



Part



Volume



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 I
Volume I
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POLITICAL CRITERIA

DEMOCRACY AND THE RULE OF LAW

I. Constitution

1. Please provide a brief description of the constitutional and institutional set-up in Ukraine. How is the constitutional system of check and balances between the three powers (executive, legislative, judiciary) implemented?

On the constitutional system

Ukraine is an independent, democratic, social, law-based state whose sovereignty extends to its entire territory. The territory of Ukraine, as a unitary state, within the existing border is integral and inviolable.

The state defines the human being, his life and health, honour and dignity, inviolability and security as the highest social value, and defines promotion of human rights and freedoms and their guarantees as main responsibility of the state.

The bearer of its sovereignty and the only source of power in Ukraine is the people – citizens of all ethnicities.

The Constitution of Ukraine regulates the fundamental rights, freedoms and responsibilities of human and citizen, in particular: everyone has the inalienable right to life, and the obligation of the state is to protect human life; the right to respect human dignity; a citizen of Ukraine may not be deprived of citizenship and the right to change citizenship; the right to liberty and security of person; everyone is guaranteed the inviolability of the home, the secrecy of correspondence, telephone conversations, telegraph and other correspondence; no one may be interfered with in his or her personal and family life, except in cases provided for by the Constitution of Ukraine; everyone who lawfully stays on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, the right to freely leave the territory of Ukraine, with the exception of restrictions established by the law; the right to freedom of thought and speech, to the free expression of his or her views and beliefs; the right to freedom of association in political parties and public organizations; the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to bodies of state power and bodies of local self-government, etc. It is proclaimed that all people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable and are not exhaustive.

In Ukraine, the principle of the rule of law is recognized and effective. International treaties ratified by the Ukrainian Parliament are part of the national legislation of Ukraine, and the conclusion of international treaties that contradict the Constitution of Ukraine is possible only after appropriate amendments to the Constitution of Ukraine. In case of contradiction between the international treaties, ratified by the Parliament of Ukraine and national legislation, international treaties should prevail.

Social life in Ukraine is based on the principles of political, economic and ideological diversity. The State guarantees freedom of political activity not prohibited by the Constitution and the Laws of Ukraine, and no ideology may be recognized by the state as mandatory. Censorship in Ukraine is prohibited.

The right to determine and change the constitutional order in Ukraine belongs exclusively to the people and may not be usurped by the state, its bodies or officials.

On the institutional system

The Verkhovna Rada of Ukraine is the only body of legislative power in Ukraine is the Verkhovna Rada of Ukraine – a unicameral parliament whose constitutional composition consisting of 450 People’s Deputies (Members of Parliament, hereinafter - “MPs”) of Ukraine exercising their powers on a permanent basis, who are elected for a five-year term on the basis of universal, equal and direct suffrage, by secret ballot.

The Parliament of Ukraine performs legislative, representative, constitutive and oversight functions.

The right to legislative initiative in the Verkhovna Rada of Ukraine belongs to the President of Ukraine, the MPs of Ukraine, and the Cabinet of Ministers of Ukraine. A law is promulgated by the President of Ukraine, who, as a rule, signs it, thus bringing it into effect, and officially makes it public.

The President of Ukraine is the Head of State and acts on its behalf. The President of Ukraine is the guarantor of state sovereignty, territorial integrity of Ukraine, the observance of the Constitution of Ukraine, human and citizen’s rights and freedoms. The President of Ukraine is elected by the citizens of Ukraine on the basis of universal, equal and direct suffrage by secret ballot for a term of five years. One and the same person may not be the President of Ukraine for more than two consecutive terms.

The President of Ukraine, inter alia: ensures state independence, national security and succession of the state; represents the state in international relations; makes a submission on the appointment by the Verkhovna Rada of Ukraine of the Prime Minister of Ukraine on the proposal of a coalition of deputy factions in the Verkhovna Rada of Ukraine; makes a submission to the Verkhovna Rada of Ukraine on the appointment of the Minister of Defense of Ukraine, the Minister of Foreign Affairs of Ukraine; appoints and removes from office, with the consent of the Verkhovna Rada of Ukraine, the Prosecutor General; decides on the granting of Ukrainian citizenship and the termination of Ukrainian citizenship, on granting asylum in Ukraine; and grants pardons.

The Government of Ukraine – the Cabinet of Ministers of Ukraine – is the highest body in the system of bodies of executive power, heads this system and guides the activities of the executive authorities; is responsible to the President of Ukraine and the Verkhovna Rada of Ukraine as well as subordinate and accountable to the Verkhovna Rada of Ukraine within the limits provided for by the Constitution of Ukraine. The Cabinet of Ministers of Ukraine ensures the state sovereignty and economic independence of Ukraine, the implementation of domestic and foreign policy of the State.

The executive power in oblasts (regions), rayons (districts), and the cities of Kyiv and Sevastopol is exercised by local state administrations, whose heads are appointed and dismissed by the President of Ukraine on the proposal of the Cabinet of Ministers of Ukraine.

Justice in Ukraine is administered exclusively by courts. The Supreme Court is the highest court in the judicial system of Ukraine, which is based on the principles of territoriality and specialization and is determined by the law.

In Ukraine, there operates the public prosecutor's office, which exercises public prosecution in the courts; is responsible for the organization and procedural guidance during pretrial investigations; represents the interests of the state in courts in exceptional cases and in accordance with the procedure provided for by the law.

The Constitutional Court of Ukraine is a body of constitutional jurisdiction; it decides on the conformity of Laws of Ukraine and other normative legal acts to the Constitution of Ukraine; carries out official interpretation of the Constitution of Ukraine; and decides on the compliance of a Law of Ukraine to the Constitution of Ukraine after accepting a person's constitutional complaint.

The system of the administrative and territorial structure of Ukraine is composed of the Autonomous Republic of Crimea, oblasts, rayons, cities/towns, city districts, settlements and villages. The Autonomous Republic of Crimea is an inseparable constituent part of Ukraine and makes decisions on the issues assigned to its competence within the limits of authority determined by the Constitution of Ukraine. The Autonomous Republic of Crimea has the Constitution of the Autonomous Republic of Crimea, which is adopted by the Verkhovna Rada of the Autonomous Republic of Crimea and approved by the Verkhovna Rada of Ukraine, requiring the votes of no less than half of the constitutional composition of the Verkhovna Rada of Ukraine.

One of the main elements of the institutional system of Ukraine is local self-government, which is carried out by the territorial community, both directly and through local self-government bodies: village, settlement, city/town councils and their executive committees. The local self-government bodies representing the common interests of the territorial communities of villages, settlements and cities/towns are rayon and oblast councils. Local councils consist of deputies elected by the residents of a village, settlement, city/town, rayon, and oblast. Village, settlement and city/town mayors are elected in a similar way, on the basis of universal, equal and direct suffrage by secret ballot for a term of five years.

Civil society in Ukraine is represented by political parties, NGOs, religious organizations and the volunteer movement. Political parties in Ukraine promote the formation and expression of the political will of citizens and participate in elections. Only citizens of Ukraine can be members of political parties.

On the system of checks and balances

In Ukraine, state power is exercised on the basis of its division into the legislative, executive and judicial branches. The separation of state power is a structural differentiation of three equivalent functions of the state: legislative, executive, and judicial, which reflects the functional definition of each of the state bodies; it provides not only for the delimitation of their powers but also for their interaction, a system of mutual checks and balances to ensure their synergetic cooperation as a single state power. Under this mechanism of interaction, the legislature restrains the executive, as the latter cannot go beyond the laws passed by the Parliament. The Parliament forms or participates in the formation of the Government, exercises control over its activities. In its turn, the executive is endowed with the right to legislative initiative; and the Parliament's oversight of it is limited by constitutional requirements. The judiciary protects a person from illegal actions by state bodies and has the right to recognize all bylaws (including acts of the President, the Government and bylaws of the Parliament itself) as invalid due to their inconsistency with the law. Moreover, the Constitutional Court of

Ukraine may restrain both the legislative and executive branches of government by declaring their acts unconstitutional, which entails the termination of their validity.

The fact that the President of Ukraine has the right of deferral veto on adopted Laws, which can be overridden by the Parliament in case of re-adoption of the Law by a qualified majority, can also be considered as an element of the system of checks and balances.

The principle of separation of state power in Ukraine proceeds from the fact that all public authorities operate within a single legal field. This means that the legislative, executive and judicial bodies exercise their powers within the limits established by the Constitution of Ukraine and act in accordance with the Laws of Ukraine, as public authorities and their officials are obliged to act only on the basis, within the powers and in a manner provided for by the Constitution and Laws of Ukraine. The mandatory observance by the bodies of legislative, executive and judicial power of the Constitution and laws of Ukraine ensures the implementation of the principle of separation of state power.

2. What is the relation between domestic and international law according to the Constitution? Would the Constitution allow the primacy of EU law over domestic law upon accession?

Section 1 of Article 9 of the Constitution of Ukraine contains the provision, that international treaties in force ratified by the Verkhovna Rada of Ukraine shall be a part of the national legislation of Ukraine, and the Section 2 of the same Article stipulates that conclusion of international treaties that contravene the Constitution of Ukraine shall be possible only after introducing relevant amendments to the Constitution of Ukraine. Para 32 of the Section 1 of Article 85 contains the following, “granting consent to the binding character of international treaties of Ukraine, and denouncing international treaties of Ukraine is an exclusive power of the Verkhovna Rada of Ukraine”. Besides of this, Article 18 of the Constitution confirms, “The foreign political activity of Ukraine shall be aimed at ensuring its national interests and security by maintaining peaceful and mutually beneficial co-operation with members of the international community according to the generally acknowledged principles and norms of international law”.

In accordance with the Section 1 of Article 151 of the Constitution of Ukraine, “The Constitutional Court of Ukraine shall, at the request of the President of Ukraine, or at least forty-five MPs of Ukraine, or the Cabinet of Ministers of Ukraine, provide opinions on compliance with the Constitution of Ukraine of effective international treaties of Ukraine or international treaties submitted to the Verkhovna Rada of Ukraine for their ratification”.

Therefore, in Ukraine, the primacy of the international law over the national legislation in the context of the valid international agreements of Ukraine ratified by the Verkhovna Rada of Ukraine is recognized.

The Constitution of Ukraine does not regulate the question of the validity of the EU law in the territory of Ukraine. However, as a consequence of the ratification of the Law of Ukraine “On the changes to the Constitution (with regard to the strategic course of the state to the gaining of the full-fledged membership of Ukraine in the European Union and North Atlantic Treaty Organization)” of

7 February 2019 № 2680-VIII, Constitution of Ukraine certifies European and Euroatlantic course of Ukraine.

3. How are the judges of the Constitutional Court appointed and how is its independence guaranteed?

The Basic Law stipulates, that the activity of the Constitutional Court of Ukraine shall be based on the principles of the rule of law, independence, collegiality, transparency, reasonableness, and the binding nature of its decisions and opinions.

The Constitutional Court of Ukraine shall comprise eighteen judges of the Constitutional Court of Ukraine. A judge of the Constitutional Court of Ukraine shall be appointed for a single and non-renewable nine-year term. The President of Ukraine, the Verkhovna Rada of Ukraine, and the Congress of Judges of Ukraine each shall appoint six judges to the Constitutional Court of Ukraine.

The selection of candidates for the position of a judge of the Constitutional Court of Ukraine shall be carried out on a competitive basis in the manner prescribed by law.

Articles 12-15 of the Law of Ukraine “On the Constitutional Court of Ukraine” regulate the competitive basis of the selection for the position of the judge of the Constitutional Court of Ukraine and the procedure of their appointment.

The selection of candidates for the position of a Constitutional Court judge on a competitive basis regarding the persons appointed by the President of Ukraine shall be carried out by a screening commission established by the President of Ukraine.

Preparation of the issue on competitive consideration of candidates for a position of a Constitutional Court judge in the Verkhovna Rada of Ukraine shall be carried out by a committee the competence of which includes the legal status of the Constitutional Court of Ukraine (hereinafter – the “Committee”), in the manner established by the Rules of Procedure of the Verkhovna Rada of Ukraine, with the account of the provisions of this article.

Preparation of the issue on competitive consideration of candidates for a position of a Constitutional Court judge by the Congress of judges of Ukraine (hereinafter – the “Congress”) shall be carried out by the Council of judges of Ukraine.

The start of the competition to select candidates for the position of a Constitutional Court judge shall be announced on the official website of the President of Ukraine, the Verkhovna Rada of Ukraine, or the Council of Judges of Ukraine, respectively, at least three months before the expiry of the term of office or attainment of the age limit for holding office by a Constitutional Court judge, or within one month from the introduction of vacancies for the position of a Constitutional Court judge, in the event of termination of powers or dismissal of such judge for the reasons provided for in Article 149-1 of the Constitution of Ukraine.

Composition of the screening commission established by the President of Ukraine shall be established from among lawyers with a recognised level of competence, who do not participate in the competitive selection for the position of a Constitutional Court judge.

The screening commission, the Committee, the Council of judges of Ukraine within one month from the announcement of the beginning of the competitive selection, within the general term of the competition, provided for in part 6 of this article shall accept applications from individuals who express their intent to take up the position of a Constitutional Court judge and who comply with the requirements established by the Constitution of Ukraine.

The screening commission, the Committee, the Council of judges of Ukraine after the expiry of the term for accepting applications provided for by this paragraph, shall establish the conformity of individuals, who expressed their intent to take up the position of a Constitutional Court judge, to the requirements established by the Constitution of Ukraine and this Law.

Autobiography and motivational letters of the candidates who meet the specified requirements shall be published, as well as special screening shall be carried out in the manner prescribed by Law of Ukraine "On Corruption Prevention". The Council of judges of Ukraine shall organise a special screening of the candidates appointed by Congress.

Following the review of the documents and the information provided by candidates and interviews with them, the screening committee, the Committee, the Council of Judges of Ukraine shall adopt a recommendation for each candidate for the position of a Constitutional Court Judge.

The screening commission, the Council of Judges of Ukraine shall compile a list of candidates recommended for the position of a Constitutional Court Judge, on the basis of which the subjects of appointment shall make appropriate decisions. Such lists shall include the number of candidates, which at least three times is as many as the number of vacancies.

The overall term for holding competition to select candidates for the position of a Constitutional Court judge shall be two months.

Based on the results of the competitive selection, the President of Ukraine shall issue a decree on the appointment of a Constitutional Court judge. The President of Ukraine shall appoint a person to the position of a Constitutional Court judge within three months from the termination of powers or dismissal of a Constitutional Court judge appointed by the President of Ukraine.

The procedure for appointing of a Constitutional Court judge by the Verkhovna Rada of Ukraine shall be established by the Rules of Procedure of the Verkhovna Rada of Ukraine.

Thus, in accordance with Article 208-4 of the Rules of Procedure of the Verkhovna Rada of Ukraine, and in accordance with the para 26 of the Section 1 of Article 85 of the Constitution of Ukraine, it is appointing one-third of the composition of the Constitutional Court of Ukraine.

The selection of candidates for the position of a judge of the Constitutional Court of Ukraine shall be carried out on a competitive basis. A committee, the subject matter of which is the legal status of the Constitutional Court of Ukraine, shall carry out preparation of consideration on a competitive basis of candidates for the position of a judge of the Constitutional Court of Ukraine in the Verkhovna Rada.

Not later than three months before the expiration of the term of office or attaining the maximum age of a judge of the Constitutional Court of Ukraine or not later than one month from the day of the vacancy on the position of judge of the Constitutional Court of Ukraine in the event that the powers of the judge of the Constitutional Court of Ukraine are terminated or he or she is dismissed from

office on the grounds stipulated by Article 149-1 of the Constitution of Ukraine, the Apparatus of the Verkhovna Rada at the submission of the committee, the competence of which includes the legal status of the Constitutional Court of Ukraine, shall publish information on the official website of the Verkhovna Rada and inform the deputy factions (deputy groups) about the beginning of accepting proposals from deputy factions (deputy groups) regarding candidates for the position of a judge of the Constitutional Court of Ukraine. The deputy faction (deputy group) may offer one candidate for each vacant position of a judge of the Constitutional Court of Ukraine.

The right to submit a proposal regarding a candidate for a position of a judge of the Constitutional Court of Ukraine may also be fulfilled by a group of non-factional Members of Parliament in the amount of not less than the quantitative composition of the smallest deputy group.

The deputy faction (deputy group), a group of non-factional Members of Parliament shall submit a proposal regarding a candidate for the position of a judge of the Constitutional Court of Ukraine together with a statement of the person who has declared his or her intention to take up the position of a judge of the Constitutional Court of Ukraine and the documents specified in part 4 Article 12 of the Law of Ukraine “On the Constitutional Court Ukraine”, to the committee, which subject matter is the legal status of the Constitutional Court of Ukraine, within thirty calendar days from the day of the announcement of the beginning of the acceptance of the proposals of deputy factions (deputy groups).

Information on proposals from deputy factions (deputy groups), as well as groups of non-factional Members of Parliament (in case of submission) and about persons who are applying for being elected as judges of the Constitutional Court of Ukraine, together with autobiographies and motivational letters of candidates, shall be published by the Apparatus of the Verkhovna Rada of Ukraine on the official website of the Verkhovna Rada on the next working day after the deadline for accepting applications of candidates.

The committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall examine the application of a person who has declared his or her intention to hold the office of a judge of the Constitutional Court of Ukraine, and the documents submitted with the proposals of deputy factions (deputy groups), and decide on compliance of the person with the requirements established by the Constitution of Ukraine, the Law of Ukraine “On the Constitutional Court of Ukraine”.

Candidates, regarding whom the decision is made about their non-compliance with the requirements established by the Constitution of Ukraine, the Law of Ukraine “On the Constitutional Court of Ukraine”, shall terminate participation in the competition

After the receipt of a certificate on the results of the special check regarding all candidates to the position of a judge of the Constitutional Court of Ukraine the committee, which competence includes the legal status of the Constitutional Court of Ukraine shall hold an interview with the candidates who have passed the special check. Following the results of interviews with candidates, the committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall adopt a recommendation for each candidate for the position of judge of the Constitutional Court of Ukraine. The committee, which competence includes the legal status of the Constitutional Court of Ukraine, shall submit for consideration to the Verkhovna Rada concerning each candidate for a

position of a judge of the Constitutional Court of Ukraine, a recommendation, a certificate on the results of the special check and other documents submitted by the candidate. All documents (except for restricted information) shall be submitted to Members of Parliament no later than three days before the consideration of the relevant issue by the Verkhovna Rada. Each candidate shall have the right to make a speech at the plenary session of the Verkhovna Rada before the beginning of the vote. Members of Parliament may ask a candidate questions at a plenary session of the Verkhovna Rada regarding any information concerning the candidate, except information related to his or her private life and for which there are no reasonable grounds to consider that it may be important for determining the candidate's ability to properly exercise the powers of the judge of the Constitutional Court of Ukraine, as well as information constituting a state secret. Representatives of deputy factions (deputy groups), representatives of committees, and People's Deputies shall take part in the discussion of candidates for the position of a judge of the Constitutional Court of Ukraine.

After the candidates' speeches and discussion of the candidates, a vote shall be held. Election to a position of a judge of the Constitutional Court of Ukraine shall be carried out by the Verkhovna Rada by open rating vote for each candidate separately. The Verkhovna Rada shall appoint the judges of the Constitutional Court of Ukraine with a list determined upon the results of the rating vote, according to the number of vacant positions by open ballot, by the majority of the votes of the Members of Parliament comprising the constitutional composition of the Verkhovna Rada.

In the event that there is one vacancy for a position of a judge of the Constitutional Court of Ukraine, the Verkhovna Rada, by the majority of the votes cast by the People's Deputies comprising the constitutional composition of the Verkhovna Rada by open ballot, shall appoint to the position the candidate who, according to the results of the rating vote, received the largest number of votes of Members of Parliament.

The decision to appoint judges of the Constitutional Court of Ukraine shall be formalised by a resolution of the Verkhovna Rada.

With regard to the appointment of the judge of the Constitutional Court by the Congress of Judges of Ukraine, we are informing about the following. Based on the results of the competitive selection, the Congress, by the majority of votes cast in open voting by the delegates attending the Congress, shall include the candidates for the position of a Constitutional Court judge into ballot papers for secret voting. A candidate who, following the secret voting, has received a majority of the votes cast by the delegates elected to the Congress shall be deemed appointed to the position of a Constitutional Court judge. If the Constitutional Court judge has not been appointed on the basis of the results of the voting, a repeat voting shall be held in respect of two candidates who have received a majority of the votes as compared the other candidates.

The Congress shall appoint a person to the position of a Constitutional Court judge within three months from the termination of powers or dismissal of a Constitutional Court judge appointed by the Congress. The resolution of the Congress to appoint a Constitutional Court judge shall be signed by the Chairperson of the Congress and the Secretary.

The procedure for convening and holding the Congress of Judges of Ukraine shall be determined by Law of Ukraine "On the Judiciary and the Status of Judges".

At the same time, we need to inform you about the fact, that the bill of the Law of Ukraine “On the constitutional procedure” is under the consideration of Verkhovna Rada of Ukraine. (№ 4533, 21 December, 2020), which was proposed by national deputies (Sovhyria and others). Since 15 April, 2021 it is under the first reading and prepared to the second reading.

The independence and immunity of judges of the Constitutional Court of Ukraine shall be guaranteed by the Constitution and the laws of Ukraine. Any influence on judges of the Constitutional Court of Ukraine shall be prohibited. A judge of the Constitutional Court of Ukraine may not be detained or kept under the custody or arrested without the consent of the Constitutional Court of Ukraine before a sentence is passed by the court, with the exception of detention of the judge during or immediately after committing a grave or especially grave crime. A judge of the Constitutional Court of Ukraine may not be held liable for voting in respect of decisions adopted or opinions provided by the Court, except in case of committing a crime or a disciplinary misdemeanor. The State shall ensure the personal security of judges of the Constitutional Court of Ukraine and their families. (Sections 1-3 of Article 147, Section 6 of Article 148, Article 149 of the Constitution of Ukraine). Also, it is important to note, that Article 24 of the Law of Ukraine “On the Constitutional Court of Ukraine” regulates the issues of the judicial independence and immunity of the judge of the Constitutional Court of Ukraine.

4. Please describe the functioning of the Constitutional Court, including its key decisions in recent years and how these are implemented/taken into account.

The procedure for the organisation and operation of the Constitutional Court of Ukraine, the status of judges of the Court, the grounds and the procedure for application to the Court, the procedure for consideration of cases and enforcement of decisions of the Court shall be determined by the Constitution of Ukraine and the Law of Ukraine “On Constitutional Court of Ukraine” and by the Code of Procedures of the Constitutional Court of Ukraine.

In accordance with the Constitution of Ukraine, the activity of the Constitutional Court of Ukraine shall be based on the principles of the rule of law, independence, collegiality, transparency, reasonableness, and the binding nature of its decisions and opinions.

The Constitutional Court of Ukraine shall have the following powers:

1) deciding on issues of compliance with the Constitution of Ukraine (constitutionality) of the laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea;

2) the official interpretation of the Constitution of Ukraine;

3) at the request of the President of Ukraine, or at least forty-five MPs of Ukraine, or the Cabinet of Ministers of Ukraine, provide opinions on compliance with the Constitution of Ukraine of effective international treaties of Ukraine or international treaties submitted to the Verkhovna Rada of Ukraine for their ratification.

4) The Constitutional Court of Ukraine shall, at the request of the President of Ukraine or at least forty-five MPs of Ukraine, provide opinions on compliance with the Constitution of Ukraine (constitutionality) of the issues to be put to an all-Ukrainian referendum on a popular initiative.

5) The Constitutional Court of Ukraine shall, at the request of the Verkhovna Rada of Ukraine, provide an opinion on the observance of the constitutional procedure of investigation and consideration of the case of removing the President of Ukraine from office by the procedure of impeachment in the frames established by Articles 111 and 151 of the Constitution of Ukraine.

6) at the request of the Verkhovna Rada of Ukraine, provides an opinion about the conformity of a draft law on amendments to the Constitution of Ukraine to Articles 157 and 158 of the Constitution of Ukraine;

7) at the request of the Verkhovna Rada of Ukraine, provides an opinion about the violation by the Verkhovna Rada of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

8) at the request of the President of Ukraine in accordance with the Section 2 of Article 137, it provided an opinion about the conformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea to the Constitution of Ukraine and the laws of Ukraine;

9) decide on compliance with the Constitution of Ukraine (constitutionality) of laws of Ukraine upon a constitutional complaint of a person who considers that the law of Ukraine (or particular provisions) applied in the final court judgment in his/her case contradicts the Constitution of Ukraine.

Questions regulated by the paras 1 and 2 shall be reviewed under the constitutional petition from the following subjects: the President of Ukraine, at least forty-five Members of Parliament of Ukraine, the Supreme Court, the Authorized Human Rights Representative of the Verkhovna Rada of Ukraine, and the Verkhovna Rada of the Autonomous Republic of Crimea.

By the decision of the Constitutional Court of Ukraine, laws and other acts shall be deemed unconstitutional, whether in whole or in part, if such laws and acts fail to comply with the Constitution of Ukraine, or in case of a violation of the procedure established by the Constitution of Ukraine for the review, adoption, or entry into force of such laws and legal acts. Laws, other acts or particular provisions thereof that are deemed unconstitutional shall lose their effect from the day of adoption of the decision on their unconstitutionality by the Constitutional Court of Ukraine unless otherwise established by this decision, but no earlier than the date of its adoption. Pecuniary or non-pecuniary damages inflicted on individuals or legal entities by the acts or actions deemed unconstitutional shall be compensated by the State in the manner established by law.

Decisions and opinions of the Constitutional Court of Ukraine shall be binding, final and shall not be subject to appeal.

Article 97 of the Law of Ukraine “On the Constitutional Court of Ukraine” stipulates, that The Court in its decision or opinion may establish the procedure for and terms of the execution thereof and oblige relevant government authorities to provide monitoring of the execution of such decision or compliance with such opinion. The Court may request a written confirmation of the execution of a decision or compliance with an opinion from the relevant authorities.

Failure to execute decisions or comply with opinions of the Court shall entail liability under the law.

It is a right of the Court, and not an obligation, to establish the procedure and the terms of the execution of the decision and the procedure for the scrutiny of the compliance with an opinion of the Court, and the Court may use it guided by the principles of the expediency of establishing the appropriate manner of execution of its decision.

The Court, upon a motion by a participant in constitutional proceedings who participated in the case, may clarify the procedure for executing a decision or an opinion of the Court.

Consequently, the participants of the constitutional proceeding are subjects to the constitutional petition, constitutional appeals, or constitutional complaints and the state authority or state official who issued an act under the consideration of the Constitutional Court of Ukraine. Also, Constitutional Court has the power to invite the parties

Participants in constitutional proceedings shall be a subject of the right to constitutional petition, constitutional appeal, constitutional complaint (an authorized person acting on his or her behalf), and a body or an official who has adopted the act considered by the Court (hereinafter – the “participant in constitutional proceedings”), as well as authorities and officials, witnesses, experts, specialists, interpreters and other persons involved by the Court in the proceedings in the case and whose participation is necessary to ensure unbiased and complete consideration of the case (hereinafter – the “external participant in constitutional proceedings”).

