UKRAINE’S ANSWERS to the EU Questionnaire on the Application for Membership
RESPONSES

to the Questionnaire on Information requested by the European Commission to the Government of Ukraine for the preparation of the Opinion on the application of Ukraine for membership of the European Union

Part II
Volume VII
Chapters XXX—XXXIII

May 2022
CHAPTER 30. EXTERNAL RELATIONS

I. COMMON COMMERCIAL POLICY - WTO and other horizontal aspects

A. General trade policy

1. In order to have a complete picture of the differences between Ukraine's trade regime and the EU trade regime, please provide us with:

   a) Legal act(s) defining the trade policy, including on services. Please include an overview of the key trade policy features (responsible institution, its competences, and key elements of policy-making).

The Law of Ukraine “On foreign economic activities” of April 16, 1991 No. 959-XII (the most recently amended on August 1, 2021) is the basic legal act setting the fundamentals for regulating foreign economic activity in Ukraine and defining the responsibilities of the key institutions. According to the Article 2 “Principles of foreign economic activity”, subjects of economic activity of Ukraine and foreign economic activity are guided by the following principles when performing foreign economic activity:

1. The principle of sovereignty of the people of Ukraine;
2. Principle of freedom of foreign economic activity;
3. The principle of legal equality and non-discrimination;
4. The principle of the rule of law;
5. The principle of protection of interests of subjects of foreign economic activity;
6. Principle of the equivalence of exchange, the inadmissibility of dumping at import and export of goods.

According to the Article 9, the institutions and their responsibilities related to foreign economic activity include:

The Verkhovna Rada of Ukraine, which is the highest body of state regulation of foreign economic activity. The competence of the Verkhovna Rada of Ukraine shall involve:

- adoption, amendment and repeal of laws concerning foreign economic activity;
- approval of the main directions of foreign economic policy of Ukraine;
- consideration, approval and change of the structure of the state regulatory bodies for foreign economic activity;
- conclusion of international agreements of Ukraine under the laws of Ukraine on international agreements of Ukraine and bringing the current legislation of Ukraine in line with the rules established by these agreements;
- establishment of special regimes of foreign economic activity in the territory of Ukraine under Articles 24, 25 of the Law "On Foreign Economic Activity";
- approval of the lists of goods, the export and import of which is prohibited under Articles 16, 17 of the Law "On Foreign Economic Activity";
– decision-making on the application of measures in response to discriminatory and/or unfriendly actions of other states, customs unions or economic groups by imposing an absolute/partial trade prohibition (absolute/partial embargo), except for cases defined by this Law; revocation of the most-favoured-nation regime or preferential special regime.

The Cabinet of Ministers of Ukraine shall:

– take measures to implement a foreign economic policy of Ukraine under the laws of Ukraine;

– co-ordinate the activities of ministries, other central executive authorities to ensure the implementation of foreign economic activity; co-ordinate the operation of trade missions of Ukraine in foreign states; appoint heads of trade missions of Ukraine in foreign states upon the proposal of the central executive authority in charge of shaping and implementing state policy in the field of economic development, agreed with the Ministry of Foreign Affairs of Ukraine; agree to the appointment of employees of the central executive authorities, whose official duties include trade and economic and sectoral co-operation, to positions in foreign diplomatic institutions of Ukraine. The appointment of such employees shall be carried out upon the proposal of the central executive authorities agreed with the Ministry of Foreign Affairs of Ukraine;

– adopt regulatory acts of administration on foreign economic activity issues in cases provided for by the laws of Ukraine;

– conduct negotiations and conclude intergovernmental agreements of Ukraine on foreign economic activity in cases provided for by the laws of Ukraine on international agreements of Ukraine, ensure execution of international agreements of Ukraine on foreign economic activity by all public administration bodies subordinated to the Cabinet of Ministers of Ukraine, and involve other foreign economic activity entities to their implementation on a contractual basis;

– subject to its competence defined by the laws of Ukraine, make proposals to the Verkhovna Rada of Ukraine on the system of ministries, state committees and agencies – operative state regulatory bodies for foreign economic activity, whose powers cannot be above those of the Cabinet of Ministers of Ukraine that it has under the laws of Ukraine;

– ensure the compilation of the balance of payments, the consolidated currency plan of Ukraine;

– take measures to ensure the rational use of the funds from the State Monetary Fund of Ukraine;

– ensure the execution of decisions taken by the United Nations Security Council on foreign economic activity;

– make decisions on the application of measures in response to discriminatory and/or unfriendly actions of other states, customs unions or economic groups by introducing licensing regime, or taking other measures under parts 11 and 12 of Article 29 of the Law "On Foreign Economic Activity".

The National Bank of Ukraine shall:

– store and use the gold and foreign exchange reserve of Ukraine and other state valuables that ensure the solvency of Ukraine;

– represent the interests of Ukraine in relations with central banks of other states, international banks and other financial and credit institutions and conclude relevant interbank agreements;

– manage the exchange rate of the national currency of Ukraine to the monetary units of other states;
– carry out accounting and settlements for granted and received state credits and loans, carry out operations with centralised monetary resources allocated from the State Monetary Fund of Ukraine to the disposal of the National Bank of Ukraine;

– act as a guarantor for loans granted to foreign economic activity entities by foreign banks, financial and other international organisations against the State Monetary Fund and other state property of Ukraine;

– perform other functions under the Law of Ukraine “On Banks and Banking” and other laws of Ukraine. The National Bank of Ukraine may delegate the bank's functions assigned to it for the foreign economic activity of Ukraine.

Central executive authority in charge of shaping and implementing state policy in the field of economic development shall (the Ministry of Economy of Ukraine):

– ensure the implementation of a unified foreign economic policy when the foreign economic activity entities enter the foreign market, coordination of their foreign economic activity, including under international agreements of Ukraine;

– exercise control over the compliance with the current laws of Ukraine and the terms of international agreements of Ukraine by all foreign economic activity entities;

– conduct anti-dumping, anti-subsidised and special investigations in accordance with the procedure established by the laws of Ukraine;

– perform other functions under the laws of Ukraine and the Regulation on the central executive authority in charge of shaping and implementing state policy in the field of economic development.

The customs authorities shall:

– exercise customs control in Ukraine under the current laws of Ukraine.

The Antimonopoly Committee of Ukraine shall:

– exercise control over the compliance with the legislation on protection of economic competition by foreign economic activity entities.

The Interdepartmental Commission on International Trade shall:

– carry out operative state regulation of foreign economic activity in Ukraine under the legislation of Ukraine;

– make decisions on initiation and conduction of anti-dumping, anti-subsidised and special investigations and application of anti-dumping, compensation or special measures respectively;

– make decisions on the application of measures in response to discriminatory and/or unfriendly actions of other states, customs unions or economic groups within the competence defined by the laws of Ukraine.

In order to ensure the implementation of the state economic policy, the Cabinet of Ministers of Ukraine approved the **National Economic Strategy** until 2030 (hereinafter - the Strategy) by its Resolution № 179 of March 3, 2021.

The strategic objectives under direction 5. "International economic policy and trade". Strategies are defined:
1. Ensuring mutually beneficial trade with the countries of the world and achieving increased access to foreign markets;

2. Increasing the competitiveness of Ukrainian goods and services, creating a positive image of the country and ensuring the presence of Ukrainian producers in international markets;

3. Modernization of border infrastructure and ensuring effective customs regulations;

4. Implementation of a balanced import policy with a comprehensive assessment of the potential impact, stimulating mainly investment rather than consumer imports.

The ways to achieve strategic goal 1 "Ensure mutually beneficial trade with the countries of the world and achieve enhanced access to foreign markets" are defined:

1. Deepening relations with the EU and NATO;
2. Broader participation in regional projects;
3. Strengthening trade and economic ties with countries around the world;
4. Protection of state-owned producers in foreign markets.

The ways of achieving strategic goal 2 "Increasing the competitiveness of Ukrainian goods and services, creating a positive image of the country and ensuring the presence of Ukrainian producers on international markets":

1. The development and implementation of an export strategy;
2. Improving the image of Ukrainian producers;
3. Increasing the representation of Ukraine's interests abroad;
4. Informational support of export and development of exporters' business skills;
5. Promotion of Ukrainian producers of high value added products;
6. Development of an export credit agency.

The ways of achieving strategic goal 3 "Modernization of the border infrastructure and ensuring effective customs regulation" are defined as follows:

1. Modernization of border checkpoints;
2. Development of the customs control system and registry;
3. Improvement of the "Single Window for International Trade" mechanism;
4. Upgrading of innovation infrastructure;
5. Development of telecommunications and information-technological systems;
6. Increase of information security;
7. Optimization of organizational and functional structure of customs;
8. Bringing the legislation into conformity with the EU legislation in the customs sphere.

The ways of achieving strategic goal 4 "Introduction of balanced import policy with a comprehensive assessment of the potential impact, stimulating mainly investment rather than consumer imports" are defined as follows:
1. Application of trade protection instruments;

2. Optimization of customs tariff and non-tariff restrictions

The Strategy is the basis for the development of action plans, draft program and strategic documents, draft laws and other legislative acts by ministries, other central authorities. Activities to implement the ways to achieve the strategic goals and respective tasks of the state economic policy defined by the Strategy are included in the action plans of the Cabinet of Ministers of Ukraine. The program and strategic documents of the Cabinet of Ministers of Ukraine, action plans of ministries and other central executive bodies are aligned with the Strategy (if necessary) and are implemented taking into account the priority of achieving the strategic goals determined by the Strategy.

Monitoring of the state of implementation of the Strategy is conducted on a single web portal of e-government by summarizing information on the progress of its implementation and analysis of the degree of achievement of certain target indicators in the reporting period. The results of the monitoring are taken into account in the development of measures to implement the ways of achieving the strategic objectives and relevant objectives of the state economic policy for the planning period defined by the Strategy.

The results of monitoring of the implementation of the Strategy are reviewed quarterly at the meeting of the Cabinet of Ministers of Ukraine. The Strategy will be reviewed in 2024 and 2027, taking into account the results of its implementation. The Secretariat of the Cabinet of Ministers of Ukraine provides organizational and methodological support and overall coordination of implementation, monitoring of the state of implementation and review of the Strategy.

According to the Regulation, approved by the Cabinet of Ministers of Ukraine on August 20, 2014 № 459, the Ministry of Economy of Ukraine (Ministry of Economy) is the main body in the system of central executive authorities, providing, among other things, the formation and implementation of state policy of economic, social development and trade.

The main tasks of the Ministry of Economy include ensuring the formation and implementation of:

- state policy of economic and social development;
- state pricing policy;
- state policy in the field development entrepreneurship;
- public procurement policy;
- public policy in the sphere of public-private partnership;
- public investment policy, including the management of public investments;
- public policy of creation and functioning of industrial parks;
- public policy in the sphere of state market supervision;
- public policy on cooperation of Ukraine with the EU in the field economy, trade and agriculture development;
- unified foreign economic policy, policy of integration of national economy into the world economy, cooperation with WTO, protection of national manufacturer on domestic and foreign markets and others.
Apart from the Ministry of Economy, there are various other institutions implementing the trade policy regime:

- Ministry of Finance (ensures international cooperation and the implementation of foreign policy within the limits of the authority provided for by law);
- Ministry of Agrarian Policy and Food (takes part in the activities of international organisations, in particular WTO committees, within the limits of the powers provided for by law);
- Ministry of Energy (prepares investment projects supported by international financial institutions and supervises their implementation in the fuel and energy sector);
- Ministry of Infrastructure (ensures the elaboration and implementation of public policy on trade maritime affairs).

b) Ukraine's national tariffs (preferably all in one excel document in electronic format. See also Chapter 29 on customs union);

National tariff based on HS 2017.
Average tariff (2021) – 2.07%
Average bound tariff - 6.1%, in agriculture -10.8%; non-agricultural – 4.9%

Ukraine's national tariffs - customs tariff of Ukraine (file Tariff UA 2021-01.07.2021.xlsx) is attached https://drive.google.com/drive/folders/1evPXNtlZUZ1r18P9xaFpcydhyGZijOOsV?usp=sharing

c) Quantitative restrictions applicable in Ukraine, if any.

Article 16 of the Law of Ukraine “On foreign economic activities”, which was brought into line with WTO rules and norms during the negotiation process on Ukraine’s accession to the WTO, provides that the decision to apply the licensing regime for exports (imports) of goods, including quotas (quantitative or other restrictions), is adopted by the Cabinet of Ministers of Ukraine at the request of the Ministry of Economy, which contains the list of goods exports (imports) of which is the subject to licensing, the period of licensing, quantitative or other restrictions on each product.

In connection with the above, the Government of Ukraine annually approves lists of goods, exports and imports of which are subject to licensing, and quotas. Lists of goods, export and import of which are subject to licensing, and quotas for 2022, were approved by the Regulation of the Cabinet of Ministers of Ukraine on 29.12.2021 No. 1424 (as amended by the regulations of the Cabinet of Ministers of Ukraine on 05.03.2022 No. 207, on 12.03.2022 No. 259, on 24.03.2022 No. 353, on 24.03.2022 No. 352 and on 09.04.2022 No. 422). According to this regulation in 2022 in Ukraine were introduced:

1) licensing and quotas for the export of gold, silver, waste and scrap of precious metals (Annex 1);

2) licensing for the export and import of ozone-depleting substances and fluorinated greenhouse gases and goods that may contain them, in pursuance of the Montreal Protocol on Substances that Deplete the Ozone Layer (Annexes 2, 3);

3) licensing for the imports of certain types of agricultural products in pursuance of the Free Trade Agreement between the Republic of Macedonia and Ukraine of January 18, 2001 (Annex 4);
4) licensing for the export of anthracite in order to prevent the uncontrolled export of strategically important coal from the country and ensure balance in the energy sector and in connection with the military aggression of the Russian Federation against Ukraine and the imposition of martial law in Ukraine in accordance with Presidential Decree of 24.02.2022 № 64/2022, in order to prevent the humanitarian crisis in Ukraine, a regime of licensing and quotas for exports from Ukraine of certain items of food and mineral fertilizers were introduced (Annex 5).

Also, in order to protect national producers in the domestic market from dumping, subsidized and growing imports the Ministry of Economy ensures the use of trade defence instruments. Based on the results of trade investigations (anti-dumping, special, anti-subsidy), special types of duties (anti-dumping, safeguard, countervailing) on imports of goods into Ukraine may be established and/or a quota regime for imports to Ukraine may be introduced. In particular, as of April 19, 2022, there are special measures for imports of sulfuric acid and oleum into Ukraine (code according to UKTZED 2807 0000 00) regardless of the country of origin and exports, which are applied by introducing imports quotas in the following volumes:

1) in the first annual period beginning on 01.09.2021 and ending on 31.08.2022 for all countries - 55 427 tons;
2) in the second annual period, starting from 01.09.2022 and ending on 31.08.2023 for all countries - 63 741 tons;
3) in the third annual period, starting from 01.09.2023 and ending on 31.08.2024 for all countries - 73 302 tons.

Information (List of quantitative restrictions that are currently in force) in the application https://drive.google.com/drive/folders/1ZgyY1chcLweSf85HXniqJ_kZaLPt28ez?usp=sharing

2. Please provide Ukraine's latest trade data (import and export) in electronic format, following the most recent tariff structure

1FOREIGN TRADE IN GOODS AND SERVICES

In 2021 exports of goods amounted to USD 68089.3 million, imports - USD 72816.8 million. Compared to 2020, exports of goods increased by 38.4% (by USD 18897.5 million), imports of goods - by 34.0% (by USD 18,4807 million). The negative balance amounted to $ 4,727.5 million. (in 2020, it is also negative – USD 5,144.3 million).

Growth rate (decrease) in exports and imports of goods

in 2021

(in % to the corresponding period of the previous year, incremental total)

1 Statestistics
The coverage ratio for import exports was 0.94 (in 2020 – 0.91).

Foreign trade operations were conducted with partners from 235 countries of the world.

Information on the indicators of foreign trade in goods with the largest trading partners in 2021. is listed in the table.

<table>
<thead>
<tr>
<th></th>
<th>Export</th>
<th>Import</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>million USD</td>
<td>in % to 2020</td>
</tr>
<tr>
<td><strong>Amount</strong></td>
<td>68089,3</td>
<td>138,4</td>
</tr>
<tr>
<td>including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austria</td>
<td>915,2</td>
<td>157,8</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>394,9</td>
<td>113,9</td>
</tr>
<tr>
<td>Belgium</td>
<td>659,2</td>
<td>117,5</td>
</tr>
<tr>
<td>Belarus</td>
<td>1479,7</td>
<td>110,8</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>835,3</td>
<td>163,3</td>
</tr>
<tr>
<td>Egypt</td>
<td>1944,6</td>
<td>120,2</td>
</tr>
<tr>
<td>India</td>
<td>2494,4</td>
<td>126,5</td>
</tr>
<tr>
<td>Indonesia</td>
<td>809,9</td>
<td>110,1</td>
</tr>
<tr>
<td>Spain</td>
<td>1676,9</td>
<td>134,1</td>
</tr>
<tr>
<td>Italy</td>
<td>3469,3</td>
<td>179,9</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>439,7</td>
<td>130,8</td>
</tr>
<tr>
<td>China</td>
<td>8003,6</td>
<td>112,7</td>
</tr>
</tbody>
</table>
Exports of goods to the Countries of the European Union (EU) compared to 2020. increased by 49.4% and amounted to USD 26794.7 million, or 39.4% of its total.

The largest share of the export to the EU countries had: products of the agro-industrial complex and the food industry 28.6% of its total volume, base metals, and products from them - 23.7%, mineral products - 14.5%, mechanical and electric machines - 11.9%.

Among the EU member states, goods were exported the most to Poland, Italy, Germany, and the Netherlands, among other countries of the world - to China, Turkey, the Russian Federation, India and Egypt.

Compared to 2020 among the largest partner countries, exports of goods increased to Italy by 79.9%, the Czech Republic - by 71.2%, Turkey - by 70.0%, the United States - by 64.9%, Poland - by 59.7%, Romania - by 42.8%, Germany - by 38.4%, Spain - by 34.1%, Hungary – by 28.4%, India – by 26.5%, the Russian Federation – by 26.2%, the Netherlands – by 25.5%, Egypt – by 20.2%, China – by 12.7%.

Import of goods from EU countries against 2020 increased by 25.2% and amounted to USD 28946.1 million, or 39.8% of its total.
The largest share in the import of goods from the EU countries had: mechanical and electric machines - 20.3%, chemical and related industries - 18.3%, agricultural products, and food industry - 13.0%, land transport, aircraft, floating means – 12.2%, mineral products – 11.2%, polymeric materials, plastics and products from them – 7.7%.

Among the EU countries, the largest import supplies of goods came from Germany, Poland, Italy, and France, among the countries of the rest of the world - from China, the Russian Federation, Belarus, the United States, Turkey and Switzerland.

Compared to 2020 imports of goods increased from Switzerland by 185.0%, Belarus – by 67.8%, Lithuania – by 58.7%, the Czech Republic – by 54.0%, the United Kingdom of Great Britain and Northern Ireland – by 51.8%, Turkey – by 34.7%, the Russian Federation – by 33.9%, China – by 31.9%, Italy – by 25.7%, France – by 20.2%, Poland – by 19.8%, Germany – by 17.7%, Japan – by 14.0%, Hungary – by 12.2% and the USA – by 8.6%,” decreased from Slovakia by 19.3%.

Information on the most important commodity groups in the structure of Ukraine's foreign trade in 2021 is given in the table.

<table>
<thead>
<tr>
<th>Name of Goods</th>
<th>Section and code of UC GFEA</th>
<th>Export</th>
<th>Import</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>million USD</td>
<td>in % to 2020</td>
</tr>
<tr>
<td>Amount</td>
<td></td>
<td>68089,3</td>
<td>138,4</td>
</tr>
<tr>
<td>including</td>
<td></td>
<td>72816,8</td>
<td>134,0</td>
</tr>
<tr>
<td>products of plant origin</td>
<td>II</td>
<td>15538,3</td>
<td>130,8</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2129,6</td>
<td>107,1</td>
</tr>
<tr>
<td>of them</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>cereal culture</td>
<td>10</td>
<td>12343,9</td>
<td>131,2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>166,1</td>
<td>92,8</td>
</tr>
<tr>
<td>fats and oils of animal or vegetable origin</td>
<td>III. 15</td>
<td>7037,3</td>
<td>122,5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>444,2</td>
<td>158,4</td>
</tr>
<tr>
<td>ready-made foodstuffs</td>
<td>IV</td>
<td>3788,9</td>
<td>112,7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3575,9</td>
<td>120,4</td>
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<tr>
<td>mineral products</td>
<td>In</td>
<td>8414,4</td>
<td>157,8</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14969,6</td>
<td>173,4</td>
</tr>
<tr>
<td>of them</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Products</td>
<td>Line</td>
<td>Value1</td>
<td>Value2</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>Fuel, mineral; oil and its products, distillation</td>
<td>27</td>
<td>784,3</td>
<td>141,3</td>
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<tr>
<td>Products of chemical and related industries</td>
<td>VI</td>
<td>2816,4</td>
<td>139,4</td>
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<tr>
<td>Pharmaceuticals</td>
<td>30</td>
<td>316,2</td>
<td>117,9</td>
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<tr>
<td>Fertilizers</td>
<td>31</td>
<td>622,5</td>
<td>165,0</td>
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<tr>
<td>Base metals and products from them</td>
<td>XV</td>
<td>15992,5</td>
<td>177,1</td>
</tr>
<tr>
<td>Ferrous metals</td>
<td>72</td>
<td>13951,3</td>
<td>181,4</td>
</tr>
<tr>
<td>Machinery, equipment and mechanisms; electrical equipment</td>
<td>XVII</td>
<td>5272,8</td>
<td>117,5</td>
</tr>
<tr>
<td>Nuclear, boilers, machinery</td>
<td>84</td>
<td>2121,5</td>
<td>110,8</td>
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<tr>
<td>Electric machinery</td>
<td>85</td>
<td>3151,3</td>
<td>122,5</td>
</tr>
<tr>
<td>Means of ground transport, aircraft, floating means</td>
<td>XVII</td>
<td>676,4</td>
<td>89,4</td>
</tr>
<tr>
<td>Tools, ground transport, except train</td>
<td>87</td>
<td>166,6</td>
<td>143,7</td>
</tr>
</tbody>
</table>
The basis of the commodity structure of exports were base metals and products from them, products of plant origin, mineral products, fats and oils of animal or vegetable origin, mechanical and electric machines, finished food products, chemical, and related industries, and wood and wood products.

Compared to 2020, in the structure of exports of goods increased the share of ferrous metals from 15.6% to 20.5%, ores, slag, and ash – from 9.0% to 10.5%. from 11.7% to 10.3%, electric cars – from 5.2% to 4.6%, mechanical machines – from 3.9% to 3.1%.

The basis of the commodity structure of imports were mineral products, mechanical and electrical machines, products of chemical and related industries, land transport, aircraft, floating means, polymeric materials, plastics and products from them, base metals and products from them, finished food products, textile materials, and textiles and products of plant origin.

Compared to 2020 the structure of imports of goods increased the share of mineral fuel; oil and its distillation products from 14.7% to 19.7%, plastics, polymeric materials – from 4.6% to 4.9%. The share of mechanical machines decreased from 11.2% to 11.0%, land transport, except rail, from 10.1% to 9.7%, electric cars from 10.1% to 8.5%, pharmaceutical products from 4.6% to 4.2%.

The price index of foreign trade in goods (December 2021 to December 2020) in exports amounted to 133.6%, in imports - 135.9%.

Information on the regions of Ukraine, whose enterprises carried out foreign trade in goods in 2021, is given in the table.

<table>
<thead>
<tr>
<th>Amount</th>
<th>Export</th>
<th>in % to 2020</th>
<th>in % to the total volume</th>
<th>Import</th>
<th>in % to 2020</th>
<th>in % to the total volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>68089,3</td>
<td>138,4</td>
<td>100,0</td>
<td>72816,8</td>
<td>134,0</td>
<td>100,0</td>
<td></td>
</tr>
<tr>
<td>Autonomous Republic of Crimea</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Vinnytsia region</td>
<td>1309,5</td>
<td>95,0</td>
<td>1,9</td>
<td>698,6</td>
<td>126,0</td>
<td>1,0</td>
</tr>
<tr>
<td>Volyn region</td>
<td>832,8</td>
<td>129,5</td>
<td>1,2</td>
<td>1812,7</td>
<td>137,8</td>
<td>2,5</td>
</tr>
<tr>
<td>Dnipropetrovsk region</td>
<td>12164,4</td>
<td>160,2</td>
<td>17,9</td>
<td>5869,7</td>
<td>126,7</td>
<td>8,1</td>
</tr>
<tr>
<td>Donetsk region</td>
<td>7038,3</td>
<td>178,9</td>
<td>10,3</td>
<td>1891,5</td>
<td>130,8</td>
<td>2,6</td>
</tr>
<tr>
<td>Zhytomyr region</td>
<td>771,6</td>
<td>113,3</td>
<td>1,1</td>
<td>688,9</td>
<td>130,6</td>
<td>0,9</td>
</tr>
<tr>
<td>Zakarpattia region</td>
<td>1684,8</td>
<td>124,9</td>
<td>2,5</td>
<td>1696,7</td>
<td>135,2</td>
<td>2,3</td>
</tr>
<tr>
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In 2021, exports of services amounted to USD 13156.5 million, imports of services – USD 7593.4 million. Compared to 2020, exports of services increased by 14.2% (by USD 1,635.3 million), imports of services – by 32.9% (by USD 1880.9 million). The positive balance amounted to USD 5563.1 million. (in 2020, USD 5808.7 million was also positive).

**Growth rate (decrease) in export-import services**

**in 2020-2021**

(in % to the corresponding period of the previous year, incremental total)
The coverage ratio for import exports was 1.73 (in 2020 – 2.02).

Foreign trade operations were conducted with partners from 220 countries of the world.

Information on the indicators of foreign trade in services with the largest trading partners in 2021 is given in the table.

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<td>in % to the total volume</td>
<td>million USD</td>
<td>in % to 2020</td>
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Exports of services to the European Union (EU) increased by 17.5% compared to 2020 and amounted to USD 4,494.2 million, or 34.2% of its total.

The largest share in the export of services to the EU countries had: transport services 29.6% of the total exports to these countries, services in the field of telecommunications, computer and information services - 27.9%, material processing services - 21.3%, business - 13.2%.

Among the EU member states, the largest operations on the export of services were carried out with Germany, Poland, Cyprus, and the Netherlands, with the Federation of other countries of the world – with Russian Federation, the USA, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United Arab Emirates, Turkey, and Israel.

Compared to 2020, among the largest partner countries, exports of services increased to Egypt by 5.3 times, Turkey by 2.6 times, Malta by 74.9%, Israel by 72.6%, Switzerland by 49.1%, the
United States by 34.0%, and the United Kingdom of Great Britain and Northern Ireland by 26.2%, while decreasing to the British Virgin Islands by 36.5%, Estonia by 29.8%, and the Russian Federation by 26.6%

Import of services from EU countries against 2020 increased by 34.3% and amounted to USD 3232.8 million, or 42.6% of its total.

The largest share in the import of services from the EU countries had: transport services of 25.5%, of the total volume of imports from these countries, business - 19.4%, related to travel - 15.6%, royalties and other services related to the use of intellectual property - 12.2%, telecommunications services, computer and information services - 11.6%.

Among the EU countries, the largest operations to import services were carried out with Germany, Ireland, Cyprus, Poland, and Malta, among other countries of the world - with Turkey, the United States, the United Kingdom of Great Britain and Northern Ireland, China and Switzerland.

Compared to 2020, imports of services increased from Egypt – by 2.3 times, Turkey – by 2.1 times, Malta – by 2.0 times, China – by 51.5%, Cyprus – by 43.4%, Ireland – by 42.8%, the USA – by 13.6%. In contrast, a decrease in imports of services was observed from Canada – by 2.6 times and Hungary – by 29.3%.

Information on the structure of foreign trade in services of Ukraine in 2021 is given in the table.

| Service name according to KZEP | Service code under CFES | Export | | | Import | |
|---|---|---|---|---|---|---|---|
| | | million USD | in % to 2020 | in % to the total volume | million USD | in % to 2020 | in % to the total volume |
| Amount | 13156,5 | 114,2 | 100,0 | 7593,4 | 132,9 | 100,0 |
| services for the processing of material resources | 01. | 1528,0 | 113,0 | 11,6 | 10,2 | 337,1 | 0,1 |
| repair and maintenance services that are not classified in other categories | 02. | 298,8 | 126,3 | 2,3 | 75,0 | 122,1 | 0,7 |
| transport services | 03. | 5314,7 | 106,5 | 40,4 | 1733,7 | 163,4 | 22,8 |
| travel-related services | 04. | 337,4 | 128,1 | 2,6 | 1578,0 | 224,5 | 20,8 |
| construction services | 05. | 53,6 | 71,1 | 0,4 | 52,6 | 132,9 | 0,7 |
| insurance services | 06. | 121,2 | 208,2 | 0,9 | 129,7 | 102,2 | 1,7 |
The basis of the structure of export of services in 2021 was transport services, which occupied 40.4% of total exports, telecommunications services, computer and information services - 29.3%, material resource processing services - 11.6% and business - 10.9%.

Compared to 2020 the structure of export of services increased the share of services in the field of telecommunications, computer and information – from 26.5% to 29.3%. Instead, the share of transport services decreased from 43.3% to 40.4%.

The basis of the structure of import of services in 2021. transport services, which occupied 22.8% of the total imports related to travel – 20.8%, business – 14.7%, and state and government – 14.5%.

In the import of services increased the share of such types as travel-related services – from 12.3% to 20.8% and transport – from 18.6% to 22.8%. The share of state and government services decreased from 19.9% to 14.5% and business services from 17.4% to 14.7%.

Information on the regions of Ukraine, whose enterprises carried out foreign trade in services, in 2021 is given in the table.

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<th>Export</th>
<th>Import</th>
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<td>in % to 2020</td>
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Amount | 13156,5 | 114,2 | 100,0 | 7593,4 | 132,9 | 100,0 |
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<th>Value 4</th>
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B. Generalised System of Preferences (GSP)

3. What would be the impact on Ukraine of the adoption of the EU’s GSP scheme?
To consider the impact of the EU’s GSP scheme on Ukraine, a special study would be required. At the request of the European Commission, Ukraine is ready to undertake the study, but this kind of analysis requires time and additional resources.

*For reference:*

Since January 1, 2016, the terms of trade between Ukraine and the EU are regulated by the provisions of Section IV "Trade and Trade-Related Matters" of the Association Agreement between Ukraine, of the one part, and the European Union and the European Atomic Energy Community and their Member States, of the other part (the regime of provisional application was in force from January 1, 2016 to August 31, 2017). On September 1, 2017 the Association Agreement entered into full force. With the entry into force of the Association Agreement, the EU GSP does not apply to Ukraine.

Article 4, paragraph 1(b) of EU Regulation No 978/2012 defines that the GSP does not apply to developing countries, as well as those which would benefit from preferential access to the EU market which provides the same or a better level of preferences than the GSP. Article 5, paragraph 2(b) defines that after 2 years from the date of application of other preferential access to the EU market, including free trade, the decision is taken to remove the country from the list of countries covered by the GSP.

EC Regulation No 2017/217 of 05.12.2016 amending Annex II of EU Regulation No 978/2012 on the application of the EU Generalised System of Tariff Preferences (GSP) to third countries, which, inter alia, excludes Ukraine from the list of countries covered by the GSP regime, was published on the official EU legislative website.

C. Trade Defence Instruments

4. Please provide copies, preferably in English (if available), of the relevant legislation in force concerning anti-dumping, anti-subsidy and safeguard measures.

The application of trade defence instruments in Ukraine is regulated by the following regulations:


Law of Ukraine “On protection of the national producer against subsidized imports” of December 22, 1998 No. 331-XIV;

Law of Ukraine “On the application of safeguard measures against imports into Ukraine” of 22.12.1998 No. 332-XIV.

In the EU, legal relations which are similar to those regulated by:

Law of Ukraine “On protection of the national producer against dumped imports”, are covered by the provisions of the Regulation of the European Parliament and of the Council (EU) No. 2016/1036 of June8, 2016 on protection against dumped imports from countries not members of the European Union (Official Journal L 176/21, 30.06.2016);
Law of Ukraine “On protection of the national producer against subsidized imports” are covered by the provisions of the Regulation of the European Parliament and of the Council (EU) No. 2016/1037 of June 8, 2016 on protection against subsidized imports from countries not members of the European Union (Official Journal L 176/55, 30.06.2016);


The protection of the rights and interests of Ukraine in the trade and economic sphere on the foreign markets is regulated by:

Law of Ukraine “On foreign economic activities” of April 16, 1991 No. 959-XII;

Regulation of the Cabinet of Ministers of Ukraine “On the approvement of procedure of conducting investigations aimed at establishing facts of discriminatory and/or hostile actions of other states, customs unions or economic groups concerning legitimate rights and interests of business entities of Ukraine” of November 22, 1999 No. 2120 (not applicable to WTO members);

Regulation of the Cabinet of Ministers of Ukraine “On the approvement of the procedure of protection of the interests of domestic producers within antidumping, safeguard or anti-subsidy investigations conducted by foreign states, their economic or customs associations, concerning imports of goods of Ukrainian origin” of June 7, 2006 No. 801.

Information (NOTIFICATIONS OF LAWS ON TRADE DEFENCE (AD AS SI) in the appendix https://drive.google.com/drive/folders/1oKMuvRWbN4cWj8BRsX7KRu71fghSV_lO?usp=sharing

D. Administrative Capacity

5. Please provide information on administrative structure and functioning of Ukraine's national authority dealing with Commercial Policy.

According to the Regulation, approved by the Cabinet of Ministers of Ukraine on August 20, 2014 № 459, the Ministry of Economy of Ukraine (Ministry of Economy) is the main body in the system of central executive authorities, providing, among other things, the formation and implementation of state policy of economic, social development and trade.

The main tasks of the Ministry of Economy include ensuring the formation and implementation of:

- state policy of economic and social development;
- state pricing policy;
- state policy in the field development entrepreneurship;
- public procurement policy;
· public policy in the sphere of public-private partnership;
· public investment policy, including the management of public investments;
· public policy of creation and functioning of industrial parks;
· public policy in the sphere of state market supervision;
· public policy on cooperation of Ukraine with the EU in the field economy, trade and agriculture development;
· unified foreign economic policy, policy of integration of national economy into the world economy, cooperation with WTO, protection of national manufacturer on domestic and foreign markets
· and others.

The Ministry of Economy is the central body of executive power, the activity of which is directed and coordinated by the Cabinet of Ministers of Ukraine. The Ministry of Economy is headed by a Minister, who is appointed by the Prime Minister of Ukraine and dismissed by the Supreme Council of Ukraine.

The Minister has a first deputy (in particular, the Deputy Trade Representative of Ukraine, whose powers are determined by the Cabinet of Ministers of Ukraine), who are appointed and dismissed by the Cabinet of Ministers of Ukraine on the recommendation of the Prime Minister of Ukraine in accordance with the proposals of the Minister. The powers of the head of the civil service in the Ministry of Economy are exercised by the State Secretary of the Ministry of Economy.

The main departments, the competence of which includes the development of trade relations, currently in the Ministry of Economy are:

· Department for international economic, trade and agricultural cooperation;
· Department of Interaction with Exporters and Export Promotion;
· Department of Multilateral and Bilateral Trade Agreements;
· Department of Foreign Economic Activity and Trade Protection
· and others.
E. Dual use items

6. Does Ukraine apply export controls on dual use items? Please provide the Commission with the texts, preferably in English (if available), of the relevant legislation and summarise the main features of the underlying policy, including the control procedures and assessment criteria scope of legislation and administrative structure/decision-making process of the competent authority and its cooperation with other bodies, Please explain what items fall under Ukraine's dual use legislation and on which basis Ukraine compiles this list.

Does Ukraine apply export controls on dual use items?

Ukraine controls export, reexport, import, temporary export, temporary import, transit, and technical assistance/services of dual-use items, software and technologies. We adhere to all major international export controls regimes, such as the Australia Group, the Wassenaar Arrangement, the Nuclear Suppliers Group, and the Missile Technology Control Regime.

Ukraine is also a signatory to the following treaties:

- the Nuclear Non-Proliferation Treaty;
- the Chemical Weapons Convention;
- the Biological Weapons Convention;

Please provide the Commission with the texts, preferably in English (if available), of the relevant legislation and summarise the main features of the underlying policy, including the control procedures and assessment criteria scope of legislation and administrative structure/decision-making process of the competent authority and its cooperation with other bodies.

In addition to abovementioned treaties, two key pieces of legislations regulate export controls on dual use items:


The State Service for Export Control of Ukraine (SSECU) is a central government agency whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the First Deputy Prime Minister of Ukraine - Minister of Economy of Ukraine and which implements public policy of state export control.

Ministry of Economy is tasked with formulating public policy of state export control and is considered to be the main policy-making body.

Other relevant government bodies can also participate in the process of determining whether or not any legal entity receives the right to transfer controlled goods. These may include the Ministry of
Defence, the Ministry for Strategic Industries, the Ministry of Foreign Affairs, the Security Service of Ukraine and other intelligence agencies.

Regarding the specifics of policy, Ukraine has adopted a policy of complete convergence with EU. Whenever the EU makes changes in this field, Ukraine tries the mirror new policies and approaches in its own legislation.

**Please explain what items fall under Ukraine's dual use legislation and on which basis Ukraine compiles this list.**

Further details about definitions and specific items that fall under Ukraine’s dual-use legislation can be found in the text of the Law and the Decree.

Ukraine compiles the list of dual-use items by following the guidelines of international export controls regimes to which it is a party. We are also closely monitoring lists of the EU and the US to make timely and relevant changes.

Ukraine does apply export controls on dual use items.

The main laws and regulations governing export control of dual use items are as follows:

- Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods” of February 20, 2003 No. 549 (attached);
- Decree of the Cabinet of Ministers of Ukraine dated 28.01.2004 No. 86 “On approval of the Procedure for state control over international transfers of dual-use items” (attached);
- Decree of the Cabinet of Ministers of Ukraine of June 6, 2012 No. 500 “On approval of the Procedure for state export control over the negotiations on concluding foreign trade agreements (contracts) for the export of goods” (attached);
- Decree of the Cabinet of Ministers of Ukraine of May 27, 1999 No. 920 “On approval of the Procedure for issuing guarantees and exercising state control over the fulfilment of obligations on the proper use of goods subject to state export control” (attached);
- Decree of the Cabinet of Ministers of Ukraine dated 15.07.1997 No. 767 “On approval of the Procedure for the examination in the field of state export control” (attached only in Ukrainian);
- Decree of the Cabinet of Ministers of Ukraine dated 17.07.2003 No. 1080 “On approval of the state certification of internal compliance program established by business entity involved in international transfers of goods” (attached only in Ukrainian).

The Law provides for definitions for “dual-use goods” and “dual-use services” which are as follows:

* **dual-use goods** - certain types of products, equipment, materials, software and technologies that are not specially designed for military use, as well as related services (technical assistance), which, apart from civil use, can be used for military or terrorist purposes or for the development, production, use of military goods, weapons of mass destruction, their means of delivery, or nuclear explosive devices, including certain types of nuclear materials, chemicals, bacteriological, biological, and toxic substances/agents according to the list established by the Cabinet of Ministers of Ukraine.
**Dual-use services** (technical assistance) - provision of technical support to foreign legal entities or foreign individuals in or outside Ukraine in connection with repair, development, production, use, compilation, testing, modification, upgrading, maintenance, including designer and warranty supervision, or any other maintenance of systems, equipment, and their components, software, and technologies being subject to state export control. A service (technical assistance) may take forms such as instruction, skills, training, working knowledge, consulting services and may involve transfer of technical data.

The Law authorizes the State Service of Export Control of Ukraine (SSECU) to compile the control list of dual-use goods with the involvement of other state agencies, industry, academic institutions, organizations, and associations.

The Cabinet of Ministers of Ukraine is authorized to approve control list of dual-use goods and to establish procedures for control of international transfers of dual-use goods.

The Law also provides for catch-all procedure for certain type of non-listed goods. International transfers of such goods are conducted under the procedure provided for dual-use goods.

The Law authorizes the SSECU to conduct necessary examination and take decisions on granting permits for international transfers of all controlled goods including dual-use goods. The Law determines main tasks for the examination in the field of state export control, which are as follows:

- to ensure national security interests, compliance with Ukraine’s international obligations related to: (1) nonproliferation of WMD and their means of delivery, (2) restriction of the transfers of conventional weapons and (3) prevention the use of goods for terrorist or other illegal purposes;
- to assess whether transfer of goods could contribute to creation of WMD, their means of delivery, conventional arms, military equipment;
- to conduct identification/classification of goods subject to national control lists based on their name and description submitted by applicant;
- to determine the origin of goods;
- to check availability of guarantees for the delivery of goods to a declared end-user and their use for stated purposes;
- to assess the compliance of business entities with the legislation on export controls, to establish the availability of appropriate Internal Compliance Programs (ICP) and proper internal organizational documents governing the operation of such programs;
- to determine possibility for granting permits for export/import/transit of goods, conducting negotiations related to the conclusion of foreign economic agreements (contracts) for export of goods, as well as to determine the feasibility of revoking or suspending such permits in case of violation of export control legislation;
- to determine possibility to grant import certificates to business entities, as well as to determine the feasibility of revoking or suspending such certificates in case of violation of export control legislation;
- to determine possibility to register with the SSECU business entities which intend to perform international transfers of goods;
- to determine if the goods belong to the material carriers of classified information.
When processing relevant applications and assessing risks of the transfers the SSECU and other state agencies involved take into account the criteria of the Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Structure of Ukrainian export control system is attached. Powers of the state agencies in the export control sphere are indicated in the article 6 of the Law.

The Law provides for the following main principles of state export control policy:

- legality;
- full compliance with Ukraine's international obligations of non-proliferation of weapons of mass destruction and their means of delivery, state control over the international transfers of military and dual-use goods, and prevention of use of the mentioned goods for terrorist and other illegal purposes;
- priority of national interests of the state (i.e. political, economic and military);
- application of the export control only to the extent needed to achieve its goals;
- harmonization of state export control procedures and rules with international legal norms and practice;
- cooperation with international organizations and foreign countries in the area of export control in order to strengthen the international security and stability, in particular, for countering proliferation of WMD and their means of delivery.

The Law and regulations in force provide for the following procedures for the state export control over dual-use goods:

- submitting application by business entities for registration with SSECU which includes preliminary classification of goods intended for international transfers;
  - registration of business entities with SSECU;
  - submitting application by business entities for obtaining a permit to conduct negotiations on concluding foreign trade agreements (contracts) for the export of dual use goods and other non-listed goods to foreign states under partial embargo;
  - submitting application by business entities for obtaining a permit for international transfer of dual-use goods;
  - examination and identification of goods by SSECU which are subject to control;
  - granting a permit for international transfer of dual-use goods;
  - customs control and customs clearance of goods in accordance with the customs legislation of Ukraine;
  - obtaining (issuance of), when necessary, appropriate guarantees concerning end user, consignee and destination of goods;
  - monitoring the end-use of goods by customers;
  - submitting written reports on actual international transfers of goods and the use of such goods in declared purposes;
According to the Decree of the Cabinet of Ministers of Ukraine, dated 28.01.2004 No. 86 export of dual-use goods requires obtaining of the relevant permit issued by the SSECU. Import permits are required only for goods specified in paragraph 12 of the abovementioned Decree (attached).

On 11 January 2018 the Cabinet of Ministers of Ukraine approved the Ukrainian Single List of Dual-use goods by Decree No. 1, which is in line with article 11 of the EU-Ukraine Association Agreement.

The Ukrainian Single List is based on the EU List of dual-use items annexed to the Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (recast - Regulation (EC) No. 2021/821).

The Ukrainian Single List also includes additional entries due to national security interests (attached).

To improve export control system and its procedures the SSECU is working on draft law amending the Law of Ukraine “On State Control over International Transfers of Military and Dual-use Goods” taking into account comments provided by the EU P2P Programme and the U.S. Department of State Export Control and Related Border Security (EXBS) Program, as well as new Regulation (EC) No. 2021/821.

Amendments, inter alia, provide for establishment of control over brokering services related to dual-use goods.

In addition, amendments to Decree of the Cabinet of Ministers of Ukraine of 28 June 2004 No. 86 are drafted to update the Single List of dual-use goods according to the latest Plenary decisions of multilateral export control regimes.

Export control legislation of Ukraine covers both international transfers of Military and Dual-Use Goods.

The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods” governs the activity associated with the state control over international transfers of military and dual-use goods for the purpose of protection of the national interests of Ukraine, its observance of international commitments related to the non-proliferation of weapons of mass destruction, their delivery systems, restrictions on the transfers of conventional weapons, as well as for the implementation of measures to prevent the use of those goods for terroristic and other unlawful purposes.

The general management of the government policy in the sphere of state export control pursuant to the Constitution of Ukraine is carried out by the President of Ukraine.

The National Security and Defense Council of Ukraine (NSDC) coordinates activities and monitor actions of the executive authorities in the sphere of state export control.

The Interagency Commission on the Military Technical Cooperation and Export Control Policy is the working body established by the NSDC. One of the main tasks of this Commission is to prepare proposals on conceptual framework, priorities and decisions on policy issues of military and technical cooperation and export control; to improve coordination and control over the activity of executive bodies in the field of state export control. The Commission includes senior management of
the Ministry of Economy of Ukraine, the Ministry of Strategic Industry of Ukraine, the Ministry of Defence of Ukraine, the Ministry of Foreign Affairs of Ukraine, the State Service for Export Control of Ukraine, the State Customs Service of Ukraine, the State Space Agency of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, Defence Intelligence of the Ministry of Defence of Ukraine, the State Concern “Ukrboronprom” and also representatives of the Verkhovna Rada of Ukraine, NSDC and the Office of the President of Ukraine.

The Procedure for State Control over the International Transfers of Dual-Use Goods approved by Decree No. 86 of the Cabinet of Ministers of Ukraine dated January 28, 2004 defines the procedures for state control over the international transfers of:

- dual-use goods entered into the Single List of Dual-Use Goods;
- goods not entered into the Single List of Dual-Use Goods, in the cases stipulated by Article 10 of the abovementioned Law ("catch-all" clause).

Ukraine, as a responsible participant of all international export control regimes, implies the best world practices into its national legislation. For example, one of the most important innovations recently was the implementation of the Single List of Dual-Use Goods pursuant to the Decree No. 1 of the Cabinet of Ministers of Ukraine dated January 11, 2018.

Decree No. 159 of the Cabinet of Ministers of Ukraine "On Approving the Regulation on the State Service for Export Control of Ukraine" dated March 31, 2015 (eng);

Decree No. 1228 of the Cabinet of Ministers of Ukraine "On Authorizing Business Entities to Export and Import Military Goods and Goods Containing State Secrets" dated July 12, 1999 (eng);

Decree No. 1807 of the Cabinet of Ministers of Ukraine "On Approving the Procedure for State Control over the International Transfers of Military Goods" dated November 20, 2003 (eng);


Following the practice primarily of the EU, the Single List of Dual-Use Goods was implemented pursuant to the Decree No. 1 of the Cabinet of Ministers of Ukraine dated January 11, 2018. This List corresponds to the EU practices as reflected in the Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (recast Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items).

This List, as well as the EU list of dual-use items, implements internationally agreed dual-use controls, including the the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group (AG) and the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction (CWC).

An international transfer of dual-use goods entered into the Single List of Dual-Use Goods may be carried out by a subject of international transfers of goods, the central executive authority, a military unit, a law enforcement agency, a civil defense body or division of Ukraine, a foreign participant of economic or other activity subject to a respective permit or authorization issued by the
State Service for Export Control, as specified in Article 15 of the Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”.

A permit or an authorization issued by the State Service for Export Control for the international transfer of any device, equipment or material, shall give the right to transfer a minimum necessary technology for the installation and operation of the goods as intended, including their maintenance and repair, in the amount and volumes stipulated by such permit or authorization. The quantity and volumes of such technology shall be limited to the information set out in the documents (certificate, data sheet) specially designed for certain goods by its developer or manufacturer and supplied along with those goods.

International transfers of goods that are physical data storage for information classified as the state secret shall be carried out in compliance with the requirements of the state secret protection law.

The detailed procedure is available at the interactive link: Decree No. 86 of the Cabinet of Ministers of Ukraine "On Approving the Procedure for State Control over the International Transfers of Dual-Use Goods" dated January 28, 2004 (eng).

7. Please explain if and how Ukraine is taking into consideration ongoing discussions in the framework of multilateral export control regimes (Australia Group, NSG, Wassenaar, MTCR).

Being a member state of all multilateral export control regimes Ukraine participates in their working bodies (information exchange groups, law enforcement, licensing and expert groups) to keep guidelines and control lists updated and relevant to current technological development and security environment.

Best practices and ideas from member states resulting from ongoing discussions in the framework of regimes are implemented in legal acts and administrative procedures.

Particular attention is paid to the compilation of the control lists. SSECU complies it with the input of industry, other state agencies, academic institutions, organizations and associations. The control lists are approved by the Cabinet of Ministers of Ukraine. SSECU updates the lists as necessary, primarily based on the decisions adopted during the plenary meetings of the regimes.

Technical proposals of the participating states are studied by the SSECU. The Ukrainian national control lists contain items that are subject to unilateral controls as well. These items include those that could be used in acts of terrorism as well as technical means for audio/video surveillance, explosives, and precursors to explosives.

In addition, SSECU, when considering proposals and amendments, cooperates with other ministries and agencies as follows: the Ministry of Economy, the Ministry of Defense, the Ministry of Foreign Affairs, which offers a political perspective, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, the Ministry of Finance, and the Ministry of Internal Affairs of Ukraine. The SSECU also seeks the input of the State Fiscal Service, the Aviation Service, the National Space Agency, the Ministry of Health and the Ministry of Justice, involved in the process of assessment of all draft legal acts concerned.

Providing for industry input to the contents of control lists is a valuable way to help ensure industry compliance with foreign trade regulations, to gain greater awareness of when items are becoming technologically obsolete and whose entries should be modified or removed, and to remain
abreast of new and emerging technologies that the government may wish to add to the list. In making industry part of the control list amendment process, a government provides industry the opportunity to voice concerns, prepare for new changes, and familiarize itself with the changes. These can help to facilitate and ensure the effectiveness of the trade authorization process. By addressing industry’s concerns in advance of the formal adoption of updates, the government can assist industry in understanding the changes and may be able to tailor some changes to balance technological realities with security interests.

Ukraine is a responsible participant in all international export control regimes: The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA); the Missile Technology Control Regime (MTCR); the Nuclear Suppliers Group (NSG) and the Zangger Committee (ZC); the Australia Group (AG).

Following the practice primarily of the EU, the Single List of Dual-Use Goods was implemented pursuant to the Decree No. 1 of the Cabinet of Ministers of Ukraine dated January 11, 2018. This List corresponds to the EU practices as reflected in the Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Ukrainian authorities are systematically and on a regular basis studying the world’s best practices in the field of export control, first and foremost the EU legislation.

For years, the bulk of this activity was focused on studying the Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, with the purpose of consequent implementation of its procedures, including unique control list, into national system of export control of Ukraine.

Currently, the relevant Ukrainian authorities, primarily the State Service for Export Control of Ukraine, are continuing careful consideration of the recast Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items, that contains important amendments to the respective export control procedures.

This work is aimed, inter alia, at the further implementing the abovementioned EU Regulation provisions into Ukrainian legislation.

This List, as well as the EU list of dual-use items, implements internationally agreed dual-use controls, including the WA, MTCR, NSG, AG and the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction (CWC).

F. Prevention of capital punishment and torture

8. Does Ukraine apply export controls on goods that could be used for capital punishment or torture or other cruel, inhuman or degrading treatment? Please provide the translated texts of the relevant legislation and list of goods.

The legislation of Ukraine does not provide for the death penalty under any circumstances, regardless of the crime committed (information provided by the Security Service of Ukraine).
Reference:

The legislation of Ukraine does not provide for the use of the death penalty in all circumstances, regardless of the crime committed.

The human being, his or her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value (Article 3 of the Constitution of Ukraine).


9. Does Ukraine apply other measures governing trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, and rules governing the supply of brokering services, technical assistance, training and advertising related to such goods? Please describe the measures in detail and if possible provide the translated texts, if they are not included in the translated text of the legislation mentioned in the previous question.

The legislation of Ukraine does not provide for the death penalty under any circumstances, regardless of the crime committed (information provided by the Security Service of Ukraine).

Reference:

The legislation of Ukraine does not provide for the use of the death penalty in all circumstances, regardless of the crime committed.

The human being, his or her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value (Article 3 of the Constitution of Ukraine).


G. Kimberley Process (conflict diamonds)

10. Does Ukraine support the main objective of the Kimberley Process Certification Scheme, namely to stem the flow of 'conflict diamonds', i.e. rough diamonds 'used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments'?

The Kimberley Process (KP) was established to find solutions to the international problem of diamonds originating in conflict zones and covers all interested participating countries engaged in diamond mining and its export-import operations.

Ukraine, which joined to the KP on January 1, 2003 and is still a member of the KP, supports this goal as part of the Kimberley Process Certification Scheme (in the following – KP CS) and the KP as a whole.
The State Gemological Center of Ukraine (in the following - SGC) (http://www.gems.org.ua/en/s1.htm; http://www.gems.org.ua/ukr/), which is under the jurisdiction of the Ministry of Finance of Ukraine, serves as the national responsible authority for the import and export of diamonds, acting in accordance with the KP CS and also as the official representative of Ukraine in the KP, the SGC regularly participates in the annual plenary sessions and other activities of the KP and also represents Ukraine in the working group of the KP The Working Group of Diamond Experts (WGDE).

On March 14, 2022 the Kimberley Process Civil Society Coalition (KP CSC) appealed to all KP participants and observers with a proposal to create a coalition of states to initiate the KP Special Session on russian diamonds used to incite conflict, and published this appeal on the KP CSC website https://cutt.ly/mFwv0ha. Ukraine, represented by the SGC, fully supported this proposal.

11. Does Ukraine apply any measures to exclude ‘conflict diamonds’ from the legitimate trade?

Ukraine, as a member state of the KP, applies all necessary measures provided for by the KP CS. At the legislative level, Ukraine has defined all the formalities for the operation of the KP CS.

Part 2 of Article 18 of the Law of Ukraine “On State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Operations with Them” provides that in Ukraine, in accordance with the procedure established by the law, state control over diamond operations is carried out in accordance with the requirements of the KP CS.

In order to meet the international requirements in the field of diamond trade in accordance with the KP CS adopted a resolution of the Cabinet of Ministers of Ukraine No. 307 of March 12, 2003 “On import into the customs territory of Ukraine and export from the customs territory of Ukraine diamonds”, according to which import into the customs territory of Ukraine and export from the customs territory of Ukraine diamonds and their customs clearance is allowed only if you have a certificate of the Kimberley Process.

This resolution authorizes the SGC to ensure the issuance of certificates of the Kimberley Process, as well as defines the list of regional customs and customs posts where customs clearance of diamonds in the raw materials after all necessary expert work and accompanying documents authorized by the SGC.

The MoF (by its order No. 276 of April 09, 2003) “On approval of the Procedure for issuing accompanying documents and putting diamonds into circulation in accordance with the Kimberley Process certification scheme” approved the form of the Kimberley Process certificate for diamonds exported from the customs territory of Ukraine, and the Procedure for issuing accompanying documents and putting diamonds into circulation in accordance with the KP CS.

The Procedure also determines the peculiarities of registration of accompanying documents for diamonds when moving them across the customs border of Ukraine and putting them into circulation in accordance with the international KP CS in Ukraine. The SGC is entrusted with the function of the national responsible authority for the import and export of diamonds, the issuance of certificates of the Kimberley Process and the resolution of other issues of implementation of the requirements of the KP CS in Ukraine. In addition, the SGC creates and maintains a database of diamonds imported into the customs territory of Ukraine and exported from the customs territory of Ukraine, conducts
expert control of diamond batches and verification of foreign certificates of the Kimberley Process, solves the administrative issues of cooperation with KP participants, monitors changes in the list of KP members, as well as performs other functions of the national authority of import and export of diamonds in accordance with the KP CS.

Reference:

The Law of Ukraine on State Regulation of Mining, Production and Use of Precious Metals and Precious Stones and Control over Transactions with Them (The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 1998, No. 9, Article 34)
https://zakon.rada.gov.ua/laws/show/637/97-%D0%B2%D1%80?lang=en#Text;
https://zakon.rada.gov.ua/laws/show/637/97-%D0%B2%D1%80#Text.

H. Export credits

12. What are the institutions providing government-backed export credits? Please provide an overview of legal status and acts governing the operations of such institutions, of their administrative capacity, financing/financial arrangements and value of outstanding guarantees. What methodology is used for risk assessment when providing export credits? How do the institutions ensure this methodology takes into account the rules and guidelines of the Arrangement on Officially Supported Export Credits at the OECD?

In accordance with the Law of Ukraine On Financial Services and State Regulation of Financial Services Markets, NBFIs subject to the NBU’s supervision have no right to extend government-backed export credits.

On 24 March 2022, Law of Ukraine No. 2154-IX On Amendments to Some Laws of Ukraine on Ensuring Effective Operation of the Export Credit Agency (hereinafter Law 2154-IX) was passed. Law 2154-IX goes into effect on 7 January 2023. It authorizes the NBU to perform regulation and supervision of the Export credit agency (ECA).

In accordance with the provisions of Law 2154-IX (amendments to Article 3), the main areas of government support for export activities include partial compensation of interest rates on loans granted under foreign economic agreements (contracts) signed with Ukrainian exporters (hereinafter referred to as “export credits”). The government support for export activities through partial compensation of interest rates on export credits is provided within the amounts allocated under the Law On the State Budget of Ukraine for the relevant year.

The procedure and conditions for partial compensation of interest rates on export credits shall be established by the Cabinet of Ministers of Ukraine. Partial compensation of interest rates on export credits at the expense of ECA’s funds is prohibited. ECA may engage in the implementation of programs for partial interest rate compensation on export credits (amendments to Article 6), but the main activities are insurance and issuance of guarantees for export credits issued by banks.

In accordance with the current version of Article 3 of the Law of Ukraine On Ensuring Large-scale Expansion of Exports of Goods (Works, Services) of Ukrainian Origin through Insurance, Guarantee and Cheaper Export Credit (hereinafter referred to as “the ECA Law”), the main activities of the ECA are insurance, reinsurance, and issue of guarantees.
It should be noted that Article 3 of the ECA Law provides for the government guarantee to ensure the fulfilment of ECA's debt obligations arising from ECA activities in insurance, reinsurance and issuing guarantees. However, as of today, the procedure for providing government guarantees is not regulated at the level of relevant acts of the Cabinet of Ministers of Ukraine.

13. Do the institutions providing credits/insurances also cover short term exports to EU countries and OECD countries covered by Commission Communication pursuant to Article 113 of the Treaty on the Functioning of the European Union (TFEU) applying Articles 92 and 93 of the Treaty to short-term export credit insurance (OJ C 281 of 17 September 1997)?

According to the current wording of Article 3 of the Law of Ukraine On Ensuring Large-scale Expansion of Exports of Goods (Works, Services) of Ukrainian Origin through Insurance, Guarantee and Cheaper Export Credit (hereinafter referred to as “the ECA Law”) the main activities of the ECA are insurance, reinsurance, and issue of guarantees. In particular, ECA carries out operations on insurance of commercial and non-commercial risks for export credits, direct investments from Ukraine and foreign economic agreements (contracts), reinsurance and provision of guarantees.

The ECA Law does not define the categories of export credits (short-term or long-term) covered by insurance, while there are no restrictions on short-term export insurance to EU and OECD countries covered by the Commission Communication pursuant to Article 113 of the Treaty on the Functioning of the European Union (TFEU) applying Articles 92 and 93 of the Treaty to short-term export credit insurance (OJ C 281 of September 17, 1997).

According to the Law of Ukraine "On Insurance", private insurers may also insure the financial risks of Ukrainian exporters. In turn, ECA is a private joint-stock company with authorized capital, formed 100% at the expense of state funds. It should be noted that the state guarantee to ensure the fulfillment of ECA's debt obligations in carrying out ECA's insurance, reinsurance and guarantee activities provided for in Article 3 of the ECA Law, however, the procedure for providing state guarantees is not defined by due acts of the Cabinet of Ministers.

At the same time, on March 24, 2022, the Law of Ukraine 2154-IX On Amendments to Certain Laws of Ukraine on Ensuring the Effective Functioning of the Export Credit Agency (hereinafter - the Law 2154-IX) was adopted. This Law 2154-IX will enter into force on January 7, 2023, and in accordance with provisions of this Law, regulation and supervision of ECA will be carried out by the National Bank of Ukraine. The Law also provides for an equality of approaches to both private insurers and government-established institutions insuring export credits, which goes in line with the Treaty's approach to the short-term export credit insurance (OJ C 281 of September 17, 1997).

14. Does Ukraine foresee any problems with regard to the implementation of Council Directive 98/29/EC on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover and EU Regulation 1233/2011 on export credits?

Ukraine does not foresee problems with regard to the implementation of Council Directive 98/29/EC on harmonization of the main provisions concerning export credit insurance for transactions with medium and long-term cover.
The Law of Ukraine On Ensuring Large-Scale Expansion of Exports of Goods (Works, Services) of Ukrainian Origin through Insurance, Guarantees and Cheaper Crediting of Exports, which regulates methods of supporting export activities in Ukraine and the activity of ECA, was drafted taking into account provisions of Council Directive 98/29/EC of May 7, 1998 on the harmonization of the main provisions on export credit insurance for transactions with medium and long-term cover, Commission Communication pursuant to paragraph 1 of Article 93 of the Treaty on the establishment of the EU applying Articles 92 and 93 of the Treaty to short-term export credit insurance (97/C 281/03), Commission Communication amending the Communication pursuant to paragraph 1 of Article 93 of the Treaty on the establishment of the EU applying Articles 92 and 93 of the Treaty to short-term export credit insurance (2001/ C 217/02), WTO Agreements on Subsidies and Countervailing Measures, OECD arrangement on officially supported export credits, etc.

It should be noted that the general principles of export credit insurance, given in the annex to Council Directive 98/29/EC on the harmonization of the main provisions on export credit insurance for transactions with medium and long-term cover, do not need to be regulated on a Law level, since, in fact, they should be part of the rules (conditions) for specific areas of ECA’s activities, including export credit insurance.

Finally, on March 24, 2022, the Law of Ukraine 2154-IX On Amendments to Certain Laws of Ukraine on Ensuring the Effective Functioning of the Export Credit Agency (the Law 2154-IX) was adopted. In accordance with provisions of this Law, regulation and supervision of ECA will be carried out by the National Bank of Ukraine. Accordingly, the NBU will have the right to assess relevant policies of ECA, including those of insurance and reinsurance of export credits.

II. Preferential trade agreements

15. Please provide a list of all Ukraine's preferential trade and other international agreements relevant for trade, including on services.

· FTA between Ukraine and the EFTA States
  https://www.efta.int/free-trade/free-trade-agreements/ukraine

· FTA between Ukraine and the Republic of Macedonia
  http://rtais.wto.org/UI/PublicShowRTAIDCard.aspx?rtaid=573

· FTA between the Government of Ukraine and the Government of Montenegro
  https://www.gov.me/dokumenta/4960fffb-c1a5-444e-9582-d43270b362e0

· Ukraine - Canada FTA

· FTA between the Cabinet of Ministers of Ukraine and the Government of the State of Israel
Political, Free Trade and Strategic Partnership Agreement Between the United Kingdom of Great Britain and Northern Ireland and Ukraine


Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part


https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29

Treaty on a Free-Trade Area (St. Petersburg, October 18, 2011)


Agreement on Establishment of Free Trade Area among the GUUAM Participating States


Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Free Trade


Free Trade Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova


Agreement between the Government of Ukraine and the Government of the Republic of Georgia on Free Trade

(укр.) https://zakon.rada.gov.ua/laws/show/268_600?lang=en#Text

16. Please provide, for each agreement, the following information: nature of the agreement date of ratification, date of entry into force, initial term of the agreement, automatic renewal procedure, period for which acquired rights exist and indicate clearly what are the modalities planned in those agreements for their amendment or termination, to bring them in line with the EU acquis.

All existing FTAs concluded between Ukraine and the third countries (EFTA States, Canada, Montenegro, Republic of North Macedonia, Israel) foresee the termination procedures of the agreement. Usually, the respective FTA will be terminated after 6 (six) months after sending the Diplomatic Note to the other Party. These FTAs do not provide a sunset close after being terminated.

List of FTA agreements:

https://drive.google.com/drive/folders/12OksZeOWasES07ix1vVKBF5iaxeO3uUs?usp=sharing
### Trade Agreements

<table>
<thead>
<tr>
<th>Agreements</th>
<th>Ratification</th>
<th>Entry into force (date)</th>
<th>Entry into Force</th>
<th>Withdrawal and Expiration</th>
</tr>
</thead>
<tbody>
<tr>
<td>FREE TRADE AGREEMENT BETWEEN UKRAINE AND THE EFTA STATES</td>
<td>The law of Ukraine № 4091-VI, dated 07.12.2011</td>
<td>01.06.2012</td>
<td>Art. 10.8 Agreement This Agreement shall enter into force on the first day of the third month following the date on which Ukraine and at least one EFTA State have deposited their instruments of ratification, acceptance or approval with the Depositary. This Agreement shall not enter into force between an EFTA State and Ukraine, unless the complementary Agreement on Agriculture between that EFTA State and Ukraine enters into force simultaneously. It shall remain in force as long as the complimentary agreement remains in force between those Parties.</td>
<td>Art. 10.7 Agreement Each Party may withdraw from this Agreement by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.</td>
</tr>
<tr>
<td>AGREEMENT ON FREE TRADE BETWEEN UKRAINE AND THE REPUBLIC OF MACEDONIA</td>
<td>The Law of Ukraine № 2599-III dated 05.07.2001</td>
<td>10.09.2001</td>
<td>Art. 38 Agreement This Agreement shall enter into force within thirty days after the date of the receipt through diplomatic channels of the later notification confirming the fulfillment of all</td>
<td>Art. 37 Agreement The Agreement is concluded for an unlimited period. Each Contracting Party to this Agreement may withdraw therefrom, by</td>
</tr>
</tbody>
</table>
necessary constitutional procedures for entry into force of this Agreement.

means of a written notification to the other Party. The termination shall take effect on the first day of the sixth month following the date on which the notification was received by the other Party.

The Contracting Parties agree, that in case of accession of one of the Parties to this Agreement to the European Union, the Agreement will be terminated on the day before the date of the accession to the EU.

<table>
<thead>
<tr>
<th>FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF UKRAINE AND THE GOVERNMENT OF MONTENEGRO</th>
<th>01.01.2013</th>
<th>Art. 60 Agreement</th>
<th>Art. 59 Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Law of Ukraine № 5445-VI , dated 16.10.2012</td>
<td>The Parties shall ratify this Agreement in accordance with their own procedures. This Agreement shall enter into force on the first day of the second month, following the date of the receipt through diplomatic channels of the latter document on ratification.</td>
<td>This Agreement is concluded for an unlimited period. Each Party to this Agreement may withdraw from this Agreement by a written notification to the other Party. The termination shall take effect on the first day of the seventh month</td>
<td></td>
</tr>
<tr>
<td>Agreement</td>
<td>Law of Ukraine</td>
<td>Date of Validity</td>
<td>Art. 5 Agreement</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>----------------</td>
<td>-----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Ukraine - Canada Free Trade Agreement</td>
<td>The Law of Ukraine № 1917-VIII, dated 14.03.2017</td>
<td>01.08.2017</td>
<td>This Agreement shall enter into force on the first day of the second month following receipt of the latter notification of the completion of the procedures for entry into force.</td>
</tr>
<tr>
<td>FREE TRADE AGREEMENT BETWEEN THE CABINET OF MINISTERS OF UKRAINE AND THE GOVERNMENT OF THE STATE OF ISRAEL</td>
<td>The Law of Ukraine № 2753-VIII, dated 11.07.2019</td>
<td>01.01.2021</td>
<td>This Agreement shall enter into force 60 days following the date of the latter Diplomatic Note by which the Parties notify each other that their internal legal procedures for the entry into force of the Agreement have been completed.</td>
</tr>
</tbody>
</table>
17. Does Ukraine plan to negotiate any new preferential trade agreements, including on services? If yes, please provide timeline and main policy direction of any such negotiations.

- Association Agreement between Ukraine of the one part, and the European Union and the European Atomic Energy Community and their Member States, of the other part (review of Association Agreement and its Annexes).

- FTA between the Government of Ukraine and the Government of the Republic of Serbia. This agreement will be applied to trade in goods. For this moment Parties agreed to update their tariff offers to HS 2017. Also, Parties in their tariff offers shall indicate MFN base rate as of January 1, 2021. PEM Convention (alternative Rules) will be an integral part of agreement.

- FTA between the Government of Ukraine and the Government of the Republic of Tunisia. This agreement will be applied to trade in goods. For this moment Ukraine initiated the procedure for obtaining the authority to negotiate the FTA with Tunisia.

- Ukraine - Canada FTA. Parties agreed to modernize of FTA to extend it to subject matters not covered therein, including cross-border trade in services, financial services, telecommunications, temporary entry and any other subject area as decided by the Parties.

There are not any deadlines specified to conclude the agreements mentioned above.

18. In order to have a complete picture of the differences between Ukraine's investment regime and investment regimes in the EU, please provide us with an overview of the policy of Ukraine regarding foreign investment, any legal act(s) defining such policy, including any legislation defining the investment-related aspects of a specific sector. Please outline main policy features of this/these legal act(s).

Ukraine has an open and transparent legal regime for foreign investment that is broadly consistent with international norms. The Civil Code and the Commercial Code establish the principle of freedom of contract allowing the parties to select the type of contract appropriate to their situation.

The Commercial Code covers definitions of enterprises with foreign investments (Art. 116), foreign enterprises (Art. 117), and foreign investors (Art. 390); types (Art. 391) and forms (Art. 392) of foreign investments; and the guarantees to foreign investors in case of termination of investment activities (Art. 399).

The Law of Ukraine “On the Regime of Foreign Investments” determines the peculiarities of the foreign investment regime on the territory of Ukraine, based on the goals, principles and provisions of the legislation of Ukraine. In particular, this Law defines the types, forms, objects of investment, state guarantees of investment protection.

According to the Law of Ukraine “On the Regime of Foreign Investments” all investment, profits, legitimate interests and rights of foreign investors in the whole of Ukrainian territory enjoy the following protection and guarantees:

- Protection against changes in foreign investment legislation for a period of 10 years after their introduction (Article 8).

- Protection against nationalisation, with the exception of emergency measures (e.g. national disasters or epidemics) and only if based on the decision of the Cabinet of Ministers of Ukraine. In case of nationalisation, a foreign investor
must be compensated in the currency in which the investment was made or in any other currency acceptable for the investor. Decisions on requisition of foreign investment and compensation may be appealed in the courts (Article 9).

Guarantee for compensation and reimbursement of losses resulting from the action, the omission of the action or the improper performance by the state or municipal bodies (Article 10).

- Guarantee in the event of the termination of investment activity to remit the revenues and withdraw the investment without paying export duties within six months after the termination of the investment activity (Article 11).

- Guarantee of repatriation of profits after the payment of taxes, duties and other mandatory payments (Article 12).

At the same time, investment legislation restricts the activities of economic entities which are residents of the state recognized by the Verkhovna Rada of Ukraine as the aggressor or occupying state or related persons registered in a state recognized by the Verkhovna Rada of Ukraine as the aggressor or occupying state, or in respect of which sanctions have been applied in accordance with the legislation of Ukraine or international law, or registered in states (territories) classified by the Cabinet of Ministers of Ukraine as offshore, or legal entities in the authorized capital of which more than 50 percent belong to legal entities registered in such states (territories). In particular, these are the Laws of Ukraine:

- “On the Public-Private Partnership” (Article 14),
  https://zakon.rada.gov.ua/laws/show/2404-17?lang=en#Text;
- “On Concession” (Article 12);
  https://zakon.rada.gov.ua/laws/show/155-IX#Text (ukr);
- “On State Support for Investment Projects with Significant Investments in Ukraine” (Article 7);
  https://zakon.rada.gov.ua/laws/show/1116-20#Text (ukr);
- “On Industrial Parks” (Article 7¹)

19. With which countries has Ukraine concluded bilateral investment agreements? Please provide for each agreement the following information: nature of the agreement (e.g. bilateral or plurilateral investment treaties, commercial cooperation agreements, other, - please specify), scope (covering market access, non-discrimination for establishment/acquisition, prohibition of performance requirements, and/or protection of investment post-establishment) date of ratification, date of entry into force, initial term of agreement, automatic renewal procedure, period for which acquired rights exist. Please provide copies, preferably in English (if available).

information in the appendix

20. Are there any horizontal or sectoral exceptions or safeguard clauses that would limit a free transfer clause? What is the scope of these exceptions and how are they triggered?
Under free trade agreements concluded with Ukraine, there are no horizontal and sectoral exemptions that could limit free transfer clauses.

And within the framework of Ukraine's participation in the WTO, such restrictions do not apply.

21. Is Ukraine negotiating or has it already entered into a commitment to negotiate any new bilateral investment liberalisation or investment protection agreements? Please provide details regarding the current status, timeline and any intermediate/envisaged results arising from any such ongoing or proposed negotiations.

<table>
<thead>
<tr>
<th>State</th>
<th>Current status of negotiations, interim results of negotiations</th>
</tr>
</thead>
</table>
| Italian Republic             | Since 2017, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Italian Republic on the promotion and mutual protection of investments.  
                              | Currently, the negotiation process is underway and the position of the Ukrainian side on the draft Agreement is being agreed.        |
| Mexican United States        | Since 2010, there have been 3 rounds of negotiations with the Mexican United States on the coordination of the draft Agreement between Ukraine and the United States of Mexico on the promotion and mutual protection of investments.  
                              | Currently, the negotiation process is underway and proposals from the Mexican side on the draft Agreement are expected.            |
| Kingdom of Spain             | From 2021, the parties have been working on a draft Agreement (in the form of an exchange of notes) between Ukraine and the Kingdom of Spain on amendments to Article 7 of the Agreement between Ukraine and Spain on the promotion and mutual protection of investments.  
                              | Received the position of the Spanish side on readiness to sign the Agreement.  
                              | The Ukrainian side is taking measures to prepare for its signing.                                                            |
| Kingdom of Bahrain           | Since 2013, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Kingdom of Bahrain on the promotion and mutual protection of investments.  
                              | One round of negotiations on the draft agreement was held.  
                              | Currently, the negotiation process is underway, the Ukrainian side is taking measures to prepare for its signing.              |
| Republic of India            | Since 2016, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Republic of India on the promotion and mutual protection of investments.  
<pre><code>                          | One round of negotiations was held. Currently, the position of the Ukrainian side on the draft Agreement is being agreed.       |
</code></pre>
<table>
<thead>
<tr>
<th>Country</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Republic of Brazil</td>
<td>Since 2016, the parties have been working on a draft Agreement on Cooperation and Investment Promotion between Ukraine and the Federal Republic of Brazil. The Ukrainian side has sent a draft Agreement for consideration by the competent authorities of the Brazilian side, proposals of the Brazilian side on the draft Agreement are expected.</td>
</tr>
<tr>
<td>Republic of Guinea</td>
<td>Since 2011, the negotiation process on the signing of the Agreement between the Government of Ukraine and the Government of the Republic of Guinea on the promotion and mutual protection of investments has been underway. Proposals from the Guinean side on the draft Agreement are currently expected.</td>
</tr>
<tr>
<td>Republic of the Philippines</td>
<td>Since 2010, the parties have been working on a draft Agreement between the Government of Ukraine and the Republic of the Philippines on the promotion and mutual protection of investments. The Ukrainian side sent the draft Agreement for consideration by the competent authorities of the Philippine side. Proposals of the Philippine side on the draft Agreement are expected.</td>
</tr>
<tr>
<td>Kingdom of Thailand</td>
<td>Since 2004, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Kingdom of Thailand on the promotion and mutual protection of investments. The Thai side's position on the draft agreement is currently expected.</td>
</tr>
<tr>
<td>Republic of Guatemala</td>
<td>Since 2006, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Republic of Guatemala on the promotion and mutual protection of investments. The Guatemalan side's position on the draft agreement is currently expected.</td>
</tr>
<tr>
<td>Islamic State of Afghanistan</td>
<td>Since 2018, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Transitional Islamic State of Afghanistan on the promotion and mutual protection of investments. The Ukrainian side sent the final draft of the Agreement for consideration by the Afghan side and informed about its readiness to sign it.</td>
</tr>
<tr>
<td>Republic of Senegal</td>
<td>Since 2013, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Republic of Senegal on the promotion and mutual protection of investments. Currently, the negotiation process is underway regarding the provisions of the text of the draft Agreement.</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>Since 2008, the parties have been working on a draft Agreement between the Government of Ukraine and the Government of the Republic of Congo on the promotion and mutual protection of investments. Proposals from the Congolese side on the draft agreement are expected.</td>
</tr>
</tbody>
</table>
22. Does Ukraine have a mechanism in place to screen foreign direct investments? Please provide the texts, preferably in English (if available) of the relevant legislation and summarise the main features of the underlying policy, including the screening procedures and assessment criteria, scope of legislation and administrative structure/decision-making process of the competent authority and its cooperation with other bodies.

The Economic Security Strategy for the period up to 2025, approved by Presidential Decree No 341/2021 states "implementation of a system for assessing the impact of foreign investment on national security, preventing the concentration of foreign capital in areas of strategic importance for Ukraine's national security".

Currently in Ukraine there is a process of:

● development of a mechanism for legislative regulation of foreign investment in economic entities of strategic importance for the national security of Ukraine;
● determining the procedure for assessing the impact of such investments on the national security of Ukraine.

Thus, in order to develop a system of foreign investment screening in Ukraine and taking into account the pan-European approach to the mechanism of screening of foreign direct investment in the EU (Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union), the draft Law of Ukraine "On Foreign Investment in Business Entities of Strategic Importance for the National Security of Ukraine" has been developed and registered in the Verkhovna Rada of Ukraine (registration No. 5011 of 03.02.2021, hereinafter - the draft law).

The law has been drafted to regulate the implementation of foreign investments in economic entities of strategic importance for the national security of Ukraine and to determine the procedure for assessing the impact of such investments on the national security of Ukraine. The draft law proposes to introduce in Ukraine a system for assessing the impact of foreign investment on national security, which is currently lacking.

During the drafting of the law, an analysis of the national legislation of the EU countries on the application of the mechanism of foreign direct investment screening was conducted. Thus, the provisions of this draft law are based, inter alia, on a comprehensive analysis of national legislation of the EU Member States.

The implementation of this Law will help to prevent the concentration of foreign capital in areas of strategic importance, while giving domestic companies operating in such areas the opportunity to cooperate with investors with an impeccable business reputation in the world.

The main provisions of the draft law are:

● consolidating the legal basis for assessing the impact of foreign investment;
● identification of activities of strategic importance for the national security of Ukraine;
● introduction of the procedure and principles of foreign investment in economic entities of strategic importance.

In the case of foreign investment in strategic areas, the types of transactions to be assessed are determined and a rule is set for the coordination of such transactions with the Interdepartmental Commission for Foreign Investment Impact Assessment.
The draft law provides for the establishment of an Interdepartmental Commission on Foreign Investment Impact Assessment and regulates the powers of this Commission. Regulations on the Commission and its composition will be approved by the Cabinet of Ministers of Ukraine.

The draft law also introduces a procedure for assessing the impact of foreign investment and determines the list of documents that a foreign investor must provide to the executive body to ensure the formation and implementation of state policy of economic and social development and trade. Accordingly, the algorithm of actions of this central body of executive power is determined.

It is important that Ukraine additionally surveyed international experts on possible risks/threats to national security that may be identified when assessing the impact of foreign investment in economic entities of strategic importance for Ukraine's national security.

III. Development Policy and Humanitarian Aid

A. Development Policy

23. Is there a policy framework or any kind of regulation on development cooperation/aid?

According to Article 43 of the Association Agreement between Ukraine and the EU, Ukraine is recognized as a developing country.

Therefore, there are no policy frameworks or regulations on development cooperation aid. Nevertheless, Ukraine plans to adopt a Law on Development Cooperation and Humanitarian Assistance to the effect of creating a legal framework for providing development and humanitarian support to developing countries in the future.

According to the Article 289 of the Association Agreement, during the last eight years Ukraine has been cooperating with the EU Member States, European institutions, and international organizations to promote the goal of sustainable development and to ensure that this goal is integrated and reflected at every level of the common trade relations in accordance with the 21st Century Agenda for Environment and Development 1992, Johannesburg Sustainable Development Plan 2002 and an internationally agreed employment and social policy agenda, including the International Labor Organization's (ILO) Decent Work Agenda and the UN Economic and Social Council Ministerial Declaration on Full Employment and Decent Work 2006.

On March 3, 2021, the National economic strategy of Ukraine – 2030 has been approved by the Regulation of the Government of Ukraine № 179. This Strategy defines a long-term economic vision, principles and values, "red lines" (unacceptable directions), key directions (vectors) of economic development and for each of the 20 areas - strategic goals, ways to achieve them taking into account current and potential challenges as well as the main objectives of state economic policy and target indicators for the period up to 2030.

Moreover, the Government of Ukraine and the relevant ministries – finance, economy, regional development, energy, environment, justice, culture and information policy, digital transformation, infrastructure and others – continue cooperation with international monetary, financial and
development institutions as World Bank, EBRD, OECD (partner country), USAID to support sector police reforms based on bilateral Agreements and Memorandum.

Reforms Delivery Office (RDO) and Ukraine Invest – both consultative bodies to the Government of Ukraine - help in designing and implementing the country's priority reforms and promote foreign direct investments as well as improve Ukraine's image as an attractive state for investing.

Ukraine joined the Paris Declaration on Aid Effectiveness in accordance with the Presidential Decree № 325/2007 of 19.04.2007 "On Ukraine's Accession to the Paris Declaration on Aid Effectiveness". According to the document, the partner country is committed to taking the lead in coordinating external assistance and other resources for development at all levels in dialogue with donor countries.

24. Is Ukraine bound by co-operation, trade, or other agreements with developing countries (whether African, Caribbean and Pacific, Latin American, Asian or Mediterranean countries)?

Ukraine doesn't bound by FTAs with developing countries (whether African, Caribbean and Pacific, Latin American, Asian or Mediterranean countries) for this day.

Ukraine has agreements on Trade and Economic Cooperation with the following


Ukraine has the agreements on Mutual Protection and Promotion of Investments with the following

- **Latin American** countries: Argentina (1995), Chile (1997), Panama (2007);


Ukraine has the conventions on Avoidance of Double Taxation with the following

- **Latin American** countries: Brazil (2002), Cuba (2003), Mexico (2012);


These agreements are aimed at developing trade and economic cooperation between Ukraine and partner countries on the basis of the principles of sovereign equality, reciprocity and mutual benefit, and aim at the broadest intensification of bilateral relations on a mutually beneficial basis.

25. Does Ukraine apply a preferential trade policy (irrespective of the agreements mentioned above) vis-à-vis certain developing countries? If so, what are the form and details of such policy/policies?

Ukraine doesn't apply unilateral preferential trade regime to the developing countries, i.e. preferential regime similar to the EU’s GSP scheme.

26. Does Ukraine have a humanitarian aid and developing country aid budget? What is the size of the budget and how is it allocated? Which amount, if any, was spent for humanitarian aid to third countries during the past 3 years? Which amount, if any, was spent for development aid to third countries during the past 3 years? Does Ukraine measure its budget contributions according to OECD/ODA/DAC methodology for Official Development Assistance? Is any distinction made between different stages of development i.e. any specific treatment of Least Development Countries?

Guided by humanist principles, Ukraine can provide humanitarian aid to other countries.

The decision to provide humanitarian assistance by Ukraine can be made by the Verkhovna Rada of Ukraine or by the President of Ukraine.

Legal, organizational, social principles of receiving, providing, registration, distribution and control over the targeted use of humanitarian aid are defined by the Law of Ukraine “On Humanitarian Aid”.

According to the Procedure for using the budget reserve fund approved by the Cabinet of Ministers of Ukraine dated 29.03.2002 № 415, the state budget reserve fund may be used to provide humanitarian aid by the decision of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of Crimea, the relevant council.

It is mandatory for the reserve fund to be provided in the State Budget of Ukraine.

During the last 3 years, according to the Decrees of the President of Ukraine, about 93 million UAH were allocated from the reserve fund of the state budget to provide humanitarian aid to eliminate the consequences of emergencies, namely:

2019:
to the Yemeni Republic - 10 million UAH (financial assistance by transferring this amount to the Yemeni Humanitarian Fund).

2020:

to Republic of Albania - 10 million UAH (financial assistance by transferring funds to the appropriate government bank account);

to Lebanese Republic - 8.451 million UAH (humanitarian aid in the form of medicines, medical devices and wheat flour for the population affected by to the explosion in the port of Beirut).

2021:

to the Republic of Croatia - 20 million UAH (financial assistance by transferring funds to the appropriate government bank account of the Republic of Croatia);

to the Republic of India - 11.256 million UAH (to deal with the consequences of the spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2);

33.260 million UAH to the Republic of Lithuania (purchase and delivery of barbed wire to strengthen the state border with the Republic of Belarus in order to stop the flow of illegal migrants).

Furthermore, in 2021 Ukraine provided assistance to the Hellenic Republic and the Republic of Turkey in order to eliminate the consequences of forest fires with the involvement of special units of the State Emergency Service of Ukraine (hereafter SESU). Relevant expenses in the amount of 4.9 million UAH were reimbursed from the reserve fund of the state budget.

By the order of the Cabinet of Ministers of Ukraine dated 30.07.2021 № 867-r “On providing assistance to the Republic of Turkey in eliminating the consequences of forest fires” the decision was taken to send two An-32P aircrafts with a crew to the Republic of Turkey to assist in the elimination of the consequences of forest fires.

By the item 1 of the Minutes of the Meeting of the Cabinet of Ministers of Ukraine of August 6, 2021 № 95 it was decided to send a joint fire and rescue team of SESU of 100 people to provide assistance in dealing with the consequences of forest fires in the Hellenic Republic.

In 2022 no humanitarian aid was not provided to other states.

27. What are the projects, if any, on development aid assistance carried out by Ukraine during the past two years?

For almost 30 years Ukraine is a country-recipient of the external aid and has a huge experience in this sphere. Currently there is no any legal procedure in Ukraine to provide development aid assistance to other countries.

28. Does Ukraine have future commitments on development aid assistance or on development aid?

In the middle-term perspective the Government of Ukraine will take necessary steps to develop appropriate strategies, policies and institutional framework that ensure capacity to provide external aid to the third countries. In parallel we will intensify our cooperation with the OECD, in particular to strengthen cooperation with the members of the Development assistance committee and to promote
membership of Ukraine in this institution, to learn best practices on delivery of the development aid to the developing countries and to increase institutional and administrative capacity on the national and regional.

29. Administrative capacity: is there a Ministerial service/Agency for development cooperation, if so what is its mandate and structure? Or are there specific projects of assistance to third countries managed by Ministries other than the Ministry of Foreign Affairs? If yes, how are they organised?

It requires a comprehensive approach employing multiple decisions on how to transform Ukraine into the Development partner. Such multiple decision will include:

- Development of the legal framework including procedure on programming, preparation, implementation, monitoring, evaluation of the cooperation programmes as well as budgeting issues of the aid flows to support developing courtiers;

- To empower the relevant Government authority to be responsible for foreign economic development;

- Development and approval the list of the Government priorities, goals and directions for foreign economic development for the middle-term period.

30. To what extent are the EU development strategy, objectives, common values and principles, as outlined in the new European Consensus on Development (2017) (European Consensus on Development | International Partnerships) incorporated into Ukraine's foreign policy?

4. The EU and its Member States are committed to a life of dignity for all that reconciles economic prosperity and efficiency, peaceful societies, social inclusion and environmental responsibility. In doing so, efforts will be targeted towards eradicating poverty, reducing vulnerabilities and addressing inequalities to ensure that no-one is left behind. By contributing to the achievement of the 2030 Agenda, the EU and its Member States will also foster a stronger and more sustainable, inclusive, secure and prosperous Europe.

7. The EU and its Member States must respond to current global challenges and opportunities in the light of the 2030 Agenda.

Ukraine

Important aspects of Ukraine's regional cooperation are cooperation in conflict resolution in the region based on the principles and norms of international law, prevention and counteraction of environmental threats, and implementation of large-scale cross-border and infrastructure projects. (131)

Stable and strong neighbourhood relations, a secure environment and the economic development of States are the goals of Ukraine's participation in regional formats and initiatives. (194)

11. The EU development policy also pursues the objectives of EU external action, in particular those set out in Article 21(2)(d) of the Treaty on European Union (TEU) of fostering the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty. In line with the objectives set out in Article 21(2) TEU, development policy also
contributes, inter alia, to supporting democracy, the rule of law and human rights, preserving peace and preventing conflict, improving the quality of the environment and the sustainable management of global natural resources, assisting populations, countries and regions confronting natural or man-made disasters, and promoting an international system based on stronger multilateral cooperation and good global governance.

**Ukraine**

8. Measures will be taken to strengthen the position of the state in the region, enhance its role as a contributor to Euro-Atlantic security, expand the geography of security and economic partnerships, intensify participation in universal and regional international organisations, measures to reform them and create new regional formats for international cooperation.

10. It will continue its active participation in international efforts to maintain international peace and security, in particular through participation in international peace and security operations.

14. Against the background of the spread of acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2 (hereinafter referred to as COVID-19) and the global economic recession, Ukraine's role in overcoming food security challenges is increasing, and there are prerequisites for Ukraine to establish itself as a food guarantor.

*The EU and its Member States act in accordance with the principles of EU external action set out in Article 21(1) TEU: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. These universal values and good governance are at the heart of the 2030 Agenda (13)*

**Ukraine**

The implementation of the Ukrainian Foreign Policy Strategy will be guided by the following principles:

- resilience - the ability of the state and society to effectively counter threats of any origin and nature, in particular armed aggression, economic pressure, political destabilisation, cyberattacks, disinformation and other threats, to adapt to changes in environmental protection, to maintain sustainable functioning, and to quickly rebalance itself after crises;

- Compliance with international law - adherence to universally recognized norms and principles of international law, fulfilment of international obligations of Ukraine undertaken under international treaties and within the framework of membership in international organizations, compliance with international agreements reached;

- Adaptability - prompt response to changes in the international environment, effective crisis management in the sphere of foreign policy, innovation in approaches and tools, flexibility in decision-making;

- interaction - effective coordination of activities of state bodies to ensure implementation of a unified foreign policy course of Ukraine, establishment of effective communication and cooperation with other states, international governmental and non-governmental organizations, as well as with non-governmental institutions, business, scientific and academic circles and the media
- pragmatism - development of bilateral and multilateral international relations based on national interests in order to address specific foreign policy tasks; intensification of economic diplomacy to promote sustainable economic development and prosperity of Ukrainian citizens

- Man-centeredness - recognition and approval of respect for human life and dignity, human rights and freedoms as the highest values; protection, assistance in implementation, promotion of rights and legitimate interests of Ukrainian citizens abroad and the rights and legitimate interests of foreign Ukrainians in other states. (15)

Political dialogue is an important way to advance development principles and also has a preventive dimension, aiming to ensure that EU values are upheld. The EU and its Member States will integrate the respect of human rights, democracy, the rule of law and gender equality into their political dialogue. This dialogue will be conducted with and beyond partner governments and will be a major platform for action, where a shared understanding will be promoted, progress will be regularly reviewed and appropriate supporting measures identified. (14)

Ukraine

Foreign policy efforts will be aimed at developing relations of a strategic nature with key partners in the international arena, primarily with the EU, NATO and their Member States, and pursuing mutually beneficial cooperation with other states and international organisations. (4)

The key themes of the 2030 Agenda are: People, Planet, Prosperity, Peace and Partnership

People - Human development and dignity

Education

28. Ensuring access to quality education for all is a prerequisite for youth employability and longlasting development. The EU and its Member States will support inclusive lifelong learning and equitable quality education, particularly during early childhood and primary years.

Ukraine

Active cooperation with the EU will continue in the scientific, educational and cultural fields, in particular through participation in EU programmes Horizon Europe, ERASMUS+, COSME, Creative Europe, continued integration into the European Research Area, and intensified cooperation on the use of space. (81)

An important task is to ensure greater involvement of the United Nations, the Council of Europe, OSCE and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the monitoring of the situation in the temporarily occupied territories. (176)

An important area is the development in the priority states of expert diplomacy, through formal and informal channels, of systematic work with representatives of the scientific community, higher education institutions, experts, governmental and non-governmental think tanks, national and international associations, relevant academic and research institutions, media, advisory and expert councils. (218)

The approval of the new state targeted programme of cooperation with foreign Ukrainians will contribute to solving tasks on ensuring the implementation of the rights of foreign Ukrainians in other
countries, meeting their needs in the cultural, linguistic and educational spheres, developing the Ukrainian school outside of Ukraine, in particular in the form of Saturday and Sunday schools, expanding opportunities for training and employment of foreign Ukrainians in Ukraine. (236)

**Human rights**

In its foreign policy, Ukraine is guided by the principle of human-centeredness - recognizing and affirming respect for human life and dignity, human rights and freedoms as the highest values, and protecting and promoting the rights and legitimate interests of Ukrainian citizens abroad and the rights and legitimate interests of foreign Ukrainians in other states. (15)

**Culture**

Emphasising that the EU is guided by the universality, indivisibility, interrelatedness and interdependence of all human rights, the EU and its Member States will promote intercultural dialogue and cooperation and cultural diversity, and will protect cultural heritage, boost the cultural and creative industries and will support cultural policies where these would help achieve sustainable development, while taking local circumstances into account. (35)

**Ukraine**

Ukraine strives to preserve its national and cultural identity and to protect the rights and legitimate interests of Ukrainians abroad, to help meet their needs and to actively cooperate with them to promote the state's interests in the world. (13)

The activities of the Ukrainian Institute state institution will help to improve the understanding and perception of Ukraine in the world and develop its cultural ties with other states. (222)

Ukrainians abroad are part of the Ukrainian nation. The Ukrainian State will continue to actively develop relations with ethnic Ukrainians residing abroad and Ukrainians working in other States, and will take care of their national-cultural and linguistic needs. (231)

A priority is the implementation in cooperation with foreign Ukrainian measures for the preservation of cultural heritage sites of Ukraine abroad. (239)

**Migration**

41. Through development policy, the EU and its Member States will address the root causes of irregular migration and will, inter alia, contribute to the sustainable integration of migrants in host countries and host communities and help ensure the successful socioeconomic integration of returning migrants in their countries of origin or transit. This will include promoting investment, trade and innovation in partner countries to boost growth and employment opportunities, including through the engagement of diasporas, supporting social and education systems, as well as working with private sector partners and others to lower the cost of remittances and promote faster, cheaper and safer transfers in both source and recipient countries, thus harnessing their potential for development

**Ukraine**

National legislation on foreign Ukrainians and external labour migration should provide for specific mechanisms aimed at preserving and asserting the national identity of Ukrainians (233)

When developing foreign policy measures, the most balanced, human-centred approaches should be applied to ensure the rights of Ukrainian citizens engaged in paid employment in other
states, in particular by improving the contractual and legal framework with other states in the areas of employment and labour migration, ensuring conditions for the return to Ukraine and subsequent unhindered reintegration into society of labour migrants and their family members. (234)

The approval of the new state targeted programme of cooperation with foreign Ukrainians will contribute to solving tasks on ensuring the implementation of the rights of foreign Ukrainians in other countries, meeting their needs in the cultural, linguistic and educational spheres, developing the Ukrainian school outside of Ukraine, in particular in the form of Saturday and Sunday schools, expanding opportunities for training and employment of foreign Ukrainians in Ukraine. (236)

2.2. Planet - Protecting the environment, managing natural resources and tackling climate change

There is further effective international cooperation in the fight against international terrorism, crime, illegal migration and cyber threats, and also responsible cooperation on disarmament, the non-proliferation of weapons of mass destruction and their means of delivery, and arms control, and on strengthening participation in international forums. (11)

Cooperation with the EU and other contracting parties will continue in the framework of the Energy Community Treaty, to which Ukraine is a party under the Protocol ratified by Law of Ukraine No. 2787-VI of 15 December 2010, by further implementation of relevant EU legislation in order to foster regional integration and trade, tackle climate change and introduce energy saving technologies (77)

Ensuring the sustainable development of the economy and increasing the prosperity of Ukrainian citizens involves increasing participation in international scientific and technological cooperation, international cooperation in high-technology industries (in particular, technology transfer), and international cooperation in combating climate change. The main purpose of cooperation is to protect the national interests of Ukraine and facilitate the participation of Ukrainian representatives in such cooperation, ensuring the protection of their rights, in particular intellectual property rights. (210)

2.3. Prosperity - Inclusive and sustainable growth and jobs

Investment

207. The objective of representing Ukrainian goods (works, services) on key world markets and ensuring protection of Ukrainian economic interests will be achieved by, inter alia:

- Maintaining the functioning of multilateral contractual legal systems that guarantee Ukrainian goods and services fair access to foreign markets, taking measures to protect and prevent violations of the rights and legitimate interests of Ukrainian business in other states, implementing effective foreign relations in order to further develop the rules of international trade and economic activity in general contribute to the development of the Ukrainian economy;

- Promotion of interests of domestic producers and carriers in the implementation of international economic projects (programmes), in particular, Euro-integration projects of sub-regional and inter-regional cooperation, primarily in the fields of energy, transport, infrastructure;

- Work out the issue of revising existing and concluding new agreements on free trade in goods and services in view of international trade liberalization trends;
- Assisting Ukrainian exporters in entering foreign markets and expanding business ties, in particular to the countries of Asia, the Middle East, Africa, Latin America, and ensure protection of their rights and legitimate interests abroad;

- Intensifying activities to attract foreign investment to the economy of Ukraine, in particular for the purpose of privatization of state and municipal property, the implementation of projects carried out under concession conditions, and the creation of high-tech enterprises;

- Promoting and protecting the interests of Ukrainian carriers on the international market of transport services in order to restore the transit potential and full participation of Ukraine in global transit routes;

- Promote diversification of energy supply/transit routes to/from/through Ukraine by supporting and developing priority cross-border infrastructure projects in the energy sector;

- To conduct regular information work to familiarize Ukrainian businesses with the peculiarities of procurement by international organizations and agencies.

Savings

Ukraine is a member of most key international economic organizations and has a generally liberal trade regime, an essential element of which are free trade agreements concluded both with individual states and regional integration associations. (205)

For this purpose the existing mechanisms of interaction between the state and business and formats of support of subjects of foreign economic activity of Ukraine will be improved and new mechanisms of interaction between the state and business and formats of support of subjects of foreign economic activity of Ukraine will be introduced. (208)

It is important to develop the tools of economic diplomacy, in particular the work of the Council of Exporters and Investors under the Ministry of Foreign Affairs of Ukraine as a platform for Ukrainian and foreign businesses, government agencies to attract investment, find partners, disseminate information and emotional resources, in particular the promotion of domestic tourism potential. (209)

Ensuring sustainable economic development and the growth of wellbeing of Ukrainian citizens involves greater participation in international scientific and technical cooperation, international cooperation in high-tech industries (in particular, technology transfer), international cooperation in combating climate change. The main purpose of cooperation is to protect the national interests of Ukraine and facilitate the participation of Ukrainian representatives in such cooperation, ensuring the protection of their rights, in particular intellectual property rights. (210)

Prosperity

45. To achieve the main goal - the security and prosperity of Ukraine - the following objectives of Ukraine's foreign policy are defined:

- Restoring peace and the territorial integrity of Ukraine within its internationally recognised state border;

- bringing the Russian Federation to justice under international law;

- protecting the rights and interests of Ukrainian citizens abroad
- Countering disinformation attacks from external sources, carried out to the detriment of Ukraine's national interests and image abroad;

- Creating a safe environment through diplomatic means;

- gaining full membership in NATO;

- gaining full membership in the EU;

- promotion of foreign trade and investment;

- Ukraine's technological and environmental transformation;

- Freedom of movement of Ukrainian citizens in the world;

- Support of Ukrainians abroad, their involvement in public, social and economic projects;

- formation and promotion of a positive image in the world.

