. The plan sets out six priorities that focus on increasing the effectiveness of the law enforcement and prosecuting bodies, consistency of the criminal policy, result-oriented management, digital transformation, as well as transparency, accountability and independence. A relevant and credible action plan with time-bound and measurable deliverables should still be adopted to facilitate the implementation of the strategic

plan. A national strategy on asset recovery for 2023-2025 was adopted in August 2023, an action plan for its implementation still needs to be developed. There is no formal government strategy on firearms trafficking, but a draft action plan on firearms trafficking is prepared. Cooperation between the Ukrainian authorities and the EU is continuing in this area. The current war context as well as the emerging trends and threats linked to organised crime need to be taken into account when developing and further updating the strategic framework.

As for the **international legal framework**, Ukraine signed and ratified the main international agreements and regional conventions that directly or indirectly target organised crime. In particular, Ukraine ratified the UN Convention against Transnational Organised Crime in 2004 and the UN Convention Against Corruption in 2009, as well as the Council of Europe (CoE) Conventions on Civil Law in 2005 and Criminal Law in 2009. It also ratified the CoE Convention on Cybercrime in 2001 and the CoE Convention on Action Against Trafficking in Human Beings in 2005. Ukraine has been a member of the CoE's Group of States against Corruption since 2006 and of the Group of Experts on Action against Trafficking in Human Beings.

Ukraine should focus heavily on strengthening **integrity and anti-corruption** in the criminal justice system, as corruption in the system undermines public trust and the fight against serious crime, including organised crime. In particular, the transparent and merit-based selection of managerial staff, including credible integrity checks, should be ensured in the institutions fighting organised crime, along with strong disciplinary and anti-corruption frameworks tailored to the local context and actual corruption risks. So far, these frameworks within the criminal justice institutions have not been effective. Internal security and disciplinary bodies are limited in their mandates, resources and independence.

#### Implementation and enforcement capacity

Ukraine is located at the crossroads of smuggling illegal goods to the EU, including arms, drugs and cigarettes. Illegal logging is widespread, and despite efforts made in recent years, the illegal trade in timber persists. Ukraine is a source, transit and destination country for human trafficking. It is also a production and transit country for drugs. The Russian war of aggression against Ukraine is changing the nature of organised crime, as it has affected international criminal networks and the traditional trafficking routes. At the same time, it is creating new risks that need to be addressed, in particular those linked to arms and human trafficking.

Considering the existing challenges and the evolving threat landscape related to the war, the institutional capacities to tackle organised crime remain limited. Ukrainian law enforcement agencies are currently heavily focused on investigating international crimes. They also have to operate with substantially reduced budgets and staff. Even before the war, a series of ad hoc reforms, competition between law enforcement agencies and influence by political and vested interests hampered progress in civilian security sector reforms. The unclear division and fragmentation of competences among law enforcement agencies undermines the fight against complex forms of organised crime. The existing rules and court practice on the inadmissibility of evidence gathered by a law enforcement agency that is not competent for a given case, coupled with the unclear division of competences, further complicate the fight against organised crime groups involved in diverse criminal activities, and open the door to corruption and abuse. Inter-agency cooperation among Ukraine's law enforcement, intelligence, prosecuting and judicial bodies formally exists, but is not efficient and is marred by the absence of a permanent coordinator and clear procedures. There is also fierce competition between law enforcement agencies and a high degree of distrust. The absence of a modern e-case management system in the criminal justice chain and limited access to the relevant registers, databases and intelligence information, even within a single agency, remains a problem.

The Security Service of Ukraine (SSU) still retains a technical monopoly on intercepting communications, even if the National Police of Ukraine (NPU) and the National Anti-Corruption Bureau of Ukraine have been legally empowered to conduct interceptions on their own since autumn 2019. The systemic problems within the judiciary, including a severe shortage of staff, underfunding, corruption, the absence of a modern e-case management system (see Chapter 23) as well as a lack of proper specialisation undermine the adjudication of organised crime cases.

The **number of criminal investigations** into organised crime groups and criminal organisations, although still relatively low overall, gradually increased to 499 cases in 2021 (2020: 377 cases; 2019: 293 cases) and remained at this level in 2022: 485 criminal proceedings against organised crime groups were sent by the NPU to courts, 12 of them with transnational ties. Proactive measures are being taken to combat the subjects of increased criminal influence, including the ‘thieves in law’, although tangible results in the form of convictions have yet to be seen. The NPU continues to suffer from corruption, outdated equipment and limited capacity overall, including the capacity to conduct financial investigations.

In 2022-2023, the SSU, as part of its work on organised crime, uncovered 123 organised crime groups (of which 99 organised groups and 24 criminal organisations). 517 people were notified of being suspected of committing criminal offences in organised forms of complicity. In particular, 28 organised crime groups known as professional criminals were identified. 27 people were notified of being suspected of establishing or spreading criminal influence, organising, assisting in, conducting or participating in a criminal assembly, or applying for the use of criminal influence. 12 people were convicted.

Despite the transfer of competences from the SSU to the Bureau of Economic Security in 2021 and the SSU’s increasing focus on its core activity – counterintelligence and national security – the SSU remains active as a criminal law enforcement agency. It causes institutional fragmentation, jurisdictional overlaps and competition, and opens the door to corruption and abuse. Following international practice, the SSU’s pre-trial investigation functions should be abolished. In the meantime, the prosecution service should strengthen its role as the leader of pre-trial investigations and prevent jurisdictional tension and abuse, including occasional breaches of the exclusive jurisdiction of the National Anti-Corruption Bureau of Ukraine and the Specialised Anti-Corruption Prosecutor’s Office in high-level corruption cases.

As for Ukraine’s **international police cooperation**, it is well developed and is producing positive results on the ground. Ukraine is a member of Interpol, and has a working arrangement in place with CEPOL, the European Union Agency for Law Enforcement Training, and an operational and strategic agreement with Europol, the EU’s law enforcement agency. The law enforcement agencies of Ukraine capitalised on all forms of capacity building provided by CEPOL and this co-operation should continue. The Liaison Bureau of Ukraine in Europol was opened in November 2017. A second liaison officer was deployed in 2023. Ukraine has access to SIENA, the secure information exchange network application platform for EU law enforcement. Since the start of the war, a strong international police and prosecutorial cooperation framework has played a positive role in uncovering cross-border organised crime activities.

Ukraine is an active participant in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). In 2022, Ukraine planned to participate in 174 out of 293 operational actions, covering all 15 operational action plans under EMPACT. However, due to the war, Ukraine had to scale back its participation, also in terms of the number of operational actions it committed to in 2023 (122). Ukraine nevertheless acted as co-action leader in 2022 for an

operational action on high-risk criminal networks and will continue doing so in 2023. It also took part in three joint action days organised by the platform.

There has been limited progress in implementing **intelligence-led policing**. In recent years, the NPU set up a new criminal analysis department and regional departments in every region. These departments provide analytical support for criminal investigations. In 2022, they produced more than 13 000 analytical studies. However, Ukraine should still establish unified and up-to-date intelligence sharing tools and procedures for its law enforcement agencies. It should also develop a common IT platform for facilitating inter-agency cooperation and for gathering, analysing and sharing information and intelligence between the relevant institutions.

The preparation of the national **serious and organised threats assessments** (SOCTA) has been delayed since 2017. The absence of these national SOCTA undermines policymaking, priority-setting, operational work and coordination between agencies tasked with fighting organised crime. In 2022, a government resolution on the introduction of SOCTA was adopted. To relaunch preparations, an inter-agency working group was established in October 2022 under the lead of the Ministry of Internal Affairs. Regional groups to assess the threat of organised crime were created throughout the country, but their level of activity is unclear. Ukraine should develop and adopt SOCTA without further delays, and build the institutional capacities to implement it, including intelligence-led policing, open-source intelligence, information management and analysis, and inter-agency cooperation.

The state financial monitoring service (SFMS) continued its operations despite the challenging operational environment. In 2022, it registered 52 123 **suspicious financial transactions** and sent 934 referrals to the law enforcement agencies. The agencies made use of SFMS referrals in 349 criminal proceedings. In 2022, the SFMS also processed 1 242 international requests. The absence of a bank account register of physical persons makes its work and financial investigations difficult.

**Financial investigations** are not conducted in a consistent and sustainable manner. The Mutual 2017 Evaluation Report issued by Moneyval, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, and the follow-up reports point to a lack of understanding among law enforcement agencies as to what is meant by financial investigations. To address these shortcomings, the Office of the Prosecutor General issued instructions and methodological guidance to all regional prosecution offices on the investigation of money laundering offences and the application of financial investigations in proceeds-generating crimes. There is no legal obligation to apply them in all proceeds-generating offences, which undermines their consistent application when investigating offences linked to organised crime. The concept of financial investigations should be further embedded in the legal framework, in particular in secondary legislation, and systematically enforced under the supervision of prosecutors. The institutional capacities to conduct them should be further strengthened across the relevant institutions.

On **asset confiscation**, the legal and institutional framework is largely aligned with international standards. However, asset confiscation and recovery tools remain underused, and a credible track record of seizures and confiscations still needs to be established. Inter-agency cooperation between the relevant law enforcement, prosecuting and judicial bodies, as well as SFMS and ARMA and the institutional capacities of these bodies should be further strengthened. The national asset recovery strategy, which could help develop a more effective and efficient system of asset recovery, was adopted in August 2023, but not yet implemented. A comprehensive technical analysis of the operational effectiveness and independence of ARMA, including related asset recovery and management functions, was conducted. On this basis, comprehensive ARMA reform should be implemented, including a system for the

transparent selection of ARMA's head, fully fledged pre-seizure planning, prioritising the seizure of assets by criminal courts, transparent procedures for the management, sale and evaluation of assets and unblocking the possibility to manage corporate property rights.

**On trafficking in human beings (THB)**, the assessment of alignment of the Ukrainian law with the EU *acquis* remains to be conducted. In 2022 the NPU stopped activities of five organised groups involved in trafficking in human beings. 133 criminal offences of human trafficking were registered and 93 people were notified of suspicion and 63 were indicted. 66 people were recognised as victims of human trafficking, including 36 women and 12 children. In addition, the activities of 12 organised groups and criminal organisations were stopped, consisting of 40 people who smuggled people across the Ukrainian border.

In June 2023, the Cabinet of Ministers approved a targeted social programme for combating human trafficking up to 2025. Following the start of Russia's full-scale invasion and given the much higher trafficking risks, Ukraine took a number of measures to prevent and combat human trafficking. Information campaigns on the risks were conducted among citizens travelling abroad and three nationwide operations were organised to combat child trafficking. Migration police units participate in pan-European measures to combat human trafficking for the purpose of sexual exploitation and forced begging, and to neutralise organised crime groups. Close cooperation has been established with national and international civil society organisations. The Ministry of Internal Affairs established permanent communication and the exchange of information with the EU Anti-Trafficking Coordinator. In addition, the NPU cooperates closely with Europol and its counterparts in the EU Member States. Four international anti-trafficking operations were conducted in the EU Member States.

**On the trafficking of small arms and light weapons**, following the start of the full-scale invasion of Ukraine, the number of registered criminal cases involving firearms increased almost six-fold compared to 2021 (394 and 2 206 crimes, respectively). During this period, 517 offenders were notified of suspicion, 483 criminal proceedings were sent to the court with a charge. In addition, during 2022, law enforcement agencies (mainly the National Police) seized 1 939 firearms, 25 grenades and grenade launchers, 11 000 hand grenades and 202 924 rounds of ammunition. The number of firearms destroyed is not included in official reports. In Ukraine, each manufactured, imported or deactivated firearm of a certain category is marked according to the special rules approved by the Ministry of Internal Affairs. In June 2023, the ministry launched a unified register of firearms for civilians, streamlining the control, permission management and other processes. When fully implemented, this register is expected to become the central database of firearms for the authorities, allowing the control all civilian firearms during their full life-cycle from manufacture to the destruction or export. Ukraine should continue its active engagement with the international law enforcement community, including Europol and EU Member States police forces, to address these risks.

Ukraine appointed the second liaison officer to Europol on **cybercrime**. In 2022, 14 948 criminal offences were detected, and suspicion announced in 7 296 criminal proceedings. 7 502 people were sent to court with indictments. Indictments were brought against 1 293 people. Cyber police took part in six international operations to neutralise and document members of hacker groups. The fight against cybercrime should remain a priority in the present war context and in view of the fact that it forms part of Russian hybrid warfare.

**Money laundering** is criminalised. Prosecuting money laundering as a stand-alone crime is possible under Ukrainian law. However, the capacities of law enforcement to investigate cases and recover criminal assets are limited. In 2022, across all law enforcement agencies, 523 criminal proceedings on money laundering were registered. 117 indictments were sent to court and 19 verdicts were issued. 16 people were convicted for money laundering offences.

As for **witness protection**, the system is underdeveloped and fragmented among several institutions. The level of training and technical equipment is low. The NPU, which is the most advanced institution in this area, is not ready to ensure a witness protection programme or witness relocation due to the lack of relevant legislation and resources. On the implementation side, the NPU's Witness Protection Unit was dismantled in late 2019, with all trained members leaving. In March 2022, the NPU made the decision to re-establish it. In August 2022, seven operators started to reorganise the unit. The lack of a strong witness protection system undermines the fight against organised crime. Ukraine should speed up the adoption and implementation of the new witness protection law that complies with international standards and best practices.

## **Cooperation in the field of drugs**

### Institutional set-up and legal alignment

The legal framework for the fight against drugs in Ukraine is partly aligned with the EU *acquis*. The national drug policy strategy for the period up to 2030 and its action plan for 2023-2025 is being prepared, but has not yet been adopted. The draft action plan envisages establishing a national early warning system on new psychoactive substances. Ukraine is a party to the relevant international narcotic drug control conventions, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The Institute of Psychiatry, Forensic Psychiatric Examination and Drug Monitoring of the Ministry of Health is responsible for drug monitoring at national level. It produces a report each year on the drugs and alcohol situation in Ukraine and publishes it online in both Ukrainian and English. The Centre for Public Health of the Ministry of Health is responsible for harm reduction measures, social reintegration of former drug addicts and research. The State Service for Medicines and Drug Control is the central executive body that implements national policy on control over the circulation of narcotic drugs and combating their illegal circulation. There is a certain amount of inter-agency cooperation, coordinated by the Ministry of Health. There is currently no national early warning system to exchange information on new psychoactive substances.

The main body to prevent, detect and investigate drug trafficking is the NPU. The Security Service of Ukraine is also authorised to investigate drug-related crimes. The State Border Guards Service and the State Customs Service as well as other agencies provide detection and related support to investigations.

### Implementation and enforcement capacity

Despite the war, the illicit production of synthetic drugs continues in Ukraine. As to its track record, in 2022 there were 34 398 registered crimes linked to illicit drug trafficking, 22 678 notices of suspicion were sent, and 19 701 indictments were issued. In 2022, 2.4 tonnes of narcotic drugs and psychotropic substances, as well as 3 187 kg and 26 828 litres of precursors for the production of narcotic drugs and psychotropic substances, were seized. Illegal drug trafficking via the internet (dark net) with the use of cryptocurrency makes it harder to identify drug dealers and beneficiaries.

A new working arrangement was signed between the European Monitoring Centre for Drugs and Drug Addiction and the Ministry of Health in 2022. It updates and replaces the previous memorandum of understanding signed in 2010. Drug monitoring efforts and the collection of data requested by the centre are difficult in the current security circumstances and are affected by the war. This makes it impossible to analyse and report on some data.

Despite the impact of the war on health infrastructure, the Ministry of Health and its institutions are partnering with a range of non-governmental organisations to ensure uninterrupted access to drug-related health services.

## **Fight against terrorism**

### Institutional set-up and legal alignment

The Anti-Terrorism Centre of the Security Service of Ukraine is the inter-agency body tasked with coordinating national efforts to fight terrorism. Its regional branches coordinate counter-terrorism activities at local level. The centre monitors terrorist threat levels, gathers intelligence, conducts drills at critical infrastructure facilities and carries out information analysis on terrorism for the national security authorities.

Ukraine has comprehensive anti-terrorism legislation and is a party to the relevant UN and Council of Europe counter-terrorism conventions and protocols. The national security strategy and the strategy of ensuring state security are in place, as well as the concept of combating terrorism in Ukraine and its action plan. In 2022, Ukraine ratified the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism and subsequently introduced amendments to the Criminal and Criminal Procedure Codes, together with other legislative acts to improve the fight against terrorism. The legal framework on the fight against terrorism has not yet been assessed for compliance with the EU *acquis* and the principles of prevent, protect, pursue and respond. The 2021 Law on critical infrastructure is a part of the national security legislation.

As to identifying and tracing financial flows that fund terrorism, the updated anti-money laundering law was adopted in 2020. In 2022, the Ministry of Finance adopted relevant secondary legislation on risk criteria that facilitates identification and prevention of terrorism financing. The financial monitoring and intelligence system complies with recommendations from the Financial Action Task Force. In 2022, Ukraine also adopted a law protecting the financial system from Russian influence and adapting legislation to specific Financial Action Task Force standards and provisions of the EU Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

### Implementation and enforcement capacity

Since the beginning of Russian aggression against Ukraine in 2014 and especially after the full-scale invasion in February 2022, counterterrorism activities have shifted to countering sabotage activities by Russian intelligence and its proxies. In 2022, 287 criminal offences related to terrorism were registered, among which 95 criminal proceedings were initiated for acts of terrorism, 1 for involvement in an act of terrorism, 2 for public incitement to commit an act of terrorism, 148 for the creation of a terrorist group or terrorist organisation, 1 for facilitation to commit an act of terrorism and 40 for financing terrorism.

As regards **operational cooperation with European agencies** on fighting terrorism, cooperation takes place mainly on war crimes, where Europol supports investigations through the analysis project on core international crimes. The Security Service of Ukraine has access and capacities for information exchange on counterterrorism issues with Europol through the secure information exchange network application (SIENA). Future steps in counterterrorism should include strengthening cooperation between the Security Service and Europol by establishing a direct communication through CT SIENA and capacity building for Ukrainian counter-terrorism authorities on modern law enforcement and intelligence collection methods. Ukraine has also appointed a Eurojust contact point for terrorism-related matters to enhance judicial cooperation against terrorism.



On **external influences**, the terrorism threat in Ukraine is mostly perceived as originating from Russian intelligence agencies and Russian-controlled terrorist groups, including private military companies. Russia uses terrorism-type activities aimed at intimidating the Ukrainian population as part of its aggression against Ukraine. The full-scale involvement of organised crime groups is a specific characteristic of hybrid warfare waged by Russia against Ukraine. This includes the use of organised crime groups and criminals in occupied territories as mercenaries in warfare, organised crime groups and criminals controlled by Russian intelligence all over Ukraine, and the weaponisation of corruption at local and central levels.

On **terrorism prevention measures**, the Security Service of Ukraine constantly monitors the situation and is ready to respond to radicalisation. The threat of religious-based radicalisation is low because religious communities, including Islamic ones, are considered part of Ukrainian society, which is also helped by a sense of community in resisting Russian aggression.

### **Judicial cooperation in civil and criminal matters**

The current legal framework on judicial cooperation in civil and criminal matters is comprehensive, appropriate and in line with EU standards. Ukraine has 87 bilateral treaties and agreements on cooperation in civil and criminal matters with 50 countries, Eurojust and the UN.

Ukraine has been a member of the Hague Conference on Private International Law since 2003 and is a contracting party to 12 conventions, including those on child abduction, child protection and child support. Ukraine ratified the 2019 Hague Judgments Convention in August 2022, which came into force on 1 September 2023. Ukraine has also ratified on 24 April 2023 the 2005 Hague Convention on Choice of Court Agreements that entered into force on 1 August 2023.

National legislation and bilateral and international agreements to which Ukraine is a party contain rules on mutual legal assistance, extradition, conflicts of law, mutual recognition and the enforcement of decisions and judgments, document service and evidence exchange, the transfer of people sentenced to imprisonment, and the fight against terrorism and other forms of organised crime, including cybercrime. The specific provisions are partly aligned with the EU *acquis*.

International prosecutorial cooperation in criminal matters is successfully managed by the Office of the Prosecutor General. Ukraine has a liaison prosecutor in Eurojust and actively participates in multiple joint investigation teams facilitated by Eurojust.

In 2022, the Ministry of Justice received and processed 2 560 requests for legal assistance in civil and commercial matters as well as for the recognition and enforcement of judgments. It processes requests within 30 days, and the average processing time by Ukrainian courts is between 3 and 6 months.

As for judicial cooperation in criminal matters, the Ministry of Justice processed 974 requests for international cooperation in 2022: 923 for international legal assistance, with the average processing length from 6 to 8 months, and 51 for extradition, with the average processing time from 5 to 6 months.

There is well-established cooperation in criminal matters with Eurojust as a result of the cooperation agreement signed in 2016 and collaboration between the Ukrainian Liaison Prosecutor and Eurojust, as well as between Ukraine and EU Member States. In 2022, Ukraine was involved in 79 new cases opened at Eurojust. Eurojust set up a joint investigation team on war crimes committed in Ukraine and hosts the International Centre for the Prosecution of the Crime of Aggression against Ukraine.

The Ukrainian Office of the Prosecutor General signed a working arrangement with the European Public Prosecutor's Office (EPPO) in March 2022 aimed at facilitating judicial cooperation in criminal matters and the exchange of information. A working arrangement between the EPPO and the National Anti-Corruption Bureau of Ukraine (NABU) followed in July 2023. Both instruments rely on the European Convention on mutual legal assistance and its Protocols for providing mutual legal assistance.

The participation of Ukrainian representatives in joint investigation teams is limited due to legal constraints that need to be urgently addressed. The reimbursement of joint investigation teams' operating costs is impossible due to certain provisions of Ukrainian secondary legislation.

## **Legal and irregular migration**

### Institutional set-up and legal alignment

Migration policy in Ukraine is developed and coordinated by the Ministry of Internal Affairs. The State Migration Service of Ukraine is responsible for implementing state migration policy as well as helping to develop it. The service shares responsibility for implementing the state migration policy on border security and visa policy with the State Border Guard Service (SBGS) and the Ministry of Foreign Affairs. The Ministry of Social Policy is responsible for developing labour migration policy and the Ministry of Economy is responsible for implementing it. The Ministry of Education and Science determines the priority sectors for the provision of educational services to foreigners and stateless persons. The government continues to improve migration coordination, however, there is ample room for improvement.

The State Migration Service territorial departments, which are situated in direct proximity to border areas or to areas with active hostilities, have been relocated, but continue to operate. The service plans to reduce the number of territorial units and introduce the concept of mobile ones. Citizens, foreigners and stateless persons can access administrative services in any of its territorial departments.

The State Migration Policy Strategy for the period until 2025 is being updated. The Integrated Border Management Strategy has been updated in July 2023 to reflect the context of Russia's war and Ukraine's EU candidate status. The action plans for both strategies have expired and the new ones have not yet been approved. The legislative framework is in place for a mass influx of migrants. However, there is no approved implementation mechanism for inter-agency coordination in the event of a migration crisis.

There is no specific legislation on long-term residence, nor a single procedure or single work or residency permits. Legislation on voluntary and forced return is in place, including the respect of the principle of *non-refoulement*. The procedure for voluntary return is rarely applied due to a lack of funding. There are no rules on passenger information or visa verification obligations of carriers that transport foreign nationals to Ukraine. Access to the labour market for foreign students, asylum seekers and stateless persons was regulated in the reporting period.

The State Migration Service is responsible for the standard readmission procedure, while the SBGS is in charge of the accelerated readmission procedure. An electronic readmission case management system for the State Migration Service and the SBGS is in place and fully operational for readmission cases with Poland.

The EU-Ukraine **readmission agreement** remains in force since 2007, though since the beginning of the war it has been used with precaution by the EU Member States. Implementing protocols between Ukraine and eight EU Member States (Austria, Czechia, Estonia, Poland

Lithuania and Benelux States) have entered into force. Ukraine approved implementing protocols with Romania, Latvia, Spain and Hungary.

Readmission dialogue is at various stages with 12 EU Member States: Bulgaria, Croatia, Cyprus, France, Germany, Greece, Italy, Malta, Portugal, Slovakia, Slovenia and Sweden. In 2022, the State Migration Service received 276 readmission requests, including 260 under the agreement between Ukraine and the EU, with 206 approved. It sent 13 readmission requests during the year; two people were readmitted from Ukraine.

Ukraine also has readmission agreements in force with other third countries, such as Switzerland, Denmark, Belarus, Georgia, Iceland, Republic of Moldova, Norway, the Russian Federation, Vietnam, Türkiye, Turkmenistan and Uzbekistan. However, the agreements with the Russian Federation, Belarus and Vietnam are not applied in practice.

#### Implementation and enforcement capacity

In 2022, the SBGS detained 12 068 people for violation of immigration rules in Ukraine, including 622 foreigners detained for illegal crossing or attempted illegal crossing of the state border. The majority of irregular migrants were detained at the border with EU countries. They included citizens of Moldova, Russia, Türkiye, Pakistan, Nepal, Cuba and others.

In 2022, the SBGS issued 271 expulsion decisions against foreigners and stateless persons who had illegally crossed or attempted to illegally cross the state border, with 192 forcible returns and 79 forcible expulsions. The State Migration Service reports that the number of irregular migrants decreased in 2022 (5 062) compared to 2021 (8 308).

The State Migration Service operates six special establishments that include three migrant accommodation centres with overall capacity for 566 people and three temporary accommodation centres for up to 421 foreigners and stateless persons. The staffing capacities are sufficient, and all centres are adequately equipped. The Chernihiv migrant accommodation centre was destroyed in the early phase of the war, with the migrants evacuated. The centre is currently being rebuilt and is not yet operational. The migrant accommodation centres in Volyn and Mykolaiv are operational.

An integrated migration management information system is in place with automated business process workflows and inter-agency cooperation, in particular between the State Migration Service, the SBGS and the Ministry of Foreign Affairs. However, complementary legislation on the processing of biometric data is needed to fully use the system for biometric data exchange.

The Department of Migration Police, which is part of the National Police of Ukraine, cooperates with Europol's European Migrant Smuggling Centre to identify and uncover criminal schemes that involve irregular migration and human trafficking. In 2022, it participated in several large-scale operations run by Europol to combat human trafficking, including child trafficking, human trafficking for labour and sexual exploitation.

## **Asylum**

### Institutional set-up and legal alignment

The State Migration Service and its territorial bodies are responsible for handling applications for international protection and asylum claims.

The legislation on asylum is broadly in line with the EU *acquis*, in particular on the time it takes to process applications and on asylum applicants' rights, such as the right to access employment, secondary education, family reunification and subsidiary protection.

Psychological and social aid are also covered in the legislation. However, limited support is available in practice due to the lack of capacity. Free legal assistance is available. The action plan for refugee integration has been in preparation since 2021, but work has stalled because of the war. Procedural guarantees are available for the applications of unaccompanied minors. Ukraine is a party to the relevant international conventions, including the 1951 Geneva Refugee Convention and its 1967 Protocol.

In March 2023, amendments were introduced to the Law on refugees and persons in need of additional and temporary protection. In accordance with these amendments, the restriction is imposed on the SBGS to accept applications submitted during the legal regime of martial law for recognition as refugees or persons in need of additional protection in cases where the applicant crosses the Ukrainian border directly from a country where there is no danger to life.

#### Implementation and enforcement capacity

In 2022, 205 applications for recognition as a refugee or a person in need of additional protection were submitted. 20 foreigners and stateless persons were recognised as refugees, and 26 as persons in need of additional protection. Interpretation is provided by the State Migration Service territorial departments during the consideration procedures of asylum applications. The national system for biometric verification and identification is operational and used during border controls.

There are three temporary accommodation centres for applicants and people granted international protection with a total reception capacity of 421 people. Staff levels seem to be sufficient for the number of applications that Ukraine has had. Material conditions are sufficient, however there is room for improvement with regards to integration and psycho-social support. The financial capacity to integrate recognised refugees is limited, as is the capacity of the relevant local authorities.

Ukraine does not have a roadmap for bilateral cooperation with the European Union Agency for Asylum.

#### **Visa policy**

Ukraine's visa policy is broadly in line with the EU *acquis* on the processing of applications, the criteria for granting protection and the processes for issuing different visa types. However, the list of third countries with which Ukraine has visa-free regimes is not fully aligned with the EU's visa policy. The following countries for which EU nationals require a visa are visa-exempt for Ukraine: Armenia, Azerbaijan, Bahrain, Belarus, Ecuador, Kazakhstan, Kuwait, Kyrgyzstan, Mongolia, Oman, Qatar, Saudi Arabia, Tajikistan, Türkiye and Uzbekistan.

The security features of visas and travel documents are broadly aligned with EU standards. Ukraine has been issuing biometric passports since 2015. The last non-biometric passports were issued in 2016, and the complete phasing out is planned for 2026 upon expiry. Ukraine has an electronic national visa registration database that includes biometric identifiers.

Ukraine does not have agreements on consular and visa-issuing cooperation, joint locations or representation agreements on the issuing of visas with other countries. Since 24 February 2022, it has suspended issuing visas at the border.

Implementation of the **visa-free regime** with the EU, established in 2017, has been smooth. The European Commission's sixth report on the Visa Suspension Mechanism<sup>5</sup>, published in October 2023, concluded that Ukraine continues to meet the visa liberalisation benchmarks.

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<sup>5</sup> COM(2023)730 final

Thanks to tighter border controls and awareness-raising campaigns, unfounded asylum applications from Ukrainian citizens in the EU and Schengen associated countries have decreased. In 2020, the number of Ukrainian applicants for international protection in EU Member States was 5 990, 37% less than in 2019. The recognition rate increased slightly from 10% in 2019 to 11% in 2020. In 2022, 26 715 Ukrainians applied for international protection in Member States (compared to 6 460 in 2021) with a recognition rate of 90% (compared to 17% in 2021).

In 2022, Russia's war of aggression led to an influx of millions of people seeking refuge in the EU and in neighbouring countries. Following a Commission proposal to activate the Temporary Protection Directive for the first time, on 4 March 2022 the Council adopted the implementing decision to grant temporary protection status to Ukrainian nationals and other categories of people displaced from Ukraine on or after 24 February 2022. Furthermore, the Commission adopted operational guidelines for external border management to facilitate border crossings at EU-Ukraine borders. There were over 21.5 million entries into the EU by Ukrainian nationals between 24 February 2022 and 20 August from Ukraine and Moldova<sup>6</sup>. Over 4.1 million active registrations for Temporary Protection are recorded by Member States, Norway, Iceland, and Switzerland as of mid-August 2023, of which 4.03 million in the EU Member States. Under these exceptional circumstances, the visa-free regime between the EU and Ukraine has facilitated travel to and from Ukraine, in particular for those Ukrainian nationals who decided not to take up residence in the EU and those who do not fall under the scope of the Temporary Protection Directive.

## **Schengen and external borders**

### Institutional set-up and legal alignment

The SBGS is responsible for managing Ukraine's borders. An integrated border management strategy for the period up to 2025 is in place and has been updated in light of new challenges related among others to restoring border management in the liberated area of the state border. The action plan for the implementation of the strategy for 2020-2022 has expired. The new action plan for 2023-2025 has not yet been approved. Implementation of the action plan will need better monitoring, as well as quantitative and concrete indicators to measure the progress of its implementation. There is no Schengen action plan in place yet.