A ruling on the involvement of authorities and officials, witnesses, experts, specialists, interpreters or other persons in constitutional proceedings in a session of the Board, session or a plenary session of the Senate or of the Grand Chamber shall be delivered by the Board, the Senate, or the Grand Chamber, respectively (Sections 1 and 2 of Article 70, para 1 of Section 2 of Article 95, Article 97 and 98 of the Law of Ukraine “On the Constitutional Court”).

In accordance with the decision of the Court, which is laid down in the Decision № 15-пн/2000, 14 December, 2000, “the decision of the Court is binding on the whole territory of Ukraine, regardless of the fact whether the procedure and the terms of the execution are laid down.

Government authorities and the authorities the of the Autonomous Republic of Crimea and local government and their officials, enterprises, and other state institutions and organizations must refrain from the execution of the application or the empowerment of the legal acts and its provisions if such acts and its provisions are recognized as unconstitutional; the decision of the Court has a direct effect and do not need any approval from the government authorities. The duty of the execution of the decisions of the Court is a requirement of the Constitution, which has the superior force over the laws and other regulatory acts. The additional provisions which may be established in the decisions and opinions of the Court, and the procedure of the execution of such Court’s rulings, must not abolish or replace the binding nature of the execution of such acts.

For example:

- The decision of the Court, dated by 18 February, 2020 № 2-p/2020 was decided by the Court under the constitutional petition of the Supreme Court of Ukraine with regard to the compliance with the Constitution (constitutionality) of the paras 4, 7, 8, 9, 11, 13, 14, 17, 20, 22, 23, 25 of the Section

XII "Final and transitional provisions" of the Law of Ukraine "On the Judiciary and the Status of Judges", dated by 2 June, 2016, № 1402-VIII (hereinafter – Law of Ukraine № 1402).

The operative part of the decision was laid down as the following.

2. Section XII "Final and transitional provisions" of the Law of Ukraine "On the Judiciary and the Status of Judges", dated by 2 June, 2016, № 1402-VIII shall be deemed ineffective, as it does not comply with the Constitution (is unconstitutional) with regard to the following:

- para 7 and "liquidation" in the part, which concerns the Supreme Court of Ukraine;
- para 14 "judges of the Supreme Court of Ukraine";
- para 25.

5. It is recommended to the Verkhovna Rada of Ukraine to implement the decision of the Constitutional Court into the legislation of Ukraine, so as to lay it down in compliance with the decision of the Court.

Verkhovna Rada of Ukraine passed the Law of Ukraine "On the changes to the Law of Ukraine "On the Judiciary and the Status of Judges", and some of the laws with regard to the renewal of the activity of the High Qualification Commission of Judges", dated by 13 July, 2021 № 1629-IX and "On the changes to the legislative acts of Ukraine about the procedure of the selection (and appointment) for the position of the members of the High Council of Justice and the disciplinary inspectors", dated by 14 July, 2021, № 1635-IX, which laid down the Law № 1402 in conformity with the decision of the Court.

- The decision of the Court, dated by 29 August, 2020 № 10-p/2020 was decided by the Court under the constitutional petition of the Supreme Court with regard to the compliance with the Constitution (constitutionality) of some of the provisions of the decree of the Cabinet of Ministers of Ukraine "On the establishment of quarantine in order to prevent the spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 in Ukraine, and stages of mitigation of anti-epidemic measures", dated by 20 May, 2020, № 392, the provisions of the Sections 1, 3 of Article 29 of the Law of Ukraine "On the State budget of Ukraine", dated by 14 November, 2019, № 294-IX, and provision 9 of the para 2 of the Section II of the Law of Ukraine "On the State budget of Ukraine", dated by 13 April, 2020 № 553-IX.

The operative part of the decision was laid down as the following.

«1. The following shall be deemed as ineffective, as it does not comply with the Constitution (is unconstitutional):

- Sections 1 and 3 of Article 29 of the Law of Ukraine "On the State budget of Ukraine", dated by 14 November, 2019, № 294-IX with changes.

- provision 9 of para 2 of the Section II "The final provisions" of the Law of Ukraine "On the State budget of Ukraine", dated by 13 April, 2020 № 553-IX

Verkhovna Rada of Ukraine passed the Law of Ukraine "On the changes to the Law of Ukraine "On the State budget of Ukraine for 2020", № 1006-IX.

- The decision of the Court, dated by 16 September 2020 № 11-p/2020 was ruled in the case under the constitutional petition of 50 deputies with regard to the compliance with the Constitution (constitutionality) of some of the provisions of the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”, dated by 14 October, 2014, № 1698-VII.

The operative part of the decision was laid down as the following.

1. The following provision of the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”, dated by 14 October, 2014, № 1698-VII with changes, shall be deemed as ineffective, as it does not comply with the Constitution (is unconstitutional), in particular:

- Section 2 of Article 1;

- Section 1 of para B with regard to the power of the President for the appointment and dismissal of the Head of the National Anti-Corruption Bureau of Ukraine.

- para 1 of Section 3, para 2 of the Section 9 of Article 7.

- the second sentence of the para 2 of Section 6 of Article 26 with regard to the appointment by the President of Ukraine of the one member of the commission for the external control.

- Section 2 of Article 31.

2. These provisions of the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”, dated by 14 October 2014, № 1698-VII with changes, which were found to be unconstitutional, shall be deemed ineffective in 3 months after the day of the ruling of this decision by the Constitutional Court of Ukraine.

4. It is recommended to the Verkhovna Rada of Ukraine to implement the decision of the Constitutional Court into the legislation of Ukraine, so as to lay it down in compliance with the decision of the Court.

Verkhovna Rada of Ukraine passed the Law of Ukraine “On the changes to some Laws of Ukraine to comply with the requirements of the Constitution of Ukraine, dated by 19 October, 2021, № 1810-IX which laid down the law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”, dated by 14 October 2014, № 1698-VII in compliance with the Constitution of Ukraine.

For reference: in the period of 2019-2021, the Constitutional Court of Ukraine ruled 50 decisions in accordance with which 31 provisions of the Laws of Ukraine were found unconstitutional (among those which were passed by the VI convocation of Verkhovna Rada (2007-2012), VII convocation (2012–2014), VIII convocation (2014–2019).

5. Please describe which institutions are defined as independent under the Constitution. How are their constitutional guarantees of independence ensured?

The Constitution of Ukraine does not contain a separate section that would provide for comprehensive regulation of independent institutions. However, the Constitution of Ukraine explicitly provides for the following constitutional guarantees of independence:

1) *judges* – paragraph one of Article 126 of the Constitution of Ukraine stipulates that the independence and immunity of judges are guaranteed by the Constitution and the laws of Ukraine,

and paragraph one of Article 129 of the Constitution of Ukraine determines that while administering justice, a judge is independent and governed by the rule of law. Judge is not held liable for the court decision rendered by him or her, except the cases of committing a crime or a disciplinary offence (paragraph four of Article 126 of the Constitution of Ukraine). In addition, the High Council of Justice takes measures to ensure the independence of judges (clause 7 of the first paragraph of Article 131 of the Constitution of Ukraine).

Judge shall not belong to political parties, trade unions, take part in any political activity, hold a representative mandate, occupy any other paid office, engage in other paid work except academic, teaching or creative activity paragraph one of Article 126 of the Constitution of Ukraine (paragraph two of Article 127 of the Constitution of Ukraine).

The independence of judges is ensured by a special procedure for their appointment and dismissal, as well as qualification requirements for judges:

- judge is appointed to office by the President of Ukraine on submission of the High Council of Justice according to the procedure prescribed by law, and on competition basis, except the cases provided for in the law (paragraphs one and two of Article 128 of the Constitution of Ukraine);

- a citizen of Ukraine, not younger than the age of thirty and not older than sixty-five, who has a higher legal education and has professional experience in the sphere of law for no less than five years, is competent, honest and has command of the state language may be appointed to the office of a judge; additional requirements to be appointed to the office of a judge may be provided for in the law; as for judges of specialised courts other requirements with regard to education and professional experience may be provided by law (paragraphs three and four of Article 127 of the Constitution of Ukraine);

- judge holds an office for an unlimited term law (paragraph five of Article 126 of the Constitution of Ukraine);

- the grounds to dismiss a judge are the following: 1) inability to exercise his or her authority for health reasons; 2) violation by a judge of the incompatibility requirements; 3) commission by him or her of a serious disciplinary offence, flagrant or permanent disregard of his or her duties incompatible with the status of judge or reveal his or her non-conformity with being in the office; 4) submission of a statement of resignation or voluntary dismissal from office; 5) refusal to be removed from one court to another in case the court in which a judge holds the office is to be dissolved or reorganised; 6) violation of the obligation to justify the legality of the origin of property. The powers of a judge shall be terminated in case of: 1) the judge's attainment of the age of sixty-five; 2) termination of Ukraine 's citizenship or acquiring by a judge citizenship of another state; 3) taking effect of a court decision on recognition or declaration of a judge missing or dead, or on recognition of a judge to be legally incapable or partially legally incapable; 4) death of a judge; 5) taking effect of a guilty verdict against him or her for committing a crime (paragraphs six and seven of Article 126 of the Constitution of Ukraine).

2) *The Constitutional Court of Ukraine and judges of the Constitutional Court of Ukraine* – according to the paragraph two of the article 147 of the Constitution of Ukraine, the Constitutional Court of Ukraine acts on the basis of the principles of the rule of law, independence, collegiality, transparency, reasonableness and binding nature of its decisions and opinions.

Independence and inviolability of a judge of the Constitutional Court of Ukraine are guaranteed by the Constitution and laws of Ukraine. Any influence on a judge of the Constitutional Court of Ukraine is prohibited. Judge of the Constitutional Court of Ukraine may not be detained or kept under custody or under arrest without the consent of the Constitutional Court of Ukraine until a guilty verdict is rendered by a court, except for detention of a judge caught committing serious or grave crime or immediately after it. Judge of the Constitutional Court of Ukraine may not be held legally liable for voting on decisions or opinions of the Court, except the cases of committing a crime or a disciplinary offence. The State ensures the personal security of a judge of the Constitutional Court of Ukraine and members of his or her family (Article 149 of the Constitution of Ukraine).

The State ensures funding and proper conditions for operation of the Constitutional Court of Ukraine. Expenditures for operation of the Court are allocated separately in the State budget of Ukraine, with account of the proposals of its Chairman. Remuneration of judges of the Constitutional Court of Ukraine is defined by the law on the Constitutional Court of Ukraine (Article 148¹ of the Constitution of Ukraine).

The independence of judges of the Constitutional Court of Ukraine is ensured by a special procedure for their appointment and dismissal, as well as qualification requirements for judges:

- the Constitutional Court of Ukraine is composed of eighteen judges of the Constitutional Court of Ukraine: the President of Ukraine, the Verkhovna Rada of Ukraine and the Congress of Judges of Ukraine each appoint six judges to the Constitutional Court of Ukraine. Selection of candidates for the office of judge of the Constitutional Court of Ukraine is conducted on competitive basis under the procedure prescribed by the law. A citizen of Ukraine who has command of the state language, attained the age of forty on the day of appointment, has a higher legal education and professional experience in the sphere of law no less than fifteen years, has high moral values and is a lawyer of recognized competence may be a judge of the Constitutional Court of Ukraine. A judge of the Constitutional Court of Ukraine cannot belong to political parties, trade unions, take part in any political activity, hold a representative mandate, occupy any other paid offices, perform other paid work, except academic, teaching or creative activities. A judge of the Constitutional Court of Ukraine is appointed for nine years without the right of reappointment. A judge of the Constitutional Court of Ukraine steps in his or her office as of the date of taking the oath at the special plenary sitting of the Court. The Constitutional Court of Ukraine elects the Chairman among the judges of the Court at a special plenary sitting of the Court by secret ballot for one three-year term only (Article 148 of the Constitution of Ukraine).

- the authority of a judge of the Constitutional Court of Ukraine shall be terminated in case of: 1) termination of the term of his or her office; 2) his or her attainment of the age of seventy; 3) termination of Ukraine's citizenship or acquiring by him or her the citizenship of another state; 4) taking effect of a court's decision on recognition him or her missing or declaration him or her dead, or on recognition to be legally incapable or partially legally incapable; 5) taking effect of a guilty verdict against him or her for committing a crime; 6) death of a judge of the Constitutional Court of Ukraine. The grounds for dismissal of a judge of the Constitutional Court of Ukraine are the following: 1) inability to exercise his or her authority for health reasons; 2) violation by him or her of incompatibility requirements; 3) commission by him or her of a serious disciplinary offence, flagrant or permanent disregard of his or her duties which are incompatible with the status of judge of the

Court or has proved non-conformity with being in the office; 4) submission by a judge of statement of resignation or of voluntary dismissal from office. Dismissal of a judge of the Constitutional Court of Ukraine from his or her office is decided by not less than two-thirds of its constitutional composition (Article 149¹ of the Constitution of Ukraine).

The Constitution and laws of Ukraine also provide for the institutional independence of such institutions as:

1) The Central Election Commission, which is a permanently functioning collegial state body, which is work on the basis of the Constitution of Ukraine, laws of Ukraine, and be assigned the authorities to organize the preparation and conduct of elections of the President of Ukraine, of people's deputies of Ukraine, of deputies of the Verkhovna Rada of the Autonomous Republic Crimea, of deputies of local councils and of village, settlement and city mayors, as well as nationwide and local referenda in accordance with the procedure and within the limits established by this and other laws of Ukraine (paragraph one of Article 1 of the Law of Ukraine "On the Central Election Commission" of June 30, 2004 № 1932-IV). Appointing to the office and dismissing from the office of the members of the Central Election Commission, upon the submission of the President of Ukraine, appertains to the powers of the Verkhovna Rada of Ukraine (clause 21 of the first paragraph of Article 85 of the Constitution of Ukraine);

2) The National Bank of Ukraine, which is the central bank of Ukraine, a special central body of the state administration, whose legal status, objectives, functions, powers and organization principles shall be determined by the Constitution of Ukraine and laws of Ukraine (paragraph one of Article 2 of the Law of Ukraine "On National Bank of Ukraine" of May 20, 1999 № 679-XIV), the major function of which, according to the Constitution of Ukraine, is to ensure the stability of the monetary unit of Ukraine (paragraph two of article 99 of the Constitution of Ukraine). Appointing to the office and dismissing from office the Head of the National Bank of Ukraine, upon the submission by the President of Ukraine, appertains to the powers of the Verkhovna Rada of Ukraine (clause 18 of the first paragraph of Article 85 of the Constitution of Ukraine). In addition, the President of Ukraine and the Verkhovna Rada of Ukraine appoint and dismiss one-half of the membership of the Council of the National Bank of Ukraine each (clause 19 of the first paragraph of Article 85, clause 12 of the first paragraph of Article 106 of the Constitution of Ukraine);

3) The Accounting Chamber, which is *de facto* a body of parliamentary control, which exercises control over the receipt of finances to the State Budget of Ukraine and their use on behalf of the Verkhovna Rada of Ukraine (paragraph one of Article 98 of the Constitution of Ukraine; first paragraph of Article 1 of the Law of Ukraine "On Accounting Chamber" July 2, 2015 № 576-VIII). Appointing to the office and dismissing from office the Chairperson and other members of the Accounting Chamber appertains to the powers of the Verkhovna Rada of Ukraine (clause 16 of the first paragraph of Article 85 of the Constitution of Ukraine);

4) The Commissioner for Human Rights of the Verkhovna Rada of Ukraine, who is an official who on a permanent basis exercises parliamentary control over the observance of constitutional human and citizen's rights and freedoms and protects of every individual's rights on the territory of Ukraine and within its jurisdiction independently of other state bodies and officials (Article 101 of the Constitution of Ukraine; Article 1, paragraphs one and two of Article 4 of the Law of Ukraine "On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine" of December 23, 1997

№ 776/97-VR). Appointing to office and dismissing from office the Commissioner for Human Rights of the Verkhovna Rada of Ukraine; hearing his or her annual reports on the situation with regard to the observance and protection of human rights and freedoms in Ukraine appertain to the powers of the Verkhovna Rada of Ukraine (paragraph 19 of Article 85 of the Constitution of Ukraine);

5) Prosecutor's Office, which is a constitutes single system, according to the procedure, provided by the Law, performs the functions established by the Constitution of Ukraine for the purpose of protection of human rights and freedoms, interests of society and the state (Article 1 of the Law of Ukraine "On Prosecutor's Office" of October 14, 2014 № 1697-VII). According to the Constitution of Ukraine, the prosecutor's office exercises: public prosecution in the court; organisation and procedural leadership during pre-trial investigation, decision of other matters in criminal proceeding in accordance with the law, supervision of undercover and other investigative and search activities of law enforcement agencies; representation of interests of the State in the court in exceptional cases and under procedure prescribed by law (first paragraph of Article 131¹ of the Constitution of Ukraine). The Prosecutor's Office in Ukraine is headed by the Prosecutor General, who is appointed and dismissed by the President of Ukraine upon the consent of the Verkhovna Rada of Ukraine (clause 11 of the first paragraph of Article 106, paragraph three of Article 131¹ of the Constitution of Ukraine). The term of office of the Prosecutor General is six years, and the same person cannot hold the position of the Prosecutor General for two consecutive terms (paragraph four of Article 131¹ of the Constitution of Ukraine). The Constitution of Ukraine also allows additional grounds for dismissal of the Prosecutor General, which in practice has repeatedly led to political speculation and threatened the independence of the Prosecutor's Office – expressing no-confidence in the Prosecutor General of Ukraine (paragraph 25 of the first part of Article 85 of the Constitution of Ukraine);

6) The High Council of Justice is a collective independent constitutional body of public authority and judicial governance which functions in Ukraine on a permanent basis to guarantee independence of the judiciary and its functioning on the principles of responsibility, accountability before the society, development of an honest and highly professional judicial corps in compliance with the provisions of the Constitution and the laws of Ukraine, as well as with the professional ethics in activities of judges and prosecutors (part one of Article 1 of the Law of Ukraine "On the High Council of Justice" of December 21, 2016 № 1798-VIII). In accordance with the first paragraph of Article 131 of the Constitution of Ukraine, the High Council of Justice presents submission for the appointment of a judge to office; decides on the violation by a judge or a prosecutor of the incompatibility requirements; reviews complaints on decisions of the relevant body imposing disciplinary liability on a judge or a prosecutor; decides on dismissal of a judge from office; grants consent for detention of a judge or keeping him or her under custody; decides on temporal withdrawal of the authority of a judge to administer justice; takes measures to ensure independence of judges; decides on transfer of a judge from one court to another; exercises other powers defined by the Constitution and laws of Ukraine. The High Council of Justice consists of twenty one members, including ten members elected by the congress of judges of Ukraine from among judges or retired judges, two members appointed by the President of Ukraine, two members elected by the Parliament of Ukraine, two members elected by the congress of attorneys of Ukraine, two members elected by the Ukrainian national conference of prosecutors, and two members elected by the congress of representatives of higher education and research institutions in the area of law. The Chief Justice of

the Supreme Court is a member of the High Council of Justice *ex officio* (paragraphs two and four of Article 131 of the Constitution of Ukraine). According to the fifth part of Article 131 of the Constitution of Ukraine, the term of office of elected (appointed) members of the High Council of Justice is four years, and the same person cannot hold the position of member of the High Council of Justice for two consecutive terms (this constitutional requirement is violated in practice). A member of the High Council of Justice may not belong to political parties, trade unions, participate in any political activity, have a representative mandate, hold any other paid position (except the position of the President of the Supreme Court), perform other paid work other than research, teaching or creative; a member of the High Council of Justice must belong to the legal profession and meet the criterion of political neutrality (paragraphs six and seven of Article 131 of the Constitution of Ukraine);

7) other bodies and institutions to ensure the selection of judges, prosecutors, their training, evaluation, consideration of cases of their disciplinary responsibility, financial and organizational support of courts established in accordance with the law in the justice system - the Constitution of Ukraine does not name such bodies and does not disclose their legal status, however, these issues are regulated by specialized legislation. For example, according to the Law of Ukraine "On the Judiciary and the Status of Judges" of June 2, 2016 № 1402-VIII, such a body is the High Qualification Commission of Judges of Ukraine;

8) independent regulators – specialized public authorities that regulate, monitor and control the activities of economic entities in the markets of natural monopolies (as well as related markets) to balance the interests of society, economic entities and consumers of their goods, as well as other public bodies that may be established for supervisory or regulatory powers if necessary. In particular, the Constitution of Ukraine mentions: a) the National Television and Radio Broadcasting Council of Ukraine, which is a constitutional, permanently operating collegial body. The objective of its activity is supervision over adherence to the laws of Ukraine in the field of television and broadcasting, as well as conducting regulatory authorities envisaged by the Ukrainian laws (first clause of the first paragraph of Article 1 of the Law of Ukraine "On the National Television and Radio Broadcasting Council of Ukraine" of September 23, 1997 № 538/97-VR). The President of Ukraine and the Verkhovna Rada of Ukraine appoint and dismiss one-half of the National Television and Radio Broadcasting Council of Ukraine each (clause 20 of the first paragraph of Article 85, clause 13 of the first paragraph of Article 106 of the Constitution of Ukraine); b) State Committee for Television and Radio Broadcasting of Ukraine, which is the main body in the system of central executive bodies involved in ensuring the formation and implementation of state policy in the field of television and radio broadcasting, information and publishing (clause two of paragraph 1 of the Regulation on the State Television Committee and radio broadcasting of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of August 13, 2014 № 341). The Chairman of the State Committee for Television and Radio Broadcasting of Ukraine is appointed by the Verkhovna Rada of Ukraine on the proposal of the Prime Minister of Ukraine and dismissed by the Verkhovna Rada of Ukraine (clause 12 of the first paragraph of Article 85 of the Constitution of Ukraine). There is also the problem of the legal status and subordination of independent regulators, which are not mentioned in the Constitution of Ukraine, but which were formed contrary to the constitutional requirements for the establishment of central executive bodies.

The Constitution of Ukraine also guarantees the independence of the bar, but the bar is not an element of state power, but an institution of civil society (paragraph two of Article 131² of the Constitution of Ukraine).

6. Is there a body in charge of checking draft laws on their constitutionality? Please specify/clarify its role and the procedure in practice.

The Constitution of Ukraine does not contain a separate section that would provide for comprehensive regulation of independent institutions. However, the Constitution of Ukraine explicitly provides for the following constitutional guarantees of independence:

1) preliminary constitutional control of the draft law on amendments to the Constitution of Ukraine - in accordance with Article 159 of the Constitution of Ukraine, a draft law on introducing amendments to the Constitution of Ukraine is considered by the Verkhovna Rada of Ukraine upon the availability of an opinion of the Constitutional Court of Ukraine on the conformity of the draft law with the requirements of Articles 157 and 158 of this Constitution: a) if the amendments foresee the abolition or restriction of human and citizen's rights and freedoms or if they are aimed at liquidation the independence or violating the territorial integrity of Ukraine; b) in conditions of martial law or state of emergency; c) earlier than one year from the date of the decision on the draft law, which was considered by the Verkhovna Rada of Ukraine and was not adopted as a law (in case of submitting a similar draft law to the Verkhovna Rada of Ukraine); d) if the Verkhovna Rada of Ukraine has already amended the same provisions of the Constitution of Ukraine during its term of office.

2) preliminary constitutional control over the issue of the all-Ukrainian referendum - in accordance with paragraph two of Article 151, the Constitutional Court of Ukraine upon submission of the President of Ukraine or not less than forty-five People's Deputies of Ukraine provides opinions on compliance with the Constitution of Ukraine (constitutionality) of questions that are proposed to be put for the all-Ukrainian referendum upon people's initiative. The Law of Ukraine "On the All-Ukrainian Referendum" of January 26, 2021 № 1135-IX stipulates that the subject of the all-Ukrainian referendum may be, in particular, the issue of repeal of the law of Ukraine or some of its provisions. Such a question should take the form of an interrogative sentence regarding the adoption of a draft law on repeal of the law of Ukraine or some of its provisions (clause 4 of the first paragraph of Article 3, clause two of the first paragraph of Article 19 of the Law № 1135-IX). Therefore, if the President of Ukraine or at least forty-five deputies of Ukraine appeal to the Constitutional Court of Ukraine to check such an issue of the all-Ukrainian referendum, the Constitutional Court of Ukraine will actually check the respective draft law for compliance with the Constitution of Ukraine.

Committees of the Verkhovna Rada of Ukraine also check draft laws during their legislative function. In particular, the law drafting function of the committees is to: draft laws and other acts of the Verkhovna Rada of Ukraine; preliminary consideration and preparation of conclusions and proposals on draft laws submitted by the subjects of the legislative initiative for consideration by the Verkhovna Rada of Ukraine; finalization of certain draft laws on behalf of the Verkhovna Rada of Ukraine as a result of their consideration in the first and subsequent readings (except for acts adopted by the Verkhovna Rada of Ukraine as a whole); preliminary consideration and preparation of

conclusions and proposals on draft national programs of economic, scientific and technical, social, national and cultural development, protection and environment, as well as consent to the binding or denunciation of international agreements of Ukraine; summarizing the comments and suggestions received on the draft laws; making proposals on long-term planning of draft law (Articles 1, 11-14 of the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine").

In addition, the Main Scientific and Expert Department and the Main Legal Department of the Office of the Verkhovna Rada of Ukraine are among the subjects of verification of draft laws for compliance with the Constitution of Ukraine.

The Main Scientific and Expert Department conducts scientific examination of draft laws, assesses their conceptual level, socio-economic and political consequences of adoption, compliance with the Constitution of Ukraine, prepares scientifically conclusions on draft laws for decision by the Verkhovna Rada of Ukraine.

In turn, the function of the Main Legal Department is to develop draft legislation for all subsequent readings in the areas of: civil, tax, budget legislation and entrepreneurship; constitutional criminal, administrative legislation and judicial-law reform; on international legal issues; environmental, social and humanitarian legislation; accounting and systematization of legislation.

Also, the Ministry of Justice of Ukraine in accordance with its tasks carries out legal examination of draft laws, other legislative acts submitted to the Cabinet of Ministers of Ukraine, and draft laws submitted to the Verkhovna Rada of Ukraine by other subjects of legislative initiative, normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea (subclause three of paragraph four of the Regulation on the Ministry of Justice of Ukraine, approved by the resolution of the Cabinet of Ministers of Ukraine of July 2, 2014 № 228).

The draft act is subject to mandatory legal examination by the Ministry of Justice.

During the legal examination, the Ministry of Justice examines the draft act for compliance with the Constitution of Ukraine, legislation and current international treaties of Ukraine, Council of Europe standards in the field of democracy, the rule of law and human rights, including the Convention for the Protection of Human Rights and Fundamental Freedoms taking into account the case law of the European Court of Human Rights, the principles of non-discrimination (anti-discrimination expertise) and ensuring equal rights and opportunities for women and men (gender legal expertise).

Based on the results of the legal examination of the draft act of the Cabinet of Ministers, the Ministry of Justice draws up an opinion in the established (by the Ministry of Justice) form. If, according to the Ministry of Justice, a draft act does not comply with the Constitution and laws of Ukraine, acts of the President of Ukraine, the decision on such a draft act should be adopted at a meeting of the Cabinet of Ministers (first paragraph of the clause 1 § 44, first paragraph §45, first clause of the §46, §47 of the Regulations of the Cabinet of Ministers of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of July 18, 2007 № 950).