2.4. Peace – Peaceful and inclusive societies, democracy, effective and accountable institutions, rule of law and human rights for all

Ukraine, as a founding member of the United Nations (UN) and a number of other international organisations, consistently upholds the international legal order based on universally recognised principles and norms of international law, respect for human rights and democratic values. (7)

The diplomatic service intensifies its work for the building of a peaceful, secure and successful Ukraine which takes its rightful place among European democracies. (44)

Development of relations with other states is carried out in accordance with the priorities of foreign policy and reflects a special level and nature of cooperation, based on mutual interests and values of democracy, rule of law, respect for human rights. (96)

Bringing the Russian Federation to international legal responsibility for committing the crime of aggression against Ukraine will be carried out primarily through application to international judicial bodies, in particular to the International Court of Justice, the European Court of Human Rights, and international arbitral tribunals. (48)

Ukraine will continue active litigation work in international judicial bodies, will promote establishment of international legal facts of armed aggression of the Russian Federation against Ukraine and qualification of actions of the Russian Federation as an aggressor state, fixation of facts of violation by the Russian Federation of its obligations under international law and inform international partners and relevant international judicial bodies about such violations. (49)

Ensuring peace, international security and sustainable development in the Baltic-Black Sea region and developing good-neighbourly relations with neighbouring and friendly States are among the priorities. (5)

Active participation in international efforts for the maintenance of international peace and security will continue, in particular through participation in international peace and security operations. (10)

Further effective international cooperation in the fight against international terrorism, crime, illegal migration, cyber threats, as well as responsible cooperation on disarmament issues, the non-proliferation of weapons of mass destruction and their means of delivery, arms control, and the strengthening of participation in international organizations will continue. (11)
Ukraine strives for peace, which is the key to the development and prosperity of the State, the realization of the potential of the Ukrainian people. (49)

43. Countering the aggressor State, restoring the territorial integrity of Ukraine, and ensuring State sovereignty over its entire territory within the internationally recognized State border are the highest priorities. (43)

44. The Diplomatic Service will intensify its work to build a peaceful, secure and successful Ukraine that takes its rightful place among European democracies. (44)

Ukraine will advocate a new quality of the OSCE in effectively addressing contemporary challenges and threats to European security in the politico-military, economic and environmental, and human dimensions, and will contribute to strengthening the principles of the rule of law and human rights throughout the OSCE area. (192)

193. It is important to further actively involve and expand OSCE involvement in the process of resolving the Russian-Ukrainian conflict and to strengthen the potential of the OSCE as a platform for political dialogue and an instrument for peaceful conflict resolution in the region. (193)

3.1. Working better together

73. In response to global challenges, the EU and its Member States will further improve the way they deliver their cooperation, including by working together better, taking account of their respective comparative advantages. This includes improving effectiveness and impact through greater coordination and coherence, by applying the development effectiveness principles and by delivering development cooperation as one part of the overall internal and external action to promote the implementation of the 2030 Agenda. To be more effective in pursuing its objectives, and consistent with the primary aim of eradicating poverty, the EU’s development policy should be adaptable and responsive to changing needs, crises and priorities.

Ukraine

Foreign policy efforts will be aimed at developing relations of a strategic nature with key partners in the international arena, primarily with the EU, NATO and their Member States, and pursuing mutually beneficial cooperation with other states and international organisations. (4)

Taking into account regional security interests, it is important to join the format of the "Bucharest Nine", the unification of Central and Eastern European states - NATO Member States. (196)

Based on economic interests and a desire to be part of the EU's infrastructure and energy network, joining the Trimorje initiative is a priority. (197)

The intensified participation in the EU Strategy for the Danube Region is an important factor of economic and political solidarity with the states of the Danube Region. (198)

Interaction with the Visegrad Group states should be intensified, notably to learn from the rich experiences of European and Euro-Atlantic integration of the Republic of Poland, the Slovak Republic, Hungary and the Czech Republic, to improve defence capabilities in Central and Eastern Europe, to resume participation in the EU Tactical Battle Group formed by the Visegrad states, and to step up cooperation on joint educational and humanitarian projects, which would contribute to r (199)
Steps are being taken to further build up the Lublin Triangle Initiative as an effective political platform for equal dialogue between Ukraine, the Republic of Poland and the Republic of Lithuania - three States with a shared history and close culture, identical assessment of contemporary security realities, a common vision of how to respond and develop euroregional action. (200)

The similarity of interests of the member states allows us to look with hope for the future revitalization of the Organization for Democracy and Economic Development - GUAM (Georgia, Ukraine, Republic of Azerbaijan, Republic of Moldova), in particular the strengthening of economic, transport, customs cooperation, combating illegal trade and organized crime. The development of cooperation will facilitate the creation of new and the activation of existing GUAM+ formats. (201)

Active participation in the Black Sea regional organisations (convention bodies) - the Black Sea Economic Cooperation (BSEC) and the Commission for the Protection of the Marine Environment of the Black Sea (Black Sea Commission) - creates additional opportunities for pursuing national interests and counteracting diplomatic influences and propaganda of the Russian Federation. (202)

90. The EU and its Member States will strengthen their partnerships with multilateral organisations, including the United Nations system, the International Monetary Fund, the World Bank Group, regional development banks, the G7, the G20, the OECD and other regional and multilateral institutions

Ukraine

Cooperation with the Organisation for Economic Cooperation and Development (OECD) is an important factor in promoting the state's economic and social development. Interaction with the OECD will be developed in such areas as regional policy, management of state-owned enterprises, energy, finance, environmental protection, transport, infrastructure, health, education, social policy, statistics, welfare studies, and the fight against corruption. (184)

Ukraine, as a founding member of the United Nations (UN) and several other international organizations, consistently upholds the international legal order based on universally recognized principles and norms of international law, respect for human rights and democratic values. (7)

Multilateral cooperation must comply with the principles of international law, in particular the fulfilment of international obligations in good faith. Ukraine proceeds from the fact that the goals of international organizations, first of all of the UN, Council of Europe, OSCE, can be effective only if the commitments (standards, values) elaborated in the framework of international organizations are rigorously observed and fulfilled by all the member states without exception. (167)

Active work will continue within the United Nations and its specialized organizations, both in traditional ways and along new lines aiming at a more active involvement of the UN in addressing existing international problems. (174)

The active participation of Ukraine in international cooperation on social and economic issues within the United Nations will continue; it is becoming increasingly relevant in view of the need to respond to the consequences of the COVID-19 pandemic and to prevent future global crises and possible pandemics. (181)

(74) In this way, the objectives of Ukraine's foreign policy are to:
• Making full use of the potential of Ukraine's political association and economic integration with the EU on the basis of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other, ratified by Law of Ukraine of 16 September 2014, No. 1678-VII (hereinafter, the Association Agreement), in particular by updating certain provisions of this Agreement;

• Further attracting EU support for the implementation of internal reforms in Ukraine, overcoming the socio-economic consequences of the COVID-19 pandemic and restoring the economy of Donetsk and Luhansk regions;
  - To develop the sectoral integration of Ukraine with the EU;
  - ensuring gradual integration of Ukraine into the EU internal market
  - To ensure that Ukraine meets the Copenhagen criteria for EU membership;
  - To provide political support to the EU Member States for Ukraine's perspective of acquiring full membership in accordance with Article 49 of the Treaty on European Union;
  - Strengthening the strategic importance of the EU's Eastern Partnership initiative, taking into account the integration aspirations of the participating states, in particular by developing cooperation within the framework of the "Associated Trio", a trilateral format for enhanced cooperation between Ukraine, Georgia and the Republic of Moldova on European integration.

  • Taking into account all the benefits of implementing a deep and comprehensive free trade area with the EU, in particular the powerful beneficial impact of the deep and comprehensive free trade area on Ukraine's foreign trade, activities will be carried out to:

  • Improving trade conditions with the EU, taking into account Ukraine's national interests by minimising trade barriers, accelerating tariff liberalisation, and harmonising relevant national norms and standards with European ones;

  • revising the provisions of the Association Agreement on a Deep and Comprehensive Free Trade Area so that they are updated in accordance with Ukraine's needs and the potential for trade between Ukraine and the EU;

  • Conclusion of the Agreement on Conformity Assessment and Admissibility of Industrial Products;

  • Liberalization of the transport sphere;

  • Deepening of cooperation in the customs sphere.

Ukraine acts in accordance with the principles outlined in the new European Consensus on Development (2017) (European Consensus on Development | International Partnerships), which has been adopted according to the 2030 UN Agenda for Sustainable Development (2030 Agenda) from September 2015, as well as objectives set out in Article 21(1) TEU: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

On September 30, 2019, the Decree of the President of Ukraine was issued ‘On the Sustainable Development Goals of Ukraine until 2030’ in order to ensure the national interests of
Ukraine in relation to the sustainable development of the economy, civil society and the state to achieve growth and quality of life, respect for constitutional rights and freedoms of human and citizen.

Supporting the global goals of sustainable development to 2030 proclaimed by the resolution of the United Nations General Assembly of September 25, 2015 № 70/1 and the results of their adaptation taking into account the specifics of Ukraine's development, set out in the National Report "Sustainable Development Goals: Ukraine", the main Sustainable Development Goals of Ukraine for the period up to 2030 are:

1) overcoming poverty;
2) overcoming hunger, achieving food security, improving nutrition and promoting sustainable agricultural development;
3) ensuring a healthy lifestyle and promoting well-being for all at any age;
4) ensuring comprehensive and equitable quality education and encouraging lifelong learning opportunities for all;
5) ensuring gender equality, empowerment of all women and girls;
6) ensuring the availability and sustainable management of water resources and sanitation;
7) ensuring access to low-cost, reliable, sustainable and modern energy sources for all;
8) promoting progressive, inclusive and sustainable economic growth, full and productive employment and decent work for all;
9) creating a sustainable infrastructure, promoting inclusive and sustainable industrialization and innovation;
10) reduction of inequality;
11) ensuring the openness, security, sustainability and environmental sustainability of cities and other settlements;
12) ensuring the transition to rational models of consumption and production;
13) taking urgent measures to combat climate change and its consequences;
14) conservation and rational use of oceans, seas and marine resources in the interests of sustainable development;
15) protection and restoration of land ecosystems and promotion of their rational use, rational forest use, combating desertification, stopping and reversing (deploying) the process of land degradation and stopping the process of biodiversity loss;
16) promoting a peaceful and open society in the interests of sustainable development, ensuring access to justice for all and creating effective, accountable and participatory institutions at all levels;
17) strengthening the means of implementation and intensifying work in the framework of the global partnership for sustainable development.

The goals of sustainable development of Ukraine for the period up to 2030 are guidelines for the development of draft forecast and program documents, draft regulations in order to ensure a balanced economic, social and environmental dimensions of sustainable development of Ukraine.
On August 26, 2021, the Strategy of foreign policy of Ukraine was approved by the Decree of the President of Ukraine №448.

**The main objectives of the Sustainable Development in the Ukraine's foreign policy are:**

1. The purpose of Ukraine's foreign policy is to establish Ukraine in the world as a strong and authoritative European state capable to provide favorable external conditions for sustainable development and realization of its potential, economy and Ukrainian society.

2. At the heart of Ukraine's foreign policy is the strategic course of the state towards Ukraine's full membership in the European Union (EU) and the North Atlantic Treaty Organization (NATO), enshrined in the Constitution of Ukraine.

3. Ensuring the independence and state sovereignty of Ukraine, restoring its territorial integrity, countering the aggression of the Russian Federation, the course of full membership in the EU and NATO, promoting Ukrainian exports and attracting foreign investment, protecting the rights and interests of Ukrainian citizens abroad, affirming a positive image Ukraine's priorities in the world are foreign policy activities.

4. Foreign policy efforts will be aimed at developing strategic relations with key partners in the international arena, especially with the EU, NATO and their member states, and achieving mutually beneficial cooperation with other states and international organizations.

5. Ensuring peace, international security and sustainable development in the Baltic-Black Sea region, building good neighbourly relations with friendly neighbouring states is one of the priorities.

6. The experience gained during the years of counteracting the aggression of the Russian Federation, in particular in combating hybrid threats, should be used to develop security and political cooperation with other states.

7. Ukraine, as a founding member of the United Nations (UN) and a number of other international organizations, has consistently advocated for the protection of international law and order, based on universally recognized principles and norms of international law, respect for human rights and democratic values.

8. Measures will be taken to strengthen the state's position in the region, strengthen its role as a contributor to Euro-Atlantic security, expand the geography of security and economic partnership, intensify participation in universal and regional international organizations, measures to reform them, create new regional formats of international cooperation.

9. Ukraine's geopolitical position makes it not only an integral part of the European and Euro-Atlantic security systems, but also an important energy and logistics hub in the region.

10. Active participation in international efforts to maintain international peace and security will continue, in particular through participation in international peacekeeping and security operations.

11. Further effective international cooperation in the areas of combating international terrorism, crime, illegal migration, cyber threats, as well as responsible cooperation on disarmament, non-proliferation of weapons of mass destruction, their means of delivery, arms control, counter-participation in international cooperation will be carried out. the effects of climate change.

12. The use of "soft power" through public diplomacy will contribute to the formation of a positive image of the state for the establishment of new political ties, development of trade and
economic partnership, dissemination of reliable information about the development and achievements of Ukraine.

13. Ukraine cares for the preservation of national and cultural identity and protection of the rights and legitimate interests of Ukrainians abroad, helps to meet their needs, actively cooperates with them to promote the interests of the state in the world.

14. Against the background of the spread of acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2 (hereinafter - COVID-19) and the global economic recession, Ukraine's role in overcoming food security challenges is growing, there are prerequisites for Ukraine's establishment as a guarantor of food security.

15. Implementation of the Strategy of Foreign Policy of Ukraine (hereinafter - the Strategy) will be carried out in compliance with the following principles:

- resilience - the ability of the state and society to effectively counter threats of any origin and nature, including armed aggression, economic pressure, political destabilization, cyberattacks, disinformation and other threats, adapt to changing security environment, maintain sustainable functioning, quickly restore balance after crises;
- observance of international law - observance of generally accepted norms and principles of international law, fulfilment of Ukraine's international obligations under international agreements and within the framework of membership in international organizations, observance of reached international agreements;
- adaptability - prompt response to changes in the international environment, effective crisis management in the field of foreign policy of Ukraine, innovation in approaches and tools, flexibility in decision-making;
- interaction - effective coordination of the activities of state bodies to ensure the implementation of a common foreign policy course of Ukraine, the establishment of effective communication and cooperation with other states, international governmental and non-governmental organizations, as well as non-governmental institutions, business, scientific and academic circles, the media;
- pragmatism - the development of bilateral and multilateral international relations on the basis of national interests in order to solve specific foreign policy challenges; intensification of economic diplomacy to promote sustainable economic development and increase the welfare of Ukrainian citizens;
- human-centeredness - recognition and affirmation of respect for human life and dignity, human rights and freedoms as the highest values; protection, promotion, promotion of the rights and legitimate interests of Ukrainian citizens abroad, rights and legitimate interests of foreign Ukrainians in other countries.

31. To what extent and how is Ukraine organised/positioned to implement the 2030 Agenda and the Addis Ababa Action Agenda.

The Government of Ukraine is to continue to work closely with the UNPD to support actions aimed to address Government priorities for the 2030 Sustainable Development Goals and to attract funding to achieve them. Since mid-2020, UNDP, together with United Nations agencies – WHO, UNICEF and the UNECE, has been working to support the Integrated National Financing Framework
for Sustainable Development at national and sub-national level in Ukraine, in order to support the
government to reach a consensus on financial flows and reforms related to the financing of the SDG
agenda.

32. In which International Agreements dealing with development is Ukraine participating?

For almost 30 years Ukraine has signed approximately 20 framework agreements of Ukraine
with the Development Partners on technical and financial cooperation to support social and economic
development of Ukraine.

B. Humanitarian aid

33. Does Ukraine accept the principles of needs-based aid in line with the humanitarian
principles enshrined in the EC Humanitarian Aid Regulation (EC 1257/96) and the European
Consensus on Humanitarian Aid with respect to external humanitarian assistance? In
particular, attention is drawn to the respect for international law, including International
Humanitarian Law, Human Rights Law and Refugee Law as well as the principle of non-
discrimination whereby assistance is awarded to victims, without discrimination on the grounds
of race, ethnic group, religion, sex, nationality or political affiliation and must not be guided by,
or subject to, political considerations.

According to Article 10 of the Law of Ukraine “On Humanitarian Aid” (22.10.1999, № 1192-
XIV), Ukraine may provide humanitarian aid to other states based on humanitarian principles. The
decision to provide humanitarian assistance to Ukraine is made by the Verkhovna Rada of Ukraine
or the President of Ukraine.

Pursuant to the act of the Verkhovna Rada of Ukraine or the President of Ukraine on providing
humanitarian aid to another country in accordance with the Procedure for providing humanitarian aid
to Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine dated 21.02.2001 № 161
(amended), the Ministry of Social Policy decides to recognize cargo humanitarian aid.

According to Article 24 of the Constitution of Ukraine, there can be no privileges or restrictions
on the grounds of race, color, political, religious and other beliefs, sex, ethnic and social origin,
property status, place of residence, language or other characteristics. State authorities and local self-
government authorities, their officials are obliged to act only on the basis, within the powers and in
the manner provided by the Constitution and laws of Ukraine.

34. Does Ukraine have an organisation or section of public administration which
continuously monitors as well as provides relief/assistance in the event of natural disasters and
human-induced crises in third countries with the purpose of deciding to allocate assistance,
relief or protection to the people in need struck by such disasters or crises?

According to the Procedure for Providing Humanitarian Aid to Ukraine, approved by the
Resolution of the Cabinet of Ministers of Ukraine dated 21.02.2001 № 161 (amended):

- the Ministry of Foreign Affairs of Ukraine informs the relevant competent authorities of the
assisted country about the decision taken, negotiates the list and scope of humanitarian aid and
delivery time, routes, addresses of recipients, types of vehicles that will deliver humanitarian aid,
time and point of crossing the state border of Ukraine;
- the Ministry of Social Policy of Ukraine decides on the recognition of cargo as humanitarian aid;

- the State Emergency Service organizes the procurement of goods and services, in particular the loading, removal and storage of goods, escorts them to their destination and transfers to recipients;

- the Ministry of Infrastructure of Ukraine ensures the transportation of humanitarian aid to its destination.

The Ministry of finance of Ukraine exercises control over the targeted use of budget funds intended for the provision of humanitarian aid to Ukraine to other countries.

You can find annexes to this chapter under the link: https://bit.ly/3PexNDF
CHAPTER 31. FOREIGN, SECURITY AND DEFENCE POLICY

I. SUMMARY INFORMATION

1. Is Ukraine prepared to accept unreservedly the definition, legal structure and organisational arrangements for the Union’s foreign, security and defence policy (CFSP and CSDP) including its military dimension?

Ukraine strongly supports the Union’s Foreign, security and defence policy and is ready to unconditionally accept the definition, legal structure and organizational mechanisms of the Union’s Foreign, Security and Defence policy (CFSP and CSDP), including its military dimension.

Ukraine expresses its readiness to accept the CFSP and CSDP acquis in its entirety, and to harmonise its legislation and actions in these areas accordingly. Ukraine is working to align its legislation with the EU acquis, and create new legal mechanisms, instruments and capacities that will allow an active and effective participation of Ukraine in the EU Foreign, security, and defence policy.

Cooperation of the Ministry of Defence of Ukraine with EU institutions (agencies) is carried out in accordance with the provisions of Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (Title II “Political dialogue and reform, political association, cooperation and convergence in foreign and security policy” Article 7 “Foreign and security policy”, Article 9 “Regional stability”, Article 10 “Conflict prevention, crisis management and military-technological cooperation”).

As of today, in addition to the Association Agreement, the following legislative documents between Ukraine and the EU in the field of military cooperation are in force:

2. Agreement between Ukraine and the European Union on the security procedures for the exchange of classified information, effective since 01.02.2007.
4. Decree of the President of Ukraine “On the decision of the National Security and Defence Council of Ukraine dated April 21, 2011 “On participation of the Armed Forces of Ukraine in High Readiness Multinational Forces. This decree recognizes the participation of the Ukrainian Armed Forces in the EU BGs as well.
5. Work plan for the cooperation between the Armed Forces of Ukraine and the Secretariat of the EU Council (within the framework of the Common Security and Defence Policy) for the current year.
6. Consolidated plan of international cooperation measures of the Ministry of Defence of Ukraine and the Armed forces of Ukraine for the current year.
Currently, Ukraine is cooperating with the EU in the framework of the Common Security and Defence Policy in the following areas:

1. Expanding the format of military-political dialogue at the strategic level between the leadership of the Ministry of Defence and the Armed Forces of Ukraine and the European Union.

The Work Plan for Cooperation between the Armed Forces of Ukraine and the Secretariat of the Council of the EU (in the field of CSDP) is updated annually.

The leadership of the Ministry of Foreign Affairs and Ministry of Defence of Ukraine participates in official and working meetings with representatives of the European Parliament, the Council of the European Union, the EU Political and Security Committee as well as the EU institutions to acquaint European partners with the latest security situation in Ukraine and discuss the state and prospects of cooperation development with the European Union in the security and defence sphere.

Since 2008 there have been regular contacts between the Ukrainian Armed Forces leadership and the EU military structures.

The Commander-in-Chief of the Armed Forces of Ukraine participates on the regular basis in the EU Military Committee meetings at CHODs level and Ukrainian military representative participates upon invitation in EU MC meetings in a format of the member States’ Military Representatives to the EU.

Also, national military authorities engage participate in the bilateral meetings with the EU and Member States delegations during their visits to Ukraine to better coordinate the military assistance seeking the restoration of security and stability in Ukraine and thus in the entire EU eastern neighbourhood.

2. Involvement of the Armed Forces of Ukraine in EU battle groups (BG).

Armed Forces of Ukraine assets are involved on the regular basis in the standby of the EU BGs such as EU BG “HELBROC”, EU BG V4 and others.

3. Preparation for joint military activities, as well as contributions to the CSDP missions and operations.

At the invitation of the European Union, on August 13, 2021, the Decree of the President of Ukraine №358 / 2021 “On the Sending of National Personnel for Ukraine’s Participation in the EU Operation Althea” was adopted.

In December 2021, the Commander of the EU Operation Althea, Lieutenant General Brice Houdet, made a positive decision on two positions in the Headquarters of this operation to be filled by Ukrainian military, namely: Chief Auditor, BH AUD 100 (OF-4) and HQ Camp CMDT Adjutant, BT HQA 104 (OF-2).

Due to the imposition of martial law in Ukraine on February 24, 2022, the practical deployment of national personnel in the EU operation will be possible after the stabilization of the security situation in the country.

In addition, following the request of Ukraine, the EU Member States are considering an EU military advisory training mission to Ukraine with the main tasks of providing assistance in reforming the system of professional military education (PME) through higher education institutions of the Ministry of Defence of Ukraine. Standardization of training and education at all levels of PME of
Ukraine, based on the best Euro-Atlantic practice, would significantly increase Ukraine’s compliance with the EU organisational structure and modus operandi in CSDP, thus increasing Ukraine’s abilities to increase its contribution to the EU missions and operations in the future.

4. Training of representatives of the Armed Forces of Ukraine within the EU Common Security and Defence Policy.

Since 2012, the Armed Forces of Ukraine have been actively involved in cooperation with the EU under the Eastern Partnership program.

Also, within the framework of this program, with the support of the Embassy of the Republic of Austria in Ukraine and the European Security and Defence College, the Ivan Chernyakhovsky National Defence University of Ukraine annually conducts an Orientation Course on Common Security and Defence Policy.

5. Development of cooperation with the European Defence Agency (EDA).

Ukraine is being actively engaged in the cooperation with the EDA and formalized these relations by signing the Administrative Arrangement in 2015. During 2021, a dynamic development of cooperation between the Ministry of Defence of Ukraine and the European Defence Agency in accordance with the provisions of the Administrative Agreement has been achieved and to be continued.

Ukrainian military experts regularly participate in working meetings of the European Defence Standardization Committee, the Single European Sky Aviation Board (political level), the Project Team Logistic Support, and other expert groups of the European Defence Agency.

6. Involvement in the projects of the Permanent Structured Cooperation Program (PESCO).

Ukraine considers participation in the PESCO projects as one of the priority ways to develop military-operational cooperation with the EU, and improving national defence capabilities in accordance with best practices and standards.

7. Cooperation within the European Peace Facility.

In December 2021, the EU Member States has approved the first package of EPF Assistance Measures to enhancing Ukraine’s national security and stability, including the fostering of Ukrainian Armed Forces resilience. It marks a new direction of cooperation with the European Union in the military sphere.

Today, the EPF’s financial resource is being actively used to encourage the EU Member States to provide the Armed Forces of Ukraine with the necessary weapons, military equipment, ammunition, equipment and most needed non-lethal assistance to repel Russia’s armed aggression. Such a unique collaborative experience between Ukraine and the EU will significantly enrich further development of the EPF and enhance the Union’s ability to prevent conflicts, build peace and strengthen international security as well as to significantly increase the Armed Forces of Ukraine compliance with the CSDP military dimension.

8. Enhancing cooperation in cyber security domain

On 3 June 2021, the European Union and Ukraine held their first cyber dialogue. The EU and Ukraine reaffirmed their commitment to a global, open, stable and secure cyberspace.
Ukraine develops respective cyber-related institutional settings, responsibilities as well as cybersecurity-related policies and legislation in alignment with the EU legal and institutional framework.

Ukraine is interested in further strengthening cybersecurity related structures and capabilities as well as cooperation with different European Union structures concerned, in particular but not limited to:

Engagement into work of the European Union Agency for Network and Information Security (ENISA) and European Cybersecurity Competence Centre (ECCC).

9. Cooperation in countering hybrid threats and compliance with the EU sanctions

Given the ongoing aggression by Russia, the spread of cyberattacks, the risk of increasing cross-border crime and destabilizing the socio-political situation, Ukraine is interested in developing cooperation with the EU in the field of combating hybrid threats.

In 2020, an interdepartmental working group was established on the basis of the Ministry of Internal Affairs, which determined the priorities of cooperation, and in particular the specialists of the Research Institute at the Ministry of Internal Affairs analyzed and assessed hybrid threats. This classification of hybrid threats was subsequently presented during an expert meeting in the format of a video conference "Hybrid Threats: Defining Understanding, Counteracting in the Context of the ESDR: National Experience and Regional Approach" held on April 21, 2021 as part of the EU Strategy for the Danube Region.

The event was organized by the Ministry of Internal Affairs of Ukraine together with the Coordination Bureau of Priority № 11 of the EU Strategy for the Danube Region in cooperation with the Ministry of Interior, Sports and Integration of Bavaria. The event was attended by more than 30 representatives of the security sector from 9 ENDR countries, as well as a representative of the European Center of Excellence for Combating Hybrid Threats (Finland).

During the event, the results of a study conducted by a working group at the Ministry of Internal Affairs on the analysis and classification of threats were presented. Discussionists agreed that hybrid threats are a major challenge for today's security infrastructure.

Speakers included representatives of the Ministry of Culture and Information Policy, the Ministry of Internal Affairs, the National Security and Defense Council, the National Institute for Strategic Studies, the State Research Institute of the Ministry of Internal Affairs of Ukraine, and the Czech Republic, Slovakia, Austria, Germany and Bavaria. A guest speaker from the European Center for Excellence in Combating Hybrid Threats in Finland was also present.

Also in October 2020, the Government Office for Coordination of European and Euro-Atlantic Integration organized an international conference "New Security Realities: Understanding, Adapting and Responding".

In addition, cooperation is established within the framework of the NATO-Ukraine Platform against Hybrid Warfare, which operates under the Charter of Special Partnership between Ukraine and the North Atlantic Treaty Organization of 9 July 1997 and under the political guidance of the NATO-Ukraine Commission and the North Atlantic Council.

Given the current realities, Ukraine is interested in deepening cooperation with the European Center of Excellence in Combating Hybrid Threats in Helsinki. In order to identify hybrid threats and
identify ways to neutralize and counter them, there is a need for external support for expert meetings / trainings, involvement of national experts in thematic activities in the EU to study European experience in combating hybrid threats, strategic understanding of hybrid warfare, finding and developing an effective capacity-building mechanism to ensure better preparedness to counter hybrid threats, developing tools for counter-hybrid measures.

In addition, given that the European Critical Infrastructure Protection Program (EPCIP) operates in the EU, the European Defense Agency is working to identify the necessary critical infrastructure protection capabilities and it is important to assist the EU in conducting trainings and exercises on:

- development and strengthening of capacities for protection of critical infrastructure;
- response to combined actions of a complex nature (sabotage of critical infrastructure + cyberattacks + high-profile killings);
- counteracting the use of mini-drones (UAVs);
- use of UAVs to collect forensic information from the air.

2. Will Ukraine at the time of accession be ready and able to participate fully and actively in the foreign, security and defence policy (CFSP and CSDP) as defined in the TEU?

At the time of accession Ukraine will be ready and able to participate fully and actively in the foreign, security and defence policy (CFSP and CSDP) as defined in the TEU.

The list of legislation covering the foreign, security and defence policy of Ukraine is presented in point 7.

The EU accession is set as the strategic/main priority of Ukraine’s foreign policy, which is enshrined in the Constitution of Ukraine. Therefore, the ongoing reform implementation process is already taking into account the EU principles and standards. Ukraine already participates in different CFSP/CSDP initiatives and actions, aligns with EU declarations and decisions and is ready to ensure full and effective participation in CFSP and CSDP upon accession.

Involvement of Ukrainian Armed Forces in EU BGs is a confirmation of Ukraine’s commitment to joint crisis management within the framework of EU CSDP. Such participation provides the opportunity to integrate the lessons learned, best practices and knowledge into domestic practices as well as to develop the Ukrainian Armed Forces capabilities. Achieving these capabilities is important for fulfilling the objectives of the EU-led operations. It also contributes to the Ukraine’s defence of its own territory.

The Armed Forces of Ukraine have been involved in operational duty as part of the EU BTG “Helbroc” five times (in 2011, 2014, 2016, 2018 and 2020), being in locations of permanent deployment in Ukraine. At the request of the EU, the leadership of the Armed Forces of Ukraine made appropriate decisions regarding the readiness to involve national armed forces and resources to be part of the EU BG “Helbroc” in the first half of 2023 and 2026.

Ukrainian Armed Forces contribution to the EU BG Helbroc is also regulated by the Note of Accession to the Technical Agreement between the Ministry of Defence of the Republic of Bulgaria, the Ministry of Defence of the Republic of Cyprus, the Ministry of National Defence of the Hellenic Republic and the Ministry of Defence of Romania on the establishment of an EU Multinational
Battlegroup with Greece as framework nation and the participation of Bulgaria, Cyprus and Romania (Helbroc BG), signed in 2011.

In order to extend the Ukrainian Armed Forces’ contribution to EU BGs, in particular the Visegrad Group (V4) EU BG, it is planned to sign (when the security situation in Ukraine allows) Note of Accession of The Ministry of Defence of Ukraine to the Memorandum of Understanding between the Ministry of Defence of the Czech Republic, the Ministry of Defence of Hungary, the Minister of National Defence of the Republic of Poland, and the Ministry of Defence of the Slovak Republic concerning the principles for the establishment and operation of the European Union Battlegroup formed by nations of the Visegrad Countries (V4 EU BG).

3. Will Ukraine, upon accession, take on in their entirety and without reservations the objectives of the TEU, the provisions of its Title V, and of the declaration attached to it, as well as the relevant international agreements concluded on behalf of the EU, and other relevant sources of the foreign, security and defence policy (CFSP and CSDP) acquis?

Upon accession Ukraine will take on in their entirety and without reservations the objectives of the TEU, the provisions of its Title V, and of the declaration attached to it, as well as the relevant international agreements concluded on behalf of the EU, and other relevant sources of the foreign, security and defence policy (CFSP and CSDP) acquis.

4. Will the public administration, and in particular the Ministry of Foreign Affairs and the Ministry of Defence have the necessary structure and technical equipment to fully take part in the foreign, security and defence policy (CFSP and CSDP) at the time of accession?

At the time of accession, the public administration, and in particular the Ministry of Foreign Affairs of Ukraine, will have the necessary structure and technical equipment to fully take part in the foreign, security and defence policy (CFSP and CSDP).

EU CFSP related issues is one of the competences/mandate of the Ministry of Foreign Affairs of Ukraine, which coordinates the external activities of other Ukrainian institutions (including the Ministry of Defence of Ukraine) according to the Decree of the President of Ukraine on the issues of coordination of foreign policy № 671/2021 dated 22 December 2021. MFA already has the Department with the mandate to develop cooperation with the EU and NATO (Department General for the EU and NATO).

The Ministry of Defence of Ukraine has the necessary structure for full participation in the Foreign, security and defence policy (CFSP and CSDP).

The Department of International Defence Cooperation of the Ministry of Defence of Ukraine and the General Directorate of Military Cooperation of the Armed Forces of Ukraine will be responsible for CFSP implementation.

With the aim to provide the interaction with the EU in the defence and military area, the AFU representative is permanently appointed as a military advisor to the Mission of Ukraine to the EU.

The Ministry of Defence of Ukraine has raised the initiative to strengthen the military component of the Mission of Ukraine to the EU by expanding the duties of the Military Representative of Ukraine to NATO also to EU sphere. In addition, it is proposed to create the Military
5. In view of the provision for Member States to support the Union’s external and security policy actively and unreservedly (Article 24.3 TEU), please explain what are the treaty obligations of Ukraine under international law, and whether they will need to be modified in view of accession. For this purpose, please send a list of the existing treaty obligations, as well as international agreements under negotiation.

As provided for in Article 9 of the Constitution of Ukraine an international treaty that was ratified by the Parliament of Ukraine becomes integral part of the national legislation of Ukraine. Accordingly, upon ratification of the Treaty of European Union no further modifications are required to uphold Ukraine’s obligations under that treaty, including those related to the Union’s external and security policy. Provisions of international treaties of Ukraine can be applied directly without any additional national acts. Moreover, Article 19.2 of the Law of Ukraine on International Treaties establishes that in case any provision of an international agreement that came in force contravenes any provision of an existing law of Ukraine the former shall prevail. The only exception to this rule stems from Ukraine’s obligations under the UN Charter. In this case, however, the UNSC resolutions do require internal acts to be adopted in order for the relevant resolution to be implemented. Such approach is not enshrined into any piece of legislation. Rather such UNSC resolution implementation procedure has been developed as a matter of practice.

Ukraine is not a party to any treaties that might impede Ukraine’s ability to uphold the Union’s external and security policy. There are no draft treaties that are being negotiated that might impact Ukraine’s ability to uphold the Union’s external and security policy.

6. Does Ukraine support the EU Global Strategy for the EU’s Foreign and Security Policy of June 2016 and the EU Strategic Compass for Security and Defence of March 2022?

Yes, Ukraine supports the EU Global Security Strategy of June 2016 and the EU Strategic Compass for Security and Defence of March 2022.

As far as the Ukrainian assessment goes, the EU Global Security Strategy is based on the principles of the UN Charter and that’s why its objectives has been supported by Ukraine as a founder of the UN. Ukraine will support any of the EU policy cooperation and strategic partnerships, which will be based on the principles of the UN Charter and OSCE 1975 Final act.

Ukraine is ready to contribute to the Actions, which the EU Member States have agreed in the Strategic Compass and to contribute to a greater share of responsibility to ensure peace and stability in the EU’s neighbourhood and other areas of its interests. Having unique practical war experience, Ukraine is able to contribute significantly to the EU Rapid Deployment Capacity (up to 5000 troops, Part “Act” of Strategic Compass) for acting robustly whenever a crisis erupts. Ukraine stands ready to further deepen the bilateral cooperation with the EU under the Action foreseen in the Strategic Compass “Strengthen our security and defence cooperation with the Eastern partners with a view to strengthening their resilience, including against hybrid attacks and cyber threats, and boost tailored support and capacity building in the area of security and defence”.

Representation of Ukraine of the Mission to the EU in capacity of the Deputy Military Representative and first secretary of the Mission of Ukraine to the EU.
7. Please provide a list of legislation covering the foreign, security and defence policy and the scope of the same.

1. The Constitution of Ukraine determines the goal of Ukraine’s foreign policy and the functions of the President, the Parliament (Verkhovna Rada), the Government (The Cabinet of Ministers) and the National Security and Defence Council in the spheres of foreign policy and foreign affairs, national security and defence (Articles 18, 85, 92, 106, 107, 116; official translation: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text.

2. The National Security Strategy of Ukraine enacted by the Decree of the President of Ukraine #392/2020 dated 14 September 2020 is a basis for other strategic planning documents and determines the principles, priorities and main tasks in the spheres of Ukraine’s security, foreign and domestic policy and defence.

3. The Strategy of Foreign Policy of Ukraine enacted by the Decree of the President of Ukraine #448/2021 dated 26 August 2021 stems from the National Security Strategy of Ukraine and determines the aims, priority directions and practical approaches to be deployed in the sphere of foreign affairs.

4. The Law of Ukraine “On the Fundamentals of Domestic and Foreign Policy” defines the basic principles of the foreign policy of Ukraine.

5. The Law of Ukraine “On National Security of Ukraine” defines the foundations and principles of national security and defence, goals and basic principles of state policy that guarantee society and every citizen protection from threats. This Law also defines and delineates the powers of government agencies in the area of national security and defence, creates a framework for integrating the policies and procedures of government agencies, other government agencies whose functions relate to national security and defence, the security and defence forces, defines a system of command, control and coordination of security and defence force operations, introduces a comprehensive approach to national security and defence planning, thus ensuring democratic civilian control over the security and defence sector bodies and formations.

6. The Law of Ukraine “On the Defence of Ukraine” establishes the principles of the defence of Ukraine, as well as the powers of state authorities, the main functions and tasks of military authorities, local state administrations, local governments, the obligations of enterprises, institutions, organizations, officials, rights and obligations of citizens of Ukraine in the field of defence.

7. The Military Security Strategy of Ukraine, the main goal of which is a well-prepared and carefully ensured comprehensive defence of Ukraine based on deterrence, sustainability and cooperation, ensuring military security, sovereignty and territorial integrity of the state.

8. The 2022 State Security Strategy defines existent and potential threats to the state security of Ukraine, directions and tasks of state security policy, and is the basis for planning and implementing state security policy.

Based on the results of the war with the Russian Federation, legislative acts on foreign policy, security and defence policy will be amended accordingly.

Cooperation of the Ministry of Defence of Ukraine with EU institutions (agencies) is carried out in accordance with the provisions of:
Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (Title II “Political dialogue and reform, political association, cooperation and convergence in foreign and security policy” Article 7 “Foreign and security policy”, Article 9 “Regional stability”, Article 10 “Conflict prevention, crisis management and military-technological cooperation”);

Administrative Agreement between the Ministry of Defence and the European Defence Agency (07.12.2015);

Work Plan for Cooperation of the Armed Forces of Ukraine and the Secretariat of the EU Council (CSDP) for the current year;

Consolidated plan of international cooperation activities of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine for the current year.

According to the Resolution of the Vice Prime Minister of Ukraine on European and Euro-Atlantic Integration of 05.08.2020 № 1-64/2/20 the Ministry of Defence of Ukraine has defined four key priorities in the field of European integration:

1. Expanding the format of dialogue with the EU in military-political, military-technical and military areas.

2. Strengthening practical cooperation with the EU within CSDP (involvement of forces and means of the Armed Forces of Ukraine in international peacekeeping and security operations led by the EU and EU battle tactical groups).


4. Development of cooperation with the European Defence Agency, involvement in projects of the Permanent Structured Cooperation Programme, PESCO.

8. How does Ukraine intend to fully align with the CFSP measures until accession?

Ukraine intends to make progress in alignment process with the CFSP measures of the EU.

Since 2016 the level of alignment to the statements and declarations by the EU has increased to over 90% (in 2020-2022). Our legislation has been adapted to those statements as well. This level of alignment has proven the closeness of views and values of Ukraine with the EU.

The following steps (until granted the status of the EU candidate country) will be made by Ukraine according to the provisions of UA-EU Associated agreement and relevant political dialogue.

9. Which bodies and institutions are responsible for implementing and ensuring coordination of foreign policy?

According to the Constitution of Ukraine (official translation: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text):

The President of Ukraine shall (article 106):  
1) ensure the independence, national security, and legal succession of the State;

3) represent the State in international relations, administer the foreign political activity of the State, conduct negotiations and conclude international treaties of Ukraine;
4) adopt decisions on the recognition of foreign states;

5) appoint and dismiss heads of diplomatic missions of Ukraine to other states and to international organizations; accept credentials and letters of recall of diplomatic representatives of foreign states;

17) be the Commander-in-Chief of the Armed Forces of Ukraine; appoint and dismiss the high command of the Armed Forces of Ukraine and other military formations; administer the national security and defence of the State;

18) be the Head of the National Security and Defence Council of Ukraine;

19) forward the submission to the Verkhovna Rada of Ukraine on the declaration of a state of war, and adopt the decision on the use of the Armed Forces and other military formations established in compliance with laws of Ukraine in the event of armed aggression against Ukraine;

20) adopt a decision, in accordance with law, on the general or partial mobilization and the introduction of martial law in Ukraine or its particular territories in the event of a threat of aggression or danger to the independence of Ukraine;

21) where necessary, adopt a decision on the introduction of a state of emergency in Ukraine or its particular territories or declare certain territories of Ukraine as zones of ecological emergency situation with the subsequent approval of such decisions by the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall have the following powers (Article 85):

5) determining the principles of domestic and foreign policy, implementing the strategic course of the State to acquire full membership of Ukraine in the European Union and in the North Atlantic Treaty Organization;

9) declaring war upon the submission of the President of Ukraine and concluding peace, approving the decision of the President of Ukraine on the use of the Armed Forces of Ukraine and other military formations in the event of armed aggression against Ukraine;

12) appointing ... the Minister of Defence of Ukraine, the Minister of Foreign Affairs of Ukraine upon the submission of the President of Ukraine...;

14) confirming decisions on granting loans and economic aid by Ukraine to foreign states and international organizations and also decisions on Ukraine receiving loans not envisaged by the State Budget of Ukraine from foreign states, banks and international financial organizations, exercising control over their use.

According to the Act of the President of Ukraine № 671/2021 of 22.12.2021 "The issues of coordination of foreign policy of the state":

The Ministry of Foreign Affairs of Ukraine, in accordance with its statutory powers, provides official explanations on Ukraine’s foreign policy, coordinates the activities of state bodies in the field of foreign relations, supervises the implementation of international agreements of Ukraine, provides methodological, advisory and informational assistance to state bodies, submits for consideration by the President of Ukraine, the Cabinet of Ministers of Ukraine proposals to improve the activities of state bodies in this area.

II. CFSP — POLITICAL DIALOGUE
10. In view of the objective of strengthening the security of the Union and its Member States in all ways (Art. 24.3 TEU), please explain the state of relations between Ukraine and neighboring non-EU member states. For this purpose, please provide summary information on the cooperation with neighboring countries, including both co-operation in regional organizations and bilateral cooperation.

Ukraine is developing strategic partnership relations with Turkey, Georgia and the Republic of Azerbaijan. They reflect a high level of cooperation based on the mutual interests and values of democracy, the rule of law and respect for human rights. These relations are an important factor in the stability of Central and Eastern Europe, the Azov, Black, Baltic and Mediterranean Seas, and an important element of the European security architecture.

Maintaining political dialogue at the level of heads of state, in particular in the format of the High-Level Strategic Council, along with developing a new mechanism for political and security consultations at the level of foreign and defence ministers (‘Quadriga’ format) are the first and foremost priorities in building strategic partnerships with Turkey.

In relations with the Republic of Azerbaijan, special attention is paid to energy cooperation and creating favourable conditions for Ukrainian business in this country, including the involvement of Ukrainian business into the implementation of infrastructure and other projects.

The priority tasks in relations with Georgia are uniting the efforts to find effective ways to counter the Russian Federation’s aggression, de-occupation and ensuring state sovereignty over the temporarily occupied by Russia territories of our countries, as well as the cooperation on European and Euro-Atlantic integration.

Bringing bilateral relations with the Republic of Moldova to the level of strategic partnership, in particular in view of the European integration aspirations of both countries, is the main priority of our cooperation.

Despite Belarusian regime’s complicity in Russia’s military aggression against Ukraine, in its relations with the Republic of Belarus, Ukraine has consistently demonstrated solidarity with the Belarusian people in their efforts to develop a European, democratic and legal country. Free democratic Belarus and pragmatic trade and economic cooperation are in Ukraine’s interests.

To improve the international security environment, Ukraine also actively cooperate with non-EU neighbouring states, in the framework of regional formats such as the Organization for Democracy and Economic Development (GUAM), Black Sea Economic Cooperation (BSEC), Association Trio (Ukraine, Georgia, Moldova).

As a member of the Central European Initiative (CEI), Ukraine considers among the priorities the cross-border cooperation, cooperation in spheres of transport, energy, science and technology, as well as intensifying the participation of Ukrainian enterprises and organizations in the implementation of cooperation projects within the Initiative.

Among the main tasks of the Lublin Triangle (L3, Ukraine, Poland and Lithuania) are protection of international law and observance of its norms by all subjects, restoration of territorial integrity of Ukraine within internationally recognized borders; support for Ukraine’s course in the EU and NATO; revival of trade and economic, investment, military-technical, educational and cultural-humanitarian components of Ukrainian-Polish-Lithuanian cooperation; development of
cooperation in the framework of regional projects and initiatives. The interaction within the format is based on the L3 "Roadmap for cooperation" signed on July 7, 2021 (Vilnius) by the Ministers of Foreign Affairs and the "Joint Action Plan to Countering Disinformation".

Since the Russian aggression against Ukraine in 2014, a number of statements in support of Ukraine’s sovereignty and territorial integrity have been approved by the Visegrád Group (also known as the Visegrád Four or the V4) member-states at the level of heads of government and foreign ministers. Ukraine is interested in further development of cooperation in the format of the V4.

The Minister for Foreign Affairs of Ukraine took part in the Central 5 + Ukraine meeting, which took place in Bratislava on May 12-13, 2021.

The SLAVKOV format is aimed at bolstering the cooperation both between the three states of the region and in the European forum, as well as at boosting economic growth and employment levels. The Minister for Foreign Affairs of the Czech Republic initiated a visit to Ukraine jointly with the ministers for Foreign Affairs of the Slovak Republic and Austria (February 7-8, 2022), which was a demonstration of the solidarity of these countries with Ukraine in its fight against Russian aggression. Ukraine as a Central European country is interested in developing cooperation and continuing dialog in the “Slavkov Triangle” + Ukraine format on the regular basis.

11. What political dialogue takes place between Ukraine and the following:

a) Western Balkans (Albania, Bosnia and Herzegovina, Kosovo*, North Macedonia, Montenegro and Serbia);

THE REPUBLIC OF ALBANIA

Political dialogue: the diplomatic relations between Ukraine and the Republic of Albania were established in 1993. After the opening of Ukraine’s diplomatic mission in Tirana (February 1, 2021) political dialogue between the two countries was increased. The President of Ukraine Volodymyr Zelensky had two telephone conversations with the Prime Minister of the Republic of Albania Edi Rama, the telephone conversations between the Ministers of Foreign Affairs and Advisers to the Presidents and Prime Ministers of Ukraine and Albania were hold. A representative of the Government of Albania took part in the Crimean Platform summit and fully supported the initiative.

Number of valid documents: Ukraine and the Republic of Albania have 15 acting bilateral agreements. The basic Agreement on friendship and cooperation between Ukraine and the Republic of Albania is in the final stages of preparation for signing.

Economic cooperation: in 2021, the turnover of goods and services between Ukraine and Albania amounted to 51.83 million US dollars, an increase of 25.5% compared to 2020. The main task in the trade and economic sphere of Ukrainian-Albanian relations is to hold a constituent meeting of the Ukrainian-Albanian Joint Intergovernmental Commission.

Multilateral cooperation: Ukraine and Albania cooperate within the framework of international organizations (Council of Europe, OSCE, UN, etc.). Cooperation also exists in the framework of regional organizations and initiatives: the Central European Initiative (CEI), BSEC, the EU Strategy for the Danube Region.
National minorities: the total number of the Albanian diaspora in Ukraine is about 3.5 thousand people, most of whom live in Odesa and Zaporizhzhya region.

**BOSNIA AND HERCEGOVINA**

Political dialogue: political dialogue with Bosnia and Herzegovina has substantial untapped potentials. After years 2009-2012, when political dialogue acquired regular and consequential nature (2009 - meeting of the Presidents of Ukraine and Bosnia and Herzegovina, 2011 - meeting of the Prime Ministers, 2011 and 2012 - meetings of the Ministers of Foreign Affairs), since 2014 political contacts have slowed down due to the differences in assessment the Presidency of Bosnia and Herzegovina of the Russian aggression against Ukraine.

Bilateral agreement: there are 13 bilateral documents signed between Ukraine and Bosnia and Herzegovina.

Economic cooperation: economic relations with Bosnia and Herzegovina are based on trade of goods. Trade in services is quite insignificant and there is not any bilateral investments cooperation. Total trade in goods with Bosnia and Herzegovina amounted in 2021 to EUR 24,12 million. Last session of the Joint Ukrainian-Bosnian-Herzegovinian Committee on economic issues was hold in March 2019 in Kyiv.

Ukrainian minority: Ukrainian community in Bosnia and Herzegovina (around 2000 person) lives the Republika Srpska entity and is among the oldest Ukrainian diaspora in the world, formation process of which lasted from the middle of 18th century to the beginning of 19th. During the interethnic war and aggression in Bosnia and Herzegovina in 1992-1995, Ukrainians suffered heavy losses and persecution, many of them fled abroad. The process of their return to the places of pre-war residence is still almost not realized. The number of Ukrainians continues to decline due to deteriorating living standards and high unemployment. After the beginning of the Russian aggression against Ukraine in 2014, due to the pro-Russian stance of the leadership of the Republika Srpska, the allocation of subsidies as well as assistance for preservation of the cultural heritage of Ukrainian societies has been significantly reduced.

**KOSOVO ISSUE**

Ukraine has not recognized Kosovo’s independence. Ukrainian national contingent was a part of KFOR since September 1, 1999. Ukraine accepts Kosovo civilian passports for visa processing since March 25, 2019. This mechanism was introduced in order to normalize the regime of trips by Kosovo residents to Ukraine, primarily for humanitarian purposes.

Kosovo condemned the full-scale Russian aggression against Ukraine as well as illegal recognition of the “independence” of the so called “LPR” and “DPR” by the Russian Federation. Kosovo aligned itself with the EU and USA sanctions against the Russian Federation. On March 9, 2022 Kosovo temporarily suspended visa regime for Ukrainian citizens and expressed its strong solidarity with Ukraine in other ways.

On March 14, 2022 First Deputy Minister of Foreign Affairs of Ukraine Ms Emine Dzheppar had a phone conversation with Deputy Minister of Foreign Affairs and Diaspora Mr Kreshnik Ahmeti.

**THE REPUBLIC OF NORTH MACEDONIA**
Political dialogue: Ukraine officially recognized Macedonian independence on July 23, 1993. Diplomatic relations were established on April 20, 1995. Since then, Ukraine and North Macedonia created a good framework of bilateral cooperation, which also broadened at the level of multilateral mechanisms. During last year the wide spectrum of bilateral relations has been significantly developing in regards to the political dialogue, economic, security and humanitarian cooperation. Several bilateral visits, meetings and phone conversations between Ukrainian and Macedonian Presidents, Prime Ministers, Foreign Ministers and inter-parliamentary groups were held.

North Macedonia ensured a strong and stable position in support of the territorial integrity and sovereignty of Ukraine since the beginning of the Russian aggression in 2014, non-recognition of the illegal temporary annexation of Crimea.

Ukraine has North Macedonia’s full support within the NATO framework, in particular, in regards to Ukraine’s strategic course towards membership in the Alliance and providing Ukraine with a Membership Action Plan.

With the start of Russian aggression against Ukraine in 2022, North Macedonia expressed its wide support to Ukraine. Public condemnation of Russia’s actions at the level of the President, Prime Minister, Foreign Affairs Minister and Defence Minister was expressed, and a relevant Parliamentary Declaration was adopted.

Due to the aggressive policies of the Russian Federation, North Macedonia closed the airspace for Russian planes, stopped broadcasting Russian television channels, expelled 5 Russian diplomats from the country. Significant military and technical support to Ukraine was provided, as well as humanitarian aid.

North Macedonia joined all EU sanctions against Russia, including all previous ones, supported the restriction of Russia’s financing in the EBRD, the abolition of the MFN treatment for Russia in trade and its removal from other economic organizations.

**Bilateral agreements:** there are 46 bilateral documents signed between Ukraine and North Macedonia. Among the most important are the Agreement on Friendship and Cooperation (1998), the Free Trade Agreement (2001), the Agreement on visa-free travel regime for citizens (2019).

**Economic cooperation:** bilateral trade between our countries has significantly increased (to $150 mil. in 2021 – the largest turnover in last ten years). In 2021 a regular meeting of the Intergovernmental Commission on Trade and Economic Cooperation was held. Negotiations on amendments to the bilateral Free Trade Agreement have been completed in 2021.

**Multilateral cooperation:** Ukraine and North Macedonia actively cooperate at the framework of leading international and regional organizations, including the UN, Council of Europe, OSCE etc. North Macedonia has been a constant co-sponsor of the Ukrainian resolutions and documents of the UN General Assembly and other international organizations in support the of the territorial integrity and sovereignty of Ukraine.

MONTENEGRO

**Bilateral relations:** the Ukrainian-Montenegrin relationships are based on the principles of good relations, mutual understanding and respect. The two countries established diplomatic relations in 2006. Montenegro supports Ukraine’s initiatives on the international arena regarding the territorial integrity and sovereignty of Ukraine. During 2021 the political dialogue between the two countries was intensified at the level of foreign offices. On August 23, 2021 Minister of Foreign Affairs of
Montenegro D. Radulović visited Ukraine to participate in the Summit of the Crimean Platform. On December 3, 2021 Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine O. Stefanishyna took part in the Summit of Heads of State of the Central European Initiative (online).

**Bilateral agreements:** there are 36 bilateral agreements in force.

**Economic cooperation:** total trade for the year 2021 between Ukraine and Montenegro amounted to EUR 53.81 million. The Free Trade Agreement between Ukraine and Montenegro has been in force since January 1, 2013.

**Multilateral cooperation:** Ukraine and Montenegro cooperate in the scope of international organizations (Council of Europe, OSCE, UN, WTO etc.). Both countries also cooperate in the framework of Central European Initiative. Given the beginning of Ukraine’s presidency in November 2021 in the Strategy of the European Union for the Danube Region, there are prospects for establishing priority areas of cooperation with Montenegro in the framework of the Strategy.

**Refugees (temporary replaced person):** since the beginning of the Russian aggression against Ukraine around 5,000 Ukrainian citizens have arrived in Montenegro as refugees. They were entitled to obtain the status of temporary protection in Montenegro.

**THE REPUBLIC OF SERBIA**

**Bilateral relations:** bilateral relations between Ukraine and the Republic of Serbia have been traditionally good and friendly. Since Russia’s temporary occupation of Crimea and parts of Donetsk and Luhansk regions in 2014, Ukraine-Serbia partnership in some areas was limited or frozen. The last contact on the highest level: former President of Ukraine, Petro Poroshenko, paid an official visit to Belgrade on 2–3 July 2018. On that occasion, the Minister of Foreign Affairs of Ukraine, Pavlo Klimkin, and the Minister of Foreign Affairs of the Republic of Serbia, Ivica Dačić, met.

The last round of Ukrainian-Serbian political consultations between the Ministries of Foreign Affairs of Ukraine and the Republic of Serbia was held in Kyiv on September 10, 2021. Ukrainian and Serbian Sides reaffirmed their principled positions with regard to mutual support for the territorial integrity and sovereignty of Ukraine and the Republic of Serbia. Despite that, Serbia has not imposed sanctions on Russia due to occupation of Crimea in 2014 and didn’t condemn the beginning of Russian military invasion in 2022.

**Bilateral agreements:** 42 international agreements were signed between the Republic of Serbia and Ukraine.

**Trade and Economic cooperation:** there are mutual interest and space for the development of economic cooperation. In 2021, total bilateral trade (goods and services) amounted to 433,494 million dollars, with exports amounting to 230,081 million dollars and imports to 203,413 million dollars. The Parties have not completed FTA negotiations yet, as well as the bilateral negotiations on the Serbian WTO accession.

**Status of minorities:** the status of the Ukrainian-Ruthenians community in Serbia (5,000 Ukrainians and 16,000 Ruthenian’s) is regulated in accordance with European standards. Ukrainian community in Serbia is among the oldest Ukrainian diaspora in the world, formation process of which lasted from the middle of 18th century to the beginning of 19th.

**Multilateral cooperation:** Serbia did not take part in the vote on UN GA resolution 68/262 "Territorial Integrity of Ukraine" (2014). The Serbian delegation voted against UN General Assembly

b) Turkey;

THE REPUBLIC OF TURKEY

Bilateral relations: cooperation between two countries significantly intensified in 2011 when the Declaration on Establishing a High-Level Strategic Council (HLSC) was signed. This document formalized strategic partnership between Ukraine and Turkey and set up an institutional mechanism to implement the new format of bilateral relations, namely the Strategic Council under the co-chairmanship of presidents of the two countries.

During 2011-2022 Ukrainian and Turkish presidents have held 10 meetings of the HLSC that were dedicated to the broad spectrum of bilateral cooperation: political dialogue, economic, defence, security and humanitarian cooperation. The results of these meetings have clearly demonstrated the sides’ readiness to deepen their interaction on bilateral and regional levels. The last HLSC meeting took place in Kyiv in February 2022.

Ukrainian and Turkish Foreign Ministers regularly meet, in particular, within the framework of the Joint Strategic Planning Group, which is a supportive mechanism of HLSC (the last meeting took place in Lviv on 7 October 2021).

As security in the Black Sea region aggravated due to aggressive policies of the Russian Federation, Ukraine and Turkey established a new format for political and security dialogue, namely regular 2+2 consultations in format of Quadriga among foreign and defence ministers of the two states in 2020. The first meeting in this format took place in Kyiv in December 2020.

Turkey has been unequivocally supporting Ukraine’s sovereignty and territorial integrity since the beginning of the Russian aggression in 2014 and undertaking consistent steps in line with its policy of non-recognition of the illegal attempted annexation of Crimea.

During the Russian invasion in 2022, Turkey has called upon the end of the hostilities, expressed its support to Ukraine and took an important step by blocking the passage of all military ships via the Black Sea straits. Moreover, Turkey exerts mediation efforts aimed at the end of the Russian aggression against Ukraine.

Bilateral agreements: there are 145 bilateral agreements in force. Among the most important are the Agreement on Friendship and Cooperation (1992), Joint Declaration on the Establishment of the High-Level Strategic Council (2011), Free Trade Agreement (2022, pending ratification by the parliaments).

Economic cooperation: total trade for the year 2021 between Ukraine and Turkey amounted to USD 7.4 billion. The Free Trade Agreement between Ukraine and Turkey was signed on 3 February 2022 during the 10th meeting of the HLSC.

Multilateral cooperation: Ukraine and Turkey cooperate within the framework of international organizations (UN, OSCE, WTO, BSEC etc.). Ukraine and Turkey also enjoy constructive interaction within the NATO framework.
Refugees: Since the beginning of the Russian aggression against Ukraine on 24 February 2022 around 64,000 Ukrainian citizens have arrived in Turkey. They are entitled to obtain the status of temporary protection.

c) The countries covered by the European Neighbourhood policy (ENP);

THE REPUBLIC OF ARMENIA

Bilateral relations: the Ukrainian-Armenian relations are based on the principles of good relations, mutual understanding and respect. The cessation of active bilateral political dialogue occurred in March 2014, when Armenia voted against the UN General Assembly Resolution on the Territorial Integrity of Ukraine № 68/262. Official Yerevan has held the same position so far, voting against all relevant Ukrainian initiatives within international organizations. Thus, the political dialogue between the two countries was maintained at the level of foreign ministries (periodic political consultations). After the beginning of the Russian aggression against Ukraine, Armenia abstained twice during the voting of Ukrainian resolutions within the UN General Assembly.

Bilateral agreements: there are 53 bilateral agreements in force.

Economic cooperation: the total trade turnover between Ukraine and Armenia in 2021 amounted to $ 159.9 million and increased by 24%.

Multilateral cooperation: Ukraine and Armenia periodically cooperate within the framework of international organizations (Council of Europe, OSCE, UN, WTO, etc.). Both countries also cooperate in the framework of the Eastern Partnership.

Refugees: according to various sources, up to 4,000 Ukrainian citizens (almost all of them are ethnic Armenians) have arrived in Armenia as refugees since the beginning of the Russian aggression against Ukraine.

THE REPUBLIC OF AZERBAIJAN

Bilateral relations: Ukraine and the Republic of Azerbaijan are strategic partners. This is stipulated in the Declaration on Friendship and Strategic Partnership between Ukraine and the Republic of Azerbaijan of May 22, 2008 and the National Security Strategy of Ukraine, enacted by the Decree of President of Ukraine Volodymyr Zelenskyy on September 14, 2020.

Ukraine and the Republic of Azerbaijan are guided by the principles of mutual respect for their independence, equality and non-interference in each other’s internal affairs, inviolability of borders, as well as other generally accepted norms of international law.

The Republic of Azerbaijan demonstrates comprehensive support for Ukraine’s sovereignty and territorial integrity. It is evidenced by the consistent avoidance of contacts with the occupying "authorities" in the temporarily occupied territories of Ukraine, non-participation in events organized by the Russian Federation in the temporarily occupied territories of Ukraine and prevention of illegal trade and economic transactions with illegal quasi-entities.

Ukraine and the Republic of Azerbaijan maintain a high level of political dialogue, characterized by a large number of contacts at the highest level. In particular, on December 16-17, 2019, President Volodymyr Zelenskyy paid an official visit to the Republic of Azerbaijan, and on January 14, 2022, President Ilham Aliyev paid a visit to Ukraine.

Bilateral agreements: there are 142 bilateral agreements in force.
Economic cooperation: in 2021, the volume of bilateral trade in goods between Ukraine and Azerbaijan increased by 62% and amounted to $1082 million. The cooperation in energy, transport, agricultural and chemical industries as well as in investments and scientific technologies are the priority areas. The Azerbaijani investments in Ukraine has exceeded 1 billion USD.

Multilateral cooperation: Ukraine and the Republic of Azerbaijan cooperate in the scope of international organizations (Council of Europe, OSCE, UN etc.). They are also member states of the Organization for Democracy and Economic Development – GUAM, the Black Sea Economic Cooperation (BSEC), participate in the implementation of the Euro-Asian Oil Transport Corridor project (EANTC), Transport Corridor Europe-Caucasus-Asia (TRACECA), Trans-Caspian International Transport Route (Middle Corridor).

THE REPUBLIC OF BELARUS

Bilateral relations: diplomatic relations between Ukraine and the Republic of Belarus were established on December 27, 1991. The Embassy of Ukraine in the Republic of Belarus was opened on June 30, 1992, and the Embassy of Belarus in Ukraine on October 12, 1993. Bilateral relations are regulated by the Treaty of Friendship, Good Neighborliness and Cooperation of Ukraine and the Republic of Belarus of July 17, 1995, which entered into force on August 6, 1997. In the period of 1994-2004, the political dialogue between Ukraine and Belarus was stable and constructive. Since 2005, the emphasis in bilateral Ukrainian-Belarusian relations has been on the economic component, which was in the interests of both Ukraine and Belarus.

With the beginning of Russia’s aggression against Ukraine in 2014, the leadership of Belarus, despite allied commitments to Russia within the Union State of Belarus and Russia, participation of Belarus in the Collective Security Treaty Organization and the Eurasian Economic Union, did not officially support Russia’s occupation of Crimea, did not accept and did not recognize the legitimacy of so-called referendums held by Russia occupation administration in temporary occupied Ukrainian regions of Donbas. The Republic of Belarus has provided a platform for meetings of the Tripartite Contact Group (Ukraine-Russia-OSCE) to resolve the situation in Donbas.

On August 9, 2020, the Republic of Belarus held presidential elections that were not recognized by the international community and Ukraine. The presidential elections in Belarus were followed by mass protest rallies and large-scale persecution against their participants and the country’s civil society as a whole. Political dialogue between Ukraine and Belarus has been suspended since then.

On September 15, 2020, the Verkhovna Rada of Ukraine adopted Resolution № 883-IX, which stated that the election of the President of the Republic of Belarus was neither free nor fair and took place in the complete absence of competition between candidates.

Participation of Belarus in Russian aggression against Ukraine: since 24.02.2022 Belarus has become an accomplice in Russia’s full-scale military aggression against Ukraine. Lukashenko regime has allowed Moscow to use Belorussian territory as a ‘springboard’ for the large-scale military invasion in Ukraine. In particular, the territory of the Republic of Belarus is used to launch missiles, combat aircraft and helicopters that attack civilian population and military targets in Ukraine. Moreover, Russian ground forces invaded Ukraine (Kyiv, Chernihiv regions) directly from Belarusian territory. The Russian Federation also uses the territory of Belarus for logistical support of the aggression.
At the moment, there is no confirmed information about the direct participation of the Belarusian army or special units in the Russian aggression against Ukraine. At the same time, there are eyewitness accounts of the possible participation of certain Belarusian servicemen and / or units in the war crimes of the Russian army in Ukraine (in particular, in the Bucha massacre).

Bilateral agreements: as of the end of 2021, the legal framework of bilateral relations consisted of 220 bilateral documents, of which 105 - interstate and intergovernmental, 115 - interdepartmental. 86 documents were signed at the interregional level.

After the beginning of the full-scale armed aggression of the Russian Federation against Ukraine in February 2022, which is carried out also from the territory of Belarus, some of bilateral agreements were denounced. In particular, the agreement between the Government of Ukraine and the Government of the Republic of Belarus on cooperation in the field of standardization, metrology and certification of June 16, 1994, was terminated on the initiative of Ukraine.

Bilateral trade: according to the State Statistics Service of Ukraine the volume of trade in goods and services with Belarus in 2021 amounted to 6519.3 billion US dollars and increased by 2105.3 million US dollars compared to 2020 or 47.7%.

Refugees (Temporarily displaced persons): according to the State Border Committee of Belarus, more than 22000 Ukrainians arrived in Belarus since February 24, 2022 (as of April 15, 2022). The number of those who left and those who still remains in Belarus, as well as the age structure and other personal data, is not provided by the Belarusian side.

GEORGIA

Bilateral relations: diplomatic relations between Ukraine and Georgia are developing on the basis of the Treaty of Friendship, Cooperation and Mutual Assistance between Ukraine and the Republic of Georgia (April 13, 1993). On July 18, 2017, the Presidents of Ukraine and Georgia signed a Declaration on the Establishment of a Strategic Partnership between the two countries, which sets the main objectives: de-occupation of the two states and restoration of their territorial integrity within internationally recognized borders; sustainable democratic development and economic growth of Ukraine and Georgia; full integration into the EU and NATO.

The Ukrainian-Georgian High-Level Strategic Council has been established (the Regulation on the HLSC was signed at the level of the President of Ukraine and the Prime Minister of Georgia on December 13, 2019 in Kyiv) and the Joint Ukrainian-Georgian Intergovernmental Commission on Economic Cooperation is functioning (the last meeting took place in Tbilisi in October 2021).

Georgia has consistently supported the sovereignty and territorial integrity of Ukraine within its internationally recognized borders. Political support for Ukraine in connection with the Russian invasion has been expressed on a regular basis by high-ranking government officials, including the PM, the President and the Speaker of the Parliament of Georgia.

Georgia supported the establishment of a Special Tribunal to punish the Russian leadership for aggression against Ukraine, the exclusion of Russia from the Cabinet of Ministers, the Parliament Assembly of the Council of Europe and the Council of Europe in general, the convening of an Extraordinary Session of the Council of the International Maritime Organization «Review of maritime safety and security of seafarers in the Black and Azov Seas as a result of further Russian invasion of Ukraine», and co-sponsored and supported UN resolutions «Aggression against Ukraine» (March 02, 2022) and «Humanitarian consequences of aggression against Ukraine» (March 24, 2022).
The National Bank of Georgia has joined the international financial sanctions against Russia for invading Ukraine in the banking sector. There is no air connection between Georgia and Russia. The Georgian government provided Ukraine with 468 tons of humanitarian aid worth more than $863,000. The Government of Georgia provides assistance to citizens of Ukraine who were unable to return home or arrived in Georgia after March, 24 (free resettlement, food, medical care, education of Ukrainian children in Georgian schools).

**Bilateral agreements:** there are 130 bilateral agreements in force.

**Economic cooperation:** the preferential regime introduced by the Agreement between the Government of Ukraine and the Government of the Republic of Georgia on Free Trade of January 9, 1995 continues to operate in trade and economic cooperation between Ukraine and Georgia. In 2021, the volume of bilateral trade in goods between Ukraine and Georgia increased by 27.7% and amounted to $641.0 million.

**Multilateral cooperation:** Ukraine and Georgia actively cooperate at the framework of leading international and regional organizations, including the UN, Council of Europe, OSCE, BSEC, GUAM, Euronest, as well as within the tripartite format of enhanced cooperation between Ukraine, Georgia and Moldova on European integration - "Associated Trio" with the EU, the Eastern Partnership initiative and the Interparliamentary Assembly of the Parliaments of Ukraine, Georgia and Moldova.

**Temporarily displaced persons:** since the beginning of the Russian aggression against Ukraine around 15,500 Ukrainian citizens have arrived in Georgia as temporarily displaced persons.

**THE REPUBLIC OF MOLDOVA**

**Bilateral relations:** the Ukrainian-Moldavian relationships are based on the principles of good neighbourhood, mutual understanding and respect. Moldova supports Ukraine’s initiatives on the international arena regarding the territorial integrity and sovereignty of Ukraine. During 2021, the political dialogue between the two countries intensified at the level of the Presidents and Governments of Ukraine and Moldova. On January 12, 2021 the President of the Republic of Moldova M. Sandu visited Kyiv on her first foreign visit. On August 23, 2022 she visited Ukraine to participate in the inaugural Crimea Platform summit. The dynamics of the bilateral dialogue set by the heads of state continued with a series of fruitful contacts at the level of both heads of governments. The participation of Ukraine and Moldova in the "Associated Trio" format created on May 17, 2021 in Kyiv became a new platform for political cooperation and coordination between the two countries to achieve their common strategic goal – full-fledged EU membership. During the reporting period, the foreign ministers met twice: on the sidelines of the Antalya Diplomatic Forum (June 19, 2021) and during the visit of Moldovan Foreign Minister N. Popescu to Ukraine (October 21-22, 2021). On August 27-28, 2021, the Prime Minister of Ukraine D. Shmygal visited the Republic of Moldova, during which a Protocol on Amendments to the Agreement between Ukraine and the Republic of Moldova on Free Trade was signed (Pan-Euro-Med), which will apply the cumulative principle in determining the rules of origin.

**Bilateral agreements:** there are 192 bilateral agreements in force.

**Economic cooperation:** according to the results of 2021, the volume of trade in goods and services between Ukraine and Moldova amounted to 1083.1 million US dollars.
Multilateral cooperation: Ukraine and Moldova cooperate in the entire scope of international organizations (Council of Europe, OSCE, UN, NATO, GUAM, WTO etc.). Both countries also actively cooperate in the framework of the European Union’s Eastern Partnership Initiative. In particular, on May 17, 2021 in Kyiv, the Foreign Ministers of Ukraine, Georgia and Moldova signed a Memorandum on the establishment of the "Associated Trio" to coordinate joint efforts to gain EU membership and overcome common challenges in this regard. The determination to deepen Ukraine-Moldova relations within the framework of the Eastern Partnership was enshrined on December 15, 2021 in the Joint Declaration of the sixth summit of the Eastern Partnership.

Refugees: since the beginning of the Russian aggression against Ukraine over 355 thousand (as of 03.04.2022) Ukrainian citizens fleeing from horrors of Russian occupation have arrived in Moldova, about 95 thousand are still remaining in the Republic of Moldova. For the period 24.02.2022 - 01.04.2022 Moldovan Bureau for Migration and Asylum received 5969 applications to obtain a refugee status. Such a status grants the right for a free accommodation in the Centre for Accommodation and Assistance to Refugees, free medical care, has access to education on the same conditions as citizens of the Republic of Moldova.

RUSSIAN FEDERATION

As of 24 February 2022, Ukraine has no diplomatic relations with the Russian Federation.

Russia launched its premeditated, well-planned armed aggression against Ukraine on 20 February 2014 with a military operation of its armed forces to seize a part of the Ukrainian territory – the Crimean peninsula. Having committed an illegal occupation and attempted annexation of the Crimean Peninsula, the Kremlin moved on to the next stage of its armed aggression in the Ukrainian Donbas.

In spring 2014, Russian special operations units and other armed formations, service members "on leave", military advisors - without any insignia – methodically, purposely and in an organized way seized local administrations, police departments, Ukrainian military facilities in Donbas, and carried out other operations with the use of force against the Ukrainian army and law enforcement. Continuous artillery and missile attacks against the positions of the Ukrainian border guards and Armed Forces were carried out from Russia’s territory. Russian military units, while using heavy weaponry and military equipment, carried out an armed invasion and took a direct part in hostilities on the territory of Ukraine. Many Russian service members were captured in the course of the hostilities.

Russia’s military presence in the occupied part of Donbas continues to this day.

Documentary and other evidence of Russia’s role as a direct participant in the armed conflict against Ukraine has already been and will continue to be submitted by Ukraine to international jurisdictional institutions.

On 27 March 2014, the UN General Assembly adopted resolution 68/262 «Territorial Integrity of Ukraine» whereby it affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders, and called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol.

This stance as well as condemnation of Russia’s illegal occupation and non-recognition of the attempted annexation of the Crimean peninsula was reaffirmed by the UN General Assembly in its

Numerous documents in support of Ukraine’s territorial integrity within its internationally recognized borders were approved by the Committee of Ministers of the Council of Europe, Parliamentary Assembly of the Council of Europe, OSCE Parliamentary Assembly and other international organizations.

Despite the efforts of France and Germany through the “Normandy Format” and of the OSCE through the Trilateral Contact Group to secure a politico-diplomatic settlement of the Russian-Ukrainian armed conflict, since the very beginning Russia deliberately sabotaged the reached agreements and efforts of the mediators. It is worth recalling in this context the seizure of Debaltseve and other Ukrainian territories in 2015 - within days of Russia signing the Minsk Package of Measures on 12 February 2015 and the ceasefire along the line of contact.

Since spring 2021, Russia gradually increased concentration of its forces, weapons and military equipment along the Russian-Ukrainian state border, in the territory of the Republic of Belarus, as well as in the temporarily occupied territories of Crimea and Donbas. By mid-February 2022, the number of Russian troops in these areas exceeded 150,000.

On 24 February 2022, Russia proceeded to a new stage of its armed aggression and launched a full-scale invasion of Ukraine from across the entire length of the Russian-Ukrainian state border, the territory of the Republic of Belarus, and the temporarily occupied territories of Crimea and Donbas. Numerous war crimes and crimes against humanity have been committed by the invading Russian troops in the areas occupied by the Russian federation.

In response to this act of aggression, on 24 February 2022 the Ministry of Foreign Affairs of Ukraine informed the Ministry of Foreign Affairs of the Russian federation of the break-off of diplomatic relations between the two states.

Following Russia’s full-scale armed invasion of Ukraine, United Nations Security Council adopted resolution 2623/2022 calling for the eleventh emergency special session of the United Nations General Assembly on the subject of the 2022 Russian invasion of Ukraine. During its Eleventh Emergency Special Session, the UN General Assembly adopted, by an overwhelming majority, resolutions ES-11/1 “Aggression against Ukraine” of 2 March 2022 and ES-11/2 of 24 March 2022 “Humanitarian consequences of the aggression against Ukraine”, wherein it, inter alia, demanded that the Russian federation immediately cease its use of force against Ukraine and withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders; expressed grave concern over and condemned attacks on civilian populations and infrastructure and demanded that the Russian federation cease, in particular, any attacks against civilians and civilian objects. On 7 April 2022, the UN General Assembly adopted resolution A/RES/ES-11/3 to suspend the Russian federation’s membership from the Human Rights Council.

On 16 March 2022, the International Court of Justice delivered its Order on the Request for the indication of provisional measures submitted by Ukraine under the Convention on the Prevention and
Punishment of the Crime of Genocide, demanding, *inter alia*, that Russia immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine.

In view of Russia’s gross violations of laws and customs of war as well as other violations of international law, Ukraine will submit all available evidence related thereto to the international Court of Justice, International Criminal Court and other tribunals to bring the Russian leadership to justice.

**ALGERIA**

Algeria is a key-member of the Arab League Ministerial Contact Group recently established to endorse the political solution to the ongoing aggression of Russia against Ukraine.

Algeria has traditionally held a position of non-interference in the internal affairs of foreign states, based on the need to respect and adhere to the principles of state sovereignty and territorial integrity in line with the provisions of the UN Charter and the international law.

Being in the orbit of the influence of the Russian Federation, Algeria was traditionally abstained during the voting of the UN General Assembly Resolutions on the Ukrainian issue during 2014-2022. The position of the ANDR on "Ukrainian issues" in the international arena is fundamentally neutral.

Ukraine supports the need of realistic, practical, durable and mutually acceptable political solution of the Western Sahara issue in accordance with the objectives and principles of the UN Charter.

**MOROCCO**

The main issues of interest to the Ukrainian side in relations with Morocco are the strengthening of bilateral trade and economic cooperation, visa liberalization for Ukrainian businessmen and tourists, as well as cooperation on the full range of issues related to the protection of Ukraine’s sovereignty and territorial integrity.

Morocco takes a neutral position on Russia’s invasion of Ukraine and avoids condemning Russia and imposing sanctions on it. On March 2, 2022, Morocco did not take part in the vote for the UN General Assembly Resolution condemning the aggression by the Russian Federation against Ukraine and demanding that Russia immediately, completely and unconditionally should withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.

Ukraine supports the need of realistic, practical, durable and mutually acceptable political solution of the Western Sahara issue in accordance with the objectives and principles of the UN Charter.

**EGYPT**

Ukraine and Egypt have a long history of strong partnership based on mutual interest in peace and stability, economic development, and the historical ties of friendly relations and traditions of goodwill between their peoples. Enhancing a strong political, economic and humanitarian relations with Egypt, will continue to be a core aim of Ukrainian foreign policy.

The two states are fully engaged in inclusive and constructive political dialog both on the highest level between the Presidents and between governments. Regular high-level political contacts and broadening of economic and trade cooperation is among the top priorities of Ukraine in the MENA region.
The practice of direct diplomacy, with mechanisms for political consultations and coordination between the Ministries of Foreign Affairs of both states has been established and successfully operating since December 1992.

Ukraine and Egypt maintain constructive interaction in the international arena striving to contribute to consolidation of peace and global security.

Egypt supports Ukrainian independence, sovereignty and territorial integrity within the internationally recognized borders. Egypt was among the 141 countries that condemned the Russian invasion and voted for a UN resolution at the General Assembly calling for a halt to Russia’s invasion of Ukraine and an immediate withdrawal of Russian forces.

Effective political dialogue provides the foundation for further expansion of economic cooperation between the two states, given the fact that Egypt is the number one trading partner for Ukraine in the MENA region while Ukraine is a recognized and reliable guarantor of Egyptian food security.

ISRAEL

Ukraine maintains a constant political dialogue with the State of Israel at all levels. During 2019-2021 a number of bilateral visits and high-level meetings took place: January 20-21, 2019 - official visit of the President of Ukraine to Israel; August 18-19, 2019 - working visit of the Prime Minister of Israel B.Netanyahu to Ukraine; January 22-24, 2020 - working visit of the President of Ukraine V.Zelenskyy to the State of Israel to commemorate the victims of the Holocaust; October 6, 2021 - official visit of the President of Israel I.Herzog to Ukraine.

Ukraine highly values participation of President of Israel Yitzhak Herzog in the commemorative events on the occasion of the 80th anniversary of the Babyn Yar tragedy in Kyiv on October 6, 2021.

The Foreign Ministries practice regular exchange of views on acute international issues, the Middle East peace process, Iranian nuclear program and others of mutual interest through political consultations. Last meeting focused on bilateral cooperation within the UN and other international organizations was held in Jerusalem on 12 February 2022.

Between February 24 and March 31, 2022 there were 10 telephone conversations between the President of Ukraine V.Zelensky and the Prime Minister of Israel N.Bennett (in the context of Israeli mediation with the Russian Federation).

JORDAN

Ukraine and Jordan maintain active contacts at the level of their higher political leadership and foreign ministries. Bilateral relations between Ukraine and Jordan are characterized by absence of problematic issues of a fundamental nature.

Ukraine has demonstrated consistent support to Jordan in the times of rise of political risks: in particular, in April 2021, it voiced an unequivocal support to the efforts of King Abdullah II in preserving peace and stability in the Kingdom. At the level of political statements Jordan has reciprocated in supporting the territorial integrity and sovereignty of Ukraine both in 2014 and in 2022.
From 2019 onward, political dialogue has witnessed a particular intensification that is driven by a proactive foreign policy posture of Ukraine in the MENA region and an interest of Jordan in Ukraine as a sustainable provider in the field of food security and other strategic commodities.

In 2021, the bilateral trade turnover of goods amounted to 215.9 mln. USD. The Ukrainian exports of goods to Jordan amounted to 207.9 mln. USD. The main Ukrainian export products were cereals (34.7%), ferrous metals (18.6%), fats and oils of animal or vegetable origin (16.5%).

LEBANON

Ukraine and Lebanon have a long history of friendly relations, based on a good tradition of economic, humanitarian and cultural cooperation. Since 2019 the Ukrainian-Lebanese political dialogue has been objectively slowed down due to the long-term internal political turbulence in Lebanon, the global pandemic of COVID-19 and the Russian military aggression against Ukraine.

In 2020, Ukraine sent humanitarian aid to the victims of the explosions in Beirut. In 2022, Lebanon was the first Middle East state to condemn the war started by Russia against Ukraine.

In 2021, the total trade turnover between Ukraine and Lebanon amounted to 393.7 mln. USD, showing an increase of 18.9% compared to 2020. In particular, our country exported to Lebanon goods worth 389.1 mln. USD (+18.9% compared to the previous year). The value of Lebanese imports to Ukraine was 4.6 mln. USD (+ 7.3% compared to 2020). Ukraine’s trade surplus was 384.5 mln. USD.

LIBYA

Despite the difficult internal situation in Libya, Ukraine seeks to maintain the political dialogue.

Prior to the outbreak of open war against Ukraine by the Russian Federation on 24 February 2022, Libya traditionally abstained from voting on the UN platform on issues related to the occupation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation, human rights on the peninsula, on the militarization of Crimea. The official Tripoli has been generally reluctant to bring the issue of occupation of Crimea to the public sphere of socio-political life of Libya on the ground of more pressing and sensitive challenges and threats which Libya faced.

Following the outbreak of open war against Ukraine by the Russian Federation, the State of Libya supported UN General Assembly resolutions A/ES-11/L.1 “Aggression against Ukraine” and A/RES/ES-11/2 “Humanitarian consequences of aggression against Ukraine”. Libya became the only Arab state to support the UN General Assembly draft resolution A/ESA-11/L.4 “Suspension of the Russian Federation’s membership in the Human Rights Council”.

Ukraine consistently supports the territorial integrity and sovereignty of Libya.

Ukraine advocates compliance with the international embargo on arms supplies to Libya and calls for immediate withdrawal of the illegal armed groups and military equipment as well as fighters and mercenaries from the territory of Libya.

Ukraine calls on the Libyan interim executive bodies - the Government of National Unity and the Presidential Council, as well as on the legislative branch represented by House of Representatives and the High Council of State to adopt the necessary constitutional and legislative arrangements in order to hold the national Presidential and Parliamentary elections as agreed in the Roadmap adopted by the Libyan Political Dialogue Forum.
Ukraine emphasizes the importance of the implementation of UN Security Council Resolution 2570 (2021), in particular with regard to the deployment on the Libyan territory of the UNSMIL ceasefire monitoring component and supports the Libyan-led and Libyan-owned ceasefire monitoring mechanism.

PALESTINE

Palestine demonstrates "neutrality" with regard to the Russian aggression, and limits its general wording, according to the Deputy Foreign Minister of Palestine, to “adherence to international law” in regard to support of Ukraine’s territorial integrity and sovereignty.

SYRIA

The political dialogue between Ukraine and Syria is actually frozen because of the complete dependence of the Assad regime on the political and military support from the Kremlin. During 2014-2022 there were no political contacts between the two states.

In March 2014, Damascus backed the occupation of Crimea by Russia. Syria regularly voted against UN resolutions that condemned Russia’s aggressive actions against Ukraine. The Syrian side on a permanent basis violates the provisions of the international law and Ukrainian legislation in terms of contacts with the Russian occupation administration in Crimea and representatives of the terrorist groups of the so-called "DPR" and "LPR". In February 2022, Assad regime expressed support for the Russian invasion of Ukraine.

In June 2014, Ukraine joined the EU Council resolution 2014/309/CFSP from May 28, 2014, regarding imposing restrictive measures on individuals and legal entities in Syria. These sanctions are expanded and prolonged annually by Ukraine in accordance with EU relevant decisions.

TUNISIA

Ukraine and Tunisia maintain a permanent political dialogue. Tunisia ranks third among African countries in terms of exports from Ukraine. The main interests of Ukraine in relations with Tunisia are the strengthening of bilateral trade and economic cooperation, visa liberalization for Ukrainian businessmen and tourists.

Official position of the Republic of Tunisia on Russian aggression against Ukraine remained reserved. Prior to the outbreak of open war against Ukraine by the Russian Federation on 24 February 2022, Tunisia traditionally abstained from voting in the UN General Assembly and the UN Security Council on issues related to the occupation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation, human rights on the peninsula, on the militarization of Crimea. The official Tunis has been generally reluctant to bring the issue of occupation of Crimea to the public sphere of socio-political life of Tunisia, arguing that the Republic of Tunisia is currently facing more pressing and sensitive challenges and threats (deteriorating socio-economic situation, international terrorism).

Following the outbreak of open war against Ukraine by the Russian Federation, the Republic of Tunisia supported UN General Assembly resolutions A/ES-11/L.1 “Aggression against Ukraine” and A/RES/ES-11/2 “Humanitarian consequences of aggression against Ukraine”. At the same time, official Tunis refrains from openly condemning the aggression of the Russian Federation and joining the sanctions imposed on Russia.

d) USA and Canada;
USA

The United States of America recognized Ukraine as an independent state on December 25, 1991. Diplomatic relations were established on January 3, 1992.

The relations between Ukraine and the U.S. have the status of strategic partnership. For the first time, the two countries defined such status of cooperation in 1996, during the visit of Foreign Minister Gennadiy Udovenko to Washington D.C.; thereafter it was reconfirmed in statements by Presidents of Ukraine and the US in 2000 and 2005, and in the U.S.-Ukraine Charter on Strategic Partnership of December 19, 2008.

On November 10, 2021, in Washington, D.C. the Minister for Foreign Affairs of Ukraine Dmytro Kuleba and U.S. Secretary of State Antony Blinken signed an updated US-Ukraine Charter on Strategic Partnership, which enshrines the principles of bilateral cooperation and defines the relations of the two parties in the spheres of security and countering Russian aggression, promoting democracy and rule of law, bolstering reforms and economic transformations in Ukraine.

The key intergovernmental body tasked with implementation of the provisions of the abovementioned Charter is the Ukraine – U.S. Strategic Partnership Commission (SPC). The SPC is co-chaired by the Minister for Foreign Affairs of Ukraine and the U.S. Secretary of State.

Besides, interagency cooperation is coordinated through a number of sectoral bilateral mechanisms, including Trade and Investment Council, Non-proliferation and Export Control Working Group, Strategic Energy and Climate Dialogue, Cyber Security Dialogue, consultations between defence ministries, as well as working groups on science, technology, exploration of space and many others.

The United States and Ukraine share vital national interests of Ukraine in establishment of a strong, independent, and democratic country. Bolstering Ukraine’s ability to defend itself against threats to its territorial integrity and deepening Ukraine’s integration into Euro-Atlantic institutions are concurrent priorities.

After the beginning of Russia’s unprovoked armed aggression against Ukraine, the United States took the lead in shaping an international anti-war coalition to stop the aggressive policy of Putin’s regime, which destroys world order, security architecture, and ignores the UN Charter.

Ukraine appreciates the leading role of the United States in coordinating joint efforts with other democratic partners on consistent imposing comprehensive sanctions against the aggressor state, as well as on strengthening defence, financial and humanitarian assistance to the Ukrainian people.

The American side provides unprecedented volumes of security assistance to Ukraine (more than 4 billion USD during the current Administration), and facilitates the provision of the relevant weaponry by allies and partners. The total amount of financial support from the United States, received for the stabilization of Ukraine’s economy in the two months of the Russian war against our country, is 1 billion USD.

With regard to the Russian invasion of Ukraine, the decision of the United States to allocate 13.6 billion USD plays a critical role to help our country and neighbouring EU countries from NATO’s eastern flank. These funds are aimed at addressing the humanitarian crisis, providing shelter to displaced refugees and migrants from Ukraine, strengthening energy and cybersecurity of our country in terms of a hybrid aggression of Russia.
U.S. - Ukraine political dialogue at the high and highest levels is developing dynamically. The presidents, foreign and defence ministers and other senior officials maintain regular phone contacts and conducted a significant number of meetings after the beginning of the armed aggression against Ukraine on February 24, 2022. The Ukrainian side regularly provides updates about the situation on the ground and actions taken to defend sovereignty and territorial integrity of Ukraine.

On August 31 – September 3, 2021, President of Ukraine Volodymyr Zelenskyy paid a visit to the United States and visited Washington D.C. and the Western Coast. During the visit Ukraine’s President met with President Joe Biden, Secretary of State Antony Blinken and other chief officials of the U.S. Government. Several important international documents were signed.


On February 21-22, 2022, Minister for Foreign Affairs of Ukraine Dmytro Kuleba paid a visit to Washington, D.C. and met with US President Joseph Biden, who reaffirmed the US commitment to Ukraine’s sovereignty and territorial integrity US Department of Defense, as well as meetings with heads of the State Department and the US Department of Defense.

On March 5, 2022, Dmytro Kuleba held talks with US Secretary of State Antony Blinken on the border between Ukraine and Poland.

On March 26, 2022, in Warsaw Dmytro Kuleba met with U.S. President Joseph Biden during his visit to Poland. Also, for the first time, the parties conducted meeting in the 2+2 format (foreign and defence ministers) and discussed resisting the Russian aggression and providing assistance to Ukraine.

Further steps to develop a new global “Marshall Plan” for Ukraine were discussed with the American side in Washington during a working visit of Prime Minister of Ukraine Denys Shmygal to the United States on April 21-22, 2022.

Within the framework of the visit, the Prime Minister of Ukraine met with US President George W. Biden, Secretary of Defense L. Austin, the leadership of US Congress and the US administration’s financial and economic bloc. They discussed issues of defence assistance, long-term lending to the Ukrainian economy and support for enterprises in strategic sectors during martial law, as well as ways to overcome the consequences of war and to rebuild the housing and communal, energy, social, cultural and industrial infrastructure of the country destroyed by the aggressor.

Inter-parliamentary cooperation also maintains a positive dynamic. From 1997, the parliamentary support Group for Ukraine in the US House of Representatives (the Ukrainian Congressional Caucus) played an active role in strengthening Ukrainian-American relations, which includes 46 lawmakers from both the Democratic and Republican parties; co-chairs are M.Kaptur (D), M.Quigley (D), E.Harris (R), B.Fitzpatrick (R).

Since 2014, several dozen draft laws and resolutions on Ukraine have been presented to Congress. There are, in particular, the laws on "Support for Sovereignty, Territorial Integrity, Democracy and Economic Stability in Ukraine", "Foreign Broadcasting of the United States in Ukraine and Neighboring Regions", "Support for Ukrainian Freedom" among the approved
documents. Active parliamentary diplomacy has proved itself in a significant number of meetings and visits by Ukrainian and American parliamentarians.

In terms of volumes of foreign trade turnover in 2021, the United States ranked the 8th among Ukraine’s trade partners: according to the State Statistics Service of Ukraine - 7.64 billion USD (a 24% increase compared to 2020), including Ukraine’s exports to the US amounted to 3.52 billion USD (a 46.7% increase compared to 2020), imports - 4.11 billion USD (a 9.5% increase compared to 2020).

According to the National Bank of Ukraine, as of January 1, 2022, the American investments in Ukraine amounted to 920.6 million USD (2.1% of the total investments in Ukraine) and the Ukrainian investments in the USA amounted to 1.6 million USD.

**CANADA**

Ukraine and Canada enjoy very close relationship cemented by the strong personal bond between the two peoples established since first Ukrainian immigrants settled in Canada in the 19th century. Ukrainians of all four immigration waves have made a considerable contribution to the development of today’s Canada. This contribution has been recognized and highly valued by all Canadian governments.

Today Ukrainian community in Canada makes 1.3 mln people. It is the world’s biggest Ukrainian diaspora after Russia. Canadians of Ukrainian origin are widely present and quite visible in Canadian politics. Ukrainian Canadian Congress, the representative of the Ukrainian community in Canada, is a well-organized and influential body which has its say in state’s decision-making.

Canada was the second country after Poland to recognize Ukraine’s independence on December 2, 1991. Diplomatic relations were established on January 27, 1992.

In 1994 Ukraine and Canada proclaimed their relations to be the ones of a special partnership (Joint Declaration of 1994). This status of bilateral relations was reiterated in 2001 and 2008 in subsequent declarations. In January 2022 Ukraine’s and Canada’s Heads of State agreed to mandate their Foreign Ministers to update the Joint Declaration of 1994 to reflect modern realities and challenges.

There are more than 50 bilateral agreements signed between Ukraine and Canada. They include Free Trade Agreement, which entered into force in August 2017. In January 2022 the two sides officially launched negotiations to extend the FTA onto the sphere of services.

An intensive political dialogue is in place between the two countries – at the level of Heads of State, Foreign Ministers, Defence Ministers as well as Parliaments. Since Russia unleashed its reckless war against Ukraine on February 24, 2022, leaders, foreign and defence ministers have been in close contact on a weekly basis.

Since the start of the Russian aggression in 2014 Canada’s position has been steadfast: clear condemnation of the Russian aggressive actions and support of Ukraine’s sovereignty and territorial integrity including non-recognition of attempted annexation of Crimea.

This position resonated in Canada’s full support of Ukraine within the international fora. Canada has co-sponsored all UN GA resolutions regarding the Russian aggression against Ukraine adopted since 2014.
In 2015 Canada launched Operation UNIFIER – a training mission stationed in Ukraine to support Ukraine’s Security Forces and thus strengthen Ukraine’s defence capabilities. More than 33,000 Ukrainian soldiers have participated in the training. In January 2022 Canadian Government announced the extension and expansion of the Mission.

In response to Russia’s further invasion of Ukraine on February 24, 2022 Canada imposed harsh sanctions against Russia and Belarus (freeze of assets of individuals and companies, embargo on oil exports from Russia, closure of Canadian airspace and territorial waters to Russian aircrafts and vessels, Belarusian aircraft, revocation of Russia’s trade status of most favoured nation etc.). Canada has been steadily providing Ukraine with both lethal and non-lethal weapons, and rendering financial and humanitarian assistance to Ukraine.

Canada promotes Russia’s further international isolation: it has boycotted Russia in the Arctic Council, called on to suspend Russia’s membership in Interpol and in G20.

Together with other countries Canada has referred the case of the Russian invasion of Ukraine to the International Criminal Court. Canada fully supports Ukraine’s position in its case against Russia in the International Court of Justice.

e) China, Japan, India, and the broader Indo-Pacific region;

THE PEOPLE’S REPUBLIC OF CHINA

Bilateral relations: China officially supports Ukraine’s sovereignty and territorial integrity. Ukraine remains committed to “one China” policy. In the course of the Chinese President’s visit to Ukraine in June 2011, the Joint Declaration on Establishment and Development of Strategic Partnership Relations between Ukraine and the People’s Republic of China was signed.

Since Russia’s temporary occupation of Crimea and parts of Donetsk and Luhansk regions in 2014, Ukraine-China political dialogue was limited to the occasional meeting on the sidelines of international fora.

Bilateral agreements: Ukraine has signed with China more than 240 documents.

Economic relations: the trade in goods between Ukraine and China has been constantly growing since 2019: 2019 – 12,5 bln USD, 2020 – 15,4 bln USD, 2021 – 18,9 bln USD. As of today, China is the biggest trade partner of Ukraine.

Ukraine supported “Belt and Road Initiative”. In 2020 two countries inaugurated the first cargo railway connection between Chinese trading cities and Kyiv, greatly reducing goods delivery time and increasing their volumes.

The investment cooperation is defined mostly by Chinese FDIs (90 mln USD) in Ukrainian agriculture, infrastructure, telecom, energy spheres.

Status of national minorities: the vast majority of Ukrainians in China came for employment or education. Currently approximately 1,500 Ukrainians live in China, around 500 of whom are Ukrainian students. There are no associations of Ukrainian citizens officially registered in China. However, in Beijing, Shanghai, Guangzhou, Wuhan and some other major cities in China, Ukrainians create occasional social groups aimed at resolving current issues as well as to satisfy informational, cultural, and other needs of Ukrainian citizens.
According to the Chinese Foreign Ministry, after the Russian invasion of Ukraine on 24 February 2022, about 40 Chinese citizens in Ukraine, mostly spouses and children of Ukrainians, stayed in Ukraine and do not plan to leave the country.

**Multilateral cooperation:** both countries define the key role of the UN Security Council in maintaining international peace and security, adhere to fundamental principles and norms of international law, etc. The two countries have different position on the issue of reforming the UN SC: Ukraine supports the idea of expanding number of UN SC permanent and non-permanent members, while China opposes this approach.

Human rights cooperation between Ukraine and China is not active due to the differences in approaches (China, together with members of the Group of 77, puts economic and social rights first, while Ukraine and the EU are in favour of a comprehensive approach, noting the importance of ensuring civil and political rights). Both countries also show opposing approaches to UN GA decisions on the moratorium on the death penalty (Ukraine co-sponsors and votes in favour, China against), resolutions on human rights in the DPRK, Myanmar and Syria (Ukraine traditionally supports, joining the circle of co-authors, and China votes against).

China abstained from voting the UN GA Resolution “Territorial Integrity of Ukraine” of 27 March 2014, and votes against all the UN resolutions entitled “Human Rights Situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine” as well as concerning the militarization of the Black Sea.