The **legislative framework for border control**, in particular rules on checks and surveillance and the strategic integrated border management framework are partly aligned with EU policy and best practices. Ukraine has no legislation to request advanced passenger information (API) from airlines for flights entering or departing its territory. The API system was piloted at Kyiv Boryspil international airport.

### Implementation and enforcement capacity

The Inter-Agency Working Group for Integrated Border Management, chaired by the Deputy Prime Minister for European Integration, was established in 2019 with a core task of monitoring implementation of the integrated border management strategy. In August 2023 it has convened for the first time since the beginning of the war to discuss IBM Strategy and its action plan.

The SBGS has a total staff of 60 000, including 52 000 military personnel. Due to the war, more than half of its staff has rotated from regular border-related activities to deployments –

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<sup>6</sup> The number of exits by Ukrainian nationals (including exits to Moldova) was nearly 18.7 million. Figures indicate the number of cross-border movements and not single individuals.

either on the frontline or at the border with Belarus. The capacities of integrated border management agencies at border crossing points are insufficient due to the lack of appropriate infrastructure and technical equipment. Technical resources require a significant upgrade to improve the quality of border checks, especially in relation to anti-smuggling. Border checks meet minimum standards. However, additional equipment is needed to detect weapons and people hiding in large vehicles and containers. The implementation of Ukraine's local border traffic agreements with neighbouring countries is satisfactory. Border surveillance is not fully effective. Risk analysis-based border surveillance mechanisms are satisfactory. In addition, as a result of the Russian war of aggression, 117 out of 234 border crossing points have been closed. Considerable infrastructure at border crossing points on the northern, eastern and southern sections of the border have been destroyed.

SBGS risk analysis aims to gradually comply with the common integrated risk analysis model. The level of situational awareness and responsiveness at Ukraine's borders could be improved by strengthening operational inter-agency cooperation and information exchange. The SBGS training curriculum is partly harmonised with the common core curricula of Frontex, the European Border and Coast Guard Agency.

There is no national **inter-agency cooperation** centre in Ukraine. Instead, relevant border management agencies operate coordination centres in their respective organisational structures to ensure intra-agency and partial inter-agency coordination and cooperation. In 2022, a virtual analytical centre was established to improve inter-agency coordination. There is no structured crisis response mechanism.

The SBGS has had a working arrangement with Frontex, the European Border and Coast Guard Agency, since 2007. Cooperation includes information exchange, joint risk analysis, participation in joint operations (as an observer or in operations without executive powers exercised by European border guards on the territory of Ukraine) and staff training. A Frontex liaison officer with a regional mandate for the Eastern Partnership has been deployed and is currently based in Moldova. The EU Border Assistance Mission to Moldova and Ukraine has been supporting both countries since 2005 and has helped them improve integrated border management.

Ukraine systematically provides data on invalid, lost and stolen travel documents to Interpol. However, only large border crossing points in Ukraine have access to Interpol's stolen and lost travel documents database and stolen vehicles database.

On border control, Ukraine uses the national system of biometric verification and citizen identification that allows for an automatic check of all types of biometric documents. All 166 international and interstate border-crossing points are connected to Interpol databases.

On operational **cooperation with neighbouring countries**, Ukraine has a number of agreements (with Poland, Slovakia, Hungary, Romania), including agreements on joint patrols, joint cooperation centres and local border traffic management. Ukraine is currently negotiating bilateral agreements on joint controls, in particular with Poland.

Some measures in place to fight border corruption consist of preventive and internal control measures implemented by the SBGS and the State Customs Service. However, more effective measures are needed to fight corruption, including preventive measures. In the reporting period, the SBGS reported 1 449 inspections, 19 servicemen were detained for abuse of office and the facilitation of illegal activities at the border. 15 border guards were found guilty of corruption offences. The stiffest sentence was a restriction from service for 3 years and a prison sentence of 6 months.

The smuggling of goods, including cigarettes, is currently decriminalised in Ukraine, constituting an administrative offence. The draft Law on the criminalisation of large-scale smuggling is pending adoption. It also includes criminal responsibility for unintended mistakes in customs declarations. Criminalisation increases the risk of abuse by law enforcement agencies if adopted. Criminalising the smuggling of all goods is a crucial element in combating cross-border crime.

### 2.3. ECONOMIC CRITERIA

<i>Table 2.1:</i> Ukraine - Key economic figures	2014-19 average	2020	2021	2022
<b>GDP per capita</b> (% of EU-27 in PPS) <sup>1)</sup>	29	30	29	
<b>Real GDP growth</b>	-0.8	-4.0	3.4	-29.1
<b>Economic activity rate of the population aged 15-70 (%)</b> , total	62.5	62.1	61.8	N.A.
<i>female</i>	56.4	56.3	56.1	
<i>male</i>	69.2	68.5	68.1	
<b>Unemployment rate of the population aged 15-64 (%)</b> , total	9.0	9.5	9.9	N.A.
<i>female</i>	7.7	9.1	10.2	
<i>male</i>	10.2	9.9	9.6	
<b>Employment of the population aged 15-64</b> (annual growth %)	-3.3	-4.0	-1.9	N.A.
<b>Nominal wages</b> (annual growth %)	21.7	10.4	20.9	5.9
<b>Consumer price index</b> (annual growth %)	18.0	2.7	9.4	20.2
<b>Exchange rate against EUR</b>	26.6	30.8	32.3	40.2
<b>Current account balance</b> (% of GDP)	-1.8	3.4	-1.9	5.0
<b>Net foreign direct investment, FDI</b> (% of GDP)	2.6	0.2	3.8	0.3
<b>General government balance</b> (% of GDP)	-2.3	-5.3	-3.4	-16.3
<b>General government debt</b> (% of GDP)	68.7	60.9	48.9	78.5

*In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.*

#### 2.3.1. The existence of a functioning market economy

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, the Ukrainian economy is **between an early stage and some level of preparation** towards establishing a functioning market economy. Since the full-scale invasion by Russia, the conduct of monetary policy, overall economic governance and the institutional and regulatory environment have faced exceptional difficulties. Despite the extraordinary challenges, the Ukrainian authorities have responded swiftly and appropriately, while showing remarkable resilience and adaptability to preserve macroeconomic and financial stability, although the authorities will need to continue their efforts to return economic and monetary policy settings to those conducive to the smooth long-term functioning of a market economy.

Ukraine's macroeconomic performance was somewhat muted before the full-scale invasion. Low levels of investment, a declining working age population, reliance on low value-added sectors all contributed to subdued economic growth (of around 3% per year in the four years before the pandemic) and a persistent gap with the standards of living in the EU. In 2022, as a result of the war, the economy contracted by 29.1%.

Despite the war, the Ukrainian authorities ensured predictability, transparency and stability-orientation in policy-making. In light of the wartime conditions, the National Bank of Ukraine (NBU) took decisive and appropriate actions to maintain financial stability and bolster confidence in the domestic currency, particularly by suspending the inflation-targeting framework, fixing and devaluing the exchange rate, and raising its main refinancing rate. In addition, the banking sector remained fully operational and stable with ample liquidity, also thanks to previous reforms and supervisory forbearance measures. Although the full impact of the war on the quality of assets in the financial sector remains to be seen, the ratio of non-performing loans has been high and appears to have increased more recently.

The state of public finances has deteriorated substantially due to the duration and cost of the war and its impact on economic activity, undoing the considerable fiscal consolidation and corresponding reduction in the debt stock that had been achieved in previous years before the COVID-19 pandemic. Tackling this, notably by introducing measures to increase the revenue base, will be of key importance going forward. Furthermore, the state footprint on the economy, already high before the war, has increased. The significant internal and external population displacements, together with capital destruction, affected the labour market, which was characterised by a relatively low activity rate and somewhat higher unemployment rate compared to the EU, already before the invasion. Despite progress, the functioning of product markets continues to show a number of weaknesses, particularly related to institutions, corruption, contract enforcement, and competitiveness, which are reflected in a large informal economy. At the same time, this assessment also highlights the determination and capability of the authorities to navigate through the exceptional challenges Ukraine is facing.

In order to improve the functioning of the market economy, and taking into account the ongoing war and ensuing reconstruction efforts, Ukraine should in particular:

- continue to implement prudent policies underpinning macroeconomic stability. Ensure adequate resources to maintain core state functions, while ensuring the sustainability and improving the transparency of public finances. Safeguard the stability of the financial sector, including by addressing the growing presence of non-performing loans;
- take measures to improve the business environment with a view to prepare for reconstruction efforts, in particular by reducing regulatory and administrative burden, addressing issues related to corruption and the rule of law and enhancing the anti-monopoly framework. Take steps to enhance the management of State-Owned Enterprises in line with OECD recommendations, while intensifying privatisations;
- develop and implement a strategy to attract and reintegrate displaced persons in the Ukrainian labour market and those whose participation has been disrupted by the war as well as to address structural labour market issues and, take steps to tackle informal employment, and increase labour market participation.

### Economic governance

**The government has shown a strong commitment to implement much-needed reforms to encourage growth and financial stability.** The authorities of Ukraine have demonstrated a strong commitment to pursue stability-oriented macroeconomic policies since the Maidan



Revolution of Dignity in 2014. As part of the reform requirements outlined in successive IMF programmes, important actions were taken to reinforce the stability of the banking sector, including measures to enhance banking supervision and resolution mechanisms, as well as reforms to improve the independence of the National Bank of Ukraine. Ukraine has also taken steps to bolster the transparency of public finances and institutions, in particular by publishing budgetary information, improving the public procurement system and introducing asset reporting requirements for public officials. Additional reforms are needed to further guarantee the transparency of public finances, as well as prevent interference from vested interests, fight corruption, strengthen the rule of law, and improve the business environment.

**The policy and regulatory response to the exceptional war situation was overall appropriate, although it has had an impact on the application of market principles and government involvement in the economy.** Throughout Russia’s full-scale invasion, the Ukrainian authorities demonstrated commendable resilience and adaptability in implementing policies to maintain macroeconomic and financial stability. Nevertheless, the current context has inevitably led to some centralisation of power and a reduction in the independence of institutions responsible for economic policy. The central bank appropriately suspended the inflation-targeting framework, moved to a fixed exchange rate regime and introduced supervisory and regulatory forbearance measures (all of which helped safeguard financial stability and bolstered confidence in the domestic currency)<sup>7</sup>. In addition, the NBU directly financed about one third of the government’s funding needs in 2022, although this practice ceased in early 2023, reducing risks for price and external stability. The government also introduced price controls on essential goods and communal services, and many taxes were temporarily reduced. Support schemes to households and businesses have been expanded and deregulation efforts have continued, which helped improve the business environment. Overall, the government has shown a remarkable degree of continuity, including through the design of a seven-pillar national recovery and development plan, presented in May 2022 and followed-up by a government priority action plan for the current year approved in March 2023. The continuous and evolving engagement with the IMF, as well as with the Commission under the Macro-Financial Assistance Plus instrument (MFA+), have also been an important anchor for further reform efforts.

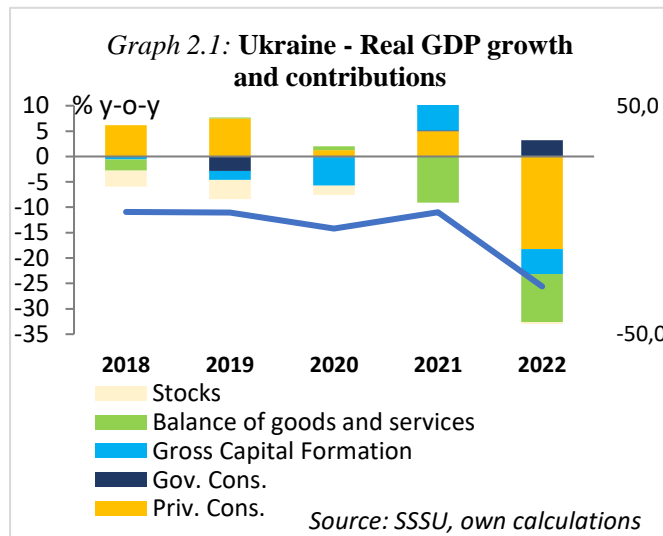
### Macroeconomic stability

**Before Russia’s full-scale invasion, Ukraine’s macroeconomic performance was rather weak, owing to low levels of foreign and domestic investment, a declining population, and a reliance on low value-added sectors.** In 2021, total investment in Ukraine accounted for 13.8% of GDP (EU average of 22.1%). Foreign direct investment (FDI) has remained weak at an average of 2.8% of GDP over 2017-2021. A decline in population, fuelled by low birth rates and substantial emigration, has not only reduced Ukraine's total population but also decreased the share of the working-age population from 70% in 2011 to 67% in 2021. This has hindered economic growth and added to fiscal pressures by increasing the dependency ratio. In addition, Ukraine’s economy is reliant on low value-added sectors – especially agriculture and mining – which makes the economy vulnerable to fluctuations in global commodity prices and weighs on its living standards. As a result, Ukraine has made limited gains in income convergence with the EU average over the past decade, with GDP per capita standing at 29.3% of the EU average

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<sup>7</sup> However, conscious of the long-term impacts of a fixed exchange regime on the economy and on the effectiveness of monetary policy, the NBU adopted in June 2023 a strategy to ease FX controls and move towards a more flexible exchange rate once conditions allow. On 3 October 2023, the NBU shifted to a managed float system for the hryvnia, marking the first step in liberalising the exchange rate.

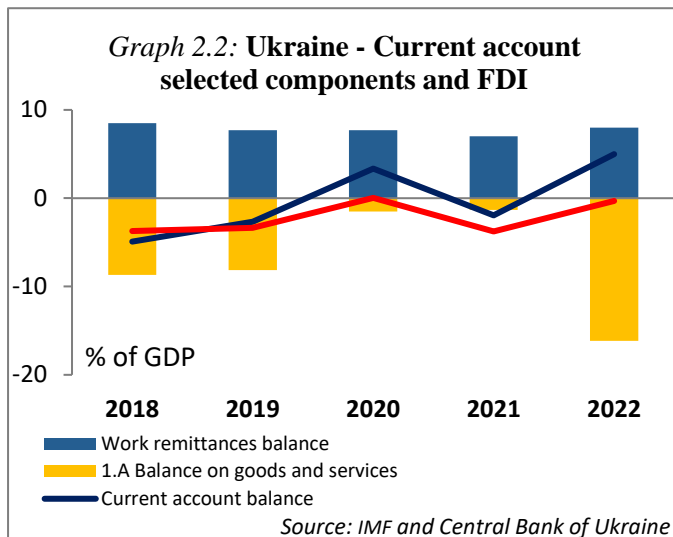
in 2021 in terms of purchasing-power parity (PPP). Income inequality remains low compared to the EU and has been stable over the past decade, with the GINI coefficient reaching 25.6 % in 2020, compared to an average of below 30% in the EU.



**Ukraine’s economy has been profoundly impacted by Russia’s war of aggression.** After a milder-than-expected COVID-19 recession and an incomplete rebound in 2021, real GDP growth collapsed in 2022 (-29.1%, somewhat more resilient than initially expected). Population displacement, supply-chain disruptions, inflationary pressures, and territorial losses due to the war took a toll on economic activity in 2022, especially on consumption and investment, which fell by 27% and 34%, respectively. Net exports also declined considerably as supply bottlenecks

weighed on exports and the spending of Ukrainian refugees abroad boosted import growth. Despite growing by 18% in real terms due to war-related spending, the contribution of public consumption to GDP growth remained small. In 2023, the economy has started to recover somewhat despite continued Russian attacks. This is thanks to the resilience of critical energy infrastructure, some positive signs of a partial return of refugees, and the ability of businesses and households to adapt to the war economy.

**The current account turned into a surplus following Russia's invasion.** In the 5 years prior to the pandemic, Ukraine’s registered current account deficits of 2-3% of GDP mainly due to a sizeable negative trade balance. This was offset in part by traditionally strong remittances inflows to Ukraine. The pandemic caused the current account to swing into a small surplus due to a compression of import volumes following the sharp contraction in economic activity over the course of 2020. Russia’s war of aggression against Ukraine led to an unprecedented trade deficit of 16.2% of GDP in 2022, which was mainly driven by a strong contraction in the exports of goods (-35.2%) due to production disruptions as well as transport and supply-chain difficulties. Still, the current account posted a record surplus of 5% of GDP, thanks to a strong surplus of both the primary and the secondary income balance, driven by exceptionally high foreign official grants and remittances inflows, which stood at 5.4% and 15.7% of GDP, respectively.



**Foreign investment has fallen markedly following the outbreak of the war.** After a notable recovery in 2021, foreign investment inflows have collapsed since the outbreak of the war (-92% in 2022). Portfolio investment in Ukraine registered an outflow of 1.3% of GDP in 2022, while other investments in the country reached 8.5% of GDP, driven primarily by the additional government borrowing. The financial account registered an aggregate outflow of USD 11.1 billion (6.9% of GDP) in 2022. The gap to the current and capital account inflow of

USD 8.2 billion was financed through the draw-down of the official international reserves by USD 2.9 billion.

**The National Bank of Ukraine (NBU) has ensured financial stability and strengthened confidence in the domestic currency.** Prior to the war, Ukraine implemented welcome reforms to enhance the autonomy and governance principles of the NBU, which successfully helped reduce inflation from 12.6% in January 2017 to 3.2% in January 2020. Following the Russian full-scale invasion, the NBU introduced swift actions to ensure financial stability and strengthen the confidence in the domestic currency. These included suspending the inflation-targeting framework, fixing and devaluing the exchange rate, and raising its main refinancing rate. While official reserves suffered a depletion in the first months of the war, international financial support helped restore them to their highest historical level in July 2023. The positive trends in terms of improved expectations and confidence in the national currency allowed the NBU to refrain from a further increase in its policy rate beyond 25% (which was on the contrary cut by 300 basis points in July 2023 and 200 basis points to 20% in September 2023) or from further devaluing the hryvnia (beyond the 25% in July 2022). The NBU took additional confidence-enhancing measures in late 2022 and early 2023, as a result of which the spread between the market and official exchange rates narrowed down to a rather marginal 4%. The central bank is fully committed to return to an inflation-targeting framework in a flexible exchange rate regime as soon as circumstances permit it, as highlighted in the recently adopted FX strategy, as well as in the decision of the NBU on 3 October 2023 to move to a managed exchange rate regime.

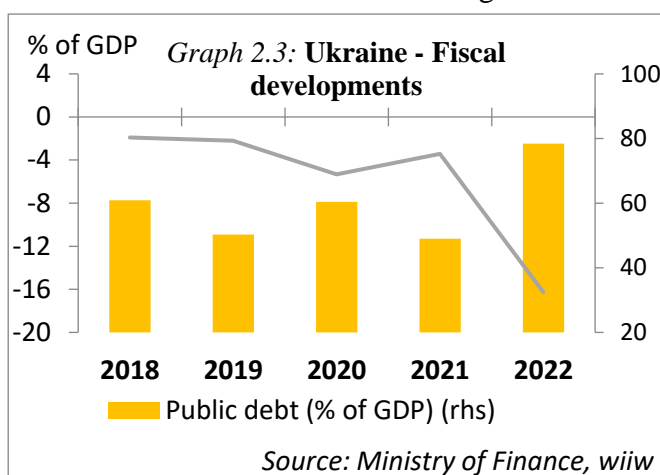
**Inflation declined strongly in 2023 after reaching a 6 year high in 2022.** After some moderation in 2020, inflation increased steadily throughout 2021, mainly due to increasing global commodity prices – particularly for energy and food – as well as supply bottlenecks both in Ukraine and abroad. The war exacerbated inflationary pressures, causing further disruptions in supply chains, a decrease in the supply of some goods, and higher production costs. Coupled with considerable monetary financing by the central bank during the war, these factors led to a strong and steady rise in inflation over 2022, reaching 26.6% in December 2022. Inflation has nevertheless eased visibly since, reaching 8.6% in August 2023, due to increased supply of food and fuels, a rapid partial recovery of the energy system from Russia's attacks, which reduced energy prices, as well as skilful policymaking by the NBU. Indeed, conscious of the adverse effects of monetary financing, including on macro-financial stability, the NBU has discontinued this practice since the beginning of 2023 and the government has relied on taxation, foreign assistance, and financing mobilised from the domestic market. This helped

reduce inflation expectations and ease pressures on core inflation.

**Public finances deteriorated markedly, reversing the gains from fiscal consolidation prior to the war.**

The state of public finances has deteriorated markedly due to the duration and cost of the war, making Ukraine lose access to international debt markets and rely on foreign assistance and domestic markets to finance its funding needs. Thanks largely to massive official foreign grants, the 2022 general government deficit was contained to 16.3% of GDP. Driven by spending on defence and public order, overall public expenditure increased by 65% in 2022. While tax revenues contracted by almost 8% in 2022, total public revenues increased by 32%, primarily thanks to the massive foreign grants. The war has led to a reverse in gains from the

considerable fiscal consolidation that had been achieved since 2017, during which public debt had decreased from around 81% of GDP in 2016 to 49% of GDP in 2021. Driven by the sizeable borrowing but also reflecting the decline in nominal GDP, total public debt reached 78.5% of GDP at end-2022. The substantial deterioration in public finances highlights the need to execute the budget within the available resource envelop in the short-term, complemented by important efforts to increase the revenue base over the medium term. In addition,



in the area of public financial management, building on significant improvements in the years before the war, further priority reform areas include ensuring the availability of fiscal data, restoring the medium-term budgetary framework, improving public investment management, and reinforcing the mandate and functionality of the supreme audit institution. Improving the monitoring and management of fiscal risks, including those related to state-owned enterprises, public guarantees and age-related expenditure, is also an important reform priority.

Functioning of the product markets

*Business environment*

**Weaknesses in the business environment led to low levels of investment.** Ukraine’s competitiveness is weak, primarily owing to weak institutions, the prevalence of market dominance and an ineffective anti-monopoly policy. Nevertheless, some progress in deregulating its economy has been made, where the cancellation of almost one fifth of the regulatory acts under review in the period 2016-2020 was a significant step to streamline regulation. Despite a moderate regulatory burden and no significant legal barriers to market entry, corruption, ongoing geopolitical tensions and inefficient contract enforcement discourages private investment and cross-border business relations, including FDI.

**To allow companies to operate during the war, the authorities have lifted certain regulatory requirements for the period of application of the martial law and continued to progress with a number of broader reforms.** Against the backdrop of a highly uncertain outlook, business activity was supported by further steps towards deregulation and reducing administrative burden. As of August 2022, it is possible to set up a limited liability company in an automatic way on the basis of a model charter, without the need to go through a state registration authority. Similarly, digital tools have been deployed successfully to facilitate the functioning of the court system. The Rada also adopted a law that introduces a simplified

bankruptcy procedure that avoids summoning the parties, while simplifying the insolvency officers' work and providing for the creation of an automated information system.

**The informal sector still constitutes a substantial share of Ukraine's economy**, estimated at 30-40% of Ukraine's GDP. This significantly impacts tax revenues, exacerbates poor working conditions by hindering access to social protection, distorts competition and hampers the effectiveness of policy measures. Several factors contribute to the persistence of this phenomenon: despite deregulation, there is still a complex and inefficient regulatory framework; weak law enforcement; and a general lack of trust in governmental institutions. Furthermore, corruption creates a volatile business environment, providing a strong incentive for businesses to operate informally.

#### *State influence on product markets*

**The war has exacerbated the state's footprint in the economy.** The Ukrainian state already had a substantial economic footprint in peace times. In 2021, the public sector accounted for 18% of gross value added (down from 21% in 2020) and 32% of gross fixed capital formation (down from 35% in 2020). Ukraine's more than 3 256 state-owned enterprises (SOEs) at central level accounted for one-tenth of output and 18% of employment before the war, with an average return on equity at 0.3% in 2019 far below that of the private sector (8%). Furthermore, SOEs have held a dominant role in many markets, stifling competition and making it difficult for new firms to enter. In 2022, for which detailed national accounts are not available yet, the relative share of the sector of public administration and defence jumped up to 24% of GDP (from 7.2% in 2021), while the share of government consumption more than doubled to 38.2% of GDP. The importance of many public companies, e.g. the railways, the energy provider and the post office, strengthened as a result of their crucial role in the emergency response to the full-scale invasion.

#### *Privatisation and restructuring*

**Privatisation and corporate governance of state-owned enterprises are a significant challenge for economic policy.** Prior to the war, Ukraine had been quite successful in privatising small property and production assets, notably through the electronic auctions platform ProZorro. In July 2022, the Rada adopted a law to simplify the procedure for small privatisations, which have resumed since then. Investors showed interest in two ports, several distilleries and other small real estate pieces. On 30 May 2023, a law was adopted that inter alia unblocks large-scale privatisations, which have been suspended since the beginning of the war, and where progress had previously been limited. The law also amends the structure of the State Property Fund of Ukraine (SPFU). The law also makes significant changes vis-à-vis sanctioned property, which will be transferred to the SPFU for management and/or privatisation, sale or lease. As far as SOEs are concerned, while progress on the corporate governance reform was recorded before the war, it is not yet in line with OECD standards to ensure de-politicised, professional and transparent management.

#### Functioning of the financial market

##### *Financial stability*

**Although the already high non-performing loans ratio has increased during the war, financial stability has been preserved thanks to swift policy action by the National Bank of Ukraine.** Following the 2014-2016 banking crisis, the National Bank of Ukraine strengthened proper oversight of the banking sector, which was characterised by a high level of non-performing loans. Nevertheless, after two rounds of asset quality reviews, bank closures, and recapitalisations, non-performing loans started to decrease, declining from 58%

in 2017 to a still very high 30% in 2021. In response to the full-scale invasion, the National Bank of Ukraine took steps to safeguard banks' liquidity and the confidence in the system, which has remained strong as evidenced by the increase in deposits by 35% y-o-y by end-February 2023. The banking sector has remained stable and with ample liquidity, although Non-Performing Loans ratio increased to 38.1% by end-2022 in light of war-related impacts on economic activity and collateral. Despite building additional provisions for about USD 3.5 billion, banks remained profitable in 2022, owing to high liquidity ratios, which yield significant interest income in a high interest rate environment. With a market share of close to 50% over the last five years, the four state-owned banks dominate the banking sector.

#### *Access to finance*

**Lending to the private sector remains low.** Ukraine's financial sector is predominantly bank-based and the total stock of bank lending to the private sector stood at just 20% of GDP in 2022 (28% in 2021), much below the EU average. Banks showed strong resilience to the war situation. This was thanks to initiatives such as Power Banking (guarantee of service despite power outage) and national ATM roaming (no inter-bank withdrawal charges), although both risk appetite and loan demand have decreased against the backdrop of rising interest rates. Banks' aggregate portfolio contracted by 4% in 2022, with corporate loans almost flat while loans to households declined by 13%. To ease borrowers' situation, the government has simplified the conditions for benefitting from debt restructuring and extended access to the programme of 'Affordable Loans 5-7-9%'. Even during the war, surveys do not point out access to finance as an impediment to conducting business. Capital markets and non-bank financial intermediation are in a very early stage of development.

#### Functioning of the labour market

**Ukraine's labour market suffers from labour and skills shortages, structurally high rates of young people not in education, employment or training (NEET), as well as informal employment.** Despite witnessing a decline in labour supply, the unemployment rate has fluctuated at around 9% over the past five years. Labour force participation stood at 62% in 2021, with a low and decreasing rate of participation among women. The share of young people (aged 15-24) who were NEET stood at 15.5% in 2021. Despite high formal educational attainment, skill mismatches persist, which impacts productivity. Improvements in active labour market policies could help increase employment and reduce skill gaps by training workers with the skills that employers need. Informal employment was estimated at 20% of all employed in 2021.

**The war has had a profound impact on the labour market and exacerbated pre-existing structural challenges.** The massive outflow of people to other countries, an estimated 5 million internally displaced persons, and substantial job destruction in the wake of the invasion have reshaped the labour market landscape. At the macroeconomic level, the most important change was not the increase in the unemployment rate, but the dramatic fall in the labour force. Around 6.2 million people left the country, of which around 2.1 million were of working age. In addition, it has been estimated that around two thirds of refugees at working age have an advanced education. Coupled with the physical and mental impacts of the war on workers, this could exacerbate earlier trends of decreasing labour supply caused by a declining population at working age. Additionally, the surge in internally displaced persons has intensified skill mismatches and labour shortages in regions experiencing a pronounced workforce exodus and higher unemployment rates while fostering informal employment in recipient regions. Despite nominal wages remaining roughly constant, the hike in inflation has led to a collapse in real incomes for households.

### 2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges,, Ukraine is at an **early stage of preparation** in terms of its capacity to cope with the competitive pressure and market forces within the EU. The war has severely damaged the country's capital infrastructure and caused a massive human exodus that has deeply affected the economy. Investment as a share of GDP was already very low before the war and infrastructure remained underdeveloped, especially trade-related infrastructure. Investment in research and innovation has been low, and educational outcomes have not met the needs of the labour market.

The structure of the Ukrainian economy changed little in the five years before the start of the Russian war of aggression and remained concentrated in sectors with low added value. Even before the war, the stock of FDI was well below the EU average, reflecting persistent weaknesses in the business environment and high perceived corruption. While trade integration with the EU has been advancing recently, including thanks to the implementation of the Deep and Comprehensive Free Trade Area, it remains low, while the openness of the Ukrainian economy overall had been decreasing before the invasion.

At the same time, the international response in support of Ukraine has been massive over the last year. Future reconstruction could also help support modernization and allow Ukraine to specialise in higher value-added chains and strengthened competitiveness.

To improve competitiveness and support long-term growth, Ukraine should in particular:

- continue and, when the situation allows for it, accelerate repairs and rehabilitation of infrastructure, in particular the restoration of energy transmission and generation capacity, including from renewable energy sources, as well as utilities, transport infrastructure, schools and health facilities;
- take measures to facilitate investment, including for reconstruction, in particular by improving public procurement processes, reducing barriers to project implementation, reforming planning processes and strengthening the administrative capacity needed for investment management;
- take steps to improve the quality of education and training, including for Ukrainians returning from abroad, to ensure outcomes align with the needs of the labour market, including the skills required for reconstruction. Ensure that the education system is also equipped to re-integrate Ukrainians returning from abroad.

#### Education and innovation

**Ukraine invests a relatively large share of its GDP in education, which is not proportionately reflected in outcomes.** The country invests a higher proportion of GDP in education than the EU. This has contributed to high levels of formal educational attainment, with 54% of the working-age population in 2020 enrolled in or having completed tertiary education, nearly double the EU average. A large part of this share is accounted for by vocational education and training rather than traditional academic degrees. Ukraine ranked 39th out of 77 countries in the latest round of PISA reading assessments in 2018, which is low compared with its investment in education.

**Despite relatively high rates of investment and formal educational attainment, there is still a mismatch between the skills of the workforce and those demanded by employers.** Nearly 38% of firms in Ukraine identified an inadequately educated workforce as a major

constraint, which is much higher than the EU average. This rate increases to nearly half of firms with at least 10% foreign ownership. Compared to relatively large investments in vocational training within the education system, spending on active labour market policies to mitigate the skills mismatch remains very low at just 0.03% of GDP in 2017.

**The war has prolonged the pandemic-related disruptions to the continuity of education and poses a serious challenge to educational outcomes in the medium term.** As of February 2023, an estimated 10% of all educational institutions in the country had been damaged or destroyed, and around 4.6 million children had been forcibly displaced by the war. According to the Ministry of Education and Science, only 32% of primary and secondary-school students are in full-time, face-to-face education as of June 2023.