Order of the Ministry of Justice of Ukraine of December 21, 2019 № 4127/5 "Some issues of legal examination of draft legislation in the Ministry of Justice of Ukraine" (as amended) approved the Procedure for preparing the Opinion of the Ministry of Justice of Ukraine on the legal examination

of the draft legislation and Form of the Ministry of Justice Ukraine according to the results of legal examination of the draft legislation act.

In general, it can be stated that the statutory requirement for the Constitutional Court of Ukraine, Committees of the Verkhovna Rada of Ukraine, the Main Scientific Expert Department and the Main Legal Department of the Verkhovna Rada of Ukraine, the Ministry of Justice of Ukraine to check draft laws for compliance with the Constitution of Ukraine is a guarantee of ensuring compliance with its provisions in legislative activity, and thus improving the quality of such acts, respect for human and civil rights and freedoms, the principle of the supremacy of the Constitution.

7. Please describe the procedure needed to revise the Constitution. Have there been already revisions of the Constitution? If so, please explain relevant amendments, procedure, scope and changes made.

The procedure for adopting amendments to the Constitution of Ukraine depends on which section of the Constitution of Ukraine is amended.

If the draft law on amendments to the Constitution of Ukraine does not envisage amendments to Chapter I "General Principles", Chapter III "Elections. Referendum", and Chapter XIII "Amendments to the Constitution of Ukraine", it shall be submitted to the Verkhovna Rada of Ukraine by the President of Ukraine or by no less than one-third of the people's deputies of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine. Such a draft law, previously adopted by the majority of the constitutional composition of the Verkhovna Rada of Ukraine, is deemed to be adopted, if at the next regular session of the Verkhovna Rada of Ukraine, no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine have voted in favour thereof (Articles 154, 155 of the Constitution).

If the draft law on amendments to the Constitution of Ukraine envisages amendments to Chapter I "General Principles", Chapter III "Elections. Referendum", and Chapter XIII "Amendments to the Constitution of Ukraine", it shall be submitted to the Verkhovna Rada of Ukraine by the President of Ukraine, or by no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine, and on the condition that it is adopted by no less than two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine, and is approved by an All-Ukrainian referendum designated by the President of Ukraine. The repeat submission of a draft law on introducing amendments to Chapters I, III and XIII of this Constitution on one and the same issue is possible only to the Verkhovna Rada of Ukraine of the next convocation. (Article 156 of the Constitution of Ukraine).

In addition, any draft law amending the Constitution of Ukraine is considered by the Verkhovna Rada of Ukraine only in the presence of an opinion of the Constitutional Court of Ukraine, which exercises preliminary constitutional review of such a draft law by issuing an opinion to the Verkhovna Rada of Ukraine on a draft law compliance with Articles 157, 158 159 of the Constitution of Ukraine), which establish the following prohibitions and restrictions on amendments to the Constitution of Ukraine:

- the Constitution of Ukraine shall not be amended in conditions of martial law or a state of emergency (paragraph two of Article 157 of the Constitution of Ukraine);

- the draft law on introducing amendments to the Constitution of Ukraine, considered by the Verkhovna Rada of Ukraine and not adopted, may be submitted to the Verkhovna Rada of Ukraine no sooner than one year from the day of the adoption of the decision on this draft law (paragraph one of Article 158 of the Constitution);

- within the term of its authority, the Verkhovna Rada of Ukraine shall not amend twice the same provisions of the Constitution (paragraph two of Article 158 of the Constitution of Ukraine).

Since the adoption of the Constitution of Ukraine (1996), the following laws on amendments to the Constitution of Ukraine have been adopted:

December 8, 2004 № 2222-IV "On Amendments to the Constitution of Ukraine" - introduced the transition from a presidential-parliamentary to a parliamentary-presidential mixed republic;

of February 1, 2011 № 2952-VI "On Amendments to the Constitution of Ukraine Concerning Regular Elections of People's Deputies of Ukraine, President of Ukraine, Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, Local Councils and Village, Town, and City Mayors" - unification of the terms of office of the President of Ukraine, People's Deputies of Ukraine, the representative body of the Autonomous Republic of Crimea, local councils and village, settlement, city mayors;

September 19, 2013 № 586-VII "On Amendments to Article 98 of the Constitution of Ukraine" - expanded the competence of the Accounting Chamber in terms of empowering it to control revenues to the State Budget of Ukraine;

of February 21, 2014 № 742-VII "On Renewal of Certain Provisions of the Constitution of Ukraine" - this law restored the validity of certain provisions of the Constitution of Ukraine with the following amendments to the laws of Ukraine of December 8, 2004 № 2222-IV, of February 1, 2011 № 2952-VI, of September 19, 2013 № 586-VII, which were unlawfully changed as a result of the decision of the Constitutional Court of Ukraine of September 30, 2010 № 20-rp / 2010;

June 2, 2016 № 1401-VIII "On Amendments to the Constitution of Ukraine (regarding the Justice)" - reformed the justice system to ensure the independence of the judiciary, increase requirements and professional standards for the judiciary, limit the immunity of judges to functional, optimize the judiciary, ensuring the institutional capacity of the prosecutor's office, the bar and the system of execution of court decisions, as well as improving the activities of the Constitutional Court of Ukraine, and introducing the institute of constitutional complaint;

of February 7, 2019 № 2680-VIII "On Amendments to the Constitution of Ukraine (regarding the strategic course of the state to gain full membership of Ukraine in the European Union and the North Atlantic Treaty Organization)" - envisaged the irreversibility of the strategic course of the state to gain full membership in the European Union and in the North Atlantic Treaty Organization;

of September 3, 2019 № 27-IX (On Amendments to Article 80 of the Constitution of Ukraine (regarding the Immunity of People's Deputies of Ukraine) - the provisions according to which the people's deputies of Ukraine are guaranteed parliamentary immunity; the people's deputies of Ukraine shall not be prosecuted without the consent of the Verkhovna Rada of Ukraine have been abolished.

8. Are there constitutional provisions which could prevent Ukraine from aligning with European standards and/or EU *acquis* and require amending the Constitution? Please provide a list of such provisions, if applicable.

The Constitution of Ukraine does not contain any norms that could be considered as preventing Ukraine from aligning with European standards and/or EU *acquis*.

It also should be noted that a number of constitutional provisions incorporate mechanisms aimed at implementing Ukraine's European course. Thus, the powers regarding the implementation of the strategic course of the state to gain full membership of Ukraine in the European Union is part of the constitutional competences of the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine (Articles 85, 102, 116 of the Constitution).

9. What is/are the official language(s) of Ukraine?

The Constitution of Ukraine establishes that the state language in Ukraine is the Ukrainian language. The state ensures the comprehensive development and functioning of the Ukrainian language in all spheres of public life throughout Ukraine. Ukraine guarantees the free development, use and protection of Russian and other languages of national minorities of Ukraine. The use of languages in Ukraine is guaranteed by the Constitution of Ukraine and is determined by law (Article 10 of the Constitution of Ukraine).

The Constitutional Court of Ukraine in its Judgment of 14 December 1999 № 10-rp (case on the use of the Ukrainian language) noted that the provision of part one of Article 10 of the Constitution of Ukraine, according to which "Ukrainian is the state language in Ukraine", should be understood as Ukrainian as the state language is a mandatory means of communication throughout Ukraine in the exercise of powers by public authorities and local governments (language of acts, work, records, documents, etc.), as well as in other public spheres of social life, determined by law (part five of article 10 of the Constitution of Ukraine). Along with the state language, Russian and other languages of national minorities may be used in the exercise of powers by local executive bodies, bodies of the Autonomous Republic of Crimea and local self-government bodies within the limits and in accordance with the laws of Ukraine (paragraph 1 of the operative part of the Decision).

On April 25, 2019, the Verkhovna Rada of Ukraine adopted the Law of Ukraine № 2704-VIII "On Ensuring the Functioning of the Ukrainian Language as the State Language. The decision of the Constitutional Court of Ukraine in the case of the constitutional petition of 51 People's Deputies of Ukraine on the constitutionality of the Law of Ukraine "On Ensuring the Functioning of the Ukrainian Language as the State Language" of July 14, 2021 № 1-p / 2021 confirmed the constitutionality of the Law № 2704-VIII.

Law № 2704-VIII regulates the functioning and use of the Ukrainian language as the state language in all spheres of public life (except for the sphere of private communication and the performance of religious rites) throughout Ukraine. According to the Law of Ukraine "On Ensuring the Functioning of the Ukrainian Language as the State Language", the only state (official) language in Ukraine is the Ukrainian language. This Law regulates the functioning and use of the Ukrainian language as the state language in the spheres of public life defined by this Law throughout the territory of Ukraine. This Law does not apply to the sphere of private communication and performance of

religious rites. The procedure for using the Crimean Tatar language and other languages of indigenous peoples, national minorities of Ukraine in relevant spheres of public life is determined by law on the procedure for exercising the rights of indigenous peoples, national minorities of Ukraine, taking into account the specifics of this Law (part one of Article 1, Article 2 of the Law).

We also note that the Law of Ukraine "On Indigenous Peoples of Ukraine" provides that indigenous peoples of Ukraine have the right to establish their own educational institutions or cooperate with educational institutions of all forms of ownership to ensure learning of language, history, culture of indigenous peoples and studying in indigenous languages. The use of indigenous languages in the field of education is determined by the Law of Ukraine "On Education" and special laws in this field.

The state guarantees the possibility of studying the languages of the indigenous peoples of Ukraine. The state guarantees the research, preservation, and development of the endangered languages of the indigenous peoples of Ukraine (Articles 1, 5 of this Law).

II. Parliament

10. Please provide a description of the structure and functioning of the Parliament including the competences of the speaker of the Parliament, the prerogatives and competences of the Parliament with respect to ensuring parliamentary oversight of the government and executive institutions. How are such mechanisms implemented in practice?

Regarding the structure and functioning of the Verkhovna Rada of Ukraine and its bodies, it should be noted that in accordance with the provisions of the Constitution of Ukraine (Articles 83, 88 and 89) the Parliament of Ukraine is characterized by the following: factional structuring; formation of the leadership of the Verkhovna Rada vested with the organizational and administrative competencies; and also the activities of parliamentary committees and temporary commissions.

10.1. Thus, on the basis of election results, deputy factions are formed in the Verkhovna Rada of Ukraine; and, based on coordination of political positions, a coalition of deputy factions is formed which must comprise a majority of the constitutional composition of MPs of Ukraine. It is also envisaged that a deputy faction in the Verkhovna Rada of Ukraine which comprises a majority of the constitutional composition of MPs of Ukraine has the rights of a coalition of deputy factions in the Verkhovna Rada of Ukraine (Article 83 of the Fundamental Law of Ukraine).

Five deputy factions were formed in the Verkhovna Rada of Ukraine of the current (ninth) convocation based on election results (faction of the political party "SERVANT OF THE PEOPLE," faction of the political party All-Ukrainian Association "BATKIVSHCHYNA" [FATHERLAND] faction of the political party "EUROPEAN SOLIDARITY," faction of the political party "HOLOS" ["VOICE"] and faction of the political party "OPPOSITION PLATFORM – FOR LIFE"); also, deputy groups were created: "FOR THE FUTURE" and "DOVIRA" ["TRUST"].

Notably, the faction of the political party "SERVANT OF THE PEOPLE," in view of its numerical strength, has the rights of a coalition of deputy factions in the current parliament.

10.2. The Verkhovna Rada of Ukraine elects from among its members the Chairperson of the Verkhovna Rada of Ukraine, the First Deputy and Deputy Chairperson of the Verkhovna Rada of Ukraine (Article 88 of the Constitution of Ukraine).

In accordance with the constitutional requirements, the functional competence of the Chairperson of the Verkhovna Rada of Ukraine consists in the following:

- 1) conducting meetings of the Verkhovna Rada of Ukraine;
- 2) organizing the work of the Verkhovna Rada of Ukraine, coordinating the activities of its bodies;
- 3) signing acts adopted by the Verkhovna Rada of Ukraine;
- 4) representing the Verkhovna Rada of Ukraine in relations with other bodies of state power of Ukraine and bodies of power of other states;
- 5) organizing the work of the Secretariat of the Verkhovna Rada of Ukraine.

The procedure for exercising the above powers, as well as the scope and methods of delegating the powers of the Chairperson of the Parliament or individual components thereof to the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine are established by the Rules of Procedure of the Verkhovna Rada of Ukraine.

10.3. For the purpose of law-drafting, preparation and preliminary consideration of issues within its competence, performing oversight functions in accordance with the Constitution of Ukraine, the Verkhovna Rada of Ukraine establishes committees of the Verkhovna Rada of Ukraine consisting of MPs of Ukraine.

Moreover, the legislative body may establish temporary ad hoc commissions (for the preparation and preliminary consideration of issues within the competence of the parliament), temporary investigative commissions (for conducting parliamentary investigations into matters of public interest) (Article 89 of the Constitution of Ukraine), and an ad hoc temporary investigative commission (during impeachment proceedings).

In addition to the above, it should be noted that the activities of the parliamentary bodies (committees and commissions) are regulated by special laws:

1) committees and temporary ad hoc commissions of the Verkhovna Rada of Ukraine – by the Rules of Procedure of the Verkhovna Rada of Ukraine, the Laws of Ukraine “On the Committees of the Verkhovna Rada of Ukraine,” “On Temporary Investigative Commissions and Temporary Ad Hoc Commissions of the Verkhovna Rada of Ukraine”;

2) temporary investigative commissions – by the Rules of Procedure of the Verkhovna Rada of Ukraine, the Law of Ukraine “On Temporary Investigative Commissions and Temporary Ad Hoc Commissions of the Verkhovna Rada of Ukraine”;

3) ad hoc temporary investigative commission – by the Law of Ukraine “On the Special Procedure for Removal from Office of the President of Ukraine (Impeachment).”

The Committees of the Parliament, as well as the temporary ad hoc commissions (formed for the preparation and preliminary consideration of issues within the competence of the parliament,

including for the preparation and finalization of draft laws and other acts of the Verkhovna Rada of Ukraine as the main committee, unless the subject of legal regulation of such draft laws lies within the competence of committees established by the Verkhovna Rada of Ukraine) are authorized to implement three main functions:

- 1) law-drafting;
- 2) organizational;
- 3) oversight.

We will summarize the essence of these functions in accordance with the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine” (Articles 12-14).

The committees’ law-drafting function consists in:

- 1) developing draft laws, other acts of the Verkhovna Rada of Ukraine;
- 2) preliminary consideration and preparation for the parliament of opinions and proposals on draft laws submitted by holders of the right to legislative initiative for consideration by the Verkhovna Rada of Ukraine;
- 3) finalizing certain draft laws on instructions from the Verkhovna Rada of Ukraine based on the results of their consideration in the first and subsequent readings;
- 4) preliminary consideration and preparation for the parliament of opinions and proposals on draft national programs of economic, scientific and technical, social, national and cultural development, environmental protection, as well as granting consent to the binding nature or denunciation of international treaties of Ukraine;
- 5) summarizing the received comments and proposals on draft laws;
- 6) making proposals to the parliament on long-term planning of law-drafting work.

The organizational function of the committees consists in:

- 1) planning their work;
- 2) collecting and analyzing information on issues within the competence of the committees, organizing hearings on these issues, including at meetings of the Verkhovna Rada of Ukraine;
- 3) preliminary discussion, in line with the subjects of their competence, of candidate officials who, according to the Constitution of Ukraine, are elected, appointed, or approved by the Verkhovna Rada of Ukraine or appointed by its consent, preparation for consideration by the Verkhovna Rada of Ukraine of relevant opinions on these candidates;
- 4) preparation of issues for consideration by the Verkhovna Rada of Ukraine in accordance with the subjects of their competence;
- 5) participation in the formation of the agenda of plenary meetings of the Verkhovna Rada of Ukraine;
- 6) decision-making, providing opinions, recommendations, clarifications;
- 7) consideration of appeals received by the committee in accordance with the established procedure;

8) participation, in accordance with the subjects of their competence, in inter-parliamentary activities, interaction with international organizations;

9) preparation of written reports on the results of their activities;

10) ensuring media coverage of their activities.

The oversight function of the committees consists in:

1) analysis of the practice of application of legislative acts in the activities of state bodies or their officials related to issues within the committees' competence, preparation and submission of relevant opinions and recommendations for consideration by the Verkhovna Rada of Ukraine;

2) participation, on instructions from the Verkhovna Rada of Ukraine, in conducting "the Hour of Questions to the Government";

3) oversight of the implementation of the part of the State Budget of Ukraine pertaining to the subjects of their competence, so as to ensure the expediency, cost-effectiveness and efficiency of the use of state funds in the manner prescribed by the law;

4) organization and preparation of parliamentary hearings on instructions from the Verkhovna Rada of Ukraine;

5) organization and preparation of committee hearings;

6) preparation and submission for consideration by the Verkhovna Rada of Ukraine of committee's inquiries to the President of Ukraine;

7) interaction with the Accounting Chamber;

8) interaction with the Verkhovna Rada of Ukraine Commissioner for Human Rights;

9) sending materials to bodies of the Verkhovna Rada of Ukraine, state bodies, officials thereof for appropriate responding within the limits established by the law;

10) consideration, at their meetings or during committee hearings, of reports, statements and information from state bodies and officials submitted to the Verkhovna Rada of Ukraine in cases provided for by the law, preliminary preparation of issues related to consideration of such reports, statements and information at a plenary meeting of the Verkhovna Rada of Ukraine.

In the current convocation of the Verkhovna Rada of Ukraine, there are 23 standing parliamentary committees:

1) Committee on Agrarian and Land Policy;

2) Committee on Anti-Corruption Policy;

3) Committee on Budget;

4) Committee on Humanitarian and Information Policy;

5) Committee on Environmental Policy and Nature Management;

6) Committee on Economic Development;

7) Committee on Energy, Housing and Utilities Services;

- 8) Committee on Public Health, Medical Assistance and Medical Insurance;
- 9) Committee on Foreign Policy and Inter-Parliamentary Cooperation;
- 10) Committee on Ukraine's Integration into the European Union;
- 11) Committee on Youth and Sports;
- 12) Committee on National Security, Defense and Intelligence;
- 13) Committee on State Building, Local Governance, Regional and Urban Development;
- 14) Committee on Education, Science and Innovation;
- 15) Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations;
- 16) Committee on Legal Policy;
- 17) Committee on Law Enforcement;
- 18) Committee on Rules of Procedure, Parliamentary Ethics and Administration of Verkhovna Rada's Work;
- 19) Committee on Freedom of Speech;
- 20) Committee on Social Policy and Protection of Veterans' Rights;
- 21) Committee on Transport and Infrastructure;
- 22) Committee on Finance, Taxation and Customs Policy;
- 23) Committee on Digital Transformation.

10.4. In the Verkhovna Rada of Ukraine, a Conciliation Council of Deputy Factions (Deputy Groups) operates; it is established as a consultative and advisory body for preliminary preparation and consideration of organizational issues of the parliament's work. The Conciliation Council consists of the Chairperson of the Verkhovna Rada of Ukraine, the First Deputy and Deputy Chairperson of the Verkhovna Rada of Ukraine, the heads of deputy factions (deputy groups) with decisive vote, and heads of committees with advisory vote. The Conciliation Council:

- 1) coordinates the draft plan of law-drafting and recommends it to the Verkhovna Rada of Ukraine for approval;
- 2) considers and approves proposals on the draft calendar plan of the session, the agenda of the session, the schedule of plenary meetings and the weekly agenda of plenary meetings;
- 3) submits to the Chairperson of the Verkhovna Rada of Ukraine a proposal on convening an extraordinary plenary meeting of the Verkhovna Rada and its date at the request of three deputy factions (deputy groups) or five committees;
- 4) considers taking measures to ensure the presence of MPs at plenary sessions;
- 5) makes proposals for conducting parliamentary hearings;

6) considers other proposals on the organization of the work of the Verkhovna Rada of Ukraine in accordance with the Rules of Procedure of the Verkhovna Rada of Ukraine (Article 73 of the Rules of Procedure).

It should also be noted that the organizational, legal, scientific, documentary, informational, expert-analytical, logistical and financial support to the activities of the Verkhovna Rada of Ukraine, its bodies, MPs of Ukraine, deputy factions (deputy groups) in the Verkhovna Rada of Ukraine is provided by the Verkhovna Rada of Ukraine Secretariat.

10.5. As to oversight of the executive branch the following should be emphasized.

In accordance with the constitutional requirements (Articles 113 and 114 of the Fundamental Law of Ukraine), the Cabinet of Ministers of Ukraine is responsible to the President of Ukraine and the Verkhovna Rada of Ukraine, subordinate and accountable to the Verkhovna Rada of Ukraine. At the same time, the Cabinet of Ministers of Ukraine is guided in its activities by the Constitution and Laws of Ukraine, as well as Decrees of the President of Ukraine and Resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and Laws of Ukraine.

The Cabinet of Ministers of Ukraine is formed in direct implementation of the parliament's constitutive function. Thus, the Prime Minister of Ukraine is appointed by the Verkhovna Rada of Ukraine upon the submission of the President of Ukraine. The candidate for the office of Prime Minister of Ukraine is nominated by the President of Ukraine on the proposal of the coalition of deputy factions in the Verkhovna Rada of Ukraine or a deputy faction comprising a majority of the constitutional composition of the Verkhovna Rada of Ukraine.

The Minister of Defense of Ukraine and the Minister of Foreign Affairs of Ukraine are appointed by the Verkhovna Rada of Ukraine on the submission of the President of Ukraine; other members of the Cabinet of Ministers of Ukraine are appointed by the Verkhovna Rada of Ukraine on the proposal of the Prime Minister of Ukraine.

Procedures for parliamentary oversight of government activities are regulated in detail in the relevant section of the Rules of Procedure of the Verkhovna Rada of Ukraine.

The following regulatory procedures can be assigned to the general mechanisms in the sphere of parliamentary oversight of the activities of the Cabinet of Ministers of Ukraine (Chapter 38):

- 1) approval of the Government's Program of Activities;
- 2) consideration of the Government's report on the progress and results of the implementation of the Program of Activities;
- 3) consideration of the report on the progress and results of the implementation of national programs;
- 4) conducting "the Hour of Questions to the Government";
- 5) consideration of the issue of the Government's responsibility;
- 6) decision-making on the extraordinary report of the Government.

Some parliamentary oversight procedures are also detailed in answers to Question 12 (system of parliamentary procedures).

11. Please provide a list of authorised proponents of legislative initiatives and laws and explain the procedures for the adoption of legislation (including an explanation of existing fast track procedures, if any).

A total of 32 procedures are implemented within the legislative function of the Verkhovna Rada of Ukraine.

According to the provisions of the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine, the right to legislative initiative in the Verkhovna Rada of Ukraine is vested in the President of Ukraine, the MPs of Ukraine, and the Cabinet of Ministers of Ukraine. Moreover, the Cabinet of Ministers of Ukraine has the exclusive right to submit a draft law on the State Budget of Ukraine, while the draft law on granting consent to the binding nature of Ukraine's international treaties is submitted by the President of Ukraine or the Cabinet of Ministers of Ukraine. Even one member of the parliament can register draft laws, but some special projects require more initiators (for example, 150 MPs to register a draft amendment to the Constitution).

Draft laws are considered by the Verkhovna Rada of Ukraine, as a rule, in three readings. The consideration and adoption of a draft law in accordance with the three readings procedure includes the following procedures and stages.

1. First reading – discussion of the key principles, provisions, criteria, structure of the draft law and its adoption as a basis, which is carried out after the following procedure of discussion:

1) report of the MP of Ukraine who initiated the submission of the proposal or another holder of the right to legislative initiative or his or her representative, questions to the speaker and answers to them;

2) co-report of the co-reporter designated by the main committee or temporary ad hoc commission, questions to the co-reporter and answers to them;

3) statements by MPs of Ukraine – members of the main committee or temporary ad hoc commission announcing and substantiating a dissenting opinion, unless the dissenting opinions were presented to the MPs along with the opinion of the relevant committee or temporary ad hoc commission;

4) statements by one representative from each committee and temporary ad hoc commission to which, in addition to the main committee, the draft law or other draft act of the Verkhovna Rada of Ukraine was sent, unless the opinions of these committees or temporary ad hoc commissions were presented to the MPs;

5) statements by representatives of deputy factions (deputy groups), MPs of Ukraine;

6) announcement by the chair of the plenary meeting of the termination of the discussion and information on the number of speakers who delivered statements and who registered for a statement;

7) closing remarks by the reporter and co-reporter (co-reporters);

8) clarifications and announcement by the chair of the plenary meeting of the proposals which were received in connection with the issue under discussion and which will be put to the vote (Article 30 of the Rules of Procedure of the Verkhovna Rada of Ukraine).

After discussing the draft law in the first reading, the Verkhovna Rada, by a majority of votes (226+ votes), may take the following decisions: 1) adoption of the draft law as a basis with instructions to the main committee to prepare it for the second reading; 2) rejection of the draft law; 3) return of the draft law to the subject of the right of legislative initiative for revision or sending it to the main committee for preparation for the second reading; 4) publication of the draft law in the print media determined by the Verkhovna Rada for public discussion, finalization by the main committee taking into account the consequences of the discussion and submission for re-first reading.

In exceptional cases, the Verkhovna Rada may adopt the draft law as the Law of Ukraine in the first reading, except for draft codes and draft laws that contain more than 100 articles and paragraphs. In practice, in 2021, about a third of all draft laws were passed in the first reading, and in general, previously, this share was even higher. If the draft law is adopted as a basis, the subjects of the right of legislative initiative may initiate proposals for the draft law. The draft law text is sent to the editorial department and the Chief Legal Department for legal examination.

2. Second reading – article-by-article discussion and adoption of the draft law in the second reading.

The text of the draft law is considered at a sitting of the Verkhovna Rada together with expert opinions, proposals, and amendments. Discussions and votes may be taken on each amendment. Considering the draft law in the second reading, the Verkhovna Rada, by a majority of votes (226+ votes), may take the following decisions: 1) adoption of the draft law in the second reading and instructing the main committee to prepare it for the third reading; 2) rejection of the draft law; 3) adoption of the draft law in the second reading and as a whole; 4) adoption of the draft law in the second reading, except for certain sections, chapters, articles, parts of articles, and sending them to the main committee for revision with the subsequent submission of the draft law for a second reading; 5) return of the draft law to the main committee for revision with the subsequent submission for the second reading.

In 2021, about two-thirds of the laws were passed in the second reading and as a whole.

3. Third reading – the adoption as a whole of a draft law that requires technical refinement and coordination.

It should be noted that the processing of a draft law in parliamentary committees prior to its consideration in the first reading (that is, before the approval of the concept) includes the mandatory procedures described below.

Each draft law or other draft act is to be forwarded, no later than within five days after its registration, by the Chairperson of the Verkhovna Rada of Ukraine or, in accordance with the distribution of responsibilities, by the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine, for preparation of an expert opinion to:

1) the committee which, in accordance with the subjects of committees' competence, is designated as the main one for the preparation and preliminary consideration of the draft law or other draft act;

2) the committee in charge of budget issues, for conducting an examination of its impact on budget indicators and compliance with the laws regulating budget relations;

3) the committee in charge of combating corruption, for preparing an expert opinion on its compliance with the requirements of anti-corruption legislation;

4) the committee in charge of assessing the compliance of draft laws with Ukraine's international legal obligations in the field of European integration. It should be noted that government bills concerning Ukraine's commitments in the field of European integration, including international law obligations, and European Union law (EU *acquis*) must be submitted to the Verkhovna Rada of Ukraine with opinions on compliance with those commitments, which are to be prepared by the Government Office for Coordination of European and Euro-Atlantic Integration of the Secretariat of the Cabinet of Ministers in accordance with the prescribed form and signed by the Deputy Prime Minister responsible for European integration.