China abstained from voting the UN GA Resolution ES 11/1 “Aggression against Ukraine” of 2 March 2022.

**JAPAN**

**Bilateral relations:** cooperation between Ukraine and Japan is based on common values - commitment to democracy, the rule of law, respect for human rights, ensuring rules-based international order.

Since 2011 the relations between Ukraine and Japan are characterized as Global Partnership. Political dialogue between the two states has developed steadily. Both countries have constant interactions on different levels - heads of state, government, and ministerial exchanges.

Japan has been a firm supporter of sovereignty and territorial integrity of Ukraine. Japan strongly condemned the attempt of illegal annexation of Crimea by the Russian Federation, and also joined other G7 countries in imposing sanctions, related to Russia’s military aggression in Donbas in 2014. The country participated in the inaugural summit of the Crimean Platform in 2021.

With Russia launching a full-scale offensive against Ukraine on February 24, 2022, Japan has been one of the leaders in taking concrete actions in support of Ukraine. President of Ukraine Zelenskyy and Prime Minister of Japan Kishida held two phone talks on the situation; the President of Ukraine was also the first foreign leader in the history of Japan to address the Japanese Diet (parliament) on March 23, 2022.

The country was the first in Asia to impose tough sanctions on individuals and legal entities (10 packages as of April 15, 2022), including revoking trade status of “most-favoured-nation” from Russia. Japan has also joined the claim of democratic countries for the International Court of Justice to investigate the crimes of the Russian Federation in Ukraine.
In the unprecedented move, Japan provided Ukraine with the non-lethal military aid: bulletproof vests, helmets, winter battle dress uniform, tents, cameras, hygiene products, emergency rations, binoculars, flashlights, and medical equipment. The country has also allocated considerable funds for emergency humanitarian assistance, as well as promoted accepting evacuees from Ukraine into Japan.

**Bilateral agreements:** there are 56 bilateral documents, signed between Ukraine and Japan.

**Economic relations:** despite the COVID-19 pandemic, trade turnover between Ukraine and Japan shows constant increase. According to the State Statistics Service of Ukraine, the volume of trade in goods and services in 2021 amounted to 1589.5 million USD (+24.6% increase in comparison to 2020). Exports from Ukraine increased by 88.5% to 359.8 million USD and imports from Japan - by 13.4% to 1,229.7 million USD.

An important mechanism of promoting bilateral economic relations is the Economic Cooperation Coordination Council with Japan and the Economic Cooperation Committee with Ukraine of the Japanese Federation of Business "Keidanren". The 8th Session of the Committee was held in December 2019.

Japan is also an important investor into Ukraine’s economy. As of December 31, 2021, total Japanese investments amounted to 238.4 million USD.

The financial and credit cooperation between Ukraine and Japan is implemented mainly within the framework of the Official Development Assistance (ODA) program of the Government of Japan through cooperation with the Japan International Cooperation Agency JICA. Japan has provided Ukraine 1.87 billion USD in ODA since 2014.

**Environmental protection, nuclear safety:** Ukraine and Japan share common approaches to nuclear security and the non-proliferation of nuclear, chemical and biological weapons. Given the historical events (the Chornobyl tragedy of 1986 and the Fukushima disaster in 2011), both countries are actively cooperating on overcoming the consequences of catastrophes at nuclear power plants. The Ukrainian-Japanese Committee for Cooperation in Improving the Post-Emergency Response to Emergencies at Nuclear Power Plants is operating successfully. Among other things, the cooperation includes research and development, medical exchanges, the improvement of radiation control of the environment and the development of a legal framework for the ecological rehabilitation of radioactively contaminated areas.

**Cybersecurity:** cybersecurity and countering misinformation have become a new area of cooperation between Ukraine and Japan. In particular, 2 rounds of cybersecurity consultations between the Ministries of Foreign Affairs and relevant agencies of both countries were held (in 2018 and 2020). Since 2021, cooperation has been established between the relevant units for countering disinformation at the National Security and Defence Council of Ukraine and the Ministry of Defence of Japan.

**Multilateral cooperation:** Japan and Ukraine share the same approaches in the international organizations. Starting from 2014, Japan has consistently voted in favour of the Ukrainian resolutions: “Territorial integrity of Ukraine” (68/262), “Problem of the militarization of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov” (2018-2021), “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)” (2016-
2021), as well as the resolutions “Aggression against Ukraine” of March 2, 2022 and “Suspension of the rights of membership if the Russian Federation in the Human Rights Council” of April 7, 2022.

INDIA

Bilateral relations: on November 2, 2021, within the framework of the Climate summit in Glasgow, the meeting of the leaders of two states, President of Ukraine V.Zelensky and Prime Minister of India N.Modi, was held for the first time in 9 years. A number of other issues on bilateral cooperation and key projects were also agreed in principle.

Taking into account the Joint Statement on the establishment of the comprehensive partnership between Ukraine and India (2012), the large-scale strategic partnership between the Republic of India and the Russian Federation and the global strategic partnership with the USA, the foreign policy of India remains neutral in regard to the Russian aggression against Ukraine. India mostly abstains during the voting in international organizations and institutions on resolutions covering the issues of Russian aggression. At the same time, India publicly acknowledges that the “contemporary global order has been built on the U.N. Charter, international law, and respect for the sovereignty and territorial integrity of states” and that “all member states need to honour these principles”.

India has always proclaimed the support of the territorial integrity and sovereignty of Ukraine and does not recognize neither the illegal occupation of Autonomous Republic of Crimea by Russia, nor the terrorist organizations, so-called “Donetsk and Lugansk people’s republics”.

Bilateral agreements: there are 21 agreements and protocols in force.

Trade and Economic cooperation between Ukraine and the Republic of India: India is one of the leading export markets for Ukraine. The dynamics of bilateral trade is characterized by a steady upward trend. Traditionally, Ukraine has a significant trade in goods surplus. Latest statistics: trade turnover in 2020 (MM USD) - 2693,5 (Export - 1972,0; Import - 721,5; Balance - +1250,5), trade turnover in 2021 (MM USD) - 3455,6 (Export - 2494,4; Import - 961,2; Balance - +1533,2).

Prospects: increasing export volumes of edible oils, wheat, pulses, oil cakes and meals, fruits and berries (apples, blueberry). Cooperation in the fields of mechanical engineering, aircraft and engine manufacturing, metallurgy and IT. There are joint investment projects, in particular in such areas as: development of seaport infrastructure, railway stations concession pilot projects, construction and modernization of roads infrastructure, machinery.

Existing tariff/non-tariff trade barriers: regulations for import of agriculture commodities into India, particularly wheat, which requires fumigation treatment with Methyl Bromide; anti-dumping measures on Ukrainian hot and cold-rolled metal, soda ash, acrylic fibre.

THE REPUBLIC OF INDONESIA

Indonesia recognized Independence of Ukraine on December 28, 1991, diplomatic relations were established on June 11, 1992.

Ukraine and Indonesia are in the process of negotiating the Preferential Trade Agreement.

Provided the resources and capability of Ukraine and taking into account the agenda of the Indonesian Presidency in G20, the main spheres of prospective interaction might include: global and regional food security; digital transformation, including development of digital economy and e-commerce cooperation; finding efficient ways of countering pandemics (COVID-19 as a precedent); global logistics, particularly on the routes between South-East Asia and Europe.
The main political cooperation between Ukraine and Indonesia takes place within the framework of international organizations, primarily the UN, due to the firm position of the RI on necessity of resolving main global and regional challenges predominantly in multilateral format (UN, G20, ASEAN).

As far as main priorities of Indonesian foreign policy are directed at ASEAN, G20 and relations with Muslim states (including Palestine-Israel conflict), and Ukraine is more concentrated on Euro-Atlantic integration, bilateral interaction in political sphere has not been active or strong so far.

However, in order to strengthen its political and economic position in the SEA region, since 2018 Ukraine initiated the process of approaching ASEAN through the mechanism of the Treaty of Amity and Cooperation in Southeast Asia (TAC), where Indonesia expresses its strong support. So far, on August 23-25, 2021 the Verkhovna Rada (Parliament) of Ukraine obtained the observer status in AIPA (ASEAN Interparliamentary Assembly).

AUSTRALIA

Bilateral relations: cooperation between Ukraine and Australia is based on common values - commitment to democracy, the rule of law, respect for human rights, ensuring rules-based international order. Since 2014 the relations between Ukraine and Australia are characterized as Partnership between two like-minded countries. Political dialogue between the two states has developed steadily. Both countries have constant interactions on different levels - heads of state, government, and ministerial exchanges.

Australia has been a firm supporter of sovereignty and territorial integrity of Ukraine. Australia strongly condemned the attempt of illegal annexation of Crimea by the Russian Federation, and also joined other Western countries in imposing sanctions, related to Russia’s military aggression in Donbas in 2014. The country participated in the inaugural summit of the Crimea Platform - the coordination mechanism of de-occupation of Crimea - in August 2021.

With Russia launching a full-scale offensive against Ukraine on February 24, 2022, Australia has been active in providing military and humanitarian assistance to Ukraine and introduced additional sanctions towards Russia and Belarus.

President of Ukraine Zelenskyy and Prime Minister of Australia Morrison held phone talk in March 2022. President of Ukraine delivered video address to the members of both chambers of the Parliament of Australia on March 31, 2022.

Australia introduced massive sanctions against Russia and Belarus, that include financial restrictions and travel ban for more than 600 Russian and Belarusian individuals, as well as sanctions against a number of Russian companies, that include major banks, defence, transport, energy, industrial and telecommunication sectors of the Russian economy.

The Government of Australia approved the decision to introduce an import ban on Russian oil and energy resources. Australia also implemented an export ban to Russia on aluminum and bauxite ore and introduced 35% tariffs on all imports from Russia and Belarus.

As of 17.04.2022 Australia provided to Ukraine humanitarian assistance in the amount of 44 mln USD and military assistance in the amount that exceeds 147 mln USD, that includes anti-armour weapons, ammunitions, medical supply, tactical decoys, special equipment, unmanned aerial and unmanned ground systems, as well as 20 protected mobility vehicles Bushmaster.
The Government of Australia also provided Ukraine with 70 thousand tons of thermal coal.

**Bilateral agreements:** there are 7 bilateral documents, signed between Ukraine and Australia.

**Economic relations:** despite the COVID-19 pandemic, trade turnover between Ukraine and Australia shows constant increase. According to the State Statistics Service of Ukraine, the volume of trade in goods in 2021 amounted to 215.2 million USD. Exports from Ukraine increased by 43% to 60.9 million USD and imports from Australia - by more than 300% to 154.3 million USD.

Main Ukrainian export commodities were metallurgy and machinery, including boats, plastics, eatable oil. Major Australian export included mineral products, machinery, pharmaceutics, optics, wool, jewellery, and paper.

At the same time volume of bilateral trade in services in 2021 reached 22.3 million USD, that consists of 20.3 million USD of export (116% increase) and 2.9 million USD of import (increase by 2%). The major service categories were transport, financial and telecommunications.

**Multilateral cooperation:** Australia and Ukraine share the same approaches in the international organizations. Starting from 2014, Australia has consistently voted in favour of the Ukrainian resolutions: “Territorial integrity of Ukraine” (68/262), “Problem of the militarization of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov” (2018-2021), “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)” (2016-2021), as well as the resolutions “Aggression against Ukraine” of March 2, 2022 and “Suspension of the rights of membership if the Russian Federation in the Human Rights Council” of April 7, 2022.

**THE ISLAMIC REPUBLIC OF PAKISTAN**

**Bilateral relations:** bilateral relations between Ukraine and Pakistan can be described as a dynamic process based on traditionally constructive engagement in political, military-technical, trade and economic, humanitarian domains as well as on productive interaction in the framework of international organizations.

Pakistan keeps neutral stance on the issue of Russian aggression against Ukraine, meanwhile, observing the territorial integrity and sovereignty of Ukraine. Pakistan has not recognized pseudo-state formations in the temporarily occupied territories of Donetsk and Luhansk regions of Ukraine, as well as the Russian occupation of Crimea. However, Pakistan refused to condemn Russian invasion in Ukraine.

In March 2022 the Government of Pakistan provided humanitarian assistance to Ukraine to help Ukrainian citizens affected by Russian aggression. Ukraine dispatched humanitarian assistance to Pakistan in 2005 and 2010 to mitigate the consequences of the natural disasters.

**Economic cooperation:** Pakistan is an important economic partner of Ukraine in the South Asian region. In 2021, Pakistan ranked 27th among Ukraine’s trading partners in the world in terms of exports, and 5th in the Asia-Pacific region.

In 2021, the total volume of trade in goods and services between Ukraine and Pakistan amounted to 757.179 million USD, which is 82.2% higher than in 2020.

In 2021, bilateral trade in goods reached 751.218 million USD (+ 82.4%), including Ukrainian exports 658.373 million USD (+ 98.8%), Pakistani imports 92.845 million USD (+ 14.2%), the positive trade balance for Ukraine amounted to 565.528 million USD.
In 2021, exports of services from Ukraine to Pakistan reached 4.468 million USD. (+ 75.8%). Imports of services from Pakistan amounted to 1.492 million USD (+ 48.5%). The positive balance for Ukraine amounted to 2.975 million USD. The volume of trade in services reached 5.961 million USD (+ 68%).

**Bilateral agreements:** Ukraine has signed 10 agreements and memoranda with Pakistan that are currently in force.

**Multilateral cooperation:** Ukraine and Pakistan cooperate in the scope of international organizations (UN, UNESCO, UNHRC, UPU, INTERPOL etc.). Since the beginning of the Russian aggression in 2014, Pakistan has been consistently abstaining during voting the UN GA and UNESCO Resolutions on support of territorial integrity and sovereignty of Ukraine, human rights and cultural heritage situation on temporarily occupied territories of Ukraine, the militarization of Crimea, Black and Azov seas etc.

Pakistan abstained during voting the UN GA Resolution ES 11/1 “Aggression against Ukraine” of 2 March 2022.

**SINGAPORE**

Consistent political dialogue is maintained between Ukraine and the Republic of Singapore. Since 2014, a number of Ukrainian delegations have visited the Republic of Singapore, including 1 visit of the President of Ukraine (2014) and 3 visits of the Minister for Foreign Affairs of Ukraine (2015, 2017, 2020). In 2015, the Minister of Foreign Affairs of the Republic of Singapore visited Ukraine.

Since 2014, Singapore has consistently demonstrated political support to Ukraine in its efforts to counter Russian aggression. After Russian attempt to annex Crimea, Singapore supported the resolutions of the UN General Assembly № A/RES/68/262 "Territorial Integrity of Ukraine", as well as № A/RES /73/194, A/RES/74/17, A/RES /75/29 and A/RES/76/70 " Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov".

Following the full-scale Russian invasion of Ukraine on February 24, 2022, Singapore condemned Russia’s aggression, imposed sanctions (export controls and restrictions on financial cooperation), as well as co-sponsored and supported UN General Assembly Resolutions A/ES-11/L.1 " Aggression against Ukraine» and A/ES-11/L.2 «Humanitarian consequences of the aggression against Ukraine». The government and citizens of the Republic of Singapore also provided humanitarian assistance to Ukraine (over 6 million USD).

The economic cooperation is a main sphere of the bilateral cooperation - the growing diversification of the bilateral trade can be seen in Ukrainian food and agriculture products.

Ukraine and the Republic of Singapore have prospects for implementation of joint projects in the following areas - agriculture, IT, logistics, energy, education.

A dialogue has been established in the field of cybersecurity and disinformation countering.

As of April 2022, the legal framework consists of 16 bilateral agreements.

Ukrainian officials regularly participate in training programs under the Singapore Cooperation Program.

Singapore is in favour of expanding Ukraine’s cooperation with ASEAN.
BRUNEI

Ukraine and Brunei maintain friendly relations based on successful political cooperation at the bilateral level and within the framework of international organizations, as well as mutual interest in elaborating efficient solutions against global challenges.

There are 6 bilateral agreements and memorandums between Ukraine and Brunei.

Brunei has consistently "abstained" on issues related to Ukraine’s territorial integrity and sovereignty discussed within international organizations. After the start of a full-scale Russian invasion of Ukraine, Brunei on February 24, 2022, Brunei took a neutral position. The only exceptions were condemnation of “any violation of sovereignty, independence and territorial integrity of any country” released on February 26, 2022, and the vote in support of UN GA resolution A/ES-11/L.1 "Aggression against Ukraine".

SOCIALIST REPUBLIC OF VIETNAM

Bilateral relations: the dynamics of political relations between Ukraine and Vietnam is moderate. In the course of high-level and top-level bilateral contacts, Ukraine and Vietnam consistently state the absence of fundamental political differences and the willingness to develop relations of friendship and mutually beneficial partnership. At the same time, since 2019 there has been a pause in high-level exchanges.

Since 1994, the Ukrainian-Vietnamese Intergovernmental Commission on Trade, Economic and Scientific-Technical Cooperation (ICTESC) has been serving as a platform for determining the directions for development of trade and economic relations between the two countries. The last meeting of the Commission took place in January 2021.

In 1996, the Agreement on the Principles of Relations and Cooperation was concluded between the two countries. In 2011, Ukraine and Vietnam established relations of comprehensive partnership and cooperation. There is a mechanism for political consultations at the level of Deputy Foreign Ministers. The last consultations took place in 2018.

Ukraine and Vietnam have signed 51 bilateral documents on cooperation.

The two countries exchange support for candidates in elective bodies of international organizations. Vietnam supports Ukraine’s aspiration to expand cooperation with the ASEAN (AIRA, TAC, ASEAN Committee in Ukraine). On the part of Ukraine, favourable cooperation was conducted in sensitive areas for Vietnam: security of navigation, human rights, international law.

Since 2014, Vietnam’s position on the Ukrainian-Russian conflict has been neutral, which is the highest possible level in the context of Vietnam’s relations with the countries with which it has a strategic comprehensive partnership: China, Russia, and India. After the start of Russia’s full-scale war against Ukraine, Vietnam emphasizes the consistency of its position, which is to continue to support the peaceful settlement of disputes and differences based on respect for the UN Charter and the fundamental principles of international law; ensuring the security of the civilian population, protection of critical civilian infrastructure; support and readiness to make an active contribution to humanitarian aid and diplomatic settlement activities, as well as to reconstruction and recovery in Ukraine.
During the voting on Russian aggression at the 11th emergency session of the UN General Assembly, Vietnam abstained on Resolutions ES-11/1 of 02 March 2022 and ES-11/2 of 24 March 2022 and voted "against" on Resolution ES -11/3 of 07 April 2022.

**Trade and economic cooperation:** the priority area of cooperation between Ukraine and the Socialist Republic of Vietnam at the present stage is trade and economic cooperation. Agricultural products have the greatest export potential. The main high-level negotiating platform for resolving issues is the meeting of the Ukrainian-Vietnamese Intergovernmental Commission on Trade, Economic and Scientific-Technical Cooperation (ICTESC).

In January 2021, following the 15th meeting of the ICTESC, the sides agreed to prepare a feasibility study for an FTA and present the results at the next meeting of the ICTESC, and also begin the formal negotiations.

The two countries are working on concluding bilateral agreements in the field of agriculture and pharmaceuticals, which should facilitate access to the markets of countries. These agreements are in the final stages of conclusion and signing.

Ukraine is working to obtain a permit to export veterinary products such as: bone meal, egg products, chicken, pork and fish to Vietnam.

On the agenda is the issue of compliance with phytosanitary and veterinary standards by exporters of the two countries. On the Vietnamese side it’s cashew nuts and seafood, on the Ukrainian - grain.

**National communities:** according to unofficial estimates, up to 400 Ukrainian citizens live in Vietnam, the vast majority of whom stay in the country for employment or training. A relatively small part of the community is made up of married couples with Vietnamese citizens. There are no officially registered associations of Ukrainian citizens in Vietnam.

According to the Vietnamese government, at the beginning of the Russian war, there were about 7,000 Vietnamese living in Ukraine. After February 24, 2022, more than 5,000 Vietnamese left Ukraine.

**KINGDOM OF CAMBODIA**

**Bilateral relations:** there are no high-level and top-level contacts between Ukraine and Cambodia. The dialogue is taking place within the framework of the two countries’ representatives at the UN, and at the ASEAN Secretariat.

As of April 2022, Ukraine and Cambodia have no diplomatic representation. Until September 2019, Ukraine was represented in the Kingdom of Cambodia by the Ambassador of Ukraine to the Socialist Republic of Vietnam. Until 2014, Cambodia was represented in Ukraine by the Ambassador of the Kingdom of Cambodia to the Russian Federation.

There are 2 bilateral agreements in the two countries’ legal database.

Since 2014, Cambodia’s position on the Ukrainian-Russian conflict were negative towards Ukraine. After the start of Russia’s full-scale war against Ukraine, Cambodia changed its position to a positive one, calling for an immediate cessation of force and the withdrawal of troops from Ukraine and emphasizing that aggression against a member of the United Nations and encroachment on its sovereignty and territorial integrity threaten the basis of the international legal order, which does not allow any unilateral change of internationally recognized borders by force.
During the voting on Russian aggression at the 11th emergency session of the UN General Assembly, Cambodia voted in favour of Resolutions ES-11/1 of 02 March 2022 and ES-11/2 of 24 March 2022 and abstained on Resolution ES-11/3 of 07 April 2022.

**Trade and economic cooperation:** according to the State Customs Service of Ukraine, bilateral trade in goods in 2021 between Ukraine and Cambodia amounted to about $ 30 million USD. Export growth has been observed over the last 5 years. As of the end of 2021, no bilateral investments have been registered.

**National communities:** according to unofficial estimates, there are up to 150 Ukrainian citizens in Cambodia, most of whom are employed in the service sector. Ukrainians live mainly in the two major cities of Cambodia: Phnom Penh and Siem Reap.

According to the Cambodian government, as of the beginning of the Russian war, there were 23 Cambodians living in Ukraine.

**REPUBLIC OF KOREA**

**Political dialogue:** diplomatic relations between Ukraine and the Republic of Korea were established on 10 February 1992.

The Republic of Korea consistently supports the sovereignty and territorial integrity of Ukraine.

Ukraine and ROK maintain constructive cooperation within international organizations. The two countries conduct political consultations at the level of deputy foreign ministers.

Sectoral cooperation takes place within bilateral mechanisms, such as Intergovernmental Commission on trade and economic cooperation, Joint Committee on science and technical cooperation, Joint Commission on Defence Industry and Joint Committee on cooperation in peaceful use of outer space.

The two countries have concluded 52 bilateral treaties and agreements.

**THAILAND**

Regular political dialogue is maintained between Ukraine and the Kingdom of Thailand. Since the establishment of the diplomatic relations, a number of high-level bilateral visits have been conducted.

On March 27, 2014, Thailand voted in favour of the UN General Assembly Resolution "Territorial Integrity of Ukraine". At the same time, Thailand abstained in 2016-2021 during the voting of the UN GA Resolutions “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine” and "Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov".

Following the full-scale Russian invasion of Ukraine on February 24, 2022, the Kingdom of Thailand supported Ukraine voting in favour of the UN General Assembly resolutions "Aggression against Ukraine" and "Humanitarian consequences of aggression against Ukraine". At the same time, the Prime-Minister of Thailand has declared "neutrality" stance on the full-scale Russian military aggression against Ukraine.

As of April 2022, the legal basis of Ukrainian-Thai relations consists of 19 bilateral agreements.

**LAOS**
Political dialogue between Ukraine and Laos of the Lao People’s Democratic Republic is not so intensified, being at the initial stage of development.

Laos has traditionally abstained during voting of the UN General Assembly resolution “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”, but voted against the UN GA resolution "Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov".

Following the full-scale Russian invasion of Ukraine on February 24, 2022, Laos took a “neutral” position, abstaining during the voting of the UN GA resolutions "Aggression against Ukraine" and "Humanitarian consequences of aggression against Ukraine".

As of April 2022, the legal basis consists of 2 bilateral agreements.

**MYANMAR**

Ukraine does not recognize the current military regime of Myanmar, which came to power as a result of the coup d’état in February 2021. During the voting within the framework of the international organizations, Ukraine condemns the seizure of power by the Myanmar military leadership, supports demands of release of the detained politicians as well as calls for respect to the results of the latest parliamentary elections in this country.

Following the full-scale Russian invasion of Ukraine on February 24th, 2022, the Myanmar delegation supported the UN General Assembly resolutions “Aggression against Ukraine" and "Humanitarian consequences of aggression against Ukraine". Myanmar voted in favour of the UN General Assembly Resolution to suspend the rights of membership of Russia in the Human Rights Council. That is due to the position the Permanent Representative of Myanmar to the UN who is not controlled by the military junta.

As of April 2022, the legal basis consists of 3 bilateral agreements.

**MALASIYA**

Malaysia supports the sovereignty and territorial integrity of Ukraine. In the investigation of the downing of the MH17 flight in July 2014, Malaysia, as a member of the Joint Investigation Team, has strictly adhered to its obligations (including financial) and remains committed to serve justice to the victims through an ongoing trial.

Ukraine and Malaysia actively cooperate in the framework of the United Nations.

On 27th March 2014, during a meeting of the UN General Assembly related to the Russian aggression against Ukraine and the annexation of the Autonomous Republic of Crimea, Malaysia supported the resolution "Territorial Integrity of Ukraine" (A/RES/68/262). As a non-permanent member of the UN Security Council during the consideration of the situation in Ukraine (21 and 26.01, 17.02, 05.06 and 11.12.2015) at the meetings of this body Malaysia spoke in support of the sovereignty and territorial integrity of Ukraine and condemned any actions aimed at violating territorial integrity and political independence of our country. On 18th March 2016, during a meeting of the UN Security Council in the Arria formula meeting on human rights in the Autonomous Republic of Crimea, the Malaysian delegation also condemned Russia’s actions in Crimea.
In July 2015, Malaysia, in coordination with Australia, Belgium, the Netherlands and Ukraine, initiated a draft resolution on the establishment of an international tribunal to bring to justice the perpetrators of the Malaysia Airlines tragedy, flight MH17.


Since the beginning of the Russian aggression, Malaysia has supported the resolutions of the eleventh emergency special session of the UN General Assembly of 2nd March 2022 and 24th March 2022 condemning Russian aggression but abstained during the vote for the decision to suspend Russia’s membership in the United Nations Human Rights Council.

As part of ASEAN, Malaysia joined the Cambodian-initiated statements by the Association’s Foreign Ministers on 26th February 2022 (on the situation in Ukraine), 3rd March 2022 (on an immediate ceasefire) and 8th April 2022 (on reports of killings of civilians).

Ukraine remains one of Malaysia’s main trading partners among Central and Eastern European countries, having positive dynamics in bilateral trade. Malaysia is a top-3 trade partner of Ukraine in the ASEAN region. Since 2015 bilateral trade between Ukraine and Malaysia was consequently raising with the annual growth 10% in average. In 2021 due to the logistics challenges in the region (lack of containers) which caused decrease of the grains supply to most of the ASEAN countries, bilateral trade between Ukraine and Malaysia decreased by 2% and reached USD 419.81 mln, with exports from Ukraine USD 132.48 mln (↓27%), imports from Malaysia USD 272.6 mln (↑16%). Trade balance: USD 127.93 mln (negative for Ukraine)

The market potential for the sale of Ukrainian products is significant. Given the structure of bilateral trade the greatest prospects for increasing exports are in agriculture, food industry, metallurgy, engineering.

THE REPUBLIC OF THE PHILIPPINES

The Republic of the Philippines supports the territorial integrity and sovereignty of Ukraine. On 27th March 2014, at the meeting of the UN General Assembly related to the Russian aggression against Ukraine and the annexation of the Autonomous Republic of Crimea, the Philippines supported the resolution "Territorial Integrity of Ukraine" (A/RES/68/262).

After the beginning of the Russian aggression on 24th February 2022, the Philippines strongly condemned the Russian aggression, war crimes and atrocities committed by the occupying forces. The Philippine delegation to the UN supported the resolutions of the eleventh emergency special session of the UN General Assembly of 2nd March 2022 and 24th March 2022 condemning Russian aggression and supported the decision to suspend Russia’s membership in the United Nations Human Rights Council.

As part of ASEAN, the Philippines joined the Cambodian-initiated statements by the Association’s Foreign Ministers on 26th February 2022 (on the situation in Ukraine), 3rd March 2022 (on an immediate ceasefire) and 8th April 2022 (on reports of killings of civilians).

The Philippines is a top-5 trade partner of Ukraine in the ASEAN region. In 2021 due to decrease of wheat export which makes up to 80% of Ukrainian exports to the Philippines, and logistical problems in the region, bilateral trade between Ukraine and the Philippines decreased by 16% and reached USD 183.8 mln, with exports from Ukraine USD 118.92 mln (↓30%), and imports from the Philippines USD 64.88 mln (↑16%). Trade balance is USD 54.04 mln.
Given the significant market capacity (population of 100 million people) there are significant prospects for Ukrainian exports.


NORTH ATLANTIC TREATY ORGANIZATION

Ukraine’s political dialogue with NATO is ensured through bilateral contacts at all levels, including the inter-parliamentary dimension.

The basic documents defining the relations between Ukraine and NATO are the Charter on a Distinctive Partnership between Ukraine and the North Atlantic Treaty Organization (signed on July 9, 1997) and the Declaration to Complement the Charter on a Distinctive Partnership between Ukraine and the North Atlantic Treaty Organization (signed on August 21, 2009).

The NATO-Ukraine Commission, established in 1997 to implement the provisions of the Charter on a Distinctive Partnership, plays a leading role in deepening political dialogue.

The parliamentary dimension of Ukraine’s cooperation with NATO consists of three elements: cooperation between the Verkhovna Rada of Ukraine and the NATO Parliamentary Assembly, legislative support for issues related to Ukraine-NATO relations, and parliamentary oversight of implementation of legislative decisions on Ukraine’s integration into the Euro-Atlantic security space, and achievement of the criteria, necessary for the NATO membership.

The key tool for implementing reforms in Ukraine is the Annual National Programs (ANP) under the auspices of the NATO-Ukraine Commission, which have been under development since 2009. ANPs are approved by the President of Ukraine.

In July 2016, the Commission for the Coordination of Euro-Atlantic Integration of Ukraine, headed by the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, began its work.

Deepening integration with NATO is a priority of the state policy, enshrined in the Constitution of Ukraine. Implementing reforms along the way should be the basis for Ukraine to obtain NATO Membership Action Plan as a crucial precondition for the eventual full-fledged membership of the Alliance.

Since February 24, 2022, the date of the beginning of the full-scale Russian military invasion of Ukraine, NATO has been providing the Ukrainian State with substantive political and extensive military, humanitarian, and financial support, as well as by hosting millions of refugees.

ORGANIZATION OF ISLAMIC COOPERATION

In 2017, Ukraine applied for observer status in the Organization of Islamic Cooperation. The application was recognized as meeting all the defined criteria.

In 2018, Deputy Minister of Foreign Affairs of Ukraine S. Kislitsa had a meeting with the OIC Secretary General Yousef bin Ahmad Al-Othaimeen within the framework of participation in the high-level segment of the UN Human Rights Council in Geneva.

In 2019 in Abu Dhabi, UAE, the delegation of the Ministry of Foreign Affairs of Ukraine took part as a special guest in the 46th meeting of the Council of Foreign Ministers of the Member States of the OIC.
The issue of the Crimean Tatars and their rights was included in the Final Communiqué of the 14th OIC Summit (31.05.2019) - it “stressed the need to effectively ensure the status, protection and security of the Crimean Tatars, to guarantee their effective use of religious, cultural, educational and property rights; noted the importance of ensuring their protection and safety; called upon the OIC Secretary-General to make the necessary contacts and study the situation around the Crimean Tatars in light of recent developments, monitor this issue and report to the 47th meeting of the Council of OIC Foreign Ministers”.

The Islamabad Declaration “Partnering for Unity, Justice and Development” adopted at the 48thSession of OIC Council of Foreign Ministers on 23 March 2022:

- expresses deep concern at the deteriorating security and humanitarian situation arising from the conflict in Ukraine;
- reaffirms unequivocal support for the universal and consistent application of the principles of the UN Charter;
- calls for an immediate cessation of hostilities to prevent further loss of life and ensure that the humanitarian crisis does not worsen in Ukraine;
- stresses the need for the establishment humanitarian corridors to ensure safe movement of civilians from active conflict zones and the provision of humanitarian supplies;
- urges both sides of the conflict to engage in meaningful dialogue with the purpose of finding a solution to the present conflict;
- expresses the willingness of OIC member states to support and facilitate the dialogue process between all sides, if requested.

AFRICAN UNION

Ukraine obtained observer status in African Union on June 22, 2016.

The Ukrainian delegation took part in the 36th Ordinary Session of African Union Executive Board in Addis Ababa in February, 2020.

In April, 2022 Ukrainian President Volodymyr Zelensky had a telephone conversation with Maki Salem, Chair of African Union and President of Senegal. He praised the African Union’s statement of February 24, 2022, on respect for Ukraine’s sovereignty and territorial integrity.

With regard to the countries of the African continent, that are gaining increasing importance today in the current system of international relations, establishing a large-scale cooperation with African states remains one of the priorities of Ukraine’s foreign policy agenda.

With this regard Ukraine is currently re-shaping its African strategy attaching great importance to supporting and deepening friendly and mutually beneficial relations with all African countries and with African Union.

Ukraine welcomes African Union efforts to accelerate the process of continental integration and attain long-term objectives of integrated, prosperous and peaceful Africa, driven by its own citizens, and representing a dynamic force in the international arena, as envisaged by the Agenda 2063.

Given the huge economic potential of the African continent, Ukraine aims at intensifying its trade, economic and humanitarian relations with African counties.
Since its independence, Ukraine has been actively participating in the UN PKOs and it has become a significant troop-contributing country. The Ukrainian Blue Helmets have participated in over 20 operations under the UN auspices, bringing peace and security to war-torn regions, mostly on the African continent.

**GULF COOPERATION COUNCIL**

Ukraine holds regular dialogue with the Gulf Cooperation Council and its Secretariat on the topical issues of international and regional agenda. Ukraine also seeks to develop mutually beneficial relations with the GCC member-states in the political, trade, economic and cultural spheres both on bilateral and multilateral levels.

Foundations of high-level dialogue were laid at the meeting between the President of Ukraine and the GCC Secretary General in Riyadh in 2003.

In November 2017 President of Ukraine held consultations with the GCC Secretary General, which resulted in signing of the Memorandum of understanding on the mechanism of political consultations between the Ministry of Foreign Affairs of Ukraine and the Secretariat General of the Gulf Cooperation Council.

Draft Plan of joint actions between MFA of Ukraine and the GCC’s Secretariat General was initiated in 2017, but its elaboration was suspended due to Qatar diplomatic crisis. The work in this direction could be continued, as Al-Ula declaration of the 41st GCC summit in January 2021 marked restoration of the GCC’s unity.

In October 2019, the GCC’s Bureau of Technical Secretariat for Anti Injurious Practices in International Trade had launched anti-dumping investigation on certain steel products imported from a number of countries, including Ukraine. In September 2021, based on results of investigation, the GCC’s ministerial committee decided not to impose any steel safeguard measures.

**III. CFSP AND CSDP — POLITICAL STRATEGY**

**A. Restrictive measures**

12. In view of the Union’s capacity to implement restrictive measures, including economic sanctions, under a CFSP Decision and an EU Regulation (see Article 29 TEU and Article 215 TFEU), please provide an overview of Ukraine’s constitutional and legal arrangements for the implementation of restrictive measures, including economic sanctions, the relevant administrative structures and monitoring mechanisms, and a list of unilateral and multilateral (in particular UN Security Council) restrictive measures applied by Ukraine.

The legal basis for application of sanctions is the Constitution of Ukraine, international agreements of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, laws of Ukraine, regulations of the President of Ukraine, the Cabinet of Ministers of Ukraine, decisions of the National Security and Defence Council of Ukraine, corresponding principles and rules of international law.

According to the Article 9 of the Constitution of Ukraine, international treaties that are in force, agreed to be binding by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine. The conclusion of international treaties that contravene the Constitution of Ukraine is possible only after introducing relevant amendments to the Constitution of Ukraine.
According to the Law of Ukraine "On Sanctions" of August 14, 2014 № 1644-VII, sanctions can be applied by Ukraine in relation to:

1) foreign state,
2) foreign legal entity,
3) legal entity, which is under control of foreign legal entity or natural non-resident person,
4) foreigners,
5) stateless persons,
6) entities performing terrorist activities.

The grounds for application of sanctions are:

1) actions of foreign state, foreign legal entity or natural person, other entities which pose real and/or potential threat to national interests, national security, sovereignty and territorial integrity of Ukraine, promote terrorist activities and/or violate human and civil rights and freedoms, interests of society and the state, lead to the occupation of territory, expropriation or restriction of property rights, property losses, creation of obstacles to sustainable economic development and full exercise of rights and freedoms by the citizens of Ukraine;

2) resolutions of the United Nations Security Council;
3) decisions and regulations of the Council of the European Union;
4) facts of violations of the Universal Declaration of Human Rights, the Charter of the United Nations.

Types of sanctions according to this Law are:

1) blocking of assets - temporary restriction of a person’s right to use and dispose of property belonging to them;
2) restriction of trade operations;
3) restriction, partial or complete cessation of transit of resources, flights and transportation through the territory of Ukraine;
4) prevention of withdrawal of capital assets outside Ukraine;
5) suspension of economic and financial obligations;
6) revocation or suspension of licenses and other permits, obtaining (availability) of which are a condition for carrying out a certain type of activity, in particular, revocation or suspension of special permits for subsoil use;
7) prohibition of participation in privatization, lease of state property by residents of a foreign state and persons that are directly or indirectly controlled by residents of a foreign state or act in their interests;
8) ban on the use of radio frequency resources of Ukraine;
9) restriction or termination of the provision of electronic communications services and the use of electronic communications networks;
10) prohibition of public and defence procurement of goods, works and services from legal entities-residents of a foreign state of state ownership and legal entities whose share capital is owned by a foreign state, as well as public and defence procurement from other business entities that sell goods, works and services originating from a foreign state to which sanctions have been applied in accordance with this Law;

11) prohibition or restriction of entry of foreign non-military vessels and warships into the territorial sea of Ukraine, its internal waters, ports, as well as aircrafts into the airspace of Ukraine or landing in the territory of Ukraine;

12) complete or partial prohibition of transactions in securities issued by persons to which sanctions have been applied in accordance with this Law;

13) prohibition of issuing permits, licenses of the National Bank of Ukraine for investments in a foreign state, placement of currency values on accounts and deposits in a foreign state;

14) termination of issuance of permits, licenses for import into Ukraine from a foreign state or export from Ukraine of currency values and restriction of issuance of cash for payment cards issued by residents of a foreign state;

15) prohibition of registration by the National Bank of Ukraine of a participant in an international payment system, the payment organization of which is a resident of a foreign state;

16) prohibition to increase the authorized capital of companies, enterprises in which a resident of a foreign state, foreign state, legal entity, a member of which is a non-resident or foreign state, owns 10 percent or more of the authorized capital or affects the management of the legal entity or its activities;

17) introduction of additional measures in the field of ecological, sanitary, phytosanitary and veterinary control;

18) termination of trade agreements, joint projects and industrial programs in certain areas, in particular in the field of security and defence;

19) prohibition of transfer of technologies, rights to objects of intellectual property rights;

20) termination of cultural exchanges, scientific cooperation, educational and sports contacts, entertainment programs with foreign states and foreign legal entities;

21) refusal to issue and cancellation of visas to residents of foreign countries, application of other bans on entry into the territory of Ukraine;

22) termination of international agreements, the binding nature of which has been approved by the Verkhovna Rada of Ukraine;

23) cancellation of official visits, meetings, negotiations on the conclusion of contracts or agreements;

24) deprivation of state awards of Ukraine, other forms of awards;

24-1) ban on the acquisition of land;

25) other sanctions that comply with the principles of their application established by this Law.

Proposals for the imposition, cancellation and amendment of sanctions shall be submitted to the National Security and Defence Council of Ukraine by the:
1) Verkhovna Rada of Ukraine,
2) President of Ukraine,
3) Cabinet of Ministers of Ukraine,
4) National Bank of Ukraine,
5) Security Service of Ukraine.

Decisions to impose, cancel and amend sanctions against a foreign state or an indefinite number of persons of a certain type of activity (sectoral sanctions) shall be adopted by the National Security and Defence Council of Ukraine, enacted by decree of the President of Ukraine and approved within 48 hours by the Verkhovna Rada of Ukraine.

Decisions to impose, cancel and amend sanctions against certain foreign legal entities, legal entities under control of a foreign legal entity or natural non-resident person, foreigners, stateless persons, as well as entities engaged in terrorist activities (personal sanctions) are adopted by the National Security and Defence Council of Ukraine and enacted by a decree of the President of Ukraine.

Termination of international agreements approved by the Verkhovna Rada of Ukraine as a sanction under this Law shall be carried out by the Verkhovna Rada of Ukraine on the proposal of the President of Ukraine or another subject of legislative initiative.

Currently, the activity to develop a new draft law “On the principles of sanctions policy” is ongoing.

In support of the Law of Ukraine "On Sanctions" following regulations are applied:

Regulation of the Cabinet of Ministers of Ukraine “Certain issues of preparation of proposals to the Cabinet of Ministers of Ukraine on the application, cancelation and amendments to the sanctions” of November 31, 2016 No. 888;

Regulation of the Cabinet of Ministers of Ukraine “On approval of the procedure for recognition by Ukraine of international sanctions in accordance with international agreements of Ukraine or decisions of intergovernmental associations, international, intergovernmental organizations in which Ukraine takes part, as well as foreign states regarding asset freezing of certain persons or restricting their access” of August 08, 2016 No. 509.

Implementation and monitoring of sanctions are carried out in accordance with the orders of the Cabinet of Ministers of Ukraine on the Plan of Organization and Implementation of Decisions of the National Security and Defence Council of Ukraine, introduced by decrees of the President of Ukraine.

Part one of Article 9 of the Law of Ukraine “On Foreign Economic Activity” stipulates that the competence of the Verkhovna Rada of Ukraine includes, inter alia:

approval of lists of goods, export and import of which is prohibited in accordance with Articles 16, 17 of this Law;

making decisions on the application of measures in response to discriminatory and / or unfriendly actions of other states, customs unions or economic groups by imposing a full / partial ban (full / partial embargo) on trade, except as provided by this Law;
deprivation of the most-favored-nation treatment or preferential special treatment.

In accordance with the second part of Article 9 of the Law of Ukraine "On Foreign Economic Activity", the Cabinet of Ministers of Ukraine decides to apply measures in response to discriminatory and / or unfriendly actions of other states, customs unions or economic groups by introducing licensing or other measures. eleventh and twelfth articles 29 of this Law.

Article 29 of the Law of Ukraine “On Foreign Economic Activity” stipulates that if other states, customs unions or economic groups restrict the exercise of legal rights and interests of subjects of foreign economic activity of Ukraine, adequate measures may be taken in response to such actions. Such measures are:

application of a total ban (full embargo) on trade;
application of a partial ban (partial embargo) on trade;
deprivation of the most-favored-nation treatment or preferential special treatment;
introduction of a special duty;
introduction of the licensing regime for foreign economic transactions;
setting quotas;
other measures provided by the laws and international agreements of Ukraine.

Part eleven of this article stipulates that if discriminatory and / or unfriendly actions against Ukraine are applied by a state recognized by the Verkhovna Rada of Ukraine as an aggressor state and / or an occupying state, retaliatory measures specified in part three of this article may be applied by the Cabinet of Ministers. Of Ukraine.

These measures can essentially be attributed to restrictive economic measures.

Regarding economic restrictive measures against the state, recognized by the Verkhovna Rada of Ukraine as an aggressor state, in accordance with part eleven of Article 29 of the Law of Ukraine “On Foreign Economic Activity” of April 16, 1991 No. 959-XII the Government of Ukraine adopted Regulation of the Cabinet of Ministers of Ukraine of December 30, 2015 No. 1147 “On the prohibition of import into the customs territory of Ukraine of goods originating from the Russian Federation” (hereinafter - Regulation No. 1147), which approved the list of goods prohibited for imports into the customs territory of Ukraine, originating in the Russian Federation, and Regulation of the Cabinet of Ministers of Ukraine of August 17, 2020 No. 719 “On introduction of a special duty on certain goods originating in the Russian Federation and imported into the customs territory of Ukraine” (hereinafter - Regulation No. 719), which introduced a special duty on certain goods originating in Russia. In accordance with the established procedure decisions of the Government to revise and supplement these lists of goods are being prepared. In particular, according to the regulations of the Cabinet of Ministers of Ukraine of December 23, 2021 No. 1354 and of December 29, 2021 No. 1398 the validity of Regulation No. 1147 and Regulation No. 719 was extended until the end of 2022.

At the same time, in order to protect the national economic interests and security of Ukraine, restore violated rights, freedoms and legitimate interests of citizens of Ukraine, society and the state caused by the aggressor state - the Russian Federation, taking into account the significant violation of the Free Trade Agreement, concluded on October 18, 2011 in St. Petersburg, in accordance with
part twelve of Article 29 of the Law of Ukraine “On Foreign Economic Activity” of April 16, 1991 No. 959-XII was adopted Regulation of the Cabinet of Ministers of Ukraine of December 30, 2015 No. 1146 “On import duty rates on goods originating in the Russian Federation” (hereinafter - Regulation No. 1146), according to which starting from January 2, 2016 the preferential import duty rates established by the Customs Tariff of Ukraine are applied to imports of goods originating in the Russian Federation. According to the Regulation of the Cabinet of Ministers of Ukraine of December 2, 2021 No. 1247, the validity of the resolution No. 1146 was extended until the end of 2022.

Also because of the military aggression of the Russian Federation against Ukraine and in accordance with part eleven of Article 29 of the Law of Ukraine “On Foreign Economic Activity” of April 16, 1991 No. 959-XII was adopted Regulation of the Cabinet of Ministers of Ukraine of April 9, 2022 No. 426 “On the application of the ban on imports of goods from the Russian Federation”, which prohibits the importation into the customs territory of Ukraine under the customs regime of import of goods from the Russian Federation.

Further restrictions can be introduced according to the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds of Crime, Terrorist Financing and Financing Proliferation of Weapons of Mass Destruction ".

Ukraine implemented sanctions introduced by the resolutions of the UN Security Council.

Taking into considerations sanctions of the EU, US, UK and Canada adopted in response to the Russian aggression against Ukraine in 2014-2022 Ukraine adopted its own unilateral sanctions against 3915 individuals and 1762 legal entities. The number of sanctioned persons exceeded 3 times the numbers of our main international partners. Both categories (individuals and entities) sanctioned by Ukraine had to do with attempted annexation and occupation of Crimea, aggressive war and occupation of certain areas of Donbas, violation of human rights. Primarily, but not exclusively, Ukraine targeted russian oligarchs, politically exposed persons, public officials/servants, judges, prosecutors, police officers legal entities implicated in bilateral military, industrial cooperation as well those profiting from illegal activities in the temporarily occupied territories of Ukraine, as well as other nationals for assisting Russia in its attempts to legitimize its internationally wrongful acts against Ukraine.

13. To what extent has Ukraine fully implemented the restrictive measures listed on the EU sanctions website https://www.sanctionsmap.eu/#/main

Ukraine joins the EU’s restrictive measures within the framework of the general policy of joining political statements. In particular, Ukraine has joined the restrictive measures applied by the EU using the EU’s Global Mechanism of Sanctions for Human Rights Violations, particularly in Russia and around the world, restrictive measures against Belarus and many other country sanctions.

As stated before, Ukraine’s current sanctions consists of two pillars: implementing the UNSC sanctions and imposing unilateral sanctions on persons and entities in connection with Russian aggression against Ukraine.

In this context Ukrainian sanctions coincide with the EU sanctions imposed on the basis of UN Security Council resolutions. The sanctions against Russia are broader than those imposed by the EU.

The process of updating sanctions legislation to bring it closer to EU practices is underway. The new legislation foresees procedure of implementing the EU sanctions in an expedited procedure. The list of Ukrainian sanctions can is being published in the website https://sanctions.nazk.gov.ua/en
14. Regarding the implementation of sanctions (i.e. assets freeze, travel bans, economic and financial restrictions and arms embargo), which specific ministries/bodies and law enforcement agencies (Ministry of Defence, Customs Administration, Ministry of Foreign Affairs, security and intelligence services) or departments would be in charge of the monitoring, controlling and implementation, and what is their operational structure (staffing, budget, reporting)?

According to the current legislation, the process of implementation of sanctions is currently carried out by each state authority within its competence. In total, more than 30 state bodies are involved in the process of forming and implementing sanctions.

In each state body, which is responsible for ensuring the formation and implementation of state policy in the sphere related to the application of sanctions, there are officials responsible for the implementation and monitoring of applied sanctions.

The monitoring of implementation of applied sanctions are carried out by the Cabinet of Ministers and is being reported to the National Security and Defence Council.

In order to improve the sanctions policy in Ukraine, the interdepartmental working group is currently working on a draft of law to differentiate in future the agencies responsible for the formation and implementation of sanctions in Ukraine.

In particular, new draft of law is to establish Sanctions Bureau accountable to the National Security and Defence Council with the aim to coordinate sanctions policy and be an oversight body.

In the same time, according to current legislation and according to the draft law mentioned above, preparation of draft decisions of the Cabinet of Ministers of Ukraine on the application of trade embargo measures (in response to the actions of the aggressor state and/or the occupying state), provided for in Article 29 of the Law of Ukraine "On Foreign Economic Activity", in the form of full/partial ban (full/partial embargo) on trade, which, among other things, may also include an embargo on arms supplies, provides the Ministry of Economy of Ukraine.

15. Provide data on trade in used or new weapons with countries against which the EU maintains arms embargos. * This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Under international obligations Ukraine duly submits reports on international transfers of certain categories of military goods to the UN Register on Conventional Arms, the OSCE as well as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA).

Information on the volume of international transfers of certain categories of military goods, that is subject to the UN reporting, including the amount of transfers to the states under EU embargoes, is available at:

https://www.dsecu.gov.ua/ua/obsiagy-peredach-ozbroyen

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<th>Myanmar*</th>
<th>Number of licenses issued</th>
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<td>Year</td>
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<td>3</td>
<td>10.a; 10.e; 10.f; 10.g; 11.a; 18.a; 21.a; 22.a</td>
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*- Following the adoption of UN General Assembly Resolution A/75/L.85/Rev.1 of 14.06.2021, which calls upon all Member States to prevent the flow of arms into Myanmar, the trade policy with the country has been adjusted and cooperation is currently based mainly on foreign economic agreements (contracts) concluded before the coup d'état in Myanmar that began on 01.02.2021. There were no permits granted to export lethal weapons and goods which might be used for internal repression or creation of WMD and its delivery systems.

In order to comply with international obligations resulting from participation in the Wassenaar Arrangement (WA), Ukraine every six months reports via Regime information system on transfers or refusals to transfer certain goods to the WA non-participating states, namely:

- granted export authorizations for certain categories of conventional weapons (categories reported to the UN Register of Conventional Arms, including small arms and light weapons) included in the WA List of Military Goods;

- granted authorizations or carried out international transfers of "sensitive" and "very sensitive" goods on the WA List of Dual-Use Goods and Technologies;

- refusals to authorize the transfer of goods on the WA List of Dual-Use Goods and Technologies;

- refusals to grant export permits for "sensitive" and "very sensitive" goods on the WA List of Dual-Use Goods and Technologies;

- granted authorizations for substantially identical transfers of "sensitive" and "very sensitive" goods on the WA List of Dual-Use Goods and Technologies, which were denied by other WA participating states in the previous three-year period.

Information on permits issued by the State Service of Export Control of Ukraine and currently in force for international transfers of military goods to countries against which the EU maintains arms embargoes is attached in Ukrainian.
These permits give the right to transfer military goods to China and Myanmar, which is inconsistent with:

measures the European Council thinks it necessary to take in accordance with a political Declaration of European Council made in Madrid, 27 June 1989 in relation to the events at the Tiananmen Square protests of 1989 (Annex II "Declaration on China"), which calls for the interruption by the Member States of the Community of military cooperation and an embargo on trade in arms with China;

provisions of Article 1 of the Council Decision 2013/184/CFSP concerning restrictive measures in view of the situation in Myanmar/Burma, which prohibits the export of arms and related materiel of all types as well as provision of relevant technical assistance to Myanmar/Burma; and Article 3 of the Council Regulation (EU) No 401/2013 concerning restrictive measures in view of the situation in Myanmar/Burma and repealing Regulation (EC) No 194/2008, which prohibits provision of technical assistance related to manufacture and maintenance of arms and related materiel of all types in Myanmar/Burma.

It should be noted that there is no relevant arms embargo imposed by the UN Security Council and other international organizations of which Ukraine is a member.

B. Non-proliferation and WMD/SALW strategy

16. In view of EU’s commitments in the areas of non-proliferation of weapons of mass destruction (WMD), please explain Ukraine’s participation, or intended participation, in the different international regimes/instruments concerning non-proliferation of weapons of mass destruction as well as Ukraine’s participation, or intended participation in international regimes/instruments concerning non-proliferation and illicit trafficking in conventional arms, exports of conventional arms, as well as the authorities in charge of implementing these international regimes.

Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

Ukraine acceded to the Treaty on the non-proliferation of nuclear weapons as a non-nuclear weapon State Ukraine on 5.12.1994

Ukraine became an active and consistent supporter of the non-proliferation of nuclear weapons by voluntary surrender of the third biggest nuclear arsenal in the world. In 2010 Ukraine also voluntarily surrendered the existing deposits of high-enriched uranium.

Despite the assurances not to threaten the sovereignty and territorial integrity of Ukraine provided by the nuclear weapon states in the Budapest Memorandum they were blatantly breached by the Russian Federation in 2014 and 2022.

Nevertheless, Ukraine continues to consider NPT as a basic international instrument in the sphere of the non-proliferation of nuclear weapons.

https://treaties.unoda.org/t/npt

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC)

Ukraine is a founding member of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. Date of accession: 26.03.1975
Ukraine believes that global geopolitical, geoeccological, climatic, epidemiological and epizootic changes, the existing possibility of using bioagents for terrorist purposes and the rapid development of biotechnology compels to seek solutions of biosafety problems not only nationally but also internationally.

Ukraine is a responsible partner state of all international export control regimes:

- the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA);
- the Missile Technology Control Regime (MTCR);
- the Nuclear Suppliers Group (NSG) and the Zangger Committee (ZC);
- the Australia Group (AG).

According to the Resolution No. 1371 of the Cabinet of Ministers of Ukraine “On the procedure for participation of central executive authorities in the activities of international organizations of which Ukraine is a participant” dated September 13, 2002, the Ministry of Foreign Affairs of Ukraine (MFA), the Ministry of Economy of Ukraine, the State Service for Export Control of Ukraine (SSECU), the Security Service of Ukraine and the State Fiscal Service of Ukraine are responsible for the participation in WA as the international organization.

According to the Resolution No. 1072 of the Cabinet of Ministers of Ukraine “On Procedure for the participation of representatives of Ukraine in the activities of international export control regimes” dated December 27, 2017, the preparation and participation of representatives of Ukraine in the regime is provided by responsible authorities:

1) WA:
- the Plenary and the General Working Group - by the MFA of Ukraine;
- the Experts Group and the Licensing and Enforcement Officers Meeting - by SSECU;

2) MTCR:
- the Plenary and the Reinforced Point of Contact Meeting - by the MFA of Ukraine;
- the Information Exchange Meeting - by the State Space Agency of Ukraine;
- the Licensing and Enforcement Experts Meeting and the Technical Experts Meetings - by SSECU;

3) NSG:
- the Plenary and the Consultative Group - by the MFA of Ukraine;
- the Information Exchange Meeting, the Licensing and Enforcement Experts Meeting and the Technical Experts Group - by SSECU;

4) meetings within the framework of ZC - by SSECU;

5) AG:
- the Plenary and intersessional meeting - by the MFA of Ukraine;
- Information Exchange, Implementation Meeting, Enforcement Exchange, New and Evolving Technologies Technical Experts Meeting - by SSECU.
The abovementioned responsible authorities:

- provide preparation for participation of representatives of Ukraine in the regime events;
- determine and inform state bodies about the expediency of their representatives’ participation in the regime events;
- involve representatives of enterprises, institutions and organizations to participate in the regime events, if necessary;
- organize the elaboration of the agreed position of the Ukrainian side for its protection by representatives of Ukraine during the regime events.

Moreover, the Ministry of Economy of Ukraine, as the responsible authority for forming the state export control policy, is continuing to work on the procedural preparations to further ratification of the Arms Trade Treaty (ATT) signed by Ukraine in 2014. This activity is affected, inter alia, by the ongoing armed aggression transferred in 2022 into the full-scale invasion of Ukraine.

Ukraine fully shares the goals of the ATT and confirms its readiness to intensify national efforts in this area according to the regular procedures under earliest favourable conditions after the end of war.

17. Please clarify the amount of trade in conventional weapons Ukraine is involved in either directly or as a transit point. What would be the mechanisms to enact the internal controls necessary to allow instruments such as the Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group, the Zangger Committee and the MTCR regimes to function and which would be the relevant law enforcement agencies for each of these export control regimes?

The information on the volumes of international transfers of munitions is available on the State Service for Export Control of Ukraine (SSECU) web-site: https://www.dsecu.gov.ua/en/category?slug=eksportnyy-kontrol%27%2Fobsiagy-peredach-ozbroyen.

Ukraine is a responsible partner state of all international export control regimes:

- the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA);
- the Missile Technology Control Regime (MTCR);
- the Nuclear Suppliers Group (NSG) and the Zangger Committee (ZC);
- the Australia Group (AG).

According to the provisions of the Article 11 of the Law Of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”, an expert review in the sphere of state export control shall be conducted by the central executive authority implementing the government policy in the field of state export control to decide on the possibility of issuance of respective permits, conclusions, or international import certificates, as well as on the possibility of registration of business entities, and public procurement authorities in the field of defense with the central executive authority implementing the government policy in the field of state export control as subjects of
international transfers of goods, or to authorize such subjects and public procurement authorities to export, import military goods and goods containing state secrets.

The central executive authority implementing the government policy in the field of state export control shall have the right to receive information from the central executive authorities and other government bodies, institutions, and organizations on the issues falling within their competence, and to engage such bodies, institutions and organizations in the expert review. In the cases stipulated by law, the central executive authority implementing the government policy in the field of state export control may engage intelligence agencies of Ukraine in the expert review.

The main objectives of the expert review in the sphere of state export control are:

- evaluate the state of protection of the national security interests, adherence to the international commitments of Ukraine related to the non-proliferation of weapons of mass destruction, their delivery systems, and the restriction on the transfers of conventional weapons, as well as measures taken to avoid the use of the said goods for terroristic or other illegal purposes;
- evaluate the importance of the export of goods in terms of the possible creation of weapons of mass destruction or their delivery systems, conventional weapons and military equipment in the end user state, or the possible purchase of any goods that may be used in creation of weapons of mass destruction of their means of delivery;
- determine whether the names and descriptions of goods submitted for expert review match the descriptions of goods included in the relevant lists of goods subject to state export control.
- determine the origin of goods;
- verify guarantees of delivery of goods to the declared end user and their use for declared purposes;
- evaluate the status of compliance with the state export control legislation by the participants of international transfers of goods, check whether they have relevant ICPs and organizational documents governing the operation of these systems;
- decide on the possibility to issue permits for the export, import of goods, or conclusions for the transit of goods or holding negotiations about conclusion of foreign trade agreements (contracts) for the international transfers of goods, as well as the expediency of cancellation or termination of these permits (conclusions) upon revealing of any breach of the state export control legislation;
- decide on the possibility to submit import certificates to the participants of international transfers of goods, as well as the expediency of cancellation or termination of these documents upon revealing of any breach of the state export control legislation;
- possibility to register business entities, public procurement authorities in the field of defense which intend to perform international transfers of goods, including registration of legal entities or individuals of Ukraine who intend to conduct intermediary (brokerage) activities associated with the international transfers of military goods, with the central executive authority implementing the government policy in the field of state export control;
- decide on the possibility to propose to the Cabinet of Ministers of Ukraine to authorize business entities and public procurement authorities in the field of defense to conduct export, import of military goods and goods containing state secrets;
determine whether the goods belong to tangible media with secret information and the level of their security classification;

to determine other factors that may contribute to the grounded decision-making in the field of state export control.

Representatives of the companies or organizations with vested interest in the expert review findings cannot be appointed as experts. The expert review shall not exceed 30 days after all necessary documents have been submitted to the central executive authority implementing the government policy in the field of state export control, and when any additional interagency coordination is required – upon completion of such coordination.

The Procedure for the examination in the field of state export control is approved by the Decree of the Cabinet of Ministers of Ukraine dated 15.07.1997 No. 767.

According to the Law of Ukraine No. 549-IV “On State Control over the International Transfers of Military and Dual-Use Goods (as amended)” dated February 20, 2003, the central executive authority implementing the government policy in the sphere of state export control (the State Service for Export Control of Ukraine (SSECU), as well as central executive authorities within the frames of their powers shall be entitled to investigate violations of laws in the sphere of state export control, to check the delivery of goods to end users, conformity of the actual use of goods to the declared purposes, and conformity of documents on the basis whereof the international transfer of goods has been performed to the laws.

According to the provisions of Articles 23-26 of the abovementioned Law, the comprehensive list of violations in the sphere of the state export control, specific penalties and the responsibility of their commitment as well as the SSECU authority to investigate these violations are envisaged.

Moreover, export control violations are designated according to the provisions:

- of Article 212-^4 (“Violations of State Export Control Legislation”) of the Code of Ukraine on Administrative Offences (responsibility of the SSECU);

- of the Article 201 (“Smuggling”) of the Criminal Code of Ukraine (responsibility of the Security Service of Ukraine);


As a responsible participant of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), Ukraine takes into account the WA Best Practices for Effective Export Control Enforcement.


Ukraine complies with the United Nations Security Council Resolutions 1540 (2004) and 2325 (2016). The national legislation on non-proliferation is based on the same principles as the UNSC resolutions 1540 (200) and 2325 (2016). In December 2020 the Coordination Centre for the implementation of these resolutions was established in the Ministry of foreign affairs. In 2021 the Cabinet of Ministers of Ukraine identified ministries and other central executive agencies that are
responsible for effective implementation of the provisions of the aforementioned UNSC resolutions. The Ministry of foreign affairs of Ukraine leads the interagency work of drafting the National strategy for non-proliferation of weapons of mass destruction and prevention of its usage by non-state actors. The adoption of the Strategy will allow systematic review and updating of the national legislation in the sphere of non-proliferation. The draft of the Strategy undergoes the final round of reviews by the concerned ministries, state agencies as well as the Security Service of Ukraine before submission to the President of Ukraine for approval.


Ukraine fully shares the goals reflected in the Council Decision (CFSP) 2019/1560 of 16 September 2019 amending Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment. Measures are being taken to further gradual adaptation of EU legislation, including the Council Common Position 2008/944/CFSP of 8 December 2008 (with amendments), into the national legislation of Ukraine. Relevant provisions are taken into account in the draft updated version of Law of Ukraine “On State Control over the International Transfers of Military and Dual-Use Goods”, elaborated in cooperation with international partners, including the EU partners.

20. Does Ukraine comply with the Arms Trade Treaty (ATT) and what is Ukraine’s position with regard to the Council Decision of 3 March 2014 authorising Member States to ratify, in the interests of the European Union, the Arms Trade Treaty (2014/165/EU)? Please provide information on Ukraine’s defence industry and any obstacles to compliance with the ATT.

Moreover, the Ministry of Economy of Ukraine, as the responsible authority for forming the state export control policy, is continuing to work on the procedural preparations to further ratification of the Arms Trade Treaty (ATT) signed by Ukraine in 2014. This activity is affected, inter alia, by the ongoing armed aggression transferred in 2022 into the full-scale invasion of Ukraine.

Ukraine fully shares the goals of the ATT and confirms its readiness to intensify national efforts in this area according to the regular procedures under earliest favourable conditions after the end of war.

21. What is Ukraine’s position and what measures are being taken with regard to the Oslo Action Plan for the implementation of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction?

Ukraine is strongly committed to the fulfilment of the Oslo Action Plan for the implementation of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention).


However, Ukraine’s commitment to fulfil the Oslo Action Plan and the implementation of the Articles 4 and 5 of Convention in particular, was significantly derailed in February 2022 with the beginning of full-scale aggression of the Russian Federation against Ukraine which actively using mines not only against military personnel but against the civil population of Ukraine.

The implementation of the Oslo Action Plan is further complicated due to the fact that in addition to Donbas and Luhansk Regions the territories of our country, which were liberated by the Armed Forces of Ukraine, are heavily polluted with mines and various explosive devices left by the Russian occupants.

22. Has Ukraine undertaken implementation measures necessary to comply with its obligations under the Chemical Weapons Convention (CWC)? Are there legislation and administrative measures in place prohibiting activities proscribed under the CWC? Please provide details. Has a functioning National Authority serving as a focal point for CWC-related matters been established? What measures have been undertaken to regulate and monitor trade in scheduled chemicals?

Ukraine as a state party to the Chemical Weapons Convention, which was ratified by the law of Ukraine N 187-XIV of 16 October 1998, fully complies with its provisions.

Ukraine has established the National Authority to coordinate the implementation of its provisions on the national level. National Action Plans for CWC implementation were adopted by Presidential Decree of January 25, 1999 N 50/99 for the period 1999-2010 and by the Presidential Decree of November 15, 2012 № 637/2012 for the period 2012-2021.

Now new draft of the National Action Plan is being elaborated for the period 2022-2030. National regulations on declarations and on inspection procedures under CWC were adopted by the executive orders of the Cabinet of Ministers of Ukraine (Executive Order of the Cabinet of Ministers of Ukraine dated February 7, 2001 N 109 “On approval of the Regulations on the procedure for preparation national declarations in accordance with the CWC” and Executive Order of the Cabinet of Ministers of Ukraine dated June 6, 2000 N 920 “Regulations on inspection activities in accordance with the CWC” respectively).

Trade and transfers of listed chemicals is closely monitored by the Export Control Service of Ukraine which provides relevant data for the Annual declarations to be submitted to the OPCW.

23. Does Ukraine comply with the obligations under the Biological and Toxin Weapons Convention (BTWC)?

Yes, Ukraine fully complies with the provisions of BTWC and submits annual reports on the fulfilling of its obligations under the Convention to the BTWC Implementation Support Unit (ISU).

At the same time, Ukraine categorically denies and rejects any false and absurd accusations of the development by our state of biological weapons which have been spread by the Russian Federation since the beginning of full-scale aggression against our state in February 2022.
24. Does Ukraine comply with its obligations with regard to the Treaty on the Non Proliferation of Nuclear Weapons (NPT) and the Comprehensive Test Ban Treaty (CTBT)?

Yes, Ukraine fully complies with the provisions of the NPT and the CTBT and participates in the related meetings of the NPT Review Conference and the working organs of CTBT.

According to the resolution of the Cabinet of Ministers of Ukraine No.281 dated May 14, 2015 “Provision of the State Space Agency of Ukraine”, the Agency monitors and maintains a database of geophysical observations and ensures its interaction with the National Data Centre of the system of seismic observations and improving the safety of living in seismically dangerous regions.

25. Does Ukraine comply with its undertakings under the Hague Code of Conduct?

Yes, Ukraine fully complies with its obligations under the Hague of Conduct (HCoC).

According to the resolution of the Cabinet of Ministers of Ukraine No.281 dated May 14, 2015 “Provision of the State Space Agency of Ukraine”, the Agency is performing the functions of the HCoC Point of Contact and in monitoring the adherence to the HCoC provisions as well as and submitting Annual Declarations.

Ukraine faithfully executes its obligations to comply with the provisions of the Hague Code of Conduct against Ballistic Missile Proliferation.

The State Space Agency of Ukraine (SSAU) acts as the national contact point for compliance with the Hague Code of Conduct.

The SSAU (in cooperation with the Ministry of Foreign Affairs of Ukraine and the Ministry of Defence of Ukraine) on regular basis:

– exchanges information with the central and national contact points of the countries that have acceded to the Code, according to message formats defined under the Code;
– prepares and submits annual declarations on Ukraine’s policy on ballistic missiles and space launch vehicles and preliminary announcements on their launches;
– provides the participation of Ukrainian experts in events conducted under the Code.

26. Does Ukraine have a national control strategy for small arms and light weapons (SALW)? If so, please provide a copy.

There is no SALW state strategy in Ukraine but the measures are taken to regulate this issue.

According to the provisions of subparagrath 21 of paragraph 4 of the Regulation on the State Service for Export Control of Ukraine, adopted by the Resolution No.159 of the Cabinet of Ministers of Ukraine dated 31 March 2015, the State Service for Export Control of Ukraine (SSECU) provides the Ministry of Foreign Affairs and other state bodies with information on the export and import of certain categories of goods, including small arms and light weapons (SALW), for informing
international organizations in accordance with Ukraine’s international obligations, inter alia under the UN and the OSCE.

In Ukraine, the arms control is a legally regulated activity and there are clear permitting procedures in place that regulate the life cycle of all categories of weapons allowed for circulation. There are also mechanisms in place to control the arms trafficking, and the relevant public authorities have sufficient powers to exercise such control. The State is constantly taking additional measures to strengthen arms control. For instance, pursuant to paragraph 10 of Action Plan for implementation of Concept for Combating Terrorism in Ukraine, approved by Ordinance of the Cabinet of Ministers of Ukraine No. 7-p dated 5 January 2021, the Ministry of Defence, the Ministry of Internal Affairs, the Security Service of Ukraine (by agreement), the State Security Administration (by agreement), the National Police, the State Border Guard Service Administration, the Ministry of Justice, the Foreign Intelligence Service (by agreement) and the Administration of the State Service of Special Communications and Information Protection are instructed to register in the “Arsenal” database the registration data of weapons in service with military formations and special purpose state bodies having the law enforcement functions, state special purpose law enforcement bodies, and to enter information about optimisation of the specified database.

On 25 June 2021, Draft Law No. 5708 “On the Right to Civilian Firearms” and Draft Law No. 5709 “On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine to Implement the Provisions of the Law of Ukraine "On the Right to Civilian Firearms"” were registered in the Verkhovna Rada of Ukraine. Currently, there is no separate national strategy to strengthen control over arms trafficking (which is approved by the acts of the Verkhovna Rada or the Cabinet of Ministers) in Ukraine. Also, there is currently no advisory or special body in Ukraine responsible for the national interagency coordination on arms control.

The EU-funded OSCE Project “Support to the Ministry of Internal Affairs of Ukraine in Preventing and Combating Illicit Trafficking in Weapons, Ammunition and Explosives” assessed the needs of the authorities, including the situation with legislative regulation and interagency coordination in the field of combating illicit trafficking in weapons, ammunition and explosives, and elaborated an action plan needed for the development of state policy in the field of weapons, ammunition and explosives regulation, similar to the EU SALW strategy.

In particular, the mechanisms and powers of public authorities, their interaction in the field of arms control and the available capabilities, including the information systems, were analysed and a relevant action plan was drafted. To improve the interagency coordination at the national level, the establishment of a National Coordinating Body (hereinafter referred to as the NCB) for arms control was envisaged. The NCB could help coordinate the actions of the central executive bodies on issues governing relations in the field of civilian firearms, and prepare — taking into account the international standards — the proposals for the development of state policy in the field of civilian firearms and ammunition circulation.

To achieve these goals, the draft resolutions of the Cabinet of Ministers of Ukraine “On the Establishment of Interagency Working Group for the Alignment of Approach Used to Develop the State Policy on the Firearms, Ammunition and Explosives Control” and “On the Establishment of Coordination Centre for Firearms, Ammunition and Explosives Control” were prepared. Following the adoption of these resolutions, the interagency group was to prepare proposals for the development of a National Strategy for the Control of Firearms, Ammunition and Explosives (hereinafter referred to as the Strategy), an Action Plan for the Strategy Implementation and a Roadmap to support the
Strategy, as well as other strategic planning documents to ensure effective implementation of the Strategy.

27. Does Ukraine have a national registration system and database for small arms and light weapons? If so, please provide recent weapons registration statistics.

Yes, there are national registration systems for small arms and light weapons in Ukraine. Military arms are registered by the Ministry of Defence.

The arms which are used by law enforcement agencies are registered in the “Arsenal” database which belongs to the Ministry of Internal Affairs (statistics could not be provided as the data are restricted).

Civilian firearms are registered by the National Police.

There is a Unified Information System in the Ministry of Internal Affairs of Ukraine (hereinafter - UIS). The legislative and normative grounds for its functioning include the Law of Ukraine “On the National Police” (Article 26) and Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Unified Information System of the Ministry of Internal Affairs and the List of Its Priority Information Resources” No. 1024 dated 14 November 2018. The UIS contains, inter alia, the following information about administrative and/or criminal offenses:

- established criminal and administrative offenses, persons who committed them, flow of criminal proceedings, accused persons, whose indictment was referred to a court;
- criminal or administrative offences recorded by bodies of internal affairs, events that pose a threat to personal or public security, emergencies;
- persons who committed administrative offences subject to proceedings by the police;
- weapons in the possession or use by natural persons and legal entities who have been authorised to purchase, store, carry and transport weapons;
- stolen, lost, seized or found weapons, as well as voluntarily surrendered weapons from among those kept illegally.

Office of General Prosecutor also maintains the Single Register of Pre-trial Investigation.

According to the statistics from the Register during 2021 (12 months) there were:

720 - registered crimes committed with the use of arms;

in 628 criminal cases individuals were notified of suspicion;

500 - criminal offenses with an indictment were sent to court;

34 – committed by group of persons.

According to the information of National Police of Ukraine:

As of January, 05, 2022 there are 816 objects of the permitting system registered by National police, which have 37492 pieces of weapons including 29770 rifled weapons, 2156 sub machine guns, 22921 pistols. Also there are registered 710269 owners of hunting firearms who have 977415 pieces of hunting weapons in possession.
28. Does Ukraine have a national commission or authority to monitor the production, import and export of small arms and light weapons? If so, who are its members and what are its terms of reference?

The national export control system over international transfers of military goods established by Ukraine includes the procedure of monitoring of import and export of small arms and light weapons (SALW).

Law No. 549-IV “On State Control over International Transfers of Military and Dual-Use Goods” identifies the state institutions/agencies that are responsible for forming and implementing the state export control policy.

The decision to issue a permit is taken by the State Service for Export Control of Ukraine based on the results of the state examination in the field of state export control.

According to the Decree of the Cabinet of Ministers of Ukraine of 31 March 2015 No. 159 SSECU is the central executive body responsible for the implementation of the state export control policy of Ukraine including control of export and import of military goods (inter alia SALW).

The control procedures are applied to all applications for obtaining permits for international transfers of listed (ML and DU) and non-listed goods (catch-all) without any exemption.

The submitted application that undergo state examination shall contain, in particular, reliable information about the entities involved in the international transfer of goods, goods, destination, and the purpose of end use. Application materials shall contain the originals of the documents of guarantee as well as other documents necessary for the examination.

The control procedures are carried out by the State Service for Export Control of Ukraine. If necessary, other state bodies, as well as enterprises, institutions and organizations are involved in this process.

The interagency approval procedure is carried out by:

1) sending requests to government agencies (depending on the sensitivity of international transfer (goods, importer/exporter, end user, etc.), the Ministry of Foreign Affairs of Ukraine, the Ministry of Defense of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, the State Space Agency of Ukraine, the State Nuclear Regulatory Inspectorate of Ukraine, etc. are involved); and/or

2) involving the Interagency Commission on Military-Technical Cooperation and Export Control Policy - a working body of the National Security and Defence Council of Ukraine) established by the Order of the President of Ukraine of March 5, 2007 No. 180/2007 “On the Interagency Commission on the Policy of Military-Technical Cooperation and Export Control” (attached only in Ukrainian.

Note: The Commission includes senior management of the Ministry of Economy of Ukraine, the Ministry of Strategic Industry of Ukraine, the Ministry of Defence of Ukraine, the Ministry of Foreign Affairs of Ukraine, the State Service for Export Control of Ukraine, the State Customs Service of Ukraine, the State Space Agency of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service of Ukraine, Defence Intelligence of the Ministry of Defence of Ukraine, the State Concern “Ukroboronprom” as well as representatives of the Verkhovna Rada of Ukraine and the Office of the President of Ukraine.
The Interagency Commission is involved in considering applications (including SALW) of business entities for the export of goods to countries subject to a partial embargo or restriction on the export of such goods, based on Ukraine's international obligations or national security interests.

In addition, the Interagency Commission is involved in considering the issuance of permits for negotiations on conclusion of foreign trade agreements (contracts) for international transfers of military, dual-use goods and non-listed goods under catch-all procedure, as well as preparation of proposals to address issues of Military-Technical Cooperation and Export Controls. The main task of the Commission is to prepare proposals on the conceptual framework, priorities and decisions on military-technical cooperation and export control.

In case of need to check end-user or intermediary, obtain information on possible diversion from the declared end use of goods, consult with the relevant authorities of states-members of multilateral export control regimes, interagency coordination/approval of the possibility of granting a permit to the business entities is conducted.

An open or general permit for export of goods to countries that are not members of the relevant multilateral export control regime, and when no international agreement has been concluded with the state – end-user of goods, which provides for such exports, can be granted only in agreement with the Ministry of Foreign Affairs and, if necessary, with other state agencies.

In addition, the Ministry of Defense is involved in the review of applications for export of certain types of weapons, military equipment and ammunition to address the priority needs of the Armed Forces of Ukraine.

**Main risk factors that are taken into account when considering applications:**

- information about end-user state (compliance with international obligations and national legislation; the UN Security Council arms embargo in force; effective export control system; the purpose of the state to procure/import military goods – for self-defence, to gain a tactical/strategic advantage, internal and military-political situation in the country of final destination; presence of free zones etc.);

- bona fide of importer/end-user (familiar or not; is the knowledge about the end-user incomplete or inconsistent; is there any information about the end-user in open sources; risk that the state would use its weapons offensively against another country; risk of diversion to unauthorized end-use/end-users; finding out if the end user is a trading company or a distributor; whether the entity is located in free zone etc.);

- the purpose of end-use (to commit or facilitate the violation and suppression of human rights and fundamental freedoms or the laws of armed conflict);

- validity and credibility of end-use/end-user assurances;

- information about goods (quantity and technical capability to use the goods in stated purposes and in terms of potential increase of strategic military capacity of end-user country; origin of the goods; known dual-use, military or sensitive application; all aspects related to technology transfers;

- shipping route;

- potential proliferation of weapons of mass destruction and terrorism financing.
As a responsible participant of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), Ukraine takes into account the WA Best Practice documents, among others:

- Guidelines for Exports of Small Arms and Light Weapons (SALW);
- Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport.

In Ukraine, there is no separate commission or authority to monitor the production, import and export of small arms and light weapons.

Issues of small arms and light weapons are considered within the framework of the Interdepartmental Commission of the Defence-Industrial Complex (IC DIC). Composition of IC DIC, composition of its presidium, Regulations on the IC DIC are approved by the Cabinet of Ministers of Ukraine, dated January 24, 2020 № 54.

The main tasks of IC DIC are:
- assistance in ensuring coordination of actions of executive bodies on issues within its competence;
- setting of priority directions of development of the defence-industrial complex;
- preparation of proposals for resolving problem issues that arise during the implementation of the state military-industrial policy.

IC DIC in accordance with the tasks assigned to it:
- analyses the state of affairs and the causes of problems in the implementation of public policy in a relevant field;
- studies the results of the activities of the central and local executive bodies, local self-government bodies, enterprises, institutions and organizations on issues within its competence;
- monitors the state of realization of the tasks by the executive bodies assigned to them;
- participates in the development of normative and legal draft documents on issues within its competence;
- submits to the Cabinet of Ministers of Ukraine recommendations and proposals developed as a result of its work.

IC DIC has the right:
- to receive, in the established order, from the central and local executive bodies, local governments, enterprises, institutions and organizations, the information necessary to perform the tasks assigned to it;
- to involve in their work representatives of central and local executive bodies, local governments, enterprises, institutions and organizations (upon consent of their top management), as well as independent experts (by agreement);
- to form, if necessary, permanent or temporary working groups to perform the tasks assigned to it;
- to organize conferences, seminars, meetings and other events.
29. Does Ukraine have legislation in place for the internal control, including at borders, of small arms and light weapons, including possession, use, carriage and registration of weapons?

In Ukraine, the illicit trafficking of weapons is a criminal offense under Article 263 of the Criminal Procedure Code (Illegal handling of weapons, ammunition or explosives), Article 263-1 (Illegal production, redesign or repair of firearms or falsification, illegal removal or alteration of their markings, or illegal production of ammunition, explosives or explosive devices), Article 333 (Violation of the procedure for international transfers of goods subject to state export control) and a number of other articles.

The state control over the import and export of military and dual-use goods is carried out in accordance with the Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”.

In addition to criminal prosecution for illicit arms transfer, the main forms of state control include licensing of economic activities related to arms trafficking, use of permit system and verification of their observance. In particular, pursuant to Article 7 of the Law of Ukraine “On Licensing of Economic Activities” the following economic activities are subject to licensing: manufacture and repair of non-military firearms and ammunitions thereto, cold arms, pneumatic arms with calibres above 4.5 millimetres and muzzle velocities over 100 m/sec; trade in non-military firearms and ammunitions thereto, cold arms, pneumatic arms with calibres above 4.5 millimetres and muzzle velocities over 100 m/sec; manufacturing of riot control weapons armed with lachrymatory and irritating agents, personal protective and active defence equipment, and trade therein; manufacture of industrial explosives according to the list determined by the Cabinet of Ministers of Ukraine.

Pursuant to Article 5 of the Law of Ukraine “On Technical Regulations and Conformity Assessment” and Resolution of the Cabinet of Ministers of Ukraine “On Determining the Areas of Activity where the Central Executive Bodies Implement the Technical Regulation Functions” No. 1057 dated 16 December 2015, the area of activity where the Ministry of Internal Affairs implements its functions of technical regulation (objects of technical regulations) includes the protection of public order and ensuring public safety (including pyrotechnic products; technical means of protection; special means of personal protection and special means of active defence; hunting and sporting firearms; cold arms; products for entertainment and recreation being structurally similar to weapons).

Resolution of the Cabinet of Ministers No. 1000 dated 2 December 2015 defines the licensing conditions for conducting economic activities related to manufacture and repair of non-military firearms and ammunitions thereto, cold arms, pneumatic arms with calibres above 4.5 millimetres and muzzle velocities over 100 m/sec; trade in non-military firearms and ammunitions thereto, cold arms, pneumatic arms with calibres above 4.5 millimetres and muzzle velocities over 100 m/sec; manufacturing of riot control weapons armed with lachrymatory and irritating agents, personal protective and active defence equipment, and trade therein.
By its Order No. 622 dated 7 October 1998, the Ministry of Internal Affairs of Ukraine approved the Instruction on the Procedure for Manufacture, Purchase, Storage, Recording, Transportation and Use of Firearms, Pneumatic, Cold and Melee Weapons, Devices of Domestic Production for Firing Cartridges Equipped with Rubber or Non-Lethal Metal Shells Having Similar Properties, and Cartridges Thereto, as well as Ammunition for Weapons, Major Parts of Weapons and Explosives.

The procedure for the acquisition, storage, transportation and use of sports weapons and ammunition thereto, as well as maintenance of shooting ranges, firing grounds and stands is regulated by Resolution of the Cabinet of Ministers of Ukraine No. 1207 dated 27 December 2018. In particular, the aforementioned resolution determines the powers and general procedure for cooperation between the National Police of Ukraine, the Ministry of Youth and Sports, and other public authorities as regards the circulation of sports weapons.

According to paragraph 18.1 of the Action Programme of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 471 dated 12 June 2020, the long-term priorities of the Government include determining legal mechanisms for exercising the right to possess and use weapons.

On 22 February 2022, Draft Law No. 5708 “On the Right to Civilian Firearms” was adopted in the first reading. The purpose of the Draft Law is to strengthen compliance with the rule of law in determining the legal regime of weapons’ ownership, setting forth the basic rights and responsibilities of citizens and legal entities related to manufacture, acquisition, possession, disposal and use of weapons and ammunition, as well as regulation of other public relations in the field.

The Draft Law proposes to:
- define the concept of ownership of civilian firearms;
- determine the conditions and procedure for obtaining documents confirming the ownership of civilian firearms by the citizens and legal entities of Ukraine;
- break up the civilian firearms into types;
- develop a procedure for issuing a medical opinion on the absence of medical contraindications that prevent the obtaining of a document confirming the right to possess civilian firearms, which requires the creation of a special information and reference system with a qualified electronic signature of the person issuing such opinion;
- develop the procedure for creating and maintaining the Unified State Register of Civilian Firearms;
- determine the powers of the operators of the Unified State Register of Civilian Firearms;
- determine the general principles of civil circulation of firearms and ammunition;
- determine the general principles of exercising the rights and fulfilling the obligations by the owners of civilian firearms;
- set forth a procedure for obtaining the right to civilian firearms and ammunition;
- determine the procedure for civil liability insurance for the owners of civilian firearms;
- provide for restrictions on the right to civilian firearms and ammunition;
- provide for the right to use civilian firearms for self-defence purposes;
- define the concept of weapon-free zones;
- lay down the basics of economic activities in the field of circulation of civilian firearms and ammunition;
- determine the general principles of possession and use of civilian firearms and ammunition by foreigners and stateless persons in the territory of Ukraine;
- regulate the temporary import of civilian firearms and ammunition into the territory of Ukraine and the temporary export of civilian weapons and ammunition from the territory of Ukraine.

Previously, pursuant to Article 263(3) of the Criminal Code of Ukraine (Illegal handling of weapons, ammunition or explosives), a person who committed a crime under parts one or two of that article, is discharged from criminal liability provided that he/she voluntarily surrenders weapons, ammunition, explosives or explosive devices.

Based on the above provision, twice a year, the National Police of Ukraine conducted month-long voluntary campaigns to surrender the weapons, ammunition, explosives and special equipment (hereinafter referred to as the campaign), which were quite effective due to the media outreach.

During each campaign, police made up to 10,000 TV appearances, approximately 5,000 radio appearances and placed nearly 20,000 announcements in printed mass media. As a result, the last campaign in October 2019 ended with the population voluntarily surrendering about 10,000 weapons, up to 400,000 ammunitions for firearms, up to 2,000 shells, mines and grenades and up to 100 kg of explosives. At the same time, about 1,000 citizens were discharged from the criminal liability for illegal storage of firearms, ammunition and explosives.

Unfortunately there were some legal issues which made it impossible for National police to continue this activity in 2020 and 2021.

On 24 March 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amendments to Article 263 of the Criminal Code of Ukraine on Cancellation of Liability in Cases of Voluntary Surrender of Weapons, Ammunition, Explosive Substances or Devices”. Pursuant to Article 263(3) of the Criminal Code (Illegal handling of weapons, ammunition or explosives), a person who committed a crime under parts one or two of that article, is not subject to criminal liability provided that he/she voluntarily surrenders weapons, ammunition, explosive substances or devices to the public authorities.

Being guided by the above provision, the National Police of Ukraine will continue conducting voluntary campaigns for surrendering weapons, ammunition, explosives and special equipment (hereinafter referred to as the campaign), which were quite effective due to the media outreach and awareness campaigns in institutions and organizations.

Pursuant to paragraph 12.22 of Chapter 12 of Section II of the Instruction on the Procedure for Manufacture, Purchase, Storage, Recording, Transportation and Use of Firearms, Pneumatic, Cold and Melee Weapons, Devices of Domestic Production for Firing Cartridges Equipped with Rubber or Non-Lethal Metal Shells Having Similar Properties, and Cartridges Thereto, as well as Ammunition for Weapons, Major Parts of Weapons and Explosives, approved by Order of the Ministry of Internal Affairs No. 622 dated 21 August 1998, registered with the Ministry of Justice of Ukraine on 7 October 1998 under No. 637/3077 (hereinafter referred to as the Instruction), when
surrendering to the police the hunting firearms, pneumatic, cold and melee weapons, devices that have not been registered with the police (but may be owned by Ukrainian citizens) for their further registration for personal use, the official execution of documents takes place in accordance with paragraphs 12.2, 12.3, 12.5, 12.15 of that chapter. In this case, the weapons (device) acquisition permit contains information about the make, calibre, number of weapons and states that the registration is carried out in accordance with paragraph 12.23 of Chapter 12 of Section II of the Instruction. The police checks each weapon by running it through the Ministry of Internal Affairs’ databases of stolen, lost or found weapons.

30. **Does Ukraine have legislation and measures in place for external transfers (import, export, transit etc.) of such weapons, in line with the Council Decision (CFSP) 2019/1560 of 16 September 2019 amending Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment? Does Ukraine have the capacity and resources to implement the legislation?**

Ukraine does apply arms export controls (including small arms and light weapons - SALW) and has legislation and measures in place for international transfers (export, import, transit, re-export, temporary export/import) of such weapons as well as control over conducting negotiations related to the conclusion of foreign economic agreements (contracts) for export of such weapons.

The main laws and regulations governing export control of military goods are as follows:

- Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods” of February 20, 2003 No. 549 (attached);
- Decree of the Cabinet of Ministers of Ukraine dated 20.11.2003 No. 1807 “On approval of the Procedure for state control over international transfers of military goods” (attached);
- Decree of the Cabinet of Ministers of Ukraine of June 6, 2012 No. 500 “On approval of the Procedure for state export control over the negotiations on concluding foreign trade agreements (contracts) for the export of goods” (attached);
- Decree of the Cabinet of Ministers of Ukraine of May 27, 1999 No. 920 “On approval of the Procedure for issuing guarantees and exercising state control over the fulfilment of obligations on the proper use of goods subject to state export control” (attached);
- Decree of the Cabinet of Ministers of Ukraine dated 08.06.1998 No. 838 “On approval of the Procedure for granting the right to export and import military goods and goods containing information that constitutes a state secret” (attached only in Ukrainian);
- Decree of the Cabinet of Ministers of Ukraine dated 15.07.1997 No. 767 “On approval of the Procedure for the examination in the field of state export control” (attached only in Ukrainian);
- Decree of the Cabinet of Ministers of Ukraine dated 17.07.2003 No. 1080 “On approval of the state certification of internal compliance program established by business entity involved in international transfers of goods” (attached only in Ukrainian).

The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods” governs the activity associated with the state control over international transfers of military and dual-use goods for the purpose of protection of the national interests of Ukraine, its observance of international commitments related to the non-proliferation of weapons of mass destruction, their delivery systems, restrictions on the transfers of conventional weapons, as well as for the
implementation of measures to prevent the use of those goods for terroristic and other unlawful purposes.

The Law provides for definitions for “military goods”, “military services” and “military technologies” which are as follows:

military goods (collectively or individually) - military products – armament, ammunition, military and special-purpose equipment/vehicles, special components for production thereof, explosives, as well as materials and equipment specifically designed for the development, production, or use of the mentioned products. Military goods include small arms and light weapons.

military services – provision of services to foreign legal entities or individuals, in and outside Ukraine, including intermediary (brokerage) services, services in the field of development, production, construction, compilation, testing, repairing, maintenance, modification, upgrading, operation, management/control, demilitarization, destruction, sale, storage, detection, identification, purchasing, or use of military products or technologies, as well as provision of services in financing these works to the mentioned legal entities of a foreign state or their representatives or to foreign individuals;

military technologies – special information in any form (except information generally available to the public/that is in the public domain), required for the development, production, or use of military products and provision of military services. This information may be provided in the form of technical data or technical assistance:

technical data – projects, plans, drawings, charts, diagrams, models, formulas, specifications, software, manuals and guidelines in hard copy or on other, including electronic, data storage media;

technical assistance - instruction, consulting services, skills, training, working knowledge;

basic technologies - technologies defining the mode of operation and use of machinery, as well as elements of technologies without which military equipment cannot be created and used.

The Cabinet of Ministers of Ukraine implements the government policy in the sphere of state export control. According to Resolution No. 159 of the Cabinet of Ministers of Ukraine dated 31 March 2015 “On Adopting the Regulation on the State Service for Export Control of Ukraine”, the State Service for Export Control of Ukraine (SSECU) is a central government agency whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the First Deputy Prime Minister of Ukraine - Minister of Economy of Ukraine and which implements public policy of state export control.

The Law authorizes the State Service of Export Control of Ukraine (SSECU) to compile the Munition List with the involvement of other state agencies, industry, academic institutions, organizations, and associations.

The Cabinet of Ministers of Ukraine is authorized to approve the Munition List and to establish procedures for control over international transfers of military goods (including SALW).

The Law authorizes the SSECU to conduct necessary examination and take decisions on granting permits for international transfers of all controlled goods including military goods. It determines main tasks for the examination in the field of state export control, which are as follows:

- to ensure national security interests, compliance with Ukraine’s international obligations related to non-proliferation of WMD and their means of delivery and restrictions on the transfers of
conventional weapons, as well as measures to prevent the use of goods for terrorist or other illegal purposes;

- to assess the possibility that an export of goods could contribute in a state of destination to WMD, their means of delivery, conventional arms, military equipment, or the purchase of any goods that could be used to create WMD or their means of delivery;

- to conduct identification/classification of goods subject to national control lists based on their name and description submitted by applicant;

- to determine the origin of goods;

- to check availability of guarantees for the delivery of goods to the declared end-user and their use for the stated purposes;

- to assess the compliance of business entities with the legislation on export controls, to establish the availability of appropriate Internal Compliance Programs (ICP) and internal organizational documents governing the operation of such programs;

- to determine the possibility to issue permits for all international transfers of goods, conducting negotiations related to the conclusion of foreign economic agreements (contracts) for export of goods, as well as to determine the feasibility of revoking or suspending such permits in case of violations of export control legislation;

- to determine the possibility to grant import certificates to business entities, as well as to determine the feasibility of revoking or suspending such certificates in case of violations of export control legislation;

- to determine the possibility to register with the SSECU business entities which intend to perform international transfers of goods;

- to determine if the goods belong to the material carriers of classified information.

The Law and regulations in force provide for the following procedures for the state export control over military goods:

- submitting application by business entities for registration with SSECU which includes preliminary classification of goods intended for international transfers;

- registration of business entities with SSECU;

- establishment of the Internal Compliance Program (ICP) by business entity;

- submitting application by business entities for state certification of ICP;

- submitting application by business entities for obtaining the right (authority/power) to export/import military goods and goods containing information that constitutes a state secret from the Cabinet of Ministers of Ukraine, then issuance of the Decree of the Cabinet of Ministers of Ukraine that gives relevant right (authority/power);

- submitting application by business entities for obtaining the permit to conduct negotiations on concluding foreign trade agreements (contracts) for the export of military goods to the foreign states under partial embargo;

- submitting application by business entities for obtaining a permit for international transfer of certain military goods;
- examination and identification of goods subject to control list by SSECU;
- granting a permit for international transfer of military goods;
- customs control and customs clearance of goods in accordance with the customs legislation of Ukraine;
- obtaining (issuance of), when necessary, appropriate guarantees concerning end user, consignee and destination of goods;
- monitoring the end-use of goods by customers;
- submitting written reports on actual international transfers of goods and the use of such goods in declared purposes;
- imposing sanctions for the violation of the export control laws and regulations by business entities.

According to the Decree of the Cabinet of Ministers of Ukraine, dated 20.11.2003 No. 1807 all kinds of abovementioned international transfers of all military goods (SALW inter alia), including those relating to government-to-government transfers, require obtaining of relevant permit issued by the SSECU.

According to the Decree of the Cabinet of Ministers of Ukraine dated 15.07.1997 No. 767 when new relevant information becomes available, SSECU is authorized to suspend a granted permit for military goods and conduct additional examination (reassessment).

When processing relevant applications and assessing risks of the transfers SSECU and other state agencies involved take into account the criteria of the Common Position 2008/944/CFSP (with amendments introduced with the Council Decision (CFSP) 2019/1560) defining common rules governing control of exports of military technology and equipment. At present, these criteria are not fully implemented by national laws and regulations. However, Ukraine has the capacity and resources to implement such criteria through adoption of appropriate laws and regulations.

There is a need to optimize the structure of the State Service for Export Control of Ukraine in order to strengthen the analytical component of its activities to form a risk management system associated with the international transfer of goods, including its comprehensive analysis, development and updating of risk profiles for such transfers in the context of individual countries, end-users (importers), groups of items based on information prepared using various sources. Establishment of such system will increase institutional capacity of the export control system to confront risks and threats.

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<th>Criteria of the Common Position 2008/944/CFSP</th>
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<td>Article 9. International treaties in force ratified by the Verkhovna Rada of Ukraine shall be a part of the national legislation of Ukraine.</td>
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sanctions adopted by the UN Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations and commitments

International treaties in force ratified by the Verkhovna Rada of Ukraine are as follows:

- Nuclear Non-Proliferation Treaty;
- Chemical Weapons Convention;
- Biological and Toxin Weapons Convention;
- Convention on Certain Conventional Weapons and the relevant Protocols annexed thereto;
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention);
- Hague Code of Conduct against Ballistic Missile Proliferation.

As a Member State of the UN Ukraine abides the requirements of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

As a responsible participant of multilateral export control regimes (the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Zangger Committee and the Australia Group), Ukraine in practical work is guided by its Best Practices documents.

**The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”**

**Article 4. Principles of the Government Policy in the Sphere of State Export Control**

The government policy in the sphere of state export control shall be prepared on the basis of the following principles:

- mandatory fulfillment of the international commitments of Ukraine in the field of the non-proliferation of weapons of mass destruction, their delivery systems, and establishment of state control over the international transfers of military and dual-use goods, as well as implementation of measures to prevent the use of the aforesaid goods for terrorist and other illegal purposes;
- coordination of the state export control procedures and regulations with the international legal norms and practice;
- interaction with international organizations and foreign states in the sphere of state export control for the purpose of strengthening international security and stability, including to prevent the proliferation of weapons of mass destruction and their delivery systems;

...
**Article 6. Powers of the Government Bodies in the Sphere of State Export Control**

... 

The central executive authority implementing the government policy in the field of state export control, directly or in cooperation with other central executive authorities and intelligence agencies of Ukraine, shall support activities associated with the international transfer of goods when it meets the national interests, ..., or limit or prohibit such activities in case when they are in conflict with the national interests of Ukraine, its international commitments, goals of combating terrorism, as well as when there are grounds to believe that the mentioned goods are weapons of mass destruction or are intended for the creation of such weapons, their delivery systems, or in the absence of proper guarantees (obligations) regarding the end use of goods.

**Article 11. Expert Review in the Sphere of State Export Control**

The main objectives of the examination in the sphere of state export control are:

evaluate the state of protection of the national security interests, adherence to the international commitments of Ukraine related to the non-proliferation of weapons of mass destruction, their delivery systems, and the restriction on the transfers of conventional weapons, as well as measures taken to avoid the use of the said goods for terroristic or other illegal purposes;

...

**Article 16. Obtaining a Permit, Conclusion, or an International Import Certificate**

Issuance of a permit, conclusion, or an international import certificate shall be denied, or a permit, conclusion, or an international import certificate shall be revocated or suspended by the central executive authority implementing the government policy in the field of state export control in the following cases:

the need to secure the national interests or to adhere to the international commitments of Ukraine;

...

**Decree of the Cabinet of Ministers of Ukraine dated 20.11.2003 No. 1807**

“On approval of the Procedure for state control over international transfers of military goods”

9. It is not allowed to export certain goods to the states in respect of which the UN Security Council has imposed an embargo on their
export, as well as in the case when the findings of an examination in the field of state export control gives the grounds to believe that those goods are intended for:

creating weapons of mass destruction or their delivery systems;
use for terroristic or other illegal purposes;
use in the activities related to creation of nuclear explosive devices, or in the activities associated with the nuclear fuel cycle, which are not covered by the IAEA safeguards;
use in the activities related to acquisition, creation, stockpiling, or application of chemical weapons as a means of warfare;
use in the activities related to acquisition, creation, stockpiling, or application of pathogens and toxins as bacteriological (biological) and toxin weapons or their components.