**Investment in research and development remains low.** Total expenditure on research and development, which has been declining over the last 10 years, reached 0.29% of GDP in 2021 compared to an EU average of 2.2%. Over half of R&D spending comes from the private sector. According to the European Innovation Scoreboard 2022, Ukraine is regarded as an emerging innovator.

#### Physical capital and quality of infrastructure

**The state of Ukraine's physical infrastructure reflects a persistent lack of investment in the years before the war and will require significant investment in order to support recovery and economic growth.** The average ratio of gross fixed capital formation has fluctuated at around 17% of GDP since the Maidan Revolution, which is about half of the investment effort of similar emerging economies. FDI inflows averaged 2.2% of GDP over the five years from 2018, falling to 0.3% of GDP in 2022. The total stock of pre-war FDI remained low at around 31% of GDP. The country ranks very low on the quality of trade-related infrastructure and around a quarter of firms identified transportation as a major constraint in the 2019 World Bank Enterprise Survey. These challenges have been exacerbated by war-related disruptions to export routes including in the Black Sea. Ukraine has a highly developed gas transmission system that is also closely integrated into the European gas network, though a significant part of the country's overall energy generation and transmission infrastructure has been damaged in the war.

**In terms of digitalisation, Ukraine has made remarkable progress in recent years, though war-related damage has disrupted connectivity.** In 2021, 83% of Ukrainian households had internet access at home, representing an increase of over 20 percentage points in just three years. Internet connectivity was a key driver of pre-war economic growth, in particular for the IT industry. Good digital connectivity has supported the country's resilience during the war.

**The destruction of physical capital caused by the war has been immense.** According to the Rapid Damage and Needs Assessment, direct damage in the first year of the war is estimated at EUR 150 billion, with the housing (38%), transport (26%) and energy (8%) sectors having suffered the greatest damage. Total reconstruction and recovery needs were estimated in February 2023 at EUR 380 billion. This encompasses steps towards becoming a modern, low-carbon, disaster- and climate-resilient country in view of becoming an EU Member State and takes into account inflation, surge pricing commonly seen during mass construction, higher insurance premiums, etc. The destruction of the Kakhovka Dam in June 2023 caused severe economic and environmental loss. Russia has occupied, damaged or destroyed a large part of Ukraine's installed power capacity, thousands of kilometres of electric, gas and heating networks, transformers, compressor stations, heat-only boilers and other infrastructure facilities. Emergency repairs have continued with international support, which together with exceptional efforts by the transmission system operator Ukrenergo have kept the grid



operational. About a quarter of agricultural land could not be used for production before demining has taken place.

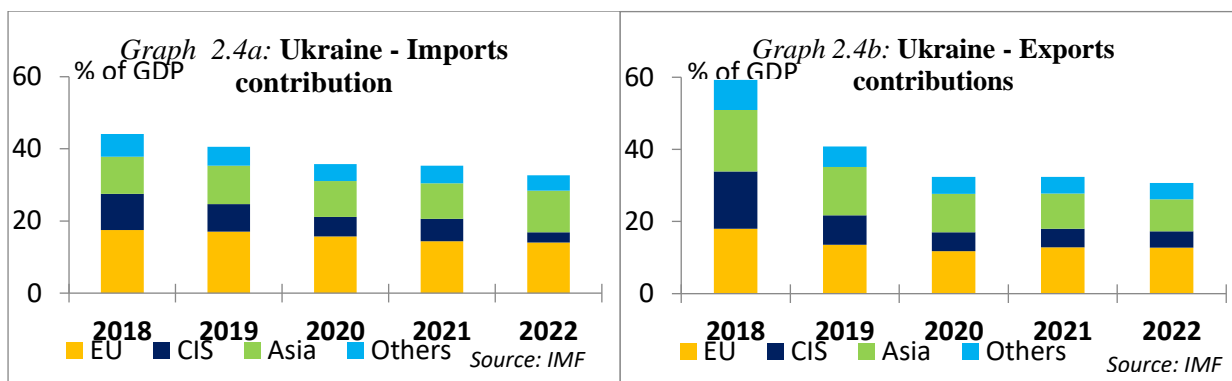
### Sectoral and enterprise structure

**The structure of the Ukrainian economy changed little in the five years before the start of the war and remained concentrated in sectors with low added value.** Agriculture accounted for just over 12% of GDP (EU average: 1.6% of GDP) and over a fifth of total employment in 2021. The share of manufacturing in GDP has been declining persistently in recent years from 14.4% in 2016 to 8.6% in 2022 due in part to labour market pressures resulting from high emigration, electricity tariff reform as well as the impact of the war in Donetsk and Luhansk and the COVID-19 pandemic. The ICT sector, where Ukraine had been developing a comparative advantage, kept its relative share in output almost intact at 5.2% of GDP in 2022. Before the war, the trade, agriculture and industry sectors accounted for almost 60% of all employment, suggesting that these sectors were lagging in labour productivity relative to the other parts of the economy.

**Nearly all businesses in Ukraine (99.98%) are small and medium-sized enterprises (SMEs), with access to finance remaining an obstacle for firms of all sizes.** In 2020, SMEs employed 81% of workers and accounted for 62.6% of GDP and over a quarter of exports. Access to finance remains a key obstacle for businesses of all sizes and was identified by nearly half of firms as a major constraint in 2019, five times the rate in the EU. The interest rate spread for SMEs compared to large firms had been rising before the war, though SMEs account for an increasing share of outstanding loans (61% in 2020) and represent nearly one-third of new lending each year. The government strategy to boost SME development and open access to finance expired in 2020, and an updated strategic policy framework remains to be developed. The government introduced an affordable loan programme to improve access to bank lending for small firms. This has continued and expanded during the war, with an increase in the maximum loan amount and a reduction in interest rates to 0% for the duration of martial law.

### Economic integration with the EU and price competitiveness

**The overall openness of the economy had been shrinking even before the war, with foreign trade relative to GDP contracting from 108% in 2015 to 88% in 2022.** Despite this general trend, economic integration with the EU progressed further thanks to the implementation of the Association Agreement and the Deep Comprehensive Free Trade Agreement (DCFTA). Ukrainian companies have been actively using the opportunities of the DCFTA, with 27% more businesses exporting to the EU in 2022 than in 2016. The share of exports to the EU, which consisted mostly of agricultural products, metals and minerals, increased from 28% in 2015 to 36% in 2021. The share of imports from the EU, which comprised primarily machines, chemicals and minerals, also strengthened from 36% in 2015 to 41% in 2021. The EU is the largest source of FDI in Ukraine, accounting for three-quarters of FDI inflows in 2021. Thanks to the temporary suspension of all tariffs, the agreement on road transport and the effective implementation of logistical Solidarity lanes since the start of the war, trade integration with the EU has progressed further, with 39% of Ukrainian exports going to the EU in 2022 and about half of Ukrainian imports coming from the EU.



On price competitiveness, unit labour costs remained relatively low and stable in Ukraine between 2014 and 2018, **remaining less than a third of those in neighbouring EU Member States in US dollar terms.**

## 2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

### Chapter 5 – Public procurement

*EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.*

Overall, Ukraine has **some level of preparation** in the area of public procurement. **Limited progress** was made during the reporting period in the face of the Russian war of aggression against Ukraine and the application of martial law. Further legal alignment with the EU *acquis* is needed, including on concessions and public-private partnerships (PPPs), exclusion, selection, use of the most economically advantageous tender criterion, as well as defence procurement.

In the coming year, Ukraine should in particular:

- make progress in aligning the laws on public procurement with the EU *acquis*, including on concessions and PPPs;
- proceed with the appointment of public procurement commissioners in the Anti-Monopoly Committee of Ukraine;
- ensure that exceptions to the laws on public procurement are kept to the minimum required under martial law.

#### Institutional set-up and legal alignment

The **legal framework** on public procurement is partially aligned with the 2014 EU directives on public procurement. Further alignment is needed, including on the scope of and exemptions from public procurement legislation, mixed contracts and value estimation, exclusion, selection and award criteria. This includes the removal of fixed weights for the price criterion and mandatory use of e-auctions, as well as adjustment in the use of e-catalogues. The Law on concessions was significantly modified in 2019, but still does not comply fully with EU requirements. The defence procurement Law, adopted in 2020, is partially aligned with the EU Directive on defence procurement.

An amendment to the Law on public procurement, which entered into force in July 2022, introduced temporary domestic content requirements for a period of ten years for selected machines and equipment. However, public procurement in connection with Ukraine's international commitments is exempted from domestic content requirements.

In light of the Russian war of aggression against Ukraine, the application of martial law in Ukraine and its duration, Ukraine has introduced temporary exceptions from public procurement legislation, including the use of direct awards and simplified procedures, by way of resolutions.

An appropriate institutional framework to implement the public procurement policy is in place with adequate powers and functions. The role of the Authorised Body, responsible for defining the public procurement policy, is performed by the Ministry of Economy of Ukraine and its Public Procurement and Competition Policy Department; concessions and PPPs fall under the responsibility of the Department on Investments, Innovations and Intellectual Property of the Ministry of Economy.

#### Implementation and enforcement capacity

Despite the ongoing military aggression, the authorities have ensured the continuity of operations in public procurement, including the use of the e-procurement system Prozorro. Based on the annual reports from the Ministry of Economy, the **public procurement market** represented 9.3% of GDP in 2022 against 17.1% in 2021 and 17.8% in 2020. There was therefore a notable decrease in 2022 due to the war.

On the **monitoring of contract awards and implementation**, negotiated procedures were suspended under martial law and replaced by direct award. The use of framework agreements and centralised procurement, especially at regional and local level, needs to be scaled up. Concessions and PPPs have remained very low as the required IT solutions have not yet been implemented following the relevant law introduced in 2019. In 2022, the State Audit Service (SAS) detected irregularities in 67% of monitored procedures, down from 78% in 2021 (this includes all types of irregularities). Public procurement control is complex and weak due to a lack of skilled staff, overlapping responsibilities, suboptimal quality of control and enforcement. Although expanding, SAS coverage of monitoring and the *ex post* internal audit of public procurement remains modest; while the system of risk indicators needs improvement. The contracting authorities need to continue to build **capacity to manage public procurement processes**. Professional standards, a professionalisation strategy and training policy based on an assessment of training needs, need to be put in place. Training currently remains voluntary, and no statistics are available on the number of trained staff.

#### Efficient remedy system

Legislation on the **right to legal remedy** is partially aligned with the EU *acquis*. The Antimonopoly Committee of Ukraine (AMCU) handles complaints about public procurement violations. Complaints related to violations of PPPs and concessions legislation are looked into by the administrative and commercial courts of Ukraine.

The **implementation capacity** of the AMCU remains insufficient. Before the war, the AMCU was heavily overloaded with complaints (14,828 cases in 2021 compared to 3,865 cases in 2022). Following the 2021 amendment to the AMCU law establishing commissions for the consideration of public procurement complaints four commissioners out of a maximum of ten envisaged were recruited in 2023.

The ongoing increase of the number of commissioners and the introduction of specialised commissions for public procurement is expected to increase the AMCU's capacity to resolve cases. However, its internal administrative capacity would also need to be expanded.

## **Chapter 18 – Statistics**

*EU rules require that Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.*

Ukraine has **some level of preparation** in the area of statistics. **Limited progress** was made during the reporting period towards alignment with the EU *acquis*, including adoption of legislation to integrate the European Statistics Code of Practice. The administrative capacity of the institutions involved needs to be further strengthened and coordination among them improved. The publication of statistical information has been largely suspended while martial law is imposed. Data transmissions to Eurostat remained limited.

In the coming year, Ukraine should in particular:

→ strengthen the institutional independence and administrative capacity of the State Statistics Service of Ukraine (SSSU) and the coordination among relevant bodies to improve the quality of statistics;

→ adopt the national strategy for the development of Ukrainian statistics for 2024-2029;

→ increase the production and transmission of high-quality and timely data to Eurostat.

On **statistical infrastructure**, the Law on state statistics provides the legal framework for national statistics and regulates the rights and functions of national statistical bodies. The Law on official statistics, which strengthens the coordinating role of the SSSU and establishes the Statistics Council, entered into force on 1 January 2023. The SSSU is the recognised national statistical authority of Ukraine in charge of production of the official statistics. It operates under the Ministry of Digital Transformation. It coordinates the national statistical system, which also includes the Central Bank of Ukraine and the Ministry of Finance. The country is making preparations to establish a National Council of Statistics as a consultative body to the Cabinet of Ministers. Its exact tasks and role within the national statistical system should be clearly defined. Ukraine is in process of preparing a new national strategy for the development of Ukrainian statistics for 2024-2029.

Ukraine cooperates with and regularly submits limited data in several statistical domains to Eurostat on a voluntary basis. In connection with the World Bank's International Comparison Program, Ukraine carries out nearly all the surveys required under the relevant regulation, using the methodologies and classifications set out in the Eurostat-OECD Methodological manual on purchasing power parities.

On **classifications and registers**, the main classifications are in line with the EU *acquis* and are updated regularly. The State Statistics Service maintains the register of statistical units' classification of economic activities.

On **macroeconomic statistics**, annual and quarterly sector accounts are compiled using the classification of institutional sectors. Annual and quarterly indicators for GDP and its components use the production approach by income category and by end-use category. Ukraine needs to start submitting national accounts data to Eurostat. Transmission of European System of National and Regional Accounts (ESA) 2010 data to Eurostat is very limited. transmitted to Eurostat.

The Ministry of Finance compiles **government finance statistics** (GFS) based on the IMF's GFS Manual 2014, which differs substantially from the System of National Accounts 2008 and European System of Accounts 2010 in presentation. GFS or excessive deficit procedure statistics are not transmitted to Eurostat. Institutional arrangements need to be carefully reviewed to ensure statistical independence in the delineation of the general government sector and the recording of its operations.

On price statistics, the harmonised index of consumer prices is not calculated. Price statistics data is not transmitted to Eurostat.

Ukraine follows the methodology and conceptual framework for compiling the **balance of payments data** as set out in the relevant manual (BPM6, IMF, 2009). The dissemination of data on the monthly and quarterly balance of payments and international investment position corresponds to the timelines set by Regulation (EC) 184/2005.

On **business statistics**, in 2022, a new methodology for calculating indicators of demographic statistics of enterprises was developed in accordance with the requirements of European Business Statistics Regulation. Business statistics data is not transmitted to Eurostat.

On **social statistics**, the latest population census took place in December 2001. The next census is planned six months after the end of martial law. Ukraine annually provides to Eurostat the data for population statistics (POPSTAT) and demographic statistics (DEMOBAL) questionnaires. However, the data provided is only broken down by age and sex and without the necessary full metadata information. Ukraine needs to develop statistics in the area of asylum and managed migration. Social protection statistics are implemented and comply with Regulation on the European System of Integrated Social Protection Statistics. Labour market statistics on the structure of earnings, the labour cost index, and the labour cost survey have been partially implemented. During the martial law, state statistical bodies have not been conducting sample surveys of the population (households), including the survey of the labour force.

On **agricultural statistics**, a pilot agricultural census was conducted in 2012. The date of the next census will be decided after the war has ended. No data on agricultural statistics is transmitted to Eurostat.

On **transport statistics**, no transport data is provided under the regulated statistics. In 2022, work on identifying sources of administrative data, which are needed by the State Statistics Service for the implementation of European legislation in transport statistics, continued. Despite some data quality concerns, Ukraine is broadly in line with the *acquis* on **energy statistics**.

**Environment statistics** data is not transmitted to Eurostat. It is therefore not possible to evaluate compliance. Ukraine's self-assessment indicates the production of some statistics on waste and compilation of four environmental accounts.

## Chapter 32 – Financial control

*The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.*

Ukraine is at an **early stage of preparation** for implementing financial control. During the reporting period, Ukraine made **limited progress** by approving the financial audit methodology for external audits and establishing audit committees within central authorities.

In 2023, Ukraine should focus on the following recommendations:

- ensure tighter connectivity between public internal financial control (PIFC) reform and the Central Harmonisation Unit (CHU), and strengthen the CHU's role in enforcing delegated managerial accountability;
- strengthen the Accounting Chamber of Ukraine's (ACU) independence, mandate and ISSAI-based audit work through the approval of a new ACU law, and address the shortage of internal auditors;

→ increase cooperation between the ACU and Parliament to strengthen oversight of the state budget and its implementation.

### Public internal financial control

The **strategic framework** for PIFC is part of the public finance management reform strategy for 2022–2025. The CHU monitors progress of both key areas in PIFC, internal control and internal audit. Around 100 key spending units are responsible for budget management, medium-term budget plans and performance management, as assigned by the budget code.

**Managerial accountability** is not yet fully incorporated into legislation and administrative practice. The Cabinet of Ministers has adopted basic principles of internal financial control that apply to spending units at all levels, but the principles do not go into details about lower-level management and employees. The implementation of basic managerial accountability mechanisms for central government bodies remains limited in practice.

The Budget Code of Ukraine regulates the requirement to establish **internal audit practice**. Internal audit units are mandatory in ministries, central executive bodies and other key spending units at central and regional level, but recommended in local self-government. In 2023, the legal requirement of installing audit committees at central public entities came into force. The capacity to effectively carry out internal audits is hindered by a shortage of internal auditors and high staff turnover. A certification commission has been established within the Ministry of Finance.

The **CHU** within the Ministry of Finance focuses on (i) developing internal control and internal audit functions; and (ii) coordinating activities related to internal audit and the evaluation and monitoring of internal control systems. Its tasks are described in the Budget Code and secondary legislation. The CHU aims to improve efficiency in its key tasks, for example by developing a web-based PIFC portal.

An enhanced cooperation between the Public Internal Financial Control institutions and the auditing institution with the law enforcement agencies could help in combating corruption.

### External audit

The **Constitution** does not recognise **the independence** of the Accounting Chamber of Ukraine (ACU). The legal framework limits the ACU's mandate to audit public bodies and resources, including control over the national budget's revenues and use. It does not have the mandate to audit local budgets, state-owned businesses or off-budget spending. While the ACU reports on PIFC and internal audit findings to the Ministry of Finance, exemptions should be considered to maintain its autonomy. Although the ACU is instructed to apply international audit principles, this has led to flawed practices not aligned with international standards due to conflicts with Ukraine's constitution and laws.

The ACU has recently approved the methodology for financial audits, which aligns with international standards. The manual will be used in planned pilot audits in 2023. Methodologies for compliance and performance audits still require approval. In practice, the ACU focuses more on inspections than audits, as defined by international public sector auditing standards. There is also an overlap between the mandates of the ACU and the State Audit Service (SAS), with the latter having a broad mandate that includes defined public financial and IT audits.

The current **impact** of the ACU's **audit work** is minimal as its performance is measured based on the number of audits conducted rather than the actual impact of audit recommendations. There is no formal procedure for monitoring the implementation of ACU audit recommendations.

The ACU currently does not produce audit reports that are in line with recognised international standards. These are rather inspection reports that do not serve the purpose of promotion of reforms or identifying systemic issues.

#### Protection of the EU's financial interests

The national legislation ensures some degree of EU alignment. It addresses issues of corruption offences, money laundering and misappropriation. It is essential to establish and strengthen liability for fraud that impacts the EU budget. Ukraine should adopt a national fraud strategy for the protection of the EU's financial interest.

While an anti-fraud coordination service (AFCOS) has not yet been established to facilitate effective cooperation and exchange of information, including of an operational nature, with the European Anti-Fraud Office (OLAF), the State Audit Service (SAS) was nominated as the national contact point for cooperation with OLAF and the European Court of Auditors. Although its mandate is limited at the national level in this capacity. There is no corresponding AFCOS network of authorities involved in the protection of the EU's financial interests, but a national mechanism was designated through the setup of the Interdepartmental Coordination Council which needs to meet regularly to become effective. While Ukraine does not manage EU funds directly and thus does not report irregularities through the Irregularities Management System, the SAS has developed procedures to prevent and report violations, errors and fraud to relevant bodies, including the European Commission. Collaboration between OLAF and relevant institutions is on a case-by-case basis. The Bureau of Economic Security, which is responsible for investigating offences that impact Ukraine's financial interests, is under review, with the scope of its activities in protecting the EU's financial interests yet to be determined.

#### Protecting the euro against counterfeiting

Ukraine has signed and ratified the 1929 Geneva Convention for the Suppression of Counterfeiting Currency. The Centre for the Suppression of Counterfeit Banknotes and Coins, which is operated by the National Bank of Ukraine, manages, analyses and processes counterfeit euro banknotes and those from other foreign currencies withdrawn from circulation by Ukrainian banks. The responsibility for combating counterfeiting lies with the Bureau of Economic Security, the Ministry of Internal Affairs, the State Security Service and the prosecution service. However, the allocation of responsibilities among these bodies requires further clarification.

### **3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION**

Russia's full-scale war of aggression against Ukraine has affected the latter's relations with enlargement countries and neighbouring member states, as well as its activities in regional formats.

Ukraine participates in the **Eastern Partnership** policy, and is part of a number of regional formats, including the Central European Initiative, the Black Sea Economic Cooperation, the Organization for Democracy and Economic Development and the Regional Cooperation Council. The level of engagement of Ukraine in some formats was strengthened, or was profoundly shaped such as in the Black Sea Economic Cooperation Organization without the participation of Russia. Some formats are being reassessed.

Ukraine maintains longstanding close ties with neighbouring **Moldova**. Bilateral political dialogue on all levels has improved further, following Moldova's strong support for Ukraine in the context of Russia's war, including through hosting a high number of refugees and actively supporting the export of Ukrainian products under the Solidarity Lanes initiative. Both

countries exchange on the EU accession process, on regional and security issues, the situation in the Transnistrian region and on management of water resources of the Nistru River, which remains a challenging topic.

Ukraine and **Georgia**, fellow “Association Trio” members have a strategic partnership since 2017, but relations are currently strained. While Georgia, continues to support Ukraine’s territorial integrity and sovereignty, including through co-sponsorship of Ukrainian UN resolutions and hosts a significant number of Ukrainian refugees, Ukraine considers Georgia’s position on the Russian aggression as ambivalent. Ukraine has criticised inter alia, the non-alignment of Georgia with EU sanctions against Russia and absence of military-technical cooperation. The ill health of former Georgian President Saakashvili, a Ukrainian citizen, had led to additional diplomatic tensions.

**Türkiye** is a strategic partner for Ukraine, with important bilateral economic and people-to-people ties, evidenced by a bilateral visa-free regime and a free trade agreement signed in February 2022 (not yet ratified). Bilateral relations have been bolstered since the beginning of Russia’s full-scale war by Türkiye’s technical, humanitarian and military support to Ukraine, by its co-sponsoring of UN resolutions in favour of Ukraine’s territorial integrity and sovereignty, by its closure of the Bosphorus and Dardanelles straits for the passage of military ships, as well as Türkiye’s mediation efforts contributing to prisoner of war exchanges and the Black Sea Grain Initiative. Türkiye has also been a prominent participant in Ukraine’s International Crimea Platform. Nevertheless, Türkiye has not aligned with EU sanctions against Russia in the context of the latter’s full-scale aggression. Ukraine has not joined all CFSP statements on Türkiye in the past.

The Ukrainian authorities have sought to maintain and prioritise effective cooperation and close diplomatic ties with neighbouring EU Member States, both in the context of the war of aggression – determined in large part by the support of individual countries – and in the context of Ukraine’s prospective EU integration.

In the Western Balkans, Ukraine’s relations with **Albania** remain good. Albania has sponsored or co-authored all resolutions in support of Ukraine during its non-permanent membership (2022-2023) of the UN Security Council.

**Bosnia and Herzegovina** supports the territorial integrity and sovereignty of Ukraine, condemning Russia’s war of aggression. Bilateral relations are generally good but have been affected by certain statements on Russia’s role in Europe and significant hindrances, due to political contestation, in the implementation of restrictive measures against Russia. The two countries enjoy the visa-free regime. A number of agreements are in place, including on trade and on investment protection. Trade flows remain low.

The ties between Ukraine and **North Macedonia** are strong and deepening through political dialogue and diplomatic support as well as military assistance in the face of Russia’s full-scale war. A bilateral free trade agreement was revised and upgraded in 2022, and North Macedonia declared its support for Ukraine as a priority for its Chairmanship of the OSCE in 2023.

Ukraine-**Montenegro** relations are equally strong, bolstered by the latter’s continued support in UN fora as well as on sanctions, trade, technical and military assistance.

Ukraine-**Serbia** relations have been challenging since 2014 by Ukraine’s perception of limited Serbian support in the face of Russian aggression, in particular as regards Serbia’s absence of alignment with EU common foreign and security policy restrictive measures. Still Serbia voted in favour of UN General Assembly resolutions in support of Ukraine’s territorial integrity and sovereignty and has confirmed this support at the Presidential level. Serbia is also Ukraine’s



first trade partner in the Western Balkans, while negotiations on a free trade agreement still need to be concluded.

Ukraine has not recognised the independence of **Kosovo**\* but has indicated continued support for EU-facilitated dialogue between Belgrade and Pristina. Ukraine also participated in the NATO Kosovo Force mission until 2022, when it withdrew its contingent of servicemen and military equipment. Kosovo has decided on a voluntary basis to support all Declarations by the High Representative on behalf of the EU and has aligned with EU restrictive measures, including all those related to Russia's aggression against Ukraine.

**Hungary** participates in initiatives such as Grain from Ukraine facilitating Ukrainian food exports and provides financial and humanitarian support to Ukraine. However, relations continue to be affected by Ukrainian legislation relating to persons belonging to national minorities, including the implementation of the recommendations of the Venice Commission on education, state language, use of minority languages in public life, administration, media and books.

**Poland** has become one of Ukraine's closest strategic partners in the context of Russian war of aggression and has been providing vital political, humanitarian, economic, technical and defence assistance. Poland also continues to host big number of Ukrainian refugees. The introduction of exceptional and temporary preventive measures on imports from Ukraine to the European Union - which was requested by Poland, Bulgaria, Hungary, Romania and Slovakia - has caused tensions between the two countries. The measures were lifted on 15 September.

Ukraine and **Romania** continue to cooperate closely, with recently strengthened bilateral political dialogue. Romania participates in the Grain from Ukraine scheme and helps export Ukrainian food products through EU solidarity lanes. Romania hosted the Black Sea Security Conference under the auspices of Ukraine's Crimea Platform in April 2023. Like Poland and Slovakia, Romania has hosted logistical hubs for the delivery of EU humanitarian and civil protection support to Ukraine since early 2022. Also, a new trilateral cooperation format encompassing Ukraine, Moldova and Romania was established.

Ukraine's good relations with **Slovakia** have also been enhanced during Russian war of aggression. Slovakia provided political, military, financial and humanitarian assistance, as well as its international advocacy in support of Ukraine's policy goals. Slovakia hosts a significant number of Ukrainian refugees under the temporary protection. A joint commission on economic, industrial, scientific and technical cooperation was relaunched in December 2022.

Since early 2022, Poland, Romania and Slovakia have been hosting logistical hubs for the delivery of EU humanitarian and civil protection support to Ukraine.

Relations with **Bulgaria** were bolstered by Bulgarian political, financial, military and humanitarian aid to Ukraine, as well as growing economic ties. They were also nurtured by Bulgaria's participation in EU solidarity lanes and the Grain from Ukraine initiative.

#### **4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

##### **CLUSTER 2: INTERNAL MARKET**

This cluster covers: the free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement

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\* This designation is without prejudice to position on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9); and consumer and health protection (Chapter 28).

This cluster is key for Ukraine's preparations for the requirements of the EU's internal market and is of high relevance for the implementation of DCFTA. Ukraine is moderately prepared in the area of free movement of goods and is in between some and moderate preparation in the area of free movement of capital. Ukraine has some level of preparation in most areas of the internal market, namely in the area of right of establishment and freedom to provide services, competition policy, company law, intellectual property law, financial services and consumer and health protection. In the area of free movement of workers, Ukraine is at an early stage.

In the area of free movement of goods, some progress was made on quality infrastructure. Regarding the freedom of movement of workers, no progress was made. Ukraine demonstrated some progress in the area of right of establishment and freedom to provide services, in particular by adopting a new law on postal communications. In the area of free movement of capital, some/good progress was made with prevention of money laundering. On company law, some progress was made by adopting legislative amendments aimed at further alignment on company law, financial statements and audit. Good progress was made in intellectual property law, thanks to the launch of the National Intellectual Property Authority and the adoption of the Law on copyright and related rights. On competition policy there was limited progress. On financial services some progress has been demonstrated by starting to unwind some emergency measures, implementing the *acquis* on corporate governance in banks, conducting risk-based supervision of banks and introducing legislation to promote sustainable and digital finance. Limited progress was made on consumer and health protection.

## Chapter 1 – Free movement of goods

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.*

Ukraine is **moderately prepared** in the area of free movement of goods. **Some progress** was made during the reporting period on alignment with the EU *acquis* on quality infrastructure and on several “new and global approach” EU product *acquis* on products that may be covered under a potential agreement on conformity assessment and the acceptance of industrial products (ACAA) envisaged under the Deep and Comprehensive Free Trade Area.

In the coming year, Ukraine should in particular:

- complete the alignment of its legislation with the *acquis* on quality infrastructure, in particular on market surveillance;
- further align its legislation with the *acquis* on harmonised sectoral legislation;
- re-establish the inspection and enforcement capacity of the market surveillance authorities.

### General principles

The DCFTA contains obligations for Ukraine to align its legislation with the EU *acquis* in the harmonised area. It also provides for the possibility to conclude an ACAA once Ukraine has completed the alignment process in selected product sectors in terms of legislation, institutions and standards. Preparations for an ACAA are currently underway. This includes the Commission's assessment of Ukraine's alignment with specific EU *acquis* in the harmonised area, as well as alignment with and the implementation and enforcement of the *acquis* on

product conformity assessment, notification and market surveillance, the institutional framework for the **production, distribution and marketing of industrial products**. Once concluded, an ACAA would enable Ukraine to participate in the single market on the same terms as an EU Member State for the selected sectors.

#### Non-harmonised area

In the **non-harmonised area**, Ukraine needs to start activities for screening national technical regulations for compliance with Articles 34-36 of the Treaty on the Functioning of the European Union.

#### Harmonised area: quality infrastructure

Ukraine's legislation on quality infrastructure is partially aligned with the EU *acquis*. Administrative structures already exist to deal with technical regulations, standardisation, conformity assessment, metrology, accreditation, and market surveillance.

On **standardisation**, Ukraine's implementing legislation is fully aligned with the EU *acquis*. The national standardisation body, UkrNDNC has 123 staff. It has been an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC) since January 2023. UkrNDNC has also been an observer to the European Telecommunication Standards Institute (ETSI) since 2018. Ukraine is a full member of the International Electro-technical Commission and of the International Organisation for Standardisation (ISO). National standards are adopted in conformity with European standards (CEN, CENELEC and ETSI standards). During the reporting period, 26 000 European and international standards were all adopted at once in December 2022. Ukraine still has conflicting old standards that need to be withdrawn.

Ukrainian legislation on the **accreditation** of conformity assessment bodies is partly aligned with the EU *acquis*. The National Accreditation Agency of Ukraine (NAAU) has 104 employees. Ukraine has 1 095 accredited conformity assessment bodies (722 testing laboratories, 38 medical laboratories, 31 calibration laboratories, 105 certification bodies of management systems, 14 certification bodies of persons and 115 inspection bodies). NAAU is a signatory of the European Cooperation for Accreditation Multilateral Agreement (EA MLA) in the areas of accreditation of testing and calibration laboratories, medical laboratories, product certification bodies, management system certification bodies, personnel certification bodies and inspection bodies. Ukraine is a full member of both the International Laboratory Accreditation Cooperation by having signed its Mutual Recognition Agreement and of the International Accreditation Forum by signing its Multilateral Agreement.