In addition, it should be noted that before adopting a draft law as a basis, alternative options for addressing a similar issue may be considered – both at the initiative of other holders of the right to legislative initiative and on the proposal of the main committee responsible for preparing the draft law for consideration at a plenary meeting of the Verkhovna Rada of Ukraine.

It should be separately noted that the Rules of Procedure of the Verkhovna Rada of Ukraine provide for shortened (faster) procedures for processing draft laws. Thus, during the consideration of a draft law in the first reading, a shortened procedure can be used for discussing issues at the plenary meeting of the Verkhovna Rada of Ukraine (Article 31 of the Rules of Procedure of the Verkhovna Rada of Ukraine), which includes:

1) statement by the MP of Ukraine who initiated the submission of the proposal or another holder of the right to legislative initiative or his or her representative to substantiate the proposal;

2) statement by the head of the committee or a representative from the main committee in case the issue being considered was prepared by that committee;

3) statements by representatives of two deputy factions (deputy groups) in support of each proposal and representatives of two [other] deputy factions (deputy groups) not in support of the proposal;

4) clarifications and announcement by the chair of the plenary meeting of the proposals that were received and will be put to the vote;

5) statements pertaining to the voting, made by one representative from each deputy faction (deputy group) whose representatives did not participate in the discussion.

Also, when sending a draft law for preparation for consideration in the second reading, the Verkhovna Rada of Ukraine may cut in two (that is, down to 7 days when preparing for the second reading and down to 5 days in case of repeat second reading) the timeframe for the submission of proposals and amendments to the draft law by the holders of the right to legislative initiative.

At the same time, there may be no discussions under the shortened procedure, no reduction of the timeframes for the submission of amendments and proposals in the event of consideration of draft codes and other draft laws which have more than 100 articles or paragraphs (Articles 113, 116 of the Rules of Procedure of the Verkhovna Rada of Ukraine).

It should be noted, however, that the Rules of Procedure of the Verkhovna Rada of Ukraine allow the adoption of draft laws as a whole as laws before the third reading. And so, since 2010 the third reading procedure has in fact not been used in its formalized form.

The President has 15 days to sign or veto the law. The President's veto can be overturned by at least two-thirds of the constitutional composition of the Verkhovna Rada of Ukraine (300 or more votes of MPs).

If the President of Ukraine has vetoed a law passed by the Verkhovna Rada, the procedure for its reconsideration in the Verkhovna Rada shall begin.

The proposals of the President of Ukraine to the law returned by him are considered in the main committee, which prepared its final version.

The Verkhovna Rada of Ukraine votes on each proposal of the President of Ukraine, and after that, a vote is held on the adoption of the law as a whole. If all the proposals of the President of Ukraine are accepted, the law is considered adopted as a whole if the majority of MPs voted for it (226+ votes).

Suppose the Verkhovna Rada, during the reconsideration, did not accept the President's proposals or accepted them only partially. In that case, the draft law's adoption requires 2/3 votes of the constitutional composition of the Verkhovna Rada of Ukraine (300+ votes), then it is considered adoption with overcoming the veto.

Moreover, there are a number of issues addressed under special procedures other than the above “general” legislative process. In particular this implies:

- 1) making amendments to the Constitution of Ukraine;
- 2) approval of the State Budget of Ukraine;
- 3) consideration of issues related to approval of Decrees of the President of Ukraine on imposition of martial law or state of emergency, on general or partial mobilization, on declaring certain localities as zones of environmental emergency and declaring a state of war or making peace on the proposal of the President, approval of a decision of the President of Ukraine to use the Armed Forces of Ukraine and other military formations in case of an armed aggression against Ukraine;
- 4) granting consent to the binding nature of international treaties of Ukraine and denunciation of international treaties of Ukraine;
- 5) personnel issues;
- 6) electronic petitions;
- 7) early termination of the powers of the MPs of Ukraine.

Resolutions and other acts of the Verkhovna Rada are adopted on specific issues in order to perform the constituent, organizational, oversight, and other functions. Resolutions and other acts adopted by the Verkhovna Rada shall be signed and promulgated by the Chairman of the Verkhovna Rada of Ukraine.

12. Please describe the Parliament's rules of procedure and provide information

concerning their implementation. When were they amended last? Is there any plan to amend them?

Considering the procedural norms of the Verkhovna Rada of Ukraine, it should be noted in the first place that in accordance with the provisions of the Constitution of Ukraine the operating procedures of the Verkhovna Rada of Ukraine are established by the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine (Law of Ukraine No. 1861-VI dated February 10, 2010).

In view of the structure and content of the current Rules of Procedure of the Verkhovna Rada of Ukraine, the procedural norms of the Ukrainian parliament's operation can be conditionally systematized as follows:

1) general procedures for organizing the work of the legislative body (forms of work, support to work, procedure for parliament's internal structuring, in particular the establishment of deputy factions, standing committees and temporary commissions of the Verkhovna Rada of Ukraine, as well as the general requirements for conducting meetings, discussing issues, adopting parliamentary decisions, etc.);

2) procedures related to the implementation of certain functions of the Verkhovna Rada of Ukraine, namely: legislative, constitutive, oversight, organizational, and foreign policy.

Along with the Rules of Procedure of the Verkhovna Rada of Ukraine, there are also the following Laws, which regulate the rights, duties, and activities of MPs, the activities of committees, the activities of temporary inquiry and temporary special commissions, and the impeachment procedure:

1) Law of Ukraine "On the Status of the MPs of Ukraine";

2) Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine";

3) Law of Ukraine "On Temporary Commission of Inquiry and Temporary Special Commissions of the Verkhovna Rada of Ukraine";

4) Law of Ukraine "On the special procedure for removal of the President of Ukraine from office (impeachment)."

A detailed description of the legislative procedures will be provided in the answer to Question 11. Instead, it should be noted here that considerable attention has been paid recently to improving the procedures related to the exercise by the parliament of its oversight function (the respective changes were approved on December 3, 2020).

Thus, the procedure for processing documents received by the Verkhovna Rada of Ukraine within the frameworks of subordination, accountability, or general monitoring has become significantly detailed. Among other things, review procedures were established and singled out for:

1) the report of the Director of the State Bureau of Investigation on the results of the activities of that agency for the calendar year, the state of implementation of its tasks, compliance with legislation, human and civil rights and freedoms, as well as areas and ways to increase the efficiency of the State Bureau of Investigation;

2) the report of the Prosecutor General on the activities of the Prosecutor's Office;

- 3) the report of the Head of the Security Service of Ukraine on the activities of the Security Service of Ukraine;
- 4) the report of the Antimonopoly Committee of Ukraine on its activities;
- 5) the report of the State Property Fund of Ukraine on its work and the course of privatization of state property;
- 6) the report of the National Council of Ukraine on Television and Radio Broadcasting on its activities;
- 7) the report of the Head of the National Bank of Ukraine on the activities of the National Bank of Ukraine;
- 8) the annual report on the activities of the Accounting Chamber and information on the results of unscheduled measures of state external financial oversight (audit) carried out by decision of the Verkhovna Rada of Ukraine;
- 9) annual and special reports of the Verkhovna Rada of Ukraine Commissioner for Human Rights;
- 10) reports, statements and information from other state bodies and officials belonging to the executive branch.

At the same time, it should be noted that numerous working procedures of the Ukrainian parliament (a total of 239 articles of law) have recently been systematized due to the practical need to ensure transparency and openness of the activities of the legislative body, and also in view of the need to make the workflow more convenient, including for parliamentarians. And so, during 2019-2021 the creation of the electronic parliament was 90% completed and the implementation procedure was developed in detail: 57 procedures within the parliament's organizational function, 32 procedures within the legislative function, 23 special procedures, 18 procedures within the oversight function, and 14 procedures within the organizational function. This approach made it possible to ensure procedural certainty and clarity as well as to make public oversight of the activities of the legislative body accessible and not overloaded.

The Rules of Procedure of the Verkhovna Rada and other related legal acts are undergoing a comprehensive reform process based on the Report and Roadmap for Internal Reform, and Capacity Building of the Verkhovna Rada of Ukraine 2016 prepared by the European Parliament Needs Assessment Mission led by Pete Cox, President of the European Parliament in 2002-2004. The reform has yielded positive results, including the introduction of electronic document management, improved personnel policy of the Verkhovna Rada, preventing impersonal voting due to technological solutions, improved parliamentary oversight rules, and introduced electronic petitions on the Verkhovna Rada website and other forms of communication with civil society.

The last time the Rules of Procedure of the Verkhovna Rada of Ukraine were amended was on July 14, 2021. Those changes were related to the procedure for forming the High Council of Justice.

Instead, as regards the issue of planning the activities aimed at improving parliamentary procedures, it should be noted that on November 24, 2021, the Chairman of the Verkhovna Rada of Ukraine issued an Order establishing a Working Group to prepare comprehensive legislative proposals on making amendments to Laws of Ukraine in the field of parliamentary law, so as to bring

the provisions of the Rules of Procedure of the Verkhovna Rada of Ukraine in compliance with the Constitution of Ukraine as well as to comprehensively improve legislative acts in the field of parliamentary law and ensure the implementation of the Recommendations of the European Parliament Mission on Internal Reform and Institutional Capacity Building of the Verkhovna Rada of Ukraine, approved by Verkhovna Rada of Ukraine Resolution No. 1035-VIII of March 17, 2016, established a Working Group to prepare comprehensive legislative proposals to amend Ukrainian laws in the field of parliamentary law. In other words, work aimed at improving the rules of parliamentary procedure is still underway.

13. How does the Parliament exercise its legislative functions? Is there a system of verifying, at Parliament level, the compatibility of new legislation and amendments proposed in parliamentary procedure with the EU *acquis*? Explain and provide information and examples. Does the Parliament request accompanying documents when assessing draft laws, such as impact assessments, evidence of public consultations?

This issue is partially highlighted in the review of subjects specified by Question 11. In view of the content of the aspects that need to be highlighted in answering Question 13, we consider it appropriate to focus on the following.

On the sphere of legislative regulation

According to the provisions of the Constitution of Ukraine (Article 92), only the Laws of Ukraine determine in particular: the rights and freedoms of human and citizen, the guarantees of these rights and freedoms; the basic responsibilities of a citizen; citizenship; the legal personality of citizens, the status of foreigners and stateless persons; the rights of indigenous peoples and national minorities; the procedure for using languages. The main group of issues of exclusively legislative regulation consists of environmental, social, cultural and economic issues. Thus, only the Laws of Ukraine determine: the principles of use of natural resources, the exclusive (marine) economic zone, the continental shelf, space exploration, the organization and operation of energy systems, transport and communications; the basics of social security, the forms and types of pension provision; the principles of regulation of labor and employment, marriage, family, protection of childhood, motherhood, fatherhood; upbringing, education, culture and health care; environmental safety; the legal regime of property; the legal principles and guarantees of entrepreneurship; competition rules and antitrust regulations; the principles of foreign relations, foreign economic activity, customs practice; the principles of regulation of demographic and migration processes.

Only Laws determine the foundations of the political system, the organization and activities of bodies of state power and local self-government bodies, in particular the principles of formation and operation of political parties, other associations of citizens, the media; the organization and procedure for holding elections and referendums; the organization and procedure of operation of the Verkhovna Rada of Ukraine, the status of MPs of Ukraine; the organization and activities of executive bodies, the basics of public service, of the organization of state statistics and informatics; the judicial system, court proceedings, the status of judges; the principles of forensic examination; the organization and activities of the prosecutor's office, the notarial system, pretrial investigation bodies, penitentiary

bodies and institutions; the procedure for the execution of court decisions; the principles of organization and activities of the bar.

Also, only Laws determine the territorial structure of Ukraine; the principles of local self-government; the status of the capital of Ukraine; the special status of other cities; the basics of national security, organization of the Armed Forces of Ukraine and ensuring public order; the legal regime of the state border; the legal regime of martial law and a state of emergency, the environmental emergency zones; the principles of civil liability; the acts that are crimes, administrative or disciplinary offenses and the responsibility for them.

Moreover, only Laws establish: the State Budget of Ukraine and the budget system of Ukraine; the taxation system, taxes and fees; the principles of creation and functioning of financial, money, credit and investment markets, the status of national currency, as well as the status of foreign currencies on the territory of Ukraine; the procedure for the formation and repayment of domestic and foreign debt; the procedure of issue and circulation of state securities, their forms and types; the procedure for sending units of the Armed Forces of Ukraine to other states; the procedure for admission and the conditions of stay of units of the armed forces of other states on the territory of Ukraine; the units of weight, measurement and time; the procedure for establishing state standards; the procedure for the use and protection of state symbols; state awards; military ranks, diplomatic ranks and other special titles; state holidays; the procedure for the formation and functioning of free and other special zones with an economic or migration regime other than the general one. Amnesty is declared by a Law of Ukraine.

On the implementation by the Verkhovna Rada of Ukraine of its legislative function and regulation of documents prepared in the process of harmonization of draft laws with the European Union law (EU acquis)

Along with other documents, a draft law or other draft act is submitted for registration together with an explanatory note which must contain: (a) rationale for the need to adopt the draft law, its goals, objectives and main provisions and place in the system of legislation; (b) rationale for the expected socioeconomic, legal and other consequences of the application of the law after its adoption; (c) information to the effect that the final decision on the draft law is only possible based on the results of a referendum (if this follows from the subject of the draft law); (d) other information necessary for consideration of the draft law (such documents can be for example the opinion of the Government Office for Coordination of European and Euro-Atlantic Integration of the Secretariat of the Cabinet of Ministers on compliance of the draft law with Ukraine's obligations in the field of European integration, including international legal obligations, and the European Union law (EU acquis), analysis of the regulatory impact of the draft law, report on monitoring the effectiveness of the adopted law (in case of a draft law on amendments), report on the results of public consultations, other documents and materials required for consideration of the draft law).

It should be noted that when preparing governmental draft laws in accordance with § 35 of the Rules of Procedure of the Cabinet of Ministers of Ukraine, draft laws are processed for compliance with Ukraine's obligations in the field of European integration and the European Union law (EU acquis). In such case, it is provided that the drafter of the bill is required to:

- 1) determine:

the sources of the European Union law (EU acquis) regulating legal relations similar to those planned to be regulated by the draft act;

the existence of Ukraine's obligations in the field of European integration, including international legal ones, related to the subject of legal regulation of the draft act;

availability of programmatic documents in the field of European integration related to the subject regulated by the draft act;

2) conduct a comparative and/or comparative legal analysis;

3) provide a rationale in case of non-conformity of the draft act to the European Union law (EU acquis), international agreements in the field of European integration, specify the period of its validity;

4) propose holding consultations with the European Commission on the compliance of the draft law with Ukraine's obligations in the field of European integration and the European Union law (EU acquis).

The results of such processing of the draft act are to be reflected by the drafter in the relevant certificate, the form of which is attached to the Rules of Procedure of the Cabinet of Ministers of Ukraine.

The organizational, expert-analytical and informational support for the processing of a draft act for compliance with Ukraine's obligations in the field of European integration, including international legal ones, and the European Union law (EU acquis) is provided by the Government Office for Coordination of European and Euro-Atlantic Integration. In addition, § 71 of the Rules of Procedure of the Cabinet of Ministers of Ukraine requires that each draft law related to Ukraine's obligations in the field of European integration, including international legal ones, and the European Union law (EU acquis) submitted by the Cabinet of Ministers of Ukraine to the Verkhovna Rada of Ukraine be appended with an opinion on compliance with such obligations.

At the same time, worthy of separate attention as an example is the experience of the Verkhovna Rada of Ukraine Committee on Energy, Housing and Utilities Services regarding the implementation of Ukrainian legislation to EU legislation in the field of energy. Thus, according to the Committee, the implementation is carried out in accordance with such basic documents as the Energy Community Treaty and 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.

To achieve the implementation goal, the Committee applies the mechanism of Annex XXVII to Chapter 1 "Energy Cooperation, including Nuclear Issues" of the Association Agreement, which states that "the goal of intensified cooperation in the energy field and of energy sector reform is full integration of the energy markets of the Union and Ukraine" and which was approved by the Verkhovna Rada on June 6, 2019.

The Committee regularly consults with the European Commission and the Energy Community Secretariat on the compatibility with the EU acquis of any legislative initiative in areas to be brought closer to the EU legislative acts listed in Annex XXVII-B before such initiative enters into force.

Representatives of the European Commission, of the Energy Community Secretariat are engaged by the Committee for the processing of legislative initiatives in the field of energy aiming at compliance with the provisions of the EU acquis.

That is, at the first stage of the Committee's preliminary review of draft laws of energy legislation for compliance with the European Union law they are, in essence, tested for compliance with the norms, principles, goals and objectives of the EU-Ukraine Association Agreement and then appropriately finalized.

The finalized draft laws in the field of energy which comply with the provisions of the EU acquis are reviewed at a meeting of the Committee with the participation of representatives of the European Commission and the Energy Community Secretariat.

According to European experts, this well-established practice of the Committee is positive and significantly accelerates the process of implementation of Ukraine's energy legislation to EU legislation.

On the mechanism for assessing the impact of the provisions of a draft law

As noted earlier, each draft law or other draft act is to be forwarded, no later than within five days after its registration, by the Chairperson of the Verkhovna Rada of Ukraine or, in accordance with the distribution of responsibilities, by the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine, for preparation of an expert opinion to the committee in charge of budget issues, for conducting an examination of its impact on budget indicators and compliance with the laws regulating budget relations.

Thereupon, in accordance with the requirements of the Budget Code of Ukraine (Article 27), each bill submitted to the Verkhovna Rada of Ukraine is to be sent within five days to the Cabinet of Ministers of Ukraine for conducting an examination of its impact on budget indicators and compliance with the laws regulating budget relations.

Within two weeks from the date of receipt of the draft law, the Cabinet of Ministers of Ukraine is to submit to the Verkhovna Rada Committee on Budget an expert opinion prepared by the Ministry of Finance of Ukraine with the participation of other interested central executive bodies. The expert opinion on the draft law should contain information on the completeness and reliability of the data provided in the financial and economic rationale, the impact of the bill on budget indicators (with mandatory determination of the value of such impact), financial support opportunities in the respective budget period, compliance with laws regulating budgetary relations, and proposals regarding its consideration.

Based on such government opinion, the Committee on Budget prepares a relevant opinion on the impact of the draft law on budget indicators and compliance with the laws governing budgetary relations (if the draft law has a negative impact on the budget indicators, recommendations are provided on postponing the entry into force of the law in question; and in case of inconsistency with budget legislation, recommendations for eliminating the mismatch) and sends this opinion to the subject-matter committee of the Verkhovna Rada of Ukraine (which was designated as the main one for processing the draft law) so that it will be taken into account when considering whether to put the bill on the agenda and prepare it for first reading.

Moreover, the results of the performed examinations are taken into account when determining the time of the law's entry into force and the mechanism of its implementation. Thus, Laws of Ukraine or their individual provisions that affect budget indicators (reduce budget revenues and/or increase budget expenditures) and are adopted:

- 1) no later than July 15 of the year preceding the planned year, take effect no earlier than the beginning of the planned budget period;
- 2) after July 15 of the year preceding the planned year, take effect no earlier than the beginning of the budget period following the planned one.

It should also be noted that some mechanisms for ensuring fiscal stability are established by the Tax Code of Ukraine. Thus, according to its Article 4, changes to any elements of taxes and fees may not be made later than six months before the beginning of a new budget period (coinciding with the calendar year) in which the new rules and rates will apply. In addition, taxes and fees, their rates, as well as tax benefits may not change in the course of a budget year.

The legislation also provides for additional coordination and consultative mechanisms for the preparation of regulatory impact assessment (RIA) for draft regulatory acts (a regulatory act is in particular a normative legal act which is, or certain provisions thereof are, aimed at legal regulation of economic relations as well as administrative relations between regulatory bodies or other bodies of state power and economic subjects).

The Law of Ukraine "On the Principles of State Regulatory Policy in the Sphere of Economic Activity" No. 1160-IV dated September 11, 2003 (as amended) requires that for each draft regulatory act (including draft regulatory acts of the Verkhovna Rada of Ukraine) its developer prepare an assessment analysis of its regulatory impact – a document substantiating the need for state regulation through the adoption of a regulatory act, an assessment of the impact of the regulatory act on the market environment, on ensuring the rights and interests of economic subjects, citizens and the state, and a rationale for compliance of the draft regulatory act to the principles of the state regulatory policy (Articles 1, 8).

When preparing the regulatory impact assessment, the developer of a draft regulatory act is required to:

- 1) identify and analyze the problem that is proposed to be resolved by state regulation of economic relations, and also the importance of this problem;
- 2) substantiate why a particular problem cannot be resolved through market mechanisms and requires state regulation;
- 3) substantiate why the identified problem cannot be resolved with the help of existing regulatory acts, and consider making changes to them;
- 4) determine the expected results of the adoption of the proposed regulatory act, in particular present a calculation of the expected costs and benefits of economic subjects, citizens and the state as a result of the regulatory act;
- 5) specify the goals of state regulation;

- 6) identify and evaluate all acceptable alternative ways to achieve the set goals, including those not involving direct state regulation of economic relations;
- 7) provide arguments for the benefits of the chosen method for achieving the set goals;
- 8) describe the mechanisms and measures that will ensure the resolution of the identified problem by adopting the proposed regulatory act;
- 9) substantiate the possibility of achieving the set goals in the event of adoption of the proposed regulatory act;
- 10) reasonably prove that the achievement of the set goals with the help of the proposed regulatory act is possible at the lowest cost for economic subjects, citizens and the state;
- 11) reasonably prove that the benefits resulting from the proposed regulatory act justify the respective costs if the costs and/or benefits cannot be quantified;
- 12) assess the possibility of introducing and implementing the requirements of the regulatory act depending on the resources available to bodies of state power, local self-government bodies, individuals and legal entities that must introduce or implement these requirements;
- 13) assess the risk of external factors influencing the effect of the proposed regulatory act;
- 14) substantiate the proposed period of validity of the regulatory act;
- 15) determine the performance indicators of the regulatory act;
- 16) identify measures that will be used to monitor the effectiveness of the regulatory act in the event of its adoption.

Furthermore, the procedure for promulgation of the draft regulatory act, the timeframe for submitting critical remarks and proposals to it and the requirements for their processing are established at the legislative level. It should be noted that regulatory impact analysis is to be attached to each governmental regulatory bill.

On the procedure for parliamentary oversight of the implementation of adopted laws (Post Legislative Scrutiny (below, PLS))

The Constitution of Ukraine entrusted the exercise of this power to the parliamentary committees (Part one, Article 89), directly obliging them to exercise oversight functions.

Pursuant to paragraph 1, Part one, Article 14 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine,” the oversight function of the committees consists in analyzing the practice of application of legislative acts in the activities of state bodies and their officials in connection with issues assigned to the competence of the committees; in preparation and submission of relevant opinions and recommendations for consideration by the Verkhovna Rada of Ukraine. At the same time, when exercising the law-drafting function, the committees are obliged to analyze the practice of application of legislative acts assigned to the committee’s competence, prepare proposals for their systematization and codification (paragraph 7, Part one, Article 16 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine”).

Since the parliamentary committees are formed on a proportional basis, having regard to the number of members in deputy factions (deputy groups) in the Verkhovna Rada of Ukraine (Article

81 of the Rules of Procedure of the Verkhovna Rada of Ukraine, Article 6 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine”), access to PLS is provided for all political forces represented in the current convocation of the Ukrainian Parliament.

At the governmental level, the implementation of PLS is the responsibility of the Ministries. Thus, according to paragraph 4, Part one, Article 7 of the Law of Ukraine “On Central Executive Bodies,” one of the main tasks of a Ministry is to generalize the practice of application of legislation, develop proposals for its improvement, and submit draft laws, acts of the President of Ukraine, Cabinet of Ministers of Ukraine for consideration by the President of Ukraine and the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine exercises ongoing control over the implementation of the Constitution of Ukraine and other acts of legislation of Ukraine by executive bodies (Part two, Article 19 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine”). Since the Government of Ukraine has the right to legislative initiative in accordance with the Constitution of Ukraine, following the implementation of the PLS at the governmental level it initiates appropriate amendments to Laws if they do not work properly.

Citizens, NGOs, and local self-government bodies have been directly involved in PLS throughout the existence of the Ukrainian Parliament, as their reports often provide the parliamentary committees with information about improper functioning, gaps or conflicts in legislative regulation.

After the Revolution of Dignity, the participation of civil society in the legislative process has acquired a new quality, as new NGOs have emerged that are able and willing to get involved in the work of the parliamentary committees. The result of such cooperation has been the adoption of laws designed to reform outdated elements of the state mechanism. Examples include the laws “On Preventing Corruption,” “On Public Service,” “On Access to Public Information,” “On Public Organizations,” etc.

At present, NGOs are closely monitoring the implementation of laws adopted by the Parliament and getting involved in PLS implemented by the Parliament as well as by the government.

The most systematic procedure for implementing PLS is regulated by the Law of Ukraine “On the Principles of State Regulatory Policy,” according to which each regulatory act is to be successively subjected to basic (within 1 year from the day of entry into force by the act), repeat (within 2 years from the day of entry into force by the act) and periodic (every 3 years) monitoring of its effectiveness, which includes the implementation of appropriate measures and the publication of a report on performance monitoring. Statistics as well as data from research and opinion polls can be used to monitor the effectiveness of regulatory acts. The values of performance indicators obtained during the repeat monitoring of performance are compared with the values of these indicators obtained during the basic monitoring. Periodic monitoring of effectiveness is carried out to verify the sustainable achievement by the regulatory act of the goals declared when adopting it, after repeat monitoring of the effectiveness of the regulatory act (Articles 5 and 10 of the Law of Ukraine “On the Principles of State Regulatory Policy”).

Currently, the procedure for implementing PLS which is carried out at the parliamentary level is to some extent outlined by the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine.”

Thus, pursuant to Part one, Article 24 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine,” parliamentary committees on issues within their competence are to analyze the practice of application by state bodies, local self-government bodies, their officials of the Constitution and Laws of Ukraine, analyze compliance of the bylaws adopted by them with the law and the timeliness of their adoption. Based on the results of such analysis, the committee is to provide recommendations to state bodies, local self-government bodies and their officials on bringing the by-laws in compliance with the law. At the same time, the recommendations of the committees are subject to mandatory consideration by the state bodies, local self-government bodies, their officials, associations of citizens, enterprises, institutions and organizations. The results of the review and the measures taken must be reported to the committees within the timeframe prescribed by the law, unless the relevant recommendations set a later date (Part two of the said article of this Law).

Parliamentary committees have a set of tools for conducting PLS, some of which are explicitly provided by the law, while others have developed in the process of practical work.