Decree of the Cabinet of Ministers of Ukraine dated 28.01.2004 No. 86

“On approval of the Procedure for state control over international transfers of dual-use goods”

7. It is not allowed to export goods to the states in respect of which the UN Security Council has imposed an embargo on their export, as well as in the case when the findings of an examination in the field of state export control gives the grounds to believe that those goods are intended for:

1) creating weapons of mass destruction or their delivery systems;
2) use for terroristic or other illegal purposes;
3) use in the activities related to the creation of nuclear explosive devices, or in the activities associated with the nuclear fuel cycle, which are not covered by the IAEA safeguards;
4) use in the activities related to acquisition, creation, stockpiling, or application of chemical weapons, except when such goods are intended for the purposes not prohibited by the CWC;
5) use in the activities related to acquisition, creation, stockpiling, or application of pathogens agents and toxins as bacteriological (biological) and toxin weapons or their components.

Criminal Code of Ukraine

Article 440. Development, production, acquisition, stockpiling, sale and transportation of weapons of mass destruction

Development, production, acquisition, stockpiling, sale and transportation of weapons of mass destruction that is prohibited by
international treaties ratified by the Verkhovna Rada of Ukraine is to be punished through the imprisonment from 3 up to 10 years.

The Law of Ukraine “On Sanctions”
Article 3. Grounds and principles for the imposition of sanctions
1. The grounds for the imposition of sanctions shall include:
...
2) resolutions of the United Nations General Assembly and Security Council;
3) decisions and regulations of the Council of the European Union;
...

Criterion Two: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law

The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”
Article 4. Principles of the Government Policy in the Sphere of State Export Control
The government policy in the sphere of state export control shall be prepared on the basis of the following principles:
...
mandatory fulfillment of the international commitments of Ukraine in the field of the non-proliferation of weapons of mass destruction, their delivery systems, and establishment of state control over the international transfers of military and dual-use goods, as well as implementation of measures to prevent the use of the aforesaid goods for terroristic and other illegal purposes;

The Law of Ukraine “On Sanctions”
Article 3. Grounds and principles for the imposition of sanctions
1. The grounds for the imposition of sanctions shall include:
1) actions of a foreign state, a foreign legal entity or individual, other entities that create real and/or potential threats to national interests, national security, sovereignty and territorial integrity of Ukraine, promote terrorist activities and/or violate human and civil rights and freedoms, the interests of society and the state, result in the occupation of territory, expropriation or restriction of property rights, causing property losses, creating obstacles to sustainable economic development and exercise by Ukrainian citizens of their rights and freedoms to the full extent;
...
4) facts of violations of the Universal Declaration of Human Rights, the Charter of the United Nations.
| Criterion Three: Internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts | The Law of Ukraine “On Sanctions”  
**Article 3. Grounds and principles for the imposition of sanctions**  
1. The grounds for the imposition of sanctions shall include:  
1) actions of a foreign state, a foreign legal entity or individual, other entities that create real and/or potential threats to national interests, national security, sovereignty and territorial integrity of Ukraine, promote terrorist activities and/or violate human and civil rights and freedoms, the interests of society and the state, result in the occupation of territory, expropriation or restriction of property rights, causing property losses, creating obstacles to sustainable economic development and exercise by Ukrainian citizens of their rights and freedoms to the full extent;  
... |
**Article 11. Principles of foreign policy**  
2. The basic principles of foreign policy are:  
promoting international peace and security in the world;  
conflict prevention in the regions bordering Ukraine and settlement of existing conflicts.  

The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”  
**Article 11. Expert Review in the Sphere of State Export Control**  
The main objectives of the examination in the sphere of state export control are:  
evaluate the state of protection of the national security interests, adherence to the international commitments of Ukraine related to the non-proliferation of weapons of mass destruction, their delivery systems, and the restriction on the transfers of conventional weapons, as well as measures taken to avoid the use of the said goods for terroristic or other illegal purposes;  
... |
| Criterion Five: National security of the Member States and of territories whose external relations are the responsibility of a Member State, as well as | Order of the President of Ukraine dated 18.08.2021 No. 366/2021 “On Decision of the National Security and Defence Council of Ukraine dated 18.06.2021 "On military-technical cooperation of Ukraine with certain countries” (classified) |
| that of friendly and allied countries | **The Law of Ukraine “On the Principles of Internal and External Policy”**

**Article 11. Principles of foreign policy**

2. The basic principles of foreign policy are:

- promoting international peace and security in the world;
- conflict prevention in the regions bordering Ukraine and settlement of existing conflicts. |

| Criterion Six: Behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism, the nature of its alliances and respect for international law | **The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”**

**Article 11. Expert Review in the Sphere of State Export Control**

The main objectives of the examination in the sphere of state export control are:

- evaluate the state of protection of the national security interests, adherence to the international commitments of Ukraine related to the non-proliferation of weapons of mass destruction, their delivery systems, and the restriction on the transfers of conventional weapons, as well as measures taken to avoid the use of the said goods for terroristic or other illegal purposes;

...  

**Decree of the Cabinet of Ministers of Ukraine dated 20.11.2003 No. 1807**

“On approval of the Procedure for state control over international transfers of military goods”

9. It is not allowed to export certain goods to the states in respect of which the UN Security Council has imposed an embargo on their export, as well as in the case when the findings of an examination in the field of state export control gives the grounds to believe that those goods are intended for:

...  

use for terroristic or other illegal purposes;

...  

**Decree of the Cabinet of Ministers of Ukraine dated 28.01.2004 No. 86**

“On approval of the Procedure for state control over international transfers of dual-use goods”

7. It is not allowed to export goods to the states in respect of which the UN Security Council has imposed an embargo on their export, as well as in the case when the findings of an examination in the field of |
state export control gives the grounds to believe that those goods are intended for:

...  

2) use for terroristic or other illegal purposes;

...  

<table>
<thead>
<tr>
<th>Criterion Seven: Existence of a risk that the military technology or equipment will be diverted within the buyer country or re-exported under undesirable conditions</th>
</tr>
</thead>
</table>
| The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”  
| Article 11. Expert Review in the Sphere of State Export Control  
| The main objectives of the examination in the sphere of state export control are:  
| ...  
| evaluate the importance of the export of goods in terms of the possible creation of weapons of mass destruction or their delivery systems, conventional weapons and military equipment in the end user state, or the possible purchase of any goods that may be used in creation of weapons of mass destruction of their means of delivery;  
| ...  
| Decree of the Cabinet of Ministers of Ukraine dated 20.11.2003 No. 1807  
| “On approval of the Procedure for state control over international transfers of military goods”  
| 11. ...  
| When additional interagency approval is needed (check of an end user or intermediary, receipt of information on any possible diversion from the declared end use of goods, consultations with the relevant agencies of the countries that are participants of the multilateral export control regimes) the ministries, other central executive authorities and the Foreign Intelligence Service shall submit their conclusion on the possibility of an international transfer within 15 days upon receipt of a respective request. If submission of a conclusion requires time exceeding 15 days, the ministries, other central executive authorities, or the Foreign Intelligence Service shall notify the State Service for Export Control about that in writing, indicating the grounds for extending the period, and determining an additional period of time for submitting a conclusion, which shall not exceed 15 days. In this case, the total period of review of applications, including the interagency coordination/approval, shall not exceed 90 days.  
| Decree of the Cabinet of Ministers of Ukraine dated 28.01.2004 No. 86  

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On approval of the Procedure for state control over international transfers of dual-use goods

18. Applications for permits to export goods to the states under partial embargo or restrictions on the export of such goods arising from the international commitments of Ukraine and national security interests, shall be considered involving the Ministry of Foreign Affairs, the Ministry of Defense, the Security Service of Ukraine, intelligence agencies of Ukraine, and the Interagency Committee for the Military Technical Cooperation and Export Control Policy.

When additional interagency approval is needed (for receiving information on conformity of the international transfer to the national interests of Ukraine, possible diversion from the declared end use of goods, for checking an end user or an intermediary and holding consultations with the relevant agencies of the countries that are participants of the multilateral export control regimes), ministries, other central executive authorities and state agencies shall submit their conclusion on the possibility of an international transfer upon receipt of a respective request.

Criterion Eight: Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient country, taking into account the desirability that states should meet their legitimate security and defence needs with the least diversion of human and economic resources for armaments

The Law of Ukraine “On State Control over International Transfers of Military and Dual-Use Goods”

Article 11. Expert Review in the Sphere of State Export Control

The main objectives of the examination in the sphere of state export control are:

... to determine other factors that may contribute to the informed decision-making in the sphere of state export control.

The military goods under control are included in the national Munitions List, which is annexed to the Decree No. 1807. The national control list corresponds to the WA Munitions List and to the EU Common Military List respectively.

The amendments to the Decree of the Cabinet of Ministers of Ukraine of 20 November 2003 No. 1807 have been drafted and circulated to other state agencies for approval. The amendments, inter alia, provide for:

- revision of the Munitions List according to the latest WA Plenary decisions;
- implementation of the WA Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS);
- harmonization of end-user statement of guarantees with the CWC requirements;
- implementation of the CWC transfer regime for schedule 1 chemicals;
- implementation of the “Single Window for International Trade” system;
- specification of the technical data scope allowed to be transferred along with licensed military item for its adjustment, operation and use;
- maintenance of commercial secrets contained in applications;
- introduction of the List of military goods which can be transferred under open or general licenses;
- specification of state agencies involved in the process of applications assessment related to embargoed destinations;
- request for confirmation of the foreign importer rights to perform foreign economic activity with military goods, issued by authorized agency of the state on territory of which the importer is registered; or the other document that confirms such rights according to legislation of the country in question;
- mitigation of risk related to misuse of propulsion aero-engines that are classified under decontrol note 2 to ML10 of the Munitions List;
- clarification of content of the document on goods origin;
- indication in the end-user certificate of chemical name, structural formula and registration number of the goods in accordance with the Chemical Abstracts Service scientific publications (in case of export of chemicals);
- clarification of requirements for subsequent transfer of imported goods to other end-user on the territory of Ukraine.

To improve export control system and its procedures SSECU is working on draft law amending the Law of Ukraine “On State Control over International Transfers of Military and Dual-use Goods” taking into account comments provided by the EU P2P Programme and the U.S. Department of State’s Export Control and Related Border Security (EXBS) Program.

Amendments, inter alia, provide for:
- revision of terms, in particular definitions of “military goods”, “brokering services”, “military end-use” and “technical assistance”;
- establishment of electronic licensing system;
- revision of registration procedure;
- establishment of the Register of identified goods;
- industry engagement and provision of methodological assistance to business entities to prevent violations in export controls;
- establishment of penalty for noncompliance with obligations indicated in state guarantees or end-user certificate (penalty – 150 % of the goods value).
31. Please provide information and figures on import and export of small arms and light weapons.

Under international obligations Ukraine duly submits reports on international transfers of certain categories of military goods, including small arms and light weapons (SALW), to the UN Register on Conventional Arms, the OSCE as well as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA).

Information on the volume of international transfers of certain categories of military goods, including the amount of SALW transfers, is available at:


Ukraine’s Export of Small Arms and Light Weapons in 2016 – 2021

<table>
<thead>
<tr>
<th>Category / Name of goods</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Small Arms:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revolvers and self-loading pistols</td>
<td>4</td>
<td>1</td>
<td>202</td>
<td>-</td>
<td>26</td>
<td>583</td>
</tr>
<tr>
<td>Rifles and carbines</td>
<td>10,010</td>
<td>10</td>
<td>5,088</td>
<td>9,502</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Sabmachine guns</td>
<td>-</td>
<td>17,040</td>
<td>-</td>
<td>21</td>
<td>21</td>
<td>-</td>
</tr>
<tr>
<td>Assault rifles</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Light machine guns</td>
<td>216</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>II. Light Weapons:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heavy machine guns</td>
<td>88</td>
<td>-</td>
<td>177</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Hand-held underbarrel and mounted launchers</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>26</td>
<td>-</td>
<td>6</td>
</tr>
<tr>
<td>Portable anti-tank guns</td>
<td>-</td>
<td>790</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Portable anti-tank missile launchers and systems</td>
<td>85</td>
<td>22</td>
<td>950</td>
<td>2,060</td>
<td>251</td>
<td>1,794</td>
</tr>
</tbody>
</table>

Ukraine’s Import of Small Arms and Light Weapons in 2016 – 2021

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>I. Small Arms:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. Revolvers and self-loading pistols | 450 | 2,449 | 1,241 | 1,63 | 2,06 | 548
2. Rifles and carbines | 106 | 30 | 121 | 41 | 2,02 | 42
3. Submachine guns | - | 460 | - | 2,16 | - | -
4. Assault rifles | - | 3 | 171 | 163 | 164 | -
5. Light machine guns | - | - | - | - | - | -

II. Light Weapons:

6. Heavy machine guns | - | - | 177 | - | - | -
7. Hand-held underbarrel and mounted grenade launchers | - | 503 | 100 | 517 | - | -
8. Portable anti-tank guns | - | - | - | - | - | -
9. Portable anti-tank missile launchers and rocket systems | - | - | - | - | - | -
10. Mortars of calibres less than 75 mm | 50 | - | - | - | - | -

32. Please provide information on the extent, nature and mitigation of illicit arms trafficking.

In 2021, the National Police identified over 3.9 thousand criminal offenses related to illegal handling of weapons, ammunition or explosives, illegal manufacture, redesign or repair of firearms or illegal manufacture of ammunition, explosive substances and devices. As a result of measures taken, 3.5 thousand criminal offenses were solved. Almost 1.2 thousand firearms, 88.4 thousand rounds of ammunition, and 2.2 thousand grenades, mines and ammunition were seized from the illicit trafficking. One of the negative consequences of the illegal circulation of a significant number of firearms is the commission of 288 criminal offenses with the use of firearms in 2021, of which 257 offenses have been solved. In particular, since the beginning of 2021, police registered 40 premeditated murders and assassinations committed with firearms and explosives. Duly coordinated actions of the police helped to solve 35 offenses. An effective means of combating illicit trafficking in weapons — which helps documenting the illegal activities to the highest standard and obtaining the required evidence base — is a control over commission of a criminal offense by way of controlled purchase and controlled supply. To this end, in 2021, almost 200 controlled purchases of firearms, ammunition and explosives were made.

33. Please provide information on the type of sanctions (administrative and criminal) as provided for in the legislation for not surrendering illegally possessed firearms.

The criminal liability is provided for by the Criminal Code of Ukraine, in particular:
Article 262. Stealing, appropriation or extortion of firearms, ammunition, explosives or radioactive material, or obtaining them by fraud or abuse of office

1. The stealing, appropriation or extortion of firearms (other than smoothbore hunting guns), ammunition, explosive substances, explosive devices or radioactive material, or obtaining them by fraud, are punished by imprisonment for a term of three to seven years.

2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, and also obtaining items listed in paragraph 1 of this Article through abuse of office are punished by imprisonment for a term of five to ten years.

Article 263 of the Criminal Code of Ukraine provides for the punishment for illegal handling of weapons, ammunition or explosives. In particular, carrying, storing, purchasing, transferring or selling firearms (other than smoothbore hunting guns), ammunition, explosive substances or explosive devices without permit required by law are punished by imprisonment for a term of three to seven years.

The Code of Ukraine on Administrative Offences contains Article 29 (Confiscation of an item that is a tool or direct subject of committing an administrative offence) and Article 174 (Firing from firearms, cold throwing or pneumatic weapons, devices for firing cartridges equipped with rubber or non-lethal throwing projectiles having similar properties in populated areas or other places not designated for this purpose or in violation of the established procedure).

34. Does Ukraine comply with the 2001 UN Program of Action against the spread of illicit small arms and light weapons (SALW) and its protocol?

The 2001 UN Program of Action against the spread of illicit small arms and light weapons (SALW) is translated into Ukrainian and is available on the Verkhovna Rada of Ukraine web-site: https://zakon.rada.gov.ua/laws/show/995_k42#Text


On 2 April 2013, Ukraine ratified the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. This Protocol entered into force in Ukraine on 4 July 2013 and is currently in force. Pursuant to Article 4(1) of the Protocol, it applies, except as otherwise stated herein, to the prevention of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and to the investigation and prosecution of offences established in accordance with Article 5 of the Protocol where those offences are transnational in nature and involve an organized criminal group.

C. Cooperation with international organisations

35. In view of the provision for Member States to co-ordinate action in international organisations (Art. 34 and 35 TEU) please provide a list of the relevant international organisations or other less formal international groupings of which Ukraine is a member (with
date of joining) or is negotiating membership, such as the UN, the OSCE, the Council of Europe, etc.

1. Multilateral Investment Guarantee Agency (MIGA) - 27.07.1994
2. Intra-European Organisation of Tax Administrations (IOTA) - 23.05.2006
3. Universal Postal Union (UPU) – 1947
5. World Customs Organization (WCO) - 10.11.1992
11. Conférence générale des poids et mesures (CGPM) - 09.08.2002
12. Commission du Danube (CD) - 11.05.1949
13. Energy Community - 01.02.2011
14. Euro-Asian Cooperation of national metrological institutions (COOMET) - 01.06.1992
15. Black Sea Trade and Development Bank (BSTDB) - 17.06.1997
16. European Association of National Metrology Institutes (EURAMET) - 01.06.1998
17. European Civil Aviation Conference (ECAC) - 15.12.1999
18. European Organization of Supreme Audit Institutions (EUROSAI) - 01.06.1999
19. European Organization for the safety of air navigation (Eurocontrol) - 01.05.2004
22. European and Mediterranean Plant Protection Organization (EPPO) - 27.01.1994
23. European Bank for Reconstruction and Development (EBRD) - 14.07.1992
25. Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) - 22.05.1994
29. International Development Association (IDA) - 27.05.2004
30. International Hydrographic Organization (IHO) - 20.05.1998
32. International Electrotechnical Commission (IEC) - 01.01.1993
33. Inter-governmental organization for pan-European research and development funding and coordination (Eureka) - 09.06.2006
35. International Maritime Organization (IMO) - 28.03.1994
36. International Vine and Wine Organization (OIV) - 09.10.1996
37. International Organization of Supreme Audit Institutions (INTOSAI) – November 1998
38. International Organization for Migration (IOM) - 27.11.2001
40. International Organization of Space Communications (Intersputnik) – 1997
42. International Mobile Satellite Organization (Inmarsat) – 1979
43. International Labour Organization (ILO) - 30.04.1954
44. International Organization for Standardization (ISO) - 01.01.1993
46. International Civil Aviation Organization (ICAO) - 09.09.1992
47. International Civil Defence Organization (ICDO) – 1998
48. International Military Sports Council (CISM) - 03.06.1993
49. International Grains Council (IGC) - 01.06.1998
50. International Finance Corporation (IFC) - 18.10.1993
51. International Atomic Energy Agency (IAEA) - 29.07.1957
52. International Renewable Energy Agency (IRENA) - 24.02.2018
53. Bureau International des Expositions (BIE) - 30.04.1960
54. International Bank for Reconstruction and Development (IBRD) - 03.09.1992
55. International Monetary Fund (IMF) - 03.09.1992
56. International Seabed Authority (ISA) - 26.07.1999
57. International Telecommunication Union (ITU) - 07.05.1947
58. International Union for the Protection of New Varieties of Plants (UPOV) - 03.11.1995
59. International Transport Forum (ITF) - 29-31.05. 1996
60. International Tribunal for the Law of the Sea (ITLOS) – 1999
62. International Centre for Scientific and Technical Information (ICSTI) - 18.06.1993
63. Intergovernmental Organization for International Carriage by Rail (OTIF) - 01.01.2004
64. Joint Institute for Nuclear Research (JINR) - 15.02.1999
67. Northwest Atlantic Fisheries Organization (NAFO) - 08.07.1999
68. Organization for Democracy and Economic Development- GUAM - 23.05. 2006
69. United Nations Organization (UN) - 04.10.1945
70. United Nations Educational, Scientific and Cultural Organization (UNESCO) - 12.05.1954
71. United Nations Industrial Development Organization (UNIDO) - 21.06.1985
72. Organization for Collaboration of Railways (OSJD) - 05.06.1992
73. Black Sea Economic Cooperation Organization (BSEC) - 01.05.1999
74. Preparatory commission for the Comprehensive Nuclear-Test-Ban Treaty Organization – 2000
75. Permanent Court of Arbitration (PCA) – 1962
76. Food and Agriculture Organization of the United Nations (FAO) - 29.11.2003
77. Council of Europe (CoE) - 09.11.1995
78. World Road Association (PIARC) – 1995
79. World Trade Organization (WTO) - 16.05.2008
80. Advisory Centre on WTO Law (ACWL) - 28.08.2021
81. Science and Technology Centre in Ukraine (STCU) - 16.07.1994
82. Central European Initiative (CEI) - 31.05.1996
83. Council of Europe Development Bank - initiation of accession

Ukraine is a member of:

UN HRC (Human Rights Council) for the period of 2021-2023
Commission on the status of women for the period of 2023-2027
Commission for social development for the period of 2023-2027
Commission on International trade law (UNCITRAL) for the period of 2019-2025
Commission on Narcotic drugs for the period of 2022-2024
Executive Board of UN-Women for the period of 2022-2024

Representatives of Ukraine are the members of:
Committee on contributions (Mr. Ihor Humennyi) for the period of 2022-2024
36. Does Ukraine engage with international organisations on e.g. elections monitoring, training activities? Please specify which ones.

Ukraine uses the expertise of the OSCE ODIHR (Office for democratic institutions and human rights): in particular, in 2021 Ukrainian representatives participated in the OSCE ODIHR election monitoring missions in the OSCE area.

In accordance with the Edict of the President of Ukraine dated of 24 February 2022 No. 64/2022 “On Introduction of the State of War in Ukraine” (approved by the Law of Ukraine dated of 24 February 2022 №2102-ІХ) the OSCE Project Coordinator in Ukraine redirects its funds (previously planned for training and capacity building activities) and provides the OSCE assistance to meet urgent needs of Ukrainian Governmental partners and other state authorities for the period of the state of war in Ukraine.

**OSCE’s observation missions**

Ukraine has an extensive experience of cooperation with the OSCE ODIHR on election monitoring. 15 election observation missions were conducted by ODIHR in Ukraine since 1991. In addition to the regular invitations issued by the Ukrainian side to ODIHR to monitor elections at national and local levels, experts from Ukraine engaged in ODIHR’s monitoring missions abroad (mainly through the ODIHR’s Fund for Enhancing the Diversification of Election Observation Missions), as well as regular trainings for short-term and long-term observers, conducted by the ODIHR.

In 2021, representatives of non-governmental organizations, Central Election Commission and Ministry of Foreign Affairs of Ukraine took part as short-term observers in the ODIHR Election Observation Mission at the local elections in the Republic of North Macedonia on 17 October 2021, the ODIHR Election Observation Mission at the presidential elections in the Republic of Uzbekistan on 24 October 2021, the ODIHR Election Observation Mission at the parliamentary elections in the Kyrgyz Republic on 28 November 2021, as well as ODIHR’s thirteenth long-term observer training for participating States (8-12 November 2021, Belgrade).

**Training activities**

Since 2021 the Permanent Mission of Ukraine to the United Nations (NY) has actively participated in the UN trainings, such as:

- Transition Workshop for the 76th OPGA (September 2021) organized by UNITAR;

- Mandatory training courses for the members of the 76th OPGA team (1) BSAFE, 2) Ethics & Integrity, 3) Prevention of Sexual Harassment and 4) I know gender (September-October 2021);
- Advanced Drafting skills: Reporting and Communications for the United Nations (July 2021) organized by UNITAR;
- online course on lethal autonomous weapon systems conducted by the United Nations Office for Disarmament Affairs;
- Cybersecurity Awareness Training (April 2022) organized by UNITAR;
- Annual Seminar on International Humanitarian Law (June each year) organized by ICRC.

The United Nations (Geneva)

In 2013 the representative of the Ministry of Foreign Affairs participated in the United Nations Programme of Fellowships on Disarmament. In 2022 the representatives of the State Border Guard Service of Ukraine and the Ministry of Defence of Ukraine participated in the training courses on international security organised by the Geneva Center for Security Policy.

Representatives of Ukraine participated in the technical-assistance programs:
- UNCTAD 44th regional course on key issues on the international economic agenda for Eastern Europe 18-29 October 2021 (Republic of North Macedonia, Skopje);
- The WTO Young Professionals Programme - opportunity for qualified young professionals from developing and least-developed countries that are members of the WTO to enhance their knowledge regarding WTO and international trade issues (Geneva, Switzerland).

Training activities organized by FAO in Ukraine in 2021:
1. Training course to build the skills required to fulfill the role of an Agricultural Attaché.
2. Training on biosecurity audits for pig farms.

FAO co-sponsored the following conferences in Ukraine:
1. 17th International conference “Vegetables and fruits of Ukraine -2021”
2. Online conference “Fruits, nuts and vegetables in Eastern Europe”.

UNESCO

1. Since 2014 UNESCO has been conducting the follow-up of the situation in the Autonomous Republic of Crimea (Ukraine) in the fields of its competence.

Following two programmatic missions undertaken to Kyiv in February and in September 2019 in the fields of Sciences and Communication and Information respectively, the Secretariat undertook programmatic missions to Kyiv in October 2021 in the field of education.


3. On implementation of the World Heritage Convention (1972) there was conducted a Reactive Mission to monitor the World Heritage property in Kyiv: Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv-Pechersk Lavra (Ukraine) (February 2020).
4. In April 2022, pursuant to the decision of the Executive Board, taken at its 7th Special Session (March, 2022), on "The current situation in Ukraine in all aspects of UNESCO's mandate", two representatives of the UNESCO Secretariat undertook a mission to Lviv, Ukraine (from 21 to 23 April 2022). The focus of this mission was to support the delivery of bullet-proof 'PRESS' vests and helmets and their subsequent distribution to accredited journalists, monitoring and meeting with key partners critical to ensuring the safety of journalists operating in the country.

5. Ukrainian experts nominated by Ukraine and selected by UNESCO actively contribute to the work of UNESCO bodies and fora:

- the Committee for the Protection of Cultural Property in the Event of Armed Conflict, subcommittees and working groups on the Languages of Indigenous Peoples, digitalization, on education;
- the Intergovernmental meeting on a draft Recommendation on Open Science (May-July 2021);
- the Intergovernmental meeting on a draft Recommendation on the Ethics of Artificial Intelligence (May-July 2021);
- the Global Task Force for Making a Decade of Action for Indigenous Languages for the period of 2021-2023;
- Professor Stanislav Dovgyi, as a member of the Scientific Council of the International Basic Sciences Program (IBSP) of UNESCO 2021 – 2025.

In 2013 the representative of the Ministry of Foreign Affairs of Ukraine participated in the United Nations Programme of Fellowships on Disarmament. In 2020-2022 the total number of 22 representatives of the Government of Ukraine participated in the 14 training courses on different aspects of international security organised by the Geneva Center for Security Policy.

D. Security measures (classified information)

37. Does Ukraine comply with the EU security policy requirements?

Ukrainian legislation generally complies the requirements of EU security policy. Issues of construction and accreditation of security of information and communication systems designed for electronic information exchange between state bodies of Ukraine and relevant NATO institutions in Ukraine are regulated by studying and analysing relevant NATO Policies and Directives (the list below) and their further implementation in the form of legislations and regulations of Ukraine.

If it is necessary to bring the legislation of Ukraine on information exchange in line with other EU regulations, the Administration of the State Service of Special Communications and Information Protection of Ukraine is ready to perform such a task as soon as possible after receiving such regulations.

Besides, the law of Ukraine about the basic principles of ensuring cyber security of Ukraine entered into force in May 2018 takes into account the requirements of European security policies as well as the requirements for the information security management system set out in international standard ISO/IEC 27001.
## NATO DIRECTIVES

<table>
<thead>
<tr>
<th>DIRECTIVE</th>
<th>DOCUMENT</th>
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<tbody>
<tr>
<td>Military standard 01.008.001 – 2021 (01) “Protection of information with limited access. Structure and content of security procedures for communication and information systems where NATO information with limited access is processed. Attitude (AC/35-D/1014-REV3, GUIDELINES for the STRUCTURE and CONTENT of SECURITY OPERATING PROCEDURES (SecOPs) for COMMUNICATION, and INFORMATION SYSTEMS (CIS) IDT)”</td>
<td>AC/35-D/1014-REV3</td>
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<tr>
<td>Military standard 01.008.002 – 2021 (01) “ Protection of information with limited access. Security risk management of communication and information systems, where NATO information with limited access is processed. Attitude (AC/35-D/1017-REV3, Guidelines for Security Risk Management (SRM) of Communication and Information Systems (CIS), IDT)”</td>
<td>AC/35-D/1017-REV3</td>
</tr>
<tr>
<td>Military standard 01.008.003 – 2021 (01) “ Protection of information with limited access. Security assessment and certification of communication and information systems where NATO information with limited access is processed. Attitude (AC/35-D/1019-REV3, GUIDELINES for the SECURITY EVALUATION AND CERTIFICATION of COMMUNICATION and INFORMATION SYSTEMS (CIS), IDT)”</td>
<td>AC/35-D/1019-REV3</td>
</tr>
<tr>
<td>Military standard 01.008.004 – 2021 (01) “ Protection of information with limited access. Accreditation on the security of communication and information systems, where NATO information with limited access is processed. Attitude (AC/35-D/1021-REV3, GUIDELINES for the SECURITY ACCREDITATION of COMMUNICATION and INFORMATION SYSTEMS (CIS), IDT)”</td>
<td>AC/35-D/1021-REV3</td>
</tr>
<tr>
<td>Military standard 01.008.005 – 2021 (01) “ Protection of information with limited access. Security of NATO information exchange for non-NATO countries. Attitude (AC/35-D/1038-REV3, SUPPORTING DOCUMENT FOR NON-NATO ENTITIES ON SECURITY IN RELATION TO NATO, IDT)”</td>
<td>AC/35-D/1038-REV3</td>
</tr>
<tr>
<td>GUIDELINES for the DEVELOPMENT OF SECURITY REQUIREMENT STATEMENTS (SRSs)</td>
<td>AC/35-D/1015-REV3</td>
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</table>
38. Is the legal framework on security procedures for the exchange of classified information which enables secure communication between Member States’ Foreign Ministries in place?

Ukraine has a legal framework for security procedures for the exchange of classified information, which ensures secure communication between the Ministries of Foreign Affairs of the EU Member States’. Access to this legislation is limited.


39. What specific legislation is in place to regulate the field of information security fully in accordance with EU standards?

Agreement between Ukraine and the European Union on the security procedures for the exchanging of classified information, dated 13.06.2005


General requirements for cyber protection of critical infrastructure objects were approved with the regulation of the Cabinet of Ministers of Ukraine No. 518 of 19 June 2019. This regulation takes
into account the requirements of international standards of EU, NATO and NIST on cyber security and the Council of Europe Directive No. 2016/1148. Such Regulations as "Some Critical Infrastructure Issues" and "Some Critical Information Infrastructure Issues" were approved by the Cabinet of Ministers of Ukraine in October 2020. These legal documents regulate the designation of facilities as critical infrastructure, formation of the list of objects of critical information infrastructure and inclusion of critical information infrastructure objects in the state register of critical information infrastructure objects.

The regulations also have been prepared taking into account the requirements of the Directive of the European Parliament and the Council 2016/1148.

Also, there is Cybersecurity Strategy of Ukraine, approved by the Decree of the President of Ukraine No. 447 of 26 August 2021 "On the decision of the National Security and Defence Council of Ukraine of 14 May 2021". Ukraine’s Cybersecurity Strategy defines the priorities of national interests in the field of cybersecurity, existing and potential cyber threats, goals and objectives of cybersecurity in Ukraine in order to create conditions for the safe functioning of cyberspace, its use in the interests of the individual, society and state.

The field of information security is regulated by the following basic acts, which generally meet EU requirements:

Regulations on the procedure for cryptographic protection of information in Ukraine, approved by the Decree of the President of Ukraine of 22.05.1998 No. 505/98;

Regulations on technical protection of information in Ukraine, approved by the Decree of the President of Ukraine of September 27, 1999 No. 1229/99;

Law of Ukraine "On Protection of Information in Automated Systems";

Law of Ukraine "On Basic Principles of Cybersecurity of Ukraine";

Cybersecurity Strategy of Ukraine, approved by the decision of the National Security and Defence Council of Ukraine on 14.05.2021 and approved by the Decree of the President of Ukraine No. 447/2021 of 26.08.2021.

Rules for ensuring the protection of information in information, telecommunications and information and telecommunications systems, approved by the resolution of the Cabinet of Ministers of Ukraine of 29.03.2006 No. 373;

Technical regulations of means of cryptographic protection of information, approved by the resolution of the Cabinet of Ministers of Ukraine dated 21.10.2020 No. 991;

List of standards and technical specifications permitted for implementation in cryptographic information security, approved by the order of the Administration of the State Service of Special Communications and Information Protection of Ukraine from 27.10.2020 No. 687, registered in the Ministry of Justice on 21.12.2020 at No. 1272/35555, 1273/35556.

Regulations on the procedure for development, production and operation of cryptographic protection of information, approved by the order of the Administration of the State Service of Special Communications and Information Protection of Ukraine dated 20.07.2007 No. 141, registered with the Ministry of Justice on 30.07.2007 under No. 862/14129 (as amended by the order of the Administration of the State Service of Special Communications and Information Protection of Ukraine from 14.12.2015 No. 767).
Regulations on state expertise in the field of cryptographic protection of information, approved by the order of the Administration of the State Service of Special Communications and Information Protection of Ukraine dated 23.06.2008 No. 100, registered with the Ministry of Justice on 16.07.2008 No. 651/15342;

Regulations on state expertise in the field of technical protection of information, approved by the order of the Administration of the State Service of Special Communications and Information Protection of Ukraine dated 16.05.2007 No. 93, registered with the Ministry of Justice on 16.07.2007 No. 820/14087.

Order of the Administration of the State Service of Special Communications and Information Protection of Ukraine dated 19.08.2021 No. 509 "On the application of certain NATO regulations and military standards of Ukraine for the construction and accreditation of security of information and communication systems designed for processing (transmission) of NATO information with limited access", registered in the Ministry of Justice from 08.09.2021 for No. 1181/36803;

Order of the Administration of the State Service of Special Communications and Information Protection of Ukraine dated 25.08.2021 No. 142 / For Official Use Only "On the application of certain NATO regulations for the construction and accreditation of security of information and communication systems designed for processing (transmission) of NATO information with limited access", registered in the Ministry of Justice from 06.09. 2021 for No. 1166/36788.

Ukraine has also adopted five NATO regulations, as military standards harmonized with NATO standards, the method of confirmation, with effect from 17.05.2021 (order of the Head of the Department of Standardization, Codification and Cataloguing of the Ministry of Defence of Ukraine from 13.05.2021 No. 24).


Ukrainian legislation generally complies with security rules for the protection of EU classified information, approved by EU Council Decision of 23 September 2013 No. 2013/488 / EU.

IV. CSDP — CONTRIBUTING CAPACITIES

41. Is Ukraine committed to the development of the CSDP and does Ukraine subscribe to the EU’s goal to be active, capable and effective in the area of civil and military crisis management?

Ukraine is committed to the development of the CSDP and supports the EU’s goal to be active, capable and effective in civilian and military crisis management.

UA has been participating in a number of EU operations and missions (civilian & military) worldwide in line with the political interests of the EU since 1997. UA will be ready to contribute to EU missions and operations after RF aggression against UA is fully neutralized and UA territorial integrity is fully reestablished.
Ukraine has been involved in EU-led operations since 2014 by deploying Ukrainian national contingent into operation EU NAFVOR ATALANTA. The Ukrainian national contingent, which consisted of the frigate Hetman Sagaidachny crew, boarding team (up to 250 military personnel in total) and helicopter detachment was deployed into operation EU NAFVOR ATALANTA for the period from 03 January till 05 March 2014.

Before this the Ukrainian Navy representative was assigned as a liaison officer to the operation headquarters in Northwood, UK.

Ukraine has also been actively involved in the annual MILEX crisis management military exercises as an observer.

As part of the implementation of the CSDP in the field of civilian and military crisis management, there was planned the participation of representatives of the Armed Forces of Ukraine in 2022 in the EU military operation “Althea” in the Republic of Bosnia and Herzegovina (postponed due to Russian aggression).

The police officers may participate in the international peacekeeping and security operations.

Pursuant to Article 1 of the Law of Ukraine “On Ukraine’s Participation in International Peacekeeping and Security Operations”, the national personnel are the individual servicemen of the Armed Forces of Ukraine, other military formations, police officers, officers from among the senior command and junior personnel of the state bodies, who can be equipped with firearms (small arms) and ammunition as proposed by the international security organizations, as well as the employees of the Armed Forces of Ukraine, other military formations, state bodies and institutions of Ukraine, which are sent by Ukraine to participate in the international peacekeeping and security operations and are not part of the national contingent.

For more details please see paragraphs 1, 2 of the Summary Information.

42. Is Ukraine supporting the Headline Goal process?

Ukraine has been supportive of the EU Headline Goal process since it was established.

The Ministry of Defence and the Armed Forces of Ukraine in the framework of the implementation of the EU CSDP promote the implementation of the Headline Goal by sending their representatives to participate in EU led missions and operations and by contributions to EU BGs. The principle of strengthening interoperability with partner is also supported. Ukraine stands ready to support Headline Goal Process by contributing to it with necessary information and military experts, and filling identified capability gaps within means and capabilities.

43. Is Ukraine willing to support the objectives and commitments established in the framework of PESCO?

Ukraine is willing to support the objectives and commitments established in the framework of PESCO.

In particular Ukraine is willing to fulfill the General Conditions of participation in PESCO projects, laid in Article 3 of the Council Decision establishing the general conditions under which
third states could be exceptionally invited to participate in individual PESCO projects adopted on 27 October 2020.

Ukraine has also already expressed its interest to practically engage in PESCO projects.

In 2021-2022 the leading Member States of four PESCO projects were approached by the Ukrainian side to explore a possibility to participate in Cyber Threats and Incident Response Information Sharing Platform (CTIRISP), Cyber Rapid Response Teams (CRRTs), EU Cyber Academia and Innovation Hub (EU CAIH) and the European Secure Software Defined Radio project (ESSOR).

Participation in PESCO projects is considered one of the priority ways to develop military-operational cooperation between Ukraine and the EU and its Member States thus improve national defence capabilities in accordance with European best practices and standards.

To date, the Ministry of Defence and the Armed Forces of Ukraine are potentially interested in participating in the joint implementation of 4 PESCO projects with the EU member states, namely:

- Cyber Threats and Incident Response Information Sharing Platform, CTIRISP (Coordinator – Greece);
- Cyber Rapid Response Teams and Mutual Assistance in Cyber Security, CRRT (Coordinator – Lithuania);
- European Secure Software-defined Radio, ESSOR (Coordinator – France);
- EU Cyber Academia and Innovation Hub, EU CAIH (Coordinator – Portugal).

44. Does Ukraine agree to continuously strengthen its capabilities in line with the commitments provided by the Civilian CSDP Compact?

Ukraine agrees to continuously strengthen its capabilities in line with the commitments provided by the Civilian CSDP Compact.

Ukraine welcomes Council of the EU 13 December 2021 Conclusions on Civilian CSDP Compact. Fully support the Feira priorities of police, rule of law and civil administration as well as Security Sector Reform and monitoring tasks, are at the core of EU civilian CSDP missions. Also, agree with the need to respond to an evolving security environment and adapt the civilian CSDP missions’ mandate accordingly.

Currently the Law of Ukraine “On Ukraine’s Participation in International Peacekeeping and Security Operations” allows for civilian personnel to be deployed to international security and peacekeeping operations. Ukraine is committed to develop further its legal framework to enhance participation of its experts in the EU civilian CSDP missions.

Ukraine highly appreciates the role played by the EUAM Ukraine, including its recent adaptation of the mandate in response to request of assisting war crimes investigations perpetrated by Russia’s armed forces in Ukraine.
CHAPTER 32. FINANCIAL CONTROL

I. PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)

A. General overview

1. How is the distribution of competences for internal control and internal audit. Provide a brief overview of any weak points of the managerial accountability arrangements, or the functioning of internal control and internal audit, identified by the central harmonisation unit(s) or other parties such as the Supreme Audit Institutions, the Treasury or the CHU.

Regarding the requirements of the legislation in the field of internal control and internal audit

In accordance with the third part of Article 26 of the Budget Code of Ukraine, spending units in the person of their heads organize internal control and internal audit and ensure its implementation in their institutions, enterprises and organizations which are in the sphere of management of such spending units.

Internal control is a set of measures used by the head to ensure compliance with the law and efficiency of budget funds, achieve results in accordance with the established goals, objectives, plans and requirements for the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, ineffective and inefficient use of budget funds, inaccuracy or other shortages in the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units, and which provides independent conclusions and recommendations. To carry out the internal audit, spending unit in the person of the head forms an independent structural unit of internal audit, which is subordinate and accountable directly to such head.

The requirements of the third part of Article 26 of the Budget Code of Ukraine in terms of internal control apply to the activities of spending units at all levels (key spending units and lower level spending units, both for state and local budgets).

In accordance with paragraph 4 of the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter - the Basic Principles), the head of the institution organizes and ensures the implementation of internal control, covering planning activities, budget process, management of budget funds, objects of state property and other resources, organization and maintenance of accounting, preparation and submission of accounting reports, provision of administrative services, implementation of control and supervisory functions, procurement of goods, works and services, regulatory work, employee management, activities to prevent and detect corruption, ensuring secrecy and information security, protection of data in information, telecommunications and information and telecommunications systems, organization of document
flow, including electronic document management and information flow management, interactions with the media and the public, addressing other issues related to the functioning of the institution.

The internal control system in the institution consists of the following elements: internal environment, risk management, control measures, information and communication, monitoring. The elements of internal control are interrelated, covering all activities, financial and non-financial processes in the institution. The head of the institution ensures the proper functioning and connection of all elements of the internal control.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;
- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;
- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution.

During the organization and functioning of internal control, the managerial responsibility and accountability of the head and employees of the institution is ensured, which is based on the requirements of the legislation and applies to all activities of the institution.

The head of the institution is responsible and accountable for the proper management and development of the institution; achievement of certain goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution; ensuring legal, economical, efficient, effective and transparent management of budget funds, state property and other resources; organization and implementation of internal control in the institution (including the formation of an appropriate structure of internal control, supervision of internal control and risk management).

In the manner prescribed by law, the head of the institution reports on the effectiveness and efficiency of the institution, the achievement of certain goals (missions), strategic and other goals, including the implementation of internal control.

The head of the institution ensures a clear separation of duties, powers and responsibilities between the deputy heads of the institution, lower-level management and employees of the institution.

Heads of structural units and employees of the institution are responsible and accountable for the implementation of their tasks and responsibilities in accordance with the laws and internal documents of the institution.

According to paragraph 4 of the Procedure for Internal Audit and Establishment of Internal Audit Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), the main task of the internal audit unit is to provide the head of the institution objective and independent conclusions and recommendations on the functioning of the internal control system and its improvement; improving the management system; prevention of illegal, ineffective and inefficient use of budget funds and other assets; prevention of
inaccuracy or other shortages in the activities of the state body, its territorial bodies, enterprises, institutions and organizations which are in the sphere of its management.

In accordance with paragraph 5 of the Procedure № 1001, the internal audit units conduct in accordance with the assigned tasks, in particular, the assessment of the following:

- the effectiveness of the internal control system;
- the measurement of implementation and achievement of goals set in the strategic and annual plans;
- efficiency of planning and implementation of budget programs and results of their implementation, management of budget funds;
- the quality of administrative services and performance of control and supervisory functions, tasks defined by legislation;
- use and preservation of assets;
- reliability, efficiency and effectiveness of information systems and technologies;
- management of state property;
- correctness of accounting and reliability of financial and budgetary reporting;
- risks that negatively affect the performance of functions and tasks of the state body, its territorial bodies, enterprises, institutions and organizations which are in the sphere of its management.

According to the Procedure № 1001, the establishment of internal audit units is mandatory in ministries, other central executive bodies, other key spending units (central level) and the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations (regional level).

According to the decision of the head of the state body, internal audit units may also be formed in its territorial bodies and budgetary institutions within the regular number of their employees.

For local self-government bodies, the requirements of the specified normative-legal acts on the formation of internal subdivisions are recommendatory.

**Regarding the requirements of the legislation on harmonization of state internal financial control (internal control and internal audit)**

In Ukraine, the Ministry of Finance of Ukraine is responsible for the development, harmonization, coordination and assessment of public internal financial control.

In particular, in accordance with the third part of Article 26 of the Budget Code of Ukraine, the basic principles of internal control and internal audit and the procedure for establishing internal audit units are determined by the Cabinet of Ministers of Ukraine. Organizational and methodological principles of internal control and internal audit are determined by the Ministry of Finance of Ukraine, which ensures the formation and implementation of public policy in the field of public internal financial control, including assessing the functioning of internal control and internal audit systems.

Similarly, according to the Regulation on the Ministry of Finance of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine dated 20.08.2014 № 375, the Ministry of Finance is the main body in the system of central executive bodies that ensures the formation and
implementation of public policy in public financial control and public internal financial control (paragraph two of item 1, subitem 2 of item 3 of the specified Regulation).

In accordance with its tasks, the Ministry of Finance carries out regulatory and legal regulation in the field of public financial control and public internal financial control (subparagraph 5 of paragraph 4 of this Regulation), determines organizational and methodological principles of internal control and internal audit, evaluates the functioning of systems of internal control and internal audit (subparagraph 34-1 of paragraph 4 of this Regulation).

In order to ensure the implementation of the relevant powers, the Ministry of Finance has established a structural unit – the Department of State Internal Financial Control Harmonization (Central Harmonization Unit, hereinafter – CHU) with 17 employees and four divisions (Internal Control Harmonization Division, Internal Audit Harmonization Division, Internal Control and Internal Audit Systems Assessment Division, Internal Audit Unit Coordination Division).

**Regarding issues and shortcomings in the organization and implementation of internal control, internal audit activities in government agencies in 2021**

The results of the CHU analysis of the situation of internal control and internal audit in state bodies (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units) in 2021 (in total, the reports received from 118 state bodies on the state of organization and implementation of internal control in terms of elements were analysed, as well as reports (or information) on the results of internal audit units of 125 state bodies) demonstrated the following:

In terms of internal control in some government agencies, elements of the internal control system are presented (normalized) fragmentarily and/or functioned without proper interconnection and balance.

Implemented internal control systems in some bodies are aimed mainly at compliance with regulatory and administrative documents, the use of funds and property, implementation of certain processes/activities, instead of focusing on efficiency, effectiveness and achievement of results in accordance with goals and objectives.

Internal control has so far been insufficiently integrated into the management cycle of planning, implementation, control, monitoring and reporting.

Risk management activities are mostly fragmentary and may have an impact on the process of making/implementing management decisions in the institution (institution management), and are not fully focused on key risks that may arise in the process of performing the main tasks of government.

The implemented monitoring (and/or its components) also remains more focused on compliance with legal requirements (verification of compliance with established rules) than focused on monitoring the effectiveness of internal control during the implementation of key tasks and taking measures to eliminate existing operational deviations.

Some public authorities noted that the process of identifying and assessing deviations in the functioning of the internal control system and/or some of its elements is mainly carried out only during internal audits.
In terms of internal audit, there are opportunities to improve the efficiency of the internal audit function, in particular:

- there were cases of violation of the requirements for the functional independence of internal audit units and assigning them with the functions which are not related to internal audit (conducting/participating in control measures not related to internal audit, etc.);

- in a number of bodies, the ability of units to ensure the effective implementation of the internal audit function was quite limited (in particular, the number of internal auditors is insignificant in relation to the number of internal audit objects);

- in some state bodies the level of vacant positions in internal audit divisions remained high;

- in some cases, the stability of the staff composition of internal audit units was not ensured (in particular, the presence of high staff turnover, significant changes/updates of staff composition and/or management of such units);

- shortcomings remained in the planning of internal audit activities, in particular in terms of insufficient level of risk-oriented approach implementation regarding planning, etc.;

- a number of bodies did not provide the direction of internal audits to improve the system of management, internal control, prevention of illegal, ineffective and inefficient use of budget funds, inaccuracy or other shortages (in particular, internal audits focused mainly on compliance and/or financial economic aspects, there was no proper comprehensive assessment of the functioning of the internal control system, no internal audits were planned and conducted to assess the effectiveness, or their share was insignificant, etc.);

- needs to intensify the work of employees responsible for the implementation of audit recommendations in the system of the state bodies, as well as some bodies need to improve and systematize measures to monitor the implementation of audit recommendations and the stage of their implementation;

- measures to ensure and improve the quality of internal audit were not implemented in practice in some state bodies (in particular, there was no continuous monitoring and/or periodic evaluation of activities), or were performed formally in other state bodies (in particular, periodic evaluations did not cover all the aspects of internal audit and/or identification of existing shortcomings and problems in the implementation of the function, did not identify measures aimed directly at improving and enhancing the effectiveness of internal audit activities, etc.).

The Ministry of Finance of Ukraine annually informs the Cabinet of Ministers of Ukraine about the results of the analysis of functioning of internal control and internal audit with the provision of appropriate proposals to improve such activities in state bodies. Relevant resolutions of the Cabinet of Ministers of Ukraine provide instructructions to ensure proper organization of internal control and internal audit, take measures to eliminate identified shortcomings and prevent them in the future.

2. Is there a PIFC strategy and action plan in place? If yes, please explain the scope and the timeframe of the strategy and the mechanisms for monitoring its implementation. How does it relate to the strategic framework for Public Administration Reform and Public Financial Management? Please provide a translated copy of the Strategy.

The Public Finance Management Reform Strategy for 2022–2025 (hereinafter – Strategy) and the Action Plan for its implementation (approved by the Order of the Cabinet of Ministers of Ukraine
in December 29, 2021, № 1805-r (see attached) has identified the tasks and measures for further development of the system of public internal financial control (hereinafter – PIFC).

The Strategy and the Action Plan have been developed by the Ministry of Finance of Ukraine and approved by the Cabinet of Ministers of Ukraine (see attached), and accordingly determine the issues of policy implementation in the relevant direction and are mandatory for implementation/execution by state bodies. These documents have been developed in cooperation with interested authorities, the expert community and international partners.

The strategy defines the PIFC's goal - to strengthen management accountability at all levels of the public sector, increase the effectiveness of internal control and internal audit in government agencies, as well as describes the current situation in the field of PIFC and analysis of existing issues.

The Strategy and the Action Plan contain, in particular, tasks and measures aimed at the practical application of internal control in the activities of spending units of budget funds and strengthening the effectiveness of internal audit. The tasks (measures) in the field of PIFC set by the Strategy and the Action Plan are expected to be implemented within four years by introducing internal control, aimed at strengthening the responsibility of managers for management and development of the institution as a whole, and efficiency, capacity and independence of internal audit, and institutional capacity of the Central Harmonization Unit of the Ministry of Finance. Progress in achieving the planned results will be determined by certain indicators. In addition, the Strategy and the Action Plan determine the responsible executors and deadlines for the implementation of relevant tasks (activities).

The Strategy is in line with strategic documents, in particular, the Association Agreement between Ukraine and the EU, the Action Plan of the Cabinet of Ministers of Ukraine, the Strategy for Public Administration Reform for 2022-2025, approved by the Order of the Cabinet of Ministers of Ukraine from 21.07.2021 № 831 (see attached), the National Economic Strategy for 2030, approved by the Resolution of the Cabinet of Ministers of Ukraine from 03.03.2021 № 179.

The mechanism for monitoring the implementation of the Strategy and the Action Plan is defined, in particular, in paragraph 2 of the Order of the Cabinet of Ministers of Ukraine from 29.12.2021 № 805-r "On approval of the Strategy for Public Finance Management Reform for 2022-2025 and Action Plan for its implementation" (see attached), which ministries and other central executive bodies are obliged:

- to ensure timely implementation of the action plan approved by this order;

- to submit information on the progress of the implementation of the action plan quarterly by the 15th of the following month to the Ministry of Finance for its generalization and submission to the Cabinet of Ministers of Ukraine within ten days;

- to provide the information to the Ministry of Finance on the results of the Strategy approved by this order, the stage of achievement of the goal for each component of the public finance management system, as well as an assessment of the strategic goals achievements by March 1 of the year following the reporting period for preparation of a generalized analytical report and submitting it to the Cabinet of Ministers of Ukraine by June 1.

**B. Managerial Accountability**

3. Accountability systems tend to evolve during the PIFC reform process, moving from an initial focus on administrative accountability to focus more on managerial accountability.
Please rank Ukraine's level using a scale from 1 (administrative accountability) to 7 (managerial accountability). Please list the main information sources used in the analysis.

The level of assessment of Ukraine on a scale from 1 (administrative responsibility) to 7 (managerial accountability) is 5.

The following assessment is based on the results of:

- assessment (review) of the functioning of the internal control system in public authorities (in 2018);
- implementation of a number of pilot projects on internal control, aimed at strengthening the responsibility of managers for management and development of the institution (managerial responsibility and accountability) and quality implementation of tasks on planning and organization, forming an adequate structure of internal control, supervision of internal control and risk management (in 2018-2021);
- analysis of information from reports of spending units regarding level of organization and implementation of internal control in terms of elements of internal control (in 2020-2021).

In particular, each state body has approved the internal documents (regulations on the state body, division of responsibilities between management, regulations on structural units, job descriptions, etc., which describe the duties and responsibilities of management and employees). Management and employees are aware of their duties and responsibilities.

The key operational processes (sequence of their end-to-end implementation for the involved structural units, their division of responsibilities, interaction and control, scope of accountability and responsibility for implementation, information flows and reporting issues) are also separately identified in state bodies, which is regulated by internal documents.

At the same time, there are cases when the existing system of control and accountability during the implementation of the relevant processes is built around the implementation of the tasks set for the position of the employee, and not focused on the place and his/her role in such processes.

Management responsibilities (accountability) at each level are defined in the above documents, but are generally not always tied to the implementation of the relevant operational processes.

Heads of departments are endowed with duties, the amount of which is sufficient for them to make management decisions within their competence.

4. Managerial accountability means that in addition to an organisation being accountable to external stakeholders, each part is also accountable internally. This requires an effective delegation framework under which managers and staff are aware both of their responsibilities and of the authority delegated to them. Please describe how the delegation framework is defined, and authority assigned and communicated, within public sector organisations.

The issues of managerial responsibility (accountability), the structure of delegation (distribution) of powers, in particular, are defined in the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062.

Among the principles on which internal control is based are the following: the principle of responsibility, which means that the management and employees of the institution are responsible for their decisions, actions and tasks within their job responsibilities; as well as the principle of delegation...
of powers, which consists in the division of powers and a clear definition of responsibilities of management and employees of the institution, providing them with appropriate rights and resources necessary for the performance of official duties.

During the organization and functioning of internal control, the managerial responsibility and accountability of the head and employees of the institution is ensured, which is based on the requirements of the law and applies to all activities of the institution.

The head of the institution is responsible and accountable for the proper management and development of the institution; achievement of certain goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution; ensuring legal, economical, efficient, effective and transparent management of budget funds, state property and other resources; organization and implementation of internal control in the institution (including the formation of an appropriate structure of internal control, supervision of internal control and risk management).

In the manner prescribed by law, the head of the institution reports on the effectiveness and efficiency of the institution, the achievement of certain goals (mission), strategic and other goals, including the implementation of internal control.

The head of the institution ensures a clear separation of duties, powers and responsibilities between the deputy heads of the institution, lower-level management and employees of the institution.

Heads of structural units and employees of the institution are responsible and accountable for the implementation of their tasks and responsibilities in accordance with the laws and internal documents of the institution.

Delegated powers and the process of their implementation are described in internal documents of the institution, in particular, regulate issues related to:

- establishing the purpose (mission) and strategic goals of the institution;
- determination of the organizational structure, duties, responsibilities and accountability of the management and employees of the institution;
- establishing a list of tasks and functions, their distribution and assignment to performers (co-performers);
- preparation and submission of reports on the results of activities (procedures for the introduction of managerial responsibility and accountability, including defining areas of reporting, establishing links between objectives, planning, implementation, use of resources and results, defining indicators achieved during tasks and activities, levels, forms and deadlines for reporting).

Relevant issues are identified, in particular, in the regulations on the state body, the division of responsibilities between the head and his deputies, the regulations on structural units, job descriptions of employees.

The management and employees of the institution are aware of their responsibilities and powers.

5. How far are budgets aligned with decision-making authority within public sector organisations?
The Budget Code of Ukraine defines the legal basis for the functioning of the budget system of Ukraine, its principles, the basics of the budget process and inter-budgetary relations and the responsibility for violating budget legislation.

According to Article 20 of the Budget Code of Ukraine the performance-based budgeting is used at the level of the state budget and local budgets in the budget process. Components of the performance-based budgeting in the budget process are budget programs, responsible executors of budget programs, passports of budget programs, performance indicators of budget programs.

Budget programs are formed by the key spending units of budget funds during the preparation of the Budget Declaration (local budget forecast) and the draft budget for the planned budget period, taking into account medium-term activity plans, forecast and program documents of economic and social development.

The responsible executor of budget programs is determined by the key spending unit of budget funds in coordination with the Ministry of Finance (local financial authority). The responsible executor of budget programs in the process of their implementation ensures targeted and effective use of budget funds throughout the implementation of the relevant budget programs within the defined budget allocations.

Performance indicators of the budget program are used to assess the effectiveness of the budget program in the use of budget funds and include quantitative and qualitative indicators that determine the outcome of the budget program, describe its implementation, the level of achievement of public policy objectives in the relevant field of activity, the formation and/or implementation of which provides the key spending unit, achieving the budget program, fulfilling the objectives of the budget program, highlight the scope and quality of public services.

The list of performance indicators for each budget program is developed by the key spending units of budget funds in accordance with the regulations of the Ministry of Finance.

At all stages of the budget process, its participants, within their powers, evaluate the effectiveness of budget programs, which includes measures for monitoring, analysis and control over the targeted and effective use of budget funds.

The results of the evaluation of the effectiveness of budget programs (including the conclusions of the executive bodies authorized to monitor compliance with budget legislation and the conclusions of the Accounting Chamber) are the basis for making decisions regarding amendments of budget allocations of the current budget period, the relevant proposals to the draft budget for the planned budget period and the Budget Declaration (local budget forecast).

By the decision of the Cabinet of Ministers of Ukraine reviews of state budget expenditures are conducted to ensure the efficiency and effectiveness of state budget funds, which include analysis of the state policy effectiveness in the relevant field at the expense of the state budget within certain budget programs, as well as evaluation of efficiency, effectiveness and economic feasibility of the corresponding expenditures of the state budget.

Based on the results of such reviews, the Cabinet of Ministers of Ukraine makes decisions that are the basis for making appropriate proposals to the draft state budget for the planned budget period and to the Budget Declaration.

Article 22 of the Budget Code of Ukraine defines the duties of spending units (key spending units and lower-level spending units).
Among the activities of the key spending unit, in particular, are the following:

- to develop the medium-term action plan (including measures for the implementation of investment projects) taking into account the Budget Declaration (local budget forecast), the Law on the State Budget of Ukraine (local budget decisions), forecast and program documents of economic and social development;

- to organize and ensure the preparation of the budget proposal taking into account the Budget Declaration (local budget forecast), approved in the previous budget period, and submiting it to the Ministry of Finance (local financial authority);

- to organize and ensure the preparation of the budget request on the basis of the Budget Declaration (local budget forecast) and the action plan for the medium-term and submiting it to the Ministry of Finance of Ukraine (local financial authority).

According to the Article 33 of the Budget Code of Ukraine, the key spending units of state budget funds prepare budget proposals in accordance with the requirements of instructions and indicative limits of state budget expenditures and loans from the state budget for the medium term, provided by the Ministry of Finance, including information on the objectives of state policy in the relevant field of activity, the formation and/or implementation of which is provided by the key spending units of state budget funds, and indicators of their achievement. The key spending units of the state budget ensure the timeliness, reliability and content of budget proposals submitted to the Ministry of Finance, which must contain all the information necessary for their analysis, in accordance with the requirements of the Ministry of Finance.

The spending unit may authorize the recipient of budgetary funds to implement the measures provided for the budget program by proving the budget allocations and providing the appropriate budgetary funds (on a non-refundable or repayable basis). The recipient of budgetary funds uses such funds in accordance with the requirements of budget legislation on the basis of the plan for the usage of budgetary funds, which contains the distribution of budget allocations (Article 22 of the Budget Code of Ukraine).

According to Article 26 of the Budget Code of Ukraine, control over compliance with budget legislation is aimed at ensuring effective and efficient management of budgetary funds and is carried out at all stages of the budget process by its participants, as well as provides:

- assessment of budget funds management (including public financial audit);
- correctness of accounting and reliability of financial and budgetary reporting;
- achieving budget savings, their targeted use, efficiency and effectiveness in the activities of spending units by making sound management decisions;
- analysis and assessment of financial and economic activities of spending units;
- prevention of violations of budget legislation and ensuring the interests of the state and territorial communities in the management of state and municipal property;
- validity of planning budget revenues and expenditures.

The Accounting Chamber provides control over the receipt of funds in the State Budget of Ukraine and their use on behalf of the Verkhovna Rada of Ukraine. The activities of central executive bodies that ensure the implementation of state policy in the field of control over compliance with
budget legislation (within their responsibilities established by the regulations) are directed, coordinated and controlled by the Cabinet of Ministers of Ukraine.

Spending units, represented by their heads, organize internal control and internal audit and ensure their implementation in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

C. Internal control

6. To what extent do the public sector internal controls arrangements focus on addressing systemic errors before they happen or on the identification/investigation of individual errors after-the-fact?

In accordance with the third part of Article 26 of the Budget Code of Ukraine, spending units in the person of their heads organize internal control and ensure its implementation in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Internal control is a set of measures used by the head to ensure compliance with the law and efficiency of budget funds, achieve results in accordance with the established goals, objectives, plans and requirements for the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units.

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic Principles), determine the principles and elements of internal control, the organization and implementation of internal control by spending units in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

In the current legislation of Ukraine, internal control is understood as a holistic and interconnected process provided by the management and employees of the institution and essentially applies to the whole set of measures implemented by the head aimed at management and development of the institution.

Among the principles on which internal control is based, there is the principle of continuity, which is determining the policies, rules and measures aimed at achieving a specific goal (mission), strategic and other goals, objectives, plans and requirements for the institution, minimizing the impact of risks, are used constantly to respond in a timely manner to changes in the activities of the institution.

The internal control system in the institution consists of elements (internal environment, risk management, control measures, information and communication, monitoring).

The elements of internal control are interrelated, covering all activities and financial and non-financial processes in the institution.

The head of the institution ensures the proper functioning and communication of all elements of internal control.

Risk management system is one of the tools in prevention violations and inaccuracy in the activities of the institution, which involves identifying and assessing risks (according to the probability of their occurrence and materiality of impact on objectives), identification of ways to respond to risks and development of control measures to avoid (reduce the impact) of risks in order
to achieve the institution's goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;

- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution;

- assessment of the functioning of the internal control system by the internal audit unit within the powers defined by law, providing the head of the institution with objective and independent conclusions and recommendations for its improvement.

According to the report on the status of organization and implementation of internal control in state bodies, a proper system of internal control in institutions has been established over the past two years, which aims to ensure a systematic approach in solving problems and preventing inaccuracy in institutions.

In particular, there are positive movements in the development of risk management activities. Particularly, this applies to formalization of such activities, its practical implementation at all levels in the institution, which indicates the increase in the level of understanding and importance of the introduction of such activities as part of the management of the institution, tasks and functions.

Currently, risk management activities are considered in conjunction with the implementation of the institution's main objectives, achieving goals/plans of activities, the implementation of priority areas of work, as it focuses only on key risks.

7. Give a description of how the five components of the COSO 'Internal Control - Integrated Framework 2013' (control environment, risk assessment, control activities, information and communication, and monitoring activities) are expected to operate in the public sector.

Issues of organization and implementation of internal control are defined in:

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic Principles), determine the principles and five elements of internal control, the organization and implementation of internal control by spending units.

Methodical recommendations on the organization of internal control by spending units of budget funds in their institutions and subordinate budgetary institutions, approved by the Order of the Ministry of Finance dated 14.09.2012 № 995 (determine the practical aspects of building internal control in the institution in terms of five elements of internal control).
The development of the Guidelines takes into account the principles underlying the Integrated Internal Control System of 14 May 2013, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In particular, the Basic Principles contain 5 elements of internal control (internal environment, risk management, control measures, information and communication, monitoring) and provide principles that are fundamental concepts of these elements that work together in an integrated way to ensure an effective internal control system.

The requirements of the Basic Principles apply to spending units of all levels (key spending units and lower level spending units, both for state and local budgets).

The internal control system of the institution consists of the following elements:

- internal environment - processes, operations, regulations, structures and division of powers for their implementation, rules and principles of human resource management aimed at ensuring the implementation of the institution's tasks and functions and achieving goals (mission), strategic and other goals, plans and requirements activities of the institution;

- risk management - the activities of management and employees of the institution to identify risks, assessing them, determine how to respond to identified and assessed risks, review identified and assessed risks to identify new and changed;

- control measures - a set of management actions implemented in the institution, which are carried out by management and employees of the institution to influence risks in order to achieve the institution's objectives (mission), strategic and other goals, plans and requirements for the institution;

- information and communication (information and communication exchange) - creation of information, its collection, documentation, analysis, transmission of information and its use by management and employees of the institution to perform and evaluate the results of tasks and functions;

- monitoring - tracking the status of the organization and functioning of the internal control system as a whole and/or its individual elements.

The elements of internal control are interrelated, covering all activities and financial and non-financial processes in the institution.

The head of the institution ensures the proper functioning and communication of all elements of internal control.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;

- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising
during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution;

- assessment of the functioning of the internal control system by the internal audit unit within the powers defined by law, providing the head of the institution with objective and independent conclusions and recommendations for its improvement.

Requirements for settling the internal documents of the institution on the functioning of the elements of internal control are provided by the Basic Principles.

In addition, it is provided that the internal administrative documents of the institution may establish other issues of internal control, requirements for its organization and implementation, taking into account the specifics of the institution.

8. What steps have been identified/are being taken to remedy any differences between current and expected practice?

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic Principles), determine the principles and elements of internal control, the organization and implementation of internal control by spending units in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Paragraph 10 of the Basic Principles defines the list of reporting entities (key spending units of the state budget, central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations), which are, starting from 2020, obliged to submit a report to the Ministry of Finance on the status of organization and implementation of internal control in terms of elements of internal control in the form established by the Ministry of Finance by February, 1.

According to the third paragraph of item 2 of the Order of the Ministry of Finance of Ukraine dated 19.04.2019 № 160 “On approval of the form of the Report on the organization and implementation of internal control in terms of elements of internal control” the Ministry of Finance annually develops the relevant lists of issues for filling in the accounting reporting, starting from 2019, 2020 and 2021, which are then brought to the attention of certain reporting entities.

The Ministry of Finance develops such a list of issues, taking into account the possibility for state bodies to identify existing gaps or improper functioning and lack of connection of some elements of internal control, as well as to monitor the positive dynamics of development and improvement of the existing internal control system in state body.

Generating such reports and describing the actual state of settlement (functioning) of the issue is also a kind of assistance to the management of the institution and assists in internal evaluation of the effectiveness of the internal control system to eliminate deviations and shortcomings to achieve the institution's goals with the maximum result within the budget, and increase the level of perception and understanding of internal control staff.

The results of the analysis of the reporting of state bodies with relevant conclusions and recommendations on the organization and development of internal control are sent annually to the Cabinet of Ministers of Ukraine, which in turn instructs ministers, heads of other central executive bodies, heads of regional and Kyiv city state administrations, heads of other key spending units of
budgetary funds to ensure the proper organization of internal control, take appropriate measures to eliminate identified shortcomings and prevent them in the future.

In order to implement the provisions of the Association Agreement between Ukraine and the EU and paragraph 4 of Section IV of the Public Finance Management Reform Strategy for 2017-2020, approved by the Order of the Cabinet of Ministers of Ukraine from 08.02.2017 № 142-r, the Ministry of Finance continued work to ensure the further development of the internal control system, in particular, to the implementation of internal control through the implementation of 4 pilot projects aimed at strengthening the responsibility of managers for the management and development of the institution as a whole (managerial responsibility and accountability) and quality implementation of tasks on planning and organization of activities, formation of adequate internal control structure, supervision of internal control and risk management to achieve goals, decision-making and implementation, including financial, taking into account the principles of legitimacy, economy, efficiency, effectiveness and transparency.

During the implementation of such pilot projects, the current state of internal control was directly studied. At the same time, the key elements of the internal control system and their interrelation were assessed in comparison with the best international practices and fundamental principles of financial management and control described in the relevant international standards and frameworks.

Carrying out pilot projects on internal control in state bodies is a kind of practical assistance for their heads, as the results of comparing the developed criteria with the relevant findings revealed certain shortcomings and gaps in the current state of internal control and made recommendations to further improve the existing internal control system.

In addition, in order to raise awareness of civil servants on internal control the Ministry of Finance of Ukraine in cooperation with the Ministry of Finance of the Kingdom of the Netherlands, has developed a training program on financial management and control (internal control) for various target groups (operational management, management and employees of finance/second-line functions, internal audit), which is structured in terms of training modules for each target group with the definition of basic knowledge and skills to be acquired by potential participants in training on financial management and control (internal control).

Thus, during 2021, 3 training events were organized and conducted for government officials, which addressed the conceptual framework of internal control, risk management activities, managerial accountability in the internal control system, as well as the development of internal control in the context of public administration reforms and public finance management, etc.

The Public Finance Management Reform Strategy for 2022–2025 approved by the Order of the Cabinet of Ministers of Ukraine in December 29, 2021, № 1805-r provides for the implementation of measures to implement internal financial control, aimed at strengthening the responsibility of heads of budgetary institutions for the management and development of the institution as a whole, over the next four years, by:

- integration of aspects of internal control into the practical activities of spending units;
- introduction of the training program on internal control for the key spending units of the state budget, central executive bodies, regional and Kyiv city state administrations;
- preparation of a methodological manual (instructions) on the practical implementation of
certain aspects of the system of internal control by spending units of state budget funds, including
risk management (this manual was developed and distributed on the website of the Ministry of
Finance).

9. **What requirements for ethical behaviour or standards of conduct (especially
concerning potential conflicts of interest and how to deal with them) does the internal control
system set?**

Issues of ethical conduct and prevention of conflicts of interest by civil servants, in particular,
№ 1700-VII “On Prevention of Corruption”.

Law of Ukraine "On Civil Service", in particular, regulates the following:

- the main responsibilities of a civil servant are defined, in particular, compliance with the
principles of civil service and rules of ethical conduct, prevention of real, potential conflicts of interest
during the civil service;

- it is provided that the head of the civil service is obliged, in particular, to take measures to
comply with the rules of ethical conduct, in order to ensure the appropriate level of service discipline;

- the civil servant shall be brought to disciplinary responsibility in accordance with the
procedure established by this Law, in particular, for violation of the rules of ethical conduct;

- it is provided that the presence of a real or potential conflict of interest for a civil servant,
which is permanent and cannot be resolved in any other way, are grounds for termination of civil
service due to loss of right to civil service or its restriction.

Law of Ukraine “On Prevention of Corruption”, in particular, regulates the following:

- the procedure for prevention and settlement of conflicts of interest is determined (in particular,
requirements for external and independent solving of conflicts of interest, removal from performing
task, actions, decision-making or participation in its decision-making, transfer, dismissal due to
conflict of interest);

- defined rules of ethical conduct (in particular, requirements for the conduct of individuals,
compliance with the law and ethical standards of conduct, impartiality, competence and efficiency,
non-disclosure of information, refraining from carrying out illegal decisions or instructions);

- the NAPC is empowered to monitor and control the implementation of legislation on ethical
conduct, prevent and resolve conflicts of interest in the activities of persons authorized to perform the
functions of state or local government, and persons equated to them, making instructions on violations
of legislation on ethical conduct, prevention and settlement of conflicts of interest, other requirements
and restrictions provided by this Law, protection of whistleblowers;

- stipulates that in cases of violation of the requirements of this Law on ethical conduct,
prevention and settlement of conflicts of interest in the activities of persons authorized to perform
state or local government functions and persons equated to them, protection of whistleblowers, NAPC
reports to the head of the relevant body institutions, organizations order to eliminate violations of the
law, conduct an official investigation, bring the perpetrator to justice.
General Rules of Ethical Conduct for Civil Servants and Local Government Officials are approved by the Order of the National Agency of Ukraine for Civil Service dated 05.08.2016 № 158 and registered in the Ministry of Justice on 31.08.2016 under № 1203/29333.

These General Rules are a generalized collection of professional and ethical requirements for the rules of conduct of civil servants and local government officials whose activities are aimed at serving the people of Ukraine and the territorial community by protecting and promoting the rights, freedoms and legitimate interests of human and citizen.

According to the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 the institution's internal documents should address, inter alia, issues of ethical conduct.

In particular, during the organization and implementation of internal control, the management and employees of the institution create an environment that provides:

- compliance with standards of ethical conduct by employees, both in general and in relation to individual activities of the institution;
- the behavior of employees is not allowed the possibility of committing corruption offenses, fraud or other abuses in carrying out certain activities or decision-making;
- timely detection of any circumstances that may lead to violations of standards of ethical conduct or legislation on the prevention of corruption by employees and taking appropriate corrective action to eliminate these circumstances;
- the possibility of informing the head of the facts of corruption, fraud or other abuse of office.

In order to ensure the conduct of employees at a sufficient level of honesty, there must be a clear knowledge and awareness of each employee about the need to comply with ethical standards, anti-corruption legislation.

Heads of institutions or their structural units in case of detection or notification of violation of these rules of ethical conduct within their competence in accordance with the law, are obliged to take measures to stop the violation, eliminate its consequences and bring the perpetrators to justice, and in cases detection of signs of criminal or administrative offenses also inform specially authorized entities in the field of anti-corruption.

D. Sound financial management

10. Is there legislation setting out the status within public sector organisations of finance officers and/or finance sections together with their role and methods of operation?

Tasks and responsibilities of the accounting service of the budgetary institution and the powers of its head are defined by the Standard Regulations on the accounting service of the budgetary institution, approved by the Cabinet of Ministers of Ukraine dated 26.01.2011 № 59.

In accordance with this Standard Regulation, the accounting service is formed as an independent structural unit of the budgetary institution, the type of which depends on the volume, nature and complexity of accounting work - department, division, sector or the budgetary institution introduces the position of a specialist fulfilling the responsibilities of an accounting service. The duties of the accounting service may be performed by the centralized accounting department of the budgetary institution to which other budgetary institutions are subordinated.
The accounting service reports directly to the head of the budgetary institution or his deputy.

Peculiarities of the functioning of the accounting service are disclosed in the regulations on the accounting service and the regulations on the organization of accounting, which are approved by the administrative document of the head of the institution.

The main tasks of the accounting service are: accounting of financial and economic activities of the budgetary institution and reporting; reflection in the documents of reliable and complete information about business transactions and results of activities required for the operational management of budget allocations (appropriations) and financial and tangible (intangible) assets; ensuring compliance with budget legislation when making budget commitments, timely submission for registration of such commitments, making payments in accordance with budget commitments, accurate and full reflection of transactions in accounting and reporting; ensuring control over the availability and movement of property, the use of financial and tangible (intangible) assets in accordance with approved standards and estimates; prevention of negative phenomena in financial and economic activities, identification and mobilization of domestic reserves.

The head of accounting service is the chief accountant, who reports to and is accountable to the head of the budgetary institution or his deputy. The chief accountant is appointed and dismissed by the head of the budgetary institution in accordance with labor legislation. Appointment to the position of chief accountant of a budgetary institution and / or a specialist entrusted with the tasks and functional responsibilities of the accounting service shall be made in accordance with the Handbook of Typical Professional Qualifications for Civil Servants or the Handbook of Qualifications for Professionals. Employees of the accounting service, who are appointed and dismissed in the manner prescribed by labor legislation, are subordinate to the chief accountant.

The Treasury provides, within its powers, the organization and coordination of the activities of the chief accountants of budgetary institutions and control over the implementation of their powers by evaluating their activities.

The procedure for assessing the performance of the chief accountant of the budgetary institution was approved by the order of the Ministry of Finance of Ukraine dated 01.12.2011 № 1537.

The norms of this Procedure determine the organizational principles of the State Treasury Service of Ukraine and its territorial bodies within its powers to assess the performance of the chief accountant of the budgetary institution.

11. Do the public sector accounting and reporting systems cover all sources of revenue and all types of expenditure, together with any assets and/or liabilities?

Yes. In accordance with Article 56 of the Budget Code of Ukraine, accounting of all operations related to the execution of the State Budget of Ukraine is carried out by the Treasury of Ukraine in the manner prescribed by the Ministry of Finance of Ukraine. This accounting should reflect all assets and liabilities of the state.

The accounting of all budget revenues and budget expenditures is conducted in gross indicators, regardless of whether or not the budget allocations provide for the offsetting of these indicators (part four of Article 56 of this Code).

All budget revenues and budget expenditures are reflected in the accounts in chronological order in accordance with the procedure established by law. All accounting records must be documented (part five of Article 56 of this Code).
Budgetary institutions keep accounts in accordance with national regulations (standards) of accounting in the public sector (hereinafter - NR(S)APS) and other regulations on accounting in the manner prescribed by the Ministry of Finance of Ukraine.

Generalization of information on the availability and movement of assets, capital, liabilities and facts of accounting entities in the public sector is carried out on the accounts of the Chart of Accounts in the public sector, approved by the order of the Ministry of Finance of Ukraine from 31.12.2013 № 1203, according to the Procedure application of the Chart of Accounts in the public sector, approved by the order of the Ministry of Finance of Ukraine dated 29.12.2015 № 1219.

Reporting on the implementation of the State Budget of Ukraine (estimates of budgetary institutions) includes financial and budgetary reporting. The financial statements are prepared in accordance with the NR(S)APS and other regulations of the Ministry of Finance of Ukraine. Budget reporting reflects the state of budget implementation, contains information in terms of budget classification (Article 58 of the Budget Code of Ukraine).


The provisions of this Law apply to all legal entities established in accordance with the legislation of Ukraine, which are required to keep accounts and submit financial statements, as well as operations on state and local budgets and financial reporting on budget execution according to the budget legislation.

The Ministry of Finance of Ukraine has introduced 20 NR(S)APSs, developed on the basis of International Accounting Standards for the Public Sector (IPSAS). The World Bank experts have assessed and recognized the high degree of compliance of the NR(S)APS with international accounting standards for the public sector (IPSAS).

Composition, forms, principles of preparation and submission of financial statements in the public sector, general requirements for recognition and disclosure of its elements are defined by NR(S)APS 101 “Submission of Financial Statements”, approved by the order of the Ministry of Finance of Ukraine dated 28.12.2009 № 1541, financial reporting in the public sector, approved by the order of the Ministry of Finance of Ukraine dated 28.02.2017 № 307, and Guidelines for the development by the State Treasury Service of Ukraine of forms for financial reporting, approved by the order of the State Treasury Service of Ukraine dated 25.01.2019 № 28.

In accordance with NR(S)APS 101 “Submission of Financial Statements”, the financial statements provide information on assets, liabilities, equity, income, expenses, cash flows of the public sector entity and the budget.

The financial statements consist of the balance sheet, the statement of financial performance, the statement of equity, the statement of cash flows and the notes to the annual financial statements.

1) The balance sheet as a statement of financial position reflects the assets, liabilities and equity of the public sector entity and / or the budget at the beginning of the year and at the end of the reporting period on the basis of verified accounting data.
2) The statement of financial performance reflects information on income, expenses, deficit / surplus as a result of the activities of the public sector entity and the budget during the reporting period.

3) The statement of cash flows reflects the cash flows during the reporting period as a result of operating, investing and financing activities.

4) The statement of equity discloses information about changes in the composition of equity.

Indicators and explanations that provide details and validity of financial statements, as well as other information, the disclosure of which is demanded by NR(S)APS, are provided in the notes to the annual financial statements approved by the order of the Ministry of Finance of Ukraine dated 29.11.2017 № 977.

Forms of budget reporting on the implementation of estimates of budgetary institutions and the procedure for filling them are determined by the Procedure for budget reporting by managers and recipients of budget funds, reporting by funds of compulsory state social and pension insurance, approved by the order of the Ministry of Finance of Ukraine dated 24.01.2012 № 44.

Also, in accordance with Article 12 of the Law on Accounting, the Treasury of Ukraine prepares consolidated financial statements on the general property status and performance of public sector entities and budgets.

Consolidation of financial statements and disclosure of information is provided in accordance with NR(S)APS 102 "Consolidated Financial Statements", approved by the order of the Ministry of Finance of Ukraine from 24.12.2010 № 1629, and Guidelines for the formation by the State Treasury Service of Ukraine of consolidated financial statements approved by the Ministry of Finance of Ukraine dated 15.05.2019 № 204.

The consolidated financial statements are prepared on the basis of the consolidated financial statements of the controlling public sector entities and budgets using a single accounting policy for similar transactions and other events in similar circumstances.

12. Do the public sector accounting and reporting systems provide sufficient and timely information to:

   a) allow managers to control and manage commitments effectively,
   b) inform managers about financial implementation and performance during the year,
   c) permit forecasting of income and expenditure,
   d) keep financial commitments within budget limits,
   e) ensure that the use of financial resources, e.g. through procurement operations or human resource costs, is in accordance with the existing budget, and
   f) allow an audit trail of key financial decisions, including those relevant to Instrument for Preaccession Assistance-funded programmes?

Yes. In accordance with the Budget Code of Ukraine (hereinafter - the Code) at all stages of the budget process control is conducted over compliance with budget legislation, audit and evaluation of the effectiveness of budget management in accordance with the law.
Participants of the budget process, within their powers, evaluate the effectiveness of budget programs, including measures for monitoring, analysis and control over the targeted and effective use of budget funds. Evaluation of the effectiveness of budget programs is carried out on the basis of monitoring data, analysis of performance indicators of budget programs, as well as other information contained in budget requests, estimates, passports of budget programs, reports on budgets and reports on budget program passports. Organizational and methodological principles for assessing the effectiveness of budget programs by the main managers of budget funds are determined by the Ministry of Finance of Ukraine.

The results of the evaluation of the effectiveness of budget programs (including the conclusions of the executive bodies authorized to monitor compliance with budget legislation and the conclusions of the Accounting Chamber) are the basis for decisions to amend the budget allocations of the current budget period, the planned budget period and the Budget Declaration (local budget forecast), including the suspension of the implementation of relevant budget programs (part six of Article 20).

Any budget commitments and payments from the budget are made if an appropriate budget purpose is stated, according to the law on the State Budget of Ukraine (decision on the local budget) (parts one and two of Article 23).

The stages of budget execution for expenditures and lending are (part one of Article 46 of the Code):

1) establishment of budget allocations to managers of budget funds on the basis of and within the approved budget schedule;
2) approval of estimates, passports of budget programs, as well as procedures for the use of budget funds;
3) making budget commitments;
4) receipt of goods, works and services;
5) making payments in accordance with the budget commitments;
6) use of goods, works and services to perform the tasks of budget programs;
7) return of loans to the budget (for budget lending).

Managers and recipients of budget funds make budget commitments and make payments only within the budget allocations established by estimates, taking into account the need to fulfill budget commitments of previous years, taken into account by the Treasury (part one of Article 48).

The Treasury registers and records the budget liabilities of budget managers and recipients and reflects them in the budget execution reports. When registering and accounting for budget commitments, the compliance of the directions of spending budget funds with the budget allocation, the passport of the budget program is checked (part five of Article 48).

The Treasury makes payments on behalf of budget managers in the presence of the relevant budget commitment for payment in the accounting of budget execution; availability of the budget program passport approved in accordance with the established procedure; availability of appropriate budget allocations for budget managers (part two of article 49).

The Treasury of Ukraine shall keep accounting records of all operations related to the execution of the State Budget of Ukraine, compile, compile and submit reports on the execution of the State
Budget of Ukraine. Budgetary institutions keep accounts and prepare financial statements in accordance with national regulations (standards) of accounting in the public sector and other regulations on accounting in the manner prescribed by the Ministry of Finance of Ukraine (Articles 56 and 58).

According to the Law of Ukraine dated 06.07.1999 № 996-XIV “On Accounting and Financial Reporting in Ukraine” accounting is a process of identifying, measuring, registering, accumulating, summarizing, storing and transmitting information about the enterprise to external and internal users for acceptance decisions. The financial statements contain information about the financial condition and results of the enterprise.

According to NR(S)APS 101 "Submission of financial statements" the purpose of financial reporting is to provide users for their decision-making with complete, truthful and unbiased information about the financial condition, performance and cash flow of the public entity and the budget.

Financial reporting in the public sector provides information needs of users on the sources of income and purposes of their use; results of activity in terms of efficiency and achievement of the purpose of activity; observance of financial discipline by a public sector entity; targeted use of budget funds; management quality assessments; assessments of the ability to meet their obligations in a timely manner; purchase, sale and possession of securities; participation in the capital of enterprises; the level of resources required to continue operations, the resources that may arise from continuing operations, and the associated risks and uncertainties.

Financial statements are prepared in accordance with the principles of accrual and full disclosure, according to which income and expenses are reflected in accounting and financial statements at the time of their occurrence, regardless of the time of receipt or payment of funds, financial statements should contain all information about actual and potential consequences operations and events that can influence decisions made on its basis.

Accounting for the implementation of state and local budgets is conducted by the cash method using the method of accrual for individual transactions (accounting for public debt, liabilities of budget managers). Transactions on income and expenses are reflected in the accounting at the time of the relevant payments, and transactions on budget financing - at the time of the movement of funds with the simultaneous reflection of active operations or debt.

Budgetary institutions and funds of the obligatory state social and pension insurance in the part of execution of estimates are accounted for by the accrual method, according to which transactions and events are recognized at the time of their occurrence, regardless of the date of receipt or payment (or their equivalents).

This method allows accounting of all existing and receivable assets and liabilities, promotes more informed decisions about the allocation of resources, as the reflection of income and expenses at the time of their occurrence provides a systematic and comprehensive reporting information.

According to the Article 14 of the Law on Accounting, the chief budget managers publish annual financial statements, annual consolidated financial statements no later than April 30 of the year following the reporting period by posting them on their website.
The Treasury publishes the annual consolidated financial statements on the general assets and performance of public sector entities and budgets no later than June 1 of the year following the reporting period on its website.

Monthly and quarterly reports are prepared and submitted by the Treasury within the deadlines set by the Code (Articles 59, 60, 80), the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Accounting Chamber and the Ministry of Finance of Ukraine.

The annual report on the implementation of the Law on the State Budget of Ukraine is submitted by the Cabinet of Ministers of Ukraine to the Verkhovna Rada of Ukraine, the President of Ukraine and the Accounting Chamber no later than April 1 of the year following the reporting year (part one of Article 61).

At the same time, monthly, quarterly and annual reports on the implementation of the State Budget of Ukraine are posted on the official website of the Treasury (part one of Article 28).

13. Describe any centralised ex-post checks on receipts or expenditure.

Relevant control at the central level is carried out, in particular, by the Accounting Chamber and the State Audit Service of Ukraine.

I. The Accounting Chamber is the highest body of independent external financial control (audit).

In accordance with Article 98 of the Constitution of Ukraine, the Accounting Chamber, on behalf of the Verkhovna Rada of Ukraine, controls the receipt of funds in the State Budget of Ukraine and their use.

According to the Law on the Accounting Chamber, the Accounting Chamber is organizationally, functionally and financially independent and plans its activities independently. The independence of the Accounting Chamber is ensured, in particular, by the procedure established by the Constitution and the Law for the appointment and dismissal of members of the Accounting Chamber; guaranteed by law guarantees of the Accounting Chamber; special procedure for organizational support of the Accounting Chamber.

The Accounting Chamber shall be independent in the exercise of its powers from any unlawful influence, pressure or interference. Unlawful interference in the exercise of the powers granted by law by the Accounting Chamber is prohibited and entails liability established by law. Interference of state authorities, local governments, political parties and public associations, enterprises, institutions, organizations, regardless of ownership and their officials and officials in the activities of the Accounting Chamber is prohibited

According to the Law of Ukraine “On the Accounting Chamber”, public external financial control (audit) is provided by the Accounting Chamber by conducting financial audits, performance audits, examinations, analysis and other control measures, as well as developing proposals and recommendations on measures to be taken to eliminate and prevent the violations and shortcomings, prepare the recommendations for improving the relevant legislation.

Financial audit consists of checking, analyzing and assessing the correctness, completeness of accounting and reliability of reporting on budget revenues and expenditures, establishing the actual
state of affairs on the targeted use of budget funds, compliance with legislation in transactions with budget funds (part three of Article 4 of the Law of Ukraine “On Accounting Chamber”).

Performance audit involves establishing the actual state of affairs and assessing the timeliness and completeness of budget revenues, productivity, efficiency, economy of use of budget funds by their managers and recipients, legality, timeliness and completeness of management decisions by budget process participants, the state of internal control of budget managers (part fourth Article 4 of the Law of Ukraine “On the Accounting Chamber”).

II. **The State Audit Service of Ukraine** (hereinafter - the State Audit Service, the body of state financial control) is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance and which implements public policy in the field of public finance control.

State financial control is provided by the body of state financial control through conducting state financial audit, inspection (post-control), verification of procurement (post-control) and monitoring of procurement procedures (current control).

State financial audit is a kind of state financial control and consists in checking and analyzing the state financial control body of the actual state of affairs on the lawful and efficient use of state or municipal funds and property, other state assets, correctness of accounting and reliability of financial statements, internal control system. The results of the state financial audit and their evaluation are set out in the report (Article 3 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”, see attached).

The inspection is carried out by the State Audit Service in the form of an audit and consists of documentary and factual verification of a certain complex or certain issues of financial and economic activities of the controlled institution. The results of the audit are set out in the act (Article 4 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”, see attached).

Procurement inspections are carried out at the location of the legal entity being inspected or at the location of the property subject to inspection, and consists of a documentary and factual analysis of the customer's compliance with procurement law. The results of the procurement inspection are set out in the procurement inspection report.

Procurement is monitored at the location of the state financial control body (Article 5 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”).

III. **The State Treasury Service** also controls the following while performing its treasury functions:

1) accounting of all revenues and expenditures of the state budget and local budgets, preparation and submission of financial and budgetary reports;

2) budgetary powers when crediting budget revenues;

3) compliance of the budget managers' estimates with the budget schedule indicators;

4) compliance of the budget commitments made by the managers of budget funds with the relevant budget allocations, the passport of the budget program;

5) compliance of payments with the budget commitment and the corresponding budget allocation (part one of Article 112 of the Code).
In accordance with the powers granted by the Budget Code of Ukraine, the Treasury bodies in case of violations of budget legislation by managers and recipients of budget funds apply such measures of influence as:

- warning about improper implementation of budget legislation with the requirement to eliminate the violation;
- suspension of operations with budget funds on accounts opened with the Treasury.

E. Internal Audit

14. Does the internal audit legislation define operational arrangements for internal audit, including the level of decentralisation, minimum audit unit staffing requirements and standards to be used; as well as independence, contents of audit charters, planning requirements and freedoms, reporting arrangements, codes of ethics, certification arrangements, and continuous professional development?

The function of internal audit in the public sector of Ukraine was introduced in 2012 to implement the relevant decision of the Government (Resolution of the Cabinet of Ministers of Ukraine of 28.10.2011 № 1001 "Some issues of internal audit and the establishment of internal audit units", hereinafter - Resolution № 1001).

According to Article 26 of the Budget Code of Ukraine, internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, inefficient use of budget funds, errors or other deficiencies in the activities of the budget manager and enterprises, institutions and organizations within the sphere of its management, and which provides the provision of independent conclusions and recommendations (Article 26 of the Budget Code). To carry out internal audit, the budget manager forms an independent structural unit of internal audit, which is subordinate and accountable directly to such head of the entity.

The procedure for internal audit and the establishment of internal audit units, approved by the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), determines the mechanism of formation of structural units of internal audit and issues of their activities.

Organizational and methodological principles of internal audit are defined by bylaws approved by the Ministry of Finance of Ukraine, namely:

1) Internal audit standards approved by the order of the Ministry of Finance of Ukraine dated 04.10.2011 № 1247 (as amended by the order of the Ministry of Finance of Ukraine dated 14.08.2019 № 344), which defines common approaches to internal audit activities in public bodies and defines provisions, requirements and approaches to the organization of internal audit activities, planning, implementation of internal audit, reporting on its results;

2) Code of Ethics of employees of the internal audit unit, approved by the order of the Ministry of Finance of Ukraine dated 29.09.2011 № 1217, which declares the system of moral and professional values and rules of conduct of employees of the internal audit unit;

3) The procedure for the Ministry of Finance of Ukraine to assess the functioning of the internal audit system, approved by the order of the Ministry of Finance of Ukraine from 03.05.2017
№ 480, which determines the mechanism of organization, conduct, design and implementation of results of the internal audit system;

4) Order of the Ministry of Finance of Ukraine dated 27.03.2011 № 347 “On approval of the reporting form № 1-ДВА “Report (consolidated report) on the results of the internal audit unit”, explanatory note to the report (consolidated report) and instructions on their preparation and submission”, which regulates the preparation and submission to the Ministry of Finance by state bodies of reports on the results of the activities of internal audit units.

According to paragraph 2 of the Procedure № 1001, the object of internal audit is the activities of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management, in full or on certain issues (at certain stages), and activities carried out by the heads of such bodies, enterprises, institutions and organizations to ensure the effective functioning of the internal control system (compliance with the principles of legality and effective use of budget funds and other assets, achieving results in accordance with the goal, tasks, plans and requirements).

The procedure of № 1001 is obligatorily and covers all state bodies. At the same time, internal audit covers issues of both central and regional levels.

In accordance with this procedure, internal audit units (relevant positions) have been established in all state bodies.

For local self-governing bodies, the norm of the Procedure № 1001 on the establishment of internal divisions has a recommendatory nature. With this in mind, a number of local governments have established internal audit units. At the same time, the share of such bodies is insignificant.

The head of the state body for the implementation of the appropriate level of internal audit must ensure the organizational and functional independence of the internal audit unit, to prevent the entrustment of the unit of functions not related to internal audit activities. The internal audit standards stipulate that organizational independence implies direct subordination and accountability of the internal audit unit to the head of the institution, functional independence - preventing employees of the internal audit unit from performing functions not related to internal audit.

The Code of Ethics of Internal Audit Employees (Order of the Ministry of Finance of September 29, 2011 №1217) stipulates that one of the main principles of professional activity in internal audit is the principle of independence and objectivity.

The head of the state body must take measures to prevent undue interference by third parties in any matters related to the conduct of internal audit activities, including the planning of internal audit activities, conducting internal audits and preparing a report on its results.

The minimum requirements for employees of internal audit units, as well as other civil servants, are regulated by the general legislation on civil service. At the same time, Procedure № 1001 defines the requirements for education and work experience of heads of internal audit departments (availability of higher economic or legal education at the master's degree and work experience in accordance with the requirements of the legislation). The requirements for professional competence are defined by the Internal Auditing Standards. In particular, it is stipulated that the head and staff of the internal audit department must have the necessary knowledge, skills and professional competence, based on relevant education and experience, to properly perform audit tasks, and the internal audit department must have general qualifications.
At the same time, the Internal Audit Standards stipulate that employees of the internal audit department must constantly improve their knowledge, improve their skills, including through self-education, which will contribute to continuous professional development. The Central Harmonization Unit (CHU - responsible unit of the Ministry of Finance) regularly organizes and conducts training events at its own expense and/or in bilateral cooperation with the Ministry of Finance of the Kingdom of the Netherlands with the support of international experts. Academy of Finance and Economics of the Ministry of Finance of the Kingdom of the Netherlands). From 2021, such training activities (on internal control and internal audit) were introduced on the basis of the University of the State Fiscal Service of Ukraine, which is planned to be used as a "center of professional communication" for professional development of financial workers in Ukraine.

15. Are all public sector organisations required by legislation to establish an internal audit function? If not, please provide details of the criteria which allow those organisations not to do so. Please further explain how those organisations that are not required to establish their own internal audit function can access internal audit services.

The Procedure for conducting the internal audit and the establishment of internal audit units, approved by the resolution of the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), determines the mechanism of formation of structural units of internal audit and issues of their activities.

Procedure № 1001 applies mandatorily to all state bodies - ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations, and other key spending units of state budget funds. At the same time, internal audit covers issues of activity at both the central level (apparatus of state bodies) and the regional level (territorial bodies, enterprises, institutions and organizations belonging to the sphere of government management).

Paragraph 5 of Resolution № 1001 recommends (based on the Government's powers in relation to local self-government bodies) to local self-government bodies:

- to establish structural units of internal audit from January 1, 2012;

- during the organization and conduction of the internal audit follow the Procedure approved by this resolution and the regulations of the Ministry of Finance adopted for its implementation.

At the same time, the Government controls local budgets through the bodies of the State Audit Service of Ukraine. Thus, in accordance with the legislation, the State Audit Service, in particular, monitors compliance with the legislation at all stages of the budget process for state and local budgets.

The tools of such control, in particular, are audit and revision. Control measures are carried out by the State Audit Service in a planned manner based on the results of a risk-oriented selection of objects, as well as at the request of controlled institutions.

16. What types of audits are performed by internal audit units (e.g. compliance audits, systems-based audits, IT and performance audits)? Please provide an estimate of the overall proportions of each type of audit undertaken.
Requirements for the type of internal audit, the main tasks and functions of internal audit units, requirements for internal audit activities are defined by the Budget Code of Ukraine (Article 26), Procedure № 1001 and Internal Audit Standards, etc.

Procedure № 1001 (paragraph 2) stipulates that the object of an internal audit is the activity of a state body, its territorial bodies, enterprises, including business entities whose state share in the authorized capital exceeds 50 percent or is the part that provides the state with the right to decisive influence on the economic activity of such economic entities), institutions and organizations belonging to the sphere of its management, in full or on certain issues (at certain stages), and measures taken by the heads of such bodies, enterprises, institutions and organizations to ensure the effective functioning of the internal control system (compliance with the principles of legality and effective use of budget funds and other assets, achieving results in accordance with the established goal, implementation of tasks, plans and requirements for their activities).

The main task of the internal audit unit (according to paragraph 4 of the Procedure № 1001) is to provide the head of the state body with an objective and independent conclusions and recommendations on:

- functioning of the internal control system and its improvement;
- improvement of the management system;
- prevention of illegal, inefficient and ineffective use of budget funds and other assets;
- prevention of errors or other shortcomings in the activities of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management.

In accordance with the tasks assigned to it, the internal audit unit, in particular, evaluates the effectiveness of the internal control system; the degree of implementation and achievement of goals set in strategic and annual plans; efficiency of planning and execution of budget programs and results of their execution, management of budget funds; the quality of administrative services and the performance of control and supervisory functions, tasks defined by legislation; use and preservation of assets; reliability, efficiency and effectiveness of information systems and technologies; state property management; correctness of accounting and reliability of financial and budgetary reporting; risks that negatively affect the performance of functions and tasks of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management (paragraph 5 of the Procedure № 1001).