On **metrology**, four national metrology institutes operate in Ukraine. Calibration activities are performed by 24 state-owned enterprises. During the reporting period, the National Metrology Institute in Kharkiv and state-owned enterprises located in territories directly impacted by war faced substantial damage. The national metrology institutes in Kyiv and Ivano-Frankivsk maintain their capacity and are operational. Ukraine is a full member of the International Organization of Legal Metrology, the International Measurement Confederation and the International Bureau of Weights and Measures.

In the field of **market surveillance**, the State Service of Ukraine on Food Safety and Consumer Protection is operational with 140 employees. During the reporting period, due to the ongoing war the number of inspections decreased in line with provisions of the martial law. Market surveillance inspections and controls remain suspended, with only exceptional unscheduled measures taking place. This suspension limits the effectiveness and efficiency of market surveillance and may affect the quality and safety of products.

## Harmonised area: sectoral legislation

In the area of ‘**new and global approach**’ **product legislation**, Ukraine has adopted implementing legislation in the reporting period designed to be fully aligned with the *acquis* on machinery, electromagnetic compatibility, low voltage and construction products. Ukraine had previously also adopted legislation designed to align with the *acquis* on radio equipment, toys, cosmetics, recreational craft, civil explosives, pressure equipment and personal protective equipment. Ukraine is partly aligned with the *acquis* on lifts, cableways, gas appliances, equipment for explosive atmospheres, simple pressure vessels, environmental noise from using outdoor equipment and pyrotechnic articles. More work needs to be done on alignment with the *acquis* on eco-design, energy labelling (Ukraine has been party to the Energy Community Treaty since 2011), measuring instruments, non-automatic weighing instruments and medical devices.

On ‘**old approach**’ **product legislation**, Ukraine is partly aligned with the *acquis* on motor vehicles (EU-type approval) and 2/3 wheeled motor vehicles, and on fertilisers, pre-packaging and units of measurements. It is not aligned on tractors, or on non-road mobile machinery. It is also not aligned with the *acquis* on chemicals, including the registration, evaluation, authorisation and restriction of chemicals (REACH Regulation), chemicals labelling (Classification, Labelling and Packaging Regulation (CLP)), good laboratory practice (GLP), detergents, **drug precursors** or aerosol dispensers.

On **procedural measures**, Ukraine’s legislation is designed to align with the *acquis* on footwear and on textile labelling, it is partly aligned with the *acquis* on defence products, defence procurement, and the **return of cultural objects unlawfully removed from the territory of an EU Member State**. It is not aligned with regard to crystal glass or firearms, or medicinal products pricing.

Market surveillance and product safety institutions of Ukraine are vulnerable to corruption risks. Current preparations for changes to the law on Market surveillance aligning to the EU market surveillance regulation (2019/1020) foresee to centralise control of market surveillances activities with the Ministry of Economy alone, which could increase corruption risks in the market surveillance system of Ukraine. Further concerns are the lack of funding for inspection activities and the ongoing suspension of market surveillance during the martial law. Corruption risk mitigation strategy needs to be developed in line with overall anti-corruption policy framework.

## **Chapter 2 – Freedom of movement for workers**

*Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.*

Ukraine remains at an **early stage of preparation** regarding the freedom of movement of workers. Over the reporting period, during Russia’s full scale invasion, there was **no progress** on ensuring that EU workers and their family members are treated in the same way as Ukrainian nationals.

In the coming year, Ukraine should in particular:

- work on concluding additional agreements on social security coordination, notably with EU Member States;
- start work in preparation of joining the European Network of Employment Services.

Ukraine's legislation is not aligned with the *acquis* on **access to the labour market and free movement of workers**. Foreigners and stateless persons can be employed in Ukraine after obtaining an appropriate permit issued by the State Employment Service of Ukraine. There is a minimum wage threshold for obtaining the permit. Foreigners cannot be employed as civil servants. There is no specific legislation on employment of EU nationals, who therefore fall under the same conditions as nationals of non-EU countries. The right of EU workers to reside in Ukraine can be revoked on the grounds of involuntary unemployment, illness or accident (and if employment is terminated). Moreover, foreigners, including EU workers' children, only have free and equal access to higher education as nationals if they are permanently residing in Ukraine.

There is no dedicated body that deals with the promotion, monitoring and support of equal treatment and free movement of workers. There are also no plans to create one for the moment. No steps have been undertaken to prepare for joining the European Network of Employment Services (**EURES network**). Beyond the bilateral agreements mentioned above, there are no further initiatives to cooperate with other countries on freedom of movement of workers, such as exchange of information, sharing of best practices or joint inspections.

On the **coordination of social security systems**, Ukraine has several bilateral agreements with EU Member States on mutual employment and social services, including on pension rights, for Ukrainian nationals who worked abroad. These agreements also provide for equal treatment of EU workers and their family members as Ukrainian nationals.

No national health insurance card has yet been implemented in Ukraine. Implementation of the **European Health Insurance Card** might therefore be challenging.

### **Chapter 3 – Right of establishment and freedom to provide services**

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.*

Ukraine has **some level of preparation** in the area of right of establishment and freedom to provide services. **Some progress** was made during the reporting period, in particular on postal services, but further efforts are needed to align legislation with the EU *acquis* under this Chapter.

In the coming year, Ukraine should in particular:

- take measures towards eliminating existing restrictions for the provision of services, using the possibilities provided by the Association Agreement;
- complete approximation with the EU postal *acquis*, including with the Regulation on cross-border parcel delivery services;
- continue its progress in aligning with the EU *acquis* on mutual recognition of professional qualifications.

The EU-Ukraine Association Agreement includes rules that grant the **right of establishment** to EU natural and legal persons in Ukraine. The process of removing barriers to this right of establishment, as described in the Association Agreement, has not yet been initiated.

On the **freedom to provide cross-border services**, the Association Agreement provides for the cross-border supply of services except for some sectors, for instance audiovisual services,

national maritime cabotage, and domestic and international air transport. The process of removing the remaining barriers to the provision of cross-border services by EU natural and legal persons has not yet been initiated.

As regards the right of establishment and the freedom to provide cross-border services, Ukraine will need to align its legislation also with the Services Directive (2006/123/EC). Progressive steps should be taken in this regard.

On the **mutual recognition of professional qualifications**, the legislation and approach followed by Ukraine varies depending on the sector involved. It is based on a comparative assessment of the education and professional qualifications of the applicant seeking recognition with the relevant professional qualifications defined by the professional standard approved in Ukraine. No agreement for mutual recognition of professional qualifications currently exists with the EU. Full implementation of EU law on professional recognition needs to take place. This includes the Professional Qualifications Directive, the Proportionality Test Directive and sector-specific legislation (e.g. for lawyers: the Establishment Directive and Lawyers Services Directive).

In the area of **postal services**, Ukraine has made progress on alignment with the EU postal *acquis*. On 3 November 2022, a new Law on postal communications was adopted, which entered into force on 25 May 2023. The new legal framework for postal services is partially aligned with the Postal Services Directive 97/67/EC amended by Directives 2002/39/EC and 2008/6/EC. It sets out the scope, main principles and financing of universal service provision and the role of the national regulatory authority. The designated universal service provider, which is state-owned, maintains the exclusive right to provide a universal postal service, including ordinary letters. Postal service provision is not licensed in Ukraine, but is based on notification to the national regulatory authority. There are 166 economic operators included in the unified state register of providers of postal services. The national regulatory authority, which is legally separate and operationally independent, carries out regulatory oversight, monitoring and enforcement of obligations arising from the postal law. Ukraine has also committed under the EU-Ukraine Association Agreement to align with the EU Regulation on cross-border parcel delivery services by 2024. The Annex on rules applicable to postal and courier services was updated with the Regulation in November 2021.

#### **Chapter 4 – Free movement of capital**

*In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.*

Ukraine is **in between some and moderate level of preparation** in the area of free movement of capital. **Some/good progress** was made in the reporting period, in particular as regards the alignment of Ukrainian anti-money laundering legislation with the FATF standards. Ukraine has committed to impose no restrictions on capital movement and current payments in accordance with the rules in Article VIII of the Articles of Agreement of the IMF and Chapter 7 of the Association Agreement with Ukraine. However, the National Bank of Ukraine (NBU) has introduced foreign currency (FX) restrictions under martial law to safeguard macroeconomic stability. In the coming year, Ukraine should in particular:

- Continue preparations to apply for the Single Euro Payments Area (SEPA);
- Continue the alignment of Ukrainian legislation and institutional practices with the FATF standards;

→ Take steps to establish the Register for holders and beneficial owners of bank accounts, payment accounts and safe-deposit boxes.

On **capital movements and payments**, the NBU introduced temporary capital restrictions following the start of the Russian invasion with a view to safeguarding Ukraine's macroeconomic stability. Restrictions are subject to constant revision by the NBU in light of developments in the monetary and FX markets. The NBU has drafted a roadmap on gradually easing war-related currency restrictions introduced at the beginning of the invasion in cooperation with the IMF.

As for restrictions that were in place before the war, Ukraine had already taken some steps towards currency liberalisation based on the Law on currency and currency operations. It entered into force in 2019, and the NBU has a roadmap for its implementation. This roadmap provides for a gradual cancellation of all currency restrictions and the transition to a regime of free capital flows, taking into account the pace of improvement in macroeconomic conditions in Ukraine (but without any specific deadlines for removing the currency restrictions).

The Land Code of Ukraine adopted in March 2020 banned the acquisition of agricultural land by foreigners for an unlimited period of time. This ban will be lifted upon referendum of which the date is not yet specified. Since March 2022, there has been a Cabinet of Ministers' resolution that sets a moratorium on transactions that involve Russian assets and establishes the list of people deemed to be associated with the aggressor and exceptions.

On **payment systems**, Ukrainian laws prescribe the same terms and conditions for domestic and cross-border transfers of currency valuables and there are no special rules for such transfers with EU Member States. One of the differences between cross-border payments and payments in the domestic currency is the currency supervision of cross-border payments (covering not only payments to customers of EU Member States). On the transparency of currency conversion changes, Article 30 of the Law on payment services sets the requirements on the information provided to users before concluding the agreement on the provision of payment services. The adoption of the Law on payment services, which came into force in August 2022, was an important step towards alignment with the EU *acquis* in the area of payment services. It incorporated the EU Payment Services Directive 2 and the E-Money Directive into national law. This law is an important step on Ukraine's path to applying for the Single Euro Payments Area (SEPA).

On the **fight against money laundering and terrorism financing**, Ukraine remains in Moneyval's enhanced follow-up process since December 2017. Following the start of the war, Moneyval suspended its evaluation of Ukraine, but in June 2023 it decided to resume it, at the request of Ukraine. The next Moneyval follow-up report is expected at the end of 2024.

In September 2022, amendments were adopted on the ultimate beneficial ownership (UBO) framework that improved the UBO registration and verification system and increased legal liability for failure to provide UBO information. The Ukrainian Government also adopted a number of bylaws to align Ukrainian anti-money laundering legislation with the international Financial Action Task Force (FATF) standards, including on the ultimate beneficial ownership and supervision of non-financial businesses and professions. In November 2022, the Ukrainian Parliament changed the definition of politically exposed persons, contrary to FATF standards. In September 2023, the Parliament passed in the first reading a law aimed at restoring a FATF-compliant definition of politically exposed persons, but several of its provisions were not in line with FATF standards. In October 2023, the Parliament adopted a new legislative amendment removing the three-year time limitation and reverting to a risk-based approach for

former holders of prominent public functions to be qualified as politically exposed persons to restore a FATF-compliant definition of politically exposed persons.

As regards virtual assets, Ukraine needs to either complement its 2019 law or to proceed with the adoption of a new comprehensive law on virtual assets in order to implement the applicable FATF standards. Ukraine's alignment with the FATF standards and further reform needs to be formally assessed by Moneyval as part of its regular monitoring and evaluation framework.

## Chapter 6 – Company law

*The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.*

Ukraine has **some level of preparation** in the area of company law. **Some progress** was made during the reporting period with the adoption of legislative amendments aimed at further alignment with certain aspects of the EU *acquis* on company law, financial statements and audit.

In the coming year, Ukraine should in particular:

- further align its legislation with the EU *acquis*, including on disclosure of company and foreign branches information, on encouraging long-term engagement of shareholders, and on takeover bids;
- align national legislation with the *acquis* on cross-border operations (conversions, mergers and divisions) and on the use of digital tools and processes in company law.

In the area of **company law**, a new Law on joint stock companies entered into force in January 2023 to further align with the EU *acquis* on shareholders rights and listed companies, including electronic voting at general meetings, management structures and changes in corporate structure. The Unified State Register can be accessed electronically providing information on legal entities and private entrepreneurs that is in line with the EU *acquis*. The Law on public electronic registers provides for the electronic interaction of registers created in Ukraine. The system should be technically ready for interconnection with business registers of EU Member States once Ukraine joins the EU and a complete alignment with the EU *acquis* as regards the information to be disclosed by companies to the national business registers for transparency purposes is achieved. Further alignment is needed with the *acquis* on disclosure of company and foreign branches information, cross-border operations (mergers, divisions, conversions), long-term shareholder engagement, gender equality on boards of directors and use of digital tools and processes. In 2022, Ukraine's corporate governance code (based on OECD principles) was extended to limited liability companies and additional liability companies that are professional participants on capital and organised commodity markets.

On **company reporting**, national legislation is partially aligned with the EU *acquis* for the main legal requirements, including on annual financial statements, management reports, rules on auditors, disclosure obligations and sanctions. There is a simplified financial reporting regime for small and micro-companies. Amendments adopted in 2022 to the Law on accounting and financial reporting introduced the size categories of parent company groups and their subsidiaries (small, medium and large) for the preparation and publishing of consolidated financial statements, with exemption for certain small and medium-sized groups from their mandatory preparation (except groups that include public interest entities). Under martial law, administrative and/or criminal liability has been lifted for the non-submission or late submission of financial and audit reports. Ukraine needs to prepare to align with the 2022 EU Directive on corporate sustainability reporting.



While there are provisions in national legislation harmonised with the *acquis* on **transparency** requirements for issuers of securities, further alignment is needed regarding the publication of information on sanctions applied to market participants, as well as home/host member state issues and cooperation between member states.

On **statutory audit**, amendments to the Law on the Audit of financial statements and auditing activities were adopted in September 2022 aimed at further alignment with the EU *acquis* in this area, regarding *inter alia* auditor certification and quality control of audit services. The law has specific requirements for the statutory audit of public interest entities. The Audit Public Oversight Body, established in 2018, supervises the formation, approval and registration of statutory auditors, and is responsible for quality assurance of audit services through a system of investigations and sanctions.

## Chapter 7 – Intellectual property law

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR, copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.*

Ukraine has **some level of preparation** on intellectual property law. **Good progress** was made during the reporting period, in particular with the launch of the National Intellectual Property Authority and the adoption of the Law on copyright and related rights, which aims at legislative alignment with the EU copyright *acquis*, and the IPR enforcement.

In the coming year, Ukraine should in particular:

- continue alignment with the EU *acquis* on copyright and industrial property rights, as well as on trade secrets;
- continue improving the functioning of collective management organisations and the payment of royalties to right holders;
- further improve the IPR enforcement system, in particular by combating piracy and counterfeit products and establishing an intellectual property court and leverage the collaboration with the European Union Intellectual Property Office.

In the area of **copyright and related rights**, in December 2022, the new Law on copyright and related rights was adopted, which got further amended in March 2023, together with the collective management organisation law. Concerns remain in particular regarding the term of protection, for copyright and related rights, the distribution of a fair remuneration between performers and producers of phonograms, the reproduction right and the rights of the broadcasting organisations. Problems also persist with the enforcement of the current copyright law regime, for instance with the collective rights management, in particular with public broadcasting organisations that do not pay royalties to performers and phonogram producers.

On **industrial property rights**, the Law on **patents** from August 2020, which incorporated the EU standards of legal protection of inventions and utility models into national legislation, is not fully aligned with the EU *acquis*. Ukraine's trade marks legislation is partially aligned with the EU *acquis*. The subsequent implementing rules still need to be adopted. Ukraine's legislation also includes EU standards on the legal protection of designs.

Ukraine needs to further align its domestic legislation with the EU *acquis* on compulsory licensing and the respective Protocol amending the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights. Ukraine does not have a specific law on

**trade secrets**, though there are some provisions on trade secrets in the Civil Code of Ukraine.

Ukraine's Law on IPR **enforcement** is broadly aligned with the EU *acquis*. However, shortcomings remain in combating piracy and counterfeit products, as Ukraine remains one of the four main transit points for shipments into the EU of counterfeit products. The competent authorities dealing with IPR enforcement include the National Police, the Bureau of Economic Security, the State Customs Service and the Office of Prosecutor General.

Following the adoption of the IPR institutional reform in 2020, the Ukrainian National Office for Intellectual Property and Innovations is the new institution responsible for intellectual property and has been operational since November 2022. It functions as the National Intellectual Property Office and as the coordination platform for dialogue on intellectual property rights with all stakeholders. The agency has been promoting the strengthening of institutional capacity through training courses. It developed a closer collaboration with the World Intellectual Property Organisation and the European Union Intellectual Property Office, with which it signed in 2021 a Memorandum of Understanding to enhance technical cooperation. It is a self-financed agency, through fees, and currently has 500 employees.

Currently, the system of courts with jurisdiction over IPR cases includes common courts (civil jurisdiction) and commercial courts (commercial jurisdiction). The Law on judiciary and status of judges from 2016 provides for the establishment of an intellectual property court. However, the appointment of the 21 judges is pending, as the High Qualification Commission of Judges remained non-operational until 2022.

## Chapter 8 – Competition policy

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.*

Ukraine has **some level of preparation** in competition policy. During the reporting period, there was **limited progress** in the legislative alignment with the EU *acquis*. An amendment to the Law on the protection of economic competition was voted in in August 2023, which aims at further aligning that Law with the EU *acquis*. The Law on State aid remains suspended due to martial law, but this should not stand in the way of reforms in the policy area.

In the coming year, Ukraine should in particular:

- further align the legislative framework in the area of competition and State aid with the EU *acquis*, including by modifying the law on State aid to cover under its scope services of general economic interest (SGEIs).
- compile a reliable and comprehensive inventory of State aid schemes instituted before the establishment of the authority responsible for State aid control in Ukraine.

### Antitrust and mergers

On the **legislative framework**, the Law on the protection of economic competition is to a large extent aligned with the EU *acquis*. However, certain gaps still remain. For example, that law does not clearly differentiate between economic and non-economic activities, lacks a clear *de minimis* rule, does not contain exemptions from the prohibition of concerted practices, and does not define the notion of 'abuse' and of 'dominant position'. An amendment to the Law on the protection of economic competition was adopted in August 2023. The law introduces a number

of changes aiming at further aligning the Ukrainian legislation with EU regime. Those changes include the introduction of a leniency and a settlement mechanism and rules on joint and several liability of undertakings for breaches of competition law.

On the **institutional framework**, the Anti-Monopoly Committee of Ukraine (AMCU) is responsible for implementing the Law on the protection of competition. It is an operationally independent authority financed by the national budget. It does not have the right to set priorities and reject complaints on the grounds of priority, while its powers to conduct effective inspections are limited. Some fundamental rights such as access to the file and hearing are also not fully in line with the EU rules. In addition, no party can bring a case for damages and stoppage of anticompetitive conduct directly before a domestic court based on a possible breach of competition rules that affects their interests. They must first apply and get a decision from the AMCU. The amendment to the Law on the protection of economic competition, introduces amendments to the hearing process before the AMCU, increases AMCU's powers of inspection and its ability to conduct unannounced inspections and increases the salaries of its employees,

#### State aid

On the **legislative framework**, the current Law on State aid transposes Articles 107 and 108 of the Treaty on the Functioning of the European Union and includes a notification and standstill obligation. Following the outbreak of the Russian war against Ukraine, that law was suspended under martial law. As a result, while the Law on State aid is suspended, State aid granting bodies have no obligation to notify to the AMCU new State aid and proposals to amend the terms of State aid already granted. Furthermore, State aid granted while the Law on State aid is suspended is considered compatible aid.

On secondary legislation, Ukraine approved legislation during the reporting period on the recovery of illegal State aid and guidelines on State aid for culture and support of cultural heritage.

On the **institutional framework**, even before the suspension of the Law on State aid, the enforcement of State aid rules, in particular as regards on notifications, had been challenging, as granting bodies in the government had not consistently notified State aid measures to AMCU. As a result, AMCU was not able to compile a complete inventory of State aid schemes, instituted before AMCU was established. Moreover, the *de minimis* State aid regime is not working well due to a lack of efficient control of the respective thresholds.

Ukraine also needs to do more to improve transparency in the transactions between the State and public undertakings/ State-owned enterprises, aligning its legislation more closely with the directive on the transparency of financial relations between Member States and public undertakings.

#### Liberalisation

Ukrainian competition and State aid legislation is fully applicable to public undertakings and undertakings with special or exclusive rights. However, according to the Law on State aid, services of general economic interest (SGEIs) are not covered by the State aid discipline. Ukraine should therefore align the Law on State aid to cover under its scope.

### **Chapter 9 – Financial services**

*EU rules aim at ensuring fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.*

Ukraine has **some level of preparation** in the area of financial services. Despite focusing on maintaining macro-economic stability, Ukraine has made **some progress** in the reporting period by starting to unwind some emergency measures, implementing the *acquis* on corporate governance in banks, conducting risk-based supervision of banks and introducing legislation to promote sustainable and digital finance.

In the coming year, Ukraine should in particular:

- prepare an asset quality assessment of the banking sector;
- strengthen the regulatory powers of the National Securities and Stock Market Commission, in line with the principles of the International Organisation of Securities Commissions;
- continue efforts in alignment with the EU *acquis*, related to the regulation of banking and insurance sectors (including bank resolution and bank deposits guarantee schemes) and the regulation of securities markets, investment funds and investment services.

On **banking and financial conglomerates**, significant reforms are envisaged under the current IMF programme. A first step is to unwind the emergency measures introduced under martial law. These are causing the most distortions and hampering effective financial system operations and oversight. Some steps have already been taken, such as resuming the count of loan days past due in June 2022, introducing a procedure under martial law in October 2022 to resolve insolvent systemic banks, and submitting a draft law in March 2023 to improve the procedure for withdrawing non-systemic banks from the market under martial law. An asset quality assessment of banks will be necessary to evaluate the health of the banking sector in Ukraine and develop an effective strategy to address non-performing loans.

During the reporting period, Ukraine proceeded with implementing the Law on improving corporate governance in banks and other operational issues of the banking system from 30 June 2021 to align with the EU capital requirement rules. The National Bank of Ukraine (NBU) developed draft regulations on the organisation of the internal liquidity adequacy assessment process and on the procedures for calculating the minimum amount of regulatory capital as well as the leverage ratio.

In 2022, the NBU conducted risk-based banking supervision in line with the guidelines of the European Banking Authority on common procedures and methodologies for the supervisory review and evaluation process and the recommendations of the Basel Committee on Banking Supervision.

On **insurance and occupational pensions**, the main rules of the new Law on insurance, which are aligned with the Solvency II Directive, will take effect on 1 January 2024. The NBU has begun to draft the implementing legislation for the Law on insurance.

As for the **financial market infrastructure**, in preparation for a return to normality, a new financial sector development strategy was adopted on 19 July 2023 to prepare for a safe and prompt unwinding of financial sector emergency measures, while restoring accounting and prudential norms.

On the **securities markets and investment services**, long-standing gaps remain in the powers of the National Securities and Stock Market Commission (NSSMC) relative to international standards. The authorities have committed to amend the NSSMC Law following technical assistance from multiple international finance institutions in order to strengthen the NSSMC mandate in line with the standards and principles of the International Organization of Securities

Commissions. A Credit Unions Law was adopted on 14 July 2023, which is largely in line with EU legislation.

On **sustainable and digital finance**, the National Bank developed its Sustainable Finance Development Policy 2025, to further integrate sustainability considerations into the financial sector of Ukraine, which foresees the integration of environmental and social risks management into financial institutions' activities and the mandatory disclosure by financial institutions of their activities' sustainability level. A new Law on payment services, which came into force on 1 August 2022, has expanded the list of entities with the power to issue electronic money. It comprises banks, electronic money institutions, branches of foreign payment institutions, postal operators, the NBU, public authorities and local self-governments. In addition, the NBU Resolution from 29 September 2022 approved the Regulation to set up the procedure for issuing and using e-money for transactions. The Regulation also establishes requirements for issuers of electronic money and puts in place restrictions on the use of electronic money. A law on virtual assets was adopted on 17 February 2022, but will enter into force only after relevant amendments to the Tax Code of Ukraine.

During the reporting period, it was agreed that Annex XVII to the EU-Ukraine Association Agreement, which covers the *acquis* on financial services, will be comprehensively updated. The aim is to obtain internal market treatment for this sector in future. Based on the agreed update of the financial services legislation, Ukraine will need to pursue further alignment with the EU *acquis*.

## Chapter 28 – Consumer and health protection

*EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective product. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare, and in preparing for and responding to cross-border health threats including communicable diseases.*

Ukraine has **some level of preparation** in consumer and health protection. Over the reporting period, **limited progress** was made on alignment with the EU *acquis*.

In the coming year, Ukraine should in particular:

- further align national legislation with the EU consumer protection *acquis*;
- adopt a health information system strategy;
- adopt the national health security action plan to address threats of biological, chemical, environmental and unknown origin; approve and start implementing the 2023-2025 national action plan on antimicrobial resistance.

### Consumer protection

On **horizontal aspects**, Ukraine's consumer legislation is partly aligned with the *acquis* on consumer rights, unfair contract terms, unfair commercial practices, price indications, package travel and linked travel arrangements, the sale of goods, digital content and services. It is also partly aligned with the *acquis* on product safety. It is not aligned with the *acquis* on representative actions and on timeshares, and does not address the latest changes to EU consumer legislation introduced by the EU Directive 2019/2161.

Ukraine's State Service on Food Safety and Consumer Protection is the central government body responsible for consumer safety and protection, market surveillance and advertising rules. As of 2020, the National Bank of Ukraine, the Office for Financial Services Consumer Rights

Protection and the National Securities and Stock Market Commission are responsible for protecting consumer rights in financial services in the areas of banking, and capital and commodity markets. To further align the legislation with the EU *acquis*, the law on protection of consumer rights was adopted in the reporting period, but has not yet entered into force. It introduced the concept of electronic trading platform (marketplace) and an electronic product comparison service (price aggregator), and authorised the State Consumer Service and internet service providers to restrict access to fraudulent trading websites.

Ukraine does not have an alternative dispute resolution system in place in line with the EU *acquis* to enable consumers to resolve disputes with traders out of court. As for out-of-court consumer dispute resolution for financial services, the Office for Financial Services Consumer Rights Protection currently fulfils certain responsibilities.

On **product safety**, the legal basis for market surveillance is the Law on state market surveillance and control of non-food products and the Law on general non-food product safety, which are partly aligned with the EU *acquis*. Ukraine's market surveillance risk assessment methodology was developed on the basis of the EU Rapid Information System 'RAPEX' guidelines<sup>8</sup>.

On **non-safety-related issues**, there was some progress on alignment with the *acquis* on the payments market. The Law on payment services was also amended in April 2023, strengthening requirements for advertising and information disclosure during the provision of services in the payment market.

#### Public health

Ukraine is implementing its 2023 public health strategy. The adoption of the Law on public health and its implementing legislation saw some progress, but they remain partly aligned with the EU *acquis*, for example in communicable and non-communicable diseases, and cross-border health threats.

On access to healthcare, entitlement to publicly financed health services is based on citizenship and permanent residence. Refugees are entitled to the same health services as Ukrainian nationals, but irregular migrants and asylum seekers are entitled to emergency care only and must pay the full cost after treatment. Certain professional categories have additional entitlements funded by the government. This fragments the public funds allocated to health and results in unequal access to healthcare. The main barriers that people face while seeking healthcare are the cost of medicines and treatment, waiting times and transport.

Despite launching the **e-health** system, including e-prescription, there continues to be fragmentation and overlaps in health data. Ukraine lacks a health information system strategy, and the legal framework needs to be completed. A lack or limited quality of disaggregated health-related data is one of the key systemic issues that affects the planning and policymaking processes as well as the implementation of health programmes.

Ukraine's legislation is partly aligned with the *acquis* on **tobacco control**. It has ratified the WHO Framework Convention on Tobacco Control and has achieved significant progress on its implementation. However, it has not yet ratified the WHO Protocol to Eliminate Illicit Trade in Tobacco Products.

On **communicable diseases and serious cross-border health threats**, Ukraine's legislation is partly aligned with the EU *acquis*. Implementing legislation still needs to be drawn up to

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<sup>8</sup> The RAPEX system is now called Safety Gate.

ensure effective prevention, preparedness (for example, there is no unified epidemic preparedness plan) and response plan.

Ukraine's epidemiological surveillance systems are based on key EU principles but need to be improved to ensure integration with the EU early warning and response system. A national health security action plan to help address threats of biological, chemical, environmental and unknown origin has yet to be adopted. Vaccination coverage remains significantly below the WHO global recommendations, also due to disruptions caused by the war.

The national 2023-2025 action plan on antimicrobial resistance is pending approval. There is a need to strengthen and ensure interoperability between health and veterinary sectors and food/safety sectors on antimicrobial resistance and improve overall preparedness and response planning.

The 2030 action plan on **non-communicable diseases** addresses risk factors, services and prevention activities. However, monitoring rules are not aligned with global non-communicable disease targets. The national cancer registry is harmonised with international registries, but there is no dedicated cancer screening programme for the early detection of cancer apart from six free cancer examinations in the national programme of medical guarantees (mammography, esophagogastroduodenoscopy, colonoscopy, bronchoscopy, cystoscopy and hysteroscopy). There is no monitoring in place for the early detection of cervical and breast cancer.

On **blood, tissues, cells and organs**, national legislation is partly aligned with the *acquis* on blood, with further alignment necessary for instance on blood safety. Responsibilities are shared between the Ministry of Health and various state bodies to ensure policy implementation, licensing and control functions. The traceability and reporting system for blood donations is not yet fully developed. Ukrainian legislation is not aligned with the *acquis* on cells for medically assisted reproduction. It also does not regulate inspections of assisted reproduction centres or standards of quality and safety of human organs intended for transplantation. Ukraine has launched a transplantation development programme.

The law on medicines that will enter into force 30 months after the end of martial law introduced important changes to previous legislation on medicines for human use. When in force, it will be partly aligned with the EU *acquis*. Ukraine does not yet fully adhere to international standards on the quality, safety and efficacy of medicines. It is not aligned with the *acquis* on **medicines for veterinary use** but is partly aligned with the *acquis* on **medical devices and on *in vitro* medical devices**.

National legislation is partly aligned with the *acquis* on **cross-border healthcare**. There is no automatic reimbursement of healthcare costs for treatment received abroad unless it is impossible to receive the required care from healthcare institutions in Ukraine and an application has been submitted for state funding. There is no separate legislation for healthcare provided to EU nationals.

On **nutrition and physical activity**, healthy lifestyle and disease prevention could play a more prominent role while monitoring could be strengthened.