Thus, in particular, Article 29 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine” empowers the parliamentary committees to hold their own hearings to discuss the drafts of the most important legislative acts, identify the effectiveness of implementation of adopted laws and other acts of the Verkhovna Rada of Ukraine related to issues within their competence, obtain comprehensive information on issues considered by the committee, study and discuss them in detail, and also engage the general public in state policy-making, in building a democratic society. Information obtained during such hearings may be used by the committees in making decisions, providing committee opinions, recommendations on issues within the committee’s competence, and disseminated among the MPs of Ukraine.

When implementing PLS, the parliamentary committees may also use reports of the Accounting Chamber, the Verkhovna Rada of Ukraine Commissioner for Human Rights, decisions of the Constitutional Court of Ukraine and other courts, media reports, appeals from citizens and NGOs about improper application of a law.

Article 17 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine” empowers the parliamentary committees to receive from state bodies, local self-government bodies, enterprises, institutions and organizations and their officials materials and documents required for supporting the activities of the committees in accordance with the subjects of their competence, review and study such information.

No timeframes for the implementation of PLS by the parliamentary committees are set by the law, so they perform such work at their own discretion and it is determined only by the work plans of the committees.

The Ukrainian Parliament works in sessions; regular sessions begin on the first Tuesday of February and the first Tuesday of September of each year. Therefore, PLS planning in the committees is carried out on a session-by-session basis. Before the beginning of each regular session, the parliamentary committees approve their work plans for the next session; in those plans, the measures to monitor the implementation of Laws and Resolutions of the Verkhovna Rada of Ukraine and their own decisions are singled out as a separate section.

Relevant secretariats of committees, which are structural subdivisions of the Verkhovna Rada of Ukraine Secretariat, are established to carry out the current work of the parliamentary committees, including the PLS. The Law of Ukraine “On Public Service” applies to the employees of the committees’ secretariats.

On legislative regulation of the procedure for holding public consultations and taking into account reports prepared on the basis of their results

The Law of Ukraine “On the Principles of State Regulatory Policy in the Field of Economic Activity,” which also applies to regulatory acts adopted by the Verkhovna Rada of Ukraine, defines as a mandatory stage of ensuring the implementation of state regulatory policy the promulgation of draft regulatory acts for the purpose of receiving critical remarks and proposals from individuals, legal entities or their associations, as well as open discussions with the participation of members of the public on issues related to regulatory activities (Article 5).

In such case, Article 6 of this Law empowers citizens, economic entities, their associations and scientific institutions, as well as consultative and advisory bodies established under bodies of state power and local self-government bodies and representing the interests of citizens and economic subjects to:

- 1) submit proposals to regulatory bodies on the necessity to prepare draft regulatory acts, as well as the necessity to revise them;
- 2) in cases specified by the law, participate in the development of draft regulatory acts;
- 3) submit critical remarks and proposals on published draft regulatory acts, participate in open discussions of issues related to regulatory activities;
- 4) be involved by regulatory authorities in the preparation of regulatory impact analyses, expert opinions on regulatory impact and implementation of measures to monitor the effectiveness of regulatory acts;
- 5) prepare by themselves an analysis of the regulatory impact of draft regulatory acts developed by regulatory authorities, monitor the effectiveness of regulatory acts, submit critical remarks and proposals on the results of this activity to regulatory authorities or bodies which, pursuant to this Law, are to make decisions, based on analyzing the reports on monitoring the effectiveness of regulatory acts, on the necessity to revise them;
- 6) receive information from regulatory authorities in response to requests for information on their regulatory activities.

Moreover, plans of activities for the preparation of draft regulatory acts (including amendments thereto) are to be published no later than within ten days after their approval. In such case, if a regulatory body prepares or reviews a draft regulatory act that is not included in the plan of activities for the preparation of draft regulatory acts approved by this regulatory body, this body must make appropriate changes to the plan no later than within ten working days from the day of starting the preparation of that draft or from the day of submission of the draft for consideration to this regulatory body, but not later than the day of promulgation of this draft (Article 7 of the Law).

Article 9 of this Law specifies the procedure for promulgation of draft regulatory acts in order for the purpose of obtaining critical remarks and proposals from individuals and legal entities or their associations. First, a notice of publication of the draft regulatory act is published, which must contain:

- 1) a summary of the content of the draft;
- 2) the postal address and e-mail address, if available, of the developer of the draft and other bodies to which critical remarks and proposals are to be sent;
- 3) information on the method of publication of the draft regulatory act and the relevant regulatory impact analysis (name of the print media and/or address of the Internet page where the draft regulatory act and regulatory impact analysis were published or posted, or information on another method of publication);
- 4) information on the timeframe for accepting critical remarks and proposals from individuals, legal entities or their associations;
- 5) information on the manner of providing critical remarks and proposals by individuals, legal entities or their associations.

After that, the draft regulatory act is to be published within five working days, together with the relevant regulatory impact analysis.

The timeframe for receiving critical remarks and proposals from individuals, legal entities or their associations is set by the developer of the draft regulatory act and may not be less than one month and more than three months from the day of publication of the draft regulatory act and the respective regulatory impact analysis.

All critical remarks and proposals on the draft regulatory act and the respective regulatory impact analysis received within the established timeframe are subject to mandatory consideration by the developer of the draft. Based on the results of such consideration, the developer of the draft regulatory act will fully or partially take into account the critical remarks and proposals received or reject them for a good reason.

Article 13 of the Law specifies the methods for publishing documents prepared in the process of carrying out regulatory activities. Thus, this Article provides the following:

- 1) the plan of activities of the regulatory body for the preparation of draft regulatory acts and amendments to the plan are to be promulgated by publishing them in the print media of this regulatory body; and in their absence, in the print media specified by this regulatory body, and/or by posting the plan and changes thereto on the official website of the relevant regulatory body on the Internet;
- 2) the announcement of the publication of the draft regulatory act for the purpose of obtaining critical remarks and proposals, the draft regulatory act and the respective regulatory impact analysis are to be promulgated by publishing them in the print media of the developer of this draft, and in their absence, in the print media specified by the developer, and/or by posting them on the official website of the developer of the draft regulatory act on the Internet;
- 3) the report on monitoring the effectiveness of the regulatory act is to be promulgated by publishing it in the print media of the regulatory body that adopted the regulatory act; and in their

absence, in the print media specified by this regulatory body, and/or by posting on the official website of this regulatory body. authority on the Internet.

It is also envisaged that if the print media are not distributed within the administrative-territorial unit or settlement, while local executive bodies, territorial bodies of central executive bodies, bodies and officials of local self-government have no official Internet pages of their own, the documents may be promulgated in any other way that guarantees the delivery of information to the residents of the respective administrative-territorial unit or to the respective territorial community. Expenses related to the publication of such regulatory documents are to be covered by the developers of these draft regulatory acts or by the regulatory bodies publishing these documents.

Moreover, the Rules of Procedure of the Cabinet of Ministers of Ukraine stipulate that draft laws submitted under the legislative initiative procedure by the Cabinet of Ministers of Ukraine to the Verkhovna Rada of Ukraine are to be prepared by the Ministry of Justice of Ukraine, other central executive bodies in compliance with the requirements of the Rules of Procedure of the Verkhovna Rada of Ukraine and the provisions of the Rules of Procedure of the Cabinet of Ministers of Ukraine, according to which the developer of the respective draft law must provide for public consultations on the draft laws with representatives of the stakeholders. For holding public consultations, such drafts, together with the accompanying materials, are to be published by the developer on its official website, unless otherwise provided by the law (paragraphs 1, 2, § 42, paragraph 1, § 70 of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

In addition, the Law of Ukraine “On Access to Public Information” (Part three, Article 15) provides for the obligation of the subjects of power to publish draft acts to be discussed 20 days before their adoption, but the procedure for receiving feedback for such drafts is not provided by the law. At the same time, a number of Laws adopted by the Verkhovna Rada of Ukraine (primarily after the Revolution of Dignity) provide for public consultations at different stages of formation and implementation of state policy to some or other extent (for example, the Law of Ukraine “On the Natural Gas Market” No. 329- VIII dated April 9, 2015, “On the Electric Power Market” No. 2019-VIII dated April 13, 2017, “On Electronic Communications” No. 1089-IX dated December 16, 2020, “On Stimulating the Development of the Digital Economy in Ukraine” No. 1667- IX dated July 15, 2021 and others). Thus, there is an urgent need for a systematic regulation at the legislative level of the procedure for public consultations at all stages of formation and implementation of state policy.

For the purpose of legislative regulation of the basic principles (standards) of holding public consultations during the formation and implementation of state policy, in particular during the preparation of draft laws submitted to the Verkhovna Rada of Ukraine not only by the Cabinet of Ministers of Ukraine but also by other holders of the right to legislative initiative, and also when addressing issues of local significance, the Cabinet of Ministers of Ukraine developed a draft law “On Public Consultations” (Reg. No. 4254 of 23.10.2020). The said draft law was adopted as a basis on March 5, 2021, and is being prepared by the Verkhovna Rada of Ukraine Committee on State Building, Local Governance, Regional and Urban Development for consideration by the Verkhovna Rada of Ukraine in the second reading.

The draft law proposes establishing that public consultations at all stages of formation and implementation of state policy, including state regional policy, in particular during the preparation of draft laws, are to be conducted on the basis of principles of participation, openness and transparency,

accessibility, accountability, efficiency, and proportionality. The draft also envisages making relevant amendments to the Rules of Procedure of the Verkhovna Rada of Ukraine. The adoption of the said law will be conducive to the implementation of the principles of good governance by involving the stakeholders in decision-making to balance public and private interests, by introducing modern decision-making standards.

14. Please specify what percentage of law were adopted by fast-track procedure over the past 5 years.

During the period from January 1, 2017, to December 31, 2021, a total of 1,057 laws were adopted.

Moreover:

1) discussion of issues under the shortened procedure at a plenary meeting of the Verkhovna Rada was used in the consideration of 297 draft laws;

2) the timeframes for submitting amendments and proposals (before the second reading) were shortened for 153 draft laws.

At the same time, discussions under the shortened procedure and reduction of the timeframes for submission of amendments and proposals are not allowed when considering draft codes and other draft laws having more than 100 articles and paragraphs (Articles 113, 116 of the Rules of Procedure of the Verkhovna Rada of Ukraine).

Adopting the draft law in the first reading and in general is the fastest way to pass a law. As of April 11, 2022, in the ninth convocation of the Verkhovna Rada (2019-incumbent), out of 776 adopted laws, 330 (42.5%) laws were adopted in the first reading and in general. Excluding international agreements (which are always adopted in the first reading and in general), in the ninth convocation of the Verkhovna Rada of 660 adopted laws, 214 (32.4%) were adopted in the first reading and in general.

For the previous VIII convocation of the Verkhovna Rada (2014-2019), out of 989 adopted laws, 566 (57.2%) laws were adopted in the first reading and as a whole. Excluding international agreements (which are always adopted in the first reading and in general), in the VIII convocation of the Verkhovna Rada of 819 adopted laws, 396 (48.3%) were adopted in the first reading and in general.

15. Please specify the competences of the Parliamentary Committees.

As already mentioned when presenting the material in response to Question 10, the law-drafting, organizational and oversight functions are the key ones for the committees of the Verkhovna Rada of Ukraine. The main components of these functions provided by the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine” are also specified in paragraph 10.

At the same time, it should be emphasized that at present, undoubtedly, the decisive area of committee activities is law-drafting. Therefore, in our opinion, it is expedient to focus in greater detail

on the rights and responsibilities of the committees of the Verkhovna Rada of Ukraine provided by the law for the proper implementation of this particular function.

Thus, when exercising the law-drafting function a committee has the right to:

1) develop on its own initiative draft laws and other draft acts of the Verkhovna Rada of Ukraine on issues assigned to the competence of the committees, with subsequent submission of these drafts by members of the committee, upon its decision, to the Verkhovna Rada of Ukraine for consideration;

2) determine the tasks for the development of draft laws or structural parts thereof on issues assigned to their competence;

3) publish in mass media, on its own decision, draft laws developed on its own initiative before submitting them to the Verkhovna Rada of Ukraine;

4) submit proposals and amendments during the consideration at its meeting of a draft law or other draft act of the Verkhovna Rada of Ukraine;

5) create working groups and appoint their heads from among the members of the committee for the preparation of draft acts of the Verkhovna Rada of Ukraine, issues discussed at committee meetings, draft decisions, recommendations, opinions of committees;

6) include in the working groups the committee's members, other MPs of Ukraine, employees of research institutes and educational institutions, authors of draft legislative acts and other specialists, with their consent;

7) involve specialists, on a contractual basis, in the activities of working groups, with payment from the funds allocated in the budget for the exercise of the powers of the Verkhovna Rada of Ukraine;

8) involve in the working groups' activities officials and officers of state and local self-government bodies, with the consent of the head of the respective body;

9) ask state bodies, local self-government bodies, scientific institutions and organizations, associations of citizens to make proposals on draft laws;

10) initiate the conclusion, within the funds allocated in the budget for the exercise of the powers of the Verkhovna Rada of Ukraine, of contracts with research institutes, educational institutions and specialists for scientific and information search, development, finalization and examination of draft laws.

Moreover, when performing the law-drafting function the committees are obliged to:

1) organize the development of draft laws and other draft acts on instructions from the Verkhovna Rada of Ukraine;

2) consider draft acts of the Verkhovna Rada of Ukraine in accordance with the procedure and deadlines established by the Rules of Procedure of the Verkhovna Rada of Ukraine and submit them for consideration by the Verkhovna Rada of Ukraine;

3) prepare opinions on draft acts of the Verkhovna Rada of Ukraine submitted for consideration to the parliament by holders of the right to legislative initiative;

4) consider and summarize the opinions of other committees and prepare them for consideration by the Verkhovna Rada of Ukraine if the committee is designated in accordance with the Rules of Procedure of the Verkhovna Rada of Ukraine as the main one for processing the respective draft act of the Verkhovna Rada of Ukraine;

5) finalize draft acts of the Verkhovna Rada of Ukraine on instructions from the Verkhovna Rada of Ukraine based on the results of their consideration in the first and subsequent readings (except for acts adopted by the Verkhovna Rada of Ukraine as a whole);

6) consider and make decisions on each proposal received from holders of the right to legislative initiative when draft laws and other acts are being finalized by the committee;

7) analyze the practice of application of legislative acts assigned to the competence of the committee, prepare proposals for their systematization, codification;

8) give preliminary consideration to and prepare opinions on granting consent to the binding nature or denunciation of international treaties;

9) give preliminary consideration to and prepare opinions on draft national programs of economic, scientific and technical, social, national and cultural development, environmental protection, reports on the implementation of these programs;

10) summarize the comments and proposals received during public discussions of draft laws;

11) study public opinion, consider appeals from citizens, associations of citizens, the results of an all-Ukrainian referendum, any proposals revealing the need to adopt new legislative acts or make amendments to legislative acts, and, if necessary, prepare relevant draft acts and submit them for consideration to the Verkhovna Rada of Ukraine;

12) submit for consideration to the Verkhovna Rada of Ukraine opinions, recommendations, draft acts of the Verkhovna Rada of Ukraine, executed in accordance with the requirements established by the Law of Ukraine: On the Committees of the Verkhovna Rada of Ukraine and by the Rules of Procedure of the Verkhovna Rada of Ukraine.

By the way, it should be noted that the committees' law-drafting work is characterized, from the point of view of the law, by a fairly wide discretion in terms of temporal parameters of draft law processing. Thus, the total time of preparation of draft laws for consideration in the first reading (i.e., before the parliament passes a decision on the concept of the bill) is up to 60 days. By contrast, the legislator has not set a timeframe for finalizing a bill before the second reading, since the readiness of the text should be determined by the committee itself, based on the circumstances (such state of readiness is formalized in the form of the committee's proposal to put the bill on the weekly plenary agenda of the Verkhovna Rada of Ukraine).

At the same time, it should be noted that the competence of the parliamentary committees in terms of legislative regulation does not end with the adoption of a law and its signing in accordance with the prescribed procedure. The committees are also involved in the exercise of parliamentary ex-post oversight, in particular overseeing the state of implementation of adopted laws in terms of monitoring their regulation through secondary legislation in accordance with their area of competence. Thus, the Law of Ukraine "On the Committees of the Verkhovna Rada of Ukraine" (Article 24) stipulates that committees on issues assigned to their competence are to analyze the

practice of application by state bodies, local self-government bodies, officials thereof of the Constitution and Laws of Ukraine, analyze compliance with the law of bylaws adopted by them, the timeliness of their adoption. Notably, based on the results of such analysis, the committees submit recommendations to state bodies, local self-government bodies, and officials thereof on bringing a by-law in compliance with the law.

Competence of the committees of the Verkhovna Rada of Ukraine of the 9th convocation:

1. Committee on Agrarian and Land Policy: economic policy in the agro-industrial complex; state regulation of agro-industrial production and applied research in the agricultural sector; agricultural cooperation; regulation of land policy (except for land policy within the development territories); forestry, water and fisheries.

2. Committee on Anti-Corruption Policy: formation of anti-corruption policy; prevention and counteraction of corruption; prevention of corruption in the activities of legal entities; prevention and settlement of conflicts of interest; rules of ethical conduct in the public service; financial control over persons authorized to perform the functions of the state and local self-government; responsibility for committing corruption offences and corruption-related offences; legal regulation and organisation of the National Anti-Corruption Bureau of Ukraine, National Agency on Corruption Prevention, National Agency for Finding, Tracing and Management of Assets Derived From Corruption and Other Crimes; activities of other law enforcement bodies and public authorities with regard to their powers in the field of preventing and combating corruption; state protection of persons assisting with prevention and combating corruption. The Committee conducts anti-corruption expert review of all draft laws submitted by the subjects of the right of legislative initiative.

3. Committee on Budget: state budget policy and inter-budgetary relations; budget process (including medium-term budget planning, reporting on budget implementation, control over compliance with budget legislation); State Budget of Ukraine; public internal and external debt; activities of the Accounting Chamber; activity of state financial bodies and bodies of state financial control (State Audit Service of Ukraine). The Committee conducts expert review of the impact of draft laws, draft other acts on budget indicators and compliance with the laws governing budgetary relations.

4. Committee on Humanitarian and Information Policy: cultural and educational activities (publishing, librarianship, folk arts and crafts); cultural and artistic activities (professional creative unions, theatres, music, schools of aesthetic education, art market, design, galleries, organisation of exhibitions, concerts, festivals, etc.); media industry (television, OTT and IPTV, information dissemination platforms, radio), national film industry; audiovisual market; advertising; protection of historical and cultural heritage (museum business, archival business, reserves, export, import and return of cultural values); print, electronic media, including social media, the Internet; tourism and tourist activity; resorts and recreational activities; state policy in the field of freedom of conscience and religious organisations; state policy in the field of development and use of the state language and languages of national minorities in Ukraine; principles of charitable activity, including patronage; state policy in the field of information and information security (except for issues related to national security and defence); coverage of the activities of the Verkhovna Rada of Ukraine; state policy in the field of family and marriage relations; state policy to promote the creation of families, ensuring

state assistance to families with children, protection of homeless children, rehabilitation and recreation of children; demographic policy.

5. Committee on Environmental Policy and Nature Management: protection, conservation, use and restoration (reproduction) of natural resources, including subsoil, forests, water resources, air, fauna and flora, natural landscapes; conservation and balanced use of natural resources of the exclusive (marine) economic zone, the continental shelf and the development of outer space; environmental safety, prevention and elimination of the consequences of natural disasters, man-made accidents and catastrophes, the activities of state rescue services; radiation and fire safety; civil protection of the population; legal regime of the ecological emergency zone; state policy in the field of waste management (except household); state monitoring of the natural environment; administrative and economic sanctions for environmental pollution; creation, protection and development of objects of the nature reserve fund of Ukraine; elimination of the consequences of the Chornobyl catastrophe, including consent to the binding nature of international agreements of Ukraine on these issues; legal regime of radioactive contamination zones, including those created as a result of the Chornobyl catastrophe; prevention of negative anthropogenic climate change; environmental audit.

6. Committee on Economic Development: state economic policy; pledge, leasing, concession, lease, distribution of products; management of state and municipal property; privatisation of state and municipal property, nationalisation, re-privatisation, bankruptcy, etc.; intellectual property; regulation of public procurement; prices and tariffs, pricing; economic legislation; regulation of scrap metal operations; cooperation (except for agricultural cooperation); antitrust policy, development of economic competition, consumer protection; regulatory policy; industrial policy and development of certain industries; foreign economic, investment activities, special (free) economic zones and territories of priority development, technology parks; standardisation, confirmation of conformity, accreditation and metrological activities; public-private partnership; space activities (except for issues related to national security and defence); development of entrepreneurial activity and guaranteeing the rights and legitimate interests of business entities.

7. Committee on Energy, Housing and Utilities Services: development of the fuel and energy complex, coal, gas, oil, oil refining and electricity industries; development of nuclear energy and nuclear safety; functioning of energy and energy products markets; transportation of energy and energy products; energy saving and energy efficiency; non-traditional and renewable energy sources; household waste management; utilities; housing and utilities services.

8. Committee on National Health, Medical Care and Health Insurance: legislation on health care, including medical care, medical activities, medicinal products, medical devices, pharmacy and pharmaceuticals; state policy in the areas of combating socially dangerous diseases (AIDS, tuberculosis, drug addiction, etc.), infection control and epidemic safety; modern medical technologies and medical equipment; development of transplantology in Ukraine; voluntary health insurance; legal regulation of compulsory state health insurance; sanatorium rehabilitation; protection of motherhood and childhood, reproductive health of the population; military medicine.

9. Committee on Foreign Policy and Inter-Parliamentary Cooperation: legislative support of the foreign policy of Ukraine; external relations, including those related to the participation of Ukraine in international organisations such as the United Nations (UN), Organisation for Security and Cooperation in Europe (OSCE), Council of Europe (CoE), Organization of Black Sea Economic

Cooperation (BSEC), Organization for Democracy and Economic Development GUAM (GUAM), Central European Initiative (CEI), Inter-Parliamentary Union (IPU), etc., as well as North Atlantic Treaty Organization (NATO) and World Trade Organization (WTO) within the Committee's mandate; cross-border and inter-regional cooperation (except cross-border and inter-regional cooperation with the countries of the European Union (EU)); legislative support for the implementation of the country's foreign policy course towards membership in the North Atlantic Treaty Organization (NATO); legislative support to repel external aggression against Ukraine, non-military international forms and methods of deterring the aggressor state; giving consent to the binding nature of international treaties of Ukraine (ratification, accession to an international treaty, adoption of the text of an international treaty), denunciation of international agreements of Ukraine (except for international agreements of Ukraine with the European Union (EU) and its member states); cooperation of the Verkhovna Rada of Ukraine with the parliaments of foreign states; cooperation of the Verkhovna Rada of Ukraine with parliamentary bodies of international organisations; diplomatic service; ensuring ties with Ukrainians abroad.

10. Committee on Ukraine's Integration into the European Union: Ukraine's participation in international integration processes related to the activities of the European Union (EU), the European Atomic Energy Community and their Member States; adaptation of Ukrainian legislation to the legislation of the European Union (EU), ensuring its compliance with the obligations of Ukraine within the Council of Europe (CoE); assessment of compliance of draft laws with the international legal obligations of Ukraine in the field of European integration; state policy in the field of European integration; ensuring inter-parliamentary relations within the framework of Ukraine's cooperation with the European Union (EU); coordination of European Union's (EU) technical assistance programs to the Verkhovna Rada of Ukraine and special training programs; consent to the binding nature of international agreements of Ukraine with the European Union (EU) and its member states (ratification, accession to an international agreement, adoption of the text of an international agreement), denunciation of these international agreements of Ukraine; cross-border and interregional cooperation with European Union (EU) member states; cooperation with the EU institutions on repelling external aggression against Ukraine, non-military international forms and methods of deterrence of the aggressor state. The Committee assesses the compliance of the draft laws with international legal obligations of Ukraine in the field of European integration.

11. Committee on Youth and Sports: state youth policy; national patriotic education; physical culture and mass sports; high-achievement sports and sports activities; regulation of the use of funds for the development of sports received from lotteries.

12. Committee on National Security, Defence and Intelligence: national security of Ukraine; organisation and activity of security services, intelligence and counterintelligence bodies, protection of state secrets; legal regime of the state border, martial law and state of emergency; defence industrial complex, the state system of the insurance fund of documentation, military and military-technical cooperation of Ukraine with other states, as well as participation of Ukraine in international peacekeeping operations; state policy in the field of defence; fight against terrorism; exercising civilian, including parliamentary, control over the military organisation of the state; military service, the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, and their reform; alternative (non-military) service; social and legal protection of servicemen and members of their families; military science and education; state system of special communication;

space activities (in terms of issues related to national security and defence); legislation on critical infrastructure safety.

13. Committee on State Building, Local Governance, Regional and Urban Development: legislative support of the organisation and procedure for organisation and holding of elections and referendums; legal status of the Central Election Commission; members of the Central Election Commission; legislative support of the activities of the President of Ukraine, the Cabinet of Ministers of Ukraine, central executive bodies; administrative and territorial structure of Ukraine; special status of the cities of Kyiv and Sevastopol; organisation and activity of local executive bodies; principles of local self-government and bodies of self-organisation of the population; principles of organisation of administrative services; civil service and service in local self-governing bodies; appointment of regular and early elections to local self-governing bodies; state symbols of Ukraine; state awards of Ukraine; regional development policy; urban planning; land policy (within the development territories); landscaping, construction and architecture; energy efficiency in the construction industry; housing; housing policy.

14. Committee on Education, Science and Innovations: education; science, scientific and technical activities and science parks; legal status and social protection of scientific, pedagogical and scientific-pedagogical workers; innovation activity, development of high technologies (except for issues related to other committees); principles of scientific and technical expert reviews.

15. Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Oblasts and Autonomous Republic of Crimea, National Minorities and Interethnic Relations: observance of human and civil rights and freedoms; introduction of European standards of protection of human rights and fundamental freedoms into national legislation; activities of the Ukrainian Parliament Commissioner for Human Rights; citizenship, status of foreigners and stateless persons; legislative support for the collection and use of personal data (except for the protection of information and personal data in information and telecommunications systems); ethnic and national policy, inter-ethnic relations and rights of indigenous peoples and national minorities in Ukraine; immigration, refugees and persons in need of additional or temporary protection; legislative provision of equal rights and opportunities for women and men; cooperation with Council of Europe (CoE), Organization for Security and Cooperation in Europe (OSCE) in the field of observance (protection) of human rights, national minorities and international relations; cooperation with the Office of the United Nations High Commissioner for Refugees, International Organization for Migration, the UN Human Rights Council in accordance with the statutory tasks of these organizations, which coincide with the competence of the Committee; policy on the temporarily occupied territories of Ukraine; reintegration of the population living in the temporarily occupied territories of Ukraine; realization of the rights and freedoms of internally displaced persons and creation of conditions for voluntary return of such persons to the abandoned place of residence; restoration and development of de-occupied territories of Donetsk and Luhansk oblasts, the Autonomous Republic of Crimea and the city of Sevastopol; protection of the rights and freedoms of persons violated as a result of the temporary occupation of part of the territory of Ukraine or loss of control over its part; realization of the rights and freedoms of citizens of Ukraine living in the temporarily occupied territories of Ukraine.