Given the above, internal audit units, in accordance with their powers, conduct various types of audits, including so-called compliance audits, performance audits and IT audits. In particular, in 2020 the share of performance audits was almost 30% of the total number of audits conducted, the rest of the conducted internal audits are compliance audits and financial audits. Reorienting internal audit activities to performance appraisal by increasing the share of such audits by 10% is one of the measures of the Public Financial Management Reform Strategy.

At the same time, taking into account current trends in internal audit development and best international practices, internal audits are being introduced to assess the reliability, efficiency and effectiveness of information systems and technologies/IT audits (their share is insignificant).

In order to provide methodological support, the Ministry of Finance has developed Methodological Guidelines for Internal Audit in the Public Sector of Ukraine and a number of methodological manuals on internal performance audit, financial audit, IT audit, etc.
17. Do any internal auditors perform other functions beside internal audit?

Regulations on internal audit stipulate that the head of a state body must ensure organizational and functional independence of the internal audit unit in order to carry out an internal audit at the appropriate level, and prevent the unit from being entrusted with functions not related to internal audit activities.

Compliance with these requirements is monitored by the Central Harmonization Unit (CHU - the responsible unit of the Ministry of Finance) by:

- analysis of annual reports on the results of internal audit activities;
- conducting an external assessment of the quality of internal audit;
- periodic monitoring of the activities of internal audit units (for example, during the analysis of staff lists of state bodies, monitoring the quality of internal regulations on internal audit and planning their activities, etc.).

In particular, in 2020, according to the reports on the results of internal audit activities, in some state bodies, there were cases of non-compliance with functional independence and entrustment of internal audit units to perform functions not related to internal audit (participation in various commissions, tender committees, the performance of control and other functions, approval of draft management decisions, accounting and legal work, anti-corruption, etc.).

The Ministry of Finance informed the Government about these facts of internal audit units' performance of inappropriate functions, and also sent respective recommendations to state bodies to take measures to ensure the functional independence of internal audit units.

18. What is the procedure for consultation/submission of internal audit reports?

The internal audit standards stipulate that the draft audit report should be discussed with those responsible for the activities in order to provide additional assurance on the accuracy and objectivity of the information provided in the audit report (audit findings). Internal auditors may, if necessary, make adjustments to the draft audit report based on the results of such discussion.

The audit report is signed by the head of the audit team or the head and members of the audit team and submitted for review to those responsible for the activities. If, after reviewing the audit report, the person responsible for the activities does not agree with the conclusions and/or recommendations, he/she shall provide the head of the internal audit unit with substantiated comments under his/her signature. In turn, the head of the internal audit unit reviews such comments and provides the person responsible for the activities with written opinions on them.

The procedure for compiling the audit report, discussing the draft audit report, getting acquainted with it by those responsible for the activities, the procedure and timing of providing and reviewing comments on audit reports is determined in internal documents on internal audit, taking into account the requirements of Internal Auditing Standards.

The head of the internal audit unit submits signed audit reports and recommendations based on the results of the conducted internal audits to the head of the state body. Based on the results of consideration of audit reports, comments, conclusions on them (if any) and recommendations, the
head of the state body decides on the adoption of audit recommendations by persons responsible for the activities.

19. How is quality assurance of internal audit carried out?

Requirements for ensuring and improving the quality of internal audit are determined by the Procedure for conducting the internal audit and the establishment of internal audit units approved by the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001, and Internal Auditing Standards approved by the Ministry of Finance dated 04.10.2011 № 1247 (as amended by the order of Ministry of Finance dated 14.08.2019 № 344, hereinafter - Internal Auditing Standards).

Ensuring and improving the quality of internal audit is carried out by conducting internal and external assessments of the quality of internal audit and implementing measures based on their results.

In accordance with the Standards, the internal audit quality is assessed by the head of the internal audit unit (internal quality assessment) and by the Ministry of Finance by assessing the functioning of the internal audit system (external quality assessment).

Internal and external assessment of the quality of the internal audit is a process of research and analysis of internal audit activities in a state body in order to assess the internal audit function for compliance with national standards, codes, rules and other requirements of regulations in the field of internal audit, evaluation of the effectiveness of the implementation of the function and identification of measures to improve it (recommendations for improving the internal audit system).

Internal and external quality assessment should cover all aspects of internal audit activities in a state body, in particular, the organizational and legal framework for the functioning of the internal audit unit and personnel policy, internal regulatory framework for internal audit, internal audit planning system, organization and conducting of internal audits, documenting their results, the efficiency of internal audits and the implementation of their results, monitoring the implementation of audit recommendations, reporting on internal audit activities, interaction with internal and external stakeholders, etc.

Quality assessment concerns both the work of the internal audit unit and the internal audit activities of the state body as a whole, including senior management and operational units.

In accordance with the Standards of Internal Audit, the head of the internal audit unit annually draws up a program to ensure and improve the quality of internal audit, which should be approved by the head of the institution. The purpose of the program to ensure and improve the quality of internal audit is the continuous development, improvement of the internal audit unit activities and to increase the effectiveness of the internal audit function in the institution.

Internal quality assessment is implemented in two ways:

1) constant monitoring and support of the implementation of the internal audit function during the organization and conduct of the audit, and by the implementation of its results. Such monitoring is carried out at all levels (at the level of the head of the internal audit unit, the head of the audit team and each internal auditor, his immediate supervisor);

2) periodic evaluations of the activities of the internal audit unit, which are conducted at least once a year.
Approaches and methodology (procedures, manner, periodicity and forms/templates) for conducting internal quality assessments and requirements for drawing up a program to ensure and improve the quality of internal audit are determined by internal documents on internal audit issues.

After completing the periodic evaluation of internal audit activities, the head of the internal audit unit reports to the head of the institution on the results of the internal assessment of the quality of the internal audit, and informs him about the measures to be taken to improve internal audit activities.

External quality assessment (assessment of the functioning of the internal audit system of the state body, its territorial body and budgetary institution) is carried out by the Central Harmonization Unit (CHU - responsible unit of the Ministry of Finance) no more than once every three years in accordance with the Procedure approved by the Ministry of Finance. (MoF’s order № 480 "On approval of the Procedure for the Ministry of Finance of Ukraine to assess the functioning of the internal audit system" dated 03.05.2017). This assessment is carried out in the form of a study (including compliance and in essence). The subject of assessment of the internal audit system is the planning, organization and implementation of such an audit, monitoring of taking into account the recommendations based on the results of its implementation, compliance with the requirements of internal audit standards and other regulations on relevant issues by the officials of departments. Based on the results of the assessment of the functioning of the internal audit system, the Ministry of Finance provides recommendations on its improvement to the head of the state body.

To provide methodological support to internal audit units on ensuring the quality of internal audit, the Ministry of Finance has prepared a methodological manual "Assessment of the quality of internal audit in state bodies".

20. Please provide a general overview of the monitoring/follow-up procedure to ensure that agreed internal audit recommendations are implemented?

The head of the internal audit unit ensures that the results of the implementation of recommendations are monitored to ensure that those responsible for the activities have taken effective action to implement them, or that the management of the institution has assumed the risk of non-compliance with such recommendations.

The head of the internal audit unit determines which methods or their combination to use to track the results of the implementation of audit recommendations in each case, depending on the level of priority of audit recommendations. For example:

1) oral informing - regular communication with specialists responsible for the implementation of recommendations, observation, analysis of progress, etc.;

2) documentary tracking - official correspondence with specialists responsible for the implementation of recommendations, sending them periodic reminders, inquiries, etc.; use of forms (questionnaires) to obtain confirmation from the institution of the measures taken;

3) factual tracking - short visits to the institution whose activities were audited and direct communication of internal auditors with those responsible for the activities to collect evidence on measures on implementation of the recommendations;
4) follow-up audit - a study of the implementation of recommendations provided based on the results of a previous audit.

Monitoring the implementation of audit recommendations involves the taking of actions by employees of the internal audit unit to obtain information from those responsible for the activities on the results of the implementation of audit recommendations.

The head of the internal audit unit at least once a year reports to the head of the state body on the results of the internal audit unit activities, including:

- main results of the conducted internal audits and general conclusions on the assessment of the management and internal control system, including risk management;
- significant issues, including those identified as a result of audit engagements in prior periods that required actions that were not taken;
- results of recommendations implemented in the reporting period;
- measures that need to be further taken to improve the system of internal control and internal audit activities in the institution.

F. Central Harmonisation Units (CHU)

21. Is there a unit charged with developing common standards, harmonising practises, and coordinating the implementation of internal control and internal audit. What is the legal basis of their responsibilities? To whom does the CHU report?

In Ukraine, the Ministry of Finance of Ukraine is responsible for the development, harmonization, coordination and assessment of public internal financial control. According to Part 3 of Article 26 of the Budget Code of Ukraine, organizational and methodological principles of internal control and internal audit are determined by the Ministry of Finance, which ensures the formation and implementation of public policy in the field of public internal financial control, as well as conducts an assessment of the functioning of internal control and internal audit.

Similarly, according to the Regulation on the Ministry of Finance of Ukraine approved by the Cabinet of Ministers of Ukraine dated 20.08.2014 № 375, the Ministry of Finance is the main body in the system of central executive bodies that ensures the formation and implementation of public policy in the field of public internal financial control (subparagraph 2 of paragraph 3 of this Regulation).

In accordance with its tasks, the Ministry of Finance carries out regulatory and legal regulation in the field of public internal financial control (subparagraph 5 of paragraph 4 of this Regulation), determines the organizational and methodological principles of internal control and internal audit, assesses the functioning of internal control and internal audit systems (subparagraph 34-1 of paragraph 4 of this Regulation).

In order to ensure the implementation of the relevant powers, the Ministry of Finance established a respective structural unit - the Department of Harmonization of Public Internal Financial Control (Central Harmonization Unit, hereinafter - the Unit, CHU) having 17 staff units and four departments (unit of harmonization of internal control, unit of harmonization of internal audit, unit
of assessment of the functioning of systems of internal control and internal audit, unit of coordination of activities of divisions of internal audit).

The main tasks of the Unit are ensuring the formation and implementation by the Ministry of public policy in the field of public internal financial control; harmonization of internal control and internal audit; assessment of the functioning of internal control and internal audit systems; coordination of the activities of internal audit units; ensuring the formation and control over the implementation of state policy in the field of public financial control.

The Unit is responsible for the development of methodological documents and materials on internal control and internal audit. The developed methodology - methodological guidelines, manuals, textbooks (available at the link) - is of a recommendatory nature. Instead, mandatory general requirements for the organization and conduct of internal audits (planning and implementation of audit tasks), documenting their course and results, control over the implementation of audit tasks, as well as preparation of documents based on conducted internal audits, implementation of results of internal audits are defined by the Internal Auditing Standards.

The CHU reports annually to the Minister of Finance and the Government on the state of functioning of public internal financial control in Ukraine, including internal control, internal audit and harmonization activities. General information on the state of development of public internal financial control is also posted on a regular basis on the website of the Ministry of Finance.

22. How do the CHUs ensure that their guidance is adhered to? Are compliance reviews performed for this purpose?

Compliance with both mandatory requirements and recommendations on internal control and internal audit is monitored by the CHU by conducting an external quality assessment no more than once every three years in the manner prescribed by the Ministry of Finance.

This assessment is carried out in the form of a study (including compliance and in essence). The subject of assessment of the internal audit system is the planning, organization and implementation of such an audit, monitoring of taking into account the recommendations based on the results of its implementation, compliance with the requirements of internal audit standards and other regulations on relevant issues by the officials of departments. Based on the results of the assessment of the functioning of the internal audit system, the Ministry of Finance provides recommendations for its improvement to the head of the state body.

In accordance with the legislation, the head of the state body provides consideration of recommendations for improving the internal audit system provided by the Ministry of Finance, as well as the implementation of appropriate measures based on the results of their consideration. At the same time, the head of the body informs the Ministry of Finance about the status and method of taking into account the recommendations provided based on the results of the external quality assessment within the period set by the Ministry of Finance. An appropriate form for informing has also been developed for this purpose.

The CHU monitors the implementation of the recommendations provided by the results of external quality assessments until their full implementation.

Monitoring of taking into account the recommendations is carried out by continuous monitoring of the activities of internal audit units. To this end, in particular, ongoing monitoring of the
implementation of recommendations is carried out, as well as analysis of the activities of the internal audit unit to assess progress in the relevant aspects, and so on.

In particular, on an annual basis, the CHU analyzes the reporting on the results of the work of internal audit units of state bodies, which also contains information on the provided audit recommendations, the status and results of their implementation. Summary information on the results of the work of internal audit units is provided to the Government together with proposals for improving internal audit activities.

By periodically monitoring the activities regarding internal control and internal audit (internal audit units), the CHU monitors compliance with the established legal requirements and the developed methodology (for example, analyzes staffing of state bodies for compliance with organizational and functional independence of internal audit unit, monitoring the quality of internal regulations on internal audit and planning of their activities, etc.).

The CHU introduced monitoring and maintenance (in electronic form) of the base for monitoring the implementation of recommendations provided by the Ministry of Finance based on the results of external assessment of the quality of internal audit by state bodies, whose heads were given recommendations to improve the internal audit system.

Assessment of the state of taking into account the recommendations is carried out according to defined criteria (in particular, the body ensures the implementation of recommendations, information on taking into account the recommendations is incomplete, information on taking into account the recommendations indicates their formal implementation, recommendations are partially implemented or not implemented, information on taking into account the recommendations is not provided or informed about the disregard of recommendations, it is impossible to assess the state of taking into account the recommendations (in this case the state of taking into account the recommendations is determined by the results of the next quality assessment), the recommendation has lost relevance (due to relevant amendments to regulations on internal audit, etc.).

In case of failure to ensure the implementation of recommendations and/or failure to provide information on the status of their implementation, the head of the state body is sent appropriate letters of reminder. At the same time, if necessary, the Ministry of Finance may request appropriate documentary evidence on the implementation of the recommendations.

In addition, the state of implementation of the recommendations provided by the results of previous quality assessments must be investigated during the next external quality assessment in a state body.

Also, pursuant to paragraph 10 of the Basic Principles of Exercise of Internal Control by Key Spending Units, approved by the resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062, the relevant key spending units (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units of state budget funds) must annually submit to the Ministry of Finance a report on the organization and implementation of internal control in their institutions in terms of elements of internal control in the form prescribed by the Ministry of Finance.

The form of the Report on the organization and implementation of internal control in terms of elements of internal control approved by the order of the Ministry of Finance of Ukraine dated 19.04.2019 № 160. The structure of this form includes, in particular, a list of questions describing the
organization and implementation of internal control in terms of elements of internal control, and answers provided, that describe the actual state of settlement (functioning) of the issue.

The list of questions is formed annually by the Ministry of Finance and provided to the reporting entities, which on the basis of self-assessment of the state of internal control in their institution indicate the actual state of settlement (functioning) of the issue.

Forming a report and describing the actual state of settlement (functioning) of the relevant issue also helps the management of the reporting entity in conducting an internal assessment of the effectiveness of the internal control system in the institution and taking the necessary corrective measures.

23. Does the CHU prepare an annual review or a report on the state of implementation of internal control and internal audit? Is the annual review/report presented for discussion by the government? Please describe arrangements to ensure that government conclusions or recommendations on the review/report are actioned and followed up. Is the annual review/report published?

The Central Harmonization Unit of the Ministry of Finance annually analyzes the state of functioning of internal control and internal audit in state bodies (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units of state budget funds). In particular, it analyzes the reports received from state bodies on the state of organization and implementation of internal control in terms of elements, as well as reports (or information) on the results of activities of internal audit units, summarizes them and on its basis determines the current state and main trends in public internal financial control in the reporting period.

Generalized information on the state of functioning of state internal financial control in Ukraine with relevant recommendations and proposals for improving the organization and implementation of internal control and internal audit is provided annually to the Minister of Finance and the Cabinet of Ministers of Ukraine. General information on the state of development of public internal financial control is also posted on a regular basis on the website of the Ministry of Finance.

In turn, the Government, based on the results of consideration of reports on the state of public internal financial control in Ukraine, received from the Ministry of Finance, provides relevant instructions to heads of state bodies, taking into account recommendations and proposals of the Ministry of Finance to improve the organization and implementation of internal control and internal audit.

State bodies report to the Ministry of Finance on the results of the implementation of these recommendations and proposals, and the Ministry of Finance constantly monitors their implementation.

According to the Procedure № 1001, the head of the state body provides consideration of recommendations on improving the internal audit system provided by the Ministry of Finance, as well as the implementation of appropriate measures based on the results of their consideration.

If the Ministry of Finance, on the basis of current information, sees non-compliance with such recommendations, it may send letters to this state authority with the appropriate justification for the need to implement the recommendations. For example, such letters were sent to state authorities that lacked internal audit units despite established requirements. As a result, internal audit units were
established in all state authorities. Similarly, the Ministry of Finance provides comments on the staff lists of state authorities, etc.

In addition, information on the status of implementation of the recommendations provided by the Ministry of Finance is taken into account in the planning and selection of institutions by the Ministry of Finance for external assessments of the quality of internal audit. Based on the results of such quality assessments, the Ministry of Finance provides the head of the state body with more detailed “personalized” recommendations for improving the functioning of the internal audit system.

24. Please describe what cooperation arrangements exist between the CHUs and the Supreme Audit Institution(s), for informing each other about perceived internal control weaknesses in government systems, on training, etc.

The cooperation of the CHU of the Ministry of Finance with the Accounting Chamber on public internal financial control issues is carried out both through formalized meetings/working groups and in working order.

In particular, in order to establish effective cooperation in the field of public finance management, the Ministry of Finance has established a Working Group to reform the public financial management system of Ukraine (order of the Ministry of Finance of 22.12.2018 № 1124) which also includes the Working Subgroup on Financial Control, which is responsible for public financial control and public internal financial control issues. This working group discusses the prepared strategic documents and results of work with the involvement of a wide range of stakeholders, including representatives of the CHU of the Ministry of Finance, the Accounting Chamber, the State Audit Service, etc.

For example, in recent years, the meetings of the working subgroup addressed questions about the results of tasks of the Public Finance Management System Reform Strategy 2017-2020 and the Action Plan for its implementation in terms of public internal financial control, public financial control and external audit; the need to amend the Action Plan for the implementation of the Public Finance Management System Reform Strategy 2017-2020; updating the Public Finance Management System Reform Strategy and the action plan for its implementation in terms of public internal financial control, independent external financial control (audit) and public financial control.

At the same time, the issues of organizing the activities of the internal audit unit in the Accounting Chamber were discussed at a meeting with representatives of the Accounting Chamber on February 25, 2021. Following the meeting, the participants determined that the models for implementing the internal audit function in the Supreme Audit Institution, taking into account best international practices, could be considered in the framework of the technical assistance project currently being implemented in the Accounting Chamber.

The Ministry of Finance also processes and analyzes information from external bodies (the Accounting Chamber and the State Audit Service) on the state of internal control and internal audit in state bodies that were subject to control measures. Such information is taken into account by the Ministry of Finance when planning external assessments of the quality of internal audit, preparation of information on the state of functioning of state internal financial control, etc.

II. EXTERNAL AUDIT
25. Please list the Supreme Audit Institution (SAI) laws.

The following laws regulate the SAI’s functioning:

Constitution of Ukraine – Article 98: «The Accounting Chamber exercises control over the revenues of the State Budget of Ukraine and the use thereof on behalf of the Verkhovna Rada of Ukraine. The organization, powers and operational procedures for the Accounting Chamber are determined by the law»;

The Budget Code of Ukraine № 2456-VI dated July 8, 2010– in particular Article 26 «Control and Audit in the Budget Process», Article 110 «Powers of the Accounting Chamber to monitor compliance with budget legislation» etc;

The Law of Ukraine “On the Accounting Chamber” № 576-VIII dated July 2, 2015 (see attached);

The Law of Ukraine “On Critical Infrastructure” № 1882-IX dated November 16, 2021 (Article 26: «Independent external evaluation of the activities of the authorised body in the sphere of protection of critical infrastructure of Ukraine is carried out by means of conducting the annual external audit of its activity. The Accounting Chamber exercises the external audit of the activities of the authorised body in the sphere of protection of critical infrastructure of Ukraine. Once every three years the Accounting Chamber carries out the independent external evaluation of the national system of protection of critical infrastructure in accordance with the procedure defined by it on the basis of international standards for evaluation»);

The Law of Ukraine “On Intelligence” № 912-IX dated September 17, 2020 (Article 53: «The Accounting Chamber exercises the control over the use of funds of the State Budget of Ukraine by intelligence agencies or other entities of the intelligence community, if such use is associated with their involvement in intelligence tasks, as well as their compliance with the law while transactions with budget funds. A special group is set up from among the members of the Accounting Chamber to carry out the state external financial control»);

The Law of Ukraine “On Political Parties” № 2365–III dated April 5, 2004 (Article 17-9: «The public control of the proper use of the funds allocated from the State Budget of Ukraine for funding of statutory activities of political parties shall be exercised by the Accounting Chamber and National Agency on Corruption Prevention»);

The Law of Ukraine “On National Security of Ukraine” № 2469-VIII dated June 21, 2018 (part 4, Article 35: «The Accounting Chamber on behalf of the Verkhovna Rada of Ukraine exercises control over the revenues of the State Budget of Ukraine and the use thereof, and the central executive body, which implements the state policy in the sphere of public financial control, exercises the control over the use of funds of the State Budget of Ukraine allocated to funding of security and defence sector, unless otherwise provided by the law»;

The Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (from 10.02.2010 № 1861-VI) - in particular, Members of the Accounting Chamber are appointed to and dismissed by the Verkhovna Rada of Ukraine in order prescribed by the article 208-2 of the Rules of Procedure of the Verkhovna Rada of Ukraine, reports on the results of control measures, relevant decisions of the Accounting Chamber and information on the status of their implementation by the
objects of control shall be sent by the Accounting Chamber to the Verkhovna Rada within the time limits established by the Article 232-2 of the Rules of Procedure;

The Law of Ukraine “On Civil Service” - Officials of the apparatus of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are civil servants. Guarantees for the activities of officials of the apparatus of the Accounting Chamber are determined by the Law of Ukraine “On Public Service”;

The Law of Ukraine “On the prevention of corruption” - Chairman and other members of the Accounting Chamber, as well as officials of the Office of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are subjected to this Law.

The Law of Ukraine “On the cleansing of power” – In accordance with the provision 2.7 of the Article 19 of the Law of Ukraine on Accounting Chamber - a person cannot be appointed to the position of a member of the Accounts Chamber who has not passed the test (inspection) provided for by the laws of Ukraine “On the cleansing of power” and “On the prevention of corruption”.

26. Is the independence of each SAI anchored in the Constitution? Please provide the specific references in the parliament.

The status of the Accounting Chamber as a body which exercises the control over the revenues of the State Budget of Ukraine and the use thereof on behalf of the Verkhovna Rada of Ukraine is enshrined in the Constitution of Ukraine (Article 98 of the Constitution of Ukraine). The Constitution of Ukraine does not define directly the independence of the Accounting Chamber of Ukraine by itself. At the same time Article 98 of the Constitution of Ukraine as amended by laws of Ukraine № 586-VII on 19.09.2013, № 742-VII on 21.02.2014 provides that the Law of Ukraine “On the Accounting Chamber of Ukraine” (see attached) defines organization, powers and operational procedures for the Accounting Chamber. Article 3 of this Law envisages that activities of the Accounting Chamber are based on the principles of legality, independence, objectivity, fairness, publicity and political impartiality, and guarantees its independence.

Furthermore, the Constitutional Court of Ukraine has pointed on the independence of the Accounting Chamber (due to Article 147 of the Constitution of Ukraine performs the official interpretation of the Constitution of Ukraine) in the Judgement № 7-zp on 23.12.1997 in the case of the constitutional appeal of the President of Ukraine whether the Law of Ukraine «On the Accounting Chamber of Verkhovna Rada of Ukraine» (see attached) is compliant with the Constitution (the case on the Accounting Chamber of Ukraine): «The Accounting Chamber of Ukraine is an independent body of special constitutional competence».

27. Do the SAI laws provide for functional, operational and financial independence of the SAI in line with INTOSAI standards? Are the following aspects guaranteed in the legal framework and implemented in practice?

The main principles of the Lima and Mexico Declarations, which ensure the organizational, functional, managerial and financial independence of supreme audit institutions, have been implemented into the activities of the Accounting Chamber and are enshrined in law. The independence, mandate and organization of the Accounting Chamber, as a supreme audit institution
are established and protected by the legal framework and to a greater extent are implemented in practice.

Thus, one of the principles of the Accounting Chamber is the principle of independence. Article 3 of the Law of Ukraine “On the Accounting Chamber” provides that, the Accounting Chamber is organizationally, functionally and financially independent and independently plans its activities and stipulates the guarantees of its independence, in particular, the Accounting Chamber’s independence is ensured by:

1) procedure for the appointment and dismissal of the Members of the Accounting Chamber, established by the Constitution of Ukraine and the Law;

2) guarantees for activities of Accounting Chamber, enshrined in this Law and other laws of Ukraine;

3) special procedure for organizational provisions of Accounting Chambers activities, established by law.

The Law of Ukraine “On the Accounting Chamber” also provides that the Accounting Chamber while performing its mandate is independent from any Illegal influence, pressure or interference. Illegal interference in the exercise by the Accounting Chamber of its powers granted by the law is prohibited and entails liability established by law. Termination of the powers of the Verkhovna Rada of Ukraine is not a ground for reappointment of the Chairman and members of the Accounting Chamber.

The appeal of the Verkhovna Rada of Ukraine, its committees and other bodies, deputy requests and appeals, appeals of the President of Ukraine, the Cabinet of Ministers of Ukraine with proposals for the Accounting Chamber to carry out measures of state external financial control (audit) are considered at a meeting of the Accounting Chamber to decide on their inclusion in the plans work. In the event that such appeals and requests are not taken into account in the work plan, the Accounting Chamber provides a reasoned answer in the prescribed manner (Law of Ukraine “On the Accounting Chamber”, Article 27.2.).

Officials of the Office of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are civil servants, so their work conditions, such as the qualification requirements for auditors, the performance appraisal system and the professional development system are determined by the Law of Ukraine “On Civil Service”. The Law of Ukraine “On Civil Service” regulates the general regime of the civil service, the status of civil servants, the mutual hierarchy of positions. Therefore, the ACU is not independent to the full extent in determining its personnel management policy.

The legislation provides for the financial independence of the Accounting Chamber (part two of the Article 3 of the Law of Ukraine “On the Accounting Chamber”). At the same time the Accounting Chamber follows the same budget process and in the same order as others budget funds’ spending units, submitting its budget proposal to the Ministry of Finance who then transmits in established procedure to the Parliament. Article 5 of the Law of Ukraine "On the Accounting Chamber" states, ‘If during the preparation of the draft State Budget of Ukraine any differences on determination the amount of financial provisions of the Accounting Chamber emerged, provided that the Cabinet of Ministers of Ukraine failed to settle such differences, the Accounting Chamber may submit appropriate proposals (with justifications and calculations) to the committee of the Verkhovna
Rada of Ukraine whose competence includes the budget in order to make appropriate decision during consideration of the draft State Budget of Ukraine’.

Practical application of the Article 5 during last years proved the prescribed mechanism as sufficient to mitigate the risk of the executive institution holding undue control over the Accounting Chamber’s budget, although international good practice suggests Supreme Auditing Institutions should submit their budget proposals directly to Parliament (ISSAI 10:8). This manages not only any risk, but also the perception that the SAI is not financially independent from the executive power.

Recognizing the existing independency risks of the institution, the Accounting Chamber identified the specific objectives of the Accounting Chamber Development Strategy for 2019-2024 - the improvement of legislation to strengthen the institutional, organizational and financial independence of the Accounting Chamber (see attached).

However, due to the martial law imposed in Ukraine in connection with the military aggression of the Russian Federation, legislative changes are difficult. After the end of the martial law regime, the tasks of the Accounting Chamber Development Strategy for 2019-2024 will need supplementation and updating (see attached).

a) Is the independence of the Head of the SAI (or Council members in case of a collegial body) legally protected, including appointment, terms of employment, removal, dismissal and immunity during the normal discharge of responsibilities?

Yes, organizational independence of the Accounting Chamber is ensured by a clear procedure for the appointment and dismissal of the Chairman and Members of the Accounting Chamber, determination of the terms of their work, guaranteeing immunity in the normal performance of duties.

Members of the Accounting Chamber are appointed and dismissed by the Verkhovna Rada of Ukraine pursuant to requirement of the Article 20 of the Law of Ukraine “On Accounting Chamber” and in accordance with the procedure established by “The Rules of Procedure of the Verkhovna Rada of Ukraine” (Article 208 - 2).

The members of the Accounting Chamber shall be appointed on the competitive basis. Verkhovna Rada of Ukraine appoints members of the Accounting Chamber by open vote for the list of candidates, selected on the basis of the preferential ballot, by majority of votes of the elected parliamentary assembly.

Dismissal of members of the Accounting Chamber shall be carried out through an open vote by the majority of votes of people's deputies of the elected parliamentary assembly of Verkhovna Rada with the availability of decision of the Committee whose competence includes the budget.

The terms of office of the Chairman and the members of the Accounting Chamber shall be six years. A person shall have no right to be appointed for a new period more than twice.

The Article 3 of the Law of Ukraine “On Accounting Chamber” provides that the Accounting Chamber in the exercise of its authority is independent of any improper influence, pressure or interference. Unlawful interference with the exercise by the Accounting Chamber of powers granted by law is prohibited and shall entail liability established by the law.

At the same time, legislation does not provide that Members of the Accounting Chamber are immune to any prosecution for any action, past or present, that results from the normal discharge of their duties as the case may be.
b) Is the audit mandate of the SAI comprehensive, covering all public policy implementation and public financial operations?

The Accounting Chamber exercises the control over the revenues of the State Budget of Ukraine and the use thereof (Article 98 of the Constitution of Ukraine, Article 1 of the Law of Ukraine “On the Accounting Chamber”). In its activities, the Accounting Chamber strives to adhere to the principles of INTOSAI and EUROSAI, the provisions of the Lima Declaration of Supreme Audit Institutions.

Today the main list of powers of the Accounting Chamber is enshrined in Article 7 of the Law of Ukraine “On the Accounting Chamber”. Powers in the field of control over compliance with budget legislation are also enshrined in Article 110 of the Budget Code of Ukraine.

According to the legislation, the objects of control of the Accounting Chamber are state bodies, authorities of the Autonomous Republic of Crimea, local governments, other budget entities, including foreign diplomatic institutions of Ukraine, business entities, social or other organizations, funds of obligatory state social and pension insurance, the National Bank of Ukraine and other financial institutions (part 2 of article 7 of the Law of Ukraine on the Accounting Chamber).

In relation to all objects of control, the Accounting Chamber has the authority to conduct financial and performance audits of state budget revenues, use of budget funds, implementation of state targeted programs, investment projects, state procurement, state aid to economic entities at the expense of the state budget funds, as well as the granting credits, use of loans, public procurement and management of state property, in part that has consequences for the state budget.

The Accounting Chamber also has the authority to check the status of internal control of managers of the state budget funds.

The powers of the Accounting Chamber in relation to some public bodies are defined separately, namely, conducting audits of state budget funds management by the State Treasury Service of Ukraine (part 1 of Article 7, Article 9 of the Law of Ukraine “On the Accounting Chamber”), preliminary analysis of reports of the Antimonopoly Committee of Ukraine and the State Property Fund of Ukraine, in the part affecting the execution of the state budget (part 1 of Article 7 of the Law of Ukraine “On the Accounting Chamber”), auditing the execution of estimate of administrative expenses of the National Bank of Ukraine (part 1 of Article 7, Article 12 of the Law of Ukraine “On the Accounting Chamber”).

The examination of the draft state budget, as well as quarterly analysis of the state budget and analysis of the report on the implementation of the state budget are among the expert-analytical activities of the Accounting Chamber. The Accounting Chamber also conducts analytical activities in various socio-economic spheres. Such activities may cover a significant amount of resources examined, facilities, as well as focus on the most socially important issues. For example, analysis of the effectiveness of the realization of measures to implement the Poverty Reduction Strategy, Analysis of the system of obligatory state pension and social insurance and social protection, etc.

At the same time, it is considered very timely the need for a legislative solution, the extension of the mandate of the Accounting Chamber to all components of the public finance system, not just to cover the state budget and operations that have consequences for the state budget. The directions of such work are set out in the Development Strategy of the Accounting Chamber for 2019–2024 (see attached), namely the legislative consolidation of powers in terms of audits of information technology.
and systems (IT audits); use of grants, financial, technical assistance from other states or organizations; local budgets; state enterprises and enterprises with a share of state participation; state property management; management and use of natural resources. In addition, the powers of the Accounting Chamber to audit the government’s consolidated financial statements require clearer legal regulation.

c) Does the SAI have authority to undertake the full range of financial, compliance and performance audits?

The Accounting Chamber exercises the control over the revenues of the State Budget of Ukraine and the use thereof means of performance audits, financial audits, expertise, analysis and other control measures. At the same time, guided by the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber applies in its activities the principles of INTOSAI, EUROSAI and International Standards of Supreme Audit Institutions (ISSAI).

Currently, the Law of Ukraine “On the Accounting Chamber” does not contain provisions on conducting a compliance audit by the Accounting Chamber, as a separate type of audit. At the same time, according to the mentioned Law, the issues of targeted use of budget funds and compliance with the legislation in transactions with budget funds are examined by the Accounting Chamber during financial audits, and issues of legality, timeliness and completeness of management decisions by the participants of budget process – during performance audits.

At the same time, legislative consolidation of the Accounting Chamber’s powers to conduct compliance audits, which is one of the important types of audit defined by ISSAIs, is one of the strategic tasks of the Accounting Chamber. At the same time, the Accounting Chamber is already developing a methodology for compliance audits in accordance with the requirements of ISSAIs.

It is worth mentioning that the legislative definition of the performance audit doesn’t fully comply with the INTOSAI standards. By ISSAI 3000 performance auditing carried out by SAIs is an independent, objective and reliable examination of whether government undertakings, systems, operations, programs, activities or organizations are operating in accordance with the principles of economy, efficiency and/or effectiveness and whether there is room for improvement. At the same time, in accordance with Article 4 of the Law of Ukraine “On the Accounting Chamber”, the performance audit carried out by the Accounting Chamber focuses on compliance with the principles of productivity, efficiency, economy in the use of budget funds by their managers and recipients.

The Accounting Chamber has already started work on developing a Methodology documentation on Performance Audit and proposals for legislative changes to bring the concept of performance audit carried out by the Accounting Chamber in line with the requirements of International Standards on Supreme Audit Institutions.

d) Do SAI auditors have the rights to access the premises, records and documents of those bodies they are responsible for auditing?

Employees of the Accounting Chamber have unrestricted access to the premises of the audited bodies to undertake audit activities and decide what information they need to conduct an audit. The Law of Ukraine “On the Accounting Chamber” (Article 32) guarantees members of Accounting Chamber’s groups of auditors unrestricted access to records, documents and information. Members of the Accounting Chamber in accordance with Article 8 of the Law of Ukraine “On the Accounting Chamber” have the right to access all databases created at the expense of the state budget. In practice,
there are isolated cases of restricting by the audited bodies of auditors’ access to information that do not pose significant risks to obtaining the necessary audit evidence.

e) Do the SAIs perform any duties that are not strictly related to External Audit, for example, the filing of criminal charges?

The Accounting Chamber performs some duties that are not strictly related to External Audit. In particular, according to the Articles 7 and 41 of the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber shall notify the Bureau of Economic Security of Ukraine and other relevant law enforcement bodies within seven days in the case of detection of signs of criminal or administrative offense in the implementation of public external financial control’s (audit) measures.

In addition to traditional audits, such as financial, compliance and performance audits, the Accounting Chamber, referring to the Article 12 of the Lima Declaration on Guidelines on Auditing Precepts, examines the draft law on the State Budget of Ukraine submitted to the Verkhovna Rada of Ukraine.

The Accounting Chamber also analyzes the implementation of the State Budget of Ukraine and the annual report on the implementation of the Law on the State Budget of Ukraine submitted by the Cabinet of Ministers of Ukraine and prepares relevant conclusions and proposals to eliminate identified deviations and violations. At the same time, world experience shows that for many SAIs, budget execution analysis is also a traditional function.

28. Is the SAI financially independent of the executive? Is the SAIs entitled to use funds allocated to them as they see fit? Please describe the budget setting procedure?

The legislation provides for the financial independence of the Accounting Chamber.

At the same time the Accounting Chamber follows the same budget process and in the same order as other budget funds’ spending units, submitting its budget proposal to the Ministry of Finance, but not to the Parliament directly.

As the key spending unit of budget funds, in accordance with the requirements of the instructions and indicative threshold of the State Budget expenditures and granting of credits from the State Budget for the medium-term period, proved by the Ministry of Finance, the Accounting Chamber shall prepare proposals for the Budget Declaration – the document, what defines the principles of the budget policy and indicators of the State Budget for the medium term and is the basis for drafting the State Budget and forecasts of local budgets – and submits them to the Ministry of Finance. The Minister of Finance shall decide on the inclusion of budget proposals in the Budget Declaration. The Cabinet of Ministers of Ukraine shall approve the Budget Declaration and submit it to the Verkhovna Rada within three days together with the financial and economic justification. The Verkhovna Rada shall consider the issue of the Budget Declaration, on the results of the consideration it may adopt a draft resolution to take note of the Budget Declaration and/or approve the recommendations of the Verkhovna Rada regarding budget policy.

In accordance with the Budget Declaration, the Accounting Chamber shall organize and ensure the preparation of budget requests and submit them to the Ministry of Finance. The Ministry of Finance shall analyze the budget request for compliance with the Budget Declaration, as well as the efficiency of the use of budget funds. Based on the results of the analysis, the Minister of Finance shall decide to include the budget request in the draft State Budget of Ukraine, which shall be
submitted to the Cabinet of Ministers of Ukraine. The Cabinet of Ministers of Ukraine shall approve the draft Law on the State Budget of Ukraine and submit it together with the relevant materials to the Verkhovna Rada of Ukraine and the President of Ukraine no later than September 15 of the year preceding the planned one. Consideration and approval of the State Budget of Ukraine shall take place in the Verkhovna Rada according to the special procedure determined by the Rules of Procedure of the Verkhovna Rada of Ukraine.

Article 5 of the Law of Ukraine “On the Accounting Chamber” states, ‘If during the preparation of the draft State Budget of Ukraine any differences on determination the amount of financial provisions of the Accounting Chamber emerged, provided that the Cabinet of Ministers of Ukraine failed to settle such differences, the Accounting Chamber may submit appropriate proposals (with justifications and calculations) to the committee of the Verkhovna Rada of Ukraine whose competence includes the budget in order to make appropriate decision during consideration of the draft State Budget of Ukraine’.

Within two weeks from the date of the adoption of the law on the State Budget of Ukraine, the Ministry of Finance shall submit to the key spending units, including the Accounting Chamber, limit certificates on budget assignations and credits, on the basis of which draft estimates are specified, the draft plans of assignations are drawn up (except for the provision of credits from the budget) of the general fund of budget with the purpose of submitting to the Ministry of Finance of Ukraine the proposals on their inclusion in the implementation sheet of assignations of the general fund of the State Budget of Ukraine for the respective year.

After approval of the implementation sheet, the State Treasury Service of Ukraine shall, within three working days, deliver to the key spending units, including the Accounting Chamber, the extracts from the implementation sheet, which is the basis for the estimate of the Accounting Chamber.

The Accounting Chamber has the right to use the funds allocated to it under a separate budget article, according to its own estimate, which it independently approves according to paragraph 3 of Article 5 of the “On the Accounting Chamber”.

Within three weeks after the approval of the state budget implementation sheet, the Accounting Chamber shall submit to the Ministry of Finance of Ukraine the ratified estimate, calculations for it, plans of assignations of the general fund of budget and manning tables.

Amendments to the estimate of the Accounting Chamber shall be made on the basis of the decision of the Ministry of Finance of Ukraine to make amendments to the state budget implementation sheet. If there is a need to redistribute budget assignations in terms of economic classification of budget expenditures within the total budget assignations under the budget program, the Accounting Chamber, after making the relevant decision at the meeting, shall address to the Ministry of Finance of Ukraine and provide the justifications of the necessity of making such amendments.

The Accounting Chamber, having received budget assignations by approving them in the Law on the State Budget of Ukraine, shall develop and after approval by the Ministry of Finance of Ukraine shall approve budget program passports, manage budget funds within the established budget powers, ensuring efficient, effective and targeted use of budget funds, monitor the implementation of budget programs, and evaluate their efficiency.
29. Have the SAIs adopted and are implementing a Strategic Development Plan that sets out the internal development approach on a multi-annual basis? If yes, please provide information on the key development priorities (and a copy of each Strategic Development Plan).

The Development Strategy of the Accounting Chamber for 2019–2024 (hereinafter - the Strategy) was approved by the Accounting Chamber decision dated July 29, 2019 № 18-1 (see attached). Among other things, the provisions of this Strategy are based on the findings of the Functional Review of the Accounting Chamber’s activity and subsequent recommendations on the use of international standards by SAI.

The Strategy defines the mission, vision and values of the Accounting Chamber as the Supreme Audit Institution in Ukraine.

The key priorities of development are defined in the established strategic goals:

*Strategic Goal I. To Strengthen the Role of the Accounting Chamber as a Supreme Audit Institution in Ukraine.* The following actions are implemented with this end:

- to extend the Accounting Chamber's powers for the whole sector of public funds and state property management to be covered with audit, expert and analytical activities;
- to align the auditing methodology and practices with international standards to the maximum extent possible;
- to improve the quality of audit reports, reasoning of the Accounting Chamber's opinions, decisions and recommendations;
- to increase the level of implementation of the Accounting Chamber's recommendations, improve the process of monitoring their implementation and strengthen responsibility for non-adherence or improper implementation;
- to strengthen the Accounting Chamber’s role in the public sector managerial decision-making process.

*Strategic Goal II “To strengthen the institutional and professional capacity of the Accounting Chamber” provides:*

- to build up a flexible system of internal management at the Accounting Chamber, based on monitoring of all processes and change management;
- to establish a comprehensive internal control and audit system for the Accounting Chamber and its staff with due regard to the collegiality of decision-making;
- to improve the system of recruitment, placement and professional training;
- to provide for appropriate financial, material, information and technical support of the Accounting Chamber's activities;
- to ensure zero tolerance for any manifestations of corruption.

*Strategic Goal III. To Gain Public Recognition and Trust in the Accounting Chamber’s Activity should change the paradigm of relations with all stakeholders, emphasizing the importance of cooperation based on respect and continuous, result-oriented engagement, create the image of an independent and professional body that acts openly and transparently for the benefit of citizens and the State and deserves the society’s trust and respect.*
Strategic Goal IV “To Represent Effectively the Accounting Chamber in the International Audit Community” covers such areas as:

- to deepen integration into the global community of supreme audit institutions and provide for efficient exchange of professional information and practices;

- to strengthen the Accounting Chamber's role and intensify the work of the Accounting Chamber’s representatives at INTOSAI and EUROSAI in all areas of audit;

- to support the image and reputation of the Accounting Chamber as a professional auditor of projects implemented by international organizations;

- to sustain the practice of joint activities with the SAIs of other countries.

It is worth mentioning that presently tasks of the Strategy doesn’t have clear reflection in Annual Planning Activity of the Accounting Chamber. In accordance with Article 27 of the Law of Ukraine “On Accounting Chamber” The Accounting Chamber operates in accordance with the work plans approved at the meeting of the Accounting Chamber. But at the same time the annual work plan (audit plan) is actually a plan for the ACU's meetings to determine the list of audits and responsible Member of Accounting Chamber and does not include all tasks to be implemented during the year and resources necessary for implementation of each tasks, as well as clear link to the Strategy tasks.

At present time the Accounting Chamber together with experts of the EU Technical Assistance Project “Strengthening the external audit in line with international standards” carry out the measures, aimed at improving the planning process. For instance, the concept and road map on annual planning have been developed, the matrix for planning process of public external financial control (audit) is being developed, as well as unified approaches/criteria for risks and their assessment, criteria are developed for the provision of audits with resources (personnel, time, etc.).

30. How do SAIs ensure that their working methods and procedures are kept up to date with INTOSAI standards?

According to Part 7 of Article 3 of the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber uses in its work the basic principles of the International Organization of Supreme Audit Institutions (INTOSAI), the European Organization of Supreme Audit Institutions (EUROSAI) and International Standards of Supreme Audit Institutions (ISSAI) to the extent that is not contrary to the Constitution and the laws of Ukraine.

To ensure compliance with INTOSAI standards, the law provides for an external evaluation of its activities by one of the leading members of the International Organization of Supreme Audit Institutions (INTOSAI) at the request of the Accounting Chamber. The reports on the results of the external evaluation of activities should be posted on the official website of the Accounting Chamber. The last functional review of the Accounting Chamber's activity was conducted in 2018 by representatives of the supreme audit institutions of the United Kingdom, Germany and Poland. Its results, among other things, served as the basis of the first Accounting Chamber Development Strategy.

Implementation of international standards is a necessary condition for the development of the Accounting Chamber as a modern supreme audit institution, requires systematic improvement of legislation, audit methodology, and improving the interaction of the Accounting Chamber with
stakeholders. Given the above, the approximation of audit methodology and practice to international standards is defined by the Accounting Chamber Development Strategy for 2019-2024, Strategic Goal 1 “Strengthening the role of the Accounting Chamber as the supreme audit institution in Ukraine”, as one of its priorities (see attached).

Considering the above and in order to ensure auditing in accordance with International Standards of Supreme Audit Institutions (ISSAI), the Accounting Chamber actively work on improving the audit methodology. Thus, in particular, in 2019 the Accounting Chamber in cooperation with the expert of the National Audit Office of the United Kingdom developed and approved by the Decision of the Accounting Chamber dated December 17, 2019, № 37-9, the Financial Audit Manual. The Manual is based on the requirements of International Standards of Supreme Audit Institutions (ISSAI), current legislation of Ukraine, best practices of supreme audit institutions and is used by the Accounting Chamber while financial auditing. Work is also under way to develop by the Accounting Chamber, jointly with EU experts, the methodologies for performance audits, compliance audits and for the audit quality control in line with International Standards of Supreme Audit Institutions (ISSAI).

The Accounting Chamber aims to ensure a sufficient level of audit coverage of the most important areas of state activities by: applying clear criteria in planning audits, implementing a comprehensive control and audit quality assurance system, monitoring the implementation of recommendations provided by audits, which will generally contribute to the confidence of citizens, economic entities and other stakeholders that the approved budget programs are aimed at achieving specific goals, and budget funds are used legally, effectively, efficiently and economically. All these tasks are envisaged in the Accounting Chamber Development Strategy for 2019-2024 (see attached), and the Accounting Chamber is making efforts to implement them properly.

According to the Article 6 of the Law of Ukraine “On the Accounting Chamber” the Accounting Chamber under the procedure established by law and international agreements of Ukraine, cooperates with the Supreme Audit Institutions (SAIs) of other countries and international organizations.

International cooperation is the important tool of the ACU’s institutional development and strengthening the capacity to act as the SAI of Ukraine and help the institution to be updated with INTOSAI standards and best international practices. In the framework of the international specialized organizations as well as in the framework of bilateral cooperation the international cooperation provides the knowledge and experience exchange with the aim of improvement of public external audit, and also carrying out the international cooperated audits in most relevant issues for Ukraine.

31. What procedures do the SAIs have in place for quality control providing reasonable assurance that the SAI auditors are complying with professional standards including independence, objectivity, confidentiality and competence?

Procedures for quality control of control measures of the Accounting Chamber are defined in the Rules of Procedures of the Accounting Chamber and Recommendations on management and quality control of measures of public external financial control (audit) conducted by the Accounting Chamber, approved by the Decision of the Accounting Chamber of 10.11.2015 № 8-5.
Quality control is carried out in time of implementation of all measures of public external financial control (audit) conducted by the Accounting Chamber, and is divided into:

- preliminary quality control during the formation of the draft Working plan of the Accounting Chamber for the next year and when approving the program of the control measure,
- ex-post control during the consideration at the meeting of the Accounting Chamber of the report and other documents prepared as a result of completed control measures, and processing of the reports approved at the meeting of the Accounting Chamber.

In practice, it should be noted that the existing quality control system is not comprehensive and built on best external audit practices. In this regard, to ensure confidence in the auditors' compliance with professional standards, as well as seeking to fully implement ISSAI standards (IFPP) to ensure high audit quality, the Accounting Chamber is working on improvement of existing quality control procedures. Currently, in cooperation with international experts, the Concept for Implementation of the Quality Management System in the Accounting Chamber has been developed, based on the best international practices, INTOSAI principles, in particular international standards ISSAI 140 “Quality Control for Supreme Audit Institutions”, INTOSAI Code of Ethics (ISSAI 130) and requirements of current legislation of Ukraine. Also, the Methodological Manual on quality assurance and control and the specification of the process “Quality control review of completed measures of public external financial control (audits)” (cold review) are being developed.

32. How do the SAIs communicate their audit results (i.e. through media, websites, etc.)? Do the SAIs make their audit reports publicly available?

According to the Law “On the Accounting Chamber” reports on the results of performed control measures and relevant decisions of the Accounting Chamber shall be sent the audit objects, which are obliged to inform within one month the Accounting Chamber on the results of the consideration of the abovementioned decisions, as well as on planned and taken respective measures.

According to the amendments introduced to the Rules of Procedure of the Verkhovna Rada of Ukraine by the Law of Ukraine of December, 03, 2020 № 1052-IX, reports on the results of control measures and relevant decisions of the Accounting Chamber shall be sent by the Accounting Chamber to the Verkhovna Rada of Ukraine within 15 days. Also the Accounting Chamber sends to the Verkhovna Rada of Ukraine information on the status of implementation of the decisions of the Accounting Chamber by the control objects within 45 days from the date of receipt of such information from the control object.

In addition, information on the results of control measures undertaken in respect to the state executive bodies are to be submitted to the Cabinet of Ministers of Ukraine. According to the Law of Ukraine “On the Accounting Chamber” the Cabinet of Ministers informs the Accounting Chamber about the measures taken according to the consideration of such information.

According to the Law “On the Accounting Chamber” reports, decisions of the Accounting Chamber, informational messages on the status of implementation of the decisions of the Accounting Chamber by the control objects, except restricted access information, are published on the official website of the Accounting Chamber on a regular basis.

In total, the website of the Accounting Chamber contains reports and decisions on the results of 418 control measures and 42 informational messages on the status of implementation of the
decisions of the Accounting Chamber. Also, after reviewing the results of control measures at the meeting of the Accounting Chamber, meaningful short reports on the results of these control measures are promptly prepared and published on the website of the Accounting Chamber. In 2021 alone, 102 such press releases were published.

In addition to the official website, information is also posted on the Accounting Chamber's Facebook, Telegram, Twitter and You- Tube channels. The number of media references on the results of Accounting Chamber's activities remains stably high.

33. What procedures do the SAIs have in place to monitor the implementation of their audit recommendations?

According to the Article 36 of the Law of Ukraine “On the Accounting Chamber” the control object informs the Accounting Chamber about the results of the consideration of the Accounting Chamber’s decision, planned and taken measures accordingly to the decision within one month. If the control object has not informed the Accounting Chamber about results of consideration of its decision or the Accounting Chamber recognized the measures planned and taken by the control object in relation to its decision inadequate, the Accounting Chamber shall inform the relevant authorities and the public through the media.

The Accounting Chamber constantly monitors and analyzes the implementation by the control objects of the recommendations (proposals) approved by its decisions and adopted as a result of the discussion of the reports at the meetings of the Accounting Chamber. To this end, the auditors analyze the measures taken by the control objects and other involved state bodies to implement the decisions of the Accounting Chamber, evaluate them in terms of acceptability and sufficiency.

The Verkhovna Rada of Ukraine shall be informed about the status of implementation of the Accounting Chamber decisions by the control objects within 45 days from the date of receipt by the Accounting Chamber of information on that. Relevant information is also posted on the website of the Accounting Chamber and included in the annual reports on the activities of the Accounting Chamber.

The long-standing experience of the Accounting Chamber shows that a significant part of the recommendations of the Accounting Chamber has a systemic nature and concerns the need for amendments to legislation and other regulations, which takes time. 65.1% of the recommendation, based on the results of public external financial control (audit) measures, provided by the Accounting Chamber in 2020 and 2021, have been fully or partially implemented by the end of 2021.

At the same time, improving the system of monitoring the implementation of the recommendations of the Accounting Chamber and informing stakeholders about its results for appropriate response is one of the tasks envisaged by the Development Strategy of the Accounting Chamber for 2019-2024 (see attached). To fulfil this task, in cooperation with the EU international experts’ proposals on necessary amendments to the Rules of Procedure of the Accounting Chambers have been elaborated and the overview and description of the process "Monitoring the implementation of the recommendations of the Accounting Chamber on the results of the state external financial control (audit)" was prepared. Also, measures to improve the reflection of the results of monitoring the recommendations on the website of the Accounting Chamber are being taken.
34. How do the SAIs report their findings to the parliament? Are there dedicated committees to consider the SAI audit reports? What are the parliamentary procedures for examining SAI reports?

The Accounting Chamber shall, on a permanent and systematic basis, provide the legislative power and, in particular, the committees of the Verkhovna Rada of Ukraine with relevant, objective and prompt information, and inform the Verkhovna Rada of Ukraine about the results of all control measures.

In particular, in accordance with the amendments made by the Law of Ukraine dated December 3, 2020, № 1052-IX to the Rules of Procedure of the Verkhovna Rada of Ukraine, reports on control measures and relevant decisions of the Accounting Chamber shall be sent by the Accounting Chamber to the Verkhovna Rada within 15 days. The Accounting Chamber also sends to the Verkhovna Rada information on the status of implementation by the auditees of the decisions of the Accounting Chamber within 45 days from the date of receipt of information from the auditee.

Committees of the Verkhovna Rada of Ukraine at their meetings shall submit for consideration and discussion reports of the Accounting Chamber on the results of control measures, hear reports of Members of the Accounting Chamber, make appropriate decisions, which facilitate the implementation of recommendations provided by the Accounting Chamber.

The most active is the cooperation of the Accounting Chamber with the Verkhovna Rada of Ukraine Committee on Budget, which is the lead committee for the Accounting Chamber’s activities. In particular, the Subcommittee on Public Financial Control and Activities of the Accounting Chamber has been established and operates within this Committee, which carries out preliminary generalized consideration of reports on budget execution and conclusions of the Accounting Chamber on the results of control measures. In 2021, representatives of the Accounting Chamber took part in 37 hearings of this Committee and 64 hearings of its Subcommittees. At the same time, the reports of the Accounting Chamber are considered by other committees of the Verkhovna Rada of Ukraine - the Committee on Economic Development, the Committee on National Health, Medical Care and Health Insurance, the Committee on National Security, Defense and Intelligence, the Committee on Environmental Policy and Nature Management, the Committee on Education, Science and Innovation, etc.

The formal mechanism for consideration of the annual reports of the Accounting Chamber by the Parliament is defined by law and regularly implemented (The Law of Ukraine on “Accounting Chamber” Article 30 and the Rules of Procedure of Verkhovna Rada of Ukraine, Article 232-2). Based on the results of consideration of the annual reports of the Accounting Chamber, the Budget Committee of the Verkhovna Rada of Ukraine provides the Accounting Chamber with recommendations on improving its activities and other relevant actions.

35. What parliamentary follow-up is given to SAI audit reports?

Within the parliamentary control, the Verkhovna Rada receives from the Accounting Chamber all reports on the results of control measures, relevant decisions of the Accounting Chamber and information on the status of implementation of control decisions of the Accounting Chamber. This
information is passed to the Committee on Budget, other relevant committees, transmitted among MPs, and can also be considered at the plenary session of the Verkhovna Rada.

The Verkhovna Rada of Ukraine also shall consider the information of the Accounting Chamber on the results of unscheduled measures of public external financial control (audit) by the Decision of the Verkhovna Rada of Ukraine.

However, it should be noted that a clear regulatory procedure for Parliament's response to the reports of the Accounting Chamber on the results of public external financial control (audit) measures, which must be sent by the Accounting Chamber to the Verkhovna Rada of Ukraine, is not established. There is also no separate procedure for monitoring the implementation of audit recommendations of the Accounting Chamber, which were considered at the same time as the report at meetings of committees of the Verkhovna Rada of Ukraine, except for the procedure for monitoring the implementation of relevant committee decisions.

As part of the control over compliance with budget legislation, the Verkhovna Rada of Ukraine exercises control over the activities of the Accounting Chamber in exercising its powers defined by law (Article 109 of the Budget Code of Ukraine).

In particular, in accordance with the procedure established by the Rules of Procedure of the Verkhovna Rada of Ukraine, the Verkhovna Rada of Ukraine shall consider the annual report on the activities of the Accounting Chamber. Following the discussion of the report, the Verkhovna Rada of Ukraine may adopt a relevant resolution on taking the report into consideration, evaluating the activities of the Accounting Chamber, as well as making other decisions, the adoption of which is recommended in the report. In addition, it is stipulated, that following the discussion of the annual report, the Verkhovna Rada of Ukraine may decide to apply for necessary measures to public authorities and local governments that have not informed the Accounting Chamber about the results of its decisions or measures planned and undertaken due to its decisions recognized by the Accounting Chamber as inappropriate.

III. PROTECTION OF THE EU'S FINANCIAL INTERESTS

36. What are the applicable definitions of irregularity, fraud, passive corruption, active corruption, money laundering? Please identify:

a) the relevant provisions in the legislation;

b) the penalties for the principle offenses of fraud (both in revenue and expenditure), passive corruption, active corruption and money laundering in the legislation.

A) Legislative provisions on criminalization of fraud affecting the financial interests of the Union (hereinafter referred to as “fraud”), passive and active corruption, money laundering.

Irregularity

The definition for irregularity does not occur in Ukrainian legislation.

However, based on definition provided for in paragraph 2 of Article 1 of the Regulation on the protection of the European Communities financial interests (2988/95), irregularity means, inter alia,
any infringement of a provision of Community law, which have the effect of prejudicing the general budget of the Communities or budgets managed by them. It also may be performed by using an unjustified item of expenditure.

Currently, there are no special provisions in Criminal Code of Ukraine (hereinafter referred to as the CC) of Ukraine and Code of Ukraine on Administrative Offences, aimed to protect EU’s financial interests from irregularity.

At the same time, CC of Ukraine provides for liability for similar actions against State Budget of Ukraine and local budgets.

Article 210 of CC of Ukraine proscribes use of budget funds by an official contrary to their target allocation, as well as budget expenditures or loans from the budget without established budget allocations or in excess of them contrary to the Budget Code of Ukraine or the law on the State Budget of Ukraine for the year, where large amounts of State funds are involved.

Article 211 of CC of Ukraine provides liability for making of regulations or directives by an official, which modify budget revenues and expenses contrary to the procedures prescribed by law, where large amounts of budget funds are involved.

Also, Article 164\textsuperscript{12} of Code of Ukraine on administrative offences proscribes the breach of budget legislation, namely:

- inclusion of unreliable data in budget requests, which led to the approval of unjustified budget allocations or unjustified budget allocations; violation of the requirements of the Budget Code of Ukraine in the process of prepayment for goods, works and services at the expense of budget funds, as well as violation of the procedure and timing of such prepayment; making payments at the expense of budget funds without registration of budget commitments, in the absence of supporting documents or by including inaccurate information in payment documents, as well as unreasonable refusal to make payments by bodies providing treasury services of budget funds; violation of the requirements of the Budget Code of Ukraine in the process of implementation of state budget expenditures (local budget) in case of untimely entry into force of the Law on the State Budget of Ukraine (untimely decision on the local budget) for the year;

- commitments without appropriate budget allocations or in excess of the powers established by the Budget Code of Ukraine or by the Law on the State Budget of Ukraine for the relevant year; inclusion in the special fund of the budget of revenues from sources not classified as such by the Budget Code of Ukraine or the law on the State Budget of Ukraine for the relevant year; crediting budget revenues to any accounts, except for the single treasury account (except for funds received by Ukrainian institutions operating abroad), as well as accumulating them in the accounts of bodies controlling the collection of budget revenues; crediting budget revenues to the budget other than those specified by the Budget Code of Ukraine or by the Law on the State Budget of Ukraine for the relevant year, including due to the division of taxes and fees (mandatory payments) and other revenues between budgets in violation of certain amounts; implementation of state (local) borrowings, provision of state (local) guarantees in violation of the requirements of the Budget Code of Ukraine; making decisions that have led to exceeding the maximum amount of state (local) debt or the maximum amount of state (local) guarantees; placement of temporarily free budget funds in violation of the requirements of the Budget Code of Ukraine; creation of extra-budgetary funds, violation of the requirements of the Budget Code of Ukraine regarding the opening of extra-budgetary accounts for the placement of budget funds; granting loans from the budget or returning loans to the budget in
violation of the requirements of the Budget Code of Ukraine and / or the established conditions of budget lending; implementation by budgetary institutions of borrowings in any form or granting by budgetary institutions to legal entities or individuals of loans from the budget contrary to the Budget Code of Ukraine; violation of the requirements of the Budget Code of Ukraine on the allocation of funds from the reserve fund of the budget;

- expenditures, lending to the local budget, which according to the Budget Code of Ukraine shall be carried out at the expense of another budget; execution of budget expenditures or provision of loans from the budget without established budget allocations or with their excess in conflict with the Budget Code of Ukraine or the law on the State Budget of Ukraine for the relevant year; misuse of budget funds; issuance of legal acts, which unlawfully reduce budget revenues or increase budget expenditures; expenditures for the maintenance of the budget institution together with different budgets in conflict with the Budget Code of Ukraine or the law on the State Budget of Ukraine for the year.

In addition to these, irregularity has some signs of a tax offence according to Article 109 of Tax Code of Ukraine.»

**Fraud**

At present the Criminal Code of Ukraine (hereinafter referred to as the CC) contains a number of provisions allowing to prosecute behaviour, the necessity for criminalization of which is set out in Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 on fight against fraud aimed against financial interests of the Union by criminal and legal remedies (hereinafter referred to as the Directive).

As of today, there is no special provision that proscribes fraud with EU’s funds in Ukrainian legislation². At the same time, fraud with EU’s funds may be qualified as crime according to different Articles of CC of Ukraine depending on the form of action and mechanism of causing damage.

**Fraud with regard to expenditure**

The actions described in subpoints (і) of points (a) and (b) of Article 3(2) of the Directive, under certain conditions should be qualified as taking possession of another’s property or obtaining the right to property by deceit or abuse of trust (fraud) (Art. 190 of the CC) or as misappropriation, embezzlement of property or taking possession of it by abuse of office (Art. 191 of the CC).

In case of using knowingly forged documents in doing so, as well as in committing actions referred to in subpoints (і) of points (c) and (d) of Article 3(2) of the Directive, the person’s actions should be additionally qualified under paragraph 4 of Article 358 or 366 of the CC.

The actions described in subpoints (ii) of points (a) and (b) of Article 3(2) of the Directive under specific conditions are subject to prosecution as passive deception (failure to report information which a person should and could report) according to the respective paragraphs of Articles 190 or 191 of

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² It should be noted that item 86 of the Plan of Legislative Work of the Verkhovna Rada of Ukraine for 2022, approved by the Resolution of the Verkhovna Rada of Ukraine No. 2036-IX dated February 15, 2022, provides for the submission of a draft Law on Amendments to the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine on the establishment of liability for illegal actions with funds of international financial assistance of the EU to the Parliament in March 2022. Access mode: https://zakon.rada.gov.ua/laws/show/2036-IX#n15.
The actions described in subpoints (iii) of points (a) and (b) of Article 3(2) of the Directive under specific conditions are subject to prosecution as causing property damage by deception or abuse of trust (Article 192 of the CC).

**Fraud with regard to income**

The actions described in subpoints (i), (ii), (iii) of points (c) and (d) of Article 3(2) of the Directive under certain conditions should be qualified as causing property damage by deception or abuse of trust (Article 192 of the CC).

The actions described in subpoints (ii) of points (a), (b) (c) and (d) of Article 3(2) of the Directive, specifically, failure to submit the relevant information in violation of the special duty may be subject to qualification under Article 209-1 of the CC of Ukraine, in case of causing significant damage by them. If such actions were beforehand promised when committing fraud, then criminal liability occurs for aiding and abetting (paragraph 5 of Article 27) and Article 190 of the CC.

**Active and passive corruption**

The criminal legislation of Ukraine provides for liability both for active and passive corruption in the meaning of the Directive.

As it appears from Article 1 of the Law of Ukraine “On Prevention of Corruption”, the inherent features of corruption are the following:

- in case of passive corruption: use of official powers and appropriate opportunities, acceptance of unlawful benefit or acceptance of a promise/offer of such benefit as a form of action; unlawful benefit as its subject matter or purpose;
- in case of active corruption: promise/offer to provide or provision of unlawful benefit as a form of action; use of official powers and appropriate opportunities as means for achieving a purpose to obtain unlawful benefit.

Even though the terms “active corruption”, “passive corruption” in the text of the legislation of Ukraine on criminal liability are not used, all expressions of active and passive corruption in the meaning of the Directive are punishable at the level of the elements of criminal offences provided for by the CC.

Thus, liability for active corruption is provided for by:

- Article 369 of the CC (offer, promise or provision of unlawful benefit to an official);
- paragraph 1 of Article 369-2 of the CC (undue influence).

In its turn, liability for passive corruption is provided for by Article 368 of the CC (acceptance of offer, promise or receipt of unlawful benefit by an official).

**Money laundering**

Criminal liability for legalization (laundering) of the proceeds of crime is provided for by Article 209 of the CC giving the following definition of such criminal offence.

Acquisition, possession, use of proceeds in respect of which the factual circumstances indicate that they were obtained as a result of committed crime, including the execution of financial transaction or legal transaction with such proceeds, or moving, changing the form (transformation)
of such proceeds or committing actions aimed at concealing, disguising the origin of or possessing such proceeds, the right to such proceeds, the source of their origin, location, if such actions were committed by a person that knew or should have known that such proceeds were obtained — directly or indirectly, in whole or in part — as a result of committed crime.

In general, the Directive in terms of coverage by the elements of crime provided for by Article 209 of the CC of cases of laundering of property acquired as a result of fraud, active and passive corruption has been complied with.

B) Penalties for the offenses of fraud, passive and active corruption, and money laundering in the legislation of Ukraine.

Penalties for fraud

One of the key criteria of differentiation of liability and punishment for committing criminal offences provided for by Articles 190, 191, 192 of the CC is the amount of damage inflicted and amount (monetary measurement) of the subject matter of a criminal offence.

The above mentioned amounts are specified by the CC using such unified value (coefficient) as non-taxable minimum incomes of citizens to be determined according to certain methods annually and tending to increase.

Thus, with regard to offences provided for by Articles 190, 191 of the CC, the requirement of Article 7(2) of the Directive concerning punishment in the form of imprisonment is complied with.

Whereby the punishment in the form of imprisonment for up to 8 years (paragraph 3 of Article 190, paragraph 4 of Article 191) and up to 12 years (paragraph 4 of Article 190, paragraph 5 of Article 191) is provided for if an offence is committed on a large (from ≈EUR 10,000 to ≈24,000) and especially large scale (above ≈EUR 24,000) accordingly. This indicates compliance with requirements of Article 7(3) of the Directive, which requirements provide for that causing significant damage or obtaining significant benefit (above EUR 100,000) must be punishable by at least 4 years of imprisonment.

According to paragraphs 3 and 4 of note to Article 185 of CC of Ukraine, in Articles 185 through 191, and 194 of this Code, an offense is held to be committed in respect of a large amount, if it was committed in respect of an amount exceeding 250 tax-free minimum individual income at the time of the offense. Also, an offence is held to be committed in respect of an especially large amount, if it was committed in respect of an amount exceeding 600 tax-free minimum individual income at the time of the offence.

Tax-free minimum individual income that is used in qualification of crimes changes annually and depends on the amount of the subsistence minimum for able-bodied persons, which is enshrined in the Law of Ukraine on the State Budget for the year.

Considering the provisions of Section XX, subsection 1, clause 5 of the Tax Code of Ukraine, Art. 7, para 3 of the Law of Ukraine “On the State Budget of Ukraine for the year 2022,” the tax-free minimum income of citizens for the qualification of offences throughout 2022 should be understood as an amount equal to UAH 1,240.5, which, according to the official exchange rate of the National Bank of Ukraine for hryvnia to euro as of 19.04.2022, is EUR 39.23. Hereinafter, the calculation is conducted according to the official exchange rate of the National Bank of Ukraine in hryvnia to euro as of 19.04.2022.
At the same time, the sanction for committing a criminal offence stipulated by Article 192 of the CC does not provide for punishment in the form of imprisonment, which meets the requirements of the Directive regarding punishment for offences stipulated by point (c) of Article 3(2), but does not correspond to requirements concerning criminality of offences stipulated by point (d) of this Article of the Directive.

The sanctions for committing criminal offences provided for by Articles 358 and 366 of the CC are less strict. At the same time, whereas they may be applied in the aggregate with Articles 190, 191 and 192 of this Code, their influence on the final extent of punishment to be imposed is insignificant.

Punishment for active and passive corruption

Compliance of sanctions with requirements provided for in Article 7 of the Directive.

In general the sanctions for criminal offences provided for by Articles 368; 369; 369-2 of the CC are effective, proportionate and dissuasive.

Thus, the law provides for a possibility of application of the maximum punishment in the form of imprisonment for each of the above mentioned criminal offences. Whereby imprisonment is mandatory main punishment for specially qualified elements of criminal offences provided for by paragraphs 3, 4 of Article 368; paragraphs 3, 4 of Article 369; paragraph 3 of Article 369-2 of the CC.

Furthermore, deprivation of the right to hold certain positions or engage in certain activities is provided for as compulsory additional punishment for all types of the criminal offence provided for by Article 368 of CC.

The elements of the criminal offence provided for by Article 368 of the CC provides for qualifying elements related to the amount of unlawful benefit: unlawful benefit in a significant amount (paragraph 2 of Article 368 of the CC), unlawful benefit in a large amount (paragraph 3 of Article 368 of the CC), unlawful benefit in an especially large amount (paragraph 4 of Article 368 of the CC).

Taking into account point 1 of the note to Article 368 of the CC, during the entire year 2022 unlawful benefit in a significant amount shall be considered as an amount of ≈EUR 4,000, in a large amount – ≈EUR 8,000, and in an especially large amount – ≈EUR 20,000.

Whereby the maximum punishment in the form of imprisonment for up to 6 years; paragraph 3 of Article 368 of the CC – up to 10 years; paragraph 4 of Article 368 of the CC – up to 12 years is imposed for the criminal offence provided for by paragraph 2 of Article 368 of the CC.

As to the elements of the criminal offence provided for by Article 369 of the CC, although they do not contain qualifying elements related to the amount of unlawful benefit, however the provisions of Article 7(3) of the Directive are anyway aligned with the legislation of Ukraine, whereas every paragraph of the above mentioned Article contains a sanction allowing for application of the maximum punishment in the form of imprisonment for 4 years.

Furthermore, it should be noted that the elements of the criminal offences provided for by Articles 368; 369; 369-2 of the CC do not stipulate damage as a mandatory element. Therefore, in the context of the sanctions provided for by Articles 368; 369 of the CC, the legislation of Ukraine complies with the requirements of Article 7(3) of the Directive by imposing even stricter punishment in certain cases than required. At the same time, there is a problem with compliance of the sanction
stipulated by paragraph 1 of Article 369 of the CC with provisions of Article 7(3) of the Directive: these elements do not provide qualifying elements related to the amount of unlawful benefit, whereby in case of committing the criminal offence provided for by paragraph 1 of Article 369 of the CC, the subject matter of which is significant unlawful benefit, the court is deprived of a possibility to impose maximum punishment in the form of 4 years of imprisonment.

The amount of damage shall be considered by the court to grade the penalty. According to subparagraph 5 paragraph 1 of Article 67 of CC of Ukraine, grave consequences caused by the offense shall be considered as circumstances aggravating punishment.

*Compliance with requirements provided for in Article 8 of the Directive.*

The criminal offenses provided for by paragraph 4 of Article 190, paragraph 5 of Article 191, paragraph 4 of Article 369 of the CC contain a qualifying element – committing such crimes *by an organized group*.

Furthermore, according to point 2 of paragraph 1 of Article 67 of the CC committing a criminal offence *by an organized group* is an aggravating circumstance. Therefore, in case of committing the criminal offenses provided for by Articles 192, 368; 369 of the CC as part of the organized group the court will recognize it as an aggravating circumstance.

Point 2 of paragraph 1 of Article 67 of the CC (taking into account the reference to paragraph 3 of Article 28 of the CC), as well as paragraph 4 of Article 190, paragraph 5 of Article 191, paragraph 4 of Article 369 of the CC contain the term “organized group” the meaning of which is defined in paragraph 3 of Article 28 of the CC. In general, all organized criminal groups corresponding to the features of a criminal organization in the meaning of point 1 of Article 1 of the Council Framework Directive 2008/841/JHA will also correspond to the features of an organized group according to paragraph 3 of Article 28 of the CC.

It should be additionally stated that paragraph 4 of Article 28 of the CC defines the notion of committing a criminal offence by a criminal organization. According to the legislation of Ukraine, a criminal organization is a type of an organized group, whereas it has all features of the latter and has a few more specific features. Therefore, in case of committing criminal offenses by a criminal organization the approach described above is maintained (in case of active corruption the person’s actions will be qualified as a criminal offence provided for by paragraph 4 of Article 369 of the CC; in case of passive corruption the above mentioned circumstance will be taken into account as an aggravating circumstance) with the specifics that offenders will be additionally incriminated the relevant paragraph of Article 255 of the CC according to the rules of the aggregate of criminal offences.

*Penalties for money laundering*

Committing of the criminal offence provided for by paragraph 1 of Article 209 of the CC is punishable by imprisonment for a term of 3 to 6 years with deprivation of the right to hold certain positions or engage in certain activities for a term up to 2 years and with property confiscation.

Whereby if money laundering is committed repeatedly or by a group of persons upon their prior conspiracy, or in a large amount (≈EUR 235,000), offenders are imposed the punishment in the form of imprisonment for a term of 5 to 8 years with deprivation of the right to hold certain positions or engage in certain activities for a term up to 3 years and with property confiscation.

If legalization (laundering) of the proceeds of crime is committed by an organized group or in
an especially large amount (≈706,000), such action is punishable by imprisonment for a term of 8 to
12 years with deprivation of the right to hold certain positions or engage in certain activities for a
term up to 3 years and with property confiscation.

Therefore, punishment for legalization (laundering) of the proceeds of crime complies with the
requirements of Articles 7, 8 of the Directive.

The notion “infringement” in the meaning of the criminal law is defined by Article 11 of the CC

In particular, according to the above mentioned provision, a criminal offence means a socially
dangerous culpable act (act or omission) set out in the CC committed by a criminal offender.

The notion of an administrative offence is regulated by Article 9 of the Code of Ukraine on
Administrative Offences, according to which an administrative offence (misconduct) means an
unlawful, culpable (intentional or negligent) action or omission encroaching on public order,
ownership, rights and freedoms of the citizens, on the established administrative order and for which
the law provides for administrative liability. Administrative liability for offences provided for by this
Code occurs if such violations by their nature do not entail criminal liability according to the law.

Article 190 of the CC defines “fraud” as taking possession of another’s property or obtaining
the right to property by deceit or abuse of trust (fraud) and establishes liability for committing it. The
maximum punishment is provided for in the form of imprisonment for a term of up to twelve years
with property confiscation.

The notion “corruption” is defined by provisions of Article 1 of the Law of Ukraine “On
Prevention of Corruption”, and the liability is established by the above mentioned Law, as well as by
the CC.

In particular, corruption — use by the person referred to in paragraph 1 of Article 3 of this Law
of official powers conferred on him/her or related opportunities for the purpose of obtaining unlawful
benefit or acceptance of such benefit or acceptance of a promise/offer of such benefit for
himself/herself or other persons or accordingly a promise/offer or provision of unlawful benefit to the
person referred to in paragraph 1 of Article 3 of this Law, or upon his/her request to other individuals
or legal entities for the purpose of inducing such person to unlawful use of official powers conferred
on him/her or related opportunities.

The note to Article 45 of the CC establishes that corruption criminal offences according to this
Code are understood as criminal offences provided for by Articles 191, 262, 308, 312, 313, 320, 357,
410, in case if they are committed by abuse of office, as well as criminal offences provided for by
Articles 210, 354, 364, 364-1, 365-2, 368-369-2 of this Code.

Specifically, the CC defines the following unlawful actions as corruption:

- Article 210. Misuse of budget funds, expenditures of the budget or provision of credits
  from the budget without established budget assignments or in their excess (the maximum punishment
  is provided for in the form of imprisonment for a term of up to six years).

- Article 354. Bribery of an employee of an enterprise, institution or organization (the
  maximum punishment is provided for in the form of imprisonment for a term of up to three years).

- Article 364. Abuse of power or office (the maximum punishment is provided for in the
  form of imprisonment for a term of up to six years).
- Article 364-1 Abuse of powers by an official of a legal entity under private law irrespective of the legal structure (the maximum punishment is provided for in the form of imprisonment for a term of up to six years).

- Article 365-2 Abuse of powers by persons providing public services (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

- Article 368. Acceptance of offer, promise or receipt of unlawful benefit by an official (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 368-2 Illicit enrichment (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 368-3 Bribery of an official of a legal entity under private law irrespective of the legal structure (the maximum punishment is provided for in the form of imprisonment for a term of up to seven years).

- Article 368-4 Bribery of a person providing public services (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

- Article 368-5 Illicit enrichment (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 369. Offer, promise or provision of unlawful benefit to an official (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 369-2 Undue influence (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

Furthermore, corruption criminal offences are defined as the following unlawful actions, in case if they are committed by abuse of office:

- Article 191. Misappropriation, embezzlement or taking possession of property by abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 262. Stealing, appropriation or extortion of firearms, ammunition, explosives or radioactive material, or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to fifteen years).

- Article 308. Stealing, appropriation or extortion of drugs, psychotropic substances and their analogues or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 312. Stealing, appropriation or extortion of precursors or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 313. Stealing, appropriation or extortion of equipment designated for production of drugs, psychotropic substances and their analogues or obtaining it by fraud or abuse of office and other unlawful actions with such equipment (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).
- Article 320. Violation of established rules of traffic in drugs, psychotropic substances, their analogues or precursors (the maximum punishment is provided for in the form of imprisonment for a term of up to five years).

- Article 357. Stealing, appropriation or extortion of documents, stamps, seals, or obtaining them by fraud or abuse of office or their damage (the maximum punishment is provided for in the form of restriction of freedom for a term of up to three years).

- Article 410. Stealing, appropriation or extortion by a military employee of firearms, ammunition, explosives or other warfare agents, vehicles, military and special equipment or other military property, as well as obtaining them by fraud or abuse of office. (The maximum punishment is provided for in the form of imprisonment for a term of up to fifteen years).

Even though the terms “active corruption”, “passive corruption” in the text of the legislation of Ukraine are not used, the notion of corruption defined in Article 1 of the Law of Ukraine “On Prevention of Corruption” includes expressions of “passive corruption”, as well as “active corruption”:

- in case of passive corruption: use of official powers and appropriate opportunities, acceptance of unlawful benefit or acceptance of a promise/offer of such benefit as a form of action; unlawful benefit as its subject matter or purpose;

- in case of active corruption: promise/offer to provide or provision of unlawful benefit as a form of action; use of official powers and appropriate opportunities as means for achieving a purpose to obtain unlawful benefit.

The notion of “money laundering” is defined by Article 209 of the CC (Legalization (laundering) of the proceeds of crime), as well as by the provisions of the Law of Ukraine “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing, and Financing Proliferation of Weapons of Mass Destruction”.

In particular, according to Article 209 of the CC, such unlawful actions are understood as acquisition, possession, use of proceeds in respect of which the factual circumstances indicate that they were obtained as a result of committed crime, including the execution of financial transaction or legal transaction with such proceeds, or moving, changing the form (transformation) of such proceeds or committing actions aimed at concealing, disguising the origin of or possessing such proceeds, the right to such proceeds, the source of their origin, location, if such actions were committed by a person that knew or should have known that such proceeds were obtained — directly or indirectly, in whole or in part — as a result of committed crime. The maximum punishment is provided for in the form of imprisonment for a term of up to twelve years with property confiscation.

According to Article 5 of the Law of Ukraine of 06.12.2019 № 361-IX “On Prevention and Counteraction to Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”, legalization (laundering) of the proceeds of crime covers any actions related to the execution of financial transaction or legal transaction with the proceeds of crime, as well as commission of actions aimed at concealing or disguising the illicit origin of such proceeds or their ownership, rights to such proceeds, sources of their origin, location, movement, change in their form (transformation), as well as acquisition, possession or use of the proceeds of crime.
Administrative and criminal liability (Articles 209 and 209-1 of the CC) is introduced in Ukraine for violation of legislation in the area of prevention of and counteraction to legalisation (laundering) of proceeds of crime. Administrative liability is provided for by the Code of Ukraine on Administrative Offences (Articles 166-9, 188-4), the Law “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing, and Financing Proliferation of Weapons of Mass Destruction” (Article 32), the Law of Ukraine “On Banks and Banking” (Article 73).

In particular, according to Article 166-9 of the Code of Ukraine on Administrative Offences, individuals - officials of the primary financial monitoring entities are held liable for the following violations:

“violation of requirements for carrying out due diligence, requirements for identification of affiliation of customers and other persons specified by law with politically exposed persons, their family members, persons related to politically exposed persons; non-submission, untimely submission, violation of the procedure for submission or submission to the central executive authority implementing the state policy in the area of prevention of and counteraction to legalisation (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction, of incorrect information in cases provided for by law; violation of requirements for formation (maintenance) and storage of documents (including electronic ones), records, data, information; violation of requirements for accompanying transfers with information on initiator and recipient of the transfer; violation of requirements for refusal to establish (maintain) business relations (conducting a financial operation); violation of the procedure for suspension of financial operations (operation), as well as the procedure for freezing or unfreezing of assets related to terrorism and its financing, proliferation and financing of weapons of mass destruction; violation of requirements for detection and registration of financial operations subject to financial monitoring”.

Article 32 of the Law of Ukraine “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” provides for holding primary financial monitoring entities (legal entities and individuals performing functions of primary financial monitoring entities) liable for violations in the area of countering money laundering and terrorist financing.

Thus, the following enforcement actions may be applied to offenders:

1) written warning;

2) cancellation of a license and/or other documents entitling to carry out activity which enables a person to acquire a status of a primary financial monitoring entity, according to the procedure established by law;

3) imposition on a primary financial monitoring entity of a duty to suspend an official of such primary financial monitoring entity;

4) fine;

5) conclusion of a written agreement with a primary financial monitoring entity under which a primary financial monitoring entity is obliged to pay a specified monetary liability and take measures for elimination and/or avoidance in further activities of violations of requirements of the legislation in the area of prevention and counteraction, to ensure increased efficiency of operation and/or adequacy of the risk management system etc.
Paragraph 5 of Article 32 of the Law of Ukraine “On Prevention of, and Counteraction to, Legalisation (Laundering) of the Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” establishes specific amounts of penalties for breach of legislation in the area of counteracting to money laundering and terrorist financing. The maximum amount of a fine for financial institutions is 10 percent of the total annual turnover, but not more than 7,950 thousand non-taxable minimum incomes of citizens (approximately EUR 4 million), and for other institutions twice the amount of benefit obtained by the primary financial monitoring entity as a result of commission of the violation, and if the amount of such benefit cannot be determined, — 1,590 thousand non-taxable minimum incomes of citizens (approximately EUR 800 thousand).

Liability for banking institutions for violations of the legislation in the area of counteracting to money laundering and terrorist financing is provided for by Article 73 of the Law of Ukraine “On Banks and Banking”.

Furthermore, criminal liability provided for by Article 209-1 of the CC is imposed for violation of the legislation in the area of counteracting to money laundering and terrorist financing. In particular:

“Article 209-1. Intentional violation of requirements of the legislation on prevention of and counteraction to legalization (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction

1. Deliberate non-submission, untimely submission or submission of inaccurate information on financial transactions that are subject to financial monitoring, to the central executive authority that implements public policy in the field of preventing and countering legalization (laundering) of proceeds of crime, terrorist financing and financing the proliferation of weapons of mass destruction, if such actions caused significant damage to legally protected rights, freedoms or interests of separate citizens, state or public interests or interests of separate legal entities, — are punishable by a fine in the amount of one to three thousand non-taxable minimum incomes of citizens with deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

2. Disclosure in any form of a financial monitoring secret or a fact of exchange of information on financial transaction and its participants between the primary financial monitoring entities, state financial monitoring entities, other public authorities, as well as a fact of provision (receipt) of a request, decision or assignment of the central executive authority that implements the state policy in the area of prevention of and counteraction to legalization (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction, or provision (receipt) of response to such request, decision or assignment by a person to whom such information became known in relation to his/her professional or official activity, if such actions caused significant damage to legally protected rights, freedoms or interests of separate citizens, state or public interests or interests of separate legal entities, is punishable by a fine in the amount of three to five thousand non-taxable minimum incomes of citizens with deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.”

37. Please identify the relevant provisions in the legislation concerning the criminal liability of company managers. What is the applicable definition of complicity in economic crimes?
Criminal legislation of Ukraine does not differentiate into a separate category persons subject to criminal liability for committing certain unlawful actions, a head of a company as a subject of crime, but applies a more comprehensive concept of “official”, which may include a head of a company.

Heads of enterprises are covered by the concept of official and if the crime is committed by the head of the enterprise, his actions are regarded as actions committed by an official.

In particular, Article 18 of the CC offers the following definition for the term “public official”: public officials as persons who permanently, temporarily or by special authorisation carry out functions of representatives of state bodies or local self-governing bodies, permanently or temporarily hold in state bodies, local self-governing bodies, enterprises, institutions or organisations positions related to the performance of organisational and administrative or administrative and economic functions, or perform these functions upon special authorisation given to these persons by a competent state body, local self-governing body, central body of state governance with special status, competent body or an official of an enterprise, institution, organisation, by court or by law. Officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons who perform state functions for a foreign state, in particular for a state body or a state-owned enterprise), foreign arbitrators, persons authorised to decide on civil, commercial or labour disputes in foreign states in alternative or judicial proceedings, officials of international organisations (employees of an international organisation or any other persons authorised by this organisation to act on its behalf), as well as members of international parliamentary assemblies, in which Ukraine participates, and judges and officials of international courts are also recognised as public officials.

Note to Article 364 of the CC additionally governs that for the purposes of Articles 364, 368, 368-5 and 369 of this Code, persons who permanently, temporarily or by special authorisation carry out functions of representatives of state bodies or local self-governing bodies, permanently or temporarily hold in state bodies, local self-governing bodies, at state-owned or municipal enterprises, in institutions or organisations positions related to the performance of organisational and administrative or administrative and economic functions, or perform these functions upon special authorisation given to these persons by a competent state body, local self-governing body, central body of state governance with special status, competent body or an official of an enterprise, institution, organisation, by court or by law are recognised as public officials. Officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons who perform state functions for a foreign state, in particular for a state body or a state-owned enterprise), as well as foreign arbitrators, persons authorised to decide on civil, commercial or labour disputes in foreign states in alternative or judicial proceedings, officials of international organisations (employees of an international organisation or any other persons authorised by this organisation to act on its behalf), members of international parliamentary assemblies, in which Ukraine participates, and judges and officials of international courts are also recognised as public officials.

Pursuant to the CC, the commission of a crime by an official is a distinct qualifying element, which is defined in separate articles of the Code.

The criminal legislation of Ukraine does not specify a separate type of complicity in economic crimes, recognizing the general requirements for definition of complicity in a criminal offence.
In particular, Section VI of the CC defines the notion of complicity, its forms and criminal liability of accomplices.

Complicity in a criminal offence is wilful joint participation of several criminal offenders in commission of a wilful criminal offence. Accomplices in criminal offence, together with a perpetrator, are a head, inciter and accessory.

As to criminalization in the legislation of Ukraine of accomplices’ conduct, it should be mentioned that all accomplices are subject to criminal liability, and commission of a crime in complicity is considered as an aggravating circumstance. In particular, commission of a criminal offence by a group of persons upon prior conspiracy, according to Article 67 of the CC is recognized as aggravating circumstances.

It should be separately noted that paragraph 3 of Article 6 of the CC establishes that a criminal offence is recognized as committed in the territory of Ukraine if a perpetrator of or at least one accomplice to it was acting in the territory of Ukraine.

**Notion of complicity in economic crimes**

**Complicity under the Criminal Code of Ukraine**

As to criminalization in the legislation of Ukraine of accomplices’ conduct, it should be mentioned that all accomplices are subject to criminal liability, and commission of a crime in complicity is considered as an aggravating circumstance.

The CC *does not distinguish* a special notion or specific features of complicity in economic crimes.

According to Article 26 of the CC, *complicity in a criminal offence* is wilful joint participation of several criminal offenders in commission of a wilful criminal offence.

Therefore, the general features of complicity under the CC are the following:

- two or more criminal offenders\(^3\);
- commonality of conduct of such offenders;
- deliberateness of their criminal conduct\(^4\);
- deliberate nature of an offence in committing which the above mentioned offenders participate.

Types of accomplices is defined in Article 27 of the CC, according to which accomplices in criminal offence, together with a perpetrator, are:

- head;
- inciter;
- accessory.

Taking into account the definition of an accessory as a person who, inter alia, *abetted in*

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\(^3\) Definition and features of offenders are specified in Article 18 of the CC.

\(^4\) Definition of types of intent is specified in Article 24 of the CC.
commission of a criminal offence by other accomplices⁵, correlation of the above mentioned types of accomplices with the requirements of the Directive indicates that the CC to the fullest extent meets the provisions of Article 5(1) thereof⁶.

In accordance with paragraph 2 of Article 29 of the CC, a head, inciter and accessory are subject to criminal liability under the relevant paragraph of Article 27 and that Article (paragraph of Article) of the Special Part of the CC which provides for a criminal offence committed by a perpetrator.

It should be separately noted that paragraph 3 of Article 6 of the CC establishes that a criminal offence is recognized as committed in the territory of Ukraine if a perpetrator of or at least one accomplice to it was acting in the territory of Ukraine, which is in line with the requirements of Article 4 of the Convention.

2) Criminal liability of company managers for crimes committed by subordinate employees

Legal Frameworks of the Convention and the Directive

Article 3 of the Convention and separate provisions of the Directive, in particular, point (9) of the preamble, specify the necessity for regulating the issue of liability of company managers for commission by their subordinate employees acting on behalf of companies of fraud affecting the financial interests of the Union (hereinafter referred to as fraud), of passive and active corruption, money laundering.

**Liability for an offence committed by a subordinate employee under the CC**

A company manager is subject to criminal liability for commission by his/her subordinate employee of fraud, passive and active corruption, money laundering on the general grounds stipulated by the CC.

Despite the absence in the CC of special provisions dedicated to this issue, such manager may act as a perpetrator of a relevant offence, as well as any other accomplice defined by Article 27 of the CC.

In case of commission by a subordinate employee acting on behalf of the enterprise of a relevant criminal offence, a company manager potentially may be brought to criminal liability:

- **in case of proof of wilful joint participation** of a manager in an offence committed by a subordinate employee — as an accomplice (co-perpetrator, head, inciter, accessory) or;

- **in the absence of intent** or other elements of complicity but presence of negligence as a form of guilt — for official negligence, that is non-performance or improper performance by an official of his/her duties due to unconsciousientious attitude to them which caused significant damage to

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⁵ According to paragraph 5 of Article 27 of the CC an accessory is considered to be a person who by his/her advice, instructions, provision of means or instruments or elimination abetted in commission of a criminal offence by other accomplices, as well as a person who in advance promised to hide a person who committed a criminal offence, means or tools for committing a criminal offence, trace of a criminal offence or items obtained in a criminally unlawful manner, to purchase or sell such items or otherwise abet in concealment of a criminal offence.

⁶ Moreover, the CC defines the notion of the “head” for a criminal offence which is not directly mentioned either in the Convention, or in the Directive.
legally protected rights, freedoms and interests of separate citizens, state or public interests or interests of separate legal entities (Article 367 of the CC). The above specified provisions of the CC are indicative of compliance by Ukraine of the requirements of Article 3 of the Convention and point (9) of the preamble of the Directive.

38. Please identify the relevant provisions in the legislation concerning the liability of legal persons.

Criminal law measures applicable to legal entities and grounds for applying them are regulated by section XIV-1 of the CC.

In particular, Article 96-3 of the CC stipulates grounds for applying criminal law measures to legal entities.

1. The grounds for applying criminal law measures to the legal entity shall be as follows:

1) commission by its authorised person on behalf of and in the interests of the legal entity of any criminal offence provided for in Articles 209 and 306, paragraphs 1 and 2 of Article 368-3, Paragraphs 1 and 2 of Article 368-4, Articles 369-2 and 369-2 of this Code;

2) failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the commission of any of the criminal offences provided for in Articles 209 and 306, paragraphs one and two of Article 368-3, paragraphs one and two of Articles 368-4, Articles 369 and 369-2 of this Code;

3) commission by its authorised person on behalf of the legal entity of any of the criminal offences provided for in Articles 111-1, 258–258 2 of this Code;

4) commission by its authorised person on behalf of and in the interests of the legal entity of any of the criminal offenses provided for in Articles 109, 110, 113, 114-2, 146, 147, paragraphs two to four of Article 159-1, Articles 160, 260, 262, 436, 437, 438, 442, 444, 447 of this Code;

5) commission by its authorised person on behalf and in the interests of the legal entity of any of the criminal offences provided in Articles 255, 343, 345, 347, 348, 349, 376–379, 386 of this Code;

6) commission by an authorised person on behalf of and in the interests of the legal entity against a minor of any of the criminal offences provided for in Articles 152–156 1, 301 1–303 of this Code.

Note 1. An authorised persons of the legal entity shall mean its officials, as well as other persons entitled to act on behalf of the legal entity by virtue of law, its constituent documents or the relevant agreement.

2. Criminal offences provided for in Articles 109, 110, 113, 114 2, 146, 147, 152–156 1, paragraphs two to four of Article 159-1, Articles 160, 209, 255, 260, 262, 301 1–303, 306, 343, 345, 347, 348, 349, paragraphs one and two of Article 368-3, paragraphs one and two of Article 368-4, Articles 369, 369 2, 376–379, 386, 436, 437, 438, 442, 444, 447 of this Code shall be deemed committed in the interests of the legal entity, if they resulted in its obtaining improper advantage or created conditions for such advantage or were aimed at evading liability under the law.
Article 96-6 of the CC stipulates the following types of criminal law measures applicable to legal entities:

1) fine;
2) property confiscation;
3) liquidation.

1) Peculiarities of criminal law measures applicable to legal entities in the legal system of Ukraine

Due to the peculiarities of the individual nature of criminal liability which are typical for the legal system of Ukraine, Ukraine has not introduced criminal liability of legal entities, however, the so called “quasi-criminal liability of legal entities” is implemented in the state providing for application of criminal law measures to them (Section XIV of the CC).

The grounds for applying criminal law measures to the legal entity include commission by its authorized person on behalf and in the interests of the legal entity of one of criminal offences the list of which is given in points 1, 3–6 of paragraph 1 of Article 96-3 of the CC, or failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the commission of one of the offences referred to in point 2 of paragraph 1 of Article 96-3 of the CC.

2) Criminal law measures applicable to legal entities for fraud affecting the financial interests of the Union (hereinafter referred to as fraud)

As stated in the answer to Question No. 36, the actions which according to Article 3 of Directive are assigned to the types of fraud, may be qualified under Articles 190, 191, 192, 358, 366 of the CC.

Given that the list given in paragraph 1 of Article 96-3 of the CC the above mentioned articles are not included, application of criminal law measures to legal entities for fraud (in the meaning of the Directive) is impossible at the moment.

A relevant draft Law is to eliminate the above mentioned problem.\(^7\)

3) Criminal law measures applicable to legal entities in case of commission of active corruption, passive corruption, legalization (laundering) of proceeds.

Grounds for applying criminal law measures to legal entities include, inter alia, the following:

- commission by an authorized person on behalf and in the interests of a legal entity of the criminal offences provided for in Articles 209; 369, 369\(^2\) of the CC (point 1 of paragraph 1 of Article 96\(^3\) of the CC of Ukraine);

- failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the commission of any of the criminal offences provided for in Articles 209; 369; 369\(^2\) of the CC (point 2 of paragraph one of Art. 96\(^3\) of the CC).

At the same time, separate provisions of the legislation of Ukraine appear to be insufficient for full alignment to the Directive.

\(^7\) See answer to Question No. 36.
Thus, according to Article 6(2) of the Directive, the possibility of holding legal entities liable must be ensured in cases when insufficiency of management or control by the person specified in paragraph 1 of this Article made it possible for a duly authorized person to commit any of the criminal offences specified in the Directive in favour of the legal entity.

Whereby the grounds for applying criminal law measures to legal entities provided for in points 1, 3, 4, 5, 6 of paragraph 1 of Article 96 of the CC in essence involve active conduct of an authorized person on behalf and in the interests (except for point 3 of paragraph 1 of Article 96 of the CC) of a legal entity, and provisions set out in point 2 of paragraph 1 of Article 96 of the CC appear to be insufficient for compliance with the requirements of Article 6(2) of the Directive to the fullest extent in view of the list of criminal offences given in point 2 of paragraph 1 of Article 96 of the CC. Furthermore, “insufficiency of management and control” is an element wider in content than “failure to ensure the fulfilment of obligations to take measures to prevent corruption”.

4) Sanctions which might be applied to legal entities

According to paragraph 1 of Article 96 of the CC the following criminal law measures might be applied to legal entities:

1) fine;
2) property confiscation;
3) liquidation.

The amount of a fine must be twice the amount of unlawful benefit (paragraph 1 of Article 96 of the CC); if such unlawful benefit was not obtained or its amount is impossible to calculate, then depending on severity of the committed criminal offence, a fine might amount from UAH 85,000 to UAH 1,700,000 (paragraph 2 of Article 96 of the CC).

Given the discretionary nature of provisions of Article 9 of the Directive (which is evidenced by wording in its text “which include criminal or non-criminal fines and might include other sanctions, in particular...”), the provisions of the legislation of Ukraine concerning criminal law measures applicable to legal entities in case of commission of active corruption and legalization (laundering) of the proceeds of crime, in general comply with Articles 6, 9 of the Directive.

39. Please identify the relevant provisions in the legislation concerning the possible seizure, confiscation of material gain or removal measures for results and instruments of economic crimes as well as obligation to safeguard evidence in the cases of suspected fraud.

According to provisions of Article 131 of the Criminal Procedure Code of Ukraine, temporary seizure and attachment of property are assigned to the measures aimed at securing criminal proceedings.

The grounds for seizure and attachment of property are regulated by chapters 16 and 17 of the Criminal Procedure Code of Ukraine.

The grounds for temporary seizure of property are specified by Article 167 of the Criminal Procedure Code of Ukraine, according to which temporary seizure of property is actual deprivation of the suspect or persons possessing the property specified in paragraph two of this Article of the possibility to possess, use and dispose of certain property until resolution of the issue on seizure of property or its return, or its special confiscation according to the procedure established by law.
Temporary seized property may include property in the form of things, documents, money etc. with regard to which there are sufficient grounds to consider that they:

1) have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and (or) have trace of it on themselves;

2) have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;

3) are a subject matter of a criminal offence, including that related to their illicit trafficking;

4) have been obtained as a result of commission of a criminal offence and/or constitute income from them, as well as property into which they were fully or partially transformed.