Corruption in medical service provision and medical education and out-of-pocket payments in the public healthcare system remain a cause for concern. There is a need to strengthen mechanisms to monitor healthcare service delivery and patient compliance management. The complaint monitoring mechanism has the potential to become an effective tool for preventing and investigating corruption but is not widely known. Once operational, the e-stock system

should provide a further useful tool for improving transparency on the supply of medicines across the country.

### CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); enterprise and industrial policy (Chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and the customs union (Chapter 29).

There is a good level of preparation in Ukraine in the area of customs union, where there was good progress in terms of alignment with the EU *acquis*. The chapter on digital transformation and media, where numerous regulatory acts focusing on implementation of main EU principles have been adopted is moderately prepared/has a good level of preparation. There is a moderate level of preparation in the chapters economic and monetary policy, and science and research. Ukraine has some level of preparation in education and culture, taxation as well as enterprise and industrial policy. Ukraine is at an early stage of preparation in social policy and employment. Ukraine has made some progress in the area of taxation, where a law introducing the OECD standard on the automatic exchange of information on financial accounts was adopted. There was limited progress in enterprise and industrial policy as well as social policy and employment. This cluster and the reforms concerned are closely linked to the ability and capacity for recovery and reconstruction. Reforms must be pursued to increase competitiveness and build a sustainable and inclusive economy.

#### Chapter 10 - Digital transformation and media

*The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.*

**Ukraine is in between moderate and a good level of preparation** in the domain of digital transformation and media. It made **good progress** in this area during the reference period.

In the coming year, Ukraine should in particular:

- achieve full alignment with EU roaming legislation;
- ensure the necessary financing and human resources for enacting the legal rules on expansion of the Regulator's competencies (both telecommunications and media regulator) and for the performance of the central executive bodies in the area of electronic communications;
- further align with the EU Directive on security of network and information systems (NIS).

On **electronic communications and information technologies**, alignment with the EU enforcement practices in the digital sector is based on core legislation, i.e. the Law on electronic communications and the Law on the national commission for the state regulation of electronic communications, radio frequency spectrum and provision of postal services ('the Law on regulator'). These two core laws are approximated with Directive (EU) 2018/1972, which establishes the European Electronic Communications Code. In particular, Article 5 of this Directive ensures that the legal status of the regulatory body in electronic communications, with its powers and independence, is fully compliant with European approaches.

The regulator, as a newly established national regulatory authority, **is a legally distinct and functionally independent institution with appropriate decision-making powers**. These include exclusive responsibilities to carry out regulatory tasks, adopt binding decisions and



issue relevant legal and normative acts. Full implementation of the two core laws implies adoption of a series of secondary regulations. During the reporting period, numerous regulatory acts have been adopted. These focus on implementation of the main EU principles, including transparency and general authorisation together with numbering and radio spectrum.

Due to **financial constraints in general**, the 2023 budget law provides the regulator with only limited financing. This makes it difficult for it to perform its functions as defined by the Law on regulator. The authority of the central executive body in the areas of electronic communications and radio frequency spectrum, the State Service of Special Communications and Information Protection of Ukraine, faces similar challenges.

In light of current security-related constraints related to the Russian war of aggression, Ukraine has not yet **implemented the acts related to the regulatory framework for radio spectrum policy**, in particular the release of the 700 MHz band from TV broadcasting for mobile communications.

Ukraine has a well-advanced **e-government** system, where people have easy access to public services. The government launched its vision for electronic public service design and delivery known as ‘The State in a Smartphone’ in 2019. It resulted in the rapid development of electronic services and has proven its resilience and adaptability throughout the war. Digital governance has increased the efficiency and transparency of the government and facilitated government-citizen dialogue. The unified web portal for electronic services, Portal Diia, enables access to the most popular electronic **public services** (120 in total). Electronic public services are also available in the Diia mobile application (25 services) as well as on other web resources of public authorities. The mobile application is used by 17.3 million users and installed on more than 32 million devices. UA should continue seeking alignment with both the European Interoperability Framework (latest revision in 2017) and the Interoperable Europe Act (2022).

After updating Appendix XVII-3 of Annex XVII to the Association Agreement/Deep and Comprehensive Free Trade Area, Ukraine has launched a process to put in place legislation relevant to EU roaming that would align Ukraine’s legislation with the **EU telecommunications acquis**. Ukraine has the prospect of joining the EU’s ‘Roam like at home’ scheme if it implements the EU roaming regulation and other relevant legislation subject to a decision granting internal market treatment.

In the area of **electronic identification and trust services**, Ukraine has a high degree of alignment with the EU requirements (eIDAS Regulation). In January 2021, the EU and Ukraine adopted a joint work plan for cooperation on electronic trust services with a view to a possible agreement based on approximation with EU legislation and standards. While Ukraine decided to legally recognise – on an experimental basis – qualified electronic signatures originating in EU Member States on 22 November 2022, the Commission published tools (Third Countries' trusted list) on 25 January 2023 that facilitate the validation of electronic signatures or seals created in third countries, as advanced electronic signatures and seals in EU Member States. Ukraine is the first ever third country included in this list. On 1 December 2022, the Ukrainian parliament adopted the Law amending certain legislative acts on ensuring the conclusion of an agreement between Ukraine and the European Union on mutual recognition of qualified electronic trust services and implementation of the European Union legislation in the field of electronic identification. It provides for the obligatory conformity assessment of qualified trust service providers by the independent bodies according to a certification model, similar to that of the EU.

Ukrainian **open data** policy supports the reuse of open data by both the public and private sector. Ukraine has achieved a high level of transposition of the Open Data Directive. The Ministry of Digital Transformation drafted a new open data strategy in June 2022. According to the EU Open Data Maturity Report 2022, Ukraine ranks second (after France) in the overall index, and is also the best performer among the candidate countries.

Ukraine's National Security and Defence Council is implementing a national **cybersecurity strategy**. Its computer emergency response team, CERT-UA, has received international accreditations and is taking steps within overall framework of the EU-Ukraine cyber dialogue towards closer institutional cooperation with EU counterparts, including the European Union Agency for Cybersecurity and CERT-EU. Ukraine adopted the regulations to exchange on cyber incidents as of 9 February 2023 with the objective to move towards alignment with the requirements established at the EU level by the framework for high common level of cybersecurity across the EU (NIS 2 framework). Ukraine still has no 5G mobile network and does not seem for the moment to have plans to implement the EU toolbox for 5G security.

On **audiovisual policy**, Ukrainian legislation is broadly in line with the Audiovisual Media Services Directive (AVMSD). On 13 December 2022, Ukraine adopted the Law on media and on 30 of May 2023 amendments to the Law on advertising, which broadly align the national rules with the new provisions of the revised AVMSD (Directive (EU) 2018/1808). The law entered into force on 31 March 2023 and seeks to ensure the independence of media regulator. It also includes mechanisms to ensure the transparency of media ownership and freedom of reception and retransmission for both TV and radio broadcasting if their content meets the requirements of the European Convention on Transfrontier Television and of Ukrainian law. The main regulatory authority for audiovisual media services is the National Council of Ukraine on Television and Radio Broadcasting. Restrictions are in place for the retransmission of television programmes, with control over the content carried out by residents of a country recognised as an aggressor state or an occupying power, or those that systematically violate the requirements of Ukrainian legislation.

Both laws have stricter rules on retransmission of the audiovisual content of broadcasters established in the EU than the EU Audiovisual Media Services Directive. These are aimed at preventing Russian TV channels from retransmitting audiovisual content and advertising from EU Member States to Ukraine. They are considered necessary to protect Ukraine's information space in the current security climate, but will need to be addressed by the time Ukraine joins the EU.

On **the protection of minors**, content that can be harmful to the physical, mental or moral development of children and young people is regulated both for television and radio. While there are no safety-by-design or privacy-by-design principles embedded in the policy to protect children, there are examples of industry- and NGO-driven initiatives to address the issue of harmful content, including self-generated content. Awareness-raising activities are also organised as part of formal education. Media literacy has been integrated as a key component of the education system.

## **Chapter 16 - Taxation**

*EU rules on taxation cover value-added tax and excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.*

Ukraine has <b>some level of preparation</b> in the area of taxation. It has ensured continuity of tax administration and made <b>some progress</b> in this policy area during the reporting period.
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On 20 March 2023, Ukraine adopted the law introducing the OECD standard on the automatic exchange of information on financial accounts (Common Reporting Standard), which is due to start in 2024. On 3 November 2022, Ukraine joined the OECD Multilateral Competent Authority Agreement on the exchange of country-by-country reports.

In 2023, Ukraine should in particular:

- make progress in terms of aligning legislation on VAT and excise duties;
- prepare the introduction of the general anti-abuse rule as part of the Anti-Tax Avoidance Directive;
- ensure the implementation of the automatic exchange of tax information with EU Member States in line with the OECD Global Standards.

**On indirect taxation,** Ukraine's VAT law is generally aligned with the EU VAT Directive. The standard VAT rate is 20%, with reduced rates of 0%, 7% and 14% for specific operations. A preferential VAT regime is applied to transactions involving the import of goods. VAT and excise duties on fuel and the simplified taxation, suspended at the beginning of the war, were restored. The VAT refund, which had been suspended, has been restored and has been fully automated. No VAT refund arrears have been reported as of April 2023.

Excise taxation is partially aligned with EU law. Alcohol and alcoholic beverages are classified and taxed based on EU rules, except for beer and beer mixes. Excise duties on energy products have a narrower scope and lower rates compared to the EU Directive. Further alignment is needed on VAT and excise duty on goods imported by individuals from third countries.

Ukraine has a tax warehousing system for alcohol, tobacco and energy products, but it does not comply with the EU duty suspension system. The system includes premises within the country's customs territory and mobile excise warehouses for fuel or ethyl alcohol on the customs territory of Ukraine under duty suspension. Excise tax is immediately due once excisable goods have been produced or imported, with the excise suspension regime not applied. The country needs to bring its excise warehousing system in line with the EU *acquis*. The system of electronic administration of the sale of fuel and ethyl alcohol monitors and controls the movement of taxed products within the territory of Ukraine.

In terms of **direct taxation,** residents are taxed on worldwide income, whereas non-residents are taxed only on their Ukrainian-sourced income. The standard tax rate of 18% applies to various types of income, including earnings (salary), benefits, foreign income and passive income, with a few exceptions. However, corporate income tax is not fully in line with the Merger Directive, Parent-Subsidiary Directive and the Interest and Royalties Directive. The cross-border transfer of assets within the same company may be subject to corporate profit tax. Exit taxation rules similar to those in Council Directive EU 2016/1164 and in the general anti-abuse rule as part of the Anti-Tax Avoidance Directive have not been implemented.

On **administrative cooperation and mutual assistance,** Ukraine has double taxation avoidance agreements with all EU Member States. It has also signed the Convention on Mutual Administrative Assistance in Tax Matters (OECD/Council of Europe). Parliament adopted the Law on automatic exchange of information on financial accounts, aligned with the EU Directive on Administrative Cooperation (DAC 2), on 20 March 2023. The first automatic exchange of information is scheduled for 2024, covering the period from mid-2023. Ukraine's legislation on base erosion and profit shifting (BEPS) implements the OECD BEPS Action 13 on Multinational Enterprises Groups Country-by-Country Reporting, largely aligning with the

EU DAC 4 Directive. Ukraine intends to use the OECD Common Transmission System for automatic exchange of information based on the common reporting standards and country-by-country standards. However, there is no central communication office for information exchange with EU Member States yet.

On **operational capacity and computerisation**, 95% of State Tax Service personnel are operational despite the ongoing war, with some working remotely. As of 3 April 2023, 63 taxpayer centres had temporarily stopped their activities, with taxpayers offered extraterritorial services. Thanks to EU support, the IT centre of the State Tax Service has been able to continue operating. Before the war, State Tax Service staff were recruited under the Law on civil service. However, there is a need to assess training needs and base the annual training programme on this assessment.

IT reforms in tax are guided by the IT reform strategy for the public finance management system, adopted by the Cabinet of Ministers in November 2021. A dedicated IT reform strategy for the State Tax Service is currently being finalised. The State Tax Service currently operates electronic tax administration systems as well as VAT tax invoices (ERP) and excise invoice (ERAN) registration systems. Ukraine needs to establish connections to EU IT systems such as the Excise Movement Control System, the VAT Information Exchange System based on the Mutual Assistance Directives and the Recovery Directive.

## Chapter 17 – Economic and monetary policy

*EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.*

Ukraine is **moderately prepared** in the area of economic and monetary policy. As the Russian full scale invasion demanded extraordinary economic policy measures, **no progress** could be made in the policy areas. The Ukrainian authorities have taken comprehensive measures aimed at maintaining macroeconomic and financial stability in wartime, which required to deviate from standard practices. The policy approached has delivered stability.

In the coming year, Ukraine should in particular:

- prepare to return to inflation targeting and the flexible exchange rate regime;
- limit monetary financing of the state budget;
- prepare to return to medium-term budgetary planning from 2024.

In terms of **monetary policy**, the strategic goal of the National Bank of Ukraine (NBU) against the backdrop of the war is to maintain macroeconomic and financial stability. The NBU has been pursuing policies aimed at maintaining price and financial stability, by maintaining an adequate level of foreign currency reserves. In the face of high uncertainty and less effective conventional market instruments, the NBU continued to implement a fixed exchange rate regime coupled with capital controls under martial law as the main anchor for stabilising expectations and ensuring price and financial stability.

Martial law allows the NBU to take several temporary policy measures. These include allowing monetary financing and state budget support by purchasing securities issued by the government on the primary market as well as imposing limits on deposit withdrawals and restrictions on the repatriation of non-resident funds, given the need to provide an adequate response to the war and ensure the uninterrupted funding of the budget. From 16 June 2023, the NBU eased some of the restrictions to transfer funds abroad, if guaranteed by International Financial

Institutions and foreign export credit agencies, and from 21 June 2023 to service and repay new loans to non-residents. The NBU has ceased monetary financing since the start of 2023 and committed to abstaining from monetary financing going forward. The NBU also adopted a strategy on gradual easing of foreign currency restrictions, transition to greater flexibility of the exchange rate and return to inflation targeting.

Overall, the legislative framework ensures the functional, institutional, personal and financial independence of the NBU and it prohibits direct and indirect monetary financing of the public sector. In 2021, legislation was adopted that further strengthened the Central Bank independence, notably the operational independence of its different functions (e.g. supervision). The law contains a provision that the NBU must perform its tasks, operate and use its instruments without any external and public interference. However, it still provides for some level of engagement with the authorities by allowing mutual consultations between the NBU and the government. The legislative framework also allows either the President of Ukraine or the Rada to unilaterally remove a member of the governing body without judicial review, which weakens the protective measures against arbitrary dismissals. Furthermore, there is still scope to further streamline the eligibility criteria and experience requirements for appointments at the Council and Executive Board.

On **economic policy**, medium-term budget planning has become difficult due to the war. This includes setting key priorities for financing, establishing spending ceilings and outlining possible fiscal risks. Furthermore, transparency has been negatively affected, with much less comprehensive budgetary information being published. Ukraine has continued to forecast economic and social developments, although it became very challenging in view of the many uncertainties. Forecasting capacities remain rather weak, and there is no independent fiscal institution to evaluate the forecasts, scrutinise the budgetary assumptions or evaluate how previous forecasts performed. The government announced a return to medium-term budgetary planning as of the 2024 budget, and there have been some tentative steps to reform the accounting framework.

The main strategic document on economic policy is the Economic Security Strategy of Ukraine for the period up to 2025, which was approved by Presidential decree in August 2021. As part of its implementation, a transparent system of continuous monitoring of economic stability has been implemented, based on 34 indicators on the state of economic security with their critical limits and target benchmarks. These indicators are similar to those defined in the EU legal framework and are used for determining the presence of macroeconomic imbalances.

Ukraine does not report **general government sector data** in line with ESA 2010, as they base on the IMF's GFS Manual 2014, which differ substantially. At this stage, GFS or excessive deficit procedure statistics are not transmitted to Eurostat. The underlying statistical framework is therefore not aligned with ESA 2010 requirements and definitions, and accounting rules and procedures are not consistently applied across general government subsectors. In addition, the publication of statistical information has been largely disrupted while martial law is imposed.

## **Chapter 19 – Social policy and employment**

*EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.*

Ukraine remains at an **early stage of preparation** in social policy and employment. Over the reporting period, it made **limited progress**.

In the coming year, Ukraine should in particular:

- adopt new framework legislation in the field of labour relations and occupational health and safety to bring it in line with applicable EU directives and ensure an enabling environment for bipartite and tripartite social dialogue and strengthen the capacities of social partners;
- develop and adopt a comprehensive de-institutionalisation reform of childcare and launch its implementation, considering the situation of displaced children;
- address shortcomings and further align with EU legislation on non-discrimination in employment.

On **labour legislation**, new laws were adopted in 2022 that govern labour relations and employee rights; they contain derogations (exemptions) applicable for the duration of martial law. Pending reforms, labour relations are still guided in general by an overarching labour code from 1971 that needs to be modernised and aligned with EU legislation.

Undeclared work is widespread, with almost one in five of all employed working in informal employment in 2021.

Enforcement of legislation by the State Labour Service, Ukraine's labour inspectorate, remains constrained by legislative restrictions to the powers of labour inspectors, which are not consistent with ILO Conventions 81 and 129 on labour inspections. The State Labour Service is being reformed but remains underfunded and has a high staff turnover. Under martial law, the powers of labour inspectors are mostly limited to information and advice, as inspections have been suspended.

While alignment with EU *acquis* on **health and safety at work** remains limited, steps have been taken during the reporting period. In 2023, the Ministry of Economy approved minimum requirements for safety and health signs at work and for the health and safety of workers in explosive environments. A resolution of the Cabinet of Ministers of January 2023 established a list of hazardous chemicals prohibited for production and use at work and the Ministry of Health approved minimum requirements for health and safety of workers exposed to electromagnetic fields and the limit and working levels of industrial vibration and the procedure for assessing the level of danger of the impact of vibration on the employee. Since 2020, the State Labour Service has reviewed occupational safety at companies in all regions of Ukraine to identify the most risk-prone sectors, developed regional occupational safety profiles and set up preventive work plans. There are no reliable statistics on workplace accidents, which remain severely underreported.

On **social dialogue**, a law on collective agreements was adopted in February 2023 and will enter into force six months after the cessation or cancellation of martial law. The National Tripartite Social and Economic Council suffers from high staff turnover, understaffing and a lack of clear duties and responsibilities. Since September 2022, its rotating presidency has not been renewed, creating a period of major inactivity. The government continues to hold consultations with trade unions and employers' organisations through their joint representative bodies. Capacity of social partners remains to be strengthened.

Ukraine's **employment policy** has yet to be harmonised with the relevant EU *acquis*, in particular with the relevant guidelines issued for the EU Member States. Ukraine has no separate strategy on employment. However, the strategy on economic development of Ukraine,

which runs until 2030, includes the strategic objective of increasing employment. There is no information available to assess its implementation, considering the big severe labour market distortion caused by the war.

The State Employment Service implements the national policy on employment, labour migration and social protection against unemployment. It administers unemployment benefits and supports jobseekers and employers alike. The service is being reformed to make it more responsive to jobseekers' and employers' needs. Active labour market measures include the introduction of a state programme to provide micro-grants to individuals so they can create or develop their own business.

Employment statistics are collected in accordance with International Labour Organization (ILO) standards but not provided to Eurostat. The invasion has had a massive impact on the labour market, with vast numbers of persons being internally displaced or having fled to other countries. The employment rate (20-64) stood at 64.8% in 2021. For women the rate was 59.3%. with a low and decreasing rate of participation among women. Youth unemployment (15-24 years) was 19.1% in 2021. Informal employment was estimated at 20% of all employed in 2021. Ukraine adopted a strategy and an action plan to reduce undeclared work, but it has stopped collecting data on it since the war.

On **social protection and inclusion**, there has been some progress in administering social insurance benefits and extending their coverage, while weak targeting and the low level of support has undermined the effectiveness of Ukraine's social protection expenditure in reducing poverty and inequality. In view of the considerable number of internally displaced following the outbreak of the Russian war of aggression against Ukraine, a strategy on internal displacement covering evacuation, integration and reintegration has been put in place. There are no developments on social inclusion, access to social housing and social service provision.

In 2022, Ukraine continued to strengthen the social protection of the most vulnerable segments of the population. The continuity of several types of social payments was ensured through a special system of centralised accrual during martial law. This allowed people who live in the territory of military operations and under occupation to accrue payments that could not be made. In addition, benefits received in the past were automatically extended for the period of martial law. Assistance schemes for internally displaced persons have also been introduced.

In January 2023, Ukraine started developing a unified information system for the administration of all social payments. In a first stage, individuals will be able to apply for housing subsidies and social security benefits centrally and online.

On childcare, there has been no progress on the de-institutionalisation of the childcare system, while the impact of the Russian war of aggression against Ukraine added more urgency to a fundamental reform of the existing system, as the reform adopted in 2017 has not led to substantial progress.

The government has adopted legal changes to **non-discrimination in employment and social policy**. They oblige employers to ensure equal opportunities for employees to conclude long-term agreements and inform them about suitable vacancies. Ukrainian law now prohibits any discrimination in employment that breaches equal opportunities or restricts any employee's rights, among others on grounds of race, skin colour, sex and gender identity, sexual orientation, age, health, disability, marital status or language. In August 2022, Ukraine approved rules of procedure on penalties for non-compliance with anti-discrimination legislation. The Ukrainian Parliament Commissioner for Human Rights (ombudsperson), as the main body for combating discrimination, remains under-resourced, with limited capacity to enforce its mandate in employment and social policies.

No official statistics exist on court cases dedicated to discrimination at work. An overview of court cases demonstrates, however, that discrimination is usually not among the main reasons for disputes (which mostly focus instead on returning to work or the payment of wage arrears). Specialised civil society organisations estimate that the level of rejected appeals against discrimination is high. Ukraine is still to adopt legislation obliging employers to prove the legality of their decision, action or inaction in discrimination-related court cases, as provided for in the national human rights strategy for 2021-2023.

**On equality between women and men in employment and social policy**, legislation does not create any barriers or impediments for men or women to occupy any position in any profession in the labour market, neither in the public or private sector. Already in 2017, legislation that prohibited women from practising some 450 professions was abolished, with some exceptions (such as ILO Convention 45, which forbids underground work in mines). In September 2020, Ukraine acceded to the Biarritz Partnership for Gender Equality. Changes to the Law on advertising adopted in May 2023 banned also discrimination on grounds of sexual orientation in advertising as well as gender stereotyping, sexism in job listings and advertising, introducing penalties for employers. In February 2022, all jobs in the Ukrainian armed forces, including combat roles, were opened to women. However, existing legislation on female employment does not address existing imbalances and female underrepresentation in certain economic areas. Legislation obliges employers to take measures in order to prevent and protect against sexual harassment and other forms of gender-based violence, but there is a lack of direct requirements or procedures for prevention and protection.

The consistent differences in wages between men and women are largely due to occupational segregation, i.e. differences in employment preferences, with more women working in sectors with relatively high educational requirements but lower wages, primarily in the public sector. Since a substantial part of the economy is informal, official wage statistics do not accurately reflect wage differences between men and women. Ukraine has no tax-benefit system in place to create similar financial incentives to work for both parents, while unpaid care and domestic work still fall mainly on women.

In August 2022, Ukraine adopted a state strategy to ensure equal rights and opportunities for men and women for the period up to 2030. In line with the operational plan for 2022-2024, the country has committed to prepare for the ratification of ILO Convention 190 concerning the elimination of violence and harassment in the world of work. Certain parts dealing with sexual harassment and gender-based violence are included in other legislation, but are not specifically dedicated to labour relationships.

According to the Ministry of Economy of Ukraine, the gender pay gap before the fully-fledged Russian invasion in Ukraine stands at 18,6%. . In May 2022, Ukraine presented the National Strategy and Action Plan to reduce the gender pay gap, address occupational separation, gender-based discrimination and harassment at work and close legal loopholes preventing the full application of the equal pay for equal work principle.

## **Chapter 20 – Enterprise and industrial policy**

*EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).*

Ukraine has **some level of preparation** in the area of enterprise and industrial policy, with **limited progress** made on alignment with the EU *acquis* during the reporting period.

In the coming year, Ukraine should in particular:



- develop mid-term priorities for SME development and take measures for improving the business environment and investment climate;
- adopt necessary legislation to align with Directive 2011/7/EU on combating late payment in commercial transactions.

On **enterprise and industrial policy principles**, in 2021 Ukraine adopted an overarching National Economic Strategy until 2030. It outlined long-term priorities for the development of Ukraine's economy and strategic measures in main sectors, including industry and entrepreneurship. Following the outbreak of the Russian war of aggression against Ukraine, the 2030 strategy has been largely overtaken by the National Recovery Plan (NRP), which specifies the urgent measures and investments needed to support the country's wartime economy and society. The NRP is a strategic document that sets out the recovery/development goals of Ukraine until 2032, focusing on stimulating resilience, recovery, modernisation and growth. It stresses the need to align Ukraine's recovery and modernisation with the EU principles of green transition and digital transformation, prioritising private investment and nationwide entrepreneurship and SMEs as an important pillar of the new economic model.

The reconstruction of industry will have to be accompanied with measures directed towards improving the business environment, reducing the informal sector, and rolling back the state presence in the economy.

While Ukraine's SME Strategy and Action Plan expired in 2020, it included the strategic framework for SMEs in alignment with the Small Business Act principles. In the OECD's SME Policy Index 2020, Ukraine registered significant progress since measurements started in 2016. The next assessment is scheduled for 2024. As per the 2020 Index recommendations, Ukraine should ensure the sustainability of its institutional and regulatory framework for SME policy, step up deregulation efforts and ensure the creation of a level playing field for SMEs. In addition, streamlining support for SME greening and internationalisation and providing a range of business development services will help improve the competitiveness of the Ukrainian industry.

A number of SME digitalisation and deregulation measures have been initiated to improve the **regulatory and operational environment** for SMEs. Regulatory impact assessments are regularly conducted and include an SME test. The Unified State Electronic System of Permit Documents (eLicense) is being created to digitalise administrative services in the field of licensing, and the ePermit system is also set to be developed by the end of 2023.

Ukraine has used the same definition for SMEs as the EU since 2012. It is enshrined in the Commercial Code of Ukraine and widely applied in regulating economic activity.

On **enterprise and industry policy instruments**, the Ukrainian legislation is not aligned with EU legislation on the rules of Directive on combating late payment in commercial transactions. There is no dedicated legal basis to combat late payment in commercial transactions.

Due to the absence of a current stand-alone SME strategy, the government agencies have been operating on an *ad hoc*, reactive and short-term basis during both the COVID-19 pandemic and the war. Ukraine has implemented separate programmes to support SMEs during the war. These cover aspects such as business relocation, financing and simplification of taxation. On entrepreneurship education and business support, the national Diia.Business support activities, including the national multidimensional portal and a network of offline centres, have been increasingly important. The Diia.Business portal contains free educational courses on various aspects of starting and managing business. It also contains online services such as business

registration, choosing a taxation system, obtaining licences in the sphere of economic activity and public procurement. Digital competence is included as a key competence in the national education curricula. Female entrepreneurship is supported by several tools and women-specific programmes promoted on Diia.Business.

Ukraine signed an association agreements for participation in the EU's Horizon Europe and Creative Europe programmes and signed an affiliation agreement for the Single Market Programme on 3 February 2023, which has meanwhile been ratified. Ukraine's business matchmaking and integration into EU and global value chains are supported by eight organisation members of the Enterprise Europe Network consortium in Ukraine, five organisations that administer the Erasmus for Young Entrepreneurs programme and about 40 clusters that participate in the Ukrainian Cluster Alliance and have access to the European Cluster Collaboration Platform instruments.

As regards **sector policies**, the updated Partnership Roadmap for 2023–2024 in the area of raw materials was endorsed on 19 May 2023. Good progress of implementation of the initial Partnership Roadmap 2021-22 was reported despite the war conditions.

## **Chapter 25 – Science and research**

*The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.*

Ukraine is **moderately prepared** in the area of science and research. It participates in the EU research and innovation (R&I) programmes and seeks greater integration into the European Research Area and the New European Innovation Agenda. Overall, **limited progress** was made towards alignment with the EU *acquis* during the reporting period.

In the coming year, Ukraine should in particular:

- intensify effort to integrate into Horizon Europe, by taking steps to establish an office in Ukraine, appointing national contact points and taking part in the relevant governance structures;
- adopt the strategy for scientific and technological development;
- develop regional smart specialisation strategies.

Ukraine has taken steps to modernise its R&I policy following the recommendations of the Horizon 2020 Policy Support Facility. The country has set up two national advisory councils (for science and technology development and for innovation) and the National Research Foundation.

Russia's war of aggression against Ukraine is aggravating the long-term trend of under-investment in R&I by destroying infrastructure and human capital. 35% of research infrastructure had been damaged or destroyed by March 2023 and 25% of the scientific workforce had left the country. In addition, public investment in science and innovation has been cut to a minimum. As of 2020, Ukraine's research spending shrunk to less than half of its 2003 level. In 2021, Ukraine's research spending as a share of GDP stood at 0.29% of GDP, which is less than half of its 2003 level.

The Ukraine Start-up Fund was set up to strengthen Ukraine's innovation capacity and business collaboration. There is currently no national technology transfer roadmap. According to the European Innovation Scoreboard 2022, Ukraine is regarded as an emerging innovator,

performing at 31% of the EU average. On innovation the performance gap with the EU is increasing.

The country has a legal basis for the design of smart specialisation strategies and their inclusion in overarching regional development strategies has been obligatory since 2021. While the actual development of strategies has been interrupted by the war, several Ukrainian regions expressed interest in restarting the process in 2023.

On cooperation with the EU, Ukraine is revising the roadmap for integration into the European Research Area and has been making progress on some of its priorities such as gender equality, open science (the National Open Science Plan was adopted in October 2022) and reforming the research assessment system. However, Ukraine's participation in European Research Area governance structures is still limited. In relation to the New European Innovation Agenda, Ukraine has developed a strategy for the development of the innovation sector and has been invited to join the European Innovation Council Forum and the Coalition of the Willing to exchange on innovation policies and initiatives.

Horizon Europe and Euratom remain the cornerstones of support for Ukraine's R&I sector. By August 2023, 79 grants had been signed totalling EUR 22.3 million. In addition, Ukraine benefits from dedicated initiatives under the Marie Skłodowska-Curie Actions programme, the European Innovation Council, the EU Cities Mission and in the areas of research infrastructure. The opening of the Horizon Europe office in Kyiv will help make the most of the available opportunities. Ukraine should also swiftly appoint the Horizon Europe national contact points (NCPs) to strengthen participation in the programme.

Ukraine has 39 intergovernmental agreements for R&I cooperation with 35 countries. In 2022, Ukraine cooperated with eight partner countries via 79 joint international research projects.

## Chapter 26 – Education and culture

*The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.*

Ukraine has **some level of preparation** in the area of education and culture. The education system and youth policy are broadly aligned with EU objectives. Ukraine's cultural policy reflects the general priorities of the New European Agenda for Culture. Ukraine has a good level of cooperation with its European partners on sport. The country is broadly aligned with EU policy on training and qualifications. **Some progress** has been achieved in all these areas.

In the coming year, Ukraine should in particular:

- develop a plan for a relevant statistical data collection, analysis and sharing mechanism for education and training;
- start implementing a plan to optimise the network of education institutions;
- adopt legislation to modernise and regulate professional education (vocational education and training).