16. Committee on Legal Policy: assessment of compliance of draft laws and drafts of other acts of the Verkhovna Rada of Ukraine with the Constitution of Ukraine; standards of normative activity and planning of legislative activity of the Verkhovna Rada of Ukraine; constitutional legislation; status and organisation of political parties, public associations; amending the Constitution of Ukraine; approval of the Constitution of the Autonomous Republic of Crimea and amendments to the Constitution of the Autonomous Republic of Crimea; organisation and activity of the Constitutional Court of Ukraine; status of judges of the Constitutional Court of Ukraine; constitutional proceedings; civil law; administrative legislation; civil, commercial and administrative proceedings (procedural legislation); judicial system, status of judges, status of judicial governing bodies; ensuring the direct participation of citizens in the administration of justice; criminal executive legislation; organisation and activity of penitentiary bodies and institutions; principles of implementation of decisions of the European Court of Human Rights; execution of court decisions, organisation and activity of bodies of justice, executive service, forensic examination, notary; legislation on providing legal assistance to citizens, regulating the organisation and activities of the Bar; organisation and activity of international commercial arbitration, arbitration courts, mediation.

17. Committee on Law Enforcement: forming a strategy for the functioning of the law enforcement system of Ukraine; criminal law; criminal procedural legislation; legislation on administrative offences; organisation and activity of the prosecutor's office, the police, the National Guard, the Border Guard Service, the State Bureau of Investigation, and other law enforcement authorities; operational and investigative activities; organisation and activity of pre-trial investigation bodies; combating organized crime and international crime, combating cyber-crime; combating illegal migration; crime prevention and administrative supervision of persons released from prisons; ensuring public safety and public order protection; security services and detective work; circulation of weapons among civilian population; state protection of participants in criminal proceedings and state protection of judges, law enforcement officers; social protection of law enforcement officers and members of their families; international cooperation and coordination in law enforcement.

18. Committee of the Verkhovna Rada on Rules of Procedure, Parliamentary Ethics and Administration of Verkhovna Rada's Work: Rules of Procedure of the Verkhovna Rada of Ukraine and parliamentary procedures; legal status of MPs of Ukraine; giving consent to prosecute, detain or arrest an MP of Ukraine; early termination of powers of the MP of Ukraine; incompatibility of the MP's mandate with other types of activity; legal status of parliamentary factions (parliamentary groups) in the Verkhovna Rada of Ukraine, non-faction MPs of Ukraine; legal status of committees and commissions of the Verkhovna Rada of Ukraine; discipline and observance of the provisions of Parliamentary Ethics by MPs; material and household support of MPs of Ukraine; administration of Verkhovna Rada's work and monitoring the performance of its apparatus' functions to ensure the implementation of the activities of the Verkhovna Rada of Ukraine and its bodies; budget of the Verkhovna Rada of Ukraine.

19. Committee on Freedom of Speech: ensuring freedom of speech; citizens' rights to information; protection of the rights and freedoms of people working in media; guarantees of mass media activity, protection of the rights of journalists and people working in mass media.

20. Committee on Social Policy and Protection of Veterans' Rights: state policy in the field of social protection of citizens; compulsory state social insurance; state social standards and state social

guarantees, ensuring a sufficient standard of living; legislative regulation of humanitarian aid; state policy in the field of regulation of labour relations and employment; development of social partnership and activity of public associations of the parties of social partnership; work of funds of obligatory state social insurance and other social funds; state policy with regard to pensions; legal status and social protection of war veterans, World War II veterans, participants in the Liberation War, internationalist soldiers, participants in the anti-terrorist operation and the Joint Forces operation, other persons covered by the Law of Ukraine “On Status of War Veterans, Guarantees of Their Social Protection”, victims of Nazi persecution and repression of the communist totalitarian regime, family members of the above-mentioned people, children of war, the elderly, as well as regulation of their public associations; legal status and social protection of victims of the Revolution of Dignity and members of their families; social protection of citizens affected by the Chernobyl disaster; legislative provision to perpetuate the memory of those who died defending the Motherland; social protection and rehabilitation of persons with disabilities and regulation of their enterprises and public associations; rehabilitation of war veterans who participated in the anti-terrorist operation and implementation of measures to ensure national security and defence, repel and deter armed aggression of the Russian Federation in Donetsk and Luhansk oblasts; legislative regulation of the provision of social services to veterans, people with disabilities, the elderly and other people in difficult life circumstances.

21. Committee on Transport and Infrastructure: strategy and priorities of infrastructure development of Ukraine; development, construction, reconstruction and modernization of air, sea and river transport infrastructure; railway transport; road transport; public transport; transit transport; air transport; water transport; pipeline transport; critical infrastructure; road management; tunnels, bridges and crossings; airspace of Ukraine; aquatic areas; merchant shipping; navigation and hydrographic support of navigation; ports, transport and transshipment hubs; marine and river infrastructure; quality and sustainability of services of infrastructure entities; access to infrastructure facilities; postal service; safety on transport (air, automobile, city electric, railway, water); transportation of dangerous goods; road safety.

22. Committee on Finance, Taxation and Customs Policy: monetary policy; banks and banking activities; currency regulation and currency supervision; capital market and other regulated markets; securities, derivative financial instruments (derivatives); activities of non-bank financial institutions; insurance activity; functioning of financial markets and prevention of legalization (laundering) of proceeds from crime; functioning of payment systems; protection of the rights of consumers of financial services and guaranteeing deposits of individuals; taxation system, national taxes and fees (duties, fees, other mandatory payments), local taxes and fees, parafiscals, other budget revenues of non-tax nature, the single social security tax, as well as other taxes deducted from the payroll; organisation and activity of tax authorities; tax benefits; legal regulation of tax control; tax debt and/or tax liabilities; customs and customs tariff; activities of customs authorities; legislative regulation of ethanol, alcohol and tobacco market; organisation and carrying out of lotteries, taxation of entities involved in lottery business, gambling; accounting and reporting, audits.

23. Committee on Digital Transformation: legislation on digitization and digital society in Ukraine; national and state informatization programmes; EU Digital Single Market (EU4Digital) and other digital cooperation programs; innovations in the field of digital entrepreneurship, development of the startup ecosystem; digital technologies research centres; digital industry and

telecommunications; e-government and public e-services; e-democracy; electronic trust services and digital identification; state information and analytical systems, electronic document management; state information resources, electronic registers and databases; e-commerce (e-business); virtual assets, blockchain and tokenization; smart infrastructure (cities, communities, etc.); development of “open data”; radio frequency resources; development of the orbital economy; legal principles of administration, functioning and use of the Internet in Ukraine; cybersecurity and cybersafety, including in the field of critical infrastructure; technical and cryptographic protection of information; development of digital competencies, digital rights.

16. How many political parties are registered in Ukraine? How many of these are represented in Parliament?

At present, 377 political parties are registered in Ukraine.

It should be noted that the Verkhovna Rada of Ukraine of current convocation was elected at the July 21, 2019 early election of the MPs of Ukraine, in accordance with the mixed (proportional and majoritarian) electoral system provided for by the Law of Ukraine “On the Election of the MPs of Ukraine” (No. 4061-VI dated November 17, 2011).

Based on the results of that election, 5 deputy factions were formed in the Verkhovna Rada of Ukraine of the current, ninth convocation, based on 5 political parties that received five or more percent of the votes (proportional component of the electoral system): faction of the political party “SERVANT OF THE PEOPLE” (241 MPs of Ukraine), faction of the political party All-Ukrainian Association “BATKIVSHCHYNA” (25 MPs of Ukraine), faction of the political party “EUROPEAN SOLIDARITY” (27 MPs of Ukraine), faction of the political party “HOLOS” (20 MPs of Ukraine), and faction of the political party “OPPOSITION PLATFORM – FOR LIFE” (44 MPs of Ukraine).

Moreover, under the majoritarian electoral system, representatives of 5 more political parties were elected to parliament; those parties failed to achieve independent factional representation: the political party “OPPOSITION BLOC” (6 MPs of Ukraine), and also the political party “Bila Tserkva Together,” the political party All-Ukrainian Association “Svoboda” [“Freedom”], the political party Association “SAMOPOMICH” [“Self-Reliance”], and the political party “United Center” political party (1 MP from each of these parties).

17. Please provide a breakdown of Members of Parliament according to (a) gender; (b) belonging to national minorities.

As of April 1, 2022, the Verkhovna Rada of Ukraine of ninth convocation has 421 MPs of Ukraine, of which 335 are men (79.6%) and 86 are women (20.4%). That is, the democratic development of state institutions and the social development of Ukraine have significantly impacted the gender composition of the Ukrainian parliament. Thus, in the first convocation of the Verkhovna Rada of Ukraine (1990-1994) there were only 2.5% of women (12 out of 475 MPs).

At the same time, it should be noted that statistical analysis based on indicators such as belonging to a certain ethnic group or national minority is not conducted, since at the state level (in

particular in view of the negative practice of accumulating such information in Soviet times) no official provision of such information is required.

18. Please describe the provisions in place defining the persons having the right to vote in elections and the arrangements regarding voters' registers.

The right to vote in elections held in Ukraine is determined by the Constitution of Ukraine (Article 70), the Electoral Code of Ukraine (Article 7) and the Law of Ukraine “On Elections of Members of Parliament of Ukraine” (Article 2), which remains in force until the next regular or early elections of members of parliament of Ukraine with regard to the provisions on the organisation of intermediate elections and replacement of members of parliament of Ukraine, elected in the national multi-member constituency, whose powers were terminated early.

Therefore, citizens of Ukraine who have reached the age of eighteen on the day the elections are held (hereinafter referred to as voters) have the right to vote in the elections of the President of Ukraine, MPs of Ukraine, local elections. Citizens who have been recognized as incapacitated by a court do not have the right to vote.

At the same time, citizens of Ukraine may exercise their right to vote in local elections provided that they are part of the relevant territorial community or reside in the relevant territory, which is determined by their electoral addresses.

Conscripts, citizens of Ukraine living abroad and citizens of Ukraine who are in places of deprivation of liberty are considered to belong to no territorial community and do not have the right to vote in local elections.

The definition of “electoral address” is contained in the Law of Ukraine “On State Voter Register” (Article 8), which regulates the legal and organisational principles of maintaining the State Voter Register (hereinafter referred to as the Register) in Ukraine.

As a general rule, a voter’s election address is the address which is declared or registered as his/her place of residence in accordance with the Law of Ukraine “On Provision of Public (Electronic Public) Services for Declaration and Registration of Residence in Ukraine”.

A voter who actually resides at an address other than the declared or registered place of residence may, at his or her own initiative, be assigned an electoral address based on his or her actual place of residence. Providing such an opportunity contributes to the realization of the voting rights of citizens, including internally displaced persons, labour migrants. At the same time, there are certain time limits for such a change due to the start of the election or referendum process.

For such categories as conscripts, voters who are under arrest, in prison or whose liberty is restricted, as well as voters residing or staying outside Ukraine, election addresses are determined according to the addresses of military units (formations), penitentiary bodies, postal addresses in the countries of residence.

A Register, which is maintained in electronic form with a single centralised database (automated information and communication system) is in place to ensure the state registration of voters.

The system of bodies of the Register consists of the Central Election Commission as the administrator of the Register, regional administrative bodies and bodies maintaining the Register. The latter maintain the Register directly: make entries about voters in its database, make changes to personal data of voters contained in the Register, wipe entries in the Register.

The Register operates continuously, regardless of the timing of elections or referendums. Information from the Register is updated periodically (monthly, as well as during the election process) on the basis of information provided by bodies, institutions, agencies defined by the Law of Ukraine “On the State Voter Register”, i.e. without direct voter participation (passively).

In addition, the Register database is updated if there is a personal initiative: each voter can submit an application to the body maintaining the Registry to include his/her personal data in the Register or change that data contained in the Register, or initiate the elimination of irregularities in the Register in relation to another person.

The accuracy of the information of the Register is ensured by documentary evidence of personal data of voters contained in the Register.

At the end of the five-year period the record of a voter who has died or whose citizenship has been terminated is destroyed.

A voter may apply to any body maintaining the Register to obtain information on his/her personal data in the Register, as well as surnames, first names, patronymics, dates of birth of all voters entered in the Register at his/her voting address (with some exceptions).

Each voter can check their inclusion in the Register via the electronic service “Voter’s Personal Account”.

19. Please describe the overall framework for party and campaign financing, the rules guaranteeing its transparency and provide details on the monitoring of its implementation. How are the GRECO recommendations on "Transparency of Party Funding" addressed? Do the existing reporting obligations under the Electoral Code for public parties during elections also cover private funding sources? Please explain what mechanisms are in place for reporting private and public party financing funding.

General framework for parties financing

The legal framework for financing political parties is determined by the Law "On Political Parties in Ukraine", "On Prevention of Corruption", as well as bylaws.

On January 1, 2016, the Law “On Amendments to Certain Legislative Acts of Ukraine on Preventing and Combating Political Corruption” entered into force in Ukraine, which introduced significant changes to the above-mentioned laws of Ukraine.

As of today, financing of political parties in Ukraine is possible in the following two forms:

- 1) contributions in support of parties;
- 2) state funding of political parties.

Financing from the state budget today is:

1) financing the statutory activities of political parties not related to their participation in elections of people's deputies of Ukraine, elections of the President of Ukraine and local elections, including remuneration of employees of statutory bodies of a political party, its local organizations in the manner prescribed by law;

2) reimbursement of expenses of political parties related to the financing of their election campaign during the regular and extraordinary elections of People's Deputies of Ukraine..

A party receiving state funding for its statutory activities is contingent upon a political party getting at least 5 percent of the total number of votes cast in the last ordinary or extraordinary elections of members of parliament of Ukraine or for its electoral list of candidates for members of parliament of Ukraine in the nation-wide multi-mandate constituency submitted for all electoral lists of candidates for members of parliament of Ukraine in the nation-wide multi-mandate constituency (Article 17-3 of the Law of Ukraine "On Political Parties in Ukraine")..

The annual amount of state funding for the statutory activities of political parties that are entitled to such funding under this Law is one hundredth of the minimum wage set for January 1 of the year preceding the year of allocation of state budget funds multiplied by the total number of voters participation in voting in the national multi-member constituency in the last regular or extraordinary elections of people's deputies of Ukraine (Article 17-2 of the Law of Ukraine "On Political Parties in Ukraine").

Reimbursement of expenses related to the financing of a political party's election campaign in the elections of people's deputies of Ukraine shall be made in the amount of expenses actually incurred by the political party, but not more than the maximum amount of the election fund of the political party. , established by the Law of Ukraine "On Elections of People's Deputies of Ukraine" (Articles 17-4 of the Law), which may not exceed ninety thousand minimum wages.

The National Agency for the Prevention of Corruption (hereinafter referred to as the NAPC) manages the funds allocated from the state budget to finance the statutory activities of political parties, which distributes them in accordance with Art. 17-3, 17-4, 17-5 of the Law of Ukraine "On Political Parties in Ukraine". A political party has the right to use funds for statutory activities within one calendar year from the date of the first transfer of such funds to its account.

State control over the lawful and targeted use by political parties of funds allocated from the state budget to finance their statutory activities is exercised by the NAPC and the Accounting Chamber within the limits of their powers.

Private sources of funding

In addition to state funding, Ukrainian law allows the financing of political parties by private entities in general. The Law of Ukraine "On Political Parties in Ukraine" establishes a number of rules and restrictions on private financing of parties.

First, a monetary contribution in support of a political party is made by an individual or legal entity by transferring the amount of the contribution to the relevant bank account (Article 15 of the Law). Therefore, even the smallest contributions in cash are prohibited. This requirement is dictated by the need to ensure the most transparent process of donor party funding and to avoid "shadow" party funding, which often takes place in cash.

Secondly, there are two types of restrictions (Article 15 of the Law), namely in relation to contributors (individuals and legal entities) and the maximum amount of the contribution.

Thus, contributions by the following individuals are not allowed (items 7, 8, 9, part 1 of Article 15 of the Law): persons, who are not citizens of Ukraine (foreigners and stateless persons); anonymous or pseudonymous persons; citizens of Ukraine who have not reached the age of 18 or who have been declared incapable in accordance with the procedure established by law; natural persons with whom a contract has been concluded for the purchase of works, goods or services to meet the needs of the state or local community for a total of more than 50 living wage for able-bodied persons (as of January 1, 2022 - UAH 2,481), set for January 1 the year in which the contribution is made, during the term of such agreement and within 1 year after its termination.

It is also not allowed to make contributions by such legal entities (items 1, 2, 3, 4, 5, 6, 9, part 1 of Article 15 of the Law):

- public authorities and local governments;
- state and municipal enterprises, institutions and organizations;
- legal entities in which at least 10 percent of the authorized capital or voting rights directly or indirectly belong to the state, local governments;
- legal entities, the ultimate beneficial owners (controllers) of which are the persons specified in p. "A", "c" - "i" item 1 and in item "A" item 2 h. 1 Art. 3 of the Law of Ukraine "On Prevention of Corruption";
- foreign states, foreign legal entities, legal entities in which at least 10 percent of the authorized capital or voting rights directly or indirectly belong to non-residents, as well as legal entities whose ultimate beneficial owners (controllers) are foreigners or stateless persons;
- unregistered public associations, charitable or religious organizations, as well as other political parties;
- legal entities with which a contract has been concluded for the purchase of works, goods or services to meet the needs of the state or local community for a total of more than 100 living wage for able-bodied persons, established on January 1 of the year in which the contribution is made - agreement and within 1 year after its termination.

These individuals and legal entities may not make any contributions in any form and in any amount (amount).

With regard to restrictions on the amount of contributions, the total amount of contribution (contributions) in support of a political party from a citizen of Ukraine for one year may not exceed 400 times the minimum wage set for January 1 of the year in which contributions were made (Article 15 of the Law), from a legal entity during the year it may not exceed 800 times the minimum wage established on January 1 of the year in which the contributions were made (Part 4 of Article 15 of the Law). It should be noted that for the purposes of this provision of the law, the contributions provided during the year in support of a political party, its local organization by one individual / legal entity in different forms are summed up. In case of receipt by the political party of contributions exceeding the maximum allowed limit, the party must refuse such contribution within 15 working days from the

date of its receipt, they are returned to the donor, and if such return is not possible - transferred to the state budget (Part 7 of Article 15 Law).

Transparency and monitoring of the financing of political parties in Ukraine is ensured by:

- transfer by a person of the amount of the contribution in support of a political party to the respective bank account (non-cash form);
- mandatory identification of the person when transferring funds;
- proportional and transparent sound methods of distribution of public funding;
- limitation of the maximum amount of contribution in support of a political party (Article 15 of the Law);
- prohibition of contributions in support of political parties by anonymous persons or persons under a pseudonym (paragraph 7, part 7, Article 15 of the Law);
- the obligation to conduct annual independent control (audit) for political parties that receive state funding (Part 3 of Article 17 of the Law);
- quarterly submission of reporting by parties to an independent body endowed with special powers in the field of control over political finances - NAPC (Article 17 of the Law);
- publication of financial reports of political parties in the public domain, which allows citizens to see what the parties spend the money donated to them (Article 17 of the Law).

The mechanisms defined in the legislation work in practice. For example, on May 11, 2021, the Register of Political Party Reporting (hereinafter referred to as the POLITDATA Register) was launched, which allows political parties to submit quarterly financial reports electronically, quickly and conveniently, and provides better access to this information for citizens. An analytical module has been introduced in the register, which allows to compare information from the reports of political parties with information from state registers and databases; reports of different periods; as well as to compare separate sections of the reports among themselves.

The NAPC constantly monitors the financing of political parties as the main entity responsible for ensuring the legality and transparency of political finances in Ukraine (Article 11 of the Law of Ukraine “On Prevention of Corruption” and Article 17 of the Law of Ukraine “On Political Parties in Ukraine”). The Agency has currently approved and adopted all the necessary by-laws (in particular, the Procedure for auditing the reporting of political parties on property, income, expenses and liabilities of a financial nature, the Form of the Conclusion on the results of the report of the Political Party on property, income, expenses and liabilities of a financial nature, Guidelines for the organization of preparatory activities for the audit of reports of political parties) and ensures the performance of its functions in these areas.

In essence, the NAPC has introduced a risk-oriented approach to the verification of reports of political parties, which improves the quality of inspections. In particular, a list of 21 risks in the activities of political parties has been identified. Thus, the activities of political parties are monitored on a monthly basis, during which a number of open sources of information are analyzed for the presence of such risks and a generalized list of identified risks is compiled.

The NAPC may, by its decision, suspend the allocation of state budget funds to finance a political party if the latter has not submitted a financial report or such a report was submitted with gross violations or false data.

All conclusions on the results of the analysis of political party reports are posted on the NAPC's official website. In addition, the NAPC reports annually on the effectiveness of monitoring, achievements and difficulties in its activity reports, as well as in its annual national reports on the implementation of the principles of anti-corruption policy. In addition, in order to assist political parties in ensuring the transparency of their funding, the NAPC is provided with official clarifications, as well as with the International Foundation for Electoral Systems (IFES) and the EdEra online education studio, with the support of the United States Agency for International Development (USAID) and the Ministry of International Affairs of Canada have developed a training course on the rules of financing and reporting of political parties

Reporting mechanisms on the financing of private and public parties

Article 17 of the Law of Ukraine “On Political Parties in Ukraine” provides for four reporting mechanisms:

- permanent accounting;
- annual internal party financial audit. It is carried out on the income and expenses of a political party and its local organizations, which in the prescribed manner have acquired the status of a legal entity, authorized body or official of the party in the manner prescribed by the statute of the political party;
- external independent audit of financial statements (in the year following the year of receipt of public funding). It is mandatory for all parties that received state funding and is conducted only by audit firms, which according to the Law of Ukraine "On Audit of Financial Statements and Auditing" have the right to conduct a mandatory audit of financial statements. During the external audit, the indicators contained in the reporting on assets, income, expenses and liabilities of a financial nature are checked (in terms of completeness, reliability of information included in the report and compliance with the statutory requirements);
- quarterly report on assets, income, expenses and liabilities of a financial nature, which from May 2021 is submitted electronically to the POLITDATA register. This form of electronic reporting provides for state control over compliance with statutory restrictions on the financing of political parties, the legal and targeted use of political parties of funds allocated from the state budget to finance their statutory activities. The report includes sections on assets and intangible assets, contributions and other receipts, payments and other expenses, liabilities of a financial nature. All submitted reports are posted in open access around the clock with the depersonalization of personal data.

Since the commissioning of the POLITDATA Register (since May 2021), 89 reports from political parties have been received.

It should be noted that in accordance with the provisions of paragraph 5 of section IV "Final Provisions" of the Law of Ukraine "On Political Parties in Ukraine", the Cabinet of Ministers of Ukraine dated 09.12.2020 № 1236 "On quarantine and restrictive anti-epidemic measures to prevent of the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-

2 "(as amended) report on property, income, expenses and financial obligations of political parties shall be submitted no later than forty days after the end of and the spread of coronavirus disease (COVID-19) under quarantine established by the Cabinet of Ministers of Ukraine.

That is, the deadline for submitting party reports for the 1st, 2nd, 3rd and 4th quarters of 2020 and 2021 depends on the date of lifting the quarantine.

Given the above, quarantine does not provide for the reporting of political parties, so not all political parties have submitted their reports for 2020-2021.

Implementation of GRECO's recommendations on political finance

In the Evaluation Report on the Results of the 3rd Round of GRECO Evaluation on Theme II - "Transparency of Political Party Funding" of October 21, 2011, GRECO provided 9 recommendations to Ukraine. The main part of them was to ensure transparency in the financing of political parties in Ukraine at the legislative and institutional levels. The official assessment of the state and dynamics of Ukraine's implementation of these recommendations is contained in three reports adopted in 2013-2017, according to which GRECO concluded that:

4 recommendations (III, V-VII) Ukraine implemented satisfactorily;

recommendation IV has been implemented satisfactorily;

4 recommendations (I, II, VIII, IX) are partially implemented.

In general, GRECO stated that the reforms at that time (2017) were in the nature of amendments to the legislation and their practical implementation by entities, primarily the NAPC, has only just begun. Detailed ways to implement the recommendations are set out in Annex D to the draft National Report on the Implementation of the Principles of Anti-Corruption Policy in 2020.

20. Please describe the progress achieved to date in addressing the recommendations of the Office for Democratic Institutions and Human Rights in terms of the regulatory framework for campaign finance.

The procedure in place to finance the preparation and holding of elections of the President of Ukraine, Members of the Parliament of Ukraine and local elections is established by the Electoral Code of Ukraine and the Law of Ukraine "On Elections of Members of the Parliament of Ukraine" (is in force until the following ordinary or extraordinary elections of Members of Parliament of Ukraine as to the provisions on arranging and holding interim elections and replacing Members of Parliament of Ukraine elected in a nationwide multi-mandate constituency whose powers are terminated before they were due to expire) and regulations adopted for their implementation.

Thus, preparing and holding elections in Ukraine is financed exclusively from the state budget of Ukraine, respective local budgets, as well as funds of election funds of political parties, their local organizations and candidates in relevant elections.

However, it is prohibited by law to finance election campaigns, including the pre-election canvassing of a political party, its local organization and candidates from sources other than the election fund.

The election legislation provides for the sources that form the election fund in the relevant elections, namely: at the own expense political parties, local organizations of political parties, candidates, as well as voluntary contributions of persons who according to the Law of Ukraine "On Political Parties in Ukraine" have the right to make contributions to support political parties.

At the same time, Article 15 of the Law of Ukraine "On Political Parties in Ukraine" defines the range of entities that are not allowed to make contributions to support political parties. This rule applies, with due regard to the above, and in forming respective election funds.

It should be noted that from May 7, 2022 the range of such entities will expand, as from this date the Law of Ukraine "On Preventing Threats to National Security Related to the Excessive Influence of Persons Having Significant Economic and Political Weight in Public Life" (oligarchs)". According to Article 7 of this Law, a person recognized as having significant economic and political weight in public life (oligarch) is prohibited, inter alia, to make contributions to support political parties under the Law of Ukraine "On Political Parties in Ukraine", to make contributions to the election funds of candidates (except for their own election fund), to political parties during the election process under the Electoral Code of Ukraine.

At the same time, reporting on the funds transferred to the election fund of a political party and their use, a local organization of a political party and a candidate in the relevant elections is of paramount importance for ensuring the openness and transparency of the election process.

Such reporting is done by the entities determined by the election legislation twice in the deadlines determined, before the voting day and after the voting day. At the same time, depending on the type of election, reports are submitted to the Central Election Commission, the National Agency for the Prevention of Corruption and district and territorial election commissions.

Reports on the drawdown and use of election funds submitted directly to the Central Election Commission and the National Agency for the Prevention of Corruption and received by the above-mentioned entities from the district election commissions are published on their official websites.

Respective election commissions and the National Agency for the Prevention of Corruption analyse the reports on the drawdown and use of election funds received, which is to establish the timeliness of reports, compliance with reporting requirements of the Electoral Code of Ukraine and information received from banks election funds. The findings of financial statements analysed are also published on the official website of the Central Election Commission.

In addition, the entities that receive these reports, during the election process constantly oversee how election funds are formed and used, which is primarily aimed at preventing violations of election law as to forming and using election funds.