Furthermore, according to Article 170 of the Criminal Procedure Code of Ukraine, property attachment means temporary, until revoked under procedure set forth in this Code, deprivation by the order of investigating judge or court of the right to alienate, dispose of and/or use property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, is subject to confiscation from the suspect, accused, convicted person, third parties, or confiscation from a legal entity, to secure a civil action, recovery from the legal entity of the received improper advantage or probable confiscation of property.

Property attachment shall aim to prevent the possibility of its concealment, damage, deterioration, destruction, transformation or alienation. The investigator, prosecutor takes the necessary measures to identify and search for property that may be seized within the framework of criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes (ARMA), other public authorities and local self-governing bodies, natural persons and legal entities. The investigator, prosecutor takes the necessary measures to identify and search for property that may be seized within the framework of criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes (ARMA), other public authorities and local self-governing bodies, natural persons and legal entities.

Property attachment is allowed to ensure:

1) preservation of material evidence;

2) special confiscation;

3) property confiscation as a type of punishment or criminal law measure applicable to a legal entity;

4) reimbursement of damage caused as a result of a criminal offence (civil claim) or recovery of obtained unlawful benefit from a legal entity.

The issue of preservation of material evidence in criminal proceedings is regulated by provisions of the Criminal Procedure Code of Ukraine, in particular, by Article 100, according to which a material evidence or document provided voluntarily or on the basis of a judgment is to be kept with a party to the criminal proceedings to which it is provided. A party to the criminal proceedings to which a material evidence or document is provided is obliged to keep them in the condition suitable for use in the criminal proceedings. Material evidence that has been obtained or
seized by investigator or prosecutor is examined, photographed and described in detail in the examination report.

A court decides on special confiscation and future of material evidence and documents, which have been produced before the court, when approving a court decision closing criminal proceedings. Such evidence and documents are kept until the entry into force of the decision. Furthermore:

1) money, valuables and other property which have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and/or have trace of it on themselves are subject to confiscation, except for cases where an owner (rightful holder) was not and could not be aware of their illegal use. In such case the above mentioned money, valuables and other property is returned to an owner (rightful holder);

2) money, valuables and other property which have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it are subject to confiscation;

3) property which has been the object of a criminal offence related to illicit trafficking and/or withdrawn from circulation, is to be transferred to respective institutions or destroyed;

4) property which does not have any value and may not be used is to be destroyed, and if necessary — transferred to criminalistic collections or expert institutions or interested persons upon their request;

5) money, valuables and other property, which have been the object of a criminal offence or another socially dangerous act, are confiscated, except those to be returned to an owner (rightful holder) or, where he/she is not identified, transferred into ownership of the state according to the procedure established by the Cabinet of Ministers of Ukraine;

6) money, valuables and other property which have been obtained by an individual or legal entity as a result of commission of a criminal offence and/or constitute income from it, as well as property into which they were fully or partially transformed are subject to confiscation;

6-1) property (funds or other property, as well as income from them) of a person convicted for having committed a corruption crime, legalization (laundering) of the proceeds from crime, of his/her related person is subject to confiscation, unless the court confirms the legality of grounds for acquisition of rights to such property. Related persons of a convicted person are legal entities which with his/her assistance have obtained the above mentioned property for ownership or use.

7) documents forming material evidence are kept in materials of the criminal proceedings during the entire time of their custody.

The provisions of Articles 96-1, 96-2 of the CC establish the procedure and cases for applying special confiscation which involves forcible free taking by court decision of money, valuables and other property into ownership of the State in cases stipulated by the Code and is applied in case if money, valuables and other property:

1) have been obtained as a result of commission of a criminal offence and/or constitutes income from such property;

2) have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;
3) have been the object of a criminal offence, except those to be returned to an owner (rightful holder) or, where he/she is not identified, transferred into ownership of the state;

4) have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence, except for those to be returned to an owner (rightful holder) who was not and could not be aware of their illegal use.

Furthermore, property confiscation is one of types of punishment and is applied according to the procedure and on the basis of Articles 59 and 96-8 of the CC.

Thus, according to Article 59 of the CC, punishment in the form of property confiscation involves forcible free taking of all or a part of the property owned by the sentenced person in favour of the State. If a part of property is confiscated, the court must state which exact part of property is confiscated or list items to be confiscated. Property confiscation is imposed for grave and especially grave mercenary crimes as well as for the crimes against the foundation of national security of Ukraine and public security, irrespective of their gravity and may be imposed only in cases expressly provided for under the Special Part of this Code.

Furthermore, according to Article 96-8 of the CC property confiscation involves forcible free taking of legal entity’s property into ownership of the State and is applied by the court in case of liquidation of a legal entity under this Code.

I) Attachment and confiscation of material gain

Legal framework defined by the Directive

Article 10 of the Directive requires taking necessary measures for the purpose of ensuring a possibility of attachment and confiscation of instruments for commission and income from criminal offences specified in Articles 3, 4 and 5 of the Directive.

Criminal procedural legislation of Ukraine on property attachment

Grounds, objectives, procedure for initiating and adopting a decision on property attachment are provided for by Chapter 17 of the Criminal Procedure Code of Ukraine (hereinafter referred to as the Criminal Procedure Code). According to point 7 of paragraph 2 of Article 131 property attachment is one of measures for securing criminal proceedings to be applied for the purpose of achieving efficiency of such proceedings.

Property attachment means temporary, until revoked under procedure set forth in the Criminal Procedure Code, deprivation by the order of investigating judge or court of the right to alienate, dispose of and/or use property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, is subject to confiscation from the suspect, accused, convicted person, third parties, or confiscation from a legal entity, to secure a civil action, recovery from the legal entity of the received improper advantage or probable confiscation of property.

An issue of property attachment is to be resolved by an investigating judge upon a petition of a prosecutor, investigator in coordination with a prosecutor, and for the purpose of securing a civil claim — also a civil plaintiff.

Criminal legislation of Ukraine on property confiscation

The CC uses the notion “property confiscation” and “special confiscation” which differ by their essence, subject matter, grounds and procedure of application.
Thus, **property confiscation** is considered as:

- type of criminal punishment (Article 59 of the CC);
- one of criminal law measures to be applied to legal entities (Article 96\(^8\) of the CC).

*As a type of criminal punishment* property confiscation involves forcible free taking of all or a part of the property owned by the sentenced person in favour of the State. Property confiscation is imposed for grave and especially grave mercenary crimes as well as for the crimes against the foundation of national security of Ukraine and public security, irrespective of their gravity and may be imposed only in cases expressly provided for under the Special Part of the CC.

Confiscation as a type of criminal punishment is provided for actions covered by the notion of:

- fraud causing damage to the financial interests of the Union (hereinafter referred to as fraud) — paragraph 4 of Article 190, paragraph 5 of Article 191 of the CC (additional mandatory punishment);
- passive and active corruption — paragraphs 3, 4 of Article 368, paragraphs 2, 3, 4 of Article 369, paragraph 3 of Article 369\(^2\) of the CC (additional optional punishment);
- money laundering — Article 209 of the CC (additional mandatory punishment).

Confiscation as one of criminal law measures to be applied to legal entities (Article 96\(^8\) of the CC) involves forcible free taking of legal entity’s property into ownership of the State and is applied by the court in case of liquidation of a legal entity under this Code.

Taking into account the answer to Question No. 37, such confiscation is not to be applied to legal entities in cases concerning fraud, at the same time it may be applied in cases concerning active and passive corruption, as well as money laundering.

*Criminal and criminal procedural legislation of Ukraine on special confiscation*

**Special confiscation** is not punishment for a crime, but it serves as one of criminal law measures provided for by Section XIV of the General Part of the CC. Special confiscation (paragraph 1 of Article 96\(^1\) of the CC) involves forcible free taking by court decision of money, valuables and other property into ownership of the State in cases stipulated by the CC, subject to commission of an intentional criminal offence or a socially dangerous act falling within the scope of elements of the action stipulated by the Special Part of the CC for which the primary *punishment in the form of deprivation of freedom or a fine in the amount of over 3,000 non-taxable minimum incomes of citizens* is provided for, as well as of the action provided for by paragraph 1 of Article 190, Article 192.

According to point 1 of Article 96-2 of the CC, special confiscation is applied, inter alia, in case if money, valuables and other property have been obtained as a result of commission of a criminal offence and/or constitute income from such property;

*In view of the foregoing, special confiscation of material gain may be applied in cases on fraud (Articles 190, 191, 192 of the CC), on active and passive corruption (Articles 368, 369, 369\(^2\) of the CC), as well as money laundering (Article 209), which is in line with the requirements of Article 10 of the Directive.*

The procedure for resolving an issue on special confiscation is established in Article 100 of the Criminal Procedure Code.
2) Measures for seizure of results and instruments of economic crimes

The procedure for temporary seizure of property is established by Chapter 16 of the Criminal Procedure Code.

According to Art. 167 of the Criminal Procedure Code, temporary seizure of property is actual deprivation of a suspect or persons possessing the relevant property, of the possibility to possess, use and dispose of certain property until the issue of attachment of property or its return or its special confiscation in accordance with the procedure established by law is resolved.

Temporary seized property may include property in the form of things, documents, money etc. with regard to which there are sufficient grounds to consider that they:

1) are selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and (or) have trace of it on themselves;

2) were designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;

3) are a subject matter of a criminal offence, including that related to their illicit trafficking;

4) are obtained as a result of commission of a criminal offence and/or constitute income from them, as well as property into which they were fully or partially transformed.

According to provisions of Article 168 of the Criminal Procedure Code, everyone who has lawfully apprehended a person under procedure set forth in Articles 207, 208, 298-2 of this Code shall have the right to temporary seize the person's property (belongings). Everyone who has lawfully apprehended a person shall, concurrently with bringing the apprehended person to the investigator, prosecutor or any other authorised official, hand over the temporary seized property (belongings) to the latter. A record shall be drawn up to attest the fact that temporarily seized property is handed over.

The property (belongings) may also be temporary seized during search or examination. Therefore, the Criminal Procedure Code contains a sufficient number of regulatory provisions ensuring the possibility of withdrawal of results and instruments of fraud, active and passive corruption, as well as money laundering.

3) Obligation to safeguard evidence in the cases of suspected fraud

The general rules of keeping material evidence and documents are regulated by Article 100 of the Criminal Procedure Code.

Thus, in particular, material evidence which was provided to a party to the criminal proceedings or withdrawn by it must be returned to an owner as soon as possible, except for cases provided for by Articles 160-166, 170-174 of the Criminal Procedure Code.

A material evidence or document provided voluntarily or on the basis of a judgment is to be kept with a party to the criminal proceedings to which it is provided.

A party to the criminal proceedings to which a material evidence or document is provided is obliged to keep them in the condition suitable for use in the criminal proceedings. Material evidence that has been obtained or seized by investigator or prosecutor is examined, photographed and described in detail in the examination report. Keeping material evidence by the prosecution is carried
out under the procedure as established by the Cabinet of Ministers of Ukraine.

The material evidence to the value of over 200 subsistence minimums for able-bodied people, if it is possible without affecting the criminal proceedings, are to be transferred with the owner’s written consent, and in the absence of it — by the decision of the investigating judge, court to the National Agency for Finding, Tracing and Managing Assets Derived From Corruption and Other Crimes, for taking measures for their management for the purpose of ensuring their preservation or conservation of their economic value, and material evidence specified in intent 1 of paragraph 6 of Article 100 of the Criminal Procedure Code, of the same value — for their disposal taking into account peculiarities established by law.

40. What are the requirements of procedural penal law regarding general possibilities for extraterritorial jurisdiction based on the personality principle?

The validity of the law on the criminal liability with regard to criminal offences committed by the citizens of Ukraine or stateless persons outside the territory of Ukraine is determined by Article 7 of the CC.

The citizens of Ukraine and stateless persons permanently residing in Ukraine who have committed criminal offences outside its territory are subject to criminal liability under the CC, unless otherwise provided for by the international treaties of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine.

If the above mentioned persons were criminally punished outside the territory of Ukraine for committed criminal offences, they may not be held criminally liable in Ukraine for such criminal offences.

In addition, according to Article 8 of the Criminal Code of Ukraine, foreigners or stateless persons not permanently residing in Ukraine, who have committed criminal offences outside it will be held liable in Ukraine under this Code in cases stipulated by the international treaties if they committed grave or especially grave crimes provided for by this Code against the rights and freedoms of the citizens of Ukraine or the interests of Ukraine. Foreigners or stateless persons not permanently residing in Ukraine will also be held liable in Ukraine under this Code if they committed outside Ukraine, in complicity with officials being the citizens of Ukraine, any criminal offence provided for in Articles 368, 368-3, 368-4, 369 and 369-2 of this Code, or if they offered, promised, provided unlawful benefit to such officials or accepted an offer, promise of unlawful benefit or obtained such benefit from them.

The legal consequences of convicting a person outside Ukraine are stipulated by Article 9 of the CC, according to which the court sentence of a foreign state may be taken into consideration if a citizen of Ukraine, a foreigner or a stateless person was convicted of a criminal offence committed outside Ukraine and repeatedly committed a criminal offence in the territory of Ukraine.

1) On extraterritorial principles of effect of the legislation of Ukraine on criminal liability

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8 The procedure for keeping material evidence by the prosecution, their disposal, technological processing, destruction, expenditure related to their safeguarding and transmission, preservation of temporarily seized property during the criminal proceedings is approved by the Resolution of the Cabinet of Ministers of Ukraine № 1104 of 19.11.2012. Available at: https://zakon.rada.gov.ua/laws/show/1104-2012-%D0%BF#n6.
The possibilities of criminal jurisdiction of Ukraine (principles of effect of the legislation of Ukraine on criminal liability) are regulated by the provisions of Articles 6-8 of the CC.

Whereby, according to the provisions of Articles 7-8 of the CC, the citizens of Ukraine and stateless persons permanently residing in Ukraine who committed criminal offences outside it are subject to criminal liability under the CC, unless otherwise provided for by the international treaties of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, except where such persons were criminally punished outside Ukraine for committed criminal offences.

Foreigners or stateless persons not permanently residing in Ukraine, who have committed criminal offences outside it will be held liable in Ukraine under the CC in cases stipulated by the international treaties if they committed grave or especially grave crimes provided for by the CC against the rights and freedoms of the citizens of Ukraine or the interests of Ukraine.

Foreigners or stateless persons not permanently residing in Ukraine will also be held liable in Ukraine under the CC if they committed outside Ukraine, in complicity with officials being the citizens of Ukraine, any criminal offence provided for in Articles 368, 368<sup>3</sup>, 368<sup>4</sup>, 369 and 369<sup>2</sup> of the CC, or if they offered, promised, provided unlawful benefit to such officials or accepted an offer, promise of unlawful benefit or obtained such benefit from them.

Thus, the territorial principle of effect of the Law of Ukraine on criminal liability is not the only one, and therefore it is allowed to establish jurisdiction by Ukraine regarding criminal prosecution for committing criminal offences outside it by persons, if such persons:

1) are the citizens of Ukraine (paragraph 1 of Article 7 of the CC);
2) are stateless persons permanently residing in the territory of Ukraine (paragraph 1 of Article 7 of the CC);
3) are foreigners or stateless persons not permanently residing in Ukraine – in cases specially provided for by Article 8 of the CC.

In case of criminal proceedings with regard to criminal offences in respect of which Ukraine established its jurisdiction on the basis of universal, real principles of effect of the legislation of Ukraine on criminal liability, as well as the principle of citizenship, investigative and other procedural actions in the territory of another state are carried out according to the procedure stipulated by Section IX of the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC).

2) Regarding compliance with Article 11(4) of the Directive

The general requirements for initiation of pre-trial investigation as the first stage of criminal proceedings according to the legislation of Ukraine are established in Article 214 of the Criminal Procedure Code.

The reasons for initiation of the pre-trial investigation include submission of an application, report on a criminal offence committed or independent detection by an investigator or prosecutor from any source of circumstances that may indicate the commission of a criminal offence.

Thus, the criminal procedural legislation of Ukraine is in line with the requirements provided for by Article 11(4) of the Directive.
B. Country’s capacity for operational cooperation in the field of the protection of the EU’s financial interests

41. The EU acquis requires the legislation to protect the EU funds in the same way as national funds. Does the legislation provide for specific obligations and procedures with regard to the treatment of cases of suspected fraud and other irregularities affecting national, EU or international funds? Does the legislation define any arrangements for cooperation with the Commission and the EU Member States in the investigation, the prosecution and the enforcement of the penalties? Does the legislation include provisions ensuring that information and evidence produced by Commission's investigators receives an equal treatment in line with requirements of Article 325 of the EU Treaty?

Legal framework defined by the Convention and the Directive

- Articles 2, 4 of the Convention on the protection of the European Communities' financial interests entered into on the basis of Article K.3 of the Treaty on European Union (hereinafter referred to as the Convention) require criminalization and punishment of complicity from the states, including in case when actions forming the relevant crimes were at least partially committed in the territory of the relevant state.

- Article 5(1) of the Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 on fight against fraud aimed against financial interests of the Union by criminal and legal remedies does not establish features of complicity in crimes, at the same time, it defines the following types of complicity in fraud and other criminal offences affecting the financial interests of the Union:
  - Incitement;
  - Aiding;
  - Abetting.

For the purpose of implementing Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union’s financial interests by means of criminal law, Ukrainian state bodies are making amendments to criminal legislation (the CC and the Criminal Procedure Code of Ukraine in terms of liability for the acts of fraud and fraud-related criminal offences affecting the Union budget), in particular, those that provide for liability for fraud in order to protect the financial interests of Ukraine and the EU.

At present, in accordance with the above mentioned Directive of the European Parliament and of the Council on combating fraud with regard to the financial interests of the European Union, measures are being taken to amend the CC and the Criminal Procedure Code of Ukraine on liability for illegal actions with the funds of the budget of the European Union.

The provisions of a relevant draft Law of Ukraine will impose liability for fraud affecting the budget of the European Union, in particular:

- non-disclosure or deliberate distortion by a person of the information that is mandatory for receiving funds from the Union budget, which has as its effect the misappropriation of funds from the Union budget;

- entry in the documents, submitted to receive funds from the Union budget, of knowingly false information, other elements of fraud, as well as the intentional submission of documents to receive
funds from the Union budget that contain false information, other elements of fraud, which has as its effect the misappropriation of funds from the Union budget;

- misapplication of funds from the Union budget for purposes other than those for which they were originally granted.

Furthermore, the draft Law of Ukraine “On Protection of the European Union’s Financial Interests” has been developed to protect the Union’s financial interests and to incorporate the provisions of this Directive in the national legislation.

The above draft Law:

- identifies participants in international technical assistance, their rights and responsibilities;
- establishes the principles of attracting and using international technical assistance;
- establishes the general principles for detecting, preventing and reporting possible fraud cases, the procedure for keeping records of suspected fraud cases and the recovery of fraudulent amounts to the EU;
- defines acts that affect the Union’s financial interests and imposes liability the responsibility for these offences;
- regulates the procedure for detecting, preventing and reporting possible fraud cases;
- governs cooperation in keeping records of suspected fraud cases, and the return of fraudulent amounts.

At the same time, in order to implement the provisions of Directive, the Ukrainian party is taking other appropriate action. The country has agreed with the EU the content of the updated Annex XLIV to the Agreement, which will set timeframes and objectives of the implementation of the provisions of this Directive (which implies bilateral legal frameworks for the development and implementation of relevant legislative changes). The Association Council is currently expected to prepare a relevant decision on the approval of this Annex.

Separately, in order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017) — the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Service of Ukraine was designated as a National Contact Point (similar to AFCOS) for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).

Separately, in order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017) — the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Service of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).
In order to set the procedures for cooperation of the competent bodies of Ukraine and the EU, OLAF concluded administrative cooperation arrangements with NABU and the Prosecutor General’s Office. Bilateral work is under way to coordinate the administrative arrangements between OLAF and the State Audit Service of Ukraine.

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.

The fundamentals of the exercise of international cooperation in the course of the criminal proceedings are provided for by Section IX of the Criminal Procedure Code of Ukraine.

International cooperation during the criminal proceedings consists of taking necessary measure for the purpose of providing international legal assistance in the form of handing documents, performing certain procedural actions, extraditing persons who have committed criminal offences, temporarily transferring persons, transferring criminal prosecution, transferring convicts and enforcing sentences. The international treaty of Ukraine may provide for forms of cooperation in the course of the criminal proceedings other than those provided for in the Criminal Procedure Code of Ukraine.

Evidence and information obtained from the requested party as a result of execution of a request for international legal assistance may be used only in the criminal proceedings to which the request related, except where another agreement has been reached with the requested party.

42. How are cases of suspected fraud and other irregularities dealt with in practice? Are any data kept on detected cases of suspected fraud and other irregularities (both in revenue and expenditure)? If yes, please provide recent data. Additionally, please indicate the national body (bodies) that has access to this information.

Investigation and trial is conducted according to the procedures established by the Criminal Procedure Code of Ukraine on the facts of suspected fraud.

Information on the detected facts of suspicion of having committed criminal offences, the liability for which is established by the CC, are stored in the electronic database – the Unified Register of Pre-Trial Investigations, the holder of which is the Prosecutor General’s Office. Based on the above mentioned register the Prosecutor General’s Office forms reports on all law enforcement authorities of Ukraine (https://gp.gov.ua/ua/posts/pro-zareyestrovani-kriminalni-pravoporushennya-ta-rezultati-yih-dosudovogo-rozsliduvannya-2).

Indicators of administration of justice, as well as images of electronic copies of court decisions, including on the facts of commission of fraud, are stored in the information resources of the State Judicial Administration of Ukraine.

In order to implement Chapter VI "Financial Cooperation and Anti-Fraud Provisions" of the Association Agreement between Ukraine on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, the State Audit Office implements amendments to regulations national legislation in accordance with the provisions of
Directive (EU) 2017/1371 and will be signing an Administrative Arrangement with OLAF and will resolve the issue of regulating administrative fraud.

So far without full implementation of the Directive provisions there is no legal basis to define fraud in understanding of the Directive, that is why no data on processing and transmission of such data is now available.

43. Is the country considering setting up specific institutions or bodies for anti-fraud coordination, investigation and/or treatment of cases of suspected fraud and other irregularities affecting national, EU and/or international funds, or are such institutions or bodies already in place? If so, does it/do they have a comprehensive legal basis that defines tasks and responsibilities and cooperation arrangements, including with the European Commission? What is the scope of their competencies? How is their administrative capacity and their operational independence ensured? Have any procedures been defined for the communication, by other national authorities, of cases of suspected fraud and other irregularities to these institutions or bodies? Have any mechanisms been defined for cooperation between these different authorities?

According to the provisions of the Law of Ukraine “On the Bureau of Economic Security of Ukraine”, the Bureau of Economic Security of Ukraine (hereinafter referred to as the ESBU) is a central executive body mandated to counteract offences that affect the functioning of the national economy, which body carries out its activities within the scope of powers, tasks and functions determined by the provisions of the above mentioned Law, as well as by the Regulation on the ESBU approved by the Resolution of the Cabinet of Ministers of Ukraine № 1068 of 6 October 2021 “Certain issues of organizing activities of the Bureau of Economic Security of Ukraine”.

The ESBU performs law enforcement, analytical, economic, informational and other functions and is authorized to collect, process and analyse information on criminal offences assigned to its jurisdiction by law. Furthermore, according to the Law, the provisions of the Criminal Procedure Code of Ukraine and the Law of Ukraine “On Operational Investigation Activities”, the ESBU carries out operational investigation activities and pre-trial investigation within the scope of the jurisdiction provided for by law.


The main tasks of the ESBU are the following:

1) detection of risk areas in the field of economy by means of analysis of structured and non-structured data;
2) assessment of risks and threats to economic security of the state, development of ways to minimize and eliminate them;
3) provision of proposals for introducing amendments to regulatory legal acts on eliminating the prerequisites for creating schemes of unlawful activities in the field of economy;
4) ensuring economic security of the state by preventing, detecting, ceasing, investigating criminal offences affecting operation of the state economy;
5) collection and analysis of information on offences affecting economic security of the state and determination of ways to prevent their occurrence in the future;

6) planning of measures in the area of counteracting criminal offences assigned to its jurisdiction by law;

7) detection and investigation of offences related to receipt and use of the international technical assistance;

8) preparation of analytical conclusions and recommendations for state authorities in order to increase the efficiency of their management decisions on regulation of relations in the field of economy.

The competence and the procedure of interaction is determined by the provisions of the Law of Ukraine “On the Bureau of Economic Security”.

In order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017). The national mechanism includes formation of the Interdepartmental Coordination Council on combating violations affecting the financial interests of Ukraine and the EU, as well as the National Contact Point. By the Resolution of the Cabinet of Ministers of Ukraine № 702 of 07.07.2021 the State Audit Service of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) on the implementation of Section VI of the Association Agreement and annexes thereto.

In order to develop cooperation and determine the procedures for interaction, it is expected to conclude agreements between the relevant public authorities and OLAF. Memorandums/arrangements on cooperation between OLAF and NABU, OLAF and the Prosecutor General’s Office have already been concluded. Bilateral work is under way to coordinate the administrative arrangements between OLAF and the State Audit Service of Ukraine.

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.

The principles of sound financial management should be extended to all other agreements concluded with the EU. In particular, the provisions on preventing and combating fraud with the EU funds are taken into account and apply also to the Agreement on financing the Danube Transnational Programme, the Cross-Border Cooperation Programme. The national arrangements for project management and prevention of fraud with the EU funds must be in line with the European legislation and the EU practice. For this purpose, there is a need to sign the Administrative Arrangement between OLAF and the State Audit Service which is authorized to carry out on-the-spot checks by the European Anti-Fraud Office in order to protect the European Communities’ financial interests against fraud and other irregularities in the territory of Ukraine, which is a prerequisite for the proper
functioning of the mechanism for the implementation of the Danube Transnational Programme, as well as by the State Financial Monitoring Service.

44. Have any mechanisms been defined for cooperation with the EU authorities and guaranteeing sufficient assistance to Commission’s investigators during their anti-fraud investigations? Is there already a track record of investigation activities and on-the-spot checks between competent national authorities and the Commission? If yes, please provide recent data.


- The ESBU cooperates with the competent authorities of other states, international, intergovernmental organizations within the scope of its competence in accordance with the legislation of Ukraine and the international treaties of Ukraine.

- The ESBU employees, in the cases and according to the procedure established by the Criminal Procedure Code of Ukraine and other laws of Ukraine, are sent to international organizations, foreign states as competent representatives for the purpose of ensuring coordination of cooperation on issues falling within the powers of the ESBU and are involved in participation in international activities related to ensuring economic security of Ukraine, as well as international activities for exchange of experiences.

- The ESBU employees may participate in international investigative groups in accordance with the legislation of Ukraine and the international treaties of Ukraine, involve foreign experts in combating criminal offences in the field falling within the competence of the ESBU, perform other powers related to the performance of their duties provided for by the legislation on international cooperation with competent authorities of other states and international organizations.

In addition, Section IX of the Criminal Procedure Code of Ukraine establishes the procedure for international cooperation in the course of the criminal proceedings, which clearly defines the scope and procedure for such cooperation.

For the purpose of implementing the national mechanism for coordinating the interaction of public authorities in the context of proper fulfilment of Ukraine's obligations arising from the provisions of Section VI of the Association Agreement, the Government of Ukraine in 2017 decided to set up the Interdepartmental Coordination Council on combating violations affecting the financial interests of Ukraine and the EU. The above mentioned government decision also regulates the modality of communication with the EU Party on the issues raised, which communication is carried out through the National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) on the implementation of Section VI of the Association Agreement (from July 2021 the above mentioned functions were imposed upon the State Audit Service of Ukraine).

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.
The State Audit Service has developed and sent through the diplomatic channels a draft Administrative Cooperation Arrangement between the State Audit Service and the European Anti-Fraud Office (OLAF), which provides for cooperation in investigations, information exchange, strategic information exchange and risk analysis and other areas of cooperation.

45. Has the country established a mechanism for reporting of irregularities and suspected fraud cases (expenditures/revenues), including the Irregularity Management System and reporting procedures?

At the moment the State Audit Service has no Irregularity Management System. After the adoption of the drafts: the Law "On Protection of the Financial Interests of the European Union", the Procedure for Prevention, Monitoring, Reporting and Reporting to the European Commission and Other Bodies of Management and Control of Cooperation Programs with the European Union on Violations, Errors and Suspected Fraud Public authorities with the State Audit Service as the National Contact Point for Interaction with the European Office for the Prevention of Abuse and Fraud (OLAF), the Rules of Procedure to be used to track suspected fraud and recover improperly used EU funds and implement Directive legislation The State Audit Service will be able to use the Irregularity Management System (IMS).

The State Audit Service carries out inspections of the Danube Transnational Program (Interreg V-B Danube - CCI 2014TC16M6TN001) in the Electronic Monitoring System (EMS), which is accessible to 6 responsible controllers. On a quarterly basis, the State Audit Service reports to the Managing Authority/Joint Secretariat information on violations based on the results of inspections.

The State Audit Service has developed the Procedure for preventing, tracking, notifying and reporting to the European Commission and other bodies of the management and control system of the Programmes for Cooperation with the EU on cases of detected violations, errors and suspected fraud (hereinafter referred to as the Procedure).

In accordance with the Procedure, the system of measures is carried out including (preventive measures): analysis of materials on the implementation of programmes for possible signs of fraud/fraud, reporting (prescribed by the programmes scheduled/ on demand), as well as the procedure for preventing, tracking, notifying and reporting by the State Audit Service as a National Contact Point to the European Commission and other bodies of the management and control system of the Programmes for Cooperation with the EU on cases of detected violations, errors and suspected fraud is defined. The above procedure is carried out for the purpose of exchanging information on the state of ensuring fight against fraud against the financial interests of the European Union.

What about Financial Managerial Control (FMC)

46. Financial and judicial follow-up: Have any procedures been defined for the communication of cases of suspected fraud to the prosecution authorities? Have any procedures been defined for the recovery of uncollected resources and unduly spent funds in the case of suspected fraud or other irregularities?

The procedure for launching an investigation and informing the prosecution bodies on the facts of fraud is established by the provisions of the Criminal Procedure Code of Ukraine.
Thus, in accordance with the provisions of Article 214 of the Criminal Procedure Code of Ukraine, the investigator, inquiring officer, prosecutor immediately, but not later than 24 hours after he/she individually finds out from any source circumstances that may indicate the commission of a criminal offence, including fraud, is obliged to enter the relevant information into the Unified Register of Pre-Trial Investigations, to launch an investigation and 24 hours as of entering such information to provide the applicant with an extract from the Unified Register of Pre-Trial Investigations.

The investigator who will carry out the pre-trial investigation is to be determined by the head of the pre-trial investigation authority, and the inquiring officer — by the head of the inquiry body, and in the absence of the inquiry unit — by the head of the pre-trial investigation authority.

According to paragraph 6 of Article 214 of the Criminal Procedure Code of Ukraine, the investigator, the inquiring officer, immediately informs the head of the prosecution authority in writing about commencement of the pre-trial investigation.

Furthermore, Article 36 of the Criminal Procedure Code of Ukraine provides for that supervision over compliance with laws in the course of the pre-trial investigation in the form of providing procedural guidance in a pre-trial investigation carried out by the relevant prosecutors.

The State Audit Service for eliminating violations of the legislation detected when exercising the state financial control and bringing the guilty persons to responsibility hands over, under the established procedure, materials on the results of state financial control to law enforcement authorities in case of detection of violations of the legislation, for which criminal liability is established or which contain signs of corruption.

In accordance with the current criminal procedure legislation, individuals or legal entities have the right to apply to the law enforcement agencies of Ukraine to identify signs of crimes, after which an investigation is launched.

47. Has the country prepared and adopted in an inclusive process a national anti-fraud strategy and a related action plan (possibly as part of a public financial management reform programme)? If yes, does it also cover the protection of the EU’s financial interests?

Fraud is a criminally punishable offence in Ukraine. The national legislation, in particular the Criminal Code of Ukraine, imposes liability for criminal offences related to fraud with financial resources (Article 222) for providing knowingly false information to public authorities, authorities of the Autonomous Republic of Crimea or local self-government bodies, banks or other creditors so as to receive subsidies, subventions, grants, loans or tax benefits if no elements of a criminal offence against property have been found. In the vast majority of cases, the purpose of this crime is to obtain a bank loan.

Such crimes are punishable with a fine of one thousand to four thousand tax-exempt minimum incomes and deprivation of the right to hold certain posts or to carry out certain activities for a term of up to three years.

The Criminal Code of Ukraine also imposes criminal liability for misapplication of budget funds, budget expenditure or loans contrary to their target allocation or in amounts exceeding the approved expenditure limits (Article 210 of the Criminal Code of Ukraine) and for misappropriation, embezzlement of property or theft by conversion (Article 191 of the Criminal Code of Ukraine).
Pursuant to Articles 191 and 210 of the Criminal Procedure Code of Ukraine, where pre-trial investigation of these criminal offences is not under the jurisdiction of the State Bureau of Investigation or the National Anti-Corruption Bureau of Ukraine and where budget funds are a subject matter of a criminal offence as defined in Article 191 of the Criminal Code of Ukraine, pre-trial investigation of the criminal offences concerned is conducted by detectives of the Bureau of Economic Security of Ukraine.

At the same time, as part of the implementation of Title VI of the EU-Ukraine Association Agreement, the protection of financial interests of the parties in the use of EU’s assistance by Ukraine is one of the areas of cooperation and part of an ongoing dialogue between Ukraine and the EU.

In order to properly implement the provisions of the Association Agreement in terms of countering fraud and protecting the financial interests, a national mechanism to coordinate cooperation of public authorities was introduced, the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Office of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors.

The Bureau of Economic Security of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Economic Development and Trade of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine, the National Anti-Corruption Bureau of Ukraine, the State Financial Service of Ukraine, the State Audit Service of Ukraine, the State Financial Monitoring Service of Ukraine, the National Agency of Ukraine on Civil Service, the National Police of Ukraine, the State Security Service of Ukraine, the Prosecutor General’s Office of Ukraine, the Foreign Intelligence Service of Ukraine and the National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (ARMA) were designated as the competent authorities of Ukraine, while the European Anti-Fraud Office (OLAF) and the European Court of Auditors of the European Union. In this regard, the European Anti-Fraud Office may coordinate with the Ukrainian counterpart further cooperation efforts on countering fraud, including the conduct of operational action jointly with the Ukrainian authorities as part of particular investigations.

The procedure for cooperation between the authorities that make up the national mechanism and OLAF should be laid down in administrative arrangements.

During a visit to the EU institutions on 11 February 2021, Ukraine’s Prosecutor General Iryna Venediktova signed an administrative cooperation agreement with OLAF. The document provides a basis for joint work of the two authorities to combat fraud and other offences affecting the EU’s financial interests and enables a more effective and targeted exchange of information between the Prosecutor General’s Office and OLAF, in accordance with the relevant privacy and data protection rules.

Furthermore, following the results of a meeting of Ukraine’s Prosecutor General Iryna Venediktova and OLAF Director-General Ville Itälä in Brussels on 9 November 2021, the parties agreed to join efforts for combating smuggling, including tobacco products, in particular through setting up joint investigation teams with the participation of the competent authorities of the EU Member States, Ukraine, Europol, Eurojust and OLAF. Also, on 18 March 2022, the European Public Prosecutor's Office (EPPO) and the Prosecutor General’s Office of Ukraine signed a working agreement on cooperation. Ukraine was the first country with which the European Public Prosecutor’s Office signed such a document.
In 2021, a request of the State Audit Office of Ukraine for concluding relevant agreements with OLAF was transmitted through diplomatic channels and is being considered by the EU.

Moreover, in order to approximate Ukraine’s legal framework on the protection of the financial interests and fight against fraud, the parties agreed in 2021 on the scope of the provisions of EU Directive 2017/1371 to be integrated into updated Annex XLIV (Title VI of the Association Agreement) and on changes (relative to the current ones) in the time limit for the implementation of the Directive’s provisions into national law. Once Annex XLIV to the Agreement is updated in accordance with the procedures established by the Association Agreement, a legal basis will be created for drafting and implementing relevant legislative changes, as the national legislation of Ukraine is not fully in line with the EU acquis, including EU Directive 2017/1371.

It has to be mentioned that Ukraine adopted a policy paper on further transformation of the public financial management system. The Ordinance of the Cabinet of Ministers of Ukraine № 1805-p of 29.12.2021 approved the Public Finance Management System Reform Strategy 2022–2025 and the action plan for its implementation(see attached). The goal of this policy paper (drafted by the Ministry of Finance of Ukraine based on the Public Expenditure and Financial Accountability (PEFA) methodology, recommendations of experts of the Support for Improvement in Governance and Management (SIGMA) programme, the technical mission of the International Monetary Fund, and opinions of the Accounting Chamber of Ukraine) is to build an up-to-date, sustainable and effective public financial management system aimed at ensuring the preservation of the financial stability of the state and creating conditions for sustainable growth of a socially inclusive economy through increased effectiveness of raising and spending public funds. Furthermore, the Decree of the President of Ukraine № 347/221 of 11.08.2021 approved the Economic Security Strategy of Ukraine until 2025 which provides for the development of an effective model for countering economic crimes.

IV. PROTECTION OF THE EURO AGAINST COUNTERFEITING (NON-CRIMINAL ASPECTS)

48. Does the legislation define counterfeiting, competent national authorities and procedures for gathering, storing, withdrawing from circulation and reimbursing or replacing any (suspected) counterfeit money. Which definition of counterfeiting of both for notes and coins is provided by the legislation?

Counterfeiting is defined as a criminal offence according to the Article 199 of the Criminal Code of Ukraine.

Article 199. Making, storage, purchase, transportation, mailing, bringing into Ukraine for selling purposes, or sale of counterfeit money, government securities that exist in physical form, state lottery tickets, excise stamps or holographic security features.

(1) Making, storage, purchase, transportation, mailing, bringing into Ukraine for selling purposes, or sale of unlawfully manufactured, received or counterfeited excise stamps, holographic security features, counterfeit domestic currency of Ukraine (banknotes or coins), foreign currency, public securities that exist in physical form, or state lottery tickets shall be punishable by imprisonment for a term of three to seven years.
(2) The same actions, if repeated or committed by a group of persons upon their prior conspiracy, or in respect of large amounts, shall be punishable by imprisonment for a term of five to ten years and forfeiture of property.

(3) Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group or in respect of an especially large amount, shall be punishable by imprisonment of eight to twelve years and forfeiture of property.

*Note.* Actions provided for by this Article shall be deemed to have been committed in respect of large amount, where the amount of a counterfeit equals or exceeds 200 tax-free minimum incomes, and in respect of extremely large amount, where the amount of a counterfeit equals or exceeds 400 tax-free minimum incomes.

Pursuant to Article 39 of the Law of Ukraine *On the National Bank of Ukraine*, the NBU and Ukrainian banks shall be obliged to withdraw the counterfeit, faked and unfit banknotes and coins.

The procedure of withdrawing such banknotes and coins shall be established by the NBU and stated in the relevant regulations.

The NBU and banks shall not be obliged to reimburse for the destroyed, lost, counterfeit, faked and invalid banknotes and coins.

The manufacture of counterfeit banknotes for the purposes of their issue into circulation or the issue thereof into circulation shall carry the penalty according to the laws of Ukraine.

*The Rules to Define Fitness for Use and Exchange of Banknotes, Small and Circulation Coins of the Domestic Currency of Ukraine* approved by NBU Board Resolution № 134 dated 3 December 2018 (as amended) includes the definition of counterfeit banknotes of domestic currency of Ukraine:

counterfeit banknotes (coins) mean imitation of authentic banknotes (coins) manufactured in any manner, including industrial production, despite the procedures set by Ukrainian laws and regulations.

The following items are also considered to be counterfeit banknotes:

altered banknotes are notes design elements and images whereof defining denomination, year of approval/production, issuing bank and other details have been modified in any manner (glued on, drawn on, printed over) to give the appearance of another genuine note

items that have design similar to banknotes where the inscriptions identifying them as advertisement or souvenirs have been removed and/or covered and some security features of the genuine banknotes have been imitated

composite counterfeit banknotes are the ones consisting of parts of genuine and fake banknotes.

The Instruction *On Conducting Cash Transactions by Banks in Ukraine* approved by NBU Board Resolution № 103 dated 28 September 2018 includes the definition of counterfeit foreign currency banknotes:

counterfeit foreign currency banknotes mean imitation of authentic banknotes manufactured in any manner, including industrial production, that have design and security features that are not in line with the specimen and descriptions provided on the official websites of other central/national banks. The following items are also considered to be foreign counterfeit banknotes:
altered banknotes are notes design elements and images whereof defining denomination, year of approval/production, issuing bank and other details have been modified in any manner (glued on, drawn on, printed over) to give the appearance of another genuine note

items that have design similar to banknotes where the inscriptions identifying them as advertisement or souvenirs have been removed and/or covered and some security features of the genuine banknotes have been imitated.

A bank (its branch or office) is prohibited from issuing to customers or returning or temporarily giving them questionable or intentionally damaged domestic currency banknotes or banknotes (coins) with manufacturing defects and/or questionable foreign currency banknotes found in the possession of said customers (paragraph 159 of the Instruction No. 103).

49. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of Regulations 1338/2001) to ensure that euro notes and coins, which they have received and which they intend to put back into circulation, are checked for authenticity and that counterfeits are detected?

As per the Instruction On Conducting Cash Transactions by Banks in Ukraine approved by NBU Board Resolution No. 103 dated 25 September 2018 (as amended) a bank (its branch or office), or a collection company, must:

ensure control over the authenticity of banknotes (coins) during the acceptance and processing of cash using appropriate equipment (devices);

determine the authenticity of banknotes (coins) in accordance with the Rules to Define Fitness for Use and Exchange of Banknotes, Small and Circulation Coins of the Domestic Currency of Ukraine approved by Resolution № 134 dated 3 December 2018 (as amended), while using reference information provided by the NBU, issuing banks, or other authorized institutions.

Under the Regulation On the Structure of the Foreign Exchange Market of Ukraine, conditions and procedure for trading in foreign currency and investment metals in the foreign exchange market of Ukraine approved by the NBU Board Resolution No. 1 dated 2 January 2019 (as amended), a bank or a nonbank institution verifies the authenticity of foreign currency banknotes by using devices (detectors) that provide image magnification, visualization of ultraviolet and infrared protection and magnetic control, and/or banknote counters with the capability to detect ultraviolet, infrared, and magnetic protection.

Also according to the Instruction On Conducting Cash Transactions by Banks in Ukraine, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), a bank (its branch or office) or a collection company that has detected, during the receipt, processing, or issuing of cash, banknotes (coins) of the domestic currency of Ukraine that are of doubtful authenticity, or foreign currency banknotes that are likewise doubtful, is obliged to withdraw them, draw up relevant paperwork, and transfer said banknotes and/or coins to the NBU for testing. Such testing is performed free of charge.

Banknotes and coins that are recognized as counterfeit through testing shall be, in a manner prescribed, transferred to law enforcement authorities of Ukraine for investigation. After said cash is so removed, its value is not reimbursed.
50. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of the Regulation 1338/2001) to withdraw from circulation all banknotes and coins which they know or have sufficient reason to believe to be counterfeit and to hand them over to the competent authorities? Have any sanctions been defined in the case this obligation is not complied with?

Under the Instruction On Conducting Cash Transactions by Banks in Ukraine, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), a bank (its branch or office) or a collection company that has detected, during the receipt, processing, or issuing of cash, banknotes (coins) of the domestic currency of Ukraine that are of doubtful authenticity, or foreign currency banknotes that are likewise doubtful, is obliged to withdraw them, draw up relevant paperwork, and transfer said banknotes and/or coins to the NBU for testing.

In addition, a bank (its branch or office) that has detected that an individual is in possession of two or more banknotes (coins) of the domestic currency and/or foreign currency banknotes with the same signs of counterfeiting must immediately notify the law enforcement authorities of Ukraine closest to the bank (its branch or office).

Sanctions for nonfulfillment of these obligations are not stipulated by said Instruction. However, criminal liability under Article 199 of the Criminal Code of Ukraine, as outlined in the answer to question 48, may apply.

51. Does the legislation regulate medals and tokens similar to euro coins?

The use of a medal or a token that is similar in appearance to metallic money/euro coins is a criminal offense categorized as fraud under Article 190 of the Criminal Code of Ukraine.

Article 190. Fraud

(1) Misappropriation of somebody else’s property or acquisition of property rights through deception or abuse of trust (fraud) is punishable by a fine of two thousand to three thousand nontaxable minimum incomes or community service for a term of two hundred to two hundred and forty hours, or correctional labor for up to two years, or restriction of freedom for up to three years.

(2) Fraud committed repeatedly, or by prior conspiracy by a group of persons, or that caused significant harm to the victim, is punishable by a fine of three thousand to four thousand nontaxable minimum incomes or correctional labor for one to two years, or restriction of freedom for up to five years, or imprisonment for up to three years.

(3) Fraud committed on a large scale or by illegal operations using electronic computers is punishable by imprisonment for a term of three to eight years.

(4) Fraud committed on a particularly large scale or by an organized group is punishable by imprisonment for a term of five to twelve years with confiscation of property.

52. Does the legislation define procedures for the domestic cooperation on counterfeiting and the cooperation with foreign banks and authorities?
Under the Instruction *On Conducting Cash Transactions by Banks in Ukraine*, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), banknotes (banknotes and coins of the domestic currency of Ukraine and foreign currency banknotes) recognized as counterfeit are transferred by the NBU, as per existing procedure, to law enforcement authorities of Ukraine for carrying out investigations.

The Regulation *On the Organization of the Issuing of Money and the Handling of Cash at the National Bank of Ukraine* approved by NBU Board Decision № 603 dated 25 September 2020 (as amended) stipulates that the NBU conducts the analysis of counterfeit banknotes at the request of law enforcement authorities.

The NBU, on a regular basis, cooperates with law enforcement authorities of Ukraine on the seizure of counterfeit banknotes of the domestic currency and foreign currencies, conducts the exchange of statistical and technical information about counterfeiting, holds joint exercises, and more.

Pursuant to a perpetual Agreement № K-3622 on Cooperation between the National Bank of Ukraine and the State Research Forensic Center of the Ministry of Internal Affairs of Ukraine dated 12 January 2008 (as amended), information on withdrawn counterfeit banknotes is exchanged quarterly based on the results of research, indicating details, methods of forgery, and places of seizure.

Under the Cooperation Agreement between the National Bank of Ukraine and the European Central Bank signed on 25 May 2004 (termless), the NBU shares information on counterfeit euros withdrawn from circulation with the ECB on monthly basis. The NBU provides information by email in Excel template set by the ECB specifying the dates when counterfeit euros were found, their denominations, number of banknotes, serial number, type of counterfeiting etc.

The NBU receives from the ECB up-to-date information about security features of euro banknotes and new types of counterfeits.

The NBU experts regularly take part in the training events held by the ECB and NCBs on counteraction to money counterfeiting.

53. Which authorities have been designated for the centralisation, technical analysis and processing of information on counterfeit bank notes and coins, both euro and other currencies? Please provide information on staff and technical capacity.

Under Article 39 of the Law of Ukraine *On the National Bank of Ukraine*, the procedure for seizing counterfeit banknotes is established by the NBU and governed by relevant regulations.

EU Regulations (Council Regulation (EC) 1338/2001 and Council Regulation (EC) 1339/2001) stipulate that Coin National Analysis Centers (CNAC), National Analysis Centres (NAC), and National Counterfeit Centres (NCC) should be established in non euro area EU member states that issue national currencies. These centers must conduct research and analysis of euro counterfeits at the national level, maintain relevant databases, interact and exchange information with the ECB, law enforcement authorities and central banks.

In line with these EU regulations, the NBU has established the Center for Suppression of Counterfeit Banknotes and Coins by NBU Board Decision № 41 dated 27 January 2022, which approved the Regulation *On the Center for Suppression of Counterfeit Banknotes and Coins of the National Bank of Ukraine*. 

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The Center for Suppression of Counterfeit Banknotes and Coins unifies the CNAC and NCC functions and performs them on a national level.

The Center for Suppression of Counterfeit Banknotes and Coins, in particular, conducts the centralized analysis of counterfeit banknotes of the euro, U.S. dollar, and other foreign currencies withdrawn from circulation by Ukrainian banks. The Center for Suppression of Counterfeit Banknotes and Coins provides maintenance and analysis of databases on the seizure of counterfeit banknotes and coins, prepares relevant statistical and analytical information for the NBU, provides information to banks and the public about new types of counterfeiting, and interacts and exchanges information with government and law enforcement authorities of Ukraine.

Information is also prepared for the ECB regarding the withdrawal of counterfeit euro banknotes, and for the United States Secret Service and foreign central banks about the withdrawal of counterfeit foreign currency banknotes.

The NBU’s Center for Suppression of Counterfeit Banknotes and Coins consists of nine experts who are employees of the Division of Research and Protection of Money at the Office for the Organization of Production and Protection of Money at the NBU’s Cash Circulation Department.

Experts at the Center for Suppression of Counterfeit Banknotes and Coins hold certificates of training in determining the authenticity of banknotes. They have earned these certificates by taking relevant training courses and seminars in Ukraine and abroad.

When testing suspicious banknotes of the domestic currency and foreign currency, specialists at the Center for Suppression of Counterfeit Banknotes and Coins use the following equipment:

1. stereoscopic microscopes Stemi 2000-C (with digital camera), Stemi 1000, and Stemi DV 4, manufactured by CARL ZEISS
2. lenses with 10x magnification
3. currency detectors of various modifications with ultraviolet, infrared, and magnetic control of banknote security features
4. spectral magnifiers ULTRAMAG A37 USB
5. video spectral comparator Regula 4305
6. x-ray fluorescence analyzer Elvax CEP-01
7. analytical scales, calipers, micrometers.

54. Have any procedures been defined for the transmission of examples of counterfeit banknotes and coins, both euro and other, and related information to the relevant authorities inside or outside Ukraine?

Banknotes of the domestic currency and foreign currencies that are withdrawn from circulation and recognized as counterfeit through testing conducted by the NBU are, in a prescribed manner, transferred to law enforcement agencies of Ukraine for investigation.

The procedure for transferring counterfeits to law enforcement agencies of Ukraine is stipulated by the Regulation On the Organization of the Issuing of Money and the Handling of Cash at the
National Bank of Ukraine approved by NBU Board Decision № 603 dated 25 September 2020 (as amended).

If required, the transfer of counterfeit banknotes to foreign law enforcement authorities and other foreign anti-counterfeiting institutions is possible.

55. Have any procedures been defined for the gathering and indexation of statistical data relating to counterfeit banknotes and coins (both for the Euro and other currencies)?

Under Article 39 of the Law of Ukraine On the National Bank of Ukraine, the procedure for seizing counterfeit banknotes is established by the NBU and governed by relevant regulations.

EU Regulations (Council Regulation (EC) 1338/2001 and Council Regulation (EC) 1339/2001) stipulate that Coin National Analysis Centers (CNAC), National Analysis Centres (NAC), and National Counterfeit Centres (NCC) should be established in non-euro area EU member states that issue national currencies. These centers must conduct research and analysis of euro counterfeits at the national level, maintain relevant databases, interact and exchange information with the ECB, law enforcement authorities and central banks.

In line with these EU regulations, the NBU has established the Center for Suppression of Counterfeit Banknotes and Coins by NBU Board Decision № 41 dated 27 January 2022, which approved the Regulation On the Center for Suppression of Counterfeit Banknotes and Coins of the National Bank of Ukraine.

The Center for Suppression of Counterfeit Banknotes and Coins unifies the CNAC and NCC functions and performs them on a national level.

The Center for Suppression of Counterfeit Banknotes and Coins, in particular, conducts the centralized analysis of counterfeit banknotes of the euro, U.S. dollar, and other foreign currencies withdrawn from circulation by Ukrainian banks. The Center for Suppression of Counterfeit Banknotes and Coins provides maintenance and analysis of databases on the seizure of counterfeit banknotes and coins, prepares relevant statistical and analytical information for the NBU, provides information to banks and the public about new types of counterfeiting, and interacts and exchanges information with government and law enforcement authorities of Ukraine.

Information is also prepared for the ECB regarding the withdrawal of counterfeit euro banknotes, and for the United States Secret Service and foreign central banks about the withdrawal of counterfeit foreign currency banknotes.

The NBU’s Center for Suppression of Counterfeit Banknotes and Coins consists of nine experts who are employees of the Division of Research and Protection of Money at the Office for the Organization of Production and Protection of Money at the NBU’s Cash Circulation Department.

Experts at the Center for Suppression of Counterfeit Banknotes and Coins hold certificates of training in determining the authenticity of banknotes. They have earned these certificates by taking relevant training courses and seminars in Ukraine and abroad.

When testing suspicious banknotes of the domestic currency and foreign currency, specialists at the Center for Suppression of Counterfeit Banknotes and Coins use the following equipment:

(1) stereoscopic microscopes Stemi 2000-C (with digital camera), Stemi 1000, and Stemi DV 4, manufactured by CARL ZEISS
(2) lenses with 10x magnification
(3) currency detectors of various modifications with ultraviolet, infrared, and magnetic control of banknote security features
(4) spectral magnifiers ULTRAMAG A37 USB
(5) video spectral comparator Regula 4305
(6) x-ray fluorescence analyzer Elvax CEP-01
(7) analytical scales, calipers, micrometers.

56. Which sanctions apply for the entering into circulation and for the use of medals and token similar to euro coins?

The use of a medal or a token as metallic money/euro coins is a criminal offense categorized as fraud under Article 190 of the Criminal Code of Ukraine (see the answer to question 51 above).

57. What are the procedures and bodies established for the fight against counterfeiting?

Law enforcement authorities – the Bureau of Economic Security of Ukraine, the Ministry of Internal Affairs of Ukraine, and the Security Service of Ukraine – are involved in detecting and investigating crimes related to the counterfeiting of banknotes.

The prosecutor’s office and courts identify the criminal liability of and impose sanctions on individuals who commit the criminal offense of counterfeiting money.

The NBU’s Center for Suppression of Counterfeit Banknotes and Coins operates as follows:

- carries out, on a regular basis, the interaction and exchange of information with the law enforcement authorities noted above, informs the public of the withdrawal from circulation of new types of counterfeit banknotes of the domestic currency and foreign currencies
- organizes and conducts educational events (seminars/webinars) for NBU departments, banks, collection companies, and retailers on how to determine the authenticity of banknotes
- participates in the organization and conduct of communication activities to combat counterfeiting. These efforts include preparation of information and video materials for sharing through the NBU’s information channels, in the media, and on specialized reference websites.

58. Has the country ratified the 1929 Geneva Convention for the suppression of counterfeiting currency?

The Convention for the Suppression of Counterfeiting Currency, signed in Geneva 1929, was ratified by the USSR, which included Ukraine, on 3 May 1931. The Convention took effect on 17 January 1932, according to the website of the Verkhovna Rada of Ukraine.

59. Does Ukraine participate in the Pericles programme? Does the country take part in international cooperation, including cooperation with other countries in the region and/or the Member States?
Representatives of the NBU and the Ministry of Internal Affairs of Ukraine took part in seminars under the Pericles program organized by OLAF (the European Anti-Fraud Office) in 2012 in Hungary, in 2013 in Bulgaria, in 2014 in Poland, and in 2018 in Italy.

With the assistance of OLAF, two training seminars were also held in Ukraine:

(1) in 2012, hosted by the Ministry of Internal Affairs of Ukraine

(2) in 2019, hosted by the NBU jointly with experts from the Ministry of Internal Affairs of Ukraine.
CHAPTER 32. FINANCIAL CONTROL

II. PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)

A. General overview

1. How is the distribution of competences for internal control and internal audit. Provide a brief overview of any weak points of the managerial accountability arrangements, or the functioning of internal control and internal audit, identified by the central harmonisation unit(s) or other parties such as the Supreme Audit Institutions, the Treasury or the CHU.

Regarding the requirements of the legislation in the field of internal control and internal audit

In accordance with the third part of Article 26 of the Budget Code of Ukraine, spending units in the person of their heads organize internal control and internal audit and ensure its implementation in their institutions, enterprises and organizations which are in the sphere of management of such spending units.

Internal control is a set of measures used by the head to ensure compliance with the law and efficiency of budget funds, achieve results in accordance with the established goals, objectives, plans and requirements for the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, ineffective and inefficient use of budget funds, inaccuracy or other shortages in the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units, and which provides independent conclusions and recommendations. To carry out the internal audit, spending unit in the person of the head forms an independent structural unit of internal audit, which is subordinate and accountable directly to such head.

The requirements of the third part of Article 26 of the Budget Code of Ukraine in terms of internal control apply to the activities of spending units at all levels (key spending units and lower level spending units, both for state and local budgets).

In accordance with paragraph 4 of the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter - the Basic Principles), the head of the institution organizes and ensures the implementation of internal control, covering planning activities, budget process, management of budget funds, objects of state property and other resources, organization and maintenance of accounting, preparation and submission of accounting reports, provision of administrative services, implementation of control and supervisory functions, procurement of goods, works and services, regulatory work, employee management, activities to prevent and detect corruption, ensuring secrecy and information security, protection of data in information, telecommunications and information and telecommunications systems, organization of document flow, including electronic document management and information flow management, interactions with the media and the public, addressing other issues related to the functioning of the institution.

The internal control system in the institution consists of the following elements: internal environment, risk management, control measures, information and communication, monitoring. The
elements of internal control are interrelated, covering all activities, financial and non-financial processes in the institution. The head of the institution ensures the proper functioning and connection of all elements of the internal control.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;

- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution.

During the organization and functioning of internal control, the managerial responsibility and accountability of the head and employees of the institution is ensured, which is based on the requirements of the legislation and applies to all activities of the institution.

The head of the institution is responsible and accountable for the proper management and development of the institution; achievement of certain goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution; ensuring legal, economical, efficient, effective and transparent management of budget funds, state property and other resources; organization and implementation of internal control in the institution (including the formation of an appropriate structure of internal control, supervision of internal control and risk management).

In the manner prescribed by law, the head of the institution reports on the effectiveness and efficiency of the institution, the achievement of certain goals (missions), strategic and other goals, including the implementation of internal control.

The head of the institution ensures a clear separation of duties, powers and responsibilities between the deputy heads of the institution, lower-level management and employees of the institution.

Heads of structural units and employees of the institution are responsible and accountable for the implementation of their tasks and responsibilities in accordance with the laws and internal documents of the institution.

According to paragraph 4 of the Procedure for Internal Audit and Establishment of Internal Audit Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), the main task of the internal audit unit is to provide the head of the institution objective and independent conclusions and recommendations on the functioning of the internal control system and its improvement; improving the management system; prevention of illegal, ineffective and inefficient use of budget funds and other assets; prevention of inaccuracy or other shortages in the activities of the state body, its territorial bodies, enterprises, institutions and organizations which are in the sphere of its management.

In accordance with paragraph 5 of the Procedure № 1001, the internal audit units conduct in accordance with the assigned tasks, in particular, the assessment of the following:
- the effectiveness of the internal control system;
- the measurement of implementation and achievement of goals set in the strategic and annual plans;
- efficiency of planning and implementation of budget programs and results of their implementation, management of budget funds;
- the quality of administrative services and performance of control and supervisory functions, tasks defined by legislation;
- use and preservation of assets;
- reliability, efficiency and effectiveness of information systems and technologies;
- management of state property;
- correctness of accounting and reliability of financial and budgetary reporting;
- risks that negatively affect the performance of functions and tasks of the state body, its territorial bodies, enterprises, institutions and organizations which are in the sphere of its management.

According to the Procedure № 1001, the establishment of internal audit units is mandatory in ministries, other central executive bodies, other key spending units (central level) and the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations (regional level).

According to the decision of the head of the state body, internal audit units may also be formed in its territorial bodies and budgetary institutions within the regular number of their employees.

For local self-government bodies, the requirements of the specified normative-legal acts on the formation of internal subdivisions are recommendatory.

Regarding the requirements of the legislation on harmonization of state internal financial control (internal control and internal audit)

In Ukraine, the Ministry of Finance of Ukraine is responsible for the development, harmonization, coordination and assessment of public internal financial control.

In particular, in accordance with the third part of Article 26 of the Budget Code of Ukraine, the basic principles of internal control and internal audit and the procedure for establishing internal audit units are determined by the Cabinet of Ministers of Ukraine. Organizational and methodological principles of internal control and internal audit are determined by the Ministry of Finance of Ukraine, which ensures the formation and implementation of public policy in the field of public internal financial control, including assessing the functioning of internal control and internal audit systems.

Similarly, according to the Regulation on the Ministry of Finance of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine dated 20.08.2014 № 375, the Ministry of Finance is the main body in the system of central executive bodies that ensures the formation and implementation of public policy in public financial control and public internal financial control (paragraph two of item 1, subitem 2 of item 3 of the specified Regulation).

In accordance with its tasks, the Ministry of Finance carries out regulatory and legal regulation in the field of public financial control and public internal financial control (subparagraph 5 of
paragraph 4 of this Regulation), determines organizational and methodological principles of internal control and internal audit, evaluates the functioning of systems of internal control and internal audit (subparagraph 34-1 of paragraph 4 of this Regulation).

In order to ensure the implementation of the relevant powers, the Ministry of Finance has established a structural unit – the Department of State Internal Financial Control Harmonization (Central Harmonization Unit, hereinafter – CHU) with 17 employees and four divisions (Internal Control Harmonization Division, Internal Audit Harmonization Division, Internal Control and Internal Audit Systems Assessment Division, Internal Audit Unit Coordination Division).

**Regarding issues and shortcomings in the organization and implementation of internal control, internal audit activities in government agencies in 2021**

The results of the CHU analysis of the situation of internal control and internal audit in state bodies (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units) in 2021 (in total, the reports received from 118 state bodies on the state of organization and implementation of internal control in terms of elements were analysed, as well as reports (or information) on the results of internal audit units of 125 state bodies) demonstrated the following:

- **In terms of internal control** in some government agencies, elements of the internal control system are presented (normalized) fragmentarily and/or functioned without proper interconnection and balance.

- Implemented internal control systems in some bodies are aimed mainly at compliance with regulatory and administrative documents, the use of funds and property, implementation of certain processes/activities, instead of focusing on efficiency, effectiveness and achievement of results in accordance with goals and objectives.

- Internal control has so far been insufficiently integrated into the management cycle of planning, implementation, control, monitoring and reporting.

- Risk management activities are mostly fragmentary and may have an impact on the process of making/implementing management decisions in the institution (institution management), and are not fully focused on key risks that may arise in the process of performing the main tasks of government.

- The implemented monitoring (and/or its components) also remains more focused on compliance with legal requirements (verification of compliance with established rules) than focused on monitoring the effectiveness of internal control during the implementation of key tasks and taking measures to eliminate existing operational deviations.

- Some public authorities noted that the process of identifying and assessing deviations in the functioning of the internal control system and/or some of its elements is mainly carried out only during internal audits.

- **In terms of internal audit**, there are opportunities to improve the efficiency of the internal audit function, in particular:
  - there were cases of violation of the requirements for the functional independence of internal audit units and assigning them with the functions which are not related to internal audit (conducting/participating in control measures not related to internal audit, etc.);
- in a number of bodies, the ability of units to ensure the effective implementation of the internal audit function was quite limited (in particular, the number of internal auditors is insignificant in relation to the number of internal audit objects);

- in some state bodies the level of vacant positions in internal audit divisions remained high;

- in some cases, the stability of the staff composition of internal audit units was not ensured (in particular, the presence of high staff turnover, significant changes/updates of staff composition and/or management of such units);

- shortcomings remained in the planning of internal audit activities, in particular in terms of insufficient level of risk-oriented approach implementation regarding planning, etc.;

- a number of bodies did not provide the direction of internal audits to improve the system of management, internal control, prevention of illegal, ineffective and inefficient use of budget funds, inaccuracy or other shortages (in particular, internal audits focused mainly on compliance and/or financial economic aspects, there was no proper comprehensive assessment of the functioning of the internal control system, no internal audits were planned and conducted to assess the effectiveness, or their share was insignificant, etc.);

- needs to intensify the work of employees responsible for the implementation of audit recommendations in the system of the state bodies, as well as some bodies need to improve and systematize measures to monitor the implementation of audit recommendations and the stage of their implementation;

- measures to ensure and improve the quality of internal audit were not implemented in practice in some state bodies (in particular, there was no continuous monitoring and/or periodic evaluation of activities), or were performed formally in other state bodies (in particular, periodic evaluations did not cover all the aspects of internal audit and/or identification of existing shortcomings and problems in the implementation of the function, did not identify measures aimed directly at improving and enhancing the effectiveness of internal audit activities, etc.).

The Ministry of Finance of Ukraine annually informs the Cabinet of Ministers of Ukraine about the results of the analysis of functioning of internal control and internal audit with the provision of appropriate proposals to improve such activities in state bodies. Relevant resolutions of the Cabinet of Ministers of Ukraine provide instructions to ensure proper organization of internal control and internal audit, take measures to eliminate identified shortcomings and prevent them in the future.

2. Is there a PIFC strategy and action plan in place? If yes, please explain the scope and the timeframe of the strategy and the mechanisms for monitoring its implementation. How does it relate to the strategic framework for Public Administration Reform and Public Financial Management? Please provide a translated copy of the Strategy.

The Public Finance Management Reform Strategy for 2022–2025 (hereinafter – Strategy) and the Action Plan for its implementation (approved by the Order of the Cabinet of Ministers of Ukraine in December 29, 2021, № 1805-r) (see attached) has identified the tasks and measures for further development of the system of public internal financial control (hereinafter – PIFC).

The Strategy and the Action Plan have been developed by the Ministry of Finance of Ukraine and approved by the Cabinet of Ministers of Ukraine (see attached), and accordingly determine the
issues of policy implementation in the relevant direction and are mandatory for implementation/execution by state bodies. These documents have been developed in cooperation with interested authorities, the expert community and international partners.

The strategy defines the PIFC's goal - to strengthen management accountability at all levels of the public sector, increase the effectiveness of internal control and internal audit in government agencies, as well as describes the current situation in the field of PIFC and analysis of existing issues.

The Strategy and the Action Plan contain, in particular, tasks and measures aimed at the practical application of internal control in the activities of spending units of budget funds and strengthening the effectiveness of internal audit. The tasks (measures) in the field of PIFC set by the Strategy and the Action Plan are expected to be implemented within four years by introducing internal control, aimed at strengthening the responsibility of managers for management and development of the institution as a whole, and efficiency, capacity and independence of internal audit, and institutional capacity of the Central Harmonization Unit of the Ministry of Finance. Progress in achieving the planned results will be determined by certain indicators. In addition, the Strategy and the Action Plan determine the responsible executors and deadlines for the implementation of relevant tasks (activities).

The Strategy is in line with strategic documents, in particular, the Association Agreement between Ukraine and the EU, the Action Plan of the Cabinet of Ministers of Ukraine, the Strategy for Public Administration Reform for 2022-2025, approved by the Order of the Cabinet of Ministers of Ukraine from 21.07.2021 № 831 (see attached), the National Economic Strategy for 2030, approved by the Resolution of the Cabinet of Ministers of Ukraine from 03.03.2021 № 179.

The mechanism for monitoring the implementation of the Strategy and the Action Plan is defined, in particular, in paragraph 2 of the Order of the Cabinet of Ministers of Ukraine from 29.12.2021 № 805-r "On approval of the Strategy for Public Finance Management Reform for 2022-2025 and Action Plan for its implementation" (see attached), which ministries and other central executive bodies are obliged:

- to ensure timely implementation of the action plan approved by this order;
- to submit information on the progress of the implementation of the action plan quarterly by the 15th of the following month to the Ministry of Finance for its generalization and submission to the Cabinet of Ministers of Ukraine within ten days;
- to provide the information to the Ministry of Finance on the results of the Strategy approved by this order, the stage of achievement of the goal for each component of the public finance management system, as well as an assessment of the strategic goals achievements by March 1 of the year following the reporting period for preparation of a generalized analytical report and submitting it to the Cabinet of Ministers of Ukraine by June 1.

B. Managerial Accountability

3. Accountability systems tend to evolve during the PIFC reform process, moving from an initial focus on administrative accountability to focus more on managerial
accountability. Please rank Ukraine's level using a scale from 1 (administrative accountability) to 7 (managerial accountability). Please list the main information sources used in the analysis.

The level of assessment of Ukraine on a scale from 1 (administrative responsibility) to 7 (managerial accountability) is 5.

The following assessment is based on the results of:
- assessment (review) of the functioning of the internal control system in public authorities (in 2018);
- implementation of a number of pilot projects on internal control, aimed at strengthening the responsibility of managers for management and development of the institution (managerial responsibility and accountability) and quality implementation of tasks on planning and organization, forming an adequate structure of internal control, supervision of internal control and risk management (in 2018-2021);
- analysis of information from reports of spending units regarding level of organization and implementation of internal control in terms of elements of internal control (in 2020-2021).

In particular, each state body has approved the internal documents (regulations on the state body, division of responsibilities between management, regulations on structural units, job descriptions, etc., which describe the duties and responsibilities of management and employees). Management and employees are aware of their duties and responsibilities.

The key operational processes (sequence of their end-to-end implementation for the involved structural units, their division of responsibilities, interaction and control, scope of accountability and responsibility for implementation, information flows and reporting issues) are also separately identified in state bodies, which is regulated by internal documents.

At the same time, there are cases when the existing system of control and accountability during the implementation of the relevant processes is built around the implementation of the tasks set for the position of the employee, and not focused on the place and his/her role in such processes.

Management responsibilities (accountability) at each level are defined in the above documents, but are generally not always tied to the implementation of the relevant operational processes.

Heads of departments are endowed with duties, the amount of which is sufficient for them to make management decisions within their competence.

4. Managerial accountability means that in addition to an organisation being accountable to external stakeholders, each part is also accountable internally. This requires an effective delegation framework under which managers and staff are aware both of their responsibilities and of the authority delegated to them. Please describe how the delegation framework is defined, and authority assigned and communicated, within public sector organisations.

The issues of managerial responsibility (accountability), the structure of delegation (distribution) of powers, in particular, are defined in the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062.
Among the principles on which internal control is based are the following: the principle of responsibility, which means that the management and employees of the institution are responsible for their decisions, actions and tasks within their job responsibilities; as well as the principle of delegation of powers, which consists in the division of powers and a clear definition of responsibilities of management and employees of the institution, providing them with appropriate rights and resources necessary for the performance of official duties.

During the organization and functioning of internal control, the managerial responsibility and accountability of the head and employees of the institution is ensured, which is based on the requirements of the law and applies to all activities of the institution.

The head of the institution is responsible and accountable for the proper management and development of the institution; achievement of certain goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution; ensuring legal, economical, efficient, effective and transparent management of budget funds, state property and other resources; organization and implementation of internal control in the institution (including the formation of an appropriate structure of internal control, supervision of internal control and risk management).

In the manner prescribed by law, the head of the institution reports on the effectiveness and efficiency of the institution, the achievement of certain goals (mission), strategic and other goals, including the implementation of internal control.

The head of the institution ensures a clear separation of duties, powers and responsibilities between the deputy heads of the institution, lower-level management and employees of the institution.

Heads of structural units and employees of the institution are responsible and accountable for the implementation of their tasks and responsibilities in accordance with the laws and internal documents of the institution.

Delegated powers and the process of their implementation are described in internal documents of the institution, in particular, regulate issues related to:

- establishing the purpose (mission) and strategic goals of the institution;
- determination of the organizational structure, duties, responsibilities and accountability of the management and employees of the institution;
- establishing a list of tasks and functions, their distribution and assignment to performers (co-performers);
- preparation and submission of reports on the results of activities (procedures for the introduction of managerial responsibility and accountability, including defining areas of reporting, establishing links between objectives, planning, implementation, use of resources and results, defining indicators achieved during tasks and activities, levels, forms and deadlines for reporting).

Relevant issues are identified, in particular, in the regulations on the state body, the division of responsibilities between the head and his deputies, the regulations on structural units, job descriptions of employees.

The management and employees of the institution are aware of their responsibilities and powers.
5. How far are budgets aligned with decision-making authority within public sector organisations?

The Budget Code of Ukraine defines the legal basis for the functioning of the budget system of Ukraine, its principles, the basics of the budget process and inter-budgetary relations and the responsibility for violating budget legislation.

According to Article 20 of the Budget Code of Ukraine the performance-based budgeting is used at the level of the state budget and local budgets in the budget process. Components of the performance-based budgeting in the budget process are budget programs, responsible executors of budget programs, passports of budget programs, performance indicators of budget programs.

Budget programs are formed by the key spending units of budget funds during the preparation of the Budget Declaration (local budget forecast) and the draft budget for the planned budget period, taking into account medium-term activity plans, forecast and program documents of economic and social development.

The responsible executor of budget programs is determined by the key spending unit of budget funds in coordination with the Ministry of Finance (local financial authority). The responsible executor of budget programs in the process of their implementation ensures targeted and effective use of budget funds throughout the implementation of the relevant budget programs within the defined budget allocations.

Performance indicators of the budget program are used to assess the effectiveness of the budget program in the use of budget funds and include quantitative and qualitative indicators that determine the outcome of the budget program, describe its implementation, the level of achievement of public policy objectives in the relevant field of activity, the formation and/or implementation of which provides the key spending unit, achieving the budget program, fulfilling the objectives of the budget program, highlight the scope and quality of public services.

The list of performance indicators for each budget program is developed by the key spending units of budget funds in accordance with the regulations of the Ministry of Finance.

At all stages of the budget process, its participants, within their powers, evaluate the effectiveness of budget programs, which includes measures for monitoring, analysis and control over the targeted and effective use of budget funds.

The results of the evaluation of the effectiveness of budget programs (including the conclusions of the executive bodies authorized to monitor compliance with budget legislation and the conclusions of the Accounting Chamber) are the basis for making decisions regarding amendments of budget allocations of the current budget period, the relevant proposals to the draft budget for the planned budget period and the Budget Declaration (local budget forecast).

By the decision of the Cabinet of Ministers of Ukraine reviews of state budget expenditures are conducted to ensure the efficiency and effectiveness of state budget funds, which include analysis of the state policy effectiveness in the relevant field at the expense of the state budget within certain budget programs, as well as evaluation of efficiency, effectiveness and economic feasibility of the corresponding expenditures of the state budget.

Based on the results of such reviews, the Cabinet of Ministers of Ukraine makes decisions that are the basis for making appropriate proposals to the draft state budget for the planned budget period and to the Budget Declaration.
Article 22 of the Budget Code of Ukraine defines the duties of spending units (key spending units and lower-level spending units).

Among the activities of the key spending unit, in particular, are the following:

- to develop the medium-term action plan (including measures for the implementation of investment projects) taking into account the Budget Declaration (local budget forecast), the Law on the State Budget of Ukraine (local budget decisions), forecast and program documents of economic and social development;

- to organize and ensure the preparation of the budget proposal taking into account the Budget Declaration (local budget forecast), approved in the previous budget period, and submitting it to the Ministry of Finance (local financial authority);

- to organize and ensure the preparation of the budget request on the basis of the Budget Declaration (local budget forecast) and the action plan for the medium-term and submitting it to the Ministry of Finance of Ukraine (local financial authority).

According to the Article 33 of the Budget Code of Ukraine, the key spending units of state budget funds prepare budget proposals in accordance with the requirements of instructions and indicative limits of state budget expenditures and loans from the state budget for the medium term, provided by the Ministry of Finance, including information on the objectives of state policy in the relevant field of activity, the formation and/or implementation of which is provided by the key spending units of state budget funds, and indicators of their achievement. The key spending units of the state budget ensure the timeliness, reliability and content of budget proposals submitted to the Ministry of Finance, which must contain all the information necessary for their analysis, in accordance with the requirements of the Ministry of Finance.

The spending unit may authorize the recipient of budgetary funds to implement the measures provided for the budget program by proving the budget allocations and providing the appropriate budgetary funds (on a non-refundable or repayable basis). The recipient of budgetary funds uses such funds in accordance with the requirements of budget legislation on the basis of the plan for the usage of budgetary funds, which contains the distribution of budget allocations (Article 22 of the Budget Code of Ukraine).

According to Article 26 of the Budget Code of Ukraine, control over compliance with budget legislation is aimed at ensuring effective and efficient management of budgetary funds and is carried out at all stages of the budget process by its participants, as well as provides:

- assessment of budget funds management (including public financial audit);

- correctness of accounting and reliability of financial and budgetary reporting;

- achieving budget savings, their targeted use, efficiency and effectiveness in the activities of spending units by making sound management decisions;

- analysis and assessment of financial and economic activities of spending units;

- prevention of violations of budget legislation and ensuring the interests of the state and territorial communities in the management of state and municipal property;

- validity of planning budget revenues and expenditures.
The Accounting Chamber provides control over the receipt of funds in the State Budget of Ukraine and their use on behalf of the Verkhovna Rada of Ukraine. The activities of central executive bodies that ensure the implementation of state policy in the field of control over compliance with budget legislation (within their responsibilities established by the regulations) are directed, coordinated and controlled by the Cabinet of Ministers of Ukraine.

Spending units, represented by their heads, organize internal control and internal audit and ensure their implementation in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

C. Internal control

6. To what extent do the public sector internal controls arrangements focus on addressing systemic errors before they happen or on the identification/investigation of individual errors after-the-fact?

In accordance with the third part of Article 26 of the Budget Code of Ukraine, spending units in the person of their heads organize internal control and ensure its implementation in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Internal control is a set of measures used by the head to ensure compliance with the law and efficiency of budget funds, achieve results in accordance with the established goals, objectives, plans and requirements for the activities of the spending unit and enterprises, institutions and organizations which are in the sphere of management of such spending units.

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic Principles), determine the principles and elements of internal control, the organization and implementation of internal control by spending units in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

In the current legislation of Ukraine, internal control is understood as a holistic and interconnected process provided by the management and employees of the institution and essentially applies to the whole set of measures implemented by the head aimed at management and development of the institution.

Among the principles on which internal control is based, there is the principle of continuity, which is determining the policies, rules and measures aimed at achieving a specific goal (mission), strategic and other goals, objectives, plans and requirements for the institution, minimizing the impact of risks, are used constantly to respond in a timely manner to changes in the activities of the institution.

The internal control system in the institution consists of elements (internal environment, risk management, control measures, information and communication, monitoring).

The elements of internal control are interrelated, covering all activities and financial and non-financial processes in the institution.
The head of the institution ensures the proper functioning and communication of all elements of internal control.

Risk management system is one of the tools in prevention violations and inaccuracy in the activities of the institution, which involves identifying and assessing risks (according to the probability of their occurrence and materiality of impact on objectives), identification of ways to respond to risks and development of control measures to avoid (reduce the impact) of risks in order to achieve the institution's goals (mission), strategic and other goals, objectives, plans and requirements for the activities of the institution.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;

- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution;

- assessment of the functioning of the internal control system by the internal audit unit within the powers defined by law, providing the head of the institution with objective and independent conclusions and recommendations for its improvement.

According to the report on the status of organization and implementation of internal control in state bodies, a proper system of internal control in institutions has been established over the past two years, which aims to ensure a systematic approach in solving problems and preventing inaccuracy in institutions.

In particular, there are positive movements in the development of risk management activities. Particularly, this applies to formalization of such activities, its practical implementation at all levels in the institution, which indicates the increase in the level of understanding and importance of the introduction of such activities as part of the management of the institution, tasks and functions.

Currently, risk management activities are considered in conjunction with the implementation of the institution's main objectives, achieving goals/plans of activities, the implementation of priority areas of work, as it focuses only on key risks.

7. Give a description of how the five components of the COSO 'Internal Control - Integrated Framework 2013' (control environment, risk assessment, control activities, information and communication, and monitoring activities) are expected to operate in the public sector.

Issues of organization and implementation of internal control are defined in:

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic
Principles), determine the principles and five elements of internal control, the organization and implementation of internal control by spending units.

Methodical recommendations on the organization of internal control by spending units of budget funds in their institutions and subordinate budgetary institutions, approved by the Order of the Ministry of Finance dated 14.09.2012 № 995 (determine the practical aspects of building internal control in the institution in terms of five elements of internal control).

The development of the Guidelines takes into account the principles underlying the Integrated Internal Control System of 14 May 2013, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In particular, the Basic Principles contain 5 elements of internal control (internal environment, risk management, control measures, information and communication, monitoring) and provide principles that are fundamental concepts of these elements that work together in an integrated way to ensure an effective internal control system.

The requirements of the Basic Principles apply to spending units of all levels (key spending units and lower level spending units, both for state and local budgets).

The internal control system of the institution consists of the following elements:

- internal environment - processes, operations, regulations, structures and division of powers for their implementation, rules and principles of human resource management aimed at ensuring the implementation of the institution's tasks and functions and achieving goals (mission), strategic and other goals, plans and requirements activities of the institution;

- risk management - the activities of management and employees of the institution to identify risks, assessing them, determine how to respond to identified and assessed risks, review identified and assessed risks to identify new and changed;

- control measures - a set of management actions implemented in the institution, which are carried out by management and employees of the institution to influence risks in order to achieve the institution's objectives (mission), strategic and other goals, plans and requirements for the institution;

- information and communication (information and communication exchange) - creation of information, its collection, documentation, analysis, transmission of information and its use by management and employees of the institution to perform and evaluate the results of tasks and functions;

- monitoring - tracking the status of the organization and functioning of the internal control system as a whole and/or its individual elements.

The elements of internal control are interrelated, covering all activities and financial and non-financial processes in the institution.

The head of the institution ensures the proper functioning and communication of all elements of internal control.

The process of organization and implementation of internal control in the institution is ensured by:

- development and approval of internal documents aimed at ensuring the functioning of the elements of internal control by the head of the institution;
- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the implementation of their tasks and functions, taking control measures, monitoring and information exchange by all management and employees of the institution;

- assessment of the functioning of the internal control system by the internal audit unit within the powers defined by law, providing the head of the institution with objective and independent conclusions and recommendations for its improvement.

Requirements for settling the internal documents of the institution on the functioning of the elements of internal control are provided by the Basic Principles.

In addition, it is provided that the internal administrative documents of the institution may establish other issues of internal control, requirements for its organization and implementation, taking into account the specifics of the institution.

8. What steps have been identified/are being taken to remedy any differences between current and expected practice?

The basic principles of implementation of internal control by spending units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 (hereinafter – the Basic Principles), determine the principles and elements of internal control, the organization and implementation of internal control by spending units in their institutions and enterprises, institutions and organizations which are in the sphere of management of such spending units.

Paragraph 10 of the Basic Principles defines the list of reporting entities (key spending units of the state budget, central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations), which are, starting from 2020, obliged to submit a report to the Ministry of Finance on the status of organization and implementation of internal control in terms of elements of internal control in the form established by the Ministry of Finance by February, 1.

According to the third paragraph of item 2 of the Order of the Ministry of Finance of Ukraine dated 19.04.2019 № 160 “On approval of the form of the Report on the organization and implementation of internal control in terms of elements of internal control” the Ministry of Finance annually develops the relevant lists of issues for filling in the accounting reporting, starting from 2019, 2020 and 2021, which are then brought to the attention of certain reporting entities.

The Ministry of Finance develops such a list of issues, taking into account the possibility for state bodies to identify existing gaps or improper functioning and lack of connection of some elements of internal control, as well as to monitor the positive dynamics of development and improvement of the existing internal control system in state body.

Generating such reports and describing the actual state of settlement (functioning) of the issue is also a kind of assistance to the management of the institution and assists in internal evaluation of the effectiveness of the internal control system to eliminate deviations and shortcomings to achieve
the institution's goals with the maximum result within the budget, and increase the level of perception and understanding of internal control staff.

The results of the analysis of the reporting of state bodies with relevant conclusions and recommendations on the organization and development of internal control are sent annually to the Cabinet of Ministers of Ukraine, which in turn instructs ministers, heads of other central executive bodies, heads of regional and Kyiv city state administrations, heads of other key spending units of budgetary funds to ensure the proper organization of internal control, take appropriate measures to eliminate identified shortcomings and prevent them in the future.

In order to implement the provisions of the Association Agreement between Ukraine and the EU and paragraph 4 of Section IV of the Public Finance Management Reform Strategy for 2017-2020, approved by the Order of the Cabinet of Ministers of Ukraine from 08.02.2017 № 142-r, the Ministry of Finance continued work to ensure the further development of the internal control system, in particular, to the implementation of internal control through the implementation of 4 pilot projects aimed at strengthening the responsibility of managers for the management and development of the institution as a whole (managerial responsibility and accountability) and quality implementation of tasks on planning and organization of activities, formation of adequate internal control structure, supervision of internal control and risk management to achieve goals, decision-making and implementation, including financial, taking into account the principles of legitimacy, economy, efficiency, effectiveness and transparency.

During the implementation of such pilot projects, the current state of internal control was directly studied. At the same time, the key elements of the internal control system and their interrelation were assessed in comparison with the best international practices and fundamental principles of financial management and control described in the relevant international standards and frameworks.

Carrying out pilot projects on internal control in state bodies is a kind of practical assistance for their heads, as the results of comparing the developed criteria with the relevant findings revealed certain shortcomings and gaps in the current state of internal control and made recommendations to further improve the existing internal control system.

In addition, in order to raise awareness of civil servants on internal control the Ministry of Finance of Ukraine in cooperation with the Ministry of Finance of the Kingdom of the Netherlands, has developed a training program on financial management and control (internal control) for various target groups (operational management, management and employees of finance/second-line functions, internal audit), which is structured in terms of training modules for each target group with the definition of basic knowledge and skills to be acquired by potential participants in training on financial management and control (internal control).

Thus, during 2021, 3 training events were organized and conducted for government officials, which addressed the conceptual framework of internal control, risk management activities, managerial accountability in the internal control system, as well as the development of internal control in the context of public administration reforms and public finance management, etc.

*The Public Finance Management Reform Strategy for 2022–2025 approved by the Order of the Cabinet of Ministers of Ukraine in December 29, 2021, № 1805-r provides for the implementation of measures to implement internal financial control, aimed at strengthening the responsibility of heads.*
of budgetary institutions for the management and development of the institution as a whole, over the next four years, by:

- integration of aspects of internal control into the practical activities of spending units;
- introduction of the training program on internal control for the key spending units of the state budget, central executive bodies, regional and Kyiv city state administrations;
- preparation of a methodological manual (instructions) on the practical implementation of certain aspects of the system of internal control by spending units of state budget funds, including risk management (this manual was developed and distributed on the website of the Ministry of Finance).

9. **What requirements for ethical behaviour or standards of conduct (especially concerning potential conflicts of interest and how to deal with them) does the internal control system set?**


Law of Ukraine "On Civil Service", in particular, regulates the following:

- the main responsibilities of a civil servant are defined, in particular, compliance with the principles of civil service and rules of ethical conduct, prevention of real, potential conflicts of interest during the civil service;
- it is provided that the head of the civil service is obliged, in particular, to take measures to comply with the rules of ethical conduct, in order to ensure the appropriate level of service discipline;
- the civil servant shall be brought to disciplinary responsibility in accordance with the procedure established by this Law, in particular, for violation of the rules of ethical conduct;
- it is provided that the presence of a real or potential conflict of interest for a civil servant, which is permanent and cannot be resolved in any other way, are grounds for termination of civil service due to loss of right to civil service or its restriction.

Law of Ukraine “On Prevention of Corruption”, in particular, regulates the following:

- the procedure for prevention and settlement of conflicts of interest is determined (in particular, requirements for external and independent solving of conflicts of interest, removal from performing task, actions, decision-making or participation in its decision-making, transfer, dismissal due to conflict of interest);
- defined rules of ethical conduct (in particular, requirements for the conduct of individuals, compliance with the law and ethical standards of conduct, impartiality, competence and efficiency, non-disclosure of information, refraining from carrying out illegal decisions or instructions);
- the NAPC is empowered to monitor and control the implementation of legislation on ethical conduct, prevent and resolve conflicts of interest in the activities of persons authorized to perform the functions of state or local government, and persons equated to them, making instructions on violations of legislation on ethical conduct, prevention and settlement of conflicts of interest, other requirements and restrictions provided by this Law, protection of whistleblowers;
- stipulates that in cases of violation of the requirements of this Law on ethical conduct, prevention and settlement of conflicts of interest in the activities of persons authorized to perform state or local government functions and persons equated to them, protection of whistleblowers, NAPC reports to the head of the relevant body institutions, organizations order to eliminate violations of the law, conduct an official investigation, bring the perpetrator to justice.

General Rules of Ethical Conduct for Civil Servants and Local Government Officials are approved by the Order of the National Agency of Ukraine for Civil Service dated 05.08.2016 № 158 and registered in the Ministry of Justice on 31.08.2016 under № 1203/29333.

These General Rules are a generalized collection of professional and ethical requirements for the rules of conduct of civil servants and local government officials whose activities are aimed at serving the people of Ukraine and the territorial community by protecting and promoting the rights, freedoms and legitimate interests of human and citizen.

According to the Basic Principles of Implementation of Internal Control by Spending Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062 the institution's internal documents should address, inter alia, issues of ethical conduct.

In particular, during the organization and implementation of internal control, the management and employees of the institution create an environment that provides:

- compliance with standards of ethical conduct by employees, both in general and in relation to individual activities of the institution;
- the behavior of employees is not allowed the possibility of committing corruption offenses, fraud or other abuses in carrying out certain activities or decision-making;
- timely detection of any circumstances that may lead to violations of standards of ethical conduct or legislation on the prevention of corruption by employees and taking appropriate corrective action to eliminate these circumstances;
- the possibility of informing the head of the facts of corruption, fraud or other abuse of office.

In order to ensure the conduct of employees at a sufficient level of honesty, there must be a clear knowledge and awareness of each employee about the need to comply with ethical standards, anti-corruption legislation.

Heads of institutions or their structural units in case of detection or notification of violation of these rules of ethical conduct within their competence in accordance with the law, are obliged to take measures to stop the violation, eliminate its consequences and bring the perpetrators to justice, and in cases detection of signs of criminal or administrative offenses also inform specially authorized entities in the field of anti-corruption.

D. Sound financial management

10. Is there legislation setting out the status within public sector organisations of finance officers and/or finance sections together with their role and methods of operation?
Tasks and responsibilities of the accounting service of the budgetary institution and the powers of its head are defined by the Standard Regulations on the accounting service of the budgetary institution, approved by the Cabinet of Ministers of Ukraine dated 26.01.2011 № 59.

In accordance with this Standard Regulation, the accounting service is formed as an independent structural unit of the budgetary institution, the type of which depends on the volume, nature and complexity of accounting work - department, division, sector or the budgetary institution introduces the position of a specialist fulfilling the responsibilities of an accounting service. The duties of the accounting service may be performed by the centralized accounting department of the budgetary institution to which other budgetary institutions are subordinated.

The accounting service reports directly to the head of the budgetary institution or his deputy.

Peculiarities of the functioning of the accounting service are disclosed in the regulations on the accounting service and the regulations on the organization of accounting, which are approved by the administrative document of the head of the institution.

The main tasks of the accounting service are: accounting of financial and economic activities of the budgetary institution and reporting; reflection in the documents of reliable and complete information about business transactions and results of activities required for the operational management of budget allocations (appropriations) and financial and tangible (intangible) assets; ensuring compliance with budget legislation when making budget commitments, timely submission for registration of such commitments, making payments in accordance with budget commitments, accurate and full reflection of transactions in accounting and reporting; ensuring control over the availability and movement of property, the use of financial and tangible (intangible) assets in accordance with approved standards and estimates; prevention of negative phenomena in financial and economic activities, identification and mobilization of domestic reserves.

The head of accounting service is the chief accountant, who reports to and is accountable to the head of the budgetary institution or his deputy. The chief accountant is appointed and dismissed by the head of the budgetary institution in accordance with labor legislation. Appointment to the position of chief accountant of a budgetary institution and / or a specialist entrusted with the tasks and functional responsibilities of the accounting service shall be made in accordance with the Handbook of Typical Professional Qualifications for Civil Servants or the Handbook of Qualifications for Professionals. Employees of the accounting service, who are appointed and dismissed in the manner prescribed by labor legislation, are subordinate to the chief accountant.

The Treasury provides, within its powers, the organization and coordination of the activities of the chief accountants of budgetary institutions and control over the implementation of their powers by evaluating their activities.

The procedure for assessing the performance of the chief accountant of the budgetary institution was approved by the order of the Ministry of Finance of Ukraine dated 01.12.2011 № 1537.

The norms of this Procedure determine the organizational principles of the State Treasury Service of Ukraine and its territorial bodies within its powers to assess the performance of the chief accountant of the budgetary institution.

11. Do the public sector accounting and reporting systems cover all sources of revenue and all types of expenditure, together with any assets and/or liabilities?
Yes. In accordance with Article 56 of the Budget Code of Ukraine, accounting of all operations related to the execution of the State Budget of Ukraine is carried out by the Treasury of Ukraine in the manner prescribed by the Ministry of Finance of Ukraine. This accounting should reflect all assets and liabilities of the state.

The accounting of all budget revenues and budget expenditures is conducted in gross indicators, regardless of whether or not the budget allocations provide for the offsetting of these indicators (part four of Article 56 of this Code).

All budget revenues and budget expenditures are reflected in the accounts in chronological order in accordance with the procedure established by law. All accounting records must be documented (part five of Article 56 of this Code).

Budgetary institutions keep accounts in accordance with national regulations (standards) of accounting in the public sector (hereinafter - NR(S)APS) and other regulations on accounting in the manner prescribed by the Ministry of Finance of Ukraine.

Generalization of information on the availability and movement of assets, capital, liabilities and facts of accounting entities in the public sector is carried out on the accounts of the Chart of Accounts in the public sector, approved by the order of the Ministry of Finance of Ukraine from 31.12.2013 № 1203, according to the Procedure application of the Chart of Accounts in the public sector, approved by the order of the Ministry of Finance of Ukraine dated 29.12.2015 № 1219.

Reporting on the implementation of the State Budget of Ukraine (estimates of budgetary institutions) includes financial and budgetary reporting. The financial statements are prepared in accordance with the NR(S)APS and other regulations of the Ministry of Finance of Ukraine. Budget reporting reflects the state of budget implementation, contains information in terms of budget classification (Article 58 of the Budget Code of Ukraine).


The provisions of this Law apply to all legal entities established in accordance with the legislation of Ukraine, which are required to keep accounts and submit financial statements, as well as operations on state and local budgets and financial reporting on budget execution according to the budget legislation.

The Ministry of Finance of Ukraine has introduced 20 NR(S)APSs, developed on the basis of International Accounting Standards for the Public Sector (IPSAS). The World Bank experts have assessed and recognized the high degree of compliance of the NR(S)APS with international accounting standards for the public sector (IPSAS).

Composition, forms, principles of preparation and submission of financial statements in the public sector, general requirements for recognition and disclosure of its elements are defined by NR(S)APS 101 “Submission of Financial Statements”, approved by the order of the Ministry of Finance of Ukraine dated 28.12.2009 № 1541, financial reporting in the public sector, approved by the order of the Ministry of Finance of Ukraine dated 28.02.2017 № 307, and Guidelines for the development by the State Treasury Service of Ukraine of forms for financial reporting, approved by the order of the State Treasury Service of Ukraine dated 25.01.2019 № 28.
In accordance with NR(S)APS 101 “Submission of Financial Statements”, the financial statements provide information on assets, liabilities, equity, income, expenses, cash flows of the public sector entity and the budget.

The financial statements consist of the balance sheet, the statement of financial performance, the statement of equity, the statement of cash flows and the notes to the annual financial statements.

1) The balance sheet as a statement of financial position reflects the assets, liabilities and equity of the public sector entity and / or the budget at the beginning of the year and at the end of the reporting period on the basis of verified accounting data.

2) The statement of financial performance reflects information on income, expenses, deficit / surplus as a result of the activities of the public sector entity and the budget during the reporting period.

3) The statement of cash flows reflects the cash flows during the reporting period as a result of operating, investing and financing activities.

4) The statement of equity discloses information about changes in the composition of equity.

Indicators and explanations that provide details and validity of financial statements, as well as other information, the disclosure of which is demanded by NR(S)APS, are provided in the notes to the annual financial statements approved by the order of the Ministry of Finance of Ukraine dated 29.11.2017 № 977.

Forms of budget reporting on the implementation of estimates of budgetary institutions and the procedure for filling them are determined by the Procedure for budget reporting by managers and recipients of budget funds, reporting by funds of compulsory state social and pension insurance, approved by the order of the Ministry of Finance of Ukraine dated 24.01.2012 № 44.

Also, in accordance with Article 12 of the Law on Accounting, the Treasury of Ukraine prepares consolidated financial statements on the general property status and performance of public sector entities and budgets.

Consolidation of financial statements and disclosure of information is provided in accordance with NR(S)APS 102 "Consolidated Financial Statements", approved by the order of the Ministry of Finance of Ukraine from 24.12.2010 № 1629, and Guidelines for the formation by the State Treasury Service of Ukraine of consolidated financial statements approved by the Ministry of Finance of Ukraine dated 15.05.2019 № 204.

The consolidated financial statements are prepared on the basis of the consolidated financial statements of the controlling public sector entities and budgets using a single accounting policy for similar transactions and other events in similar circumstances.

12. Do the public sector accounting and reporting systems provide sufficient and timely information to:

   g) allow managers to control and manage commitments effectively,

   h) inform managers about financial implementation and performance during the year,

   i) permit forecasting of income and expenditure,
j) keep financial commitments within budget limits,

k) ensure that the use of financial resources, e.g. through procurement operations or human resource costs, is in accordance with the existing budget, and

l) allow an audit trail of key financial decisions, including those relevant to Instrument for Preaccession Assistance-funded programmes?

Yes. In accordance with the Budget Code of Ukraine (hereinafter - the Code) at all stages of the budget process control is conducted over compliance with budget legislation, audit and evaluation of the effectiveness of budget management in accordance with the law.

Participants of the budget process, within their powers, evaluate the effectiveness of budget programs, including measures for monitoring, analysis and control over the targeted and effective use of budget funds. Evaluation of the effectiveness of budget programs is carried out on the basis of monitoring data, analysis of performance indicators of budget programs, as well as other information contained in budget requests, estimates, passports of budget programs, reports on budgets and reports on budget program passports. Organizational and methodological principles for assessing the effectiveness of budget programs by the main managers of budget funds are determined by the Ministry of Finance of Ukraine.

The results of the evaluation of the effectiveness of budget programs (including the conclusions of the executive bodies authorized to monitor compliance with budget legislation and the conclusions of the Accounting Chamber) are the basis for decisions to amend the budget allocations of the current budget period, the planned budget period and the Budget Declaration (local budget forecast), including the suspension of the implementation of relevant budget programs (part six of Article 20).

Any budget commitments and payments from the budget are made if an appropriate budget purpose is stated, according to the law on the State Budget of Ukraine (decision on the local budget) (parts one and two of Article 23).

The stages of budget execution for expenditures and lending are (part one of Article 46 of the Code):

1) establishment of budget allocations to managers of budget funds on the basis of and within the approved budget schedule;

2) approval of estimates, passports of budget programs, as well as procedures for the use of budget funds;

3) making budget commitments;

4) receipt of goods, works and services;

5) making payments in accordance with the budget commitments;

6) use of goods, works and services to perform the tasks of budget programs;

7) return of loans to the budget (for budget lending).

Managers and recipients of budget funds make budget commitments and make payments only within the budget allocations established by estimates, taking into account the need to fulfill budget commitments of previous years, taken into account by the Treasury (part one of Article 48).
The Treasury registers and records the budget liabilities of budget managers and recipients and reflects them in the budget execution reports. When registering and accounting for budget commitments, the compliance of the directions of spending budget funds with the budget allocation, the passport of the budget program is checked (part five of Article 48).