**Education and training statistics** are not widely available, and data is collected and published with a considerable time lag. According to World Bank data, public spending on education amounted to 5.4% in 2020 (the EU MS average was 5% of GDP).

The **network of education institutions**, including higher education institutions, needs to be optimised to respond to the demographic changes in Ukraine and improve the quality of education. The Russian war of aggression poses major challenges, including large-scale destruction of education facilities. This severely hampers access to education in the affected areas. Digital learning centres have allowed some students to resume their studies, but learning outcomes and the psychological state of students and teachers have suffered greatly.

Ukraine has adopted a set of laws and policies to provide education principles and standards in accordance with EU standards. The New Ukrainian School reform aims at introducing content education based on key competencies, including green and digital. The new standards in primary and basic secondary education define 11 key competencies that correspond to the EU key competencies for lifelong learning. The New Ukrainian School is being rolled out with some delays in terms of teacher training and the printing of new textbooks.

The Law on education establishes the structure of the **education system** and gives a significant role to the Ukrainian National Qualifications Framework, lifelong learning and education based on key competencies. In February 2023, the Commission published a report on the comparison between the European Qualifications Framework and the Ukrainian qualifications framework. The report demonstrates how Ukrainian qualifications compare with the European ones and support the recognition of Ukrainian qualifications and can help further studies and employment. Ukraine became a member of the Advisory Group of the European Qualifications Framework and can start preparing for the referencing to the European Qualifications Framework.

An Arrangement for Cooperation on Education between the European Commission and the Ministry of Education and Science of Ukraine was signed in June 2023. Both parties agreed to strengthen and further develop cooperation and dialogue in this field. The Commission has also opened up participation in the Eurydice Network to the Ministry of Education and Science of Ukraine to get a deeper understanding of the respective education systems and their cooperation in education.

Regarding the issue of national minorities in education, where Ukraine needs to fully implement the recommendation of the Council of Europe's Venice Commission on the education law, implement those on the State language law and address the remaining recommendations of the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023, this will continue to be monitored as part of Chapter 23 on judiciary and fundamental rights.

The **VET system** still operates under a law from 1998 that needs modernisation to among others merge VET and pre-tertiary levels of education into one joint professional education system. Meanwhile, the development of the VET sector is guided by a dedicated strategy and concept with the aim of making VET more attractive and relevant. Work-based learning plays a significant role (70%) in dual VET programmes. However, the involvement of businesses remains low, and the quality of training, materials and technical equipment of VET institutions does not fully meet the requirements of employers and students.

Validation of non-formal and informal learning is well established and implemented. The National Agency for Qualifications accredits qualification centres that assess professional qualifications independently, including the validation of non-formal and informal learning.

On **higher education**, Ukraine is a member of the Bologna Process and has ratified the Lisbon Recognition Convention. It has made progress on the key European Higher Education Area commitments, effectively engaging in EU higher education policy and transnational cooperation. At the same time, the implementation of the Strategy for the Development of

Higher Education in Ukraine for 2021-2031 has been slow due to the disruption and lack of resources caused by the war. In May 2023, it made some progress in improving the mechanism of quality assurance of higher education. Ukraine participates in the international dimension of the Erasmus+ programme. Around 30 higher education institutions from Ukraine have joined European Universities Alliances in 2023, as associated partners.

In July 2023, Ukraine nominated its representatives to the European Education Area Working Groups 2021-2025. It is also in the process of joining the Eurydice Network.

**Youth policy** is governed by the law on basic principles of youth policy, the strategy on the development of youth policy in Ukraine until 2030 and the state-targeted social programme Youth of Ukraine for 2021-2025. The Ukrainian Volunteer Service has established an effective national volunteer platform. However, activities on youth employment partnerships, youth participation, skills development of disadvantaged young people and youth entrepreneurship for the digital and green economy need to be implemented in a more visible way.

Ukraine's approach to **cultural policy** broadly reflects the general priorities of the New European Agenda for Culture. At the strategic level, Ukrainian cultural policy focuses on three strands: (1) the creation of conditions for the active involvement of Ukrainian actors into pan-European cultural processes, (2) the promotion of European values, and (3) the strengthening of culture ties with the EU Member States. Its strategy for the development of culture is due for revision in 2025. The law on culture has been amended to include rules on the digitalisation of cultural heritage assets' registers. The strategic elements are further translated into three concrete policy priorities: (1) designing and implementing a new approach for a public model of cultural infrastructure, (2) safeguarding cultural heritage, and (3) fostering networking among the internationalisation of Ukrainian cultural and creative sectors, which includes the association to Creative Europe. The European Capital of Culture is an additional priority.

On **sport**, Ukraine has continued to cooperate with European partners, including in the European Week of Sport Beyond Borders and in the Council of Europe's sport partnership.

## **Chapter 29 – Customs union**

*All EU Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementation and enforcement capacity, and access to the common computerised customs systems.*

Ukraine has **a good level of preparation** in the area of the customs union. Despite the ongoing military aggression, Ukraine has made **good progress** in the customs union area in the reporting period, especially in terms of alignment with the EU *acquis*. Ukraine is connected to the EU customs information system and is using the new computerised transit system (NCTS). Ukraine has been a contracting party of the Convention on a Common Transit Procedure, which is 100% based on the Union transit system, since 1 October 2022.

In the coming year, Ukraine should in particular:

- make progress in areas related to customs procedures, customs debt and the application of guarantees as well as simplification of customs formalities, and with the development of a new Customs Code;
- ensure the timely implementation of NCTS Phase 5 and expand the use of the common transit procedure as well as the authorised economic operator (AEO) framework;
- adopt legislation criminalising large-scale smuggling of all goods and build up administrative capacity to implement this.

**Ukraine's Customs Code**, adopted in 2012, largely aligns with the Union Customs Code, including amendments to transit, AEOs and intellectual property rights. In 2022, the Customs Code was amended twice to simplify customs formalities, decision-making procedures, and enable accession to the common transit system. The government adopted and implemented a law aligning the classification of goods with the harmonised system and combined EU nomenclature in October 2022 .

Further efforts are needed to raise the usage of the national AEO programme and finalise the related IT system for mutual recognition with the EU AEO programme.

Further alignment of the Customs Code with the Union Customs Code is needed, particularly in the areas of customs procedures, simplification of customs formalities, pre-departure information and the enforcement of intellectual property rights.

The IT system for registering traders' liabilities needs to be updated.

The pre-war simplifications for customs clearance, extended until November 2023, should be lifted to promote the use of NCTS and grant benefits to compliant AEOs, while strengthening risk-based customs controls and improving inland controls. Returning operative intelligence rights to the State Customs Service (SCS) is necessary to improve its effectiveness.

Ukraine became a contracting party of the Convention on a Common Transit Procedure and the Convention on the Simplification of Formalities in Trade in Goods on 1 October 2022, but the number of common transit movements remains modest.

Despite the ongoing war and suspension of operations at several regional customs offices and border crossing points along the eastern border, the SCS **has largely maintained its operational and administrative capacity**. However, a comprehensive reform is necessary to transform it into a modern, efficient, transparent and corruption-free institution. This includes recruiting stable and full-fledged leadership through transparent and merit-based selection. Improving human resources management with an appropriate training framework is crucial, alongside strengthening integrity and anti-corruption measures.

The SCS IT infrastructure needs a significant upgrade as existing systems for customs clearance and risk management are outdated and non-compliant with security requirements. While a strategic plan for digitalisation of the SCS was adopted in 2022 and is being implemented, the ongoing war limits financial resources and makes IT reform dependent on external funding. A long-term national strategic plan for digital development of SCS until 2026, based on the multi-annual EU customs strategic plan, should be finalised and adopted. A plan for the implementation of EU-related IT systems needs to be developed.

Criminalisation of large-scale smuggling and accession to the Protocol to Eliminate Illicit Trade in Tobacco Products, along with empowering the SCS to investigate cases of smuggling, are needed. Strengthening intellectual property rights will require the government to establish a legal framework and develop necessary IT tools. Developing risk management for post-clearance control and customs audit, as well as introducing risk-based customs valuation, needs to be addressed.

#### **CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY**

This cluster covers: transport policy (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27).

Ukraine has a good level of preparation on energy and some level of preparation in the areas of transport, trans-European networks and overall in the chapter on environment and climate change.

During the reporting period, the country has made some progress on energy. Good progress has been made on environment and climate, with more progress on the environment than on climate change. Limited progress was recorded on transport and some on Trans-European networks. Ukraine signed a road transport agreement in June 2022 with the EU to liberalise bilateral and transit road transport. However, overall legislative alignment and institutional reforms in the transport sector remain slow. In the energy sector, Ukraine adopted important legislation including its long-pending law on wholesale energy market integrity and transparency. Measures taken under martial law, which led to a decrease in transparency and independence of energy stakeholders, will need to be reversed. Regarding Trans-European networks, energy and transport institutions continue to show extraordinary resilience and capability for emergency repairs to the damaged networks. In chapter environment and climate change, Ukraine's legislative alignment with EU *acquis* and strategic planning increased, including through a framework law on waste management, flood risk management plans and a water strategy until 2050. Ukraine's weak administrative capacity in the field of environment and climate is a key bottleneck, also for the implementation and enforcement of rules on environmental impact assessments. This cluster and the related reforms are intricately linked to Ukraine's reconstruction during and after the war.

## Chapter 14 – Transport

*The EU has common rules on technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.*

Ukraine has **some level of preparation** in the area of transport policy, with **limited progress** achieved during the reporting period. Progress was severely hampered by Russia's continuing military aggression against Ukraine.

In the coming year, Ukraine should in particular:

- further align and effectively implement of the EU rail and road *acquis* and set up the appropriate administrative structures for rail transport, in particular the regulatory body;
- strengthen its administrative capacity to enforce measures on road safety and establish inspection and investigation bodies for rail and inland waterways transport.

In the area of **transport**, Ukraine is implementing the EU *acquis* priority transport rules under the Association Agreement. These aim to facilitate the restructuring and modernisation of Ukraine's transport sector and gradual approximation with operating EU and international standards and policies. In this context, Ukraine's transport sector should gradually become more sustainable, safe and efficient. Despite progress in some areas, the speed of legal and institutional adjustments and reforms remains very slow, being further affected by Russia's military aggression. The implementation of the National Transport Strategy 2030, which serves as a framework for the modernisation of the transport sector, and its dedicated action plan for 2021-2024 should be resumed as soon as possible.

The level of alignment of the Ukrainian public services legislation on rail and road transport with the EU *acquis* is low and must be prioritised. In rail and waterborne transport, independent accident investigation bodies have not been established.

In 2022, Ukraine was granted observer status in the Transport Community Treaty as a robust basis for further transport market integration with the EU and is cooperating pro-actively with the treaty's structures. Closer association with the Transport Community can support Ukraine on its European path, as the Transport Community plays an important role supporting the enlargement process through the implementation of the relevant EU transport *acquis*.

In the area of **road transport**, Ukraine has partially implemented the rules on tachographs. Rules on access to the international road transport market and on passenger transport are in place. On the European Electronic Toll Service/Eurovignette, there are no tolls in Ukraine and road charges are not collected. On social aspects, national rules are aligned with EU rules on driving and rest times, but a number of other rules on rest periods have not been implemented. Ukrainian legislation on testing the roadworthiness of vehicles is partially aligned with EU rules.

No progress has been made in completing important regulatory reforms and adopting legislation during the reporting period. This includes regulation of the road transport market on wheeled transport safety and social aspects of road transport. The road safety situation in Ukraine has worsened since Russia's full scale invasion. The road safety strategy up to 2024 should be implemented as far as possible.

A road transport agreement was signed in June 2022 to liberalise bilateral and transit road transport between the EU and Ukraine for an initial period of 1 year, extended up to 2024. The agreement also provides for the recognition of Ukrainian driving licences and certificates of professional competence. Ukraine has also signed the Interbus Protocol on international regular and special regular carriage of passengers by coach and bus. However, Ukraine has yet to ratify this protocol.

The implementation of **rail transport** reform was suspended with the introduction of martial law in February 2022. The war has resulted in changes to logistics routes following the full and then partial closure of Ukrainian Black Sea ports. It has demonstrated the importance of reliable and resilient land connections with the EU and the vital role that rail transport plays in the current context. The draft railway law has not yet been adopted.

Ukrainian Railways (JSC Ukrzaliznytsia) remains the sole integrated railway undertaking that manages infrastructure and provides rail transport services, with no financial and organisational separation between infrastructure management and operations. The Law on natural monopolies aims to regulate access to infrastructure. In practice, however, tariffs and conditions for accessing the infrastructure are not regulated. The State Service of Ukraine for Transport Safety, supervised by the Ministry for Communities, Territories and Infrastructure, issues licences to wagon operators that transport passengers or dangerous goods. However, it does not issue safety certificates.

**On maritime transport**, no progress has been made during the reporting period in adopting legislation that aligns with the EU *acquis*. The legislative framework is not aligned with the *acquis* on a Community vessel traffic monitoring and information system. It is currently impossible to implement the technical framework as the country does not exercise full control over its coastline due to the war. Ukraine has not ratified the 2006 Maritime Labour Convention from the International Labour Organization. Its legislation is not fully aligned with the EU Directive on working time and the EU Directive on working time enforcement. A maritime administration has been created and the body is operational. However, its capacities have to be significantly strengthened in order to enforce the reforms and carry out international obligations incumbent on a port or coastal state. On digital freight transport, the scope of Ukraine's legislation partially aligns with EU legislation. Ukraine still needs to implement legislation that aligns with the EU Port Services Regulation. It should, as a flag state, make continued efforts and take necessary measures to improve the quality of its fleet. Ukraine also participates in the Black and Caspian Sea (BCSEA II) technical assistance project implemented by the European Maritime Safety Agency (EMSA).



The 2020 Law on **inland waterways transport** establishes a legal, regulatory and institutional set-up to ensure the safety of navigation. Further legislation on the functioning of the market, access to the profession, river information systems and dangerous goods still needs to be adopted and implemented. The government has taken steps to establish a dedicated executive body ('Administration of Navigation') for inland waterways transport matters. Ukraine is a member of the EU Strategy for the Danube Region and an active Member State of the Danube Commission. Furthermore, it has bilateral agreements with several Danube riparian states on the mutual recognition of documents. Still, Ukraine should continue to work on fulfilling the preconditions for recognition of crew navigation certificates in the EU, in accordance with Directive (EU) 2017/2397.

Ukraine airspace is closed for civil **aviation** due to the war, which makes it impossible for Ukrainian and foreign airlines to operate and has led to the suspension of air navigation services by the Ukrainian State Air Traffic Services Enterprise. However, the State Aviation Administration of Ukraine has so far maintained an appropriate level of oversight over the safety of air carriers registered in Ukraine. Ukraine has made significant progress in aligning with EU rules on aviation since 2017 and signed the EU-Ukraine Common Aviation Area Agreement in October 2021. An action plan on the implementation of the Common Aviation Area Agreement was approved in July 2022.

Ukraine has started to develop its policy, legal and regulatory framework **on intermodal transport**. However, progress has been hampered by the war. The Law on multimodal transport clarifies and simplifies the procedures and responsibilities for the use of several modes of transport. It does so by approximating Ukrainian legislation with the Directive on the establishment of common rules for certain types of combined transport of goods between Member States.

More progress is needed to fully align Ukraine's legislation with EU rules **on passenger rights** in all modes of transport, in particular for bus and coach passengers and the rights of people with reduced mobility. EU legislation on passenger rights in rail transport has been partially implemented.

## **Chapter 15 – Energy**

*EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.*

Ukraine has a **good level of preparation** in the area of energy. Ukraine achieved **some progress** during the reporting period, despite the fact that the energy sector operated under emergency conditions due to Russian attacks on Ukraine's energy infrastructure. Legislative alignment continued including on wholesale energy market integrity and transparency, renewables, gas transmission system operator and gas storage certification. However, measures taken under martial law led to a decrease in transparency and independence of stakeholders in the energy sector.

In the coming period, Ukraine should in particular:

→ advance green energy transition and green reconstruction: adopt an ambitious national energy and climate plan (NECP) in line with the 2030 Energy Community energy and climate targets; adopt and implement the electricity integration package; continue improving energy efficiency including in the residential sector through regulatory measures and via the Energy Efficiency Fund; implement policy measures to encourage investments

in renewable energy production; launch reform of the district heating sector, and introduce mandatory energy efficiency criteria for public procurement;

- take steps to achieve cost reflective energy pricing, in particular by gradually phasing out public service obligations and replacing them with targeted support for vulnerable energy consumers;
- improve the independent and effective functioning of the energy regulator, resulting in a track record of fair and transparent decision-making to enable the energy markets to function properly.

In April 2023, Ukraine adopted a new energy strategy until 2050. The document has not been made available as it remains classified by the Ukrainian government. Ukraine's recovery plan from July 2022 sets out the government's intentions to increase the share of renewable energy both in gas and electricity in the generation mix and develop the green hydrogen industry. Before Russia's full-scale invasion, Ukraine had developed a draft NECP. The new document will have to be drafted taking into account the impact of the war on Ukraine's energy infrastructure and overall consequences for its energy system, which needs to become more resilient, decentralised, efficient, and based on renewables. The NECP should set out concrete policy and measures and become a guiding document for post-war reconstruction in line with Energy Community 2030 targets, taking due account of recommendations from the Energy Community Secretariat.

On **security of supply**, Ukraine relies mostly on domestic production and limited imports from the EU as regards natural gas. As for electricity, the capacity for electricity imports has been steadily increased, reaching 1 200 MW in June 2023 for the Ukraine/Moldova control block.

Ukraine is not yet implementing the Oil Stocks Directive. The deadline under the Energy Community Treaty for alignment passed on 1 January 2023. In December 2022, Ukraine adopted a gas storage certification law, and in April 2023 the gas storage operator Ukrtransgaz was certified in a compliant manner.

Ukraine's gas and electricity transmission system operators (TSOs) have observer status in ENTSO-E and ENTSOG, the European associations for the cooperation of TSOs. Ukrenergo, Ukraine's electricity TSO, is implementing measures to achieve full ENTSO-E membership. On gas supplies, Ukraine participates in Aggregate EU, the EU's joint gas purchase platform. The country has agreements with Hungary, Poland and Slovakia on firm capacity for gas imports to Ukraine.

On the **internal energy market**, Ukraine's primary legislation is compliant with the third EU energy package. Ukraine has yet to align with and implement the new electricity integration package adopted in the Energy Community in December 2022. For electricity, a day-ahead and intraday market is operational under price caps. Ukraine has not yet designated a nominated electricity market operator. The electricity and gas TSOs and the gas storage operator are unbundled and certified. The electricity and gas distribution system operators are also unbundled. However, interventions by authorities and companies in the cooperate governance of TSOs and in the market continue, which constitute a challenge. The corporate governance of the gas TSO LLC Gas TSO of Ukraine proved non-functional. The governance reform of the gas TSO started with legislation adopted in August 2023.

The independence of the National Energy and Utilities Regulatory Commission, Ukraine's national energy regulator, and trust in the institution has yet to be fully established, in line with Ukraine's obligations under the Energy Community. This is critical for private investment and reconstruction in the energy sector. During the reporting period, NEURC largely focused on

maintaining low and stable energy prices for the population during the war. To this end, public service obligations were extended by Cabinet of Ministers' resolutions to ensure the social protection of household consumers of gas and electricity. As a result, the financial position of the state-owned energy companies that implement public service obligations – Naftogaz for gas, Energoatom, Guaranteed Buyer and Ukrhydroenergo for electricity – has suffered greatly as household tariffs were far below the cost recovery level. These tailored public service obligations need to be gradually phased out and replaced by more sustainable solutions that address energy poverty and the vulnerability of end consumers. In May 2023, NEURC slightly increased household electricity tariffs.

After the Ukrainian and Moldovan electricity grids were synchronised with the Continental European Network in March 2022 as an emergency measure, Ukraine started exporting electricity to the EU market. Exports stopped after massive Russian air attacks on electricity infrastructure from October 2022 onwards. To limit the extent of scheduled blackouts caused by military attacks, Ukraine imported electricity from the EU during the winter months, resuming limited exports in April 2023. The volume of the electricity market fell significantly as many industrial consumers had to stop production because of the war.

In May 2023, parliament adopted legislation on wholesale energy market integrity and transparency (REMIT Regulation), in line with Ukraine's obligations under the Energy Community. The REMIT law also introduced amendments regarding cross-border capacity allocation. Agreements with EU neighbouring countries on cross-border capacity allocation are still pending. So far, a 50:50 split of congestion rent was agreed with Slovakia. Joint auctions for cross-border trading in electricity by Ukrenergo on the borders with Romania and Moldova and via JAO, the Joint Allocation Office, on the borders with Poland, the Slovakia and Hungary have yet to take place.

In the area of **hydrocarbons**, parliament adopted a law to simplify permitting procedures for subsoil projects in December 2022.

On **renewable energy**, much of Ukraine's installed capacity – which amounted to 9.6 GW in 2021 – has suffered from damage or is in regions with armed conflict. Implementing a functional market-based support scheme for renewable energy sources (RES) in accordance with Directive 2018/2001 remains a key priority for Ukraine, including for attracting much needed private investment. Ukraine's current target for 2030 is a 27% share of RES in gross final energy consumption. In its NECP, Ukraine should set new ambitious annual targets for RES until 2030.

In July 2023, parliament adopted legislative amendments, allowing renewable producers to sell electricity directly on the day-ahead, intraday, bilateral and balancing markets. Prosumers can install RES facilities of up to 30 kW solar and wind and up to 50 kW for combined wind/solar systems. It offers two compensation options for prosumers: a feed-in tariff and net billing based on hourly wholesale market price. In June 2023, Ukraine adopted legislation setting the framework for guarantees of origin; a functioning national electronic registry has yet to be established.

On **energy efficiency**, Ukraine's energy efficiency law is largely aligned with the EU Energy Efficiency Directive. Rules on local energy planning and the deployment of energy management systems by state and municipal authorities consider good practices from the EU. Energy audits are mandatory for large companies. However, they are not yet supplemented by penalties for breaches, which may hinder their enforcement, or by incentives. Measures in Ukraine's 2030 national energy efficiency action plan, adopted in 2021, need to be updated, and its long-term strategy for the renovation of buildings adopted. Priority investments in

energy efficiency for the transmission and distribution of electricity and gas need to be identified.

Despite Russia's war of aggression, Ukraine continues to align with EU energy efficiency legislation. During the reporting period, Ukraine adopted four out of 26 legal acts that implement its framework law on energy efficiency. In March 2023, it signed a law on high efficiency cogeneration, although still without any support mechanism for combined heat and power based on useful heat demand to incentivise investments. Additional policy and support measures are needed to promote efficient heating and cooling, including the reform and modernisation of municipal district heating systems, wider use of renewable energy sources as well as waste heat from industry.

Ukraine's law on the energy efficiency of buildings is largely aligned with the EU *acquis*. A few remaining compliance issues require further attention. These include inspections of engineering systems, differentiation between buildings certification and energy audits for buildings and introducing requirements on certifying buildings when sold or rented out. In July 2022, Ukraine adopted a new law to create conditions for the comprehensive thermal modernisation of buildings. The law on commercial metering of thermal energy and water supply is to a large extent aligned with the *acquis* on heat metering, and Ukraine has equipped 83% of buildings connected to district heating with accurate heat meters. However, individual metering and consumption-based billing is still uncommon. Ukraine has a high level of alignment with the EU regulations and Directive on Energy Labelling and the Directive on Eco-design. At the beginning of 2023, Ukraine adopted 29 technical regulations on eco-design and 16 on energy labelling. To ensure effective implementation, the organisational and technical capacity of the state market surveillance body needs to be strengthened. Mandatory energy efficiency criteria for public procurement still need to be introduced.

In 2018, Ukraine set up the Energy Efficiency Fund with transparent corporate governance and monitoring/verification systems to support renovations of residential buildings. So far, it has been the only policy measure that applies compliant measuring and verification of energy savings to end-user consumption. In 2022, the fund introduced a new restoration programme to support the rehabilitation of residential buildings non-structurally damaged by war.

On **nuclear energy, nuclear safety and radiation protection**, Ukraine is party to all international conventions concluded under the auspices of the International Atomic Energy Agency, including the Convention on Early Notification of a Nuclear Accident, and the Convention on Nuclear Safety. Commitments and obligations resulting from international treaties, conventions and other agreements that fall under the responsibility of the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU) are implemented and enforced to the extent possible taking into account the ongoing Russian war of aggression against Ukraine and the forceful illegal seizure by Russian forces of the Zaporizhzhia nuclear power plant.

The nuclear safety regulator's capacity for independent licensing and inspection is considered sufficient in principle. With assistance from the State Scientific and Technical Centre on Nuclear and Radiation Safety, SNRIU can fulfil its responsibilities. However, its decisions are *de facto* not applied at the illegally seized Zaporizhzhia NPP. Further capacity building at SNRIU is ongoing with international support. The regulator cooperates actively with the European Nuclear Safety Regulators Group.

In February 2023, parliament adopted a law on the reorganisation of its state enterprise for nuclear energy. It provides for turning Energoatom into a joint stock company of the public sector and includes the appointment of an independent supervisory board between December 2023 and March 2024, in line with Council Directive 2004/87/Euratom. Energoatom operates

15 nuclear units at four sites with a total capacity of 13.83 MW. The Zaporizhzhia nuclear power plant, the largest one in Europe, has been illegally seized by Russia in March 2022. This is posing numerous safety threats and leaves Ukraine with 6 GW less base load electricity production. Memoranda of understanding have been signed with Westinghouse, with the construction of nine new nuclear power units envisaged in Ukraine using AP1000 technology (pressurised water reactor with two cooling loops).

Ukraine has a certain level of alignment with Euratom nuclear safety legislation. Gaps exist in the field of radiation protection of personnel, the population and the environment and on radioactive waste and spent fuel management. Ukraine's approximation process is experiencing delays, partly due to the ongoing Russian aggression and is fragmented. Alignment of Ukrainian legislation with Council Directive 2014/87/Euratom and Council Directive 2013/59/Euratom and Ukraine's institutional framework needs to be completed.

Ukraine has a regulatory framework on radioactive waste that requires further development. The country still lacks several planning documents in the areas of radioactive waste and spent nuclear fuel management as well as a law on the management of uranium legacy sites. The State Agency of Ukraine for Exclusion Zone Management is the central executive body responsible for building and managing radioactive waste management infrastructure. It manages the Radioactive Waste Management Fund. Its resources are insufficient to finance all necessary infrastructure projects in this area.

On **nuclear safeguards**, Ukraine would need to start adapting the existing systems of accountancy and control of nuclear materials in order to accommodate for the safeguards provisions (Chapter 7) of the Euratom Treaty.

## **Chapter 21 – Trans-European networks**

*The EU promotes Trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.*

Ukraine has **some level of preparation** in the area of Trans-European Networks (TENs), with **some progress** achieved during the reporting period. The development of new infrastructure and networks was substantially slowed down by the Russian war of aggression against Ukraine.

In the coming year, Ukraine should in particular:

- carry out emergency repairs and plan upgrades on critical infrastructure; taking into account the need for reconstruction in areas badly affected by the war, and ensure better connections with EU Member States, in particular through more efficient TEN-T rail and road border crossing points as well as electricity interconnections;
- further align with and implement the EU TEN-T and TEN-E related regulatory framework.
- Develop administrative capacities and scale up project preparation in order to ensure that transport and energy infrastructure projects can be implemented in line with EU standards.

On the **Trans-European transport network (TEN-T)**, there are currently two TEN-T core network corridors that reach the Ukrainian border in Chop: The Mediterranean corridor and the Rhine-Danube corridor. In June 2022, the EU and Ukraine signed a High-Level Understanding on the indicative TEN-T maps, making important adaptations to the indicative TEN-T network in Ukraine, namely the inclusion of the inland waterways of the Dnipro River and Southern Buh and adjustments to the rail and road network.

Ukraine has been associated to the Connecting Europe Facility in June 2023.

The Indicative TEN-T Investment Action Plan identified 39 priority projects in Ukraine that cover all transport modes: road, rail, aviation, ports and inland waterways. When the Russian war of aggression against Ukraine started, less than 10% of the projects identified had feasibility studies and only a few of these were in a more advanced stage of preparation or implementation. The limited capacity to prioritise, prepare and implement projects and limited fiscal space remain critical bottlenecks in Ukraine.

During the reporting period, Ukrainian efforts were mostly focused on emergency repairs to the damaged transport network, restoration of lifeline connections and the implementation of quick-win solutions to improve connections with Danube ports and EU Member States as part of the ‘Solidarity Lanes’ initiative. While Ukraine’s fiscal and institutional capacities remain severely constrained by the war, transport institutions continue to show remarkable resilience and capability to undertake rapid emergency repairs to the damaged transport network.

There is an urgent need to develop administrative capacities and scale up project preparation for rebuilding and developing transport networks. Project implementation units within government services and local government bodies should be strengthened. Investments in the transport network need to be designed and implemented in line with environmental and social standards and based on cost-benefit analysis following EU best practices. Ukraine’s own domestic standards need amendments to align with the EU *acquis*, thus fostering interoperability with the transport network in the EU and contributing to the improvement of road safety.

Ukraine has yet to fully align with and implement the EU TEN-T *acquis*, in particular on technical standards needed to ensure the safety and interoperability of networks. Decarbonisation and digitalisation of the transport sector remain challenging tasks, especially in the current circumstances. Further alignment and improvement of the public procurement and environmental assessment standards and alignment with State aid rules is necessary.

Ukraine is including the **Trans-European energy network (TEN-E)** guidelines in its legislative framework, with technical assistance funded by the EU. Ukraine’s alignment with Regulation (EU) 347/2013 and designation of a national authority are still pending. A large part of Ukraine’s internal electricity transmission infrastructure had been damaged since February 2022; repairs are taking place constantly. Ukraine identified some priority projects to strengthen its electricity and gas grids and build new interconnectors, for example the rehabilitation of the 400 kV Mukacheve (Ukraine) – V.Kapusany (Slovakia) line. In spring 2023, reconstruction works started on the Bar compressor station.

## **Chapter 27 – Environment and climate change**

*The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.*

Ukraine has **some level of preparation** in the area of the environment and climate change. **Good progress** was made in this chapter, despite Russia's war of aggression. On the environment, legislation was adopted aiming at further alignment on horizontal issues, water quality, waste management, chemicals and noise. On climate, where progress was limited, Ukraine continues its work on a national climate law and a National Energy and Climate Plan.

In the coming year, Ukraine should in particular:

→ Ensure cross-sectoral mainstreaming of environment and climate action in the reconstruction plans of the country, identify green reconstruction strategy for key sectors

and prioritise relevant EU legislation and standards in its National Programme for the Adoption of the *Acquis* (NPAA);

- Adopt primary and secondary legislation to continue the reforms initiated in water and waste management *acquis*. Adopt the law on environmental control and the legislation harmonising with the industrial emissions *acquis*;
- Adopt a climate law and initiate the update of its long-term low emissions strategy consistent with the EU 2030 framework.

## Environment

Ukraine has taken several notable steps to align with EU **horizontal legislation** on environment despite the difficulties posed by the ongoing Russian war of aggression. Taken in this context, the steps undertaken by Ukraine are all the more significant, especially in view of the massive environmental destruction suffered by Ukraine, and their relevance for the country's post-war recovery which will, ultimately, depend on the implementation and enforcement track record after the war. Ukraine ratified two amendments to the Espoo Convention in July 2022 and signed a bilateral agreement with Romania on implementation of this Convention in November 2022. During the reporting period, Ukraine adopted laws on the national pollutant release and transfer register (September 2022) and on the state environmental monitoring system.