Thus, taking into account the analysis and experience of regular elections of the President of Ukraine and the early elections of Members of the Parliament of Ukraine in 2019, during which the lion's share of campaigning was done over the Internet, social networks, during the next local elections in 2020 forms of reports on the receipt and use of election funds were developed by the

Central Election Commission. They provide for the obligation to reflect the costs spent on local organizations of political parties and candidates for campaigning on the Internet.

Today, the Central Election Commission, together with the National Agency for the Prevention of Corruption and other stakeholders continues to work on improving the funding of political parties, their local organizations and candidates for their election campaigns.

With a view to uniting the efforts of the Central Election Commission and the National Anti-Corruption Agency to ensure compliance with election legislation, in particular to draft amendments to the legislation aimed at improving mechanisms for effective control over the financing of election campaigns of political parties, local political party organizations, candidates in the relevant elections at the expense of their election funds, to establish reliable, fair and transparent reporting on how the funds are spent on campaigning, as well as raising awareness in this area, the Commission and the Agency signed a bilateral Memorandum of Cooperation.

Staff of the Central Election Commission and the National Agency for the Prevention of Corruption, as well as representatives of independent NGOs "HONEST MOVEMENT" and "OPORA", the International Foundation for Electoral Systems in Ukraine (IFES) and independent election experts have drafted proposals to amend the Electoral Code of Ukraine and the Law of Ukraine "On the Central Election Commission" as to regulating the financing of election campaigns. Such proposals are designed to unify approaches to the formation, use, control of election funds and appropriate reporting, simplify the requirements for opening election fund accounts, specify and delineate the functions of overseeing entities and more. In addition, it is proposed to introduce a system of electronic reporting of political parties, their local organizations and candidates on the receipt and use of election funds, which will help ensure transparency of funding and increase the effectiveness of control over election funds. These proposals, after their study by the Committee of the Parliament of Ukraine on Administering State Power, Local Self-Government, Regional Development and Urban Planning, may be the basis for respective legislative amendments.

21. Is there a Constitutional or ordinary legal framework for the use of instruments of direct democracy, including referendum? What is their scope of applicability and the procedure to be followed? Do they have binding and direct legal effects or are they merely consultative? Can international treaties be subject to a referendum?

According to the Constitution of Ukraine, the bearer of sovereignty and the only source of power in Ukraine is the people who exercise power directly and through authorities and local governments.

Citizens have the right to participate in managing of state affairs, in all-Ukrainian and local referendums.

The people's will is expressed through elections, referendums and other forms of direct democracy.

An all-Ukrainian referendum shall be appointed by the Parliament of Ukraine or the President of Ukraine in accordance with their powers established by this Constitution. The all-Ukrainian referendum is declared on the people's initiative at the request of at least three million eligible

Ukrainian citizens, provided that signatures on the referendum are collected in at least two thirds of regions and there are at least 100,000 signatures in each region. The issues as to changing the territory of Ukraine are resolved exclusively by an all-Ukrainian referendum. Referendums on tax, budget and amnesty draft laws are not allowed.

Arrangement and procedure for holding referendums are determined exclusively by the laws of Ukraine.

The President of Ukraine shall appoint an all-Ukrainian referendum on amendments to the Constitution of Ukraine in accordance with Article 156 of this Constitution, announces an all-Ukrainian referendum on the people's initiative (Article 5(2), Article 38(1), Article 69, Articles 72 - 74, Article 92(1)(2), Article 106(6) of the Constitution of Ukraine).

The legal basis for the exercise of the will of the people through an all-Ukrainian referendum, its arrangement and procedure are determined by the Law of Ukraine "On All-Ukrainian Referendum".

This Law stipulates that the following issues may be the subject of an all-Ukrainian referendum:

- 1) approval of the law on amendments to sections I, III, XIII of the Constitution of Ukraine;
- 2) issues of national importance;
- 3) on the change of the territory of Ukraine;
- 4) on the repeal of the law of Ukraine or some of its provisions.

The following issues cannot be the subject of an all-Ukrainian referendum:

1) the ones contrary to the provisions of the Constitution of Ukraine, universally recognized principles and norms of international law enshrined primarily in the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, protocols thereto;

2) the ones abolishing or restricting the constitutional rights and freedoms of person and citizen and guarantees of their implementation;

3) the ones aimed at eliminating the independence of Ukraine, violating the state sovereignty, territorial integrity of Ukraine, creating a threat to the national security of Ukraine, inciting interethnic, racial, religious hatred;

4) on issues of taxes, budget, amnesty;

5) referred by the Constitution of Ukraine and laws of Ukraine to the jurisdiction of law enforcement agencies, the prosecutor's office or the court.

The results of the popular will expressed in the all-Ukrainian referendum on the approval of the law amending Chapters I, III, XIII of the Constitution of Ukraine, on changing the territory of Ukraine, repealing the law of Ukraine or some of its provisions do not require approval by any public authority.

The results of the popular will expressed in the all-Ukrainian referendum on the issue of national importance are mandatory for consideration and decision to be made in connection to them are

mandatory in the manner prescribed by the Constitution and laws of Ukraine (Article 3(1), Article 3(2), Article 4(1) of the Law).

The Law also stipulates that the all-Ukrainian referendum on changing the territory of Ukraine is a form of decision-making by citizens of Ukraine who have the right to vote on approving a law adopted by the Parliament of Ukraine on ratification of an international treaty on changing the territory of Ukraine. According to the Law of Ukraine “On International Treaties” and other Laws, only an international treaty on the change of the territory of Ukraine is approved by a decision of an all-Ukrainian referendum. Other international treaties are ratified by the adoption of the relevant law by the Parliament.

In addition, the Law regulates the procedure for appointment (proclamation), organization and conduct of all-Ukrainian referendum, status of all-Ukrainian referendum commissions, formation of voter rolls, financial and logistical support of all-Ukrainian referendum, guarantees of activity by subjects of all-Ukrainian referendum, international observers, information support and agitation of the all-Ukrainian referendum, voting and establishing the results of the all-Ukrainian referendum.

The legislation on local self-government establishes a basic framework for the implementation of local initiatives in territorial communities, holding general meetings and other forms of citizens participating in local decision-making process. Local governments, in turn, have the power to determine the manner how these instruments of direct democracy are implemented. At the local level, legal regulation encourages the creation of new instruments, such as participation budgets.

Thus, Ukraine has sufficient legal framework for using direct democracy tools and is taking extra tools for capacity-building.

22. Overall transparency. To what extent is the Parliament open to public scrutiny and is transparent in the conduct of its business, in terms of information and accessibility to the public and the media?

The Verkhovna Rada of Ukraine operates on the principles of transparency and openness in all processes taking place in the Parliament and abroad – in everything related to the legislative activities of the Verkhovna Rada of Ukraine and the work of the MPs of Ukraine. Coverage of the work is provided simultaneously in several directions.

22.1. Pursuant to the Rules of Procedure of the Verkhovna Rada of Ukraine (Part six, Article 3) and the Verkhovna Rada of Ukraine Resolutions on the procedure for coverage of parliamentary activities (adopted during the work of the Verkhovna Rada of Ukraine of a certain convocation) by the State Enterprise “Parliamentary Channel ‘Rada’,” which conducts digital broadcasting on the national level, the open plenary meetings of the Verkhovna Rada of Ukraine are to be broadcast live in full time. Broadcasting is also mandatory for the following events: taking of the oath of office by the MPs of Ukraine; opening and closing of sessions; consideration of organizational issues of the first session of the Verkhovna Rada of Ukraine; consideration of the election or recall of the Chairperson of the Verkhovna Rada of Ukraine, the First Deputy and Deputy Chairperson of the Verkhovna Rada of Ukraine; consideration of the formation of the Cabinet of Ministers of Ukraine; taking the oath to the people of Ukraine (swearing-in) by the newly elected President of Ukraine at a solemn meeting of the Verkhovna Rada of Ukraine; hearing the annual and extraordinary addresses

of the President of Ukraine on the internal and external situation of Ukraine; conducting “the Hour of Questions to the Government”; holding parliamentary hearings; consideration of the issue of responsibility of the Cabinet of Ministers of Ukraine; official addresses and statements of the Chairperson of the Verkhovna Rada of Ukraine; briefings of the MPs of Ukraine; consideration of other issues in accordance with decisions of the Verkhovna Rada of Ukraine.

The meetings of the Verkhovna Rada of Ukraine are also broadcast live on the Internet – RADA ONLINE (YouTube).

22.2. The Verkhovna Rada of Ukraine has a modern website that reflects the full range of parliamentary activities (<https://www.rada.gov.ua>). Its pages regularly contain information on the legislative activity of the Verkhovna Rada of Ukraine (information and texts of all registered draft laws, the status of their passage, versions for the second and subsequent readings, committee opinions and expert opinions, other supporting materials, etc.), work of the parliamentary committees (list of the committees and subjects of their competence, general information on the composition and structure, activities, acts and other documents, law-drafting work), current top news, available links to web resources and parliamentary media, including social networks; the full database of adopted acts of Parliament is available.

During the plenary meetings, information on the adopted laws and the course of the meeting is published non-stop. In 2021, a total of 2,384 relevant information reports were prepared and published.

On the website of the Verkhovna Rada of Ukraine, there is also a “Public” section which contains information on: ways to visit the Parliament; consideration of citizens’ appeals and requests for public information; purification of power; preventing and countering corruption; administrative-territorial structure of Ukraine; public discussion of draft laws and other reference information. The full list of sections of the official website of the Verkhovna Rada of Ukraine, its subsections, headings and types of information posted on the website, the list of entities responsible for posting information, as well as the timeframes and conditions for its publication are summarized and formalized (including for public convenience) by a separate order of the Chairperson of the Verkhovna Rada of Ukraine No. 21 dated January 31, 2022 “On Certain Issues of the Functioning of the Official Website and Other Web Resources of the Verkhovna Rada of Ukraine.”

22.3. The activities of the Verkhovna Rada of Ukraine are also covered on the official social media pages of the Parliament, which are maintained in both Ukrainian and English. The number of subscribers and the audience coverage are indicative of high popularity among users, timeliness and completeness of information on the activities of the sole legislative body of the state.

Currently, the number of subscribers to social networks of the Verkhovna Rada of Ukraine is:

Facebook – 224,080 subscribers (mostly in Ukraine) – average coverage of 2,500,000 per day;

Twitter in Ukrainian – 245,661 subscribers – average coverage of 1,500,000 per day;

Twitter in English – 61,844 subscribers – average coverage of 1,800,000 per day;

Telegram in Ukrainian – 373,029 subscribers – average coverage of 4,200,000 per day;

Telegram in English – 39,053 subscribers – average coverage – 1,500,000 per day;

Instagram – 35,700 subscribers – average coverage – 350,000 per day.

All resources promptly post information from the leadership of the Parliament, statements and explanations from the press service.

22.4. Parliamentary transparency is also implemented through media access to information on the Verkhovna Rada of Ukraine. The accreditation procedure, which is based on the Law of Ukraine “On Information” (Article 26), makes it possible to accredit any media outlet. Thus, 3,500 media representatives from 531 publications, including foreign ones, are accredited at the Verkhovna Rada of Ukraine.

Independent journalists and representatives of press services can be accredited separately. Accreditation can be revoked for gross violations of norms and rules only if such a decision is made by the Committee on Freedom of Speech (Regulations on Accreditation of Journalists and Technical Workers of Mass Media at the Verkhovna Rada of Ukraine, approved by Verkhovna Rada Resolution No. 1549-VII of July 1, 2014).

Moreover, within the framework of the transparency of the Parliament’s activities, all news and announcements of events posted on the website of the Verkhovna Rada of Ukraine are emailed as newsletters. Relevant information adapted to different target groups is relayed on social networks.

The MPs of Ukraine themselves are engaged in direct communication.

Meetings are regularly held with the media community and active members of the press services of factions and groups to develop optimal conditions for the work of the press in the Parliament, to provide it with the necessary information even under conditions of the coronavirus pandemic.

Representatives of all factions and political groups have access to the press platforms; all MPs have the opportunity to give interviews to journalists and speak on the Parliamentary TV Channel Rada.

22.5. One of the main factors in the openness of the Verkhovna Rada of Ukraine is the implementation by the Secretariat of the Verkhovna Rada of Ukraine of the Law of Ukraine “On Access to Public Information.” Strict implementation of this Law makes it possible to ensure public oversight of the activities of the Verkhovna Rada of Ukraine and its bodies.

This Law (as well as the Law of Ukraine “On Information,” the Rules of Procedure of the Verkhovna Rada of Ukraine and other legislative acts) obliges information managers to systematically and promptly disclose information on their activities.

Notably, the specificity of the respective Law consists in the obligation for the subjects of power to provide any persons, regardless of the purpose of information processing, with information about these subjects’ activities in response to requests for public information. Such information includes information on: the organizational structure, mission, functions, powers, main tasks, areas of activity and financial resources; normative legal acts, acts of individual action; mechanisms or procedures by which the public can represent its interests or otherwise influence the exercise of the powers of the information manager; information on the accounting system, types of information stored by the manager; plans and agenda of their open meetings; the procedure for considering requests for public information, etc. (Article 15).

Thus, in 2021 the Secretariat of the Verkhovna Rada of Ukraine processed 2,364 requests for public information.

22.6. Since 2015, Ukraine has amended the Law of Ukraine “On Citizens’ Appeals,” according to which individuals acquired the right to submit appeals in electronic form. The corresponding innovation has significantly simplified the procedure for sending and responding to citizens’ appeals.

Moreover, the electronic petition has been defined as a special form of collective appeal of citizens to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, local self-government bodies (Article 5 of this Law).

Citizens can freely appeal to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, local self-government bodies with electronic petitions through the official website of the body to which it is addressed, or through the website of a public association collecting signatures in support of e-petitions. The exceptions are as follows: an e-petition may not contain calls for the overthrow of the constitutional order, violation of the territorial integrity of Ukraine, propaganda of war, violence, cruelty, incitement to ethnic, racial, religious hatred, calls for acts of terrorism, encroachment on human rights and freedoms (Article 231 of the Law of Ukraine “On Citizens’ Appeals”).

And so, in 2015 the information and communication system “Electronic Petitions” was created on the official website of the Verkhovna Rada of Ukraine; it allows any person to initiate consideration of an electronic petition by the Verkhovna Rada of Ukraine. The respective resource provides for: publication and collection of signatures in support of the petition; free access and use by citizens; electronic registration of citizens for signing the petition; preventing automatic entry of information, including the signing of an electronic petition, without the participation of a citizen; fixing the date and time of publication of the electronic petition and signing it by a citizen, etc.

The procedure for consideration by the Verkhovna Rada of Ukraine of electronic petitions that received the required number of votes in their support is to be carried out in accordance with the procedure established by Chapter 36-1 of the Rules of Procedure of the Verkhovna Rada of Ukraine.

During 2021, 236 petitions were initiated and published in the Parliament, and 395,000 citizens’ appeals were registered (of which 210,719 were in electronic form, which amounts to 54% of the total number of appeals).

22.7. At the Parliament, there operates the Educational Center of the Verkhovna Rada of Ukraine, which was established to lay the foundations for understanding the purpose, tasks, role and functions of the sole legislative body of the state among the younger generation – future voters, public activists, media representatives.

This structure conducts active educational activities among schoolchildren, students and adults. The Educational Center was established in July 2019. Since then, more than 65,000 schoolchildren and students have taken part in educational activities and lessons.

The Chairperson of the Verkhovna Rada of Ukraine, the First Deputy Chairperson and the Deputy Chairperson took part in the Educational Center’s events. More than 80 MPs of Ukraine directly conducted educational events.

During the period of its operation, the Educational Center conducted 18 on-site lessons in 6 oblasts of Ukraine, which were attended by more than 1,400 pupils and students.

Also in 2021, more than 500 excursions were held in the building of the Verkhovna Rada of Ukraine (under quarantine restrictions), in which about 15,000 citizens of Ukraine and its guests took part.

III. Government

23. Please provide a description of the structure and functioning of the government. Which is the legal basis for the structure and functioning of the government?

General provisions

According to the Constitution of Ukraine, the Cabinet of Ministers of Ukraine is the highest authority in the system of executive bodies. The Cabinet of Ministers of Ukraine shall be responsible to the President of Ukraine and the Verkhovna Rada of Ukraine, subordinate and accountable to the Verkhovna Rada of Ukraine within the limits provided by this Constitution. In its activities, the Cabinet of Ministers of Ukraine shall be guided by this Constitution and laws of Ukraine, as well as decrees of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted pursuant to the Constitution and laws of Ukraine.

The Cabinet of Ministers of Ukraine consists of the Prime Minister of Ukraine, the First Vice Prime Minister, Vice Prime Ministers, and Ministers. The Prime Minister of Ukraine is appointed by the Verkhovna Rada of Ukraine upon recommendation of the President of Ukraine. The candidacy for appointment of Prime Minister of Ukraine shall be submitted by the President of Ukraine on the proposal of a coalition of parliamentary factions in the Verkhovna Rada of Ukraine, formed in accordance with Article 83 of the Constitution of Ukraine, or the parliamentary faction, which includes the majority of members of parliament of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine. The Minister of Defense of Ukraine, the Minister of Foreign Affairs of Ukraine are appointed by the Verkhovna Rada of Ukraine upon recommendation of the President of Ukraine, other members of the Cabinet of Ministers of Ukraine are appointed by the Verkhovna Rada of Ukraine upon recommendation of the Prime Minister of Ukraine. The Prime Minister of Ukraine leads the Cabinet of Ministers of Ukraine and directs it to implement the Program of Activities of the Cabinet of Ministers of Ukraine approved by the Verkhovna Rada of Ukraine.

The Cabinet of Ministers of Ukraine step down before the newly elected Verkhovna Rada of Ukraine. The Prime Minister of Ukraine and other members of the Cabinet of Ministers of Ukraine have the right to bring their resignation to the Verkhovna Rada of Ukraine. The resignation of the Prime Minister of Ukraine and the adoption by the Verkhovna Rada of Ukraine of a resolution of no confidence in the Cabinet of Ministers of Ukraine shall result in the resignation of the entire Cabinet of Ministers of Ukraine. In these cases, the Verkhovna Rada of Ukraine shall form a new Cabinet of Ministers of Ukraine within the time limits and in the manner prescribed by this Constitution. The Cabinet of Ministers of Ukraine, which has resigned before the newly elected Verkhovna Rada of Ukraine or whose resignation has been accepted by the Verkhovna Rada of Ukraine, shall continue to exercise its powers until the newly formed Cabinet of Ministers of Ukraine takes office.

The Constitution provides that the Cabinet of Ministers of Ukraine shall:

1) ensure the state sovereignty and economic independence of Ukraine, the implementation of domestic and foreign policy of the country, the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine;

2) ensure implementation of the state's strategic course towards Ukraine's full membership in the European Union and the North Atlantic Treaty Organization;

3) take measures to ensure human rights and freedoms of the citizens;

4) ensure the implementation of financial, price, investment and tax policies; policies in the fields of labour and employment, social protection, education, science and culture, environmental protection, environmental safety and environmental management;

5) develop and implement national programs for economic, scientific and technical, social and cultural development of Ukraine;

6) provide equal conditions for the development of all forms of ownership; manage state property assets in accordance with the law;

7) develop the draft law on the State Budget of Ukraine and ensure the implementation of the State Budget of Ukraine approved by the Verkhovna Rada of Ukraine, submit a report on its implementation to the Verkhovna Rada of Ukraine;

8) take measures to ensure the defence capability and national security of Ukraine, public order, and the fight against crime;

9) organize and ensure the carrying out of foreign economic activity and customs matters of Ukraine;

10) guide and coordinate the activity of ministers, other executive authorities;

11) set up, reorganise and dissolve, in accordance with law, ministries and other central executive authorities, operating within the budget funding for the maintenance of executive authorities;

12) appoint and dismiss, upon the submission of the Prime Minister of Ukraine, heads of central executive authorities who are not members of the Cabinet of Ministers of Ukraine;

13) exercise other powers established by the Constitution and laws of Ukraine.

The Cabinet of Ministers of Ukraine, within its competence, issues binding resolutions and ordinances. Acts of the Cabinet of Ministers of Ukraine are signed by the Prime Minister of Ukraine. Legal and normative acts of the Cabinet of Ministers of Ukraine, ministries and other central executive authorities are subject to registration in accordance with the procedure established by law.

Members of the Cabinet of Ministers of Ukraine, heads of central and local executive authorities and bodies have no right to combine their official activities with another position (except for teaching, research and creative work outside working hours), be part of the governing body or supervisory board of an enterprise or organization which goal is to make profit.

Organisation, powers and procedure for activities of the Cabinet of Ministers of Ukraine, other central and local executive bodies are set forth in the Constitution and laws of Ukraine.

The Cabinet of Ministers of Ukraine is located in the capital of Ukraine — Kyiv.

Pursuant to the Law of Ukraine “On the Cabinet of Ministers of Ukraine” No. 794-VII of 27 February 2014 the Cabinet of Ministers of Ukraine exercises executive power both directly and through ministries and other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea and local state administrations, and directs, coordinates and controls the activities of these authorities. That same Law defines the following main tasks of the Cabinet of Ministers of Ukraine

1) ensure the state sovereignty and economic independence of Ukraine, the implementation of domestic and foreign policy of the state, the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine;

2) take measures to guarantee the protection of human and citizens’ rights and freedoms, creating favourable conditions for the free and comprehensive development of the individual;

3) ensure the implementation of budgetary, financial, price, investment, including depreciation, tax, structural and sectoral policies; policies in the fields of labour and employment, social protection, health care, education, science and culture, environmental protection, environmental safety and environmental management;

4) development and implementation of national programs of economic, scientific, technical, social, cultural development, environmental protection, as well as development, approval and implementation of other state targeted programs;

5) ensure the development and state support of scientific, technical and innovative potential of the state;

6) provide equal conditions for the development of all forms of ownership; manage state property assets in accordance with the law;

7) take measures to ensure the defence capability and national security of Ukraine, public order, and the fight against crime, deal with the consequences of emergencies;

8) organize and ensure the carrying out of foreign economic activity and customs matters;

9) guide and coordinate the activity of ministers, other executive authorities, monitor their activities.

Principles of Activities of the Cabinet of Ministers of Ukraine

The activity of the Cabinet of Ministers of Ukraine is based on the principles of the rule of law, legality, division of the state power, continuity, collegiality, joint responsibility, openness and transparency.

The Cabinet of Ministers of Ukraine exercises executive power on the basis of, within the powers and in the manner provided for by the Constitution and laws of Ukraine.

The Cabinet of Ministers of Ukraine is a collegial body. The Cabinet of Ministers of Ukraine makes decisions after discussing issues at its meetings.

The Cabinet of Ministers of Ukraine regularly informs the public via the media about its activities, involves citizens in the decision-making process of public importance. The adoption by the

Cabinet of Ministers of Ukraine of acts containing restricted information is only possible in cases specified by law, in connection with the national security and defence of Ukraine. Acts of the Cabinet of Ministers of Ukraine are subject to mandatory publication in accordance with the Law of Ukraine “On Access to Public Information”. Draft legal and normative acts of the Cabinet of Ministers of Ukraine shall be made public in accordance with the Law of Ukraine “On Access to Public Information”, except in cases of emergencies and other urgent cases provided for by law, when such draft acts are made public immediately after their preparation.

Legal basis for the activity of the Cabinet of Ministers of Ukraine

In its activities, the Cabinet of Ministers of Ukraine shall be guided by the Constitution of Ukraine, this Law and other laws of Ukraine, as well as decrees of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted pursuant to the Constitution and laws of Ukraine. Organisation, powers and procedure for activities of the Cabinet of Ministers of Ukraine are set forth in the Constitution of Ukraine, this Law and other laws of Ukraine.

The Cabinet of Ministers of Ukraine in accordance with the Constitution of Ukraine and this Law shall adopt the Rules of Procedure of the Cabinet of Ministers of Ukraine, which puts forth the procedure for holding meetings of the Cabinet of Ministers of Ukraine, preparation and decision-making, other procedural issues of its activities, as well as determines the procedure for development, implementation and monitoring of the implementation of program documents of the Cabinet of Ministers of Ukraine.

Composition and procedure for establishing the Cabinet of Ministers of Ukraine

The Cabinet of Ministers of Ukraine consists of the Prime Minister of Ukraine, the First Vice Prime Minister of Ukraine, Vice Prime Ministers, and Ministers of Ukraine. The composition (number and list of positions) of the newly formed Cabinet of Ministers of Ukraine is determined by the Verkhovna Rada of Ukraine upon the proposal of the Prime Minister of Ukraine simultaneously with the appointment of the staff of the Cabinet of Ministers of Ukraine. If the Cabinet of Ministers of Ukraine decides to establish, reorganize or liquidate the Ministry, the staff of the Cabinet of Ministers of Ukraine shall be considered changed from the date of such decision.

Positions of members of the Cabinet of Ministers of Ukraine shall be deemed as political positions that are not covered by labour and civil service legislation. However, members of the Cabinet of Ministers of Ukraine shall be subject to the requirements and restrictions established by the Law of Ukraine “On Prevention of Corruption”. The status of members of the Cabinet of Ministers of Ukraine is determined by the Constitution of Ukraine, this and other laws of Ukraine. At the request of the Prime Minister of Ukraine, the Verkhovna Rada of Ukraine may appoint individuals who do not head the ministries as ministers. No more than two such ministers may be appointed to the Cabinet of Ministers of Ukraine. Regulations on the relevant ministers are approved by the Cabinet of Ministers of Ukraine.

Members of the Cabinet of Ministers of Ukraine may become citizens of Ukraine who have the right to vote, higher education and have a command of the state language on a level determined by the National Commission on State Language Standards. A person who has been convicted of a crime, and such conviction has not been expunged as prescribed by law, or who has been subject to an administrative penalty for committing corruption-related offences or a person who has outstanding

obligations to pay child support alimony, the total amount of which exceeds the amount of relevant payments for six months of the day of presentation of the executive document for compulsory enforcement may not be appointed a member of the Cabinet of Ministers of Ukraine.

Members of the Cabinet of Ministers of Ukraine have no right to combine their official activities with another position, except for teaching, research and creative work outside working hours, be part of the governing body or supervisory board of an enterprise which goal is to make profit. If circumstances arise that cause violation of the requirements regarding the incompatibility of the position of a member of the Cabinet of Ministers of Ukraine with other activities, such member of the Cabinet of Ministers of Ukraine shall terminate such activities within twenty days from the date of these circumstances arising or resign.

If the Verkhovna Rada of Ukraine receives a petition for the appointment of a person who is a member of parliament of Ukraine as a member of the Cabinet of Ministers of Ukraine, the application shall include a personal statement of the member of parliament of Ukraine stating that he/she will terminate their activity as member of parliament early if appointed as a member of the Cabinet of Ministers of Ukraine. The issue of early termination of powers of a MP of Ukraine shall be considered immediately by the Verkhovna Rada of Ukraine during the same plenary session after their appointment as a member of the Cabinet of Ministers of Ukraine.