The Treasury makes payments on behalf of budget managers in the presence of the relevant budget commitment for payment in the accounting of budget execution; availability of the budget program passport approved in accordance with the established procedure; availability of appropriate budget allocations for budget managers (part two of article 49).

The Treasury of Ukraine shall keep accounting records of all operations related to the execution of the State Budget of Ukraine, compile, compile and submit reports on the execution of the State Budget of Ukraine. Budgetary institutions keep accounts and prepare financial statements in accordance with national regulations (standards) of accounting in the public sector and other regulations on accounting in the manner prescribed by the Ministry of Finance of Ukraine (Articles 56 and 58).

According to the Law of Ukraine dated 06.07.1999 № 996-XIV “On Accounting and Financial Reporting in Ukraine” accounting is a process of identifying, measuring, registering, accumulating, summarizing, storing and transmitting information about the enterprise to external and internal users for acceptance decisions. The financial statements contain information about the financial condition and results of the enterprise.

According to NR(S)APS 101 "Submission of financial statements" the purpose of financial reporting is to provide users for their decision-making with complete, truthful and unbiased information about the financial condition, performance and cash flow of the public entity and the budget.

Financial reporting in the public sector provides information needs of users on the sources of income and purposes of their use; results of activity in terms of efficiency and achievement of the purpose of activity; observance of financial discipline by a public sector entity; targeted use of budget funds; management quality assessments; assessments of the ability to meet their obligations in a timely manner; purchase, sale and possession of securities; participation in the capital of enterprises; the level of resources required to continue operations, the resources that may arise from continuing operations, and the associated risks and uncertainties.

Financial statements are prepared in accordance with the principles of accrual and full disclosure, according to which income and expenses are reflected in accounting and financial statements at the time of their occurrence, regardless of the time of receipt or payment of funds, financial statements should contain all information about actual and potential consequences operations and events that can influence decisions made on its basis.

Accounting for the implementation of state and local budgets is conducted by the cash method using the method of accrual for individual transactions (accounting for public debt, liabilities of budget managers). Transactions on income and expenses are reflected in the accounting at the time of the relevant payments, and transactions on budget financing - at the time of the movement of funds with the simultaneous reflection of active operations or debt.

Budgetary institutions and funds of the obligatory state social and pension insurance in the part of execution of estimates are accounted for by the accrual method, according to which transactions
and events are recognized at the time of their occurrence, regardless of the date of receipt or payment (or their equivalents).

This method allows accounting of all existing and receivable assets and liabilities, promotes more informed decisions about the allocation of resources, as the reflection of income and expenses at the time of their occurrence provides a systematic and comprehensive reporting information.

According to the Article 14 of the Law on Accounting, the chief budget managers publish annual financial statements, annual consolidated financial statements no later than April 30 of the year following the reporting period by posting them on their website.

The Treasury publishes the annual consolidated financial statements on the general assets and performance of public sector entities and budgets no later than June 1 of the year following the reporting period on its website.

Monthly and quarterly reports are prepared and submitted by the Treasury within the deadlines set by the Code (Articles 59, 60, 80), the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Accounting Chamber and the Ministry of Finance of Ukraine.

The annual report on the implementation of the Law on the State Budget of Ukraine is submitted by the Cabinet of Ministers of Ukraine to the Verkhovna Rada of Ukraine, the President of Ukraine and the Accounting Chamber no later than April 1 of the year following the reporting year (part one of Article 61).

At the same time, monthly, quarterly and annual reports on the implementation of the State Budget of Ukraine are posted on the official website of the Treasury (part one of Article 28).

13. Describe any centralised ex-post checks on receipts or expenditure.

Relevant control at the central level is carried out, in particular, by the Accounting Chamber and the State Audit Service of Ukraine.

I. The Accounting Chamber is the highest body of independent external financial control (audit).

In accordance with Article 98 of the Constitution of Ukraine, the Accounting Chamber, on behalf of the Verkhovna Rada of Ukraine, controls the receipt of funds in the State Budget of Ukraine and their use.

According to the Law on the Accounting Chamber, the Accounting Chamber is organizationally, functionally and financially independent and plans its activities independently. The independence of the Accounting Chamber is ensured, in particular, by the procedure established by the Constitution and the Law for the appointment and dismissal of members of the Accounting Chamber; guaranteed by law guarantees of the Accounting Chamber; special procedure for organizational support of the Accounting Chamber.

The Accounting Chamber shall be independent in the exercise of its powers from any unlawful influence, pressure or interference. Unlawful interference in the exercise of the powers granted by law by the Accounting Chamber is prohibited and entails liability established by law. Interference of state authorities, local governments, political parties and public associations, enterprises, institutions, organizations, regardless of ownership and their officials and officials in the activities of the Accounting Chamber is prohibited.
According to the Law of Ukraine “On the Accounting Chamber”, public external financial control (audit) is provided by the Accounting Chamber by conducting financial audits, performance audits, examinations, analysis and other control measures, as well as developing proposals and recommendations on measures to be taken to eliminate and prevent the violations and shortcomings, prepare the recommendations for improving the relevant legislation.

Financial audit consists of checking, analyzing and assessing the correctness, completeness of accounting and reliability of reporting on budget revenues and expenditures, establishing the actual state of affairs on the targeted use of budget funds, compliance with legislation in transactions with budget funds (part three of Article 4 of the Law of Ukraine “On Accounting Chamber”).

Performance audit involves establishing the actual state of affairs and assessing the timeliness and completeness of budget revenues, productivity, efficiency, economy of use of budget funds by their managers and recipients, legality, timeliness and completeness of management decisions by budget process participants, the state of internal control of budget managers (part fourth Article 4 of the Law of Ukraine “On the Accounting Chamber”).

II. The State Audit Service of Ukraine (hereinafter - the State Audit Service, the body of state financial control) is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance and which implements public policy in the field of public finance control.

State financial control is provided by the body of state financial control through conducting state financial audit, inspection (post-control), verification of procurement (post-control) and monitoring of procurement procedures (current control).

State financial audit is a kind of state financial control and consists in checking and analyzing the state financial control body of the actual state of affairs on the lawful and efficient use of state or municipal funds and property, other state assets, correctness of accounting and reliability of financial statements, internal control system. The results of the state financial audit and their evaluation are set out in the report (Article 3 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”, see attached).

The inspection is carried out by the State Audit Service in the form of an audit and consists of documentary and factual verification of a certain complex or certain issues of financial and economic activities of the controlled institution. The results of the audit are set out in the act (Article 4 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”, see attached).

Procurement inspections are carried out at the location of the legal entity being inspected or at the location of the property subject to inspection, and consists of a documentary and factual analysis of the customer's compliance with procurement law. The results of the procurement inspection are set out in the procurement inspection report.

Procurement is monitored at the location of the state financial control body (Article 5 of the Law of Ukraine “On the Main Principles of the Public Financial Control in Ukraine”).

III. The State Treasury Service also controls the following while performing its treasury functions:

1) accounting of all revenues and expenditures of the state budget and local budgets, preparation and submission of financial and budgetary reports;
2) budgetary powers when crediting budget revenues;
3) compliance of the budget managers' estimates with the budget schedule indicators;
4) compliance of the budget commitments made by the managers of budget funds with the relevant budget allocations, the passport of the budget program;
5) compliance of payments with the budget commitment and the corresponding budget allocation (part one of Article 112 of the Code).

In accordance with the powers granted by the Budget Code of Ukraine, the Treasury bodies in case of violations of budget legislation by managers and recipients of budget funds apply such measures of influence as:

- warning about improper implementation of budget legislation with the requirement to eliminate the violation;
- suspension of operations with budget funds on accounts opened with the Treasury.

E. Internal Audit

14. Does the internal audit legislation define operational arrangements for internal audit, including the level of decentralisation, minimum audit unit staffing requirements and standards to be used; as well as independence, contents of audit charters, planning requirements and freedoms, reporting arrangements, codes of ethics, certification arrangements, and continuous professional development?

The function of internal audit in the public sector of Ukraine was introduced in 2012 to implement the relevant decision of the Government (Resolution of the Cabinet of Ministers of Ukraine of 28.10.2011 № 1001 "Some issues of internal audit and the establishment of internal audit units", hereinafter - Resolution № 1001).

According to Article 26 of the Budget Code of Ukraine, internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, inefficient use of budget funds, errors or other deficiencies in the activities of the budget manager and enterprises, institutions and organizations within the sphere of its management, and which provides the provision of independent conclusions and recommendations (Article 26 of the Budget Code). To carry out internal audit, the budget manager forms an independent structural unit of internal audit, which is subordinate and accountable directly to such head of the entity.

The procedure for internal audit and the establishment of internal audit units, approved by the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), determines the mechanism of formation of structural units of internal audit and issues of their activities.

Organizational and methodological principles of internal audit are defined by bylaws approved by the Ministry of Finance of Ukraine, namely:

1) Internal audit standards approved by the order of the Ministry of Finance of Ukraine dated 04.10.2011 № 1247 (as amended by the order of the Ministry of Finance of Ukraine dated 14.08.2019 № 344), which defines common approaches to internal audit activities in public bodies and defines
provisions, requirements and approaches to the organization of internal audit activities, planning, implementation of internal audit, reporting on its results;

2) Code of Ethics of employees of the internal audit unit, approved by the order of the Ministry of Finance of Ukraine dated 29.09.2011 № 1217, which declares the system of moral and professional values and rules of conduct of employees of the internal audit unit;

3) The procedure for the Ministry of Finance of Ukraine to assess the functioning of the internal audit system, approved by the order of the Ministry of Finance of Ukraine from 03.05.2017 № 480, which determines the mechanism of organization, conduct, design and implementation of results of the internal audit system;

4) Order of the Ministry of Finance of Ukraine dated 27.03.2011 № 347 “On approval of the reporting form № 1-ДВА “Report (consolidated report) on the results of the internal audit unit”, explanatory note to the report (consolidated report) and instructions on their preparation and submission”, which regulates the preparation and submission to the Ministry of Finance by state bodies of reports on the results of the activities of internal audit units.

According to paragraph 2 of the Procedure № 1001, the object of internal audit is the activities of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management, in full or on certain issues (at certain stages), and activities carried out by the heads of such bodies, enterprises, institutions and organizations to ensure the effective functioning of the internal control system (compliance with the principles of legality and effective use of budget funds and other assets, achieving results in accordance with the goal, tasks, plans and requirements).

The procedure of № 1001 is obligatorily and covers all state bodies. At the same time, internal audit covers issues of both central and regional levels.

In accordance with this procedure, internal audit units (relevant positions) have been established in all state bodies.

For local self-governing bodies, the norm of the Procedure № 1001 on the establishment of internal divisions has a recommendatory nature. With this in mind, a number of local governments have established internal audit units. At the same time, the share of such bodies is insignificant.

The head of the state body for the implementation of the appropriate level of internal audit must ensure the organizational and functional independence of the internal audit unit, to prevent the entrustment of the unit of functions not related to internal audit activities. The internal audit standards stipulate that organizational independence implies direct subordination and accountability of the internal audit unit to the head of the institution, functional independence - preventing employees of the internal audit unit from performing functions not related to internal audit.

The Code of Ethics of Internal Audit Employees (Order of the Ministry of Finance of September 29, 2011 №1217) stipulates that one of the main principles of professional activity in internal audit is the principle of independence and objectivity.

The head of the state body must take measures to prevent undue interference by third parties in any matters related to the conduct of internal audit activities, including the planning of internal audit activities, conducting internal audits and preparing a report on its results.

The minimum requirements for employees of internal audit units, as well as other civil servants, are regulated by the general legislation on civil service. At the same time, Procedure № 1001 defines
the requirements for education and work experience of heads of internal audit departments (availability of higher economic or legal education at the master's degree and work experience in accordance with the requirements of the legislation). The requirements for professional competence are defined by the Internal Auditing Standards. In particular, it is stipulated that the head and staff of the internal audit department must have the necessary knowledge, skills and professional competence, based on relevant education and experience, to properly perform audit tasks, and the internal audit department must have general qualifications.

At the same time, the Internal Audit Standards stipulate that employees of the internal audit department must constantly improve their knowledge, improve their skills, including through self-education, which will contribute to continuous professional development. The Central Harmonization Unit (CHU - responsible unit of the Ministry of Finance) regularly organizes and conducts training events at its own expense and / or in bilateral cooperation with the Ministry of Finance of the Kingdom of the Netherlands with the support of international experts. Academy of Finance and Economics of the Ministry of Finance of the Kingdom of the Netherlands). From 2021, such training activities (on internal control and internal audit) were introduced on the basis of the University of the State Fiscal Service of Ukraine, which is planned to be used as a "center of professional communication" for professional development of financial workers in Ukraine.

15. Are all public sector organisations required by legislation to establish an internal audit function? If not, please provide details of the criteria which allow those organisations not to do so. Please further explain how those organisations that are not required to establish their own internal audit function can access internal audit services.

The Procedure for conducting the internal audit and the establishment of internal audit units, approved by the resolution of the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001 (hereinafter - the Procedure № 1001), determines the mechanism of formation of structural units of internal audit and issues of their activities.

Procedure № 1001 applies mandatorily to all state bodies - ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations, and other key spending units of state budget funds. At the same time, internal audit covers issues of activity at both the central level (apparatus of state bodies) and the regional level (territorial bodies, enterprises, institutions and organizations belonging to the sphere of government management).

Paragraph 5 of Resolution № 1001 recommends (based on the Government's powers in relation to local self-government bodies) to local self-government bodies:

- to establish structural units of internal audit from January 1, 2012;

- during the organization and conduction of the internal audit follow the Procedure approved by this resolution and the regulations of the Ministry of Finance adopted for its implementation.

At the same time, the Government controls local budgets through the bodies of the State Audit Service of Ukraine. Thus, in accordance with the legislation, the State Audit Service, in particular, monitors compliance with the legislation at all stages of the budget process for state and local budgets.
The tools of such control, in particular, are audit and revision. Control measures are carried out by the State Audit Service in a planned manner based on the results of a risk-oriented selection of objects, as well as at the request of controlled institutions.

16. What types of audits are performed by internal audit units (e.g. compliance audits, systems-based audits, IT and performance audits)? Please provide an estimate of the overall proportions of each type of audit undertaken.

Requirements for the type of internal audit, the main tasks and functions of internal audit units, requirements for internal audit activities are defined by the Budget Code of Ukraine (Article 26), Procedure № 1001 and Internal Audit Standards, etc.

Procedure № 1001 (paragraph 2) stipulates that the object of an internal audit is the activity of a state body, its territorial bodies, enterprises, including business entities whose state share in the authorized capital exceeds 50 percent or is the part that provides the state with the right to decisive influence on the economic activity of such economic entities, institutions and organizations belonging to the sphere of its management, in full or on certain issues (at certain stages), and measures taken by the heads of such bodies, enterprises, institutions and organizations to ensure the effective functioning of the internal control system (compliance with the principles of legality and effective use of budget funds and other assets, achieving results in accordance with the established goal, implementation of tasks, plans and requirements for their activities).

The main task of the internal audit unit (according to paragraph 4 of the Procedure № 1001) is to provide the head of the state body with an objective and independent conclusions and recommendations on:

- functioning of the internal control system and its improvement;
- improvement of the management system;
- prevention of illegal, inefficient and ineffective use of budget funds and other assets;
- prevention of errors or other shortcomings in the activities of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management.

In accordance with the tasks assigned to it, the internal audit unit, in particular, evaluates the effectiveness of the internal control system; the degree of implementation and achievement of goals set in strategic and annual plans; efficiency of planning and execution of budget programs and results of their execution, management of budget funds; the quality of administrative services and the performance of control and supervisory functions, tasks defined by legislation; use and preservation of assets; reliability, efficiency and effectiveness of information systems and technologies; state property management; correctness of accounting and reliability of financial and budgetary reporting; risks that negatively affect the performance of functions and tasks of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management (paragraph 5 of the Procedure № 1001).

Given the above, internal audit units, in accordance with their powers, conduct various types of audits, including so-called compliance audits, performance audits and IT audits. In particular, in 2020 the share of performance audits was almost 30% of the total number of audits conducted, the rest of the conducted internal audits are compliance audits and financial audits. Reorienting internal audit
activities to performance appraisal by increasing the share of such audits by 10% is one of the measures of the Public Financial Management Reform Strategy.

At the same time, taking into account current trends in internal audit development and best international practices, internal audits are being introduced to assess the reliability, efficiency and effectiveness of information systems and technologies/IT audits (their share is insignificant).

In order to provide methodological support, the Ministry of Finance has developed Methodological Guidelines for Internal Audit in the Public Sector of Ukraine and a number of methodological manuals on internal performance audit, financial audit, IT audit, etc.

17. Do any internal auditors perform other functions beside internal audit?

Regulations on internal audit stipulate that the head of a state body must ensure organizational and functional independence of the internal audit unit in order to carry out an internal audit at the appropriate level, and prevent the unit from being entrusted with functions not related to internal audit activities.

Compliance with these requirements is monitored by the Central Harmonization Unit (CHU - the responsible unit of the Ministry of Finance) by:

- analysis of annual reports on the results of internal audit activities;
- conducting an external assessment of the quality of internal audit;
- periodic monitoring of the activities of internal audit units (for example, during the analysis of staff lists of state bodies, monitoring the quality of internal regulations on internal audit and planning their activities, etc.).

In particular, in 2020, according to the reports on the results of internal audit activities, in some state bodies, there were cases of non-compliance with functional independence and entrustment of internal audit units to perform functions not related to internal audit (participation in various commissions, tender committees, the performance of control and other functions, approval of draft management decisions, accounting and legal work, anti-corruption, etc.).

The Ministry of Finance informed the Government about these facts of internal audit units' performance of inappropriate functions, and also sent respective recommendations to state bodies to take measures to ensure the functional independence of internal audit units.

18. What is the procedure for consultation/submission of internal audit reports?

The internal audit standards stipulate that the draft audit report should be discussed with those responsible for the activities in order to provide additional assurance on the accuracy and objectivity of the information provided in the audit report (audit findings). Internal auditors may, if necessary, make adjustments to the draft audit report based on the results of such discussion.

The audit report is signed by the head of the audit team or the head and members of the audit team and submitted for review to those responsible for the activities. If, after reviewing the audit report, the person responsible for the activities does not agree with the conclusions and/or recommendations, he/she shall provide the head of the internal audit unit with substantiated
comments under his/her signature. In turn, the head of the internal audit unit reviews such comments and provides the person responsible for the activities with written opinions on them.

The procedure for compiling the audit report, discussing the draft audit report, getting acquainted with it by those responsible for the activities, the procedure and timing of providing and reviewing comments on audit reports is determined in internal documents on internal audit, taking into account the requirements of Internal Auditing Standards.

The head of the internal audit unit submits signed audit reports and recommendations based on the results of the conducted internal audits to the head of the state body. Based on the results of consideration of audit reports, comments, conclusions on them (if any) and recommendations, the head of the state body decides on the adoption of audit recommendations by persons responsible for the activities.

19. **How is quality assurance of internal audit carried out?**

Requirements for ensuring and improving the quality of internal audit are determined by the Procedure for conducting the internal audit and the establishment of internal audit units approved by the Cabinet of Ministers of Ukraine dated 28.09.2011 № 1001, and Internal Auditing Standards approved by the Ministry of Finance dated 04.10.2011 № 1247 (as amended by the order of Ministry of Finance dated 14.08.2019 № 344, hereinafter - Internal Auditing Standards).

Ensuring and improving the quality of internal audit is carried out by conducting internal and external assessments of the quality of internal audit and implementing measures based on their results.

In accordance with the Standards, the internal audit quality is assessed by the head of the internal audit unit (internal quality assessment) and by the Ministry of Finance by assessing the functioning of the internal audit system (external quality assessment).

Internal and external assessment of the quality of the internal audit is a process of research and analysis of internal audit activities in a state body in order to assess the internal audit function for compliance with national standards, codes, rules and other requirements of regulations in the field of internal audit, evaluation of the effectiveness of the implementation of the function and identification of measures to improve it (recommendations for improving the internal audit system).

Internal and external quality assessment should cover all aspects of internal audit activities in a state body, in particular, the organizational and legal framework for the functioning of the internal audit unit and personnel policy, internal regulatory framework for internal audit, internal audit planning system, organization and conducting of internal audits, documenting their results, the efficiency of internal audits and the implementation of their results, monitoring the implementation of audit recommendations, reporting on internal audit activities, interaction with internal and external stakeholders, etc.

Quality assessment concerns both the work of the internal audit unit and the internal audit activities of the state body as a whole, including senior management and operational units.

In accordance with the Standards of Internal Audit, the head of the internal audit unit annually draws up a program to ensure and improve the quality of internal audit, which should be approved by the head of the institution. The purpose of the program to ensure and improve the quality of internal audit is the continuous development, improvement of the internal audit unit activities and to increase the effectiveness of the internal audit function in the institution.
Internal quality assessment is implemented in two ways:

1) constant monitoring and support of the implementation of the internal audit function during the organization and conduct of the audit, and by the implementation of its results. Such monitoring is carried out at all levels (at the level of the head of the internal audit unit, the head of the audit team and each internal auditor, his immediate supervisor);

2) periodic evaluations of the activities of the internal audit unit, which are conducted at least once a year.

Approaches and methodology (procedures, manner, periodicity and forms/templates) for conducting internal quality assessments and requirements for drawing up a program to ensure and improve the quality of internal audit are determined by internal documents on internal audit issues.

After completing the periodic evaluation of internal audit activities, the head of the internal audit unit reports to the head of the institution on the results of the internal assessment of the quality of the internal audit, and informs him about the measures to be taken to improve internal audit activities.

External quality assessment (assessment of the functioning of the internal audit system of the state body, its territorial body and budgetary institution) is carried out by the Central Harmonization Unit (CHU - responsible unit of the Ministry of Finance) no more than once every three years in accordance with the Procedure approved by the Ministry of Finance. (MoF’s order № 480 "On approval of the Procedure for the Ministry of Finance of Ukraine to assess the functioning of the internal audit system" dated 03.05.2017). This assessment is carried out in the form of a study (including compliance and in essence). The subject of assessment of the internal audit system is the planning, organization and implementation of such an audit, monitoring of taking into account the recommendations based on the results of its implementation, compliance with the requirements of internal audit standards and other regulations on relevant issues by the officials of departments. Based on the results of the assessment of the functioning of the internal audit system, the Ministry of Finance provides recommendations on its improvement to the head of the state body.

To provide methodological support to internal audit units on ensuring the quality of internal audit, the Ministry of Finance has prepared a methodological manual "Assessment of the quality of internal audit in state bodies".

20. Please provide a general overview of the monitoring/follow-up procedure to ensure that agreed internal audit recommendations are implemented?

The head of the internal audit unit ensures that the results of the implementation of recommendations are monitored to ensure that those responsible for the activities have taken effective action to implement them, or that the management of the institution has assumed the risk of non-compliance with such recommendations.

The head of the internal audit unit determines which methods or their combination to use to track the results of the implementation of audit recommendations in each case, depending on the level of priority of audit recommendations. For example:

1) oral informing - regular communication with specialists responsible for the implementation of recommendations, observation, analysis of progress, etc.;
2) documentary tracking - official correspondence with specialists responsible for the implementation of recommendations, sending them periodic reminders, inquiries, etc.; use of forms (questionnaires) to obtain confirmation from the institution of the measures taken;

3) factual tracking - short visits to the institution whose activities were audited and direct communication of internal auditors with those responsible for the activities to collect evidence on measures on implementation of the recommendations;

4) follow-up audit - a study of the implementation of recommendations provided based on the results of a previous audit.

Monitoring the implementation of audit recommendations involves the taking of actions by employees of the internal audit unit to obtain information from those responsible for the activities on the results of the implementation of audit recommendations.

The head of the internal audit unit at least once a year reports to the head of the state body on the results of the internal audit unit activities, including:

- main results of the conducted internal audits and general conclusions on the assessment of the management and internal control system, including risk management;
- significant issues, including those identified as a result of audit engagements in prior periods that required actions that were not taken;
- results of recommendations implemented in the reporting period;
- measures that need to be further taken to improve the system of internal control and internal audit activities in the institution.

F. Central Harmonisation Units (CHU)

21. Is there a unit charged with developing common standards, harmonising practises, and coordinating the implementation of internal control and internal audit. What is the legal basis of their responsibilities? To whom does the CHU report?

In Ukraine, the Ministry of Finance of Ukraine is responsible for the development, harmonization, coordination and assessment of public internal financial control. According to Part 3 of Article 26 of the Budget Code of Ukraine, organizational and methodological principles of internal control and internal audit are determined by the Ministry of Finance, which ensures the formation and implementation of public policy in the field of public internal financial control, as well as conducts an assessment of the functioning of internal control and internal audit.

Similarly, according to the Regulation on the Ministry of Finance of Ukraine approved by the Cabinet of Ministers of Ukraine dated 20.08.2014 № 375, the Ministry of Finance is the main body in the system of central executive bodies that ensures the formation and implementation of public policy in the field of public internal financial control (subparagraph 2 of paragraph 3 of this Regulation).

In accordance with its tasks, the Ministry of Finance carries out regulatory and legal regulation in the field of public internal financial control (subparagraph 5 of paragraph 4 of this Regulation), determines the organizational and methodological principles of internal control and internal audit,
assesses the functioning of internal control and internal audit systems (subparagraph 34-1 of paragraph 4 of this Regulation).

In order to ensure the implementation of the relevant powers, the Ministry of Finance established a respective structural unit - the Department of Harmonization of Public Internal Financial Control (Central Harmonization Unit, hereinafter - the Unit, CHU) having 17 staff units and four departments (unit of harmonization of internal control, unit of harmonization of internal audit, unit of assessment of the functioning of systems of internal control and internal audit, unit of coordination of activities of divisions of internal audit).

The main tasks of the Unit are ensuring the formation and implementation by the Ministry of public policy in the field of public internal financial control; harmonization of internal control and internal audit; assessment of the functioning of internal control and internal audit systems; coordination of the activities of internal audit units; ensuring the formation and control over the implementation of state policy in the field of public financial control.

The Unit is responsible for the development of methodological documents and materials on internal control and internal audit. The developed methodology - methodological guidelines, manuals, textbooks (available at the link) - is of a recommendatory nature. Instead, mandatory general requirements for the organization and conduct of internal audits (planning and implementation of audit tasks), documenting their course and results, control over the implementation of audit tasks, as well as preparation of documents based on conducted internal audits, implementation of results of internal audits are defined by the Internal Auditing Standards.

The CHU reports annually to the Minister of Finance and the Government on the state of functioning of public internal financial control in Ukraine, including internal control, internal audit and harmonization activities. General information on the state of development of public internal financial control is also posted on a regular basis on the website of the Ministry of Finance.

22. How do the CHUs ensure that their guidance is adhered to? Are compliance reviews performed for this purpose?

Compliance with both mandatory requirements and recommendations on internal control and internal audit is monitored by the CHU by conducting an external quality assessment no more than once every three years in the manner prescribed by the Ministry of Finance.

This assessment is carried out in the form of a study (including compliance and in essence). The subject of assessment of the internal audit system is the planning, organization and implementation of such an audit, monitoring of taking into account the recommendations based on the results of its implementation, compliance with the requirements of internal audit standards and other regulations on relevant issues by the officials of departments. Based on the results of the assessment of the functioning of the internal audit system, the Ministry of Finance provides recommendations for its improvement to the head of the state body.

In accordance with the legislation, the head of the state body provides consideration of recommendations for improving the internal audit system provided by the Ministry of Finance, as well as the implementation of appropriate measures based on the results of their consideration. At the same time, the head of the body informs the Ministry of Finance about the status and method of taking into account the recommendations provided based on the results of the external quality assessment.
within the period set by the Ministry of Finance. An appropriate form for informing has also been developed for this purpose.

The CHU monitors the implementation of the recommendations provided by the results of external quality assessments until their full implementation.

Monitoring of taking into account the recommendations is carried out by continuous monitoring of the activities of internal audit units. To this end, in particular, ongoing monitoring of the implementation of recommendations is carried out, as well as analysis of the activities of the internal audit unit to assess progress in the relevant aspects, and so on.

In particular, on an annual basis, the CHU analyzes the reporting on the results of the work of internal audit units of state bodies, which also contains information on the provided audit recommendations, the status and results of their implementation. Summary information on the results of the work of internal audit units is provided to the Government together with proposals for improving internal audit activities.

By periodically monitoring the activities regarding internal control and internal audit (internal audit units), the CHU monitors compliance with the established legal requirements and the developed methodology (for example, analyzes staffing of state bodies for compliance with organizational and functional independence of internal audit unit, monitoring the quality of internal regulations on internal audit and planning of their activities, etc.).

The CHU introduced monitoring and maintenance (in electronic form) of the base for monitoring the implementation of recommendations provided by the Ministry of Finance based on the results of external assessment of the quality of internal audit by state bodies, whose heads were given recommendations to improve the internal audit system.

Assessment of the state of taking into account the recommendations is carried out according to defined criteria (in particular, the body ensures the implementation of recommendations, information on taking into account the recommendations is incomplete, information on taking into account the recommendations indicates its formal implementation, recommendations are partially implemented or not implemented, information on taking into account the recommendations is not provided or informed about the disregard of recommendations, it is impossible to assess the state of taking into account the recommendations (in this case the state of taking into account the recommendations is determined by the results of the next quality assessment), the recommendation has lost relevance (due to relevant amendments to regulations on internal audit, etc.).

In case of failure to ensure the implementation of recommendations and/or failure to provide information on the status of their implementation, the head of the state body is sent appropriate letters of reminder. At the same time, if necessary, the Ministry of Finance may request appropriate documentary evidence on the implementation of the recommendations.

In addition, the state of implementation of the recommendations provided by the results of previous quality assessments must be investigated during the next external quality assessment in a state body.

Also, pursuant to paragraph 10 of the Basic Principles of Exercise of Internal Control by Key Spending Units, approved by the resolution of the Cabinet of Ministers of Ukraine dated 12.12.2018 № 1062, the relevant key spending units (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units of state budget funds) must annually submit to the
Ministry of Finance a report on the organization and implementation of internal control in their institutions in terms of elements of internal control in the form prescribed by the Ministry of Finance.

The form of the Report on the organization and implementation of internal control in terms of elements of internal control approved by the order of the Ministry of Finance of Ukraine dated 19.04.2019 № 160. The structure of this form includes, in particular, a list of questions describing the organization and implementation of internal control in terms of elements of internal control, and answers provided, that describe the actual state of settlement (functioning) of the issue.

The list of questions is formed annually by the Ministry of Finance and provided to the reporting entities, which on the basis of self-assessment of the state of internal control in their institution indicate the actual state of settlement (functioning) of the issue.

Forming a report and describing the actual state of settlement (functioning) of the relevant issue also helps the management of the reporting entity in conducting an internal assessment of the effectiveness of the internal control system in the institution and taking the necessary corrective measures.

23. Does the CHU prepare an annual review or a report on the state of implementation of internal control and internal audit? Is the annual review/report presented for discussion by the government? Please describe arrangements to ensure that government conclusions or recommendations on the review/report are actioned and followed up. Is the annual review/report published?

The Central Harmonization Unit of the Ministry of Finance annually analyzes the state of functioning of internal control and internal audit in state bodies (ministries, other central executive bodies, regional and Kyiv city state administrations, other key spending units of state budget funds). In particular, it analyzes the reports received from state bodies on the state of organization and implementation of internal control in terms of elements, as well as reports (or information) on the results of activities of internal audit units, summarizes them and on its basis determines the current state and main trends in public internal financial control in the reporting period.

Generalized information on the state of functioning of state internal financial control in Ukraine with relevant recommendations and proposals for improving the organization and implementation of internal control and internal audit is provided annually to the Minister of Finance and the Cabinet of Ministers of Ukraine. General information on the state of development of public internal financial control is also posted on a regular basis on the website of the Ministry of Finance.

In turn, the Government, based on the results of consideration of reports on the state of public internal financial control in Ukraine, received from the Ministry of Finance, provides relevant instructions to heads of state bodies, taking into account recommendations and proposals of the Ministry of Finance to improve the organization and implementation of internal control and internal audit.

State bodies report to the Ministry of Finance on the results of the implementation of these recommendations and proposals, and the Ministry of Finance constantly monitors their implementation.
According to the Procedure № 1001, the head of the state body provides consideration of recommendations on improving the internal audit system provided by the Ministry of Finance, as well as the implementation of appropriate measures based on the results of their consideration.

If the Ministry of Finance, on the basis of current information, sees non-compliance with such recommendations, it may send letters to this state authority with the appropriate justification for the need to implement the recommendations. For example, such letters were sent to state authorities that lacked internal audit units despite established requirements. As a result, internal audit units were established in all state authorities. Similarly, the Ministry of Finance provides comments on the staff lists of state authorities, etc.

In addition, information on the status of implementation of the recommendations provided by the Ministry of Finance is taken into account in the planning and selection of institutions by the Ministry of Finance for external assessments of the quality of internal audit. Based on the results of such quality assessments, the Ministry of Finance provides the head of the state body with more detailed “personalized” recommendations for improving the functioning of the internal audit system.

24. Please describe what cooperation arrangements exist between the CHUs and the Supreme Audit Institution(s), for informing each other about perceived internal control weaknesses in government systems, on training, etc.

The cooperation of the CHU of the Ministry of Finance with the Accounting Chamber on public internal financial control issues is carried out both through formalized meetings/working groups and in working order.

In particular, in order to establish effective cooperation in the field of public finance management, the Ministry of Finance has established a Working Group to reform the public financial management system of Ukraine (order of the Ministry of Finance of 22.12.2018 № 1124) which also includes the Working Subgroup on Financial Control, which is responsible for public financial control and public internal financial control issues. This working group discusses the prepared strategic documents and results of work with the involvement of a wide range of stakeholders, including representatives of the CHU of the Ministry of Finance, the Accounting Chamber, the State Audit Service, etc.

For example, in recent years, the meetings of the working subgroup addressed questions about the results of tasks of the Public Finance Management System Reform Strategy 2017-2020 and the Action Plan for its implementation in terms of public internal financial control, public financial control and external audit; the need to amend the Action Plan for the implementation of the Public Finance Management System Reform Strategy 2017-2020; updating the Public Finance Management System Reform Strategy and the action plan for its implementation in terms of public internal financial control, independent external financial control (audit) and public financial control.

At the same time, the issues of organizing the activities of the internal audit unit in the Accounting Chamber were discussed at a meeting with representatives of the Accounting Chamber on February 25, 2021. Following the meeting, the participants determined that the models for implementing the internal audit function in the Supreme Audit Institution, taking into account best international practices, could be considered in the framework of the technical assistance project currently being implemented in the Accounting Chamber.
The Ministry of Finance also processes and analyzes information from external bodies (the Accounting Chamber and the State Audit Service) on the state of internal control and internal audit in state bodies that were subject to control measures. Such information is taken into account by the Ministry of Finance when planning external assessments of the quality of internal audit, preparation of information on the state of functioning of state internal financial control, etc.

II. EXTERNAL AUDIT

25. Please list the Supreme Audit Institution (SAI) laws.

The following laws regulate the SAI’s functioning:

Constitution of Ukraine – Article 98: «The Accounting Chamber exercises control over the revenues of the State Budget of Ukraine and the use thereof on behalf of the Verkhovna Rada of Ukraine. The organization, powers and operational procedures for the Accounting Chamber are determined by the law»;

The Budget Code of Ukraine № 2456-VI dated July 8, 2010 – in particular Article 26 «Control and Audit in the Budget Process», Article 110 «Powers of the Accounting Chamber to monitor compliance with budget legislation» etc;

The Law of Ukraine “On the Accounting Chamber” № 576-VIII dated July 2, 2015 (see attached);

The Law of Ukraine “On Critical Infrastructure” № 1882-IX dated November 16, 2021 (Article 26: «Independent external evaluation of the activities of the authorised body in the sphere of protection of critical infrastructure of Ukraine is carried out by means of conducting the annual external audit of its activity. The Accounting Chamber exercises the external audit of the activities of the authorised body in the sphere of protection of critical infrastructure of Ukraine. Once every three years the Accounting Chamber carries out the independent external evaluation of the national system of protection of critical infrastructure in accordance with the procedure defined by it on the basis of international standards for evaluation»);

The Law of Ukraine “On Intelligence” № 912-IX dated September 17, 2020 (Article 53: «The Accounting Chamber exercises the control over the use of funds of the State Budget of Ukraine by intelligence agencies or other entities of the intelligence community, if such use is associated with their involvement in intelligence tasks, as well as their compliance with the law while transactions with budget funds. A special group is set up from among the members of the Accounting Chamber to carry out the state external financial control»);

The Law of Ukraine “On Political Parties” № 2365–ІІІ dated April 5, 2004 (Article 17-9: «The public control of the proper use of the funds allocated from the State Budget of Ukraine for funding of statutory activities of political parties shall be exercised by the Accounting Chamber and National Agency on Corruption Prevention»);

The Law of Ukraine “On National Security of Ukraine” № 2469-VIII dated June 21, 2018 (part 4, Article 35: «The Accounting Chamber on behalf of the Verkhovna Rada of Ukraine exercises control over the revenues of the State Budget of Ukraine and the use thereof, and the central executive body, which implements the state policy in the sphere of public financial control, exercises the control
over the use of funds of the State Budget of Ukraine allocated to funding of security and defence sector, unless otherwise provided by the law»;

The Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” (from 10.02.2010 № 1861-VI) - in particular, Members of the Accounting Chamber are appointed to and dismissed by the Verkhovna Rada of Ukraine in order prescribed by the article 208-2 of the Rules of Procedure of the Verkhovna Rada of Ukraine, reports on the results of control measures, relevant decisions of the Accounting Chamber and information on the status of their implementation by the objects of control shall be sent by the Accounting Chamber to the Verkhovna Rada within the time limits established by the Article 232-2 of the Rules of Procedure;

The Law of Ukraine “On Civil Service” - Officials of the apparatus of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are civil servants. Guarantees for the activities of officials of the apparatus of the Accounting Chamber are determined by the Law of Ukraine “On Public Service”;

The Law of Ukraine “On the prevention of corruption” - Chairman and other members of the Accounting Chamber, as well as officials of the Office of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are subjected to this Law.

The Law of Ukraine “On the cleansing of power” – In accordance with the provision 2.7 of the Article 19 of the Law of Ukraine on Accounting Chamber - a person cannot be appointed to the position of a member of the Accounts Chamber who has not passed the test (inspection) provided for by the laws of Ukraine “On the cleansing of power” and “On the prevention of corruption”.

26. Is the independence of each SAI anchored in the Constitution? Please provide the specific references in the parliament.

The status of the Accounting Chamber as a body which exercises the control over the revenues of the State Budget of Ukraine and the use thereof on behalf of the Verkhovna Rada of Ukraine is enshrined in the Constitution of Ukraine (Article 98 of the Constitution of Ukraine). The Constitution of Ukraine does not define directly the independence of the Accounting Chamber of Ukraine by itself. At the same time Article 98 of the Constitution of Ukraine as amended by laws of Ukraine № 586-VII on 19.09.2013, № 742-VII on 21.02.2014 provides that the Law of Ukraine “On the Accounting Chamber of Ukraine” (see attached) defines organization, powers and operational procedures for the Accounting Chamber. Article 3 of this Law envisages that activities of the Accounting Chamber are based on the principles of legality, independence, objectivity, fairness, publicity and political impartiality, and guarantees its independence.

Furthermore, the Constitutional Court of Ukraine has pointed on the independence of the Accounting Chamber (due to Article 147 of the Constitution of Ukraine performs the official interpretation of the Constitution of Ukraine) in the Judgement № 7-zp on 23.12.1997 in the case of the constitutional appeal of the President of Ukraine whether the Law of Ukraine «On the Accounting Chamber of Verkhovna Rada of Ukraine» (see attached) is compliant with the Constitution (the case on the Accounting Chamber of Ukraine): «The Accounting Chamber of Ukraine is an independent body of special constitutional competence». 
27. Do the SAI laws provide for functional, operational and financial independence of the SAI in line with INTOSAI standards? Are the following aspects guaranteed in the legal framework and implemented in practice?

The main principles of the Lima and Mexico Declarations, which ensure the organizational, functional, managerial and financial independence of supreme audit institutions, have been implemented into the activities of the Accounting Chamber and are enshrined in law. The independence, mandate and organization of the Accounting Chamber, as a supreme audit institution are established and protected by the legal framework and to a greater extent are implemented in practice.

Thus, one of the principles of the Accounting Chamber is the principle of independence. Article 3 of the Law of Ukraine “On the Accounting Chamber” provides that, the Accounting Chamber is organizationally, functionally and financially independent and independently plans its activities and stipulates the guarantees of its independence, in particular, the Accounting Chamber’s independence is ensured by:

1) procedure for the appointment and dismissal of the Members of the Accounting Chamber, established by the Constitution of Ukraine and the Law;

2) guarantees for activities of Accounting Chamber, enshrined in this Law and other laws of Ukraine;

3) special procedure for organizational provisions of Accounting Chambers activities, established by law.

The Law of Ukraine “On the Accounting Chamber” also provides that the Accounting Chamber while performing its mandate is independent from any Illegal influence, pressure or interference. Illegal interference in the exercise by the Accounting Chamber of its powers granted by the law is prohibited and entails liability established by law. Termination of the powers of the Verkhovna Rada of Ukraine is not a ground for reappointment of the Chairman and members of the Accounting Chamber.

The appeal of the Verkhovna Rada of Ukraine, its committees and other bodies, deputy requests and appeals, appeals of the President of Ukraine, the Cabinet of Ministers of Ukraine with proposals for the Accounting Chamber to carry out measures of state external financial control (audit) are considered at a meeting of the Accounting Chamber to decide on their inclusion in the plans work. In the event that such appeals and requests are not taken into account in the work plan, the Accounting Chamber provides a reasoned answer in the prescribed manner (Law of Ukraine “On the Accounting Chamber”, Article 27.2.).

Officials of the Office of the Accounting Chamber, including the Secretary of the Accounting Chamber – Chief Operational Officer are civil servants, so their work conditions, such as the qualification requirements for auditors, the performance appraisal system and the professional development system are determined by the Law of Ukraine “On Civil Service”. The Law of Ukraine “On Civil Service” regulates the general regime of the civil service, the status of civil servants, the mutual hierarchy of positions. Therefore, the ACU is not independent to the full extent in determining its personnel management policy.

The legislation provides for the financial independence of the Accounting Chamber (part two of the Article 3 of the Law of Ukraine “On the Accounting Chamber”). At the same time the
Accounting Chamber follows the same budget process and in the same order as others budget funds’ spending units, submitting its budget proposal to the Ministry of Finance who then transmits in established procedure to the Parliament. Article 5 of the Law of Ukraine "On the Accounting Chamber" states, ‘If during the preparation of the draft State Budget of Ukraine any differences on determination the amount of financial provisions of the Accounting Chamber emerged, provided that the Cabinet of Ministers of Ukraine failed to settle such differences, the Accounting Chamber may submit appropriate proposals (with justifications and calculations) to the committee of the Verkhovna Rada of Ukraine whose competence includes the budget in order to make appropriate decision during consideration of the draft State Budget of Ukraine’.

Practical application of the Article 5 during last years proved the prescribed mechanism as sufficient to mitigate the risk of the executive institution holding undue control over the Accounting Chamber’s budget, although international good practice suggests Supreme Auditing Institutions should submit their budget proposals directly to Parliament (ISSAI 10:8). This manages not only any risk, but also the perception that the SAI is not financially independent from the executive power.

Recognizing the existing independency risks of the institution, the Accounting Chamber identified the specific objectives of the Accounting Chamber Development Strategy for 2019-2024 - the improvement of legislation to strengthen the institutional, organizational and financial independence of the Accounting Chamber (see attached).

However, due to the martial law imposed in Ukraine in connection with the military aggression of the Russian Federation, legislative changes are difficult. After the end of the martial law regime, the tasks of the Accounting Chamber Development Strategy for 2019-2024 will need supplementation and updating (see attached).

a) Is the independence of the Head of the SAI (or Council members in case of a collegial body) legally protected, including appointment, terms of employment, removal, dismissal and immunity during the normal discharge of responsibilities?

Yes, organizational independence of the Accounting Chamber is ensured by a clear procedure for the appointment and dismissal of the Chairman and Members of the Accounting Chamber, determination of the terms of their work, guaranteeing immunity in the normal performance of duties.

 Members of the Accounting Chamber are appointed and dismissed by the Verkhovna Rada of Ukraine pursuant to requirement of the Article 20 of the Law of Ukraine “On Accounting Chamber” and in accordance with the procedure established by “The Rules of Procedure of the Verkhovna Rada of Ukraine” (Article 208 - 2).

The members of the Accounting Chamber shall be appointed on the competitive basis. Verkhovna Rada of Ukraine appoints members of the Accounting Chamber by open vote for the list of candidates, selected on the basis of the preferential ballot, by majority of votes of the elected parliamentary assembly.

Dismissal of members of the Accounting Chamber shall be carried out through an open vote by the majority of votes of people's deputies of the elected parliamentary assembly of Verkhovna Rada with the availability of decision of the Committee whose competence includes the budget.

The terms of office of the Chairman and the members of the Accounting Chamber shall be six years. A person shall have no right to be appointed for a new period more than twice.
The Article 3 of the Law of Ukraine “On Accounting Chamber” provides that the Accounting Chamber in the exercise of its authority is independent of any improper influence, pressure or interference. Unlawful interference with the exercise by the Accounting Chamber of powers granted by law is prohibited and shall entail liability established by the law.

At the same time, legislation does not provide that Members of the Accounting Chamber are immune to any prosecution for any action, past or present, that results from the normal discharge of their duties as the case may be.

**b) Is the audit mandate of the SAI comprehensive, covering all public policy implementation and public financial operations?**

The Accounting Chamber exercises the control over the revenues of the State Budget of Ukraine and the use thereof (Article 98 of the Constitution of Ukraine, Article 1 of the Law of Ukraine “On the Accounting Chamber”). In its activities, the Accounting Chamber strives to adhere to the principles of INTOSAI and EUROSAI, the provisions of the Lima Declaration of Supreme Audit Institutions.

Today the main list of powers of the Accounting Chamber is enshrined in Article 7 of the Law of Ukraine “On the Accounting Chamber”. Powers in the field of control over compliance with budget legislation are also enshrined in Article 110 of the Budget Code of Ukraine.

According to the legislation, the objects of control of the Accounting Chamber are state bodies, authorities of the Autonomous Republic of Crimea, local governments, other budget entities, including foreign diplomatic institutions of Ukraine, business entities, social or other organizations, funds of obligatory state social and pension insurance, the National Bank of Ukraine and other financial institutions (part 2 of article 7 of the Law of Ukraine on the Accounting Chamber).

In relation to all objects of control, the Accounting Chamber has the authority to conduct financial and performance audits of state budget revenues, use of budget funds, implementation of state targeted programs, investment projects, state procurement, state aid to economic entities at the expense of the state budget funds, as well as the granting credits, use of loans, public procurement and management of state property, in part that has consequences for the state budget.

The Accounting Chamber also has the authority to check the status of internal control of managers of the state budget funds.

The powers of the Accounting Chamber in relation to some public bodies are defined separately, namely, conducting audits of state budget funds management by the State Treasury Service of Ukraine (part 1 of Article 7, Article 9 of the Law of Ukraine “On the Accounting Chamber”), preliminary analysis of reports of the Antimonopoly Committee of Ukraine and the State Property Fund of Ukraine, in the part affecting the execution of the state budget (part 1 of Article 7 of the Law of Ukraine “On the Accounting Chamber”), auditing the execution of estimate of administrative expenses of the National Bank of Ukraine (part 1 of Article 7, Article 12 of the Law of Ukraine “On the Accounting Chamber”).

The examination of the draft state budget, as well as quarterly analysis of the state budget and analysis of the report on the implementation of the state budget are among the expert-analytical activities of the Accounting Chamber. The Accounting Chamber also conducts analytical activities in various socio-economic spheres. Such activities may cover a significant amount of resources examined, facilities, as well as focus on the most socially important issues. For example, analysis of
the effectiveness of the realization of measures to implement the Poverty Reduction Strategy, Analysis of the system of obligatory state pension and social insurance and social protection, etc.

At the same time, it is considered very timely the need for a legislative solution, the extension of the mandate of the Accounting Chamber to all components of the public finance system, not just to cover the state budget and operations that have consequences for the state budget. The directions of such work are set out in the Development Strategy of the Accounting Chamber for 2019–2024 (see attached), namely the legislative consolidation of powers in terms of audits of information technology and systems (IT audits); use of grants, financial, technical assistance from other states or organizations; local budgets; state enterprises and enterprises with a share of state participation; state property management; management and use of natural resources. In addition, the powers of the Accounting Chamber to audit the government’s consolidated financial statements require clearer legal regulation.

c) Does the SAI have authority to undertake the full range of financial, compliance and performance audits?

The Accounting Chamber exercises the control over the revenues of the State Budget of Ukraine and the use thereof means of performance audits, financial audits, expertise, analysis and other control measures. At the same time, guided by the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber applies in its activities the principles of INTOSAI, EUROSAI and International Standards of Supreme Audit Institutions (ISSAI).

Currently, the Law of Ukraine “On the Accounting Chamber” does not contain provisions on conducting a compliance audit by the Accounting Chamber, as a separate type of audit. At the same time, according to the mentioned Law, the issues of targeted use of budget funds and compliance with the legislation in transactions with budget funds are examined by the Accounting Chamber during financial audits, and issues of legality, timeliness and completeness of management decisions by the participants of budget process – during performance audits.

At the same time, legislative consolidation of the Accounting Chamber’s powers to conduct compliance audits, which is one of the important types of audit defined by ISSAIs, is one of the strategic tasks of the Accounting Chamber. At the same time, the Accounting Chamber is already developing a methodology for compliance audits in accordance with the requirements of ISSAIs.

It is worth mentioning that the legislative definition of the performance audit doesn’t fully comply with the INTOSAI standards. By ISSAI 3000 performance auditing carried out by SAIs is an independent, objective and reliable examination of whether government undertakings, systems, operations, programs, activities or organizations are operating in accordance with the principles of economy, efficiency and/or effectiveness and whether there is room for improvement. At the same time, in accordance with Article 4 of the Law of Ukraine “On the Accounting Chamber”, the performance audit carried out by the Accounting Chamber focuses on compliance with the principles of productivity, efficiency, economy in the use of budget funds by their managers and recipients.

The Accounting Chamber has already started work on developing a Methodology documentation on Performance Audit and proposals for legislative changes to bring the concept of performance audit carried out by the Accounting Chamber in line with the requirements of International Standards on Supreme Audit Institutions.
d) **Do SAI auditors have the rights to access the premises, records and documents of those bodies they are responsible for auditing?**

Employees of the Accounting Chamber have unrestricted access to the premises of the audited bodies to undertake audit activities and decide what information they need to conduct an audit. The Law of Ukraine “On the Accounting Chamber” (Article 32) guarantees members of Accounting Chamber’s groups of auditors unrestricted access to records, documents and information. Members of the Accounting Chamber in accordance with Article 8 of the Law of Ukraine “On the Accounting Chamber” have the right to access all databases created at the expense of the state budget. In practice, there are isolated cases of restricting by the audited bodies of auditors’ access to information that do not pose significant risks to obtaining the necessary audit evidence.

e) **Do the SAIs perform any duties that are not strictly related to External Audit, for example, the filing of criminal charges?**

The Accounting Chamber performs some duties that are not strictly related to External Audit. In particular, according to the Articles 7 and 41 of the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber shall notify the Bureau of Economic Security of Ukraine and other relevant law enforcement bodies within seven days in the case of detection of signs of criminal or administrative offense in the implementation of public external financial control’s (audit) measures.

In addition to traditional audits, such as financial, compliance and performance audits, the Accounting Chamber, referring to the Article 12 of the Lima Declaration on Guidelines on Auditing Precepts, examines the draft law on the State Budget of Ukraine submitted to the Verkhovna Rada of Ukraine.

The Accounting Chamber also analyzes the implementation of the State Budget of Ukraine and the annual report on the implementation of the Law on the State Budget of Ukraine submitted by the Cabinet of Ministers of Ukraine and prepares relevant conclusions and proposals to eliminate identified deviations and violations. At the same time, world experience shows that for many SAIs, budget execution analysis is also a traditional function.

28. **Is the SAI financially independent of the executive? Is the SAIs entitled to use funds allocated to them as they see fit? Please describe the budget setting procedure?**

The legislation provides for the financial independence of the Accounting Chamber.

At the same time the Accounting Chamber follows the same budget process and in the same order as other budget funds’ spending units, submitting its budget proposal to the Ministry of Finance, but not to the Parliament directly.

As the key spending unit of budget funds, in accordance with the requirements of the instructions and indicative threshold of the State Budget expenditures and granting of credits from the State Budget for the medium-term period, proved by the Ministry of Finance, the Accounting Chamber shall prepare proposals for the Budget Declaration – the document, what defines the principles of the budget policy and indicators of the State Budget for the medium term and is the basis for drafting the State Budget and forecasts of local budgets – and submits them to the Ministry of Finance. The Minister of Finance shall decide on the inclusion of budget proposals in the Budget Declaration. The Cabinet of Ministers of Ukraine shall approve the Budget Declaration and submit it to the Verkhovna Rada within three days together with the financial and economic justification. The
Verkhovna Rada shall consider the issue of the Budget Declaration, on the results of the consideration it may adopt a draft resolution to take note of the Budget Declaration and/or approve the recommendations of the Verkhovna Rada regarding budget policy.

In accordance with the Budget Declaration, the Accounting Chamber shall organize and ensure the preparation of budget requests and submit them to the Ministry of Finance. The Ministry of Finance shall analyze the budget request for compliance with the Budget Declaration, as well as the efficiency of the use of budget funds. Based on the results of the analysis, the Minister of Finance shall decide to include the budget request in the draft State Budget of Ukraine, which shall be submitted to the Cabinet of Ministers of Ukraine. The Cabinet of Ministers of Ukraine shall approve the draft Law on the State Budget of Ukraine and submit it together with the relevant materials to the Verkhovna Rada of Ukraine and the President of Ukraine no later than September 15 of the year preceding the planned one. Consideration and approval of the State Budget of Ukraine shall take place in the Verkhovna Rada according to the special procedure determined by the Rules of Procedure of the Verkhovna Rada of Ukraine.

Article 5 of the Law of Ukraine “On the Accounting Chamber” states, ‘If during the preparation of the draft State Budget of Ukraine any differences on determination the amount of financial provisions of the Accounting Chamber emerged, provided that the Cabinet of Ministers of Ukraine failed to settle such differences, the Accounting Chamber may submit appropriate proposals (with justifications and calculations) to the committee of the Verkhovna Rada of Ukraine whose competence includes the budget in order to make appropriate decision during consideration of the draft State Budget of Ukraine’.

Within two weeks from the date of the adoption of the law on the State Budget of Ukraine, the Ministry of Finance shall submit to the key spending units, including the Accounting Chamber, limit certificates on budget assignations and credits, on the basis of which draft estimates are specified, the draft plans of assignations are drawn up (except for the provision of credits from the budget) of the general fund of budget with the purpose of submitting to the Ministry of Finance of Ukraine the proposals on their inclusion in the implementation sheet of assignations of the general fund of the State Budget of Ukraine for the respective year.

Within three weeks after the approval of the state budget implementation sheet, the Accounting Chamber shall submit to the Ministry of Finance of Ukraine the ratified estimate, calculations for it, plans of assignations of the general fund of budget and manning tables.

Amendments to the estimate of the Accounting Chamber shall be made on the basis of the decision of the Ministry of Finance of Ukraine to make amendments to the state budget implementation sheet. If there is a need to redistribute budget assignations in terms of economic classification of budget expenditures within the total budget assignations under the budget program, the Accounting Chamber, after making the relevant decision at the meeting, shall address to the
Ministry of Finance of Ukraine and provide the justifications of the necessity of making such amendments.

The Accounting Chamber, having received budget assignations by approving them in the Law on the State Budget of Ukraine, shall develop and after approval by the Ministry of Finance of Ukraine shall approve budget program passports, manage budget funds within the established budget powers, ensuring efficient, effective and targeted use of budget funds, monitor the implementation of budget programs, and evaluate their efficiency.

29. Have the SAIs adopted and are implementing a Strategic Development Plan that sets out the internal development approach on a multi-annual basis? If yes, please provide information on the key development priorities (and a copy of each Strategic Development Plan).

The Development Strategy of the Accounting Chamber for 2019–2024 (hereinafter - the Strategy) was approved by the Accounting Chamber decision dated July 29, 2019 № 18-1 (see attached). Among other things, the provisions of this Strategy are based on the findings of the Functional Review of the Accounting Chamber’s activity and subsequent recommendations on the use of international standards by SAI.

The Strategy defines the mission, vision and values of the Accounting Chamber as the Supreme Audit Institution in Ukraine.

The key priorities of development are defined in the established strategic goals:

*Strategic Goal I. To Strengthen the Role of the Accounting Chamber as a Supreme Audit Institution in Ukraine.*

The following actions are implemented with this end:

- to extend the Accounting Chamber's powers for the whole sector of public funds and state property management to be covered with audit, expert and analytical activities;
- to align the auditing methodology and practices with international standards to the maximum extent possible;
- to improve the quality of audit reports, reasoning of the Accounting Chamber's opinions, decisions and recommendations;
- to increase the level of implementation of the Accounting Chamber's recommendations, improve the process of monitoring their implementation and strengthen responsibility for non-adherence or improper implementation;
- to strengthen the Accounting Chamber’s role in the public sector managerial decision-making process.

*Strategic Goal II “To strengthen the institutional and professional capacity of the Accounting Chamber” provides:*

- to build up a flexible system of internal management at the Accounting Chamber, based on monitoring of all processes and change management;
- to establish a comprehensive internal control and audit system for the Accounting Chamber and its staff with due regard to the collegiality of decision-making;
- to improve the system of recruitment, placement and professional training;
to provide for appropriate financial, material, information and technical support of the Accounting Chamber's activities;

to ensure zero tolerance for any manifestations of corruption.

Strategic Goal III. To Gain Public Recognition and Trust in the Accounting Chamber’s Activity should change the paradigm of relations with all stakeholders, emphasizing the importance of cooperation based on respect and continuous, result-oriented engagement, create the image of an independent and professional body that acts openly and transparently for the benefit of citizens and the State and deserves the society’s trust and respect.

Strategic Goal IV “To Represent Effectively the Accounting Chamber in the International Audit Community” covers such areas as:

to deepen integration into the global community of supreme audit institutions and provide for efficient exchange of professional information and practices;

to strengthen the Accounting Chamber's role and intensify the work of the Accounting Chamber’s representatives at INTOSAI and EUROSAI in all areas of audit;

to support the image and reputation of the Accounting Chamber as a professional auditor of projects implemented by international organizations;

to sustain the practice of joint activities with the SAIs of other countries.

It is worth mentioning that presently tasks of the Strategy doesn’t have clear reflection in Annual Planning Activity of the Accounting Chamber. In accordance with Article 27 of the Law of Ukraine “On Accounting Chamber” The Accounting Chamber operates in accordance with the work plans approved at the meeting of the Accounting Chamber. But at the same time the annual work plan (audit plan) is actually a plan for the ACU’s meetings to determine the list of audits and responsible Member of Accounting Chamber and does not include all tasks to be implemented during the year and resources necessary for implementation of each tasks, as well as clear link to the Strategy tasks.

At present time the Accounting Chamber together with experts of the EU Technical Assistance Project “Strengthening the external audit in line with international standards” carry out the measures, aimed at improving the planning process. For instance, the concept and road map on annual planning have been developed, the matrix for planning process of public external financial control (audit) is being developed, as well as unified approaches/criteria for risks and their assessment, criteria are developed for the provision of audits with resources (personnel, time, etc.).

30. How do SAIs ensure that their working methods and procedures are kept up to date with INTOSAI standards?

According to Part 7 of Article 3 of the Law of Ukraine “On the Accounting Chamber”, the Accounting Chamber uses in its work the basic principles of the International Organization of Supreme Audit Institutions (INTOSAI), the European Organization of Supreme Audit Institutions (EUROSAI) and International Standards of Supreme Audit Institutions (ISSAI) to the extent that is not contrary to the Constitution and the laws of Ukraine.

To ensure compliance with INTOSAI standards, the law provides for an external evaluation of its activities by one of the leading members of the International Organization of Supreme Audit Institutions (INTOSAI) at the request of the Accounting Chamber. The reports on the results of the
external evaluation of activities should be posted on the official website of the Accounting Chamber. The last functional review of the Accounting Chamber's activity was conducted in 2018 by representatives of the supreme audit institutions of the United Kingdom, Germany and Poland. Its results, among other things, served as the basis of the first Accounting Chamber Development Strategy.

Implementation of international standards is a necessary condition for the development of the Accounting Chamber as a modern supreme audit institution, requires systematic improvement of legislation, audit methodology, and improving the interaction of the Accounting Chamber with stakeholders. Given the above, the approximation of audit methodology and practice to international standards is defined by the Accounting Chamber Development Strategy for 2019-2024, Strategic Goal 1 “Strengthening the role of the Accounting Chamber as the supreme audit institution in Ukraine”, as one of its priorities (see attached)

Considering the above and in order to ensure auditing in accordance with International Standards of Supreme Audit Institutions (ISSAI), the Accounting Chamber actively work on improving the audit methodology. Thus, in particular, in 2019 the Accounting Chamber in cooperation with the expert of the National Audit Office of the United Kingdom developed and approved by the Decision of the Accounting Chamber dated December 17, 2019, № 37-9, the Financial Audit Manual. The Manual is based on the requirements of International Standards of Supreme Audit Institutions (ISSAI), current legislation of Ukraine, best practices of supreme audit institutions and is used by the Accounting Chamber while financial auditing. Work is also under way to develop by the Accounting Chamber, jointly with EU experts, the methodologies for performance audits, compliance audits and for the audit quality control in line with International Standards of Supreme Audit Institutions (ISSAI).

The Accounting Chamber aims to ensure a sufficient level of audit coverage of the most important areas of state activities by: applying clear criteria in planning audits, implementing a comprehensive control and audit quality assurance system, monitoring the implementation of recommendations provided by audits, which will generally contribute to the confidence of citizens, economic entities and other stakeholders that the approved budget programs are aimed at achieving specific goals, and budget funds are used legally, effectively, efficiently and economically. All these tasks are envisaged in the Accounting Chamber Development Strategy for 2019-2024 (see attached), and the Accounting Chamber is making efforts to implement them properly.

According to the Article 6 of the Law of Ukraine “On the Accounting Chamber” the Accounting Chamber under the procedure established by law and international agreements of Ukraine, cooperates with the Supreme Audit Institutions (SAIs) of other countries and international organizations.

International cooperation is the important tool of the ACU’s institutional development and strengthening the capacity to act as the SAI of Ukraine and help the institution to be updated with INTOSAI standards and best international practices. In the framework of the international specialized organizations as well as in the framework of bilateral cooperation the international cooperation provides the knowledge and experience exchange with the aim of improvement of public external audit, and also carrying out the international cooperated audits in most relevant issues for Ukraine.
31. What procedures do the SAIs have in place for quality control providing reasonable assurance that the SAI auditors are complying with professional standards including independence, objectivity, confidentiality and competence?

Procedures for quality control of control measures of the Accounting Chamber are defined in the Rules of Procedures of the Accounting Chamber and Recommendations on management and quality control of measures of public external financial control (audit) conducted by the Accounting Chamber, approved by the Decision of the Accounting Chamber of 10.11.2015 № 8-5.

Quality control is carried out in time of implementation of all measures of public external financial control (audit) conducted by the Accounting Chamber, and is divided into:

- preliminary quality control during the formation of the draft Working plan of the Accounting Chamber for the next year and when approving the program of the control measure,
- ex-post control during the consideration at the meeting of the Accounting Chamber of the report and other documents prepared as a result of completed control measures, and processing of the reports approved at the meeting of the Accounting Chamber.

In practice, it should be noted that the existing quality control system is not comprehensive and built on best external audit practices. In this regard, to ensure confidence in the auditors' compliance with professional standards, as well as seeking to fully implement ISSAI standards (IFPP) to ensure high audit quality, the Accounting Chamber is working on improvement of existing quality control procedures. Currently, in cooperation with international experts, the Concept for Implementation of the Quality Management System in the Accounting Chamber has been developed, based on the best international practices, INTOSAI principles, in particular international standards ISSAI 140 “Quality Control for Supreme Audit Institutions”, INTOSAI Code of Ethics (ISSAI 130) and requirements of current legislation of Ukraine. Also, the Methodological Manual on quality assurance and control and the specification of the process “Quality control review of completed measures of public external financial control (audits)” (cold review) are being developed.

32. How do the SAIs communicate their audit results (i.e. through media, websites, etc.)? Do the SAIs make their audit reports publicly available?

According to the Law “On the Accounting Chamber” reports on the results of performed control measures and relevant decisions of the Accounting Chamber shall be sent the audit objects, which are obliged to inform within one month the Accounting Chamber on the results of the consideration of the abovementioned decisions, as well as on planned and taken respective measures.

According to the amendments introduced to the Rules of Procedure of the Verkhovna Rada of Ukraine by the Law of Ukraine of December, 03, 2020 № 1052-IX, reports on the results of control measures and relevant decisions of the Accounting Chamber shall be sent by the Accounting Chamber to the Verkhovna Rada of Ukraine within 15 days. Also the Accounting Chamber sends to the Verkhovna Rada of Ukraine information on the status of implementation of the decisions of the Accounting Chamber by the control objects within 45 days from the date of receipt of such information from the control object.

In addition, information on the results of control measures undertaken in respect to the state executive bodies are to be submitted to the Cabinet of Ministers of Ukraine. According to the Law of
Ukraine “On the Accounting Chamber” the Cabinet of Ministers informs the Accounting Chamber about the measures taken according to the consideration of such information.

According to the Law “On the Accounting Chamber” reports, decisions of the Accounting Chamber, informational messages on the status of implementation of the decisions of the Accounting Chamber by the control objects, except restricted access information, are published on the official website of the Accounting Chamber on a regular basis.

In total, the website of the Accounting Chamber contains reports and decisions on the results of 418 control measures and 42 informational messages on the status of implementation of the Accounting Chamber. Also, after reviewing the results of control measures at the meeting of the Accounting Chamber, meaningful short reports on the results of these control measures are promptly prepared and published on the website of the Accounting Chamber. In 2021 alone, 102 such press releases were published.

In addition to the official website, information is also posted on the Accounting Chamber's Facebook, Telegram, Twitter and You-Tube channels. The number of media references on the results of Accounting Chamber's activities remains stably high.

33. What procedures do the SAIs have in place to monitor the implementation of their audit recommendations?

According to the Article 36 of the Law of Ukraine “On the Accounting Chamber” the control object informs the Accounting Chamber about the results of the consideration of the Accounting Chamber’s decision, planned and taken measures accordingly to the decision within one month. If the control object has not informed the Accounting Chamber about results of consideration of its decision or the Accounting Chamber recognized the measures planned and taken by the control object in relation to its decision inadequate, the Accounting Chamber shall inform the relevant authorities and the public through the media.

The Accounting Chamber constantly monitors and analyzes the implementation by the control objects of the recommendations (proposals) approved by its decisions and adopted as a result of the discussion of the reports at the meetings of the Accounting Chamber. To this end, the auditors analyze the measures taken by the control objects and other involved state bodies to implement the decisions of the Accounting Chamber, evaluate them in terms of acceptability and sufficiency.

The Verkhovna Rada of Ukraine shall be informed about the status of implementation of the Accounting Chamber decisions by the control objects within 45 days from the date of receipt by the Accounting Chamber of information on that. Relevant information is also posted on the website of the Accounting Chamber and included in the annual reports on the activities of the Accounting Chamber.

The long-standing experience of the Accounting Chamber shows that a significant part of the recommendations of the Accounting Chamber has a systemic nature and concerns the need for amendments to legislation and other regulations, which takes time. 65.1% of the recommendation, based on the results of public external financial control (audit) measures, provided by the Accounting Chamber in 2020 and 2021, have been fully or partially implemented by the end of 2021.

At the same time, improving the system of monitoring the implementation of the recommendations of the Accounting Chamber and informing stakeholders about its results for
appropriate response is one of the tasks envisaged by the Development Strategy of the Accounting Chamber for 2019-2024 (see attached). To fulfil this task, in cooperation with the EU international experts’ proposals on necessary amendments to the Rules of Procedure of the Accounting Chambers have been elaborated and the overview and description of the process "Monitoring the implementation of the recommendations of the Accounting Chamber on the results of the state external financial control (audit)" was prepared. Also, measures to improve the reflection of the results of monitoring the recommendations on the website of the Accounting Chamber are being taken.

34. How do the SAIs report their findings to the parliament? Are there dedicated committees to consider the SAI audit reports? What are the parliamentary procedures for examining SAI reports?

The Accounting Chamber shall, on a permanent and systematic basis, provide the legislative power and, in particular, the committees of the Verkhovna Rada of Ukraine with relevant, objective and prompt information, and inform the Verkhovna Rada of Ukraine about the results of all control measures.

In particular, in accordance with the amendments made by the Law of Ukraine dated December 3, 2020, № 1052-IX to the Rules of Procedure of the Verkhovna Rada of Ukraine, reports on control measures and relevant decisions of the Accounting Chamber shall be sent by the Accounting Chamber to the Verkhovna Rada within 15 days. The Accounting Chamber also sends to the Verkhovna Rada information on the status of implementation by the auditees of the decisions of the Accounting Chamber within 45 days from the date of receipt of information from the auditee.

Committees of the Verkhovna Rada of Ukraine at their meetings shall submit for consideration and discussion reports of the Accounting Chamber on the results of control measures, hear reports of Members of the Accounting Chamber, make appropriate decisions, which facilitate the implementation of recommendations provided by the Accounting Chamber.

The most active is the cooperation of the Accounting Chamber with the Verkhovna Rada of Ukraine Committee on Budget, which is the lead committee for the Accounting Chamber’s activities. In particular, the Subcommittee on Public Financial Control and Activities of the Accounting Chamber has been established and operates within this Committee, which carries out preliminary generalized consideration of reports on budget execution and conclusions of the Accounting Chamber on the results of control measures. In 2021, representatives of the Accounting Chamber took part in 37 hearings of this Committee and 64 hearings of its Subcommittees. At the same time, the reports of the Accounting Chamber are considered by other committees of the Verkhovna Rada of Ukraine - the Committee on Economic Development, the Committee on National Health, Medical Care and Health Insurance, the Committee on National Security, Defense and Intelligence, the Committee on Environmental Policy and Nature Management, the Committee on Education, Science and Innovation, etc.

The formal mechanism for consideration of the annual reports of the Accounting Chamber by the Parliament is defined by law and regularly implemented (The Law of Ukraine on “Accounting Chamber” Article 30 and the Rules of Procedure of Verkhovna Rada of Ukraine, Article 232-2). Based on the results of consideration of the annual reports of the Accounting Chamber, the Budget
Committee of the Verkhovna Rada of Ukraine provides the Accounting Chamber with recommendations on improving its activities and other relevant actions.

35. What parliamentary follow-up is given to SAI audit reports?

Within the parliamentary control, the Verkhovna Rada receives from the Accounting Chamber all reports on the results of control measures, relevant decisions of the Accounting Chamber and information on the status of implementation of control decisions of the Accounting Chamber. This information is passed to the Committee on Budget, other relevant committees, transmitted among MPs, and can also be considered at the plenary session of the Verkhovna Rada.

The Verkhovna Rada of Ukraine also shall consider the information of the Accounting Chamber on the results of unscheduled measures of public external financial control (audit) by the Decision of the Verkhovna Rada of Ukraine.

However, it should be noted that a clear regulatory procedure for Parliament's response to the reports of the Accounting Chamber on the results of public external financial control (audit) measures, which must be sent by the Accounting Chamber to the Verkhovna Rada of Ukraine, is not established. There is also no separate procedure for monitoring the implementation of audit recommendations of the Accounting Chamber, which were considered at the same time as the report at meetings of committees of the Verkhovna Rada of Ukraine, except for the procedure for monitoring the implementation of relevant committee decisions.

As part of the control over compliance with budget legislation, the Verkhovna Rada of Ukraine exercises control over the activities of the Accounting Chamber in exercising its powers defined by law (Article 109 of the Budget Code of Ukraine).

In particular, in accordance with the procedure established by the Rules of Procedure of the Verkhovna Rada of Ukraine, the Verkhovna Rada of Ukraine shall consider the annual report on the activities of the Accounting Chamber. Following the discussion of the report, the Verkhovna Rada of Ukraine may adopt a relevant resolution on taking the report into consideration, evaluating the activities of the Accounting Chamber, as well as making other decisions, the adoption of which is recommended in the report. In addition, it is stipulated, that following the discussion of the annual report, the Verkhovna Rada of Ukraine may decide to apply for necessary measures to public authorities and local governments that have not informed the Accounting Chamber about the results of its decisions or measures planned and undertaken due to its decisions recognized by the Accounting Chamber as inappropriate.

III. PROTECTION OF THE EU'S FINANCIAL INTERESTS

36. What are the applicable definitions of irregularity, fraud, passive corruption, active corruption, money laundering? Please identify:

a) the relevant provisions in the legislation;
b) the penalties for the principle offenses of fraud (both in revenue and expenditure), passive corruption, active corruption and money laundering in the legislation.

A) Legislative provisions on criminalization of fraud affecting the financial interests of the Union (hereinafter referred to as “fraud”), passive and active corruption, money laundering.

Irregularity

The definition for irregularity does not occur in Ukrainian legislation.

However, based on definition provided for in paragraph 2 of Article 1 of the Regulation on the protection of the European Communities financial interests (2988/95), irregularity means, inter alia, any infringement of a provision of Community law, which have the effect of prejudicing the general budget of the Communities or budgets managed by them. It also may be performed by using an unjustified item of expenditure.

Currently, there are no special provisions in Criminal Code of Ukraine (hereinafter referred to as the CC) of Ukraine and Code of Ukraine on Administrative Offences, aimed to protect EU’s financial interests from irregularity.

At the same time, CC of Ukraine provides for liability for similar actions against State Budget of Ukraine and local budgets.

Article 210 of CC of Ukraine proscribes use of budget funds by an official contrary to their target allocation, as well as budget expenditures or loans from the budget without established budget allocations or in excess of them contrary to the Budget Code of Ukraine or the law on the State Budget of Ukraine for the year, where large amounts of State funds are involved.

Article 211 of CC of Ukraine provides liability for making of regulations or directives by an official, which modify budget revenues and expenses contrary to the procedures prescribed by law, where large amounts of budget funds are involved.

Also, Article 164\textsuperscript{12} of Code of Ukraine on administrative offences proscribes the breach of budget legislation, namely:

- inclusion of unreliable data in budget requests, which led to the approval of unjustified budget allocations or unjustified budget allocations; violation of the requirements of the Budget Code of Ukraine in the process of prepayment for goods, works and services at the expense of budget funds, as well as violation of the procedure and timing of such prepayment; making payments at the expense of budget funds without registration of budget commitments, in the absence of supporting documents or by including inaccurate information in payment documents, as well as unreasonable refusal to make payments by bodies providing treasury services of budget funds; violation of the requirements of the Budget Code of Ukraine in the process of implementation of state budget expenditures (local budget) in case of untimely entry into force of the Law on the State Budget of Ukraine (untimely decision on the local budget) for the year;

- commitments without appropriate budget allocations or in excess of the powers established by the Budget Code of Ukraine or by the Law on the State Budget of Ukraine for the relevant year; inclusion in the special fund of the budget of revenues from sources not classified as such by the Budget Code of Ukraine or the law on the State Budget of Ukraine for the relevant year; crediting budget revenues to any accounts, except for the single treasury account (except for funds received by Ukrainian institutions operating abroad), as well as accumulating them in the accounts of bodies
controlling the collection of budget revenues; crediting budget revenues to the budget other than those specified by the Budget Code of Ukraine or by the Law on the State Budget of Ukraine for the relevant year, including due to the division of taxes and fees (mandatory payments) and other revenues between budgets in violation of certain amounts; implementation of state (local) borrowings, provision of state (local) guarantees in violation of the requirements of the Budget Code of Ukraine; making decisions that have led to exceeding the maximum amount of state (local) debt or the maximum amount of state (local) guarantees; placement of temporarily free budget funds in violation of the requirements of the Budget Code of Ukraine; creation of extra-budgetary funds, violation of the requirements of the Budget Code of Ukraine regarding the opening of extra-budgetary accounts for the placement of budget funds; granting loans from the budget or returning loans to the budget in violation of the requirements of the Budget Code of Ukraine and / or the established conditions of budget lending; implementation by budgetary institutions of borrowings in any form or granting by budgetary institutions to legal entities or individuals of loans from the budget contrary to the Budget Code of Ukraine; violation of the requirements of the Budget Code of Ukraine on the allocation of funds from the reserve fund of the budget;

- expenditures, lending to the local budget, which according to the Budget Code of Ukraine shall be carried out at the expense of another budget; execution of budget expenditures or provision of loans from the budget without established budget allocations or with their excess in conflict with the Budget Code of Ukraine or the law on the State Budget of Ukraine for the relevant year; misuse of budget funds; issuance of legal acts, which unlawfully reduce budget revenues or increase budget expenditures; expenditures for the maintenance of the budget institution together with different budgets in conflict with the Budget Code of Ukraine or the law on the State Budget of Ukraine for the year.

In addition to these, irregularity has some signs of a tax offence according to Article 109 of Tax Code of Ukraine.»

**Fraud**

At present the Criminal Code of Ukraine (hereinafter referred to as the CC) contains a number of provisions allowing to prosecute behaviour, the necessity for criminalization of which is set out in Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 on fight against fraud aimed against financial interests of the Union by criminal and legal remedies (hereinafter referred to as the Directive).

As of today, there is no special provision that proscribes fraud with EU’s funds in Ukrainian legislation\(^9\). At the same time, fraud with EU’s funds may be qualified as crime according to different Articles of CC of Ukraine depending on the form of action and mechanism of causing damage.

**Fraud with regard to expenditure**

The actions described in subpoints (i) of points (a) and (b) of Article 3(2) of the Directive, under

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\(^9\) It should be noted that item 86 of the Plan of Legislative Work of the Verkhovna Rada of Ukraine for 2022, approved by the Resolution of the Verkhovna Rada of Ukraine No. 2036-IX dated February 15, 2022, provides for the submission of a draft Law on Amendments to the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine on the establishment of liability for illegal actions with funds of international financial Assistance of the EU to the Parliament in March 2022. Access mode: https://zakon.rada.gov.ua/laws/show/2036-IX#n15.
certain conditions should be qualified as taking possession of another’s property or obtaining the right to property by deceit or abuse of trust (fraud) (Art. 190 of the CC) or as misappropriation, embezzlement of property or taking possession of it by abuse of office (Art. 191 of the CC).

In case of using knowingly forged documents in doing so, as well as in committing actions referred to in subpoints (i) of points (c) and (d) of Article 3(2) of the Directive, the person’s actions should be additionally qualified under paragraph 4 of Article 358 or 366 of the CC.

The actions described in subpoints (ii) of points (a) and (b) of Article 3(2) of the Directive under specific conditions are subject to prosecution as passive deception (failure to report information which a person should and could report) according to the respective paragraphs of Articles 190 or 191 of the CC.

The actions described in subpoints (iii) of points (a) and (b) of Article 3(2) of the Directive under specific conditions are subject to prosecution as causing property damage by deception or abuse of trust (Article 192 of the CC).

**Fraud with regard to income**

The actions described in subpoints (i), (ii), (iii) of points (c) and (d) of Article 3(2) of the Directive under certain conditions should be qualified as causing property damage by deception or abuse of trust (Article 192 of the CC).

The actions described in subpoints (ii) of points (a), (b), (c) and (d) of Article 3(2) of the Directive, specifically, failure to submit the relevant information in violation of the special duty may be subject to qualification under Article 209-1 of the CC of Ukraine, in case of causing significant damage by them. If such actions were beforehand promised when committing fraud, then criminal liability occurs for aiding and abetting (paragraph 5 of Article 27) and Article 190 of the CC.

**Active and passive corruption**

The criminal legislation of Ukraine provides for liability both for active and passive corruption in the meaning of the Directive.

As it appears from Article 1 of the Law of Ukraine “On Prevention of Corruption”, the inherent features of corruption are the following:

- in case of passive corruption: use of official powers and appropriate opportunities, acceptance of unlawful benefit or acceptance of a promise/offer of such benefit as a form of action; unlawful benefit as its subject matter or purpose;
- in case of active corruption: promise/offer to provide or provision of unlawful benefit as a form of action; use of official powers and appropriate opportunities as means for achieving a purpose to obtain unlawful benefit.

Even though the terms “active corruption”, “passive corruption” in the text of the legislation of Ukraine on criminal liability are not used, all expressions of active and passive corruption in the meaning of the Directive are punishable at the level of the elements of criminal offences provided for by the CC.

Thus, liability for active corruption is provided for by:

- Article 369 of the CC (offer, promise or provision of unlawful benefit to an official);
- paragraph 1 of Article 369-2 of the CC (undue influence).
In its turn, liability for *passive corruption* is provided for by Article 368 of the CC (acceptance of offer, promise or receipt of unlawful benefit by an official).

**Money laundering**

Criminal liability for legalization (laundering) of the proceeds of crime is provided for by Article 209 of the CC giving the following definition of such criminal offence.

*Acquisition, possession, use of proceeds in respect of which the factual circumstances indicate that they were obtained as a result of committed crime, including the execution of financial transaction or legal transaction with such proceeds, or moving, changing the form (transformation) of such proceeds or committing actions aimed at concealing, disguising the origin of or possessing such proceeds, the right to such proceeds, the source of their origin, location, if such actions were committed by a person that knew or should have known that such proceeds were obtained — directly or indirectly, in whole or in part — as a result of committed crime.*

In general, the Directive in terms of coverage by the elements of crime provided for by Article 209 of the CC of cases of laundering of property acquired as a result of fraud, active and passive corruption has been complied with.

**B) Penalties for the offenses of fraud, passive and active corruption, and money laundering in the legislation of Ukraine.**

**Penalties for fraud**

One of the key criteria of differentiation of liability and punishment for committing criminal offences provided for by Articles 190, 191, 192 of the CC is the amount of damage inflicted and amount (monetary measurement) of the subject matter of a criminal offence.

The above mentioned amounts are specified by the CC using such unified value (coefficient) as non-taxable minimum incomes of citizens to be determined according to certain methods annually and tending to increase.

Thus, with regard to offences provided for by Articles 190, 191 of the CC, the requirement of Article 7(2) of the Directive concerning punishment in the form of imprisonment is complied with.

Whereby the punishment in the form of imprisonment for up to 8 years (paragraph 3 of Article 190, paragraph 4 of Article 191) and up to 12 years (paragraph 4 of Article 190, paragraph 5 of Article 191) is provided for if an offence is committed on a large (from \(\approx EUR \ 10,000\) to \(\approx EUR \ 24,000\)) and especially large scale (above \(\approx EUR \ 24,000\)) accordingly. This indicates compliance with requirements of Article 7(3) of the Directive, which requirements provide for that causing significant damage or obtaining significant benefit (above EUR 100,000) must be punishable by at least 4 years of imprisonment.

According to paragraphs 3 and 4 of note to Article 185 of CC of Ukraine, in Articles 185 through 191, and 194 of this Code, an offense is held to be committed in respect of a large amount, if it was committed in respect of an amount exceeding 250 tax-free minimum individual income at the time of the offense. Also, an offence is held to be committed in respect of an especially large amount, if it was committed in respect of an amount exceeding 600 tax-free minimum individual income at the time of the offense.

Tax-free minimum individual income that is used in qualification of crimes changes annually and depends on the amount of the subsistence minimum for able-bodied persons, which is enshrined
in the Law of Ukraine on the State Budget for the year.

Considering the provisions of Section XX, subsection 1, clause 5 of the Tax Code of Ukraine, Art. 7, para 3 of the Law of Ukraine “On the State Budget of Ukraine for the year 2022,” the tax-free minimum income of citizens for the qualification of offences throughout 2022 should be understood as an amount equal to UAH 1,240.5, which, according to the official exchange rate of the National Bank of Ukraine for hryvnia to euro as of 19.04.2022, is EUR 39.23. Hereinafter, the calculation is conducted according to the official exchange rate of the National Bank of Ukraine in hryvnia to euro as of 19.04.2022.

At the same time, the sanction for committing a criminal offence stipulated by Article 192 of the CC does not provide for punishment in the form of imprisonment, which meets the requirements of the Directive regarding punishment for offences stipulated by point (c) of Article 3(2), but does not correspond to requirements concerning criminality of offences stipulated by point (d) of this Article of the Directive.

The sanctions for committing criminal offences provided for by Articles 358 and 366 of the CC are less strict. At the same time, whereas they may be applied in the aggregate with Articles 190, 191 and 192 of this Code, their influence on the final extent of punishment to be imposed is insignificant.

**Punishment for active and passive corruption**

*Compliance of sanctions with requirements provided for in Article 7 of the Directive.*

In general the sanctions for criminal offences provided for by Articles 368; 369; 369-2 of the CC are effective, proportionate and dissuasive.

Thus, the law provides for a possibility of application of the maximum punishment in the form of imprisonment for each of the above mentioned criminal offences. Whereby imprisonment is mandatory main punishment for specially qualified elements of criminal offences provided for by paragraphs 3, 4 of Article 368; paragraphs 3, 4 of Article 369; paragraph 3 of Article 369-2 of the CC.

Furthermore, deprivation of the right to hold certain positions or engage in certain activities is provided for as compulsory additional punishment for all types of the criminal offence provided for by Article 368 of CC.

The elements of the criminal offence provided for by Article 368 of the CC provides for qualifying elements related to the amount of unlawful benefit: unlawful benefit in a significant amount (paragraph 2 of Article 368 of the CC), unlawful benefit in a large amount (paragraph 3 of Article 368 of the CC), unlawful benefit in an especially large amount (paragraph 4 of Article 368 of the CC).

Taking into account point 1 of the note to Article 368 of the CC, during the entire year 2022 unlawful benefit in a significant amount shall be considered as an amount of ≈EUR 4,000, in a large amount – ≈EUR 8,000, and in an especially large amount – ≈EUR 20,000.

Whereby the maximum punishment in the form of imprisonment for up to 6 years; paragraph 3 of Article 368 of the CC – up to 10 years; paragraph 4 of Article 368 of the CC – up to 12 years is imposed for the criminal offence provided for by paragraph 2 of Article 368 of the CC.

As to the elements of the criminal offence provided for by Article 369 of the CC, although they do not contain qualifying elements related to the amount of unlawful benefit, however the provisions
of Article 7(3) of the Directive are anyway aligned with the legislation of Ukraine, whereas every paragraph of the above mentioned Article contains a sanction allowing for application of the maximum punishment in the form of imprisonment for 4 years.

Furthermore, it should be noted that the elements of the criminal offences provided for by Articles 368; 369; 369² of the CC do not stipulate damage as a mandatory element. Therefore, in the context of the sanctions provided for by Articles 368; 369 of the CC, the legislation of Ukraine complies with the requirements of Article 7(3) of the Directive by imposing even stricter punishment in certain cases than required. At the same time, there is a problem with compliance of the sanction stipulated by paragraph 1 of Article 369² of the CC with provisions of Article 7(3) of the Directive: these elements do not provide qualifying elements related to the amount of unlawful benefit, whereby in case of committing the criminal offence provided for by paragraph 1 of Article 369² of the CC, the subject matter of which is significant unlawful benefit, the court is deprived of a possibility to impose maximum punishment in the form of 4 years of imprisonment.

The amount of damage shall be considered by the court to grade the penalty. According to subparagraph 5 paragraph 1 of Article 67 of CC of Ukraine, grave consequences caused by the offense shall be considered as circumstances aggravating punishment.

*Compliance with requirements provided for in Article 8 of the Directive.*

The criminal offences provided for by paragraph 4 of Article 190, paragraph 5 of Article 191, paragraph 4 of Article 369 of the CC contain a qualifying element – committing such crimes by an organized group.

Furthermore, according to point 2 of paragraph 1 of Article 67 of the CC committing a criminal offence by an organized group is an aggravating circumstance. Therefore, in case of committing the criminal offences provided for by Articles 192, 368; 369² of the CC as part of the organized group the court will recognize it as an aggravating circumstance.

Point 2 of paragraph 1 of Article 67 of the CC (taking into account the reference to paragraph 3 of Article 28 of the CC), as well as paragraph 4 of Article 190, paragraph 5 of Article 191, paragraph 4 of Article 369 of the CC contain the term “organized group” the meaning of which is defined in paragraph 3 of Article 28 of the CC. In general, all organized criminal groups corresponding to the features of a criminal organization in the meaning of point 1 of Article 1 of the Council Framework Directive 2008/841/JHA will also correspond to the features of an organized group according to paragraph 3 of Article 28 of the CC.

It should be additionally stated that paragraph 4 of Article 28 of the CC defines the notion of committing a criminal offence by a criminal organization. According to the legislation of Ukraine, a criminal organization is a type of an organized group, whereas it has all features of the latter and has a few more specific features. Therefore, in case of committing criminal offences by a criminal organization the approach described above is maintained (in case of active corruption the person’s actions will be qualified as a criminal offence provided for by paragraph 4 of Article 369 of the CC; in case of passive corruption the above mentioned circumstance will be taken into account as an aggravating circumstance) with the specifics that offenders will be additionally incriminated the relevant paragraph of Article 255 of the CC according to the rules of the aggregate of criminal offences.

*Penalties for money laundering*
Committing of the criminal offence provided for by paragraph 1 of Article 209 of the CC is punishable by imprisonment for a term of 3 to 6 years with deprivation of the right to hold certain positions or engage in certain activities for a term up to 2 years and with property confiscation.

Whereby if money laundering is committed repeatedly or by a group of persons upon their prior conspiracy, or in a large amount (≈EUR 235,000), offenders are imposed the punishment in the form of imprisonment for a term of 5 to 8 years with deprivation of the right to hold certain positions or engage in certain activities for a term up to 3 years and with property confiscation.

If legalization (laundering) of the proceeds of crime is committed by an organized group or in an especially large amount (≈EUR 706,000), such action is punishable by imprisonment for a term of 8 to 12 years with deprivation of the right to hold certain positions or engage in certain activities for a term up to 3 years and with property confiscation.

Therefore, punishment for legalization (laundering) of the proceeds of crime complies with the requirements of Articles 7, 8 of the Directive.

The notion “infringement” in the meaning of the criminal law is defined by Article 11 of the CC.

In particular, according to the above mentioned provision, a criminal offence means a socially dangerous culpable act (act or omission) set out in the CC committed by a criminal offender.

The notion of an administrative offence is regulated by Article 9 of the Code of Ukraine on Administrative Offences, according to which an administrative offence (misconduct) means an unlawful, culpable (intentional or negligent) action or omission encroaching on public order, ownership, rights and freedoms of the citizens, on the established administrative order and for which the law provides for administrative liability. Administrative liability for offences provided for by this Code occurs if such violations by their nature do not entail criminal liability according to the law.

Article 190 of the CC defines “fraud” as taking possession of another’s property or obtaining the right to property by deceit or abuse of trust (fraud) and establishes liability for committing it. The maximum punishment is provided for in the form of imprisonment for a term of up to twelve years with property confiscation.

The notion “corruption” is defined by provisions of Article 1 of the Law of Ukraine “On Prevention of Corruption”, and the liability is established by the above mentioned Law, as well as by the CC.

In particular, corruption — use by the person referred to in paragraph 1 of Article 3 of this Law of official powers conferred on him/her or related opportunities for the purpose of obtaining unlawful benefit or acceptance of such benefit or acceptance of a promise/offer of such benefit for himself/herself or other persons or accordingly a promise/offer or provision of unlawful benefit to the person referred to in paragraph 1 of Article 3 of this Law, or upon his/her request to other individuals or legal entities for the purpose of inducing such person to unlawful use of official powers conferred on him/her or related opportunities.

The note to Article 45 of the CC establishes that corruption criminal offences according to this Code are understood as criminal offences provided for by Articles 191, 262, 308, 312, 313, 320, 357, 410, in case if they are committed by abuse of office, as well as criminal offences provided for by Articles 210, 354, 364, 364-1, 365-2, 368-369-2 of this Code.
Specifically, the CC defines the following unlawful actions as corruption:

- Article 210. Misuse of budget funds, expenditures of the budget or provision of credits from the budget without established budget assignments or in their excess (the maximum punishment is provided for in the form of imprisonment for a term of up to six years).

- Article 354. Bribery of an employee of an enterprise, institution or organization (the maximum punishment is provided for in the form of imprisonment for a term of up to three years).

- Article 364. Abuse of power or office (the maximum punishment is provided for in the form of imprisonment for a term of up to six years).

- Article 364-1 Abuse of powers by an official of a legal entity under private law irrespective of the legal structure (the maximum punishment is provided for in the form of imprisonment for a term of up to six years).

- Article 365-2 Abuse of powers by persons providing public services (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

- Article 368. Acceptance of offer, promise or receipt of unlawful benefit by an official (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 368-2 Illicit enrichment (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 368-3 Bribery of an official of a legal entity under private law irrespective of the legal structure (the maximum punishment is provided for in the form of imprisonment for a term of up to seven years).

- Article 368-4 Bribery of a person providing public services (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

- Article 368-5 Illicit enrichment (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 369. Offer, promise or provision of unlawful benefit to an official (the maximum punishment is provided for in the form of imprisonment for a term of up to ten years).

- Article 369-2 Undue influence (the maximum punishment is provided for in the form of imprisonment for a term of up to eight years).

Furthermore, corruption criminal offences are defined as the following unlawful actions, in case if they are committed by abuse of office:

- Article 191. Misappropriation, embezzlement or taking possession of property by abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 262. Stealing, appropriation or extortion of firearms, ammunition, explosives or radioactive material, or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to fifteen years).

- Article 308. Stealing, appropriation or extortion of drugs, psychotropic substances and their analogues or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).
- Article 312. Stealing, appropriation or extortion of precursors or obtaining them by fraud or abuse of office (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 313. Stealing, appropriation or extortion of equipment designated for production of drugs, psychotropic substances and their analogues or obtaining it by fraud or abuse of office and other unlawful actions with such equipment (the maximum punishment is provided for in the form of imprisonment for a term of up to twelve years).

- Article 320. Violation of established rules of traffic in drugs, psychotropic substances, their analogues or precursors (the maximum punishment is provided for in the form of imprisonment for a term of up to five years).

- Article 357. Stealing, appropriation or extortion of documents, stamps, seals, or obtaining them by fraud or abuse of office or their damage (the maximum punishment is provided for in the form of restriction of freedom for a term of up to three years).

- Article 410. Stealing, appropriation or extortion by a military employee of firearms, ammunition, explosives or other warfare agents, vehicles, military and special equipment or other military property, as well as obtaining them by fraud or abuse of office. (The maximum punishment is provided for in the form of imprisonment for a term of up to fifteen years).

Even though the terms “active corruption”, “passive corruption” in the text of the legislation of Ukraine are not used, the notion of corruption defined in Article 1 of the Law of Ukraine “On Prevention of Corruption” includes expressions of “passive corruption”, as well as “active corruption”:

- in case of passive corruption: use of official powers and appropriate opportunities, acceptance of unlawful benefit or acceptance of a promise/offer of such benefit as a form of action; unlawful benefit as its subject matter or purpose;

- in case of active corruption: promise/offer to provide or provision of unlawful benefit as a form of action; use of official powers and appropriate opportunities as means for achieving a purpose to obtain unlawful benefit.

The notion of “money laundering” is defined by Article 209 of the CC (Legalization (laundering) of the proceeds of crime), as well as by the provisions of the Law of Ukraine “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing, and Financing Proliferation of Weapons of Mass Destruction”.

In particular, according to Article 209 of the CC, such unlawful actions are understood as acquisition, possession, use of proceeds in respect of which the factual circumstances indicate that they were obtained as a result of committed crime, including the execution of financial transaction or legal transaction with such proceeds, or moving, changing the form (transformation) of such proceeds or committing actions aimed at concealing, disguising the origin of or possessing such proceeds, the right to such proceeds, the source of their origin, location, if such actions were committed by a person that knew or should have known that such proceeds were obtained — directly or indirectly, in whole or in part — as a result of committed crime. The maximum punishment is provided for in the form of imprisonment for a term of up to twelve years with property confiscation.

According to Article 5 of the Law of Ukraine of 06.12.2019 № 361-IX “On Prevention and Counteraction to Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and
Financing of Proliferation of Weapons of Mass Destruction”, legalization (laundering) of the proceeds of crime covers any actions related to the execution of financial transaction or legal transaction with the proceeds of crime, as well as commission of actions aimed at concealing or disguising the illicit origin of such proceeds or their ownership, rights to such proceeds, sources of their origin, location, movement, change in their form (transformation), as well as acquisition, possession or use of the proceeds of crime.

Administrative and criminal liability (Articles 209 and 209-1 of the CC) is introduced in Ukraine for violation of legislation in the area of prevention of and counteraction to legalization (laundering) of proceeds of crime. Administrative liability is provided for by the Code of Ukraine on Administrative Offences (Articles 166-9, 188-4), the Law “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing, and Financing Proliferation of Weapons of Mass Destruction” (Article 32), the Law of Ukraine “On Banks and Banking” (Article 73).

In particular, according to Article 166-9 of the Code of Ukraine on Administrative Offences, individuals - officials of the primary financial monitoring entities are held liable for the following violations:

“violation of requirements for carrying out due diligence, requirements for identification of affiliation of customers and other persons specified by law with politically exposed persons, their family members, persons related to politically exposed persons; non-submission, untimely submission, violation of the procedure for submission or submission to the central executive authority implementing the state policy in the area of prevention of and counteraction to legalization (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction, of incorrect information in cases provided for by law; violation of requirements for formation (maintenance) and storage of documents (including electronic ones), records, data, information; violation of requirements for accompanying transfers with information on initiator and recipient of the transfer; violation of requirements for refusal to establish (maintain) business relations (conducting a financial operation); violation of the procedure for suspension of financial operations (operation), as well as the procedure for freezing or unfreezing of assets related to terrorism and its financing, proliferation and financing of weapons of mass destruction; violation of requirements for detection and registration of financial operations subject to financial monitoring”.

Article 32 of the Law of Ukraine “On Prevention of and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” provides for holding primary financial monitoring entities (legal entities and individuals performing functions of primary financial monitoring entities) liable for violations in the area of counteracting to money laundering and terrorist financing.

Thus, the following enforcement actions may be applied to offenders:

1) written warning;

2) cancellation of a license and/or other documents entitling to carry out activity which enables a person to acquire a status of a primary financial monitoring entity, according to the procedure established by law;

3) imposition on a primary financial monitoring entity of a duty to suspend an official of such primary financial monitoring entity;
4) fine;

5) conclusion of a written agreement with a primary financial monitoring entity under which a primary financial monitoring entity is obliged to pay a specified monetary liability and take measures for elimination and/or avoidance in further activities of violations of requirements of the legislation in the area of prevention and counteraction, to ensure increased efficiency of operation and/or adequacy of the risk management system etc.

Paragraph 5 of Article 32 of the Law of Ukraine “On Prevention of, and Counteraction to, Legalisation (Laundering) of the Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction” establishes specific amounts of penalties for breach of legislation in the area of counteracting to money laundering and terrorist financing. The maximum amount of a fine for financial institutions is 10 percent of the total annual turnover, but not more than 7,950 thousand non-taxable minimum incomes of citizens (approximately EUR 4 million), and for other institutions twice the amount of benefit obtained by the primary financial monitoring entity as a result of commission of the violation, and if the amount of such benefit cannot be determined, — 1,590 thousand non-taxable minimum incomes of citizens (approximately EUR 800 thousand).