The capacity of public administration to deliver on cross-sectoral mainstreaming of environment and climate action in relation to reconstruction of the country as well as on implementation and enforcement of already adopted EU *acquis*, needs to be strengthened. Ukraine needs to significantly strengthen administrative and inspection capacities in the environment and climate sector. The implementation and enforcement of EIA and SEA legislation deteriorated due to martial law. SEAs and EIAs must be carried out in line with the Espoo Convention and the adopted EU *acquis* including for hydropower development programmes and projects. Access by civil society to environmental information and participation in decision-making needs to be ensured. Ukrainian legislation addresses disciplinary, civil, administrative and criminal liability for environmental offences, but full alignment with and implementation of the relevant EU *acquis* is yet to be achieved.

On **air quality**, work on further alignment with two ambient air quality directives continues. In August 2022, procedures were adopted for the development of action plans to improve air quality, followed by the adoption of methodological recommendations in April 2023 on their content and procedures. Under the United Nations Economic Commission for Europe (UNECE) Air Convention, Ukraine submitted the Nomenclature for Reporting and Informative Inventory Reports in 2022 and 2023. In March 2023, legislative amendments to the state monitoring system, including on air quality, were adopted. Further work is needed on air quality information collection, processing, reporting and dissemination procedures as well as monitoring and control. Relevant investments should be planned for this purpose. On sulphur in fuels, systemic compliance monitoring of the products concerned is required. Alignment with the Directive on the control of volatile organic compound emissions resulting from the storage of petrol and petrol vapour recovery has yet to be fully achieved.

On **waste management**, a framework law was adopted in 2022, which enters into force in July 2023. On sewage sludge, general issues related to water drainage and sewage treatment were addressed with a new law in January 2023, but full compliance with the directive is yet to be achieved. A law on limiting the use of plastic bags was adopted in 2021, but additional efforts are needed on enforcement and information dissemination to the general public.

On **water quality**, river basin management plans are being developed as well as standards to assess the ecological status of rivers, lakes, transitional waters and coastal waters using four out of five biological quality parameters of the Water Framework Directive. In October 2022, the government approved flood risk management plans to implement the transposed Floods Directive. A water strategy to address water use and the protection and reproduction of water resources until 2050 was approved in December 2022. Its action plan also includes the designation of nitrate vulnerable zones by December 2023 and several indicators on wastewater discharges for the Directive on urban wastewater treatment. In January 2023 a Law on water drainage and sewage treatment addressed some of its elements. The regular national annual report on the quality of drinking water and state of drinking water supply for 2021 was published at the end of 2022. Drinking water quality is addressed in Ukrainian legislation and in its water strategy, but compliance with EU requirements needs to be further assessed. Implementation of the Directive on technical specifications for chemical analysis and monitoring of water status continues. Administrative capacity in the water sector is insufficient, also due to lack of funding.

On **nature protection**, a law on the protection of forests was adopted in June 2022. The government approved changes in forest reproduction rules, prohibiting the use of invasive alien species, in December 2022. It also approved the list of invasive tree species in May 2023. An action plan on the implementation of a strategy on biosafety and biological protection for 2022-2025, which also covers measures on invasive alien species, was adopted in July 2022. Ukraine is a party to the Nagoya Protocol on access to genetic resources since May 2022. Further action is needed to protect biodiversity, including on the *acquis* on wild birds, habitats, zoos, leg hold traps, access to genetic resources and seals. A strategy on biodiversity protection and an action plan on its implementation need to be developed also taking into account the Kunming Montreal Global Biodiversity Framework. Capacities for setting up and managing Natura 2000 sites need to be set up, and already adopted legislation needs to be implemented. Ukrainian legislation is partially aligned with the EU Regulation on timber and with the EU Regulation on forest law enforcement governance and trade. However, there is a high risk of non-compliance. The independence and capacity for monitoring and control of licences, felling and the sale of forest products need to be strengthened. The Parliament of Ukraine ratified the Nagoya-Kuala Lumpur Supplementary Protocol under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity on 10 June 2023.

Ukraine has some level of preparation on **industrial pollution and risk management**. A legal framework covering these areas exists in Ukraine, but efforts are needed to further align with the EU *acquis*, including by adopting missing primary legislation. In May 2023, the Parliament adopted in first reading a draft law on integrated environmental permitting and best available techniques. The existing national limits for the emission of pollutants and discharge do not meet emission levels associated with best available techniques set out in the Industrial Emissions Directive, including for around 220 large combustion plants. Mandatory automated pollutant emission control system procedures were introduced in March 2023 for new equipment. However, they exclude the most polluting equipment from the Soviet era, and the rules will only enter into force several years after the end of martial law. Ukraine reported its emissions data for 2021 to the European Environment Agency in accordance with the Large Combustion Plants Directive. On industrial accidents, Ukraine joined the UNECE Convention on the Transboundary Effects of Industrial Accidents in 2022. Ukraine's legislation will now need to be updated to meet the Convention's requirements and the EU *acquis*. In August 2022, legal amendments were adopted to align with the Seveso III Directive dealing with onshore major accident hazards. In September 2022, the government adopted a resolution on the



identification of high-risk facilities based on the principles of the Directive. Reporting procedures on safety measures for high-risk entities were drawn up in February 2023.

Ukraine is encouraged to start administrative preparations for alignment with the new EU environmental *acquis* stemming from the European Green Deal in the areas of circular economy, biodiversity protection and zero pollution. Further work and administrative measures are needed to implement the EU Eco-Management and Audit Scheme and EU Ecolabel Regulations as well as adapt environmental standards and promote green public procurement.

In the area of **chemicals**, Ukraine adopted a law in December 2022 to address import and export issues. More efforts are needed to bring the legal framework in compliance with the EU *acquis*. Ukraine adopted the law on joining the Minamata Convention on Mercury in May 2023. In September 2022, a law on the public health system was adopted, prohibiting the production and use of asbestos. In July 2022, the government postponed the entry into force of the technical regulation to ban cosmetics testing on animals by one year. No progress has been made on biocides.

On **noise pollution**, a law on the public health system, adopted in September 2022, partially addresses the requirements of Directive 2002/49/EC. Full transposition is pending.

On **civil protection**, on 20 April 2023, Ukraine and the EU signed an agreement on the participation of Ukraine in the Union Civil Protection Mechanism (UCPM). Ukraine will become a Participating State in the UCPM retroactively from 1 January 2023, once it informs the Commission of the conclusion of its ratification procedure. As a Participating State, Ukraine will be able to not only receive but also to offer assistance via the UCPM to other countries affected by disasters. Ukraine will have access to more funding and will benefit from the full range of tools under the UCPM for structured cooperation in civil protection prevention and preparedness with the EU. Ukraine has already shown strong solidarity with other countries affected by disasters. Ukraine provided bilateral assistance to Türkiye in response to the earthquakes in February 2023 and to Slovenia in response to the floods in August 2023.

Ukraine has a well-structured civil protection system at national, regional and local level. The State Emergency Service of Ukraine coordinates response efforts. Since the beginning of the war in 2022, it has effectively coordinated, together with a wide range of stakeholders across the Ukrainian government, the delivery of unprecedented in-kind assistance to Ukraine through the UCPM. The country has a 24/7 operational duty service, which cooperates closely with the European Commission's Emergency Response Coordination Centre. To facilitate cooperation, the number of English-speaking staff could be further increased. Roles and responsibilities within the civil protection system would benefit from further clarification. The Ukrainian civil protection system has a well-documented history of disaster risk management, based on robust tactical capacities and a solid legal and institutional framework. It could be further improved by strengthening disaster prevention and preparedness measures. A national disaster risk assessment is updated periodically but is not based on a nationally approved methodology. Ukraine has not been fully mapped for specific hazards; its Early Warning System could be further strengthened. Increased synergies and cooperation should be established between the State Emergency Service of Ukraine and the authorities in charge with industrial pollution, risk management, industrial accidents, onshore major accident hazards covered under the Seveso III Directive to put forward cross-sectorial preventive measures as part of the national disaster risk management assessments.

### Climate change

On climate change, Ukraine has continued work on a framework climate law to make climate commitments legally binding and to establish a climate governance architecture.

Ukraine updated its nationally determined contribution (NDC) in July 2021, including a commitment to reduce greenhouse gas emissions by 65% by 2030 compared to 1990. The commitment to reach net-zero emissions by 2060, which is included in the updated NDC, has not translated into a long-term low-emission development strategy yet. A strategy and action plan to implement its NDC is not yet in place, and an updated long-term low emission development strategy is needed. A national adaptation strategy was adopted in 2021 as well as an operational plan for its implementation covering 2022-2024.

A Contracting Party to the Energy Community, Ukraine has obligations connected to the Decarbonisation Roadmap. Connected to this, the country is currently preparing a National Energy and Climate Plan with support provided through the Energy Community; the NECP is expected to articulate Ukraine's medium-term vision for decarbonisation and resilience with needs and opportunities for rebuilding areas affected by Russia's war of aggression in a greener way.

Also related to the Energy Community's Decarbonisation Roadmap, a law on monitoring, reporting and verification of greenhouse gas emissions was adopted in 2019 and entered into force in 2020, as a first step towards emission trading, followed by a number of secondary legislation acts. As the martial law is in place, the monitoring, reporting and verification system is not fully operational. Ukraine needs to urgently step up on implementing the Energy Community's Decarbonisation Roadmap and in particular prepare for the Emissions Trading System (ETS).

Ukraine has a law on ozone-depleting substances and fluorinated gases adopted in 2019.

Administrative capacity remains weak in terms of both human and financial resources and needs to be urgently enhanced. Lack of administrative capacity hinders the alignment and implementation of EU legislation, including at local level. Ukraine needs to do more to consistently mainstream climate considerations in all dimensions of public policy in a whole-of-government approach.

It will need to align the future national climate strategy and climate law with the EU 2030 framework for climate and energy policies, notably certain pieces of legislation under the Fit for 55 package adopted during the reporting period.

#### **CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION**

This cluster covers agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

Ukraine is moderately prepared as regards food safety and veterinary (SPS) and phytosanitary policy, has some level of preparation as regards regional policy and coordination of structural instruments and in fisheries and aquaculture and is at an early stage in the other areas - agriculture and rural development and financial and budgetary provisions. Ukraine has made some progress in four areas, namely agriculture and rural development, SPS and phytosanitary policy, fisheries and aquaculture and financial and budgetary provisions, primarily through legislative and policy alignment and through launching a national agrarian register. Progress was limited in regional policy and coordination of structural instruments.

## Chapter 11 – Agriculture and rural development

*The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.*

Ukraine remains at an **early stage of preparation** in the area of agriculture and rural development. **Some progress** was made, notably in the adoption of legislation aligning with the EU *acquis* and the launch of the State Agrarian Registry aimed at registering farms. The implementation of other horizontal CAP issues and the improvement of administrative capacity was limited.

In the coming year, Ukraine should in particular:

- finalise its national strategy for agriculture and rural development for 2023-2030 complementing the sector recovery action plan, and start implementing it;
- continue aligning its legislation with the EU *acquis* on agriculture and rural development focusing on the requirements stemming from the Association Agreement and strengthen the administrative capacity for evidence-based policy development;
- monitor and extend the registration of farms in the State Agrarian Registry and systematically use it for all financial support programmes, take preparatory steps for establishing an EU-compliant paying agency and farm accountancy data network.

On **horizontal issues**, the Ministry of Agrarian Policy and Food (MAPF) is in charge of agriculture and rural development. The government has yet to appoint a body responsible for the management and control of government expenditure on agriculture, separate from the managing authority for programming. The establishment of the administrative and control system required by the EU *acquis* should be accelerated. An integrated administration and control system (IACS) should be set up. In August 2022, Ukraine established a State Agrarian Registry, an automated information system for collecting, processing and providing information about producers of agricultural products and their agricultural activities. The Ukrainian State Fund for Farm Support supports farms including through interest-free loans and payments per hectare and heads of livestock. However, it is not yet an EU-compliant paying agency. Improved integration and data quality of registries, in particular the Land Parcel Identification System (LPIS) is necessary. Ukraine is encouraged to bring support measures in line with EU *acquis*. A farm accountancy data network (FADN) needs to be established. Non-state advisory services of various legal forms are allowed in Ukraine. Government support was provided before the war to registered advisers. Ukraine has started to establish an Agricultural Knowledge and Innovation System.

On **common market organisation** the Ukrainian legal framework has yet to be aligned with the EU *acquis*. Work has focused on legal acts that regulate marketing standards for certain products, and standards for further products are being developed. The law on the association of agricultural producers is pending parliamentary adoption and aligns only partially with the EU *acquis*.

In the wine sector, Ukraine started to establish a vineyard register and new viticulture zoning of wine growing areas in line with EU *acquis*. Common market organisation for wine shall be regulated through the Law on grapes and viticulture, which remains to be adopted.

On **rural development**, Ukraine's draft national strategy for agriculture and rural development for 2023-2030 remains to be finalised, including environmental standards, climate resilience and bioenergy. It aims to complement the sector recovery action plan. Rural development is implemented on the basis of assistance to support small and medium-sized businesses in rural areas. A partial credit guarantee fund for small farmers was set up as a nonbanking financial institution and its management board was established in May 2023. It remains to become operational. A scheme launched in February 2023 supports investments by small farms and their integration into functional agricultural value chains.

On **quality policy**, the 2020 law on the protection of geographical indications (GIs) makes it possible to register GIs in line with the EU system. Two laws were adopted in September and December 2022, which further regulate this sector. Protected GIs are registered in a publicly available state register. Ukraine will have to build its administrative capacity to ensure the protection and control of GIs.

In the area of **organic farming** preparations are underway for alignment with the EU *acquis*. Certification of organic production is mainly carried out by international certification bodies with Ukraine having launched the accreditation process of two Ukrainian certification bodies. Actions to enhance monitoring and control are important. Ukraine's policy objective is to reach 3% of total agricultural land certified as organic by 2030.

## Chapter 12 – Food safety, veterinary and phytosanitary policy

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.*

Ukraine remains **moderately prepared** on this chapter. **Some progress** was made, in particular in the adoption of legislation aligned with the EU *acquis* in all sectors covered by the chapter. Implementation of the legislation should be carefully monitored and administrative capacities and disease surveillance stepped up.

In the coming year, Ukraine should in particular:

- continue to implement and update the strategy for aligning with and implementing the EU *acquis* to meet the requirements of the Association agreement, with a focus on the animal health and phytosanitary measures;
- accelerate EU market integration through a project to pilot the EU's trade control and expert system (TRACES) and subsequently extend its use to the whole country;
- enhance food safety through the reform of food safety bodies (State Service of Ukraine on Food Safety and Consumer Protection, State Agency for Animal Identification and Registration, authorised laboratories), strengthening food safety controls and implementing robust disease surveillance and vaccination.

With 242 EU legal acts to be approximated, the sanitary (food safety and animal health) and phytosanitary (plant health) sector is the single most comprehensive area in the EU-Ukraine Association Agreement. In June 2023, Ukraine informed to have concluded the alignment with 81 EU acts, while work on another 75 was ongoing. Phytosanitary primary legislation is still lacking.

On **general food safety**, the Ministry of Agrarian Policy and Food and the Ministry of Health have competence in the area of food safety, veterinary and phytosanitary policy. The Ministry of Economy is also involved in parts related to its competences. A single body, the State Service

of Ukraine on Food Safety and Consumer Protection (SSUFSCP), is responsible for national food safety control. It is also responsible for risk-based national controls through a network of sub-national bodies at regional (Oblast) and sub-regional level. As a result of an in-depth functional review, the SSUFSCP's central office revised its structure in December 2022. Its functionality should further improve by assuming all obligatory sanitary and phytosanitary duties.

The Law on the public health system adopted in October 2022 and to be implemented from October 2023 introduces a comprehensive 'One Health' approach, which also provides for information exchange on infectious diseases common to animals and humans. The government prepared a general strategy and joint action plan for cooperation between the food safety, animal and human health authorities in March 2023.

On **veterinary policy**, legislative alignment with the EU *acquis* advanced. The government adopted legislation including on animal welfare, veterinary medicinal products and disease surveillance. Regionalisation and zoning procedures for certain notifiable diseases have been considered satisfactory in audits by the European Commission. Ukraine is invited to implement zoning decisions taken within the EU. The systems for animal disease notification and management of information on outbreaks need to be upgraded to become fully functional. Preparations started to use the EU's trade control and export control system (TRACES) within one year. The animal movement control and registration system was extended to sheep, goats, pigs and equines to provide for more effective animal health measures. Official controls to enforce animal registration and identification, including controls of markets, are yet to be improved and aligned with EU legislation.

As for the **placing of food, feed and animal by-products on the market**, Ukraine's official food and feed control system saw the adoption of further legislation. Structural and institutional reforms based on EU standards took place through the creation of a risk assessment unit in the SSUFSCP and standard operational procedures were agreed. The multiannual national control plan 2022-2026 was approved. A risk analysis, assessment and management system is in place, with food production facilities participating in it. On export, as of 23 March 2023, 427 Ukrainian businesses had obtained the right to export their products to the EU. Ukraine regularly updated its food safety monitoring plan. Food safety databases are to be further integrated and administrative capacities need to be strengthened at all levels. The control of goods during the import process also follows a risk-based approach. Ukraine fully participates in the Commission's rapid alert system for food and feed (RASFF), but is not a member of the network. Official controls of imports and the handling of animal by-products not intended for human consumption remain to be fully aligned with the EU *acquis*.

On **food safety rules and specific rules for feed**, legislative changes provided for the establishment of a national institution for the registration of veterinary medicines and feed additives and for the implementation of the hazard analysis and critical control points system in feed and feed additive production facilities. Risk-oriented feed control was introduced.

Some progress was made on **phytosanitary policy**. Ukraine established a comprehensive system for the regulation and monitoring of plant protection products, pesticide use, and the quality and certification of seeds through the Law on plant protection products (January 2023) and the Law on seeds and planting material (December 2022). Relevant producers, importers, exporters and distributors are registered in a single register. Adoption of the draft framework Law on state regulation in the field of plant protection remains to be concluded. Substantial work is still needed to implement integrated pest management principles in a harmonised manner as well as increase the number of inspectors and their administrative capacity.

Authorised laboratories perform official laboratory testing for veterinary, sanitary and phytosanitary controls. Most of these are accredited to ISO/IEC 17025. Laboratory capacity, including staffing, equipment and accredited methods, is generally satisfactory, while their organisation and the structure of the laboratory network is to be adjusted to EU standards. National reference laboratories remain to be designated and provide to improve testing methods, train staff, participate in proficiency testing programmes and provide contingency capacity.

On **genetically modified organisms (GMOs)**, the relevant authority's control powers are limited. A legal framework for the regulation of genetic engineering activities, GMO registration and a system of government control of GMOs and penalties based on the nine EU legal acts that establish the legal framework is yet to be adopted.

### **Chapter 13 – Fisheries and aquaculture**

*The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.*

Ukraine has **some level of preparation** in the area of fisheries and aquaculture. **Some progress** was made, including through the adoption of legislation aligned with the EU *acquis* and by adopting a national sector strategy. Development of the legislation should be accelerated, and administrative capacities substantially strengthened, notably to enforce controls and inspection. Ukraine continues to be a reliable partner in international fora.

In the coming year, Ukraine should in particular:

- implement the national strategy for the fisheries and aquaculture sectors development until 2030 according to its action plan, including the alignment of the national legislation with the EU *acquis* and adopt EU common fisheries policy objectives and principles, including for resource management, inspections and controls, and to fight illegal, unreported and unregulated (IUU) fishing;
- develop administrative and institutional capacity for the management and control of fishing activities and launch the establishment of an independent fisheries control agency based on EU Member States' best practices;
- become a fully-fledged member of the General Fisheries Commission for the Mediterranean (GFCM).

Ukraine's new strategy for fisheries and aquaculture development until 2030 was adopted in May 2023. The Strategy outlines the development of the sectors till 2030 in line with the Common Fisheries Policy general rules and principles linked to the sustainable exploitation of fishery resources. Based on an assessment of the state of implementation of EU legal acts in April 2023, Ukraine prepared a national plan for full approximation with the EU *acquis* in the fisheries sector. The Ministry of Agrarian Policy and Food is responsible for establishing fisheries policy and drafting legislation, while the State Agency of Melioration and Fisheries is responsible for policy implementation.

On **resource management**, Ukraine amended its legislation in March 2023 for the governance of fisheries, conservation and rational use of aquatic biological resources and aquaculture, with certain parts of the fisheries management system adapted to the EU *acquis*. Ukraine will need to develop necessary administrative and scientific capacity to systematically collect data on

fisheries and adopt mechanisms to achieve a balance between fishing capacity and fishing opportunities as well as to take measures to assess and reduce the environmental impact of fishing activities.

On **fleet management**, the country has no separate fleet register for fishing vessels. Fishing is based on a permit issued to businesses through open auctions and vessels are registered either in the state shipping register of Ukraine or the ship book of Ukraine. Ukraine needs to harmonise its fleet registers with the EU fishing fleet register.

**Inspection and control** activities are limited, and catch from illegal, unreported and unregulated (IUU) fishing reportedly enters the fish market. The current lack of effective inspection and control hampers Ukraine's capacity to efficiently tackle IUU fishing. Work on the legislation aligned with the EU *acquis* to step up the fight against IUU fishing is however underway. A new law, adopted in March and that entered into force in July 2023 includes improved controls of fishing activities and of the origin of aquatic biological resources and for the implementation of a unified electronic management system for fishery products, similar to the rules in the EU common fisheries policy. Legislation is being developed to ensure the traceability of aquatic bioresources for the sustainable management of aquatic biological resources, to prevent IUU fishing and promote conservation of fish stocks. A dedicated public body for fisheries control will need to be created in line with best EU practices. Improvements will be needed around control data, as well as in standards, strategies and risk assessment for inspection. Electronic monitoring capacity of the fishing fleet should be improved, including on fishing in the high seas. The overall sanctioning system should be dissuasive, proportionate and effective.

Ukraine has no specific **structural measures** for fisheries and aquaculture. A planned reform aims to resolve conflicts on water use, property and tax policies. Ukraine has the largest inland water basin in Europe. This creates favourable conditions for inland fisheries and aquaculture development. The development of marine aquaculture is still at an experimental stage, while organic aquaculture has not been addressed yet. The State strategy until 2030 places high priority on developing it. Ukraine needs to improve the implementation of its legislation specific to aquaculture in line with the EU *acquis* and implement it. There are some **State aid measures** applicable to fisheries or for the development of aquaculture, including for the partial reimbursement of constructing production facilities or equipment costs.

On **market policy**, there are standards that aim to align with the EU *acquis* on veterinary requirements, hygiene and consumer information for food of animal origin. Specific market rules, similar to the ones provided in the EU common market organisation regulation for fishery and aquaculture products, are to be developed. No specialised legal acts regulate the creation of registered fisheries producer associations.

On **international agreements**, EU-Ukraine cooperation on fisheries and aquaculture is set out in the Association Agreement, including the management and conservation of fishery resources and cooperation with regional fisheries management organisations. Due to the ongoing war of aggression, the agreement between Ukraine and the Russian Federation on issues of fishing in the Sea of Azov was terminated in October 2022, and the exchange of information was suspended. As for the regional cooperation on conservation and management of fisheries resources, Ukraine is a cooperating non-contracting party to the General Fisheries Commission for the Mediterranean (GFCM), being the regional fisheries management organisation working to ensure the conservation and the sustainable use of living marine resources in the Mediterranean and in the Black Sea. Ukraine is committed to becoming a fully-fledged member of GFCM: Ukraine participates as a founding member in the Common Maritime Agenda for the Black Sea, and actively cooperates under the auspices of the Northwest Atlantic Fisheries

Organization, the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission and the Commission for the Conservation of Antarctic Marine Living Resources. Ukraine is very active under the Common Maritime Agenda, the EU sea-basin strategy for the development of a sustainable blue economy in the Black Sea.

## Chapter 22 – Regional policy and coordination of structural instruments

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through “shared management” between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.*

Ukraine has **some level of preparation** in the area of regional policy and coordination of structural instruments. Overall, **limited progress** was made over the reporting period, with more notable progress in implementing territorial cooperation programmes with Member States.

In the coming year, Ukraine should in particular:

- update the State Strategy of Regional Development and modernise the State Fund for Regional Development to align them with the recovery and reconstruction process, principles of multi-level governance and a territorially based regional policy.
- adopt necessary measures to bring into practice the law on principles of regional policy, in particular given the varying impact of the war on Ukrainian regions; and strengthen the capacity of regional and local administrations to prepare related development projects;
- strengthen the coordination framework within regional policy to ensure systematic and inclusive engagement of regional and local stakeholders, a coordinating role for the Ministry for Restoration, and an adequate regional angle for the Agency of Restoration.

While a general framework for state regional policy and increased public funding for regional development were put in place alongside decentralisation reform, Russia's invasion has affected all regions, albeit with significant differences. The territorial disparities, which existed before 2022, have therefore widened considerably.

In terms of the **legislative framework**, the law on principles of state regional policy was amended to establish a framework for the recovery of war-affected regions, including a three-level strategic planning system (national, regional and local development strategies). The law defines four functional types of territory: (i) recovery territories; (ii) regional growth poles; (3) territories with special conditions for development; and (iv) territories of sustainable development. This framework should now be implemented by first developing the qualification criteria and a list of territories. Similarly, various local strategic documents that are required (such as a local development strategy, recovery and development plan, comprehensive spatial development plan) should be clarified, interconnected and linked with adequate financing lines. While the law currently focuses on Ukraine's regional development, it will need to be progressively aligned with EU regional policy, including on NUTS (Nomenclature of Territorial Units for Statistics) territorial classification.

Overall, a robust conceptual framework of organisation for the regional policy in Ukraine should be developed and aligned with the recovery and reconstruction process. Accordingly, Ukraine should update, in consultation with relevant stakeholders, the State Strategy of



Regional Development 2021-2027, taking into account the different regional development needs due to the impact of the war.

In terms of the **institutional framework** at central level, the Ministry for Restoration of Ukraine was established by merging the Ministry of Communities and Territories Development with the Ministry of Infrastructure, which resulted in high staff turnover. Ukraine should build capacity in the new Ministry, ensuring adequate staffing for regional development and strong coordination with other key ministries, in particular the Ministry of Finance.

The Secretariat of the Cabinet of Ministers of Ukraine performs the tasks of the national authority of Ukraine for Interreg programmes. It should continue its efforts to disseminate information about Interreg programmes in Ukraine, especially among local and regional authorities to support developing projects with possible new beneficiaries from Ukraine.

The State Agency for Restoration and Infrastructure Development was set up, also with regional offices, to enable implementation of the rapid recovery and post-war reconstruction projects.

At regional level, the key role in developing regional programmes lies with regional (oblast) administrations, a number of which were turned into military administrations. This risks excluding local stakeholders from decision-making. Ukraine has been gradually restoring civil administrations once the security situation in the liberated territories permits it. The delineation of competences between central, regional and local tiers of government, especially in the domains relevant for recovery, should also be clarified.

Regional development agencies aim to support the socio-economic development of regions and communities and attract investments in 22 regions. The capacity to perform their mission remains limited due to an unclear mandate, high staff rotation and poor funding.

**On administrative capacity**, a formal coordination framework involving authorities at central and sub-national level needs to be set up to prepare for the effective programming and management of EU funds. Regional and local stakeholders should be engaged in a more systematic way in designing, implementing and monitoring these processes.

**On digitalisation, the Digital Restoration Ecosystem for Accountable Management** was set up to provide a single digital pipeline for all reconstruction projects, including at local level. The system allows anyone to monitor project performance and use this information to create reports.

Regional development is funded by the State Fund for Regional Development (UAH 4.5 billion, down 50% in 2023 compared with the pre-war amount in 2021). The Fund for the Liquidation of the Consequences of Armed Aggression (UAH 35.5 billion) may also be used for regional and local projects. **Programming** based on these funds should be based on priorities, adequate quality of project proposals, cost-benefit analysis and close alignment between the strategic planning of public investment and the budget. To this end, capacities of sub-state administrations should be increased, and the availability of statistics at local level improved to enable evidence-based decisions to be taken.

Ukraine entered into five **Interreg programmes** with EU neighbours and held the Presidency of the EU Strategy for the Danube Region in 2022. This helped it gain experience in European territorial cooperation and shared management, including programming, sound financial management, project selection and contracting for instance.

On **financial management and control** systems, the country needs to establish medium-term budget planning. The link between policy and budget at national and local level should be

strengthened. The legal basis for the system of **monitoring and evaluation** of regional development is complex and fragmented.

The internal and external **audit functions** are in place thanks to the Accounting Chamber of Ukraine and the State Audit Service and it is important to strengthen their capacities. However, the Chamber has no mandate to audit local budgets, other than resources transferred from the national budget. This poses also a risk to the audit of Ukrainian beneficiaries receiving support from Interreg programmes which are implemented under shared management in a similar way to the EU cohesion policy. Internal audits of local authorities and *ex ante* procurement verification are missing.

The participation of Ukrainian regions in peer-to-peer recovery initiatives with EU counterparts may facilitate further integration of Ukrainian sub-national authorities into EU networks.

### **Chapter 33 – Financial and budgetary provisions**

*This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Preparations under this chapter are at an **early stage**. There was **limited progress** in the areas covered by the chapter.

In the coming year, Ukraine should:

→ further strengthen the administrative capacity and coordination mechanism among key stakeholders in the own resource system.

On **traditional own resources**, Ukraine has implemented most of the fundamental principles in the policy areas that affect the own resources system. The 2019 Customs Code aligns with the Union Customs Code in most of its rules, in particular on transit, authorised economic operators and intellectual property rights. However, customs legislation is not fully aligned with the EU *acquis*, while administrative capacity in the IT sector is under strength.

Ukraine applies a single **VAT** system that is largely, but not fully aligned with the European system. VAT is levied on imports and enforced, where necessary, as outlined in the Tax Code.

Ukraine currently lacks a mid-term revenue strategy, which is to be developed under the IMF programme by the end of 2023.

Mechanisms to **prevent and combat tax and customs fraud** are generally in place. The Bureau of Economic Security is responsible for investigating and prosecuting financial crime, including tax and customs fraud. However, its performance has been unsatisfactory so far. The State Audit Service functions and the anti-fraud focal point for the European Anti-Fraud Office, and reports on cases of fraud.

National accounts and **gross national income** (GNI) data in Ukraine partially comply with European System of Accounts 2010 standards, and include an estimation of the non-observed economy (17.7% of GNI for 2020). However, Ukraine does not submit the data to Eurostat.

On **administrative infrastructure**, the current level of human and administrative resources is insufficient to ensure the full and accurate application of EU rules on payments into the EU budget upon membership.

## CLUSTER 6: EXTERNAL RELATIONS

This cluster covers: external relations (Chapter 30); and foreign, security and defence policy (Chapter 31).

Regarding external relations, Ukraine has a good level of preparation. It made limited progress on trade policy in the reporting period. It stepped up its engagement with global partners and African Union partners in 2022 and extended humanitarian assistance to Türkiye following 2023 earthquake. Ukraine is invited to remain compliant with the WTO and Association Agreement rules and assess the need for new bilateral agreements in the context of its candidate status and forthcoming accession.

As regards chapter 31, Ukraine has made good progress, ensuring a high level of alignment with relevant EU decisions and declarations of the EU's common foreign and security policy (93% in 2022, 89 % alignment between January and August 2023). Ukraine enhanced the cooperation with EU on the security and defence policy issues and jointly worked on combating hybrid threats. Ukraine has not yet ratified the Rome Statute of the International Criminal Court.

### Chapter 30 – External relations

*The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules on humanitarian aid and development policy.*

Ukraine has a **good level of preparation** in the area of external relations showing a significant convergence with the EU. Ukraine has matured in its capacity of WTO Member since 2008. **Limited progress** was made during the reporting period.

In the coming year, Ukraine should in particular:

- ensure that its trade policy is in compliance with World Trade Organization (WTO) and Association Agreement rules;
- before any new bilateral trade agreement, assess its impact, in light of candidate status and forthcoming accession.

On **common commercial policy**, Ukraine has been a member of the WTO since 2008. Since 2016, trade relations with the EU have been regulated by the EU-Ukraine Association Agreement, which established the Deep and Comprehensive Free Trade Area.

Ukraine has notified to the WTO preferential **bilateral trade agreements** with 17 countries, eight of which do not have a preferential trade agreement with the EU. It signed a preferential trade agreement with Türkiye in 2022, with ratification pending, and is negotiating and discussing preferential trade agreements with several partners (in particular the United Arab Emirates). In relation to this, Ukraine should continue to coordinate closely with the EU on international trade negotiations, in particular to ensure that, when it joins the EU, its commitments are compatible with those of the EU.

Ukraine has 66 bilateral investment treaties in force, 21 of which are with EU Member States. It has also signed seven treaties that have not yet entered into force. Ukraine continued benefiting from a generalised system of preferences (tariff system) granted by several countries, including the United States.

Ukraine has had a solid legal framework in place on export controls of goods and technologies, including on dual use, since 2003. It adopted and maintained a consolidated list of **dual-use goods** and technologies based on Council Regulation (EC) No 428/2009. Applications for

obtaining export permits for dual-use goods and technologies are subject to expert reviews, with the modalities set up by the law.

Ukraine has a legal framework in place to provide **humanitarian aid** to other countries and relies on the state budget reserve fund to provide this aid. It provided considerable humanitarian and civil protection support (through the State Emergency Service) to Türkiye following the Türkiye-Syria earthquake in February 2023.

On **development policy**, Ukraine stepped up engagement with global partners and African Union partners in 2022. This followed the appointment of a Special Representative for the Middle East and Africa in 2021. In November 2022, in connection with the UN and Türkiye-brokered Black Sea Grain Initiative, which allows for commercial food and fertiliser exports from key Ukrainian ports in the Black Sea, President Zelenskyy launched the Grain from Ukraine programme at an international summit on food security in Kyiv. The initiative seeks to address global food insecurity through (donated or internationally funded) deliveries of Ukrainian grain and foodstuffs to developing countries. Under the initiative, 625 000 tonnes of wheat have been delivered to African countries since December 2022.

### **Chapter 31 – Foreign, security & defence policy**

*Member States must be able to conduct political dialogue under EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.*

Ukraine has a **good level of preparation** in the area of foreign, security and defence policy. **Good progress** is demonstrated by continued unprecedented political dialogue with the EU at all levels and significantly enhanced security and military cooperation with the EU and its Member States. Ukraine has also demonstrated progress in the overall alignment with Statements by the High Representative on behalf of the EU and Council Decisions. In the coming year, Ukraine should in particular:

- work towards the ratification of the Rome Statute of the International Criminal Court (ICC) and its related instruments,
- further maximise alignment with Statements by the High Representative on behalf of the EU and EU sanctions (Official EU Council positions and actions in the area of CFSP);
- pursue and further enhance political dialogue on foreign and security policy with the EU.

Against the backdrop of Russia's unprovoked and unjustified war of aggression against Ukraine, the country continued to take steps to further integrate into the EU in the area of foreign and security policy. Ukraine continued **political dialogue** at an unprecedented level and frequency with the EU and the EU Member States.

The institutional framework enables Ukraine's participation in the **common foreign and security policy (CFSP) and common security and defence policy (CSDP)**. The CFSP-related issues fall under the competences of the Ministry of Foreign Affairs, which has good capacity to handle EU affairs. Ukraine's Ministry of Foreign Affairs established a position of 'political director'.

Ukraine has a good record of **alignment with CFSP** (statements by the High Representative on behalf of the EU and Council Decisions). For the calendar year 2022 Ukraine reached 93% alignment and 89 % alignment between January and August 2023. This represents a clear political intention to align with CFSP.

**On restrictive measures,** Ukraine aligns with EU restrictive measures against Russia. Regarding EU restrictive measures not related to Russia's war of aggression, Ukraine has not aligned with a number of measures, e.g., related to the political and security situation in the Eastern Mediterranean, Africa, Middle East and Asia. Ukraine has mechanisms in place to ensure effective implementation of EU sanctions. Authorities should strengthen the related national legislation and continue to improve their capacity to implement and enforce the sanctions.

Ukraine intensified its diplomatic engagement with global partners through food security-oriented agreements as well as high level political engagement and dialogue. This approach is in line with the EU's own outreach to global partners aimed at addressing global consequences of Russia's aggression, countering Russian disinformation narratives, and supporting President Zelenskyy's Peace Formula.

Ukraine's cooperation with **international organisations** is strong and constructive, including with the UN, the Council of Europe, the OSCE and the Organisation for Black Sea Economic Cooperation. Accession to NATO is reflected in the Ukrainian Constitution as a central goal and the main foreign policy objective. Ukraine formally applied for NATO membership on 30 September 2022. Ukraine stepped-up collaboration and coordination at all levels with both the EU and NATO in the framework of EU-NATO cooperation in the field of capacity building for partners.

Ukraine has not yet ratified the **Rome Statute of the International Criminal Court** and its related instruments, although it has already accepted the jurisdiction of the Court twice, including through legislative acts adopted in 2022 in the context of evident war crimes committed as part of Russia's war of aggression.

**On non-proliferation,** Ukraine is party to and has ratified the main non-proliferation agreements. Ukraine complied with its international obligations under international **export control regimes** throughout the reporting period. Ukraine participates in the Wassenaar, Missile Technology Control Regime, Nuclear Suppliers Group and Australia Group) and Zangger Committee. Ukraine continued to submit reports on international transfers of certain categories of military goods to the UN Register of Conventional Arms, the OSCE as well as the Wassenaar Arrangement.

Ukraine signed the Arms Trade Treaty in 2014 and continues procedural preparations for its ratification. Ukraine has put in place additional preventive measures in this regard, and it is setting up a unified firearms registry. Ukraine's legislation provides for multiple measures to counter illegal arms trafficking and ensure arms control.

In July 2022 the Parliament established the Temporary Special Commission to monitor the receipt and use of international equipment and technical assistance (in particular, weapons) during martial law. EU and Ukraine established the **internal security dialogue**.

As regards **security measures** (classified information), the EU and Ukraine have an arrangement to exchange classified information.

**On common security and defence policy,** Ukraine has continued to seek its involvement in EU defence initiatives and civil and military crisis management, including Permanent Structured Cooperation (PESCO) and the European Defence Fund (EDF). Given the context, military and security cooperation between Ukraine and the EU and its Member States was significantly enhanced in particular within the framework of the European Peace Facility (EPF) and through the EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine)

The EU and Ukraine continue to cooperate in the area of countering **disinformation and cyber threats**. The establishment of a dedicated cybersecurity dialogue in 2021 and its second iteration in 2022 were key to enhance the EU-Ukraine cyber cooperation with the aim to bolster cyber resilience and advance responsible state behaviour in cyberspace. Both sides also built up a unique cooperation aimed at tackling disinformation. Ukraine has been a contributing country to the NATO Cooperative Cyber Defence Centre of Excellence since March 2022.

## ANNEX 1 - RELATIONS BETWEEN THE EU AND UKRAINE

After the start of Russia's war of aggression against Ukraine, Ukraine applied for EU membership on 28 February 2022 and was granted European perspective and **candidate country status** in June 2022. The European Council granted **European perspective** and candidate status to Ukraine in June 2022, on the understanding that seven steps identified in the Commission's opinion on the membership application, are taken.

The EU and Ukraine signed an **Association Agreement (AA)**, including a **Deep and Comprehensive Free Trade Area (DCFTA)** in 2014, which fully entered into force in 2017. The AA / DCFTA is the key legal instrument serving as the basis of EU-Ukraine bilateral relations and provides the foundations for political association and economic integration between the European Union and Ukraine. Overall, Ukraine continued to broadly implement its obligations under the Association Agreement. Under the DCFTA Ukraine has committed to align its legislation to EU single market rules. While important progress has been achieved, Ukraine is behind schedule in some of these commitments. In some areas, effective enforcement by independent and transparent institutions remains challenging. The DCFTA comes with a commitment to comply with its provisions, as well as those under WTO such as ruling of a bilateral arbitration panel of December 2020, in respect of which Ukraine has still to comply with Article 35 of the Agreement and eliminate the wood export ban introduced in 2015.

Regular political and economic **dialogue** between the EU and Ukraine has continued through the AA/DCFTA structures. Regular subcommittee meetings were held throughout the period. The Association Committee did, however, not meet during the reporting period whereas the 7<sup>th</sup> EU-Ukraine Association Committee in Trade Configuration took place on 25-26 October 2022; the Association Council was held on 5 September 2022 in Brussels and the 24<sup>th</sup> EU-Ukraine Summit took place on 3 February 2023, in Kyiv.

**Trade relations** with the EU intensified after the entry into force of the DCFTA. With the application of autonomous trade measures since June 2022, the EU has unilaterally removed all outstanding tariffs under the DCFTA. Such measure was renewed for another year in May 2023.

In light of Ukraine's candidate country status, the EU and Ukraine agreed a Priority Action Plan in February 2023. Once fully implemented, Ukraine will see increased its access to the EU internal market, paving the way towards full accession in the future.

The EU has been living up to its commitment to support the implementation of the **Solidarity Lanes** initiative with new logistics corridors between Ukraine and the EU now firmly established through rail, road and inland waterways covering trade both directions. Solidarity lanes have become the lifeline for Ukraine.

Citizens of Ukraine enjoy **visa-free travel** to the Schengen area as of 11 June 2017. An agreement on readmission between the European Union and Ukraine is in force since 2007.

Regarding **bilateral financial assistance**, since the Russian invasion, the EU, Member States and the European Financial Institutions, stepped up their support in a Team Europe approach, mobilising EUR 59 billion for Ukraine's overall economic, social and financial resilience in the form of emergency macro-financial assistance, budget support, emergency assistance, crisis response and humanitarian aid. This includes EUR 2.3 billion in grants from the NDICI Global Europe instrument (2022 and 2023), EUR 25.2 billion of macro-financial assistance (concessional loans) as well as military assistance of EUR 25.2 billion, including EUR 5.6 billion under the European Peace Facility and bilateral EU Member States contributions.

Together with the resources made available to help Member States cater for needs of Ukrainians fleeing the war in the EU (EUR 17 billion), the overall support to Ukraine and Ukrainians amounts to EUR 82.6 billion. This includes, amongst other, around 100 000 tons of in-kind assistance under the Union Civil Protection Mechanism (UCPM), turning this into the largest and most complex UCPM operation to date. The EU has provided support for medical evacuations of, to date, more than 2770 severely ill Ukrainian patients as well as mental health and psychosocial support to Ukrainians via the International Federation of the Red Cross, funded by the EU4Health Programme.

Ukraine has been participating in the **Eastern Partnership** (EaP) since its launch in 2009. This overarching framework has further boosted regional relations with the EU. Ukraine benefits from regional programmes financed from NDICI-Global Europe. Ukraine also benefits from investments through the **Neighbourhood Investment Platform** (NIP). Before and during Russia's war of aggression, the EU has worked hand in hand with financial institutions to support Ukraine. The **Economic Investment Plan**, which was set up already before the war, will serve as an important vehicle of the reconstruction of Ukraine. The plan will continue to mobilise investments in grants, loans and guarantees and leverage additional public and private investments for Ukraine in sectors covered by the flagship initiatives such as support to SMEs, economic transition for rural areas, improving connectivity by upgrading border crossing points, digital transition and sustainable energy.

Ukraine participates in several **Union programmes**: Horizon Europe, EURATOM Research and Training Programme, Digital Europe, Fiscalis, Customs, Creative Europe, EU4Health, LIFE, Single Market Programme, Union Civil Protection Mechanism, and Connecting Europe Facility. Organisations and individuals from Ukraine can also benefit from certain actions of the Erasmus+ and European Solidarity Corps programmes. Ukraine is participating in several Interreg programmes and is a member of the EU macro-regional Strategy for the Danube region.

In 2014, the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) was created. Following the Russian aggression, the EU established the EU Military Assistance Mission (EUMAM Ukraine) on EU soil in support of Ukraine in October 2022.



**STATISTICAL DATA (as of 31/08/2023)**
**Ukraine**

<b>Basic data</b>	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		45 783 s	42 415 s	42 217 s	41 984 s	41 733 s	41 419 s
Total area of the country (km <sup>2</sup> )	1) 2)	603 548 w	603 549 w	603 549 w	603 549 w	603 549 w	603 549 w

<b>National accounts</b>	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)	3)	1 120 585 w	2 981 227 w	3 560 302 w	3 977 198 w	4 222 026 w	5 450 849 w
Gross domestic product (GDP) (million euro)	3)	106 389 w	99 361 w	110 765 w	137 373 w	137 133 w	168 710 w
GDP (euro per capita)	3)	2 319 w	2 339 w	2 620 w	3 269 w	3 285 w	4 077 w
GDP per capita (in purchasing power standards (PPS))		:	:	:	:	:	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	:	:	:	:	:
Real GDP growth rate: change on previous year of GDP volume (%)	3)	4.1 w	2.4 w	3.5 w	3.2 w	- 3.8 w	3.4 w
Employment growth (national accounts data), relative to the previous year (%)	4)	0 sw	- 1 sw	1 sw	1 sw	- 4 sw	- 2 sw
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)	3)	4 w	3 w	2 w	2 w	0 w	6 w
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)	3)	8.4 w	12.1 w	12.0 w	10.4 w	10.8 w	12.7 w
Industry (%)	3)	25.3 w	25.0 w	24.8 w	23.2 w	20.9 w	23.8 w
Construction (%)	3)	3.7 w	2.6 w	2.7 w	3.1 w	3.3 w	3.2 w
Services (%)	3)	62.6 w	60.3 w	60.5 w	63.3 w	65.0 w	60.3 w
Final consumption expenditure, as a share of GDP (%)	3)	84.4 w	87.8 w	90.2 w	93.2 w	92.6 w	86.8 w
Gross fixed capital formation, as a share of GDP (%)	3)	18.1 w	15.8 w	17.7 w	17.6 w	13.4 w	13.2 w
Changes in inventories, as a share of GDP (%)	3)	0.3 w	4.2 w	0.9 w	- 2.7 w	- 4.5 w	1.2 w
Exports of goods and services, relative to GDP (%)	3)	46.5 w	48.1 w	45.2 w	41.2 w	38.8 w	40.7 w
Imports of goods and services, relative to GDP (%)	3)	49.3 w	55.9 w	54.0 w	49.3 w	40.3 w	41.9 w
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)	5) 6) 7)	125.1 w	105.4 w	108.7 w	108.0 w	102.7 w	105.0 w
Number of active enterprises (number)	8)	:	1 598 025 w	1 618 543 w	1 706 428 w	1 729 058 w	1 719 536 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	8)	:	61.6 sw	63.0 sw	63.9 sw	64.0 sw	64.3 sw
Value added by SMEs (in the non-financial business economy) (EUR million)		:	31 486 sw	33 936 sw	47 334 sw	48 221 sw	:
Total value added (in the non-financial business economy) (EUR million)		:	66 678 w	68 917 w	90 454 w	86 283 w	:

<b>Inflation rate and house prices</b>	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)	9) 10)	9.4 w	14.4 w	10.9 w	7.9 w	2.7 w	9.4 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 2 272.3 w	- 3 046.9 w	- 5 464.2 w	- 3 696.3 w	4 735.0 w	- 2 815.8 w
Balance of payments current account: trade balance (million euro)		- 7 230.5 w	- 8 465.8 w	- 10 848.4 w	- 12 770.8 w	- 5 867.8 w	- 5 689.0 w
Balance of payments current account: net services (million euro)		4 230.4 w	804.6 w	1 143.0 w	1 567.6 w	3 845.7 w	3 368.9 w
Balance of payments current account: net balance for primary income (million euro)		- 1 513.6 w	1 404.2 w	1 148.7 w	1 710.2 w	3 174.1 w	- 4 407.1 w
Balance of payments current account: net balance for secondary income (million euro)		2 241.4 w	3 210.1 w	3 092.5 w	5 796.7 w	3 583.0 w	3 911.4 w
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	:	:	:	:
**3 year backward moving average of the current account balance relative to GDP (%)		:	:	:	:	:	:
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	11) 12) 13)	4 338.9 w	3 054.6 w	4 111.9 w	4 619.8 w	- 50.8 w	6 351.5 w
Foreign direct investment (FDI) abroad (million euro)	11) 13)	554.5 w	249.1 w	- 107.5 w	751.7 w	19.3 w	- 167.3 w
of which FDI of the reporting economy in the EU-27 countries (million euro)	14) 11) 13)	527.1 w	25.7 w	- 133.1 w	485.2 w	- 39.4 w	- 149.5 w
Foreign direct investment (FDI) in the reporting economy (million euro)	11) 12) 13)	4 893.4 w	3 303.7 w	4 004.4 w	5 371.4 w	- 31.5 w	6 184.2 w
of which FDI of the EU-27 countries in the reporting economy (million euro)	14) 11) 12) 13)	3 948.2 w	1 745.4 w	2 727.4 w	4 149.3 w	- 731.1 w	4 599.3 w
**Net international investment position, relative to GDP (%)	12) 15)	- 24.8 w	- 29.5 w	- 20.2 w	- 17.9 w	- 14.1 w	- 12.0 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	16)	1.1 sw	0.9 sw	0.7 sw	0.6 sw	0.7 sw	1.0 sw

<b>Public finance</b>	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)	17) 18)	- 6.3 w	- 1.2 w	- 1.9 w	- 1.9 pw	- 5.4 w	- 3.3 w
General government gross debt relative to GDP (%)	19) 18)	38.6 w	71.8 w	60.9 w	50.2 w	60.4 w	49.0 w
Total government revenues, as a percentage of GDP (%)	17) 18)	40.2 w	40.3 w	39.5 w	39.4 w	39.6 w	37.0 w
Total government expenditure, as a percentage of GDP (%)	17) 18)	46.5 w	41.5 w	41.5 w	41.2 w	45.0 w	40.3 w

<b>Financial indicators</b>	Note	2010	2017	2018	2019	2020	2021
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Gross external debt of the whole economy, relative to GDP (%)	20) 21)	83.1 sw	97.4 sw	90.4 sw	79.4 sw	74.6 sw	67.8 sw
Gross external debt of the whole economy, relative to total exports (%)	20) 11)	178.7 w	202.5 w	199.6 w	192.2 w	192.4 w	165.6 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	22) 23)	27 417.9 w	17 961.6 w	21 166.7 w	29 144.0 w	30 226.3 w	41 433.7 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	22) 24)	56 448.8 w	36 081.3 w	40 164.2 w	54 319.2 w	53 177.5 w	66 928.6 w
Money supply: M3 (M2 plus marketable instruments, million euro)	22) 25)	56 546.3 w	36 090.3 w	40 286.0 w	54 436.1 w	53 253.6 w	66 985.2 w
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	:	:	:	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		1.72 w	11.60 w	16.30 w	15.00 w	7.10 w	6.78 w
Lending interest rate (one year), per annum (%)	26)	11.62 w	15.90 w	19.20 w	18.35 w	7.89 w	7.67 w
Deposit interest rate (one year), per annum (%)	27)	3.20 w	12.13 w	15.64 w	15.18 w	7.22 w	6.95 w
Euro exchange rates: average of period (1 euro = ... national currency)		10.533 w	30.004 w	32.143 w	28.952 w	30.790 w	32.310 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)	28)	135.4 w	86.5 w	85.4 w	94.6 w	93.2 w	91.5 w
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)	28)	- 0.3 sw	- 0.2 sw	- 0.1 sw	0.0 sw	0.1 sw	0.1 sw
Value of reserve assets (including gold) (million euro)	20) 11)	26 036.1 w	15 760.9 w	18 177.1 w	22 682.2 w	23 711.1 w	27 294.4 w

<b>External trade in goods</b>	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		45 525 sw	43 912 sw	48 423 sw	54 310 sw	47 490 w	72 843 w
Value of exports: all goods, all partners (million euro)		38 277 sw	38 298 sw	40 080 sw	44 712 sw	43 053 w	68 072 w
Trade balance: all goods, all partners (million euro)	29)	- 7 247 sw	- 5 614 sw	- 8 343 sw	- 9 599 sw	- 4 438 sw	:
Terms of trade (export price index / import price index * 100) (number)	30)	106.7 sw	101.7 sw	99.6 sw	99.9 sw	105.0 sw	118.9 sw
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	:
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	:

<b>Demography</b>	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		- 4.4	- 5.0	- 6.0	- 6.5	- 7.8	- 10.7 e
Infant mortality rate deaths of children under one year of age (per thousand live births)		9.2	7.7	7.1	7.1	6.8	7.2
Life expectancy at birth: male (years)		65.2	68.3	68.1	68.4	:	:
Life expectancy at birth: female (years)		75.3	78.0	78.0	78.3	:	:

<b>Labour market</b>	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	3) 31)	72.2 w	70.9 w	71.8 w	72.9 w	72.0 w	71.9 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	3)	66.4 w	64.2 w	65.6 w	66.9 w	65.2 w	64.8 w
Male employment rate for persons aged 20–64 (%)	3)	71.1 w	69.4 w	70.5 w	72.7 w	70.8 w	70.8 w
Female employment rate for persons aged 20–64 (%)	3)	62.1 w	59.4 w	61.0 w	61.6 w	60.0 w	59.3 w

Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	3)	40.4 w	38.2 w	39.5 w	41.9 w	42.1 w	41.1 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)	32) 3)	20.2 w	15.4 w	14.9 w	13.9 w	14.1 w	14.1 w
Industry (%)	32) 3)	19.1 w	17.7 w	17.8 w	17.8 w	17.8 w	18.2 w
Construction (%)	32) 3)	6.4 w	6.6 w	6.5 w	7.1 w	7.0 w	7.0 w
Services (%)	32) 3)	54.3 w	60.3 w	60.8 w	61.2 w	61.1 w	60.7 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		:	:	:	:	:	:
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		:	:	:	:	:	:
Unemployment rate: proportion of the labour force that is unemployed (%)	32) 3) 33)	8.1 w	9.5 w	8.8 w	8.2 w	9.5 w	9.8 w
Male unemployment rate (%)	32) 3) 33)	9.3 w	11.1 w	10.0 w	8.5 w	9.8 w	9.5 w
Female unemployment rate (%)	32) 3) 33)	6.8 w	7.7 w	7.4 w	7.9 w	9.1 w	10.1 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	3)	17.4 w	18.9 w	17.9 w	15.4 w	19.3 w	19.1 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	32) 3) 33)	1.8 w	2.5 w	1.9 w	1.0 w	2.0 w	2.4 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	3)	8.4 w	12.8 w	14.2 w	13.9 w	16.3 w	15.3 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	3)	6.0 w	7.5 w	7.2 w	6.5 w	7.4 w	8.5 w

<b>Social cohesion</b>	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	34) 3)	2 239 bw	7 104 w	8 865 w	10 497 w	11 591 w	14 014 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	119 w	134 w	147 w	158 w	175 w
GINI coefficient	35) 36) 3)	25 w	23 w	24 w	25 w	25 w	24 w
Poverty gap		:	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	:	:	:	:	:

<b>Standard of living</b>	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		147.9 sw	:	:	:	:	:
Number of mobile phone subscriptions relative to population size (number per thousand population)	3) 37)	1 182.5 w	1 314.4 w	1 279.5 w	w	w	w
Mobile broadband penetration (per 100 inhabitants)	3) 37)	:	41.3 w	47.5 w	w	w	w
Fixed broadband penetration (per 100 inhabitants)	3) 37)	7 w	12 w	13 w	w	w	w

<b>Infrastructure</b>	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km <sup>2</sup> )	1) 38)	35.9 sw	32.8 sw	32.7 sw	32.8 sw	32.8 sw	32.7 sw
Length of motorways (kilometres)	39)	15 w	15 w	15 w	15 w	15 w	15 w

<b>Innovation and research</b>	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)	3)	6.6 sw	5.4 sw	5.3 sw	5.4 sw	5.4 sw	:
*Gross domestic expenditure on R&D relative to GDP (%)	3) 40)	0.80 sw	0.45 sw	0.47 sw	0.43 sw	0.40 sw	0.29 sw
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)	3) 41)	0.30 w	0.20 w	0.20 w	0.20 w	0.20 w	0.10 w
Percentage of households who have internet access at home (%)	36) 42) 39)	20.2 w	59.8 w	61.5 w	65.8 w	79.2 w	82.7 w

<b>Environment</b>	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)	43)	43.7 ew	37.1 ew	40.3 ew	39.4 ew	34.7 ew	w
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	:	:	:	:	:
Electricity generated from renewable sources relative to gross electricity consumption (%)	3)	7.2 ew	9.2 sw	10.3 w	9.4 w	11.5 w	10.6 w
Road share of inland freight transport (based on tonne-km) (%)	39) 44)	29.8 w	38.1 w	42.7 w	41.4 w	42.3 w	w

<b>Energy</b>	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		77 526	58 890	60 886	60 355	57 121	:
Primary production of crude oil (thousand TOE)		3 590	2 208	2 341	2 478	2 476	:
Primary production of solid fuels (thousand TOE)		32 142	13 517	14 338	14 186	12 690	:
Primary production of gas (thousand TOE)		15 436	15 471	16 487	16 261	15 856	:
Net imports of all energy products (thousand TOE)		41 906 s	33 167 s	32 347 s	32 976 s	29 487 s	:
Gross inland energy consumption (thousand TOE)		132 795	89 768	93 851	89 641	86 583	:
Gross electricity generation (GWh)	3)	188 828	155 990	159 796	154 012	148 264	150 042 w

<b>Agriculture</b>	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)	6)	100.0 w	132.7 w	143.6 w	145.7 w	130.9 w	152.4 w
Utilised agricultural area (thousand hectares)		41 275.6 w	41 274.3 w	41 259.9 w	41 138.4 w	41 144.2 w	41 144.2 w
Livestock numbers: live bovine animals (thousand heads, end of period)		4 494.4 w	3 530.8 w	3 332.9 w	3 092.0 w	2 874.0 w	2 644.0 w
Livestock numbers: live swine (thousand heads, end of period)		7 960.4 w	6 109.9 w	6 025.3 w	5 727.4 w	5 876.2 w	5 608.8 w
Livestock numbers: live sheep and live goats (thousand heads, end of period)	3)	1 731.7 sw	1 309.3 sw	1 268.6 sw	1 204.5 sw	1 140.4 sw	:
Raw milk available on farms (thousand tonnes)		11 248.5 w	10 280.5 w	10 064.0 w	9 663.2 w	9 263.6 w	8 713.9 w
Harvested crop production: cereals (including rice) (thousand tonnes)	3)	38 678.6 sw	60 677.8 sw	69 101.9 sw	74 425.2 sw	64 333.4 sw	:
Harvested crop production: sugar beet (thousand tonnes)		13 749.2 w	14 881.6 w	13 967.7 w	10 204.5 w	9 150.2 w	10 853.9 w
Harvested crop production: vegetables (thousand tonnes)		8 246.7 w	9 369.4 w	9 543.0 w	9 801.9 w	9 747.5 w	10 038.3 w

**Source: Eurostat and/or the statistical authorities in Ukraine**

: = not available

b = break in series

e = estimated value

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Data of the State Service on Geodesy, Cartography and Cadastre of Ukraine.
- 2) Data are given according to the new Classification of Land Types.
- 3) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 4) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.  
Persons aged 15-70 years.
- 5) Adjustment for the effect of calendar days of the dynamic series of indices to the average monthly value of the base. (2016) year is carried out using the DEMETRA+ program, using the TRAMO/SEATS method activity.
- 6) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 7) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 8) The information for 2021 include of data reports of enterprises, which were submitted on initiative.
- 9) Consumer price inflation
- 10) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 11) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 12) Since year 2020 the National bank of Ukraine have improved the foreign direct investment compilation, in context of which non-financial corporations' reinvested earnings have been incorporated in FDI flows and stocks data. Therefore, BoP, IIP, FDI data for 2015- 2019 were revised.
- 13) Since year 2021 the National bank of Ukraine have improved the foreign direct investment compilation, in context of which loans between fellow enterprises have been incorporated in FDI flows and stocks data. Therefore, BoP, IIP, FDI data for 2015- 2020 were revised.
- 14) FDI Data were recalculated taking into account EU-27 Member States, excluding the United Kingdom.
- 15) Data were recalculated taking into account GDP revised
- 16) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 17) Modified cash data (Government finance statistics manual 2014).
- 18) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 19) State and state guaranteed debt.
- 20) Assets and debt converted from US dollars to euro using cross rates at the end of the reporting year.

- 21) Assets and debt converted from US dollars to euro using cross rates at the end of the reporting year.  
Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 22) Converted into euro using the annual exchange rates at the end of period.
- 23) Monetary aggregate M1 includes: certain liabilities of resident deposit-taking corporations vis-a-vis resident sectors of the economy except general government and other deposit-taking corporations; currency in circulation outside the deposit-taking corporations; and transferable deposits in national currency.
- 24) M2 comprises M1 and transferable deposits in foreign currency and other deposits.
- 25) M3 comprises M2 and securities other than shares.
- 26) Average weighted interest rate on all instruments of National bank's refinancing.
- 27) Distribution of deposit certificates of the National Bank of Ukraine.
- 28) Nominal effective exchange rate index of the hryvnia (2015=100), 39 countries.
- 29) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 30) Index based on the previous year
- 31) Fixing from 2019 economically active population - labour force.
- 32) Persons aged 15-70 years.
- 33) Persons aged 15 years and over.
- 34) Data refer to enterprises and their independent divisions with 10 or more employees. Data from before 2010 should not be compared with data from 2010 onwards.
- 35) Since 2011 the calculation of indicators of population and households analysed by level of material well-being uses an equivalence scale: a coefficient of 1 is assigned to the first member of the household and 0.7 to all others. Basic indicators back to 2007 have been recalculated taking into account this equivalence scale.
- 36) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 37) The State Statistics Service of Ukraine does not have this information. This information is collected by the National Commission on the State Regulation in the sphere of Communications and Informatization.
- 38) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.  
Data of the State Service on Geodesy, Cartography and Cadastre of Ukraine.  
Data are given according to the new Classification of Land Types.
- 39) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 40) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied. The information for 2021 is formed on the basis of data reports of enterprises, which were submitted on initiative.
- 41) The information for 2021 is formed on the basis of data reports of enterprises, which were submitted on initiative.
- 42) Share of persons who used the internet at home.
- 43) Data for 2021 disseminate in 25.04.2023.
- 44) Data are not available - according to subitem 1 of item 1 of Ukraine's law on protection of interests of entities that submit reporting and other documents during the period of martial law or state of war, dated on March 03, 2022 by  $\zeta$  2115 - IX