Liability for banking institutions for violations of the legislation in the area of counteracting to money laundering and terrorist financing is provided for by Article 73 of the Law of Ukraine “On Banks and Banking”.

Furthermore, criminal liability provided for by Article 209-1 of the CC is imposed for violation of the legislation in the area of counteracting to money laundering and terrorist financing. In particular:

“Article 209-1. Intentional violation of requirements of the legislation on prevention of and counteraction to legalization (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction

1. Deliberate non-submission, untimely submission or submission of inaccurate information on financial transactions that are subject to financial monitoring, to the central executive authority that implements public policy in the field of preventing and countering legalization (laundering) of proceeds of crime, terrorist financing and financing the proliferation of weapons of mass destruction, if such actions caused significant damage to legally protected rights, freedoms or interests of separate citizens, state or public interests or interests of separate legal entities, — are punishable by a fine in the amount of one to three thousand non-taxable minimum incomes of citizens with deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

2. Disclosure in any form of a financial monitoring secret or a fact of exchange of information on financial transaction and its participants between the primary financial monitoring entities, state financial monitoring entities, other public authorities, as well as a fact of provision (receipt) of a request, decision or assignment of the central executive authority that implements the state policy in the area of prevention of and counteraction to legalization (laundering) of proceeds of crime, financing of terrorism and financing of proliferation of weapons of mass destruction, or provision (receipt) of response to such request, decision or assignment by a person to whom such information became known in relation to his/her professional or official activity, if such actions caused significant damage to legally protected rights, freedoms or interests of separate citizens, state or public interests or interests of separate legal entities, is punishable by a fine in the amount of three to five thousand
37. Please identify the relevant provisions in the legislation concerning the criminal liability of company managers. What is the applicable definition of complicity in economic crimes?

Criminal legislation of Ukraine does not differentiate into a separate category persons subject to criminal liability for committing certain unlawful actions, a head of a company as a subject of crime, but applies a more comprehensive concept of “official”, which may include a head of a company.

Heads of enterprises are covered by the concept of official and if the crime is committed by the head of the enterprise, his actions are regarded as actions committed by an official.

In particular, Article 18 of the CC offers the following definition for the term “public official”: public officials as persons who permanently, temporarily or by special authorisation carry out functions of representatives of state bodies or local self-governing bodies, permanently or temporarily hold in state bodies, local self-governing bodies, enterprises, institutions or organisations positions related to the performance of organisational and administrative or administrative and economic functions, or perform these functions upon special authorisation given to these persons by a competent state body, local self-governing body, central body of state governance with special status, competent body or an official of an enterprise, institution, organisation, by court or by law. Officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons who perform state functions for a foreign state, in particular for a state body or a state-owned enterprise), foreign arbitrators, persons authorised to decide on civil, commercial or labour disputes in foreign states in alternative or judicial proceedings, officials of international organisations (employees of an international organisation or any other persons authorised by this organisation to act on its behalf), as well as members of international parliamentary assemblies, in which Ukraine participates, and judges and officials of international courts are also recognised as public officials.

Note to Article 364 of the CC additionally governs that for the purposes of Articles 364, 368, 368-5 and 369 of this Code, persons who permanently, temporarily or by special authorisation carry out functions of representatives of state bodies or local self-governing bodies, permanently or temporarily hold in state bodies, local self-governing bodies, at state-owned or municipal enterprises, in institutions or organisations positions related to the performance of organisational and administrative or administrative and economic functions, or perform these functions upon special authorisation given to these persons by a competent state body, local self-governing body, central body of state governance with special status, competent body or an official of an enterprise, institution, organisation, by court or by law are recognised as public officials. Officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons who perform state functions for a foreign state, in particular for a state body or a state-owned enterprise), as well as foreign arbitrators, persons authorised to decide on civil, commercial or labour disputes in foreign states in alternative or judicial proceedings, officials of international organisations (employees of an international organisation or any other persons authorised by this organisation to act on its behalf), members of international parliamentary
assemblies, in which Ukraine participates, and judges and officials of international courts are also recognised as public officials.

Pursuant to the CC, the commission of a crime by an official is a distinct qualifying element, which is defined in separate articles of the Code.

The criminal legislation of Ukraine does not specify a separate type of complicity in economic crimes, recognizing the general requirements for definition of complicity in a criminal offence.

In particular, Section VI of the CC defines the notion of complicity, its forms and criminal liability of accomplices.

Complicity in a criminal offence is wilful joint participation of several criminal offenders in commission of a wilful criminal offence. Accomplices in criminal offence, together with a perpetrator, are a head, inciter and accessory.

As to criminalization in the legislation of Ukraine of accomplices’ conduct, it should be mentioned that all accomplices are subject to criminal liability, and commission of a crime in complicity is considered as an aggravating circumstance. In particular, commission of a criminal offence by a group of persons upon prior conspiracy, according to Article 67 of the CC is recognized as aggravating circumstances.

It should be separately noted that paragraph 3 of Article 6 of the CC establishes that a criminal offence is recognized as committed in the territory of Ukraine if a perpetrator of or at least one accomplice to it was acting in the territory of Ukraine.

**Notion of complicity in economic crimes**

**Complicity under the Criminal Code of Ukraine**

As to criminalization in the legislation of Ukraine of accomplices’ conduct, it should be mentioned that all accomplices are subject to criminal liability, and commission of a crime in complicity is considered as an aggravating circumstance.

The CC does not distinguish a special notion or specific features of complicity in economic crimes.

According to Article 26 of the CC, complicity in a criminal offence is wilful joint participation of several criminal offenders in commission of a wilful criminal offence.

Therefore, the general features of complicity under the CC are the following:

- two or more criminal offenders\(^{10}\);
- commonality of conduct of such offenders;
- deliberateness of their criminal conduct\(^{11}\);
- deliberate nature of an offence in committing which the above mentioned offenders participate.

**Types of accomplices** is defined in Article 27 of the CC, according to which accomplices in

\(^{10}\) Definition and features of offenders are specified in Article 18 of the CC.

\(^{11}\) Definition of types of intent is specified in Article 24 of the CC.
criminal offence, together with a perpetrator, are:
- head;
- inciter;
- accessory.

Taking into account the definition of an accessory as a person who, inter alia, *abetted in commission of a criminal offence* by other accomplices\(^{12}\), correlation of the above mentioned types of accomplices with the requirements of the Directive indicates that the CC *to the fullest extent meets* the provisions of Article 5(1) thereof\(^{13}\).

In accordance with paragraph 2 of Article 29 of the CC, *a head, inciter and accessory* are subject to criminal liability under the relevant paragraph of Article 27 and that Article (paragraph of Article) of the Special Part of the CC which provides for a criminal offence committed by a perpetrator.

It should be separately noted that paragraph 3 of Article 6 of the CC establishes that a criminal offence is recognized as committed in the territory of Ukraine *if a perpetrator of or at least one accomplice to it was acting in the territory of Ukraine*, which is in line with the requirements of Article 4 of the Convention.

2) **Criminal liability of company managers for crimes committed by subordinate employees**

*Legal Frameworks of the Convention and the Directive*

Article 3 of the Convention and separate provisions of the Directive, in particular, point (9) of the preamble, specify the necessity for regulating the issue of liability of company managers for commission by their subordinate employees acting on behalf of companies of fraud affecting the financial interests of the Union (hereinafter referred to as fraud), of passive and active corruption, money laundering.

*Liability for an offence committed by a subordinate employee under the CC*

A company manager is subject to criminal liability for commission by his/her subordinate employee of fraud, passive and active corruption, money laundering *on the general grounds* stipulated by the CC.

Despite the absence in the CC of special provisions dedicated to this issue, such manager may act as a perpetrator of a relevant offence, as well as any other accomplice defined by Article 27 of the CC.

In case of commission by a subordinate employee acting on behalf of the enterprise of a relevant

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\(^{12}\) According to paragraph 5 of Article 27 of the CC an accessory is considered to be a person who by his/her advice, instructions, provision of means or instruments or elimination *abetted in commission of a criminal offence* by other accomplices, as well as a person *who in advance promised* to hide a person who committed a criminal offence, means or tools for committing a criminal offence, trace of a criminal offence or items obtained in a criminally unlawful manner, to purchase or sell such items or *otherwise abet in concealment* of a criminal offence.

\(^{13}\) Moreover, the CC defines the notion of the “head” for a criminal offence which is not directly mentioned either in the Convention, or in the Directive.
criminal offence, a company manager potentially may be brought to criminal liability:

- in case of proof of wilful joint participation of a manager in an offence committed by a subordinate employee — as an accomplice (co-perpetrator, head, inciter, accessory) or;

- in the absence of intent or other elements of complicity but presence of negligence as a form of guilt — for official negligence, that is non-performance or improper performance by an official of his/her duties due to unconscientious attitude to them which caused significant damage to legally protected rights, freedoms and interests of separate citizens, state or public interests or interests of separate legal entities (Article 367 of the CC). The above specified provisions of the CC are indicative of compliance by Ukraine of the requirements of Article 3 of the Convention and point (9) of the preamble of the Directive.

38. Please identify the relevant provisions in the legislation concerning the liability of legal persons.

Criminal law measures applicable to legal entities and grounds for applying them are regulated by section XIV-1 of the CC.

In particular, Article 96-3 of the CC stipulates grounds for applying criminal law measures to legal entities.

1. The grounds for applying criminal law measures to the legal entity shall be as follows:

1) commission by its authorised person on behalf of and in the interests of the legal entity of any criminal offence provided for in Articles 209 and 306, paragraphs 1 and 2 of Article 368-3, Paragraphs 1 and 2 of Article 368-4, Articles 369-2 and 369-2 of this Code;

2) failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the commission of any of the criminal offences provided for in Articles 209 and 306, paragraphs one and two of Article 368-3, paragraphs one and two of Articles 368-4, Articles 369 and 369-2 of this Code;

3) commission by its authorised person on behalf of the legal entity of any of the criminal offences provided for in Articles 111-1, 258–258 of this Code;

4) commission by its authorised person on behalf of and in the interests of the legal entity of any of the criminal offenses provided for in Articles 109, 110, 113, 114-2, 146, 147, paragraphs two to four of Article 159-1, Articles 160, 260, 262, 436, 437, 438, 442, 444, 447 of this Code;

5) commission by its authorised person on behalf and in the interests of the legal entity of any of the criminal offences provided in Articles 255, 343, 345, 347, 348, 349, 376–379, 386 of this Code;

6) commission by an authorised person on behalf of and in the interests of the legal entity against a minor of any of the criminal offences provided for in Articles 152–156, 301-1–303 of this Code.

Note 1. An authorised persons of the legal entity shall mean its officials, as well as other persons entitled to act on behalf of the legal entity by virtue of law, its constituent documents or the relevant agreement.

2. Criminal offences provided for in Articles 109, 110, 113, 114-2, 146, 147, 152–156, paragraphs two to four of Article 159, Articles 160, 209, 255, 260, 262, 301-1–303, 306, 343, 345,
347, 348, 349, paragraphs one and two of Article 368-3, paragraphs one and two of Article 368-4, Articles 369, 369-2, 376–379, 386, 436, 437, 438, 442, 444, 447 of this Code shall be deemed committed in the interests of the legal entity, if they resulted in its obtaining improper advantage or created conditions for such advantage or were aimed at evading liability under the law.

Article 96-6 of the CC stipulates the following types of criminal law measures applicable to legal entities:

1) fine;
2) property confiscation;
3) liquidation.

1) Peculiarities of criminal law measures applicable to legal entities in the legal system of Ukraine

Due to the peculiarities of the individual nature of criminal liability which are typical for the legal system of Ukraine, Ukraine has not introduced criminal liability of legal entities, however, the so called “quasi-criminal liability of legal entities” is implemented in the state providing for application of criminal law measures to them (Section XIV of the CC).

The grounds for applying criminal law measures to the legal entity include commission by its authorized person on behalf of (and in some cases also in the interests of) the legal entity of one of criminal offences the list of which is given in points 1, 3–6 of paragraph 1 of Article 96-3 of the CC, or failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the commission of one of the offences referred to in point 2 of paragraph 1 of Article 96-3 of the CC.

2) Criminal law measures applicable to legal entities for fraud affecting the financial interests of the Union (hereinafter referred to as fraud)

As stated in the answer to Question No. 36, the actions which according to Article 3 of Directive are assigned to the types of fraud, may be qualified under Articles 190, 191, 192, 358, 366 of the CC.

Given that the list given in paragraph 1 of Article 96-3 of the CC the above mentioned articles are not included, application of criminal law measures to legal entities for fraud (in the meaning of the Directive) is impossible at the moment.

A relevant draft Law is to eliminate the above mentioned problem.

3) Criminal law measures applicable to legal entities in case of commission of active corruption, passive corruption, legalization (laundering) of proceeds.

Grounds for applying criminal law measures to legal entities include, inter alia, the following:

- commission by an authorized person on behalf and in the interests of a legal entity of the criminal offences provided for in Articles 209; 369, 369-2 of the CC (point 1 of paragraph 1 of Article 96-3 of the CC of Ukraine);

- failure to ensure the fulfilment of obligations imposed on its authorized person by law or constituent documents of a legal entity to take measures to prevent corruption, which led to the

14 See answer to Question No. 36.
commission of any of the criminal offences provided for in Articles 209; 369; 369² of the CC (point 2 of paragraph one of Art. 96³ of the CC).

At the same time, separate provisions of the legislation of Ukraine appear to be insufficient for full alignment to the Directive.

Thus, according to Article 6(2) of the Directive, the possibility of holding legal entities liable must be ensured in cases when insufficiency of management or control by the person specified in paragraph 1 of this Article made it possible for a duly authorized person to commit any of the criminal offences specified in the Directive in favour of the legal entity.

Whereby the grounds for applying criminal law measures to legal entities provided for in points 1, 3, 4, 5, 6 of paragraph 1 of Article 96³ of the CC in essence involve active conduct of an authorized person on behalf and in the interests (except for point 3 of paragraph 1 of Article 96³ of the CC) of a legal entity, and provisions set out in point 2 of paragraph 1 of Article 96³ of the CC appear to be insufficient for compliance with the requirements of Article 6(2) of the Directive to the fullest extent in view of the list of criminal offences given in point 2 of paragraph 1 of Article 96³ of the CC. Furthermore, “insufficiency of management and control” is an element wider in content than “failure to ensure the fulfilment of obligations to take measures to prevent corruption”.

4) Sanctions which might be applied to legal entities

According to paragraph 1 of Article 96⁶ of the CC the following criminal law measures might be applied to legal entities:

1) fine;
2) property confiscation;
3) liquidation.

The amount of a fine must be twice the amount of unlawful benefit (paragraph 1 of Article 96⁷ of the CC); if such unlawful benefit was not obtained or its amount is impossible to calculate, then depending on severity of the committed criminal offence, a fine might amount from UAH 85,000 to UAH 1,700,000 (paragraph 2 of Article 96⁷ of the CC).

Given the discretionary nature of provisions of Article 9 of the Directive (which is evidenced by wording in its text “which include criminal or non-criminal fines and might include other sanctions, in particular...”), the provisions of the legislation of Ukraine concerning criminal law measures applicable to legal entities in case of commission of active corruption and legalization (laundering) of the proceeds of crime, in general comply with Articles 6, 9 of the Directive.

39. Please identify the relevant provisions in the legislation concerning the possible seizure, confiscation of material gain or removal measures for results and instruments of economic crimes as well as obligation to safeguard evidence in the cases of suspected fraud.

According to provisions of Article 131 of the Criminal Procedure Code of Ukraine, temporary seizure and attachment of property are assigned to the measures aimed at securing criminal proceedings.

The grounds for seizure and attachment of property are regulated by chapters 16 and 17 of the Criminal Procedure Code of Ukraine.
The grounds for temporary seizure of property are specified by Article 167 of the Criminal Procedure Code of Ukraine, according to which temporary seizure of property is actual deprivation of the suspect or persons possessing the property specified in paragraph two of this Article of the possibility to possess, use and dispose of certain property until resolution of the issue on seizure of property or its return, or its special confiscation according to the procedure established by law.

Temporary seized property may include property in the form of things, documents, money etc. with regard to which there are sufficient grounds to consider that they:

1) have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and (or) have trace of it on themselves;

2) have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;

3) are a subject matter of a criminal offence, including that related to their illicit trafficking;

4) have been obtained as a result of commission of a criminal offence and/or constitute income from them, as well as property into which they were fully or partially transformed.

Furthermore, according to Article 170 of the Criminal Procedure Code of Ukraine, property attachment means temporary, until revoked under procedure set forth in this Code, deprivation by the order of investigating judge or court of the right to alienate, dispose of and/or use property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, is subject to confiscation from the suspect, accused, convicted person, third parties, or confiscation from a legal entity, to secure a civil action, recovery from the legal entity of the received improper advantage or probable confiscation of property.

Property attachment shall aim to prevent the possibility of its concealment, damage, deterioration, destruction, transformation or alienation. The investigator, prosecutor takes the necessary measures to identify and search for property that may be seized within the framework of criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes (ARMA), other public authorities and local self-governing bodies, natural persons and legal entities. The investigator, prosecutor takes the necessary measures to identify and search for property that may be seized within the framework of criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes (ARMA), other public authorities and local self-governing bodies, natural persons and legal entities.

Property attachment is allowed to ensure:

1) preservation of material evidence;

2) special confiscation;

3) property confiscation as a type of punishment or criminal law measure applicable to a legal entity;

4) reimbursement of damage caused as a result of a criminal offence (civil claim) or recovery of obtained unlawful benefit from a legal entity.

The issue of preservation of material evidence in criminal proceedings is regulated by provisions of the Criminal Procedure Code of Ukraine, in particular, by Article 100, according to
which a material evidence or document provided voluntarily or on the basis of a judgment is to be kept with a party to the criminal proceedings to which it is provided. A party to the criminal proceedings to which a material evidence or document is provided is obliged to keep them in the condition suitable for use in the criminal proceedings. Material evidence that has been obtained or seized by investigator or prosecutor is examined, photographed and described in detail in the examination report.

A court decides on special confiscation and future of material evidence and documents, which have been produced before the court, when approving a court decision closing criminal proceedings. Such evidence and documents are kept until the entry into force of the decision. Furthermore:

1) money, valuables and other property which have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and/or have trace of it on themselves are subject to confiscation, except for cases where an owner (rightful holder) was not and could not be aware of their illegal use. In such case the above mentioned money, valuables and other property is returned to an owner (rightful holder);

2) money, valuables and other property which have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it are subject to confiscation;

3) property which has been the object of a criminal offence related to illicit trafficking and/or withdrawn from circulation, is to be transferred to respective institutions or destroyed;

4) property which does not have any value and may not be used is to be destroyed, and if necessary — transferred to criminalistic collections or expert institutions or interested persons upon their request;

5) money, valuables and other property, which have been the object of a criminal offence or another socially dangerous act, are confiscated, except those to be returned to an owner (rightful holder) or, where he/she is not identified, transferred into ownership of the state according to the procedure established by the Cabinet of Ministers of Ukraine;

6) money, valuables and other property which have been obtained by an individual or legal entity as a result of commission of a criminal offence and/or constitute income from it, as well as property into which they were fully or partially transformed are subject to confiscation;

6-1) property (funds or other property, as well as income from them) of a person convicted for having committed a corruption crime, legalization (laundering) of the proceeds from crime, of his/her related person is subject to confiscation, unless the court confirms the legality of grounds for acquisition of rights to such property. Related persons of a convicted person are legal entities which with his/her assistance have obtained the above mentioned property for ownership or use.

7) documents forming material evidence are kept in materials of the criminal proceedings during the entire time of their custody.

The provisions of Articles 96-1, 96-2 of the CC establish the procedure and cases for applying special confiscation which involves forcible free taking by court decision of money, valuables and other property into ownership of the State in cases stipulated by the Code and is applied in case if money, valuables and other property:
1) have been obtained as a result of commission of a criminal offence and/or constitutes income from such property;

2) have been designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;

3) have been the object of a criminal offence, except those to be returned to an owner (rightful holder) or, where he/she is not identified, transferred into ownership of the state;

4) have been selected, manufactured, adjusted or used as means or instruments for committing a criminal offence, except for those to be returned to an owner (rightful holder) who was not and could not be aware of their illegal use.

Furthermore, property confiscation is one of types of punishment and is applied according to the procedure and on the basis of Articles 59 and 96-8 of the CC.

Thus, according to Article 59 of the CC, punishment in the form of property confiscation involves forcible free taking of all or a part of the property owned by the sentenced person in favour of the State. If a part of property is confiscated, the court must state which exact part of property is confiscated or list items to be confiscated. Property confiscation is imposed for grave and especially grave mercenary crimes as well as for the crimes against the foundation of national security of Ukraine and public security, irrespective of their gravity and may be imposed only in cases expressly provided for under the Special Part of this Code.

Furthermore, according to Article 96-8 of the CC property confiscation involves forcible free taking of legal entity’s property into ownership of the State and is applied by the court in case of liquidation of a legal entity under this Code.

I) Attachment and confiscation of material gain

Legal framework defined by the Directive

Article 10 of the Directive requires taking necessary measures for the purpose of ensuring a possibility of attachment and confiscation of instruments for commission and income from criminal offences specified in Articles 3, 4 and 5 of the Directive.

Criminal procedural legislation of Ukraine on property attachment

Grounds, objectives, procedure for initiating and adopting a decision on property attachment are provided for by Chapter 17 of the Criminal Procedure Code of Ukraine (hereinafter referred to as the Criminal Procedure Code). According to point 7 of paragraph 2 of Article 131 property attachment is one of measures for securing criminal proceedings to be applied for the purpose of achieving efficiency of such proceedings.

Property attachment means temporary, until revoked under procedure set forth in the Criminal Procedure Code, deprivation by the order of investigating judge or court of the right to alienate, dispose of and/or use property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, is subject to confiscation from the suspect, accused, convicted person, third parties, or confiscation from a legal entity, to secure a civil action, recovery from the legal entity of the received improper advantage or probable confiscation of property.

An issue of property attachment is to be resolved by an investigating judge upon a petition of a prosecutor, investigator in coordination with a prosecutor, and for the purpose of securing a civil claim — also a civil plaintiff.
Criminal legislation of Ukraine on property confiscation

The CC uses the notion “property confiscation” and “special confiscation” which differ by their essence, subject matter, grounds and procedure of application.

Thus, property confiscation is considered as:
- type of criminal punishment (Article 59 of the CC);
- one of criminal law measures to be applied to legal entities (Article 96\(^8\) of the CC).

As a type of criminal punishment property confiscation involves forcible free taking of all or a part of the property owned by the sentenced person in favour of the State. Property confiscation is imposed for grave and especially grave mercenary crimes as well as for the crimes against the foundation of national security of Ukraine and public security, irrespective of their gravity and may be imposed only in cases expressly provided for under the Special Part of the CC.

Confiscation as a type of criminal punishment is provided for actions covered by the notion of:
- fraud causing damage to the financial interests of the Union (hereinafter referred to as fraud) — paragraph 4 of Article 190, paragraph 5 of Article 191 of the CC (additional mandatory punishment);
- passive and active corruption — paragraphs 3, 4 of Article 368, paragraphs 2, 3, 4 of Article 369, paragraph 3 of Article 369\(-2\) of the CC (additional optional punishment);
- money laundering — Article 209 of the CC (additional mandatory punishment).

Confiscation as one of criminal law measures to be applied to legal entities (Article 96\(^8\) of the CC) involves forcible free taking of legal entity’s property into ownership of the State and is applied by the court in case of liquidation of a legal entity under this Code.

Taking into account the answer to Question No. 37, such confiscation is not to be applied to legal entities in cases concerning fraud, at the same time it may be applied in cases concerning active and passive corruption, as well as money laundering.

Criminal and criminal procedural legislation of Ukraine on special confiscation

Special confiscation is not punishment for a crime, but it serves as one of criminal law measures provided for by Section XIV of the General Part of the CC. Special confiscation (paragraph 1 of Article 96\(^1\) of the CC) involves forcible free taking by court decision of money, valuables and other property into ownership of the State in cases stipulated by the CC, subject to commission of an intentional criminal offence or a socially dangerous act falling within the scope of elements of the action stipulated by the Special Part of the CC for which the primary punishment in the form of deprivation of freedom or a fine in the amount of over 3,000 non-taxable minimum incomes of citizens is provided for, as well as of the action provided for by paragraph 1 of Article 190, Article 192.

According to point 1 of Article 96-2 of the CC, special confiscation is applied, inter alia, in case if money, valuables and other property have been obtained as a result of commission of a criminal offence and/or constitute income from such property;

In view of the foregoing, special confiscation of material gain may be applied in cases on fraud (Articles 190, 191, 192 of the CC), on active and passive corruption (Articles 368, 369, 369\(-2\) of the CC), as well as money laundering (Article 209), which is in line with the requirements of Article 10
of the Directive.

The procedure for resolving an issue on special confiscation is established in Article 100 of the Criminal Procedure Code.

2) Measures for seizure of results and instruments of economic crimes The procedure for temporary seizure of property is established by Chapter 16 of the Criminal Procedure Code.

According to Art. 167 of the Criminal Procedure Code, temporary seizure of property is actual deprivation of a suspect or persons possessing the relevant property, of the possibility to possess, use and dispose of certain property until the issue of attachment of property or its return or its special confiscation in accordance with the procedure established by law is resolved.

Temporary seized property may include property in the form of things, documents, money etc. with regard to which there are sufficient grounds to consider that they:

1) are selected, manufactured, adjusted or used as means or instruments for committing a criminal offence and (or) have trace of it on themselves;

2) were designated (used) for inducing a person to commit a criminal offence, financing and/or financial support of a criminal offence or remuneration for committing it;

3) are a subject matter of a criminal offence, including that related to their illicit trafficking;

4) are obtained as a result of commission of a criminal offence and/or constitute income from them, as well as property into which they were fully or partially transformed.

According to provisions of Article 168 of the Criminal Procedure Code, everyone who has lawfully apprehended a person under procedure set forth in Articles 207, 208, 298-2 of this Code shall have the right to temporary seize the person's property (belongings). Everyone who has lawfully apprehended a person shall, concurrently with bringing the apprehended person to the investigator, prosecutor or any other authorised official, hand over the temporary seized property (belongings) to the latter. A record shall be drawn up to attest the fact that temporary seized property is handed over.

The property (belongings) may also be temporary seized during search or examination. Therefore, the Criminal Procedure Code contains a sufficient number of regulatory provisions ensuring the possibility of withdrawal of results and instruments of fraud, active and passive corruption, as well as money laundering.

3) Obligation to safeguard evidence in the cases of suspected fraud

The general rules of keeping material evidence and documents are regulated by Article 100 of the Criminal Procedure Code.

Thus, in particular, material evidence which was provided to a party to the criminal proceedings or withdrawn by it must be returned to an owner as soon as possible, except for cases provided for by Articles 160-166, 170-174 of the Criminal Procedure Code.

A material evidence or document provided voluntarily or on the basis of a judgment is to be kept with a party to the criminal proceedings to which it is provided.

A party to the criminal proceedings to which a material evidence or document is provided is obliged to keep them in the condition suitable for use in the criminal proceedings. Material evidence that has been obtained or seized by investigator or prosecutor is examined, photographed and described in detail in the examination report. Keeping material evidence by the prosecution is carried
out under the procedure as established by the Cabinet of Ministers of Ukraine\(^{15}\).

The material evidence to the value of over 200 subsistence minimums for able-bodied people, if it is possible without affecting the criminal proceedings, are to be transferred with the owner’s written consent, and in the absence of it — by the decision of the investigating judge, court to the National Agency for Finding, Tracing and Managing Assets Derived From Corruption and Other Crimes, for taking measures for their management for the purpose of ensuring their preservation or conservation of their economic value, and material evidence specified in intent 1 of paragraph 6 of Article 100 of the Criminal Procedure Code, of the same value — for their disposal taking into account peculiarities established by law.

40. What are the requirements of procedural penal law regarding general possibilities for extraterritorial jurisdiction based on the personality principle?

The validity of the law on the criminal liability with regard to criminal offences committed by the citizens of Ukraine or stateless persons outside the territory of Ukraine is determined by Article 7 of the CC.

The citizens of Ukraine and stateless persons permanently residing in Ukraine who have committed criminal offences outside its territory are subject to criminal liability under the CC, unless otherwise provided for by the international treaties of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine.

If the above mentioned persons were criminally punished outside the territory of Ukraine for committed criminal offences, they may not be held criminally liable in Ukraine for such criminal offences.

In addition, according to Article 8 of the Criminal Code of Ukraine, foreigners or stateless persons not permanently residing in Ukraine, who have committed criminal offences outside it will be held liable in Ukraine under this Code in cases stipulated by the international treaties if they committed grave or especially grave crimes provided for by this Code against the rights and freedoms of the citizens of Ukraine or the interests of Ukraine. Foreigners or stateless persons not permanently residing in Ukraine will also be held liable in Ukraine under this Code if they committed outside Ukraine, in complicity with officials being the citizens of Ukraine, any criminal offence provided for in Articles 368, 368-3, 368-4, 369 and 369-2 of this Code, or if they offered, promised, provided unlawful benefit to such officials or accepted an offer, promise of unlawful benefit or obtained such benefit from them.

The legal consequences of convicting a person outside Ukraine are stipulated by Article 9 of the CC, according to which the court sentence of a foreign state may be taken into consideration if a citizen of Ukraine, a foreigner or a stateless person was convicted of a criminal offence committed outside Ukraine and repeatedly committed a criminal offence in the territory of Ukraine.

1) On extraterritorial principles of effect of the legislation of Ukraine on criminal liability

\(^{15}\) The procedure for keeping material evidence by the prosecution, their disposal, technological processing, destruction, expenditure related to their safeguarding and transmission, preservation of temporarily seized property during the criminal proceedings is approved by the Resolution of the Cabinet of Ministers of Ukraine № 1104 of 19.11.2012. Available at: [https://zakon.rada.gov.ua/laws/show/1104-2012-%D0%BF#n6](https://zakon.rada.gov.ua/laws/show/1104-2012-%D0%BF#n6).
The possibilities of criminal jurisdiction of Ukraine (principles of effect of the legislation of Ukraine on criminal liability) are regulated by the provisions of Articles 6-8 of the CC.

Whereby, according to the provisions of Articles 7-8 of the CC, the citizens of Ukraine and stateless persons permanently residing in Ukraine who committed criminal offences outside it are subject to criminal liability under the CC, unless otherwise provided for by the international treaties of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, except where such persons were criminally punished outside Ukraine for committed criminal offences.

Foreigners or stateless persons not permanently residing in Ukraine, who have committed criminal offences outside it will be held liable in Ukraine under the CC in cases stipulated by the international treaties if they committed grave or especially grave crimes provided for by the CC against the rights and freedoms of the citizens of Ukraine or the interests of Ukraine.

Foreigners or stateless persons not permanently residing in Ukraine will also be held liable in Ukraine under the CC if they committed outside Ukraine, in complicity with officials being the citizens of Ukraine, any criminal offence provided for in Articles 368, 368\, 368\, 369 and 369\, of the CC, or if they offered, promised, provided unlawful benefit to such officials or accepted an offer, promise of unlawful benefit or obtained such benefit from them.

Thus, the territorial principle of effect of the Law of Ukraine on criminal liability is not the only one, and therefore it is allowed to establish jurisdiction by Ukraine regarding criminal prosecution for committing criminal offences outside it by persons, if such persons:

1) are the citizens of Ukraine (paragraph 1 of Article 7 of the CC);
2) are stateless persons permanently residing in the territory of Ukraine (paragraph 1 of Article 7 of the CC);
3) are foreigners or stateless persons not permanently residing in Ukraine – in cases specially provided for by Article 8 of the CC.

In case of criminal proceedings with regard to criminal offences in respect of which Ukraine established its jurisdiction on the basis of universal, real principles of effect of the legislation of Ukraine on criminal liability, as well as the principle of citizenship, investigative and other procedural actions in the territory of another state are carried out according to the procedure stipulated by Section IX of the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC).

2) Regarding compliance with Article 11(4) of the Directive

The general requirements for initiation of pre-trial investigation as the first stage of criminal proceedings according to the legislation of Ukraine are established in Article 214 of the Criminal Procedure Code.

The reasons for initiation of the pre-trial investigation include submission of an application, report on a criminal offence committed or independent detection by an investigator or prosecutor from any source of circumstances that may indicate the commission of a criminal offence.

Thus, the criminal procedural legislation of Ukraine is in line with the requirements provided for by Article 11(4) of the Directive.

B. Country’s capacity for operational cooperation in the field of the protection of the EU’s financial interests
41. The EU acquis requires the legislation to protect the EU funds in the same way as national funds. Does the legislation provide for specific obligations and procedures with regard to the treatment of cases of suspected fraud and other irregularities affecting national, EU or international funds? Does the legislation define any arrangements for cooperation with the Commission and the EU Member States in the investigation, the prosecution and the enforcement of the penalties? Does the legislation include provisions ensuring that information and evidence produced by Commission's investigators receives an equal treatment in line with requirements of Article 325 of the EU Treaty?

Legal framework defined by the Convention and the Directive

- Articles 2, 4 of the Convention on the protection of the European Communities' financial interests entered into on the basis of Article K.3 of the Treaty on European Union (hereinafter referred to as the Convention) require criminalization and punishment of complicity from the states, including in case when actions forming the relevant crimes were at least partially committed in the territory of the relevant state.

- Article 5(1) of the Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 on fight against fraud aimed against financial interests of the Union by criminal and legal remedies does not establish features of complicity in crimes, at the same time, it defines the following types of complicity in fraud and other criminal offences affecting the financial interests of the Union:
  - Incitement;
  - Aiding;
  - Abetting.

For the purpose of implementing Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union’s financial interests by means of criminal law, Ukrainian state bodies are making amendments to criminal legislation (the CC and the Criminal Procedure Code of Ukraine in terms of liability for the acts of fraud and fraud-related criminal offences affecting the Union budget), in particular, those that provide for liability for fraud in order to protect the financial interests of Ukraine and the EU.

At present, in accordance with the above mentioned Directive of the European Parliament and of the Council on combating fraud with regard to the financial interests of the European Union, measures are being taken to amend the CC and the Criminal Procedure Code of Ukraine on liability for illegal actions with the funds of the budget of the European Union.

The provisions of a relevant draft Law of Ukraine will impose liability for fraud affecting the budget of the European Union, in particular:

- non-disclosure or deliberate distortion by a person of the information that is mandatory for receiving funds from the Union budget, which has as its effect the misappropriation of funds from the Union budget;

- entry in the documents, submitted to receive funds from the Union budget, of knowingly false information, other elements of fraud, as well as the intentional submission of documents to receive funds from the Union budget that contain false information, other elements of fraud, which has as its effect the misappropriation of funds from the Union budget;
- misapplication of funds from the Union budget for purposes other than those for which they were originally granted.

Furthermore, the draft Law of Ukraine “On Protection of the European Union’s Financial Interests” has been developed to protect the Union’s financial interests and to incorporate the provisions of this Directive in the national legislation.

The above draft Law:
- identifies participants in international technical assistance, their rights and responsibilities;
- establishes the principles of attracting and using international technical assistance;
- establishes the general principles for detecting, preventing and reporting possible fraud cases, the procedure for keeping records of suspected fraud cases and the recovery of fraudulent amounts to the EU;
- defines acts that affect the Union’s financial interests and imposes liability the responsibility for these offences;
- regulates the procedure for detecting, preventing and reporting possible fraud cases;
- governs cooperation in keeping records of suspected fraud cases, and the return of fraudulent amounts.

At the same time, in order to implement the provisions of Directive, the Ukrainian party is taking other appropriate action. The country has agreed with the EU the content of the updated Annex XLIV to the Agreement, which will set timeframes and objectives of the implementation of the provisions of this Directive (which implies bilateral legal frameworks for the development and implementation of relevant legislative changes). The Association Council is currently expected to prepare a relevant decision on the approval of this Annex.

Separately, in order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017) — the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Service of Ukraine was designated as a National Contact Point (similar to AFCOS) for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).

Separately, in order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017) — the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Service of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).

In order to set the procedures for cooperation of the competent bodies of Ukraine and the EU, OLAF concluded administrative cooperation arrangements with NABU and the Prosecutor General’s
Office. Bilateral work is under way to coordinate the administrative arrangements between OLAF and the State Audit Service of Ukraine.

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.

The fundamentals of the exercise of international cooperation in the course of the criminal proceedings are provided for by Section IX of the Criminal Procedure Code of Ukraine.

International cooperation during the criminal proceedings consists of taking necessary measure for the purpose of providing international legal assistance in the form of handing documents, performing certain procedural actions, extraditing persons who have committed criminal offences, temporarily transferring persons, transferring criminal prosecution, transferring convicts and enforcing sentences. The international treaty of Ukraine may provide for forms of cooperation in the course of the criminal proceedings other than those provided for in the Criminal Procedure Code of Ukraine.

Evidence and information obtained from the requested party as a result of execution of a request for international legal assistance may be used only in the criminal proceedings to which the request related, except where another agreement has been reached with the requested party.

42. How are cases of suspected fraud and other irregularities dealt with in practice? Are any data kept on detected cases of suspected fraud and other irregularities (both in revenue and expenditure)? If yes, please provide recent data. Additionally, please indicate the national body (bodies) that has access to this information.

Investigation and trial is conducted according to the procedures established by the Criminal Procedure Code of Ukraine on the facts of suspected fraud.

Information on the detected facts of suspicion of having committed criminal offences, the liability for which is established by the CC, are stored in the electronic database – the Unified Register of Pre-Trial Investigations, the holder of which is the Prosecutor General’s Office. Based on the above mentioned register the Prosecutor General’s Office forms reports on all law enforcement authorities of Ukraine (https://gp.gov.ua/ua/posts/pro-zarevestrovani-kriminalni-pravoporushennya-ta-rezultaty-yih-dosudovogo-rozsliduvannya-2).

Indicators of administration of justice, as well as images of electronic copies of court decisions, including on the facts of commission of fraud, are stored in the information resources of the State Judicial Administration of Ukraine.

In order to implement Chapter VI "Financial Cooperation and Anti-Fraud Provisions" of the Association Agreement between Ukraine on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, the State Audit Office implements amendments to regulations national legislation in accordance with the provisions of Directive (EU) 2017/1371 and will be signing an Administrative Arrangement with OLAF and will resolve the issue of regulating administrative fraud.
So far without full implementation of the Directive provisions there is no legal basis to define fraud in understanding of the Directive, that is why no data on processing and transmission of such data is now available.

43. Is the country considering setting up specific institutions or bodies for anti-fraud coordination, investigation and/or treatment of cases of suspected fraud and other irregularities affecting national, EU and/or international funds, or are such institutions or bodies already in place? If so, does it/do they have a comprehensive legal basis that defines tasks and responsibilities and cooperation arrangements, including with the European Commission? What is the scope of their competencies? How is their administrative capacity and their operational independence ensured? Have any procedures been defined for the communication, by other national authorities, of cases of suspected fraud and other irregularities to these institutions or bodies? Have any mechanisms been defined for cooperation between these different authorities?

According to the provisions of the Law of Ukraine “On the Bureau of Economic Security of Ukraine”, the Bureau of Economic Security of Ukraine (hereinafter referred to as the ESBU) is a central executive body mandated to counteract offences that affect the functioning of the national economy, which body carries out its activities within the scope of powers, tasks and functions determined by the provisions of the above mentioned Law, as well as by the Regulation on the ESBU approved by the Resolution of the Cabinet of Ministers of Ukraine № 1068 of 6 October 2021 “Certain issues of organizing activities of the Bureau of Economic Security of Ukraine”.

The ESBU performs law enforcement, analytical, economic, informational and other functions and is authorized to collect, process and analyse information on criminal offences assigned to its jurisdiction by law. Furthermore, according to the Law, the provisions of the Criminal Procedure Code of Ukraine and the Law of Ukraine “On Operational Investigation Activities”, the ESBU carries out operational investigation activities and pre-trial investigation within the scope of the jurisdiction provided for by law.


The main tasks of the ESBU are the following:

9) detection of risk areas in the field of economy by means of analysis of structured and non-structured data;

10) assessment of risks and threats to economic security of the state, development of ways to minimize and eliminate them;

11) provision of proposals for introducing amendments to regulatory legal acts on eliminating the prerequisites for creating schemes of unlawful activities in the field of economy;

12) ensuring economic security of the state by preventing, detecting, ceasing, investigating criminal offences affecting operation of the state economy;

13) collection and analysis of information on offences affecting economic security of the state and determination of ways to prevent their occurrence in the future;
14) planning of measures in the area of counteracting criminal offences assigned to its jurisdiction by law;

15) detection and investigation of offences related to receipt and use of the international technical assistance;

16) preparation of analytical conclusions and recommendations for state authorities in order to increase the efficiency of their management decisions on regulation of relations in the field of economy.

The competence and the procedure of interaction is determined by the provisions of the Law of Ukraine “On the Bureau of Economic Security”.

In order to implement the provisions of the Association Agreement on the protection of the financial interests of the European Union, the Government introduced a national mechanism to coordinate cooperation of state bodies for the protection of the financial interests of Ukraine and the European Union (the Resolution of the Cabinet of Ministers of Ukraine № 1110 of 25.10.2017). The national mechanism includes formation of the Interdepartmental Coordination Council on combating violations affecting the financial interests of Ukraine and the EU, as well as the National Contact Point. By the Resolution of the Cabinet of Ministers of Ukraine № 702 of 07.07.2021 the State Audit Service of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) on the implementation of Section VI of the Association Agreement and annexes thereto.

In order to develop cooperation and determine the procedures for interaction, it is expected to conclude agreements between the relevant public authorities and OLAF. Memorandums/arrangements on cooperation between OLAF and NABU, OLAF and the Prosecutor General’s Office have already been concluded. Bilateral work is under way to coordinate the administrative arrangements between OLAF and the State Audit Service of Ukraine.

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.

The principles of sound financial management should be extended to all other agreements concluded with the EU. In particular, the provisions on preventing and combating fraud with the EU funds are taken into account and apply also to the Agreement on financing the Danube Transnational Programme, the Cross-Border Cooperation Programme. The national arrangements for project management and prevention of fraud with the EU funds must be in line with the European legislation and the EU practice. For this purpose, there is a need to sign the Administrative Arrangement between OLAF and the State Audit Service which is authorized to carry out on-the-spot checks by the European Anti-Fraud Office in order to protect the European Communities’ financial interests against fraud and other irregularities in the territory of Ukraine, which is a prerequisite for the proper functioning of the mechanism for the implementation of the Danube Transnational Programme, as well as by the State Financial Monitoring Service.
44. Have any mechanisms been defined for cooperation with the EU authorities and guaranteeing sufficient assistance to Commission’s investigators during their anti-fraud investigations? Is there already a track record of investigation activities and on-the-spot checks between competent national authorities and the Commission? If yes, please provide recent data.


- The ESBU cooperates with the competent authorities of other states, international, intergovernmental organizations within the scope of its competence in accordance with the legislation of Ukraine and the international treaties of Ukraine.

- The ESBU employees, in the cases and according to the procedure established by the Criminal Procedure Code of Ukraine and other laws of Ukraine, are sent to international organizations, foreign states as competent representatives for the purpose of ensuring coordination of cooperation on issues falling within the powers of the ESBU and are involved in participation in international activities related to ensuring economic security of Ukraine, as well as international activities for exchange of experiences.

- The ESBU employees may participate in international investigative groups in accordance with the legislation of Ukraine and the international treaties of Ukraine, involve foreign experts in combating criminal offences in the field falling within the competence of the ESBU, perform other powers related to the performance of their duties provided for by the legislation on international cooperation with competent authorities of other states and international organizations.

In addition, Section IX of the Criminal Procedure Code of Ukraine establishes the procedure for international cooperation in the course of the criminal proceedings, which clearly defines the scope and procedure for such cooperation.

For the purpose of implementing the national mechanism for coordinating the interaction of public authorities in the context of proper fulfilment of Ukraine's obligations arising from the provisions of Section VI of the Association Agreement, the Government of Ukraine in 2017 decided to set up the Interdepartmental Coordination Council on combating violations affecting the financial interests of Ukraine and the EU. The above mentioned government decision also regulates the modality of communication with the EU Party on the issues raised, which communication is carried out through the National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA) on the implementation of Section VI of the Association Agreement (from July 2021 the above mentioned functions were imposed upon the State Audit Service of Ukraine).

In accordance with point 3(17-1) of the Regulation on the State Audit Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine № 43 of 3 February 1996, the Service participates in on-the-spot checks (inspections) carried out by the European Anti-Fraud Office in order to protect the Union’s financial interests against fraud and other irregularities in the territory of Ukraine in accordance with the Council Regulation (Euratom, EC) № 2185/96 of 11 November 1996 and the legislation of Ukraine.

The State Audit Service has developed and sent through the diplomatic channels a draft Administrative Cooperation Arrangement between the State Audit Service and the European Anti-
Fraud Office (OLAF), which provides for cooperation in investigations, information exchange, strategic information exchange and risk analysis and other areas of cooperation.

45. Has the country established a mechanism for reporting of irregularities and suspected fraud cases (expenditures/revenues), including the Irregularity Management System and reporting procedures?

At the moment the State Audit Service has no Irregularity Management System.

After the adoption of the drafts: the Law "On Protection of the Financial Interests of the European Union", the Procedure for Prevention, Monitoring, Reporting and Reporting to the European Commission and Other Bodies of Management and Control of Cooperation Programs with the European Union on Violations, Errors and Suspected Fraud Public authorities with the State Audit Service as the National Contact Point for Interaction with the European Office for the Prevention of Abuse and Fraud (OLAF), the Rules of Procedure to be used to track suspected fraud and recover improperly used EU funds and implement Directive legislation The State Audit Service will be able to use the Irregularity Management System (IMS).

The State Audit Service carries out inspections of the Danube Transnational Program (Interreg V-B Danube - CCI 2014TC16M6TN001) in the Electronic Monitoring System (EMS), which is accessible to 6 responsible controllers. On a quarterly basis, the State Audit Service reports to the Managing Authority/Joint Secretariat information on violations based on the results of inspections.

The State Audit Service has developed the Procedure for preventing, tracking, notifying and reporting to the European Commission and other bodies of the management and control system of the Programmes for Cooperation with the EU on cases of detected violations, errors and suspected fraud (hereinafter referred to as the Procedure).

In accordance with the Procedure, the system of measures is carried out including (preventive measures): analysis of materials on the implementation of programmes for possible signs of fraud/fraud, reporting (prescribed by the programmes scheduled/ on demand), as well as the procedure for preventing, tracking, notifying and reporting by the State Audit Service as a National Contact Point to the European Commission and other bodies of the management and control system of the Programmes for Cooperation with the EU on cases of detected violations, errors and suspected fraud is defined. The above procedure is carried out for the purpose of exchanging information on the state of ensuring fight against fraud against the financial interests of the European Union.

What about Financial Managerial Control (FMC)

46. Financial and judicial follow-up: Have any procedures been defined for the communication of cases of suspected fraud to the prosecution authorities? Have any procedures been defined for the recovery of uncollected resources and unduly spent funds in the case of suspected fraud or other irregularities?

The procedure for launching an investigation and informing the prosecution bodies on the facts of fraud is established by the provisions of the Criminal Procedure Code of Ukraine.

Thus, in accordance with the provisions of Article 214 of the Criminal Procedure Code of Ukraine, the investigator, inquiring officer, prosecutor immediately, but not later than 24 hours after
he/she individually finds out from any source circumstances that may indicate the commission of a
criminal offence, including fraud, is obliged to enter the relevant information into the Unified Register
of Pre-Trial Investigations, to launch an investigation and 24 hours as of entering such information
to provide the applicant with an extract from the Unified Register of Pre-Trial Investigations.

The investigator who will carry out the pre-trial investigation is to be determined by the head
of the pre-trial investigation authority, and the inquiring officer — by the head of the inquiry body,
and in the absence of the inquiry unit — by the head of the pre-trial investigation authority.

According to paragraph 6 of Article 214 of the Criminal Procedure Code of Ukraine, the
investigator, the inquiring officer, immediately informs the head of the prosecution authority in
writing about commencement of the pre-trial investigation.

Furthermore, Article 36 of the Criminal Procedure Code of Ukraine provides for that
supervision over compliance with laws in the course of the pre-trial investigation in the form of
providing procedural guidance in a pre-trial investigation carried out by the relevant prosecutors.

The State Audit Service for eliminating violations of the legislation detected when exercising
the state financial control and bringing the guilty persons to responsibility hands over, under the
established procedure, materials on the results of state financial control to law enforcement authorities
in case of detection of violations of the legislation, for which criminal liability is established or which
contain signs of corruption.

In accordance with the current criminal procedure legislation, individuals or legal entities have
the right to apply to the law enforcement agencies of Ukraine to identify signs of crimes, after which
an investigation is launched.

47. Has the country prepared and adopted in an inclusive process a national anti-fraud
strategy and a related action plan (possibly as part of a public financial management reform
programme)? If yes, does it also cover the protection of the EU’s financial interests?

Fraud is a criminally punishable offence in Ukraine. The national legislation, in particular the
Criminal Code of Ukraine, imposes liability for criminal offences related to fraud with financial
resources (Article 222) for providing knowingly false information to public authorities, authorities of
the Autonomous Republic of Crimea or local self-government bodies, banks or other creditors so as
to receive subsidies, subventions, grants, loans or tax benefits if no elements of a criminal offence
against property have been found. In the vast majority of cases, the purpose of this crime is to obtain
a bank loan.

Such crimes are punishable with a fine of one thousand to four thousand tax-exempt minimum
incomes and deprivation of the right to hold certain posts or to carry out certain activities for a term
of up to three years.

The Criminal Code of Ukraine also imposes criminal liability for misapplication of budget
funds, budget expenditure or loans contrary to their target allocation or in amounts exceeding the
approved expenditure limits (Article 210 of the Criminal Code of Ukraine) and for misappropriation,
embezzlement of property or theft by conversion (Article 191 of the Criminal Code of Ukraine).

Pursuant to Articles 191 and 210 of the Criminal Procedure Code of Ukraine, where pre-trial
investigation of these criminal offences is not under the jurisdiction of the State Bureau of
Investigation or the National Anti-Corruption Bureau of Ukraine and where budget funds are a subject matter of a criminal offence as defined in Article 191 of the Criminal Code of Ukraine, pre-trial investigation of the criminal offences concerned is conducted by detectives of the Bureau of Economic Security of Ukraine.

At the same time, as part of the implementation of Title VI of the EU-Ukraine Association Agreement, the protection of financial interests of the parties in the use of EU’s assistance by Ukraine is one of the areas of cooperation and part of an ongoing dialogue between Ukraine and the EU.

In order to properly implement the provisions of the Association Agreement in terms of countering fraud and protecting the financial interests, a national mechanism to coordinate cooperation of public authorities was introduced, the Interdepartmental Coordination Council was set up to counter offences affecting the financial interests of Ukraine and the EU, and the State Audit Office of Ukraine was designated as a National Contact Point for cooperation with the European Anti-Fraud Office (OLAF) and the European Court of Auditors.

The Bureau of Economic Security of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Economic Development and Trade of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine, the National Anti-Corruption Bureau of Ukraine, the State Financial Service of Ukraine, the State Audit Service of Ukraine, the State Financial Monitoring Service of Ukraine, the National Agency of Ukraine on Civil Service, the National Police of Ukraine, the State Security Service of Ukraine, the Prosecutor General’s Office of Ukraine, the Foreign Intelligence Service of Ukraine and the National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (ARMA) were designated as the competent authorities of Ukraine, while the European Anti-Fraud Office (OLAF) and the European Court of Auditors of the European Union. In this regard, the European Anti-Fraud Office may coordinate with the Ukrainian counterpart further cooperation efforts on countering fraud, including the conduct of operational action jointly with the Ukrainian authorities as part of particular investigations.

The procedure for cooperation between the authorities that make up the national mechanism and OLAF should be laid down in administrative arrangements.

During a visit to the EU institutions on 11 February 2021, Ukraine’s Prosecutor General Iryna Venediktova signed an administrative cooperation agreement with OLAF. The document provides a basis for joint work of the two authorities to combat fraud and other offences affecting the EU’s financial interests and enables a more effective and targeted exchange of information between the Prosecutor General’s Office and OLAF, in accordance with the relevant privacy and data protection rules.

Furthermore, following the results of a meeting of Ukraine’s Prosecutor General Iryna Venediktova and OLAF Director-General Ville Itälä in Brussels on 9 November 2021, the parties agreed to join efforts for combating smuggling, including tobacco products, in particular through setting up joint investigation teams with the participation of the competent authorities of the EU Member States, Ukraine, Europol, Eurojust and OLAF. Also, on 18 March 2022, the European Public Prosecutor's Office (EPPO) and the Prosecutor General’s Office of Ukraine signed a working agreement on cooperation. Ukraine was the first country with which the European Public Prosecutor’s Office signed such a document.

In 2021, a request of the State Audit Office of Ukraine for concluding relevant agreements with OLAF was transmitted through diplomatic channels and is being considered by the EU.
Moreover, in order to approximate Ukraine’s legal framework on the protection of the financial interests and fight against fraud, the parties agreed in 2021 on the scope of the provisions of EU Directive 2017/1371 to be integrated into updated Annex XLIV (Title VI of the Association Agreement) and on changes (relative to the current ones) in the time limit for the implementation of the Directive’s provisions into national law. Once Annex XLIV to the Agreement is updated in accordance with the procedures established by the Association Agreement, a legal basis will be created for drafting and implementing relevant legislative changes, as the national legislation of Ukraine is not fully in line with the EU acquis, including EU Directive 2017/1371.

It has to be mentioned that Ukraine adopted a policy paper on further transformation of the public financial management system. The Ordinance of the Cabinet of Ministers of Ukraine № 1805-p of 29.12.2021 approved the Public Finance Management System Reform Strategy 2022–2025 and the action plan for its implementation (see attached). The goal of this policy paper (drafted by the Ministry of Finance of Ukraine based on the Public Expenditure and Financial Accountability (PEFA) methodology, recommendations of experts of the Support for Improvement in Governance and Management (SIGMA) programme, the technical mission of the International Monetary Fund, and opinions of the Accounting Chamber of Ukraine) is to build an up-to-date, sustainable and effective public financial management system aimed at ensuring the preservation of the financial stability of the state and creating conditions for sustainable growth of a socially inclusive economy through increased effectiveness of raising and spending public funds. Furthermore, the Decree of the President of Ukraine № 347/221 of 11.08.2021 approved the Economic Security Strategy of Ukraine until 2025 which provides for the development of an effective model for countering economic crimes.

IV. PROTECTION OF THE EURO AGAINST COUNTERFEITING (NON-CRIMINAL ASPECTS)

48. Does the legislation define counterfeiting, competent national authorities and procedures for gathering, storing, withdrawing from circulation and reimbursing or replacing any (suspected) counterfeit money. Which definition of counterfeiting of both for notes and coins is provided by the legislation?

Counterfeiting is defined as a criminal offence according to the Article 199 of the Criminal Code of Ukraine.

Article 199. Making, storage, purchase, transportation, mailing, bringing into Ukraine for selling purposes, or sale of counterfeit money, government securities that exist in physical form, state lottery tickets, excise stamps or holographic security features.

(1) Making, storage, purchase, transportation, mailing, bringing into Ukraine for selling purposes, or sale of unlawfully manufactured, received or counterfeited excise stamps, holographic security features, counterfeit domestic currency of Ukraine (banknotes or coins), foreign currency, public securities that exist in physical form, or state lottery tickets shall be punishable by imprisonment for a term of three to seven years.

(2) The same actions, if repeated or committed by a group of persons upon their prior conspiracy, or in respect of large amounts, shall be punishable by imprisonment for a term of five to ten years and forfeiture of property.
(3) Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group or in respect of an especially large amount, shall be punishable by imprisonment of eight to twelve years and forfeiture of property.

Note. Actions provided for by this Article shall be deemed to have been committed in respect of large amount, where the amount of a counterfeit equals or exceeds 200 tax-free minimum incomes, and in respect of extremely large amount, where the amount of a counterfeit equals or exceeds 400 tax-free minimum incomes.

Pursuant to Article 39 of the Law of Ukraine On the National Bank of Ukraine, the NBU and Ukrainian banks shall be obliged to withdraw the counterfeit, faked and unfit banknotes and coins.

The procedure of withdrawing such banknotes and coins shall be established by the NBU and stated in the relevant regulations.

The NBU and banks shall not be obliged to reimburse for the destroyed, lost, counterfeit, faked and invalid banknotes and coins.

The manufacture of counterfeit banknotes for the purposes of their issue into circulation or the issue thereof into circulation shall carry the penalty according to the laws of Ukraine.

The Rules to Define Fitness for Use and Exchange of Banknotes, Small and Circulation Coins of the Domestic Currency of Ukraine approved by NBU Board Resolution № 134 dated 3 December 2018 (as amended) includes the definition of counterfeit banknotes of domestic currency of Ukraine:

counterfeit banknotes (coins) mean imitation of authentic banknotes (coins) manufactured in any manner, including industrial production, despite the procedures set by Ukrainian law and regulations.

The following items are also considered to be counterfeit banknotes:

altered banknotes are notes design elements and images whereof defining denomination, year of approval/production, issuing bank and other details have been modified in any manner (glued on, drawn on, printed over) to give the appearance of another genuine note

items that have design similar to banknotes where the inscriptions identifying them as advertisement or souvenirs have been removed and/or covered and some security features of the genuine banknotes have been imitated

composite counterfeit banknotes are the ones consisting of parts of genuine and fake banknotes.

The Instruction On Conducting Cash Transactions by Banks in Ukraine approved by NBU Board Resolution № 103 dated 28 September 2018 includes the definition of counterfeit foreign currency banknotes:

counterfeit foreign currency banknotes mean imitation of authentic banknotes manufactured in any manner, including industrial production, that have design and security features that are not in line with the specimen and descriptions provided on the official websites of other central/national banks. The following items are also considered to be foreign counterfeit banknotes:

altered banknotes are notes design elements and images whereof defining denomination, year of approval/production, issuing bank and other details have been modified in any manner (glued on, drawn on, printed over) to give the appearance of another genuine note
items that have design similar to banknotes where the inscriptions identifying them as advertisement or souvenirs have been removed and/or covered and some security features of the genuine banknotes have been imitated.

A bank (its branch or office) is prohibited from issuing to customers or returning or temporarily giving them questionable or intentionally damaged domestic currency banknotes or banknotes (coins) with manufacturing defects and/or questionable foreign currency banknotes found in the possession of said customers (paragraph 159 of the Instruction No. 103).

49. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of Regulations 1338/2001) to ensure that euro notes and coins, which they have received and which they intend to put back into circulation, are checked for authenticity and that counterfeits are detected?

As per the Instruction On Conducting Cash Transactions by Banks in Ukraine approved by NBU Board Resolution No. 103 dated 25 September 2018 (as amended) a bank (its branch or office), or a collection company, must:

- ensure control over the authenticity of banknotes (coins) during the acceptance and processing of cash using appropriate equipment (devices);

- determine the authenticity of banknotes (coins) in accordance with the Rules to Define Fitness for Use and Exchange of Banknotes, Small and Circulation Coins of the Domestic Currency of Ukraine approved by Resolution № 134 dated 3 December 2018 (as amended), while using reference information provided by the NBU, issuing banks, or other authorized institutions.

Under the Regulation On the Structure of the Foreign Exchange Market of Ukraine, conditions and procedure for trading in foreign currency and investment metals in the foreign exchange market of Ukraine approved by the NBU Board Resolution No. 1 dated 2 January 2019 (as amended), a bank or a nonbank institution verifies the authenticity of foreign currency banknotes by using devices (detectors) that provide image magnification, visualization of ultraviolet and infrared protection and magnetic control, and/or banknote counters with the capability to detect ultraviolet, infrared, and magnetic protection.

Also according to the Instruction On Conducting Cash Transactions by Banks in Ukraine, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), a bank (its branch or office) or a collection company that has detected, during the receipt, processing, or issuing of cash, banknotes (coins) of the domestic currency of Ukraine that are of doubtful authenticity, or foreign currency banknotes that are likewise doubtful, is obliged to withdraw them, draw up relevant paperwork, and transfer said banknotes and/or coins to the NBU for testing. Such testing is performed free of charge.

Banknotes and coins that are recognized as counterfeit through testing shall be, in a manner prescribed, transferred to law enforcement authorities of Ukraine for investigation. After said cash is so removed, its value is not reimbursed.
50. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of the Regulation 1338/2001) to withdraw from circulation all banknotes and coins which they know or have sufficient reason to believe to be counterfeit and to hand them over to the competent authorities? Have any sanctions been defined in the case this obligation is not complied with?

Under the Instruction On Conducting Cash Transactions by Banks in Ukraine, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), a bank (its branch or office) or a collection company that has detected, during the receipt, processing, or issuing of cash, banknotes (coins) of the domestic currency of Ukraine that are of doubtful authenticity, or foreign currency banknotes that are likewise doubtful, is obliged to withdraw them, draw up relevant paperwork, and transfer said banknotes and/or coins to the NBU for testing.

In addition, a bank (its branch or office) that has detected that an individual is in possession of two or more banknotes (coins) of the domestic currency and/or foreign currency banknotes with the same signs of counterfeiting must immediately notify the law enforcement authorities of Ukraine closest to the bank (its branch or office).

Sanctions for nonfulfillment of these obligations are not stipulated by said Instruction. However, criminal liability under Article 199 of the Criminal Code of Ukraine, as outlined in the answer to question 48, may apply.

51. Does the legislation regulate medals and tokens similar to euro coins?

The use of a medal or a token that is similar in appearance to metallic money/euro coins is a criminal offense categorized as fraud under Article 190 of the Criminal Code of Ukraine.

Article 190. Fraud

(1) Misappropriation of somebody else’s property or acquisition of property rights through deception or abuse of trust (fraud) is punishable by a fine of two thousand to three thousand nontaxable minimum incomes or community service for a term of two hundred to two hundred and forty hours, or correctional labor for up to two years, or restriction of freedom for up to three years.

(2) Fraud committed repeatedly, or by prior conspiracy by a group of persons, or that caused significant harm to the victim, is punishable by a fine of three thousand to four thousand nontaxable minimum incomes or correctional labor for one to two years, or restriction of freedom for up to five years, or imprisonment for up to three years.

(3) Fraud committed on a large scale or by illegal operations using electronic computers is punishable by imprisonment for a term of three to eight years.

(4) Fraud committed on a particularly large scale or by an organized group is punishable by imprisonment for a term of five to twelve years with confiscation of property.

52. Does the legislation define procedures for the domestic cooperation on counterfeiting and the cooperation with foreign banks and authorities?
Under the Instruction *On Conducting Cash Transactions by Banks in Ukraine*, approved by NBU Board Resolution № 103 dated 25 September 2018 (as amended), banknotes (banknotes and coins of the domestic currency of Ukraine and foreign currency banknotes) recognized as counterfeit are transferred by the NBU, as per existing procedure, to law enforcement authorities of Ukraine for carrying out investigations.

The Regulation *On the Organization of the Issuing of Money and the Handling of Cash at the National Bank of Ukraine* approved by NBU Board Decision № 603 dated 25 September 2020 (as amended) stipulates that the NBU conducts the analysis of counterfeit banknotes at the request of law enforcement authorities.

The NBU, on a regular basis, cooperates with law enforcement authorities of Ukraine on the seizure of counterfeit banknotes of the domestic currency and foreign currencies, conducts the exchange of statistical and technical information about counterfeiting, holds joint exercises, and more.

Pursuant to a perpetual Agreement № К-3622 on Cooperation between the National Bank of Ukraine and the State Research Forensic Center of the Ministry of Internal Affairs of Ukraine dated 12 January 2008 (as amended), information on withdrawn counterfeit banknotes is exchanged quarterly based on the results of research, indicating details, methods of forgery, and places of seizure.

Under the Cooperation Agreement between the National Bank of Ukraine and the European Central Bank signed on 25 May 2004 (termless), the NBU shares information on counterfeit euros withdrawn from circulation with the ECB on monthly basis. The NBU provides information by email in Excel template set by the ECB specifying the dates when counterfeit euros were found, their denominations, number of banknotes, serial number, type of counterfeiting etc.

The NBU receives from the ECB up-to-date information about security features of euro banknotes and new types of counterfeits.

The NBU experts regularly take part in the training events held by the ECB and NCBs on counteraction to money counterfeiting.

53. **Which authorities have been designated for the centralisation, technical analysis and processing of information on counterfeit bank notes and coins, both euro and other currencies? Please provide information on staff and technical capacity.**

Under Article 39 of the Law of Ukraine *On the National Bank of Ukraine*, the procedure for seizing counterfeit banknotes is established by the NBU and governed by relevant regulations.

EU Regulations (Council Regulation (EC) 1338/2001 and Council Regulation (EC) 1339/2001) stipulate that Coin National Analysis Centers (CNAC), National Analysis Centres (NAC), and National Counterfeit Centres (NCC) should be established in non euro area EU member states that issue national currencies. These centers must conduct research and analysis of euro counterfeits at the national level, maintain relevant databases, interact and exchange information with the ECB, law enforcement authorities and central banks.

In line with these EU regulations, the NBU has established the Center for Suppression of Counterfeit Banknotes and Coins by NBU Board Decision № 41 dated 27 January 2022, which approved the Regulation *On the Center for Suppression of Counterfeit Banknotes and Coins of the National Bank of Ukraine.*
The Center for Suppression of Counterfeit Banknotes and Coins unifies the CNAC and NCC functions and performs them on a national level.

The Center for Suppression of Counterfeit Banknotes and Coins, in particular, conducts the centralized analysis of counterfeit banknotes of the euro, U.S. dollar, and other foreign currencies withdrawn from circulation by Ukrainian banks. The Center for Suppression of Counterfeit Banknotes and Coins provides maintenance and analysis of databases on the seizure of counterfeit banknotes and coins, prepares relevant statistical and analytical information for the NBU, provides information to banks and the public about new types of counterfeiting, and interacts and exchanges information with government and law enforcement authorities of Ukraine.

Information is also prepared for the ECB regarding the withdrawal of counterfeit euro banknotes, and for the United States Secret Service and foreign central banks about the withdrawal of counterfeit foreign currency banknotes.

The NBU’s Center for Suppression of Counterfeit Banknotes and Coins consists of nine experts who are employees of the Division of Research and Protection of Money at the Office for the Organization of Production and Protection of Money at the NBU’s Cash Circulation Department.

Experts at the Center for Suppression of Counterfeit Banknotes and Coins hold certificates of training in determining the authenticity of banknotes. They have earned these certificates by taking relevant training courses and seminars in Ukraine and abroad.

When testing suspicious banknotes of the domestic currency and foreign currency, specialists at the Center for Suppression of Counterfeit Banknotes and Coins use the following equipment:

1. stereoscopic microscopes Stemi 2000-C (with digital camera), Stemi 1000, and Stemi DV 4, manufactured by CARL ZEISS
2. lenses with 10x magnification
3. currency detectors of various modifications with ultraviolet, infrared, and magnetic control of banknote security features
4. spectral magnifiers ULTRAMAG A37 USB
5. video spectral comparator Regula 4305
6. x-ray fluorescence analyzer Elvax CEP-01
7. analytical scales, calipers, micrometers.

54. Have any procedures been defined for the transmission of examples of counterfeit banknotes and coins, both euro and other, and related information to the relevant authorities inside or outside Ukraine?

Banknotes of the domestic currency and foreign currencies that are withdrawn from circulation and recognized as counterfeit through testing conducted by the NBU are, in a prescribed manner, transferred to law enforcement agencies of Ukraine for investigation.

The procedure for transferring counterfeits to law enforcement agencies of Ukraine is stipulated by the Regulation On the Organization of the Issuing of Money and the Handling of Cash at the
If required, the transfer of counterfeit banknotes to foreign law enforcement authorities and other foreign anti-counterfeiting institutions is possible.

55. Have any procedures been defined for the gathering and indexation of statistical data relating to counterfeit banknotes and coins (both for the Euro and other currencies)?

Under Article 39 of the Law of Ukraine On the National Bank of Ukraine, the procedure for seizing counterfeit banknotes is established by the NBU and governed by relevant regulations.

EU Regulations (Council Regulation (EC) 1338/2001 and Council Regulation (EC) 1339/2001) stipulate that Coin National Analysis Centers (CNAC), National Analysis Centres (NAC), and National Counterfeit Centres (NCC) should be established in noneuro area EU member states that issue national currencies. These centers must conduct research and analysis of euro counterfeits at the national level, maintain relevant databases, interact and exchange information with the ECB, law enforcement authorities and central banks.

In line with these EU regulations, the NBU has established the Center for Suppression of Counterfeit Banknotes and Coins by NBU Board Decision № 41 dated 27 January 2022, which approved the Regulation On the Center for Suppression of Counterfeit Banknotes and Coins of the National Bank of Ukraine.

The Center for Suppression of Counterfeit Banknotes and Coins unifies the CNAC and NCC functions and performs them on a national level.

The Center for Suppression of Counterfeit Banknotes and Coins, in particular, conducts the centralized analysis of counterfeit banknotes of the euro, U.S. dollar, and other foreign currencies withdrawn from circulation by Ukrainian banks. The Center for Suppression of Counterfeit Banknotes and Coins provides maintenance and analysis of databases on the seizure of counterfeit banknotes and coins, prepares relevant statistical and analytical information for the NBU, provides information to banks and the public about new types of counterfeiting, and interacts and exchanges information with government and law enforcement authorities of Ukraine.

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Experts at the Center for Suppression of Counterfeit Banknotes and Coins hold certificates of training in determining the authenticity of banknotes. They have earned these certificates by taking relevant training courses and seminars in Ukraine and abroad.

When testing suspicious banknotes of the domestic currency and foreign currency, specialists at the Center for Suppression of Counterfeit Banknotes and Coins use the following equipment:

(1) stereoscopic microscopes Stemi 2000-C (with digital camera), Stemi 1000, and Stemi DV 4, manufactured by CARL ZEISS
(2) lenses with 10x magnification

(3) currency detectors of various modifications with ultraviolet, infrared, and magnetic control of banknote security features

(4) spectral magnifiers ULTRAMAG A37 USB

(5) video spectral comparator Regula 4305

(6) x-ray fluorescence analyzer Elvax CEP-01

(7) analytical scales, calipers, micrometers.

56. Which sanctions apply for the entering into circulation and for the use of medals and token similar to euro coins?

The use of a medal or a token as metallic money/euro coins is a criminal offense categorized as fraud under Article 190 of the Criminal Code of Ukraine (see the answer to question 51 above).

57. What are the procedures and bodies established for the fight against counterfeiting?

Law enforcement authorities – the Bureau of Economic Security of Ukraine, the Ministry of Internal Affairs of Ukraine, and the Security Service of Ukraine – are involved in detecting and investigating crimes related to the counterfeiting of banknotes.

The prosecutor’s office and courts identify the criminal liability of and impose sanctions on individuals who commit the criminal offense of counterfeiting money.

The NBU’s Center for Suppression of Counterfeit Banknotes and Coins operates as follows:

- carries out, on a regular basis, the interaction and exchange of information with the law enforcement authorities noted above, informs the public of the withdrawal from circulation of new types of counterfeit banknotes of the domestic currency and foreign currencies
- organizes and conducts educational events (seminars/webinars) for NBU departments, banks, collection companies, and retailers on how to determine the authenticity of banknotes
- participates in the organization and conduct of communication activities to combat counterfeiting. These efforts include preparation of information and video materials for sharing through the NBU’s information channels, in the media, and on specialized reference websites.

58. Has the country ratified the 1929 Geneva Convention for the suppression of counterfeiting currency?

The Convention for the Suppression of Counterfeiting Currency, signed in Geneva 1929, was ratified by the USSR, which included Ukraine, on 3 May 1931. The Convention took effect on 17 January 1932, according to the website of the Verkhovna Rada of Ukraine.

59. Does Ukraine participate in the Pericles programme? Does the country take part in international cooperation, including cooperation with other countries in the region and/or the Member States?
Representatives of the NBU and the Ministry of Internal Affairs of Ukraine took part in seminars under the Pericles program organized by OLAF (the European Anti-Fraud Office) in 2012 in Hungary, in 2013 in Bulgaria, in 2014 in Poland, and in 2018 in Italy.

With the assistance of OLAF, two training seminars were also held in Ukraine:
(1) in 2012, hosted by the Ministry of Internal Affairs of Ukraine
(2) in 2019, hosted by the NBU jointly with experts from the Ministry of Internal Affairs of Ukraine.

You can find annexes to this chapter under the link: https://bit.ly/3PexNDF
CHAPTER 33. FINANCIAL AND BUDGETARY PROVISIONS

I. TRADITIONAL OWN RESOURCES

1. Which departments are responsible for levying import duties (customs duties and agricultural duties) and possible other charges levied on goods entering Ukraine? For each relevant department, please give details of:

a) The general organisation set-up (central departments and external services);

b) Collecting, accounting and control procedures.

When importing goods, the customs authorities administer the following taxes and fees:

1) customs payments, which include customs duty (import duty and special types of duties: special, antidumping, countervailing), excise tax and VAT, as well as related fines and penalties for incomplete or late payment;

2) a single fee payable for vehicles crossing the state border of Ukraine. This fee is charged for passage across Ukrainian roads, for passage of motor vehicles exceeding the thresholds of total weight, axle load and (or) dimensional parameters, as well as for carrying out official controls at checkpoints (control points) across the state border of Ukraine;

3) fee for completion of customs formalities by the customs authorities outside of the location of the customs office or outside normal business hours established for the customs authorities;

4) administrative fines for violation of customs rules (if any).

According to Article 272 of the Customs Code of Ukraine, import duty is imposed on goods imported into the customs territory of Ukraine. According to Articles 185 and 213 of the Tax Code of Ukraine, the import of goods into the customs territory of Ukraine is subject to VAT, and if such goods are excisable, they are also subject to the excise tax.

The Verkhovna Rada of Ukraine shall set and change the current import duty rates, determined by the Customs Tariff of Ukraine, by adopting laws of Ukraine. The Verkhovna Rada of Ukraine also sets excise tax and VAT rates.

Administration of customs duties, excise taxes and VAT, payable while importing goods into the customs territory of Ukraine, is undertaken by the State Customs Service and its territorial bodies (customs, customs posts).

The organizational structure of the State Customs Service is given in Annex I to this Section.

In case of non-payment or incomplete payment of customs payments within the specified period, such payments shall be collected in accordance with the procedure and terms determined by the Tax Code of Ukraine.

Collection body is a state body authorized to take measures to ensure the recovery of tax debt within the powers established by the Tax Code of Ukraine and other laws of Ukraine.
The collection bodies are the tax bodies (the central executive body that implements the state
tax policy, its territorial bodies), authorized to take measures to ensure the recovery of tax debt within
its powers, as well as state enforcement officers (bailiffs) within their powers.

The organizational structure of the State Tax Service is outlined in paragraph 4 below.

2. Are there separate accounts to distinguish recovered debts and outstanding debts?
What was the revenue from import duties for the latest available full-year final data?

Please provide a breakdown of the total volume of Ukraine's import originating from the
Union's Member States (EU-27) and the rest of the world.

In December 2019, after the State Fiscal Service of Ukraine has been split into 2 separate bodies
- the State Customs Service of Ukraine and the State Tax Services of Ukraine - the latter body has
been vested with the authority to collect outstanding tax arrears (tax debt, including debt on customs
payments).

There are no separate accounts in Ukraine for the purpose of recovering recovering the tax debt,
and the tax debt is paid to the same accounts in the State Treasury of Ukraine as the main tax accruals.

To improve the efficiency of the organizational work on recovery of tax debt on customs
payments, an IT solution is currently being developed, whose completion is expected in May 2022.

During 2021, UAH 36,605,010 thousand of import duties have been paid, of which from goods imported:

1) from the EU - UAH 13,412,465 thousand representing 36.6%;
2) from other countries - UAH 23,192,545 thousand representing 63.4%.

The breakdown of import duties paid in 2021 on goods imported into Ukraine by 27 EU member
states and the rest of the world is provided in Annex III to this Section.

II. VAT RESOURCE

3. Is there a value-added tax system applicable in Ukraine? If so, please provide a
summarized description thereof.

Yes, a value-added tax is levied in Ukraine

The detailed information regarding the question is provided in the answer to question 3 of
Section 16 (Taxation) of this questionnaire.

In particular:

a) Definition of taxpayers

i) The list of taxpayers (legal entities and individuals, non-residents) for VAT purposes is
established in Article 180 of the Tax Code of Ukraine.
For identifying the rules and conditions for registration of VAT payers the governmental authorities (budgetary institutions), non-profit organizations are guided by the general provisions of the Tax Code of Ukraine, which apply to all business entities.

The Code requires mandatory and voluntary registration as a VAT payer (Articles 181 and 182 of the Tax Code of Ukraine). Article 183 of the Tax Code of Ukraine establishes the procedure for mandatory registration as a VAT payer.


ii. Altogether, there are 262.6 thousand VAT payers in Ukraine.

b) the grounds for imposing VAT are operations of supply goods/services within the customs territory of Ukraine, import and export (Article 185 of the Tax Code of Ukraine), which corresponds to the provisions of paragraph "a" of Art. 2 (1), paragraph (b) of Art. 2 (2) and Art. 2 (3) Directive 2006/112 /EC

c) the taxpayer’s operations for supply of goods/services, whose place of supply is located on the customs territory of Ukraine are subject to VAT

d) Article 206 of the Tax Code of Ukraine envisages that imports are subject to VAT at the rate of 20%, 7% and 14%, depending on the type of goods, except for import of goods exempt from taxation in accordance with Article 197 and Subsection 2 of Section XX of the Tax Code of Ukraine and also in accordance with international treaties ratified by the Verkhovna Rada of Ukraine.

The VAT may be paid in installments (in equal parts) not exceeding 36 calendar months for import of:

– woodworking machines, classified under the commodity item code 8465 according to the UKT FEA (Ukrainian classification of goods of foreign economic activity);

– wood dryers, classified under the product subcategory code 8419 32 00 00 according to UKT FEA;

– presses for the production of chipboard or fiberboard, classified under commodity subheading code 8479 30 according to UKT FEA, which are imported to be used in woodworking industry (paragraph 58 of subsection 2 of the Section XX "Transitional Provisions" of the Tax Code of Ukraine);

– equipment (parts thereof) classified under the product subcategory codes 8421 39 15 20, 8421 39 25 00, 8422 30 00 99, 8422 90 90 00, 8428 20 20 00, 8428 20 80 00, 8477 10 00 00, 8477 20 00 00, 8477 30 00 00, 8477 40 00 00, 8477 59 10 90, 8477 90 80 00, 8480 71 00 90 according to UKT FEA for the production of medical devices only (paragraph 59 of subsection 2 of the Section XX "Transitional Provisions" of the Tax Code of Ukraine).

e) Exports of products and supplies of goods for refueling or maintenance of ships and aircraft, international transportation are taxed at the VAT rate of 0% (Article 195 of the Tax Code of Ukraine, which corresponds to the provisions of Article 146 of Directive 2006/112 / EC)

f) VAT exemptions that do not entitle to deduct input VAT are defined in Article 197 (for example, health benefits, social security benefits, etc.) and Article 196 (for example, benefits for the transfer of property from storage to storage, provision of compulsory state social insurance
services, payments of wages and pensions) of the Tax Code of Ukraine. The provisions of Ukrainian legislation generally correspond to the provisions of Art. 132 (1) and Art. 19 of the Directive 2006/112/EC. There are also temporary provisions set forth in the Subsection 2 of the Chapter XX of the "Transitional Provisions" (for example, these are benefits aimed at supporting certain strategic sectors of the economy (aircraft, space, cinema industries).

g) Article 186 of the Section V of the Tax Code of Ukraine defines the place of supply of goods and services; in particular, paragraph 186.1 of this article defines the rule for determining the place of supply of goods, paragraphs 186.2, 186.3 and 186.4 defines the rule for determining the place of supply of services (these provisions of the Ukrainian law comply with the provisions of Articles 31, 32, 37, 47 of Directive 2006/112/EC (except for those that are irrelevant to Ukraine (not applicable to Ukraine) or require a decision based on economic review of the need to amend the Article 186 of the Tax Code of Ukraine).

h) VAT is accrued and collected according to the Article 200 of the Tax Code of Ukraine, which corresponds to the Article 179 of Directive 2006/112/EC. The amount of tax payable or tax refund is defined as the difference between the total amount of VAT payable for a given tax period and the total amount of VAT whose regard there is a right to deduct a tax liability (VAT input) incurred during the same reporting period.

In case the calculated difference is positive, such amount is subject to payment (transfer) to the budget within the deadlines established by this section.

Reverse charge of VAT is provided by Article 208 of the Tax Code of Ukraine, according to which the resident recipient (taxpayer, legal entity or individual person-entrepreneur) is determined as the person responsible for charging and paying VAT to the budget in case of supply of services by non-residents (persons that has no permanent resident in Ukraine),) - rule, which corresponds to Article 194 of Directive 2006/112/EC/

i) VAT rates are provided by Article 193 of the Tax Code of Ukraine. Besides the standard rate of 20 %, the Code envisages the reduced VAT rates in the following instances:

7% (for transactions of supply and import of medicines and medical devices; for supply of services in the creative industry, hotel services; tickets for sporting events at the national and international levels); 14% (for transactions of supply and import of certain types of agricultural products (wheat, barley, corn, sunflower seeds, rapeseed and rape, soybeans). These provisions of Ukrainian legislation comply with the provisions of the Articles 96, 97, 99 of Directive 2006/112 EC.

j) The procedure for the assessment of the VAT amount that is subject to refund from the State Budget of Ukraine (budget reimbursement) and the terms of settlements are governed by Article 200 of the Tax Code of Ukraine. Budget VAT refund is a state compensation of the amount of VAT paid within the value of purchased goods, works and services.

The taxpayer that has made a decision to seek budget VAT refund shall submit the tax return with annexes (the calculation of the budget refund and the application for the budget refund). The VAT refund process in Ukraine is conducted in automatic manner. Taxpayer’s applications for the refund of a certain amount from the budget are at the day of their receipt automatically entered in chronological order into the Register of applications for the refund of certain amount from the budget (hereinafter - “the Register”). Return of the agreed amounts of budget refund is carried out in
chronological order of their entering into the Register by the body that performs treasury servicing of budget funds within five operational days after the approval of the amount of budget refund.

The settlement of budget reimbursement amounts is carried out by the State Tax Service within 30 calendar days after the submission of the tax return by the taxpayer; and, if necessary, a documentary inspection - within 60 calendar days after the submission of the tax return by the taxpayer. The VAT payers (legal entities and individuals) shall be eligible for the budget refund if the amount of the VAT input in the tax return exceeds the tax liability. The Tax Code does not contain restrictions on VAT deductibles. The provisions of the Ukrainian legislation on the procedure of VAT refund from the State Budget, declared by VAT payers, correspond to the provisions of Articles 179, 183 and 206 of the Directive 2006/112 EC.

k) special schemes, provided by Articles 207 "Procedure for taxation of tour operator and travel agency activities", 189 (“Second-hand goods”), 210 "Special regime of taxation of activities on works of art, collectibles or antiques", 197.26 (“investment gold”) of the Tax Code of Ukraine, correspond to Articles 255, 306, 311, 333, 344 of the Directive 2006/112 / EC.

l) Registration of persons as a VAT payer may be mandatory or voluntary and is regulated by Articles 181 (mandatory registration) and 182 (voluntary registration) of the Tax Code of Ukraine.

Mandatory registration: the total amount of supply of taxable goods/services during last 12 calendar months, in total, exceeds UAH 1,000,000 (excluding VAT). Procedure: the application shall be submitted to the State Tax Service at the latest on the 10th day of the calendar month after the end of the month when, for the first time the amount of taxable transactions, defined by the Article 181 of the Code, has been achieved.

The provisions of the Article 181 of the Tax Code of Ukraine correspond to the Article 213 of Directive 2006/112 / EC.

Voluntary registration: registration is carried out upon the request of the taxpayer submitted no later than 10 calendar days prior to the beginning of the tax period, starting from which such person will be deemed VAT payer.

Persons not registered as VAT payers, who import goods in taxable amounts, shall pay tax during customs clearance of goods without registration as VAT payers.

Tax accounting by VAT taxable persons is governed by Article 201 of the Tax Code of Ukraine. On the date, when tax liability arose, the VAT payer is obliged to issue the tax invoice in electronic form in compliance with the procedure of it’s registration provided by law, sign it with the use of the qualified electronic signature of the person authorized by the taxpayer and register it in the Unified Register of Tax Invoices according to the deadlines established by the Tax Code, that will thereafter constitute the basis for calculating tax amounts relating to tax credits for the buyer of such goods/services.

VAT payers are required to keep separate records of taxable transactions and those that are exempt from taxation.

The tax return is submitted to the tax authority for the reporting period equal to a calendar month, within 20 calendar days following the last calendar day of the reporting month (the Articles 49 and 203 of the Tax Code of Ukraine), which complies with the Article 252 of the Directive 2006/112 / EC.
According to the paragraph 203.2 of the Article 203 of the Tax Code of Ukraine, the amount of VAT according to the VAT return submitted by the VAT payer, is paid by him within 10 calendar days following the last day of the deadline for filing the tax return (by the 20th day of the month following the reporting month).

m) The VAT payer’s to challenge decisions of tax authorities is provided by Article 56 of the Tax Code of Ukraine (if the VAT payer believes that the tax authority has incorrectly determined the amount of monetary liability or made any other decision contrary to legislation or beyond its competence specified in the Tax Code or other Ukrainian laws, such a taxpayer may submit the complaint with a higher controlling authority and request that such decision be revised, which is conducted under the current framework governing procedure of administrative appeal).

The administrative appeal procedure is considered a pre-trial procedure for resolving a dispute.

In case if the taxpayer sues the tax authority, seeking tax authority’s decision to be acknowledged invalid or rescinded/cancelled, then tax obligation shall be deemed unsettled until the court decision comes into force.

n) taxpayers not registered within Ukraine - non-residents

1. Permanent establishment of non-residents: upon registration as a VAT payer, all rights and requirements (accrual and refund of VAT) envisaged by the Tax Code of Ukraine apply to it;

2. Supply of services by non-residents within the customs territory of Ukraine (persons that are not registered as a taxpayer in Ukraine): VAT reverse charge applies (the person responsible for charging and paying VAT to the budget in case of supply of such services by non-residents (person that does not have permanent establishment in Ukraine) is the recipient -resident) (pursuant to the Article 208 of the Tax Code of Ukraine, corresponding to the Article 194 of the Directive 2006/112 / EC);

3. Provision of electronic services by non-residents within the customs territory of Ukraine: the latter shall be registered as VAT payers under the simplified procedure, as well as submit VAT returns in a separate simplified form (without tax credit) (Article 208-1 of the Tax Code of Ukraine)

o) Control procedures:

i. Section II "Administration of taxes, fees" of the Tax Code of Ukraine envisages general control over all taxes (procedure and deadlines for compilation and submission of tax returns, tax control (inspections), keeping records of taxpayers).

ii. 1742 officials of the State Tax Service from the tax audit divisions are involved in carrying out the VAT control.

iii. Information received by the State Tax Service within the framework of bilateral conventions between the Government of Ukraine and the Government of a foreign country on avoidance of double taxation, the Convention of the Council of Europe and OECD member states on mutual administrative assistance in tax matters is constantly used for tax control purposes.

4. For the relevant departments (Ministry of Finance, tax administration, statistical office) please give details of:

a) The general organizational set-up;
b) VAT collection, accounting, control procedures, and statistical infrastructure.

The State Tax Service of Ukraine (hereinafter – “STS”) is the central executive authority that implements the state tax policy and the state policy on the administration of a single social security contribution. The activities of STS are directed and coordinated by the Cabinet of Ministers through the Minister of Finance. (Paragraph 1 of the Regulation on the STS, approved by the Resolution of the Cabinet of Ministers of Ukraine, dated 6 March 2019, No.227, as amended).

The STS acts as a Single Legal Entity and consists of the central apparatus (24 independent departments) and 31 regional bodies of the STS, which operate as the STS’s separate subdivisions (25 main directorates in oblasts and Kyiv, 5 interregional directorates for work with large taxpayers, the Department of information and reference (which is currently being liquidated). The central directorates in oblasts and Kyiv include 530 state tax inspections, which are their structural subdivisions.

The STS’s organizational structure is presented in Annexes II.I, II.II to this Section.

The electronic VAT administration system is governed by Article 200-1 of the Tax Code of Ukraine.

It includes the following information vis-à-vis each taxpayer:
- the amount of VAT according to issued and received VAT invoices and adjustments to them, registered in the Unified Register of Tax Invoices;
- the amount of VAT paid by a taxpayer during the importation of goods into the customs territory of Ukraine;
- the amount of funds transferred and its balance on accounts in the system of electronic administration of VAT;
- amounts of tax [input VAT], that allow registering VAT invoices and adjustments to them in the Unified Register of Tax Invoices.

For each taxpayer the account in the system of electronic administration of VAT are automatically opened.

The payments of tax to the budget is executed from the account in the system of electronic administration of VAT, except in the case provided by the second part of paragraph 87.1 of the Article 87 of the Tax Code of Ukraine.

The STS prepares statistical reports on revenues to the State budget from VAT on goods (works, services) produced in Ukraine and the amount of VAT refunds from the state budget.

A detailed description of VAT administration and its accounting is provided in the answers to question 3 of Section 16 (Taxation) of this Questionnaire.

5. What were the gross receipts of VAT and VAT refunds for the year 2021? If possible, provide a breakdown of the total VAT receipts by VAT receipts levied on importation and VAT receipts levied within the country.

In 2021, VAT revenues amounted to UAH 536.5 billion, of which:
- UAH 380.7 billion – import VAT levied on imports;
- UAH 155.8 billion – VAT collected within the country (balance of revenues; tax collection «minus» tax refunds from the budget).

III. GNI RESOURCE

6. Are National Accounts and the compilation of GNI (Gross National Income) based on the definitions and accounting rules of the European System of National and Regional Accounts 2010 (ESA 2010)? If not, please give details of the system currently applied.

The national accounts and calculation of the GNI indicator are based on the definitions and accounting guidelines of the European system of national and regional accounts 2010 (ESA 2010).


<table>
<thead>
<tr>
<th>Indicator</th>
<th>Units</th>
<th>Value</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross national income</td>
<td>M EUR</td>
<td>164 712,7</td>
<td>2021 preliminary data. Final data for 2021</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Source:</td>
<td>publishing deadline is 30.12.2022</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(<a href="http://ukrstat.gov.ua/operativ/operativ2021/vvp/znr/arh_kvznr_2021_u.htm">http://ukrstat.gov.ua/operativ/operativ2021/vvp/znr/arh_kvznr_2021_u.htm</a>)</td>
<td></td>
</tr>
</tbody>
</table>

7. Are National Accounts adjusted to cover the non-observed economy? What is the impact of these adjustments on the level of GNI? What methodology is used to account for the non-observed economy?

The National accounts include non-observed economic activity.


The indicator “Volume of the economy that is not directly observed, the percentage of gross national income” for 2020 is 17.3%. This indicator was calculated additionally based on estimated data.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Unit</th>
<th>Value</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-observed economy,</td>
<td>(%)</td>
<td>17,7</td>
<td>2020 Final data</td>
</tr>
<tr>
<td>percent of GDP</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
IV. NON-RECYCLED PLASTIC

8. Are data collected and published on the yearly amount of non-recycled plastic? If so by whom e.g. Statistical office, Ministry of environment, others?

As part of the state statistical survey on waste generation and management, the State Statistics Service annually collects from respondents primary data on the collection, and generation, disposal and disposal of waste, including plastic, which is done according to the approved reporting form №1-TPV "Report on solid waste management".

The volumes of plastic waste are determined by respondents when filling in the reporting form based on the List of waste categories by material, which is harmonized with the European Statistical Classification of Waste by Material (EWC-Stat 4), in particular, category 07.4.

Dissemination of consolidated information on the volume of collection, generation, utilization, and disposal of plastic waste is carried out at the central government and regional levels within the deadline set by the plan of the state statistical surveys for the year.

Thus, the State Statistics Service collects and publishes data on the amount of unprocessed plastic only in the part of plastic waste disposed of in specially designated places and facilities.

The State Statistics Service does not estimate the total unprocessed plastic waste.

In addition, the Ministry of Communities and Territories Development annually collects data (according to the approved reporting form №1-MSW "Solid Waste Management Report") on the generation and management of solid waste, including polymers (film, bags, PET bottles and boxes, plastic, etc.), Tetra Pak packaging and other (combined, multilayer).

V. ADMINISTRATIVE INFRASTRUCTURE

9. Which Ministry and departments will have overall responsibility for financial and budgetary issues in Ukraine? Please explain its/their functioning.

The Ministry of Finance would be designated as the managing authority for EU own resources, with the task of coordinating the activities of public bodies with regard to EU own resources.
I. According to the Regulations “On the Ministry of Finance of Ukraine”, the Ministry of Finance is the main body in the system of central executive bodies that ensures the formation and implementation of state financial, budgetary and debt policy, state policy in the sphere of interbudgetary relations and local budgets, state policy in the sphere of state control of accounting and auditing; as well as ensures the formation and implementation of state policy related to compliance with the budget legislation, state financial control, state internal financial control, treasury service of budget funds, customer funds in accordance with the law; prevention and combatting money laundering, income obtained by criminal means, financing of terrorism and financing of proliferation of weapons of mass destruction; ensures the formation of state policy related to the organization and control over the production of securities and documents subject to strict accountability; and ensures the policy formation and implementation in the sphere of the single social tax, customs; administration of the single social tax, tax and customs crime prevention, transfer pricing control; as well as enforcement of legislation governing payment of the single social tax; state policy related to the extraction, production, use and storage of precious metals and precious stones, precious stones of organogenic formation and semi-precious stones, their circulation and accounting.

Detailed information on the principles of functioning of the Ministry of Finance is set out in the Regulations on the Ministry of Finance of Ukraine, approved by the CMU Resolution No.375, dated 20.08.2014.

The system of bodies responsible for public finance management also include the central executive bodies, whose activities are directed and coordinated through the Minister of Finance, namely:

- The State Treasury Service of Ukraine;
- The State Tax Service of Ukraine;
- The State Customs Service of Ukraine;
- The State Audit Service of Ukraine; and
- The State Financial Monitoring Service of Ukraine.

The State Treasury Service of Ukraine (the Treasury) implements the state policy in the areas of treasury servicing of budget funds, clients’ funds in accordance with the legislation, and budget accounting. The principles of functioning of the Treasury are defined in the Regulations on the State Treasury Service of Ukraine, approved by the CMU Resolution No.215, dated 15.04.2015.

The State Tax Service of Ukraine (the STS) implements the state tax policy, the state policy on the administration of single social tax. The principles of functioning of the State Tax Service are determined by the Regulation on the State Tax Service of Ukraine, approved by the CMU Resolution No.227, dated 06.03.2019.

The State Customs Service of Ukraine implements the state customs policy, state policy in the field of crime prevention while enforcing customs legislation. The principles of functioning of the State Customs Service are determined by the Regulation on the State Customs Service of Ukraine, approved by the CMU Resolution No.227, dated 06.03.2019.

The State Financial Monitoring Service of Ukraine implements the state policy in the field of prevention and combatting legalization (laundering) of proceeds received from criminal activity, terrorist financing and financing the proliferation of weapons of mass destruction. The principles of
functioning of the SFMS are determined by the Regulation on the State Financial Monitoring Service of Ukraine, approved by the CMU Resolution No.537, dated 29.07.2015.

The State Audit Service of Ukraine implements the state policy in the sphere of the state financial control. The principles of functioning of the State Audit Service are determined by the Regulation on the State Audit Service of Ukraine, approved by the CMU Resolution No.43, dated 03.02.2016.

The guidelines for interaction of the Ministry of Finance of Ukraine with the central executive bodies, whose activities are directed and coordinated by the CMU, through the Minister of Finance of Ukraine, are approved by the Order of the Ministry of Finance No.1789, dated 29.12.2011.

II. The Independent Body of the Public Finance Management System is the Accounting Chamber of Ukraine that, on behalf of the Verkhovna Rada of Ukraine, controls the receipt of revenues by the State Budget of Ukraine and their use.

III. The powers of the state bodies, involved in public finance management, including the Cabinet of Ministries, the Verkhovna Rada and its Committees On Budget, On Finance, Tax and Customs Policy, and local financial bodies, are defined by the Constitution of Ukraine, the Budget Code of Ukraine and relevant laws.

IV. The Budget Code of Ukraine defines the notion of the so-called “Key Spending Unit of budget funds”. According to the provisions of the Budget Code of Ukraine, the Key Spending Unit is a budget entity, represented by its managers, which is eligible to receive budget allocations, budget commitments, long-term commitments for energy services, medium-term commitments in health care and to execute budget expenditures. (paragraph 47 of part 1 of the Article 2 of the Budget Code).

According to Article 22 of the Budget Code of Ukraine, the Spending Units are divided into the Key Spending Units and the Lower-level spending units of budget funds according to the scope of their powers.

The Key Spending Units, represented by their managers, are vested with authority by being granted with budget allocations, as provided for under paragraph 18 of part 1 of Article 2 of the Budget Code.

Only the following bodies are entitled to be deemed Key Spending Units:

1) for budget allocations, envisaged in the State Budget Law of Ukraine - bodies that facilitate the activity of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, represented by the heads thereof; ministries, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the Constitutional Court of Ukraine, the Supreme Court, the Supreme Specialized Courts, the High Council of Justice and other central bodies that are referred to in the Constitution of Ukraine, represented by their heads, as well as the State Judicial Administration of Ukraine, the National Academy of Sciences of Ukraine, the National Academy of Agrarian Sciences of Ukraine, the National Academy of Medical Sciences of Ukraine, the National Academy of Educational Sciences of Ukraine, the National Academy of Legal Sciences of Ukraine, the National Academy of Arts of Ukraine, other institutions authorized by law or by the Cabinet of Ministers of Ukraine to implement public policy in respective areas, represented by the heads thereof, the National Academy of Agricultural Sciences of Ukraine, the National Academy of Medical Sciences of Ukraine, the National Academy of Educational Sciences of Ukraine, the National Academy of Legal Sciences of Ukraine, the National Academy of Arts of Ukraine, other institutions authorized by law or by the Cabinet of Ministers of Ukraine to implement public policy in respective areas, represented by the heads thereof,

2) for budget allocations envisaged by the budget of the Autonomous Republic of Crimea – bodies that facilitate the activity of the Verkhovna Rada of the Autonomous Republic of Crimea and
the Council of Ministers of the Autonomous Republic of Crimea as well as ministries and other authorities of the Autonomous Republic of Crimea, represented by the heads thereof,

3) for budget allocations envisaged by other decisions on local budgets - local state administrations, executive bodies, and apparatus of local councils (Secretariat of Kyiv City Council), structural units of local state administration, executive bodies of local councils represented by the heads thereof.

The Key Spending Units of the State Budget of Ukraine are determined by the Law of Ukraine “On the State Budget of Ukraine” by designating for them budget allocations. The Key Spending Units of local budgets are determined by the respective decision on the local budget.

The local budgets operate on the basis of autonomy in accordance with the Budget Code of Ukraine. The local budgets are financially responsible for their budgetary commitments.

You can find annexes to this chapter under the link: https://bit.ly/3PexNDF.