The Prime Minister of Ukraine is appointed by the Verkhovna Rada of Ukraine upon recommendation of the President of Ukraine. The motion for appointment of Prime Minister of Ukraine by the Verkhovna Rada of Ukraine shall be submitted by the President of Ukraine on the proposal of a coalition of parliamentary factions in the Verkhovna Rada of Ukraine, which includes the majority of members of parliament of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine no later than the fifteenth day after receipt of such proposal. The proposal of the coalition of parliamentary factions, which includes the majority of members of parliament of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine, is submitted to the President of Ukraine with a signature of the MP of Ukraine who is authorized to submit a proposal in accordance with the coalition formation agreement. In case of violation of the requirements of the Constitution of Ukraine and this Law with regard to submitting a proposal for the position of Prime Minister of Ukraine, non-compliance of the proposed candidate with the requirements for a member of the Cabinet of Ministers of Ukraine provided for by this Law, the President of Ukraine shall inform the Verkhovna Rada of Ukraine that nomination of the proposed candidate is impossible.

The candidate for the Prime Minister of Ukraine as proposed by parliamentary factions (faction) shall meet with parliamentary factions and answer their questions before the issue is considered at the plenary session of the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall vote on the appointment of the Prime Minister of Ukraine by poll. The decision on the appointment of the Prime Minister of Ukraine shall be issued in the form of a resolution of the Verkhovna Rada of Ukraine. In case when the Verkhovna Rada of Ukraine rejects the nomination to the position of the Prime Minister of Ukraine, the President of Ukraine shall make a submission on the nomination to this position for consideration of the Verkhovna Rada of Ukraine under the procedure established by the Law of Ukraine “On the Cabinet of Ministers of Ukraine”.

The person appointed by the Verkhovna Rada of Ukraine as the Prime Minister of Ukraine shall acquire the powers to hold all necessary consultations on formation of the composition of the Cabinet of Ministers of Ukraine.

Members of the Cabinet of Ministers of Ukraine, in addition to the Prime Minister of Ukraine, the Minister of Defence of Ukraine and the Minister of Foreign Affairs of Ukraine, are appointed by the Verkhovna Rada of Ukraine upon recommendation of the Prime Minister of Ukraine. When forming a new Cabinet of Ministers of Ukraine, the newly appointed Prime Minister of Ukraine shall submit to the Verkhovna Rada of Ukraine a proposal to appoint members of the Cabinet of Ministers of Ukraine in accordance with the requirements of the Constitution of Ukraine and this Law. This submission shall contain the proposal for full composition of the Cabinet of Ministers of Ukraine. The submission of the Prime Minister of Ukraine referred to in part two of this article regarding the personnel of the Cabinet of Ministers of Ukraine may be made as a single list. Submissions of individual candidates for the positions specified in the submission with regard to staff may be submitted separately. The Minister of Defence of Ukraine and the Minister for Foreign Affairs of Ukraine are appointed by the Verkhovna Rada of Ukraine upon recommendation of the President of Ukraine. One candidate shall be nominated for each position of the member of Cabinet of Ministers of Ukraine.

The candidate for the member of the Cabinet of Ministers of Ukraine of Ukraine as proposed by parliamentary factions may meet with parliamentary factions and answer their questions before the issue of his/her appointment is considered at the plenary session of the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall consider the submissions and appoint members of the Cabinet of Ministers of Ukraine. The Verkhovna Rada of Ukraine makes decisions on this issue in the form of a resolution. Decisions on the appointment of members of the Cabinet of Ministers of Ukraine may be made both on the list as a whole and on individual positions. The decision of the Verkhovna Rada of Ukraine on the appointment of a member of the Cabinet of Ministers of Ukraine shall be made with that person present. The candidacy for the position of a member of the Cabinet of Ministers of Ukraine is considered rejected if the Verkhovna Rada of Ukraine has not made a decision on its appointment to the position of a member of the Cabinet of Ministers of Ukraine. In case when the Verkhovna Rada of Ukraine rejects the nomination to the position of the member of the Cabinet of Ministers of Ukraine, the Prime Minister of Ukraine (and in cases provided for by the Constitution of Ukraine – the President of Ukraine) shall make a submission on the nomination to the position of a member of the Cabinet of Ministers of Ukraine under the procedure established by this Article.

If the Cabinet of Ministers of Ukraine is formed by the Verkhovna Rada of Ukraine only partially, a new ministry is being formed, the Verkhovna Rada of Ukraine rejected the candidacy for the position of a member of the Cabinet of Ministers of Ukraine, a member of the Cabinet of Ministers of Ukraine is dismissed, the submission for appointment to the relevant position of a member of the Cabinet of Ministers of Ukraine shall be submitted in accordance with the procedure specified in this Article within 30 days of the Cabinet of Ministers of Ukraine taking office in accordance with Article 10(5) of this Law, rejection by the Verkhovna Rada of Ukraine of the candidacy for the position of a member of the Cabinet of Ministers of Ukraine, dismissal from the position of a member of the Cabinet of Ministers of Ukraine.

Action Programme of the Cabinet of Ministers of Ukraine

The Action Programme of the Cabinet of Ministers of Ukraine shall be based on coordinated political stances and programme objectives of the coalition of parliamentary factions in the Verkhovna Rada of Ukraine. The Action Programme of the Cabinet of Ministers of Ukraine must contain program goals, criteria and deadlines for achieving program goals and tasks that are necessary to achieve the goals, deadlines for such tasks, other information provided by the Cabinet of Ministers of Ukraine.

The Action Programme of the Cabinet of Ministers of Ukraine shall be submitted to the Verkhovna Rada of Ukraine by the Prime Minister of Ukraine within one month following the date of formation of the Cabinet of Ministers of Ukraine. The Prime Minister shall personally present the Action Programme of the Cabinet of Ministers of Ukraine at the plenary session of the Verkhovna Rada of Ukraine and answer the questions of the Members of Parliament of Ukraine. The Action Programme of the Cabinet of Ministers of Ukraine shall be deemed approved if the majority of the constitutional composition of the Verkhovna Rada of Ukraine voted for it. The decision on approval of the Action Programme of the Cabinet of Ministers of Ukraine shall be issued in the form of a resolution of the Verkhovna Rada of Ukraine. The Verkhovna Rada of Ukraine may let the Cabinet of Ministers of Ukraine finalise the Action Programme of the Cabinet of Ministers of Ukraine. The Verkhovna Rada of Ukraine shall repeatedly consider the Action Programme of the Cabinet of Ministers of Ukraine no later than on the fifteenth day after this decision is taken. On an annual basis, no later than 15 April of the current year, Cabinet of Ministers of Ukraine shall submit to the Verkhovna Rada of Ukraine the progress report on the results of the Action Programme of the Cabinet of Ministers of Ukraine during the previous year.

Stepping down and resignation of the Cabinet of Ministers of Ukraine

The Cabinet of Ministers of Ukraine step down before the newly elected Verkhovna Rada of Ukraine. The notice of resignation of the Cabinet of Ministers of Ukraine shall be submitted by the Prime Minister of Ukraine or acting Prime Minister of Ukraine and announced at the first plenary session of the newly elected Verkhovna Rada of Ukraine.

The resignation of the Cabinet of Ministers of Ukraine can happen due to:

- 1) adoption by the Verkhovna Rada of Ukraine of a resolution of no confidence in the Cabinet of Ministers of Ukraine;
- 2) resignation of the Prime Minister of Ukraine;
- 3) death of the Prime Minister of Ukraine.

The Verkhovna Rada of Ukraine upon the proposal of the President of Ukraine or not less than one third of the constitutional composition of the Verkhovna Rada of Ukraine may consider the issue of responsibility of the Cabinet of Ministers of Ukraine and adopt a resolution of no confidence in the Cabinet of Ministers of Ukraine. The issue of responsibility of the Cabinet of Ministers of Ukraine shall be considered at the plenary session of the Verkhovna Rada of Ukraine no later than ten days after the submission of the proposal, to which all members of the Cabinet of Ministers of Ukraine shall be invited. If the issue of responsibility of the Cabinet of Ministers of Ukraine is being considered upon the proposal of the President of Ukraine, the President of Ukraine shall take part in

the plenary session of the Verkhovna Rada of Ukraine. A resolution of no confidence in the Cabinet of Ministers of Ukraine shall be deemed approved if the majority of the constitutional composition of the Verkhovna Rada of Ukraine voted for it. The adoption by the Verkhovna Rada of Ukraine of a resolution of no confidence in the Cabinet of Ministers of Ukraine shall result in the resignation of the Cabinet of Ministers of Ukraine. The issue of responsibility of the Cabinet of Ministers of Ukraine may not be considered by the Verkhovna Rada of Ukraine more than once during the regular session, as well as within one year after approval of the Action Programme of the Cabinet of Ministers of Ukraine or during the latest session of the Verkhovna Rada of Ukraine.

The Prime Minister of Ukraine has the right to announce his resignation to the Verkhovna Rada of Ukraine. The Verkhovna Rada of Ukraine shall consider the resignation of the Prime Minister of Ukraine no later than on the tenth day after the receipt of the statement of resignation if it was received during the regular session of the Verkhovna Rada of Ukraine, and no later than the first plenary week of the next regular session, if such a statement is received during the period between sessions. The Prime Minister of Ukraine shall be dismissed from the date the decision on his resignation has been made at the plenary session of the Verkhovna Rada of Ukraine. The decision of the Verkhovna Rada of Ukraine on the resignation of the Prime Minister of Ukraine results in the resignation of the entire Cabinet of Ministers of Ukraine.

The powers of the Prime Minister of Ukraine in the event of his death shall be terminated from the date of death as evidenced by the death certificate. The termination of the powers of the Prime Minister of Ukraine in the event of his death results in the resignation of the entire Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine, which has resigned before the newly elected Verkhovna Rada of Ukraine or has been dismissed shall continue to exercise its powers until the newly formed Cabinet of Ministers of Ukraine takes office. In the event of the death of the Prime Minister of Ukraine, the powers of the Prime Minister of Ukraine for the period before the newly formed Cabinet of Ministers of Ukraine takes office shall be exercised by the First Vice Prime Minister of Ukraine or Vice Prime Minister of Ukraine in accordance with the division of powers as determined by the Cabinet of Ministers of Ukraine. If a member of the Cabinet of Ministers of Ukraine is elected as a member of parliament of Ukraine of the newly elected Verkhovna Rada of Ukraine, he acquires the powers of the member of parliament of Ukraine in the manner prescribed by law, without submitting a document of his dismissal and continues to exercise the powers of a member of the Cabinet of Ministers of Ukraine until the newly formed Cabinet of Ministers of Ukraine takes office. All members of the Cabinet of Ministers of Ukraine who have resigned before the newly elected Verkhovna Rada of Ukraine shall be dismissed from the moment the newly formed Cabinet of Ministers of Ukraine takes office.

A member of the Cabinet of Ministers of Ukraine (except for the Prime Minister of Ukraine) may be dismissed by the Verkhovna Rada of Ukraine:

- 1) by accepting the resignation of a member of the Cabinet of Ministers of Ukraine upon receiving their letter of resignation;

2) upon the submission of the Prime Minister of Ukraine (in respect of the Minister for Foreign Affairs of Ukraine and the Minister of Defence of Ukraine, such submission shall be approved by the President of Ukraine);

3) at the request of the President of Ukraine — the Minister for Foreign Affairs of Ukraine and the Minister of Defence of Ukraine, including if there are outstanding obligations to pay child support alimony, the total amount of which exceeds the amount of relevant payments for twelve months of the day of presentation of the executive document for compulsory enforcement;

4) on their own initiative.

Competence of the Cabinet of Ministers of Ukraine

The activities of the Cabinet of Ministers of Ukraine shall seek to pursue the interests of the Ukrainian people through observing the Constitution and laws of Ukraine, acts of the President of Ukraine, and the Action Plan of the Cabinet of Ministers of Ukraine as approved by the Verkhovna Rada of Ukraine, solving the issues of public administration in the field of economy and finance, social policy, labour and employment, health care, education, science, culture, sports, tourism, environmental protection, environmental safety, environmental management, legal policy, legality, protection of human and civil rights and freedoms, prevention and combating of corruption, solving of other objectives of domestic and foreign policies, civil protection, national security and defence. The Cabinet of Ministers of Ukraine constantly monitors the implementation of the Constitution of Ukraine and other acts of legislation of Ukraine by executive bodies, and takes measures to remediate shortcomings in the work of these bodies.

The Cabinet of Ministers of Ukraine shall:

1) in the field of economics, finance, labour relations, employment, labour migration, wages and labour protection:

ensure the implementation of state economic policy, make forecasts and implement state regulation of the national economy; ensure the development and implementation of national programs of economic and social development;

determine the expediency of developing state target programs taking into account national priorities and ensure their implementation;

in accordance with the law manage state property, including corporate rights, delegate certain powers to manage such state property to ministries and other central executive authorities, local state administrations and relevant business entities in a manner prescribed by law; submit proposals on determining the list of state property that is not subject to privatization to the Verkhovna Rada of Ukraine;

decide on the involvement of advisers to prepare for the privatization and sale of state property;

foster the development of entrepreneurship based on the principles of equality before the law of all forms of ownership and the social orientation of the national economy, take action to develop competition, market infrastructure and demonopolization of the economy;

ensure the implementation of public regulatory policy in the business field;

ensure the development and implementation of programs of structural rebuilding of areas national economy and innovative development, implement measures related to restructuring and rehabilitation of enterprises and organizations, ensure the implementation of state industrial policy, identify priority industries in need of accelerated development;

provide protection and support for the national producers of goods;

provide protection of consumer rights and improve their quality of life;

determine the volume of products (works, services) for public needs, the procedure for forming and placing a public order for such products, resolve in accordance with the law other issues to meet a public needs for products (works, services); form, in accordance with the law, state reserve funds of financial and material and technical resources and make decisions with regard to their use;

ensure the implementation of state agricultural policy and food security of the state;

ensure the implementation of state financial and tax policy, promote the stability of the currency of Ukraine;

develop and approve the Budget Declaration, develop draft laws on the State Budget of Ukraine and on amendments to the State Budget of Ukraine, ensure the implementation of the State Budget of Ukraine approved by the Verkhovna Rada of Ukraine, submit a report on its implementation to the Verkhovna Rada of Ukraine; make decision on the use of the reserve fund of the State Budget of Ukraine;

service the public debt of Ukraine, make decision to issue government bonds of internal and external loans;

organize state insurance;

ensure the implementation of state pricing policy and state regulation of prices;

ensure the implementation of foreign economic activity of Ukraine, carry out, within the limits specified by law, the regulation of foreign economic activity;

organize and ensure the functioning of customs matters;

participate in compiling the balance of payments and organize the compiling the foreign trade balance of Ukraine, ensure the rational use of state currency;

act as a guarantor of loans provided by foreign states, banks, international financial organizations as is provided for by the law “On State Budget of Ukraine”, and in other cases — in accordance with international treaties of Ukraine, the binding nature of which is approved by the Verkhovna Rada of Ukraine;

act as a party to social dialogue at the national level, promote its development, in accordance with the law consult with other parties to social dialogue on draft laws, other regulations on the formation and implementation of state social and economic policy, regulation of labour, social and economic relations;

ensure the implementation of state policy in the areas of labour relations, employment, labour migration, pay and labour protection, development and implementation of relevant state programs,

solve issues of vocational guidance, training and retraining, regulate migration processes, ensure the implementation of the provisions of the General Agreement within the limits of its commitments;

2) in the fields of social policy, healthcare, education, science, culture, sports, tourism, protection of environment and emergency response and recovery:

ensure the implementation of state social policy, take measures to increase real incomes and provide social protection of citizens;

ensure the preparation of draft laws on state social standards and social guarantees;

ensure the development and implementation of state programs of social assistance, take measures to strengthen the material and technical base of social protection institutions for persons with disabilities, pensioners and other disabled and low-income population groups;

ensure the implementation of state policy in the field of health, sanitary and epidemiological well-being, maternity and childhood protection, education, physical culture and accessibility of medical, educational and sports facilities to citizens;

ensure the implementation of state culture policy, ethno-national development of Ukraine and inter-ethnic relations, protection of historical and cultural heritage, comprehensive development and functioning of the state language in all spheres of public life in Ukraine; create conditions for free development of the languages of indigenous peoples and national minorities of Ukraine, ensures that national and cultural needs of Ukrainians living outside Ukraine are met;

ensure the development and implementation of measures to create the material and technical base and other conditions necessary for the development of health care, education, culture and sports, tourism and recreation;

implement state informatization policy, promotes the formation of a single information space in Ukraine;

ensure the implementation of scientific and technical policy, development and strengthening of scientific and technical potential of Ukraine, development and implementation of national scientific and technical programs;

take measures to improve state regulation in the scientific and technical sphere, stimulate innovative activities of enterprises, institutions and organizations;

determine the procedure for the formation and use of funds for scientific and technical activities;

ensure the implementation of state environmental protection, environmental safety and environmental management policy;

ensure the development and implementation of state and interstate environmental programs;

manage within its powers the protection and rational use of land, its subsoil, water resources, flora and fauna, other natural resources;

make decisions on the restriction, temporary prohibition (suspension) or termination of enterprises, institutions and organizations, regardless of ownership, in case of violation of labour and environmental legislation;

coordinate the activities of executive bodies, local governments, enterprises, institutions and organizations connected to environmental protection via the implementation of state, regional and interstate environmental programs;

ensure the implementation of measures provided by the state programs of liquidation of the consequences of the Chernobyl disaster, make decisions on the liquidation of the consequences of other accidents, as well as fires, catastrophes, natural disasters;

establish awards and scholarships of the Cabinet of Ministers of Ukraine for special achievements in various spheres of public life, determines their size and procedure for their award;

3) in the area of legal policy, rule of law, ensuring human and civil rights and freedoms:

ensure the implementation of state legal policy;

monitor compliance with the law of executive authorities, their officials, as well as local governments on the implementation of their delegated powers as executive authorities;

take measures to protect the humans' and citizens' rights and freedoms, dignity, life and health from unlawful encroachments, protect property and public order, ensure fire safety, prevent crime, prevent and combat corruption;

take measures to ensure the execution of court decisions by executive bodies and their heads;

create conditions for free development and functioning of the system of legal services and legal assistance to the population;

take measures to ensure the functioning of the free legal aid system;

provide funding for the maintenance of courts within the limits set by the law on the State Budget of Ukraine, and create appropriate conditions for the functioning of courts and judges;

organize financial and logistical support for law enforcement authorities, social protection of employees of these authorities and members of their families;

coordinate and monitor activities of executive bodies with regard to preventing and combating corruption;

4) in the area of foreign policy:

ensure, within its powers, the implementation of the foreign policy of Ukraine, develop and approve state programs in this area, approve programs for the visits of official foreign delegations which include representatives of the Cabinet of Ministers of Ukraine, and other related documents;

in accordance with the Law on International Agreements, resolve issues related to the conclusion and implementation of international agreements of Ukraine;

decide on the acquisition of real estate abroad (construction, reconstruction of facilities) for the needs of foreign diplomatic missions of Ukraine;

5) in the area of national security and defence:

take measures to protect and defend the state border of Ukraine and the territory of Ukraine;

implement measures to strengthen the national security of Ukraine, develop and approve state programs with regard to this;

take measures to ensure the combat capability of the Armed Forces of Ukraine, determine within the budget allocations for defence the number of citizens of Ukraine who are subject to conscription for military service;

take measures to ensure the defence capability of Ukraine, that the Armed Forces of Ukraine and other military formations are equipped in accordance with the law;

provide social and legal guarantees to servicemen, persons discharged from military service and members of their families;

manage the unified system of civil defence of Ukraine, mobilization preparation of the national economy and its transfer to the mode of operation in a state of emergency or martial law;

decide on the participation of Ukrainian servicemen in international peacekeeping and security operations in the manner prescribed by law;

determine the priority development directions of the defence industry;

6) in the area of improving public administration and civil service:

ensure the proper staffing of executive bodies;

develop and implement measures aimed at improving the system of executive bodies in order to increase the efficiency of their activities and optimize the costs associated with the maintenance of the management staff;

ensure the representation of the interests of the Cabinet of Ministers of Ukraine during the consideration of cases in the Constitutional Court of Ukraine;

within its powers and in accordance with the law give incentives and make decisions apply disciplinary measures to:

a) heads and deputy heads of central executive authorities;

b) heads of local state administrations (apart from for their dismissal);

c) other officials appointed by the Cabinet of Ministers of Ukraine;

decide on the maximum number of employees of executive bodies;

determine, in accordance with the law, the conditions of remuneration of employees of budgetary institutions and enterprises of the public sector, as well as the financial support of servicemen (privates and officers), police officers;

organize the implementation of a unified state policy on civil service;

set up, reorganize and liquidate ministries and other central executive authorities in accordance with the law operating within the State Budget of Ukraine funding for the maintenance of executive authorities, approve regulations on these authorities;

form and reorganize raion state administrations.

Cabinet of Ministers of Ukraine also shall exercise other powers established by the Constitution and laws of Ukraine.

Powers of the Cabinet of Ministers of Ukraine with regard to ministries and other central executive authorities

The Cabinet of Ministers of Ukraine directs and coordinates the work of ministries and other central executive authorities that implement state policy in relevant areas of public and state life, implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine, respect for human and civil rights and freedoms. Ministries and other central executive authorities are accountable to the Cabinet of Ministers of Ukraine, report to it and are controlled by it.

The activities of ministries in the Cabinet of Ministers of Ukraine are within the scope of competence of the relevant ministers. The activities of central executive authorities who are not members of the Cabinet of Ministers of Ukraine are guided and coordinated by the ministers. The activity of such central executive authority are managed by the relevant ministers, which direct and coordinate these authorities within the scope of their competence.

The Cabinet of Ministers of Ukraine approves the maximum number of employees of ministries and other central executive authorities with regard to the funds provided in the State Budget of Ukraine for the maintenance of executive authorities. The Cabinet of Ministers of Ukraine, based on a substantiated proposal of the head of the central executive authority shall determine the number of deputies for such head.

The Cabinet of Ministers of Ukraine may repeal acts of ministries and other central executive authorities in whole or in part. These powers of the Cabinet of Ministers of Ukraine shall not cover the decisions of ministries and other central executive authorities, issued by them in the course of exercising their powers related to management of equity rights owned by the State in authorised capitals of economic operators operating under a licence for natural gas transmission, electricity transmission, and of legal persons that own equity rights in those economic operators as well as the decision of the National Commission for State Regulation of Electronic Communications and Radio Spectrum.

The Cabinet of Ministers of Ukraine shall appoint:

- 1) state secretaries of ministries, heads and deputy heads of central executive authorities that are not part of the Cabinet of Ministers of Ukraine, according to the legislation on civil service;
- 2) first deputy ministers and deputy ministers — on the proposal of the Prime Minister of Ukraine.

Such persons shall be dismissed by the Cabinet of Ministers of Ukraine in accordance with the procedure and on the grounds provided for by the Laws of Ukraine “On the Cabinet of Ministers of Ukraine”, “On Central Executive Authorities”, “On Civil Service”.

The Cabinet of Ministers of Ukraine shall appoint and dismiss the members of the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services in accordance with the procedure laid down in the Law of Ukraine “On the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services.

The Cabinet of Ministers of Ukraine shall appoint and dismiss the director of the National Anticorruption Bureau of Ukraine in accordance with the procedure established by the Law of Ukraine “On the National Anticorruption Bureau of Ukraine”.

The peculiarities of the relations of the Cabinet of Ministers of Ukraine with the National Anticorruption Bureau of Ukraine, the boundaries and procedure for coordination and direction of the activities of the National Anticorruption Bureau of Ukraine are determined by the Law of Ukraine “On the National Anticorruption Bureau of Ukraine”.

The Cabinet of Ministers of Ukraine shall be prohibited from interfering in the activities of the National Anticorruption Bureau of Ukraine, in particular in conducting pre-trial investigations and making decisions related to or affecting specific criminal proceedings.

The specifics of the relations between the Cabinet of Ministers of Ukraine and the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services shall be governed by the Laws of Ukraine “On the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services”, “On Electronic Communications” and “On Postal Service”.

The Cabinet of Ministers of Ukraine directs and coordinates the activities of the Council of Ministers of the Autonomous Republic of Crimea on the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine and acts of the Cabinet of Ministers of Ukraine in the Autonomous Republic of Crimea. The Cabinet of Ministers of Ukraine has the right to receive from the Council of Ministers of the Autonomous Republic of Crimea information on its activities. The Council of Ministers of the Autonomous Republic of Crimea is accountable to and is controlled by the Cabinet of Ministers of Ukraine with regard to its performance of state functions and exercise of powers. The Cabinet of Ministers of Ukraine shall hear the reports of the Head of the Council of Ministers of the Autonomous Republic of Crimea with regard to the performance of state functions and exercise of powers by the Council of Ministers of the Autonomous Republic of Crimea. The Cabinet of Ministers of Ukraine shall establish the procedure for the participation of the Council of Ministers of the Autonomous Republic of Crimea and its subordinate bodies in the implementation of national programs and other measures of national importance. In case of improper performance of the official duties by the Head of the Council of Ministers of the Autonomous Republic of Crimea, the Cabinet of Ministers of Ukraine has the right to make an appeal to the President of Ukraine and the Verkhovna Rada of the Autonomous Republic of Crimea with regard to that Head’s dismissal.

The Cabinet of Ministers of Ukraine directs and coordinates the activities of the local state administration on the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine and of the executive bodies of higher level, on the territory where local state administrations exercise powers granted to them. Cabinet of Ministers of Ukraine considers issues with regard to:

- 1) approval of candidates for deputy heads of regional state administrations;

- 2) submitting proposals in case of reasonable refusal of the head of oblast state administration or support for the reasonable refusal of the head of raion state administration by the head of oblast state administration to agree the appointment of the head of the territorial unit of the ministry, other central executive authority, head of the enterprise, institution, organisation managed by this ministry, other central executive authority as regards granting consent to the appointment of the head concerned;

3) submitting to the President of Ukraine of proposals to repeal acts of local state administrations that contradict the Constitution and laws of Ukraine, other acts of legislation of Ukraine, and simultaneously suspending their validity;

4) appointment or dismissal of heads of local state administrations and making relevant submissions to the President of Ukraine;

5) renaming of local state administrations in connection with the change of names of the relevant administrative and territorial units, make decisions on these issues.

The relevant head of the oblast state administration is invited to a meeting of the Cabinet of Ministers of Ukraine where the appointment of the head of a territorial body, ministry, another central executive authority, head of an enterprise, institution, organization managed by the ministry or another central executive authority is being considered. That head of oblast state administration can make suggestions on the discussed issue under, express reservations, give explanations.

Heads of local state administrations report to the Cabinet of Ministers of Ukraine during exercise of their powers. Local state administrations and their heads report to and are controlled by the Cabinet of Ministers of Ukraine within the scope of its powers. The Cabinet of Ministers of Ukraine receives information from local state administrations on their activities and regularly hears reports from the heads of state administrations on their activities. The Cabinet of Ministers of Ukraine approves the standard regulations of local state administrations, the standard regulations on structural subdivisions of local state administrations, the recommended list of its structural subdivisions, determines the maximum number and salary of the staff of local state administrations, including their secretariat, as well as their maintenance costs. Draft acts of the Cabinet of Ministers of Ukraine on the development of administrative and territorial units are sent to the relevant local state administrations for approval. The Cabinet of Ministers of Ukraine shall consider comments and proposals submitted by local state administrations before adopting such acts.

The Cabinet of Ministers of Ukraine considers proposals of regional, Kyiv and Sevastopol city state administrations on issues that need to be resolved by the Cabinet of Ministers of Ukraine. During the consideration of such proposals heads of regional, Kyiv and Sevastopol city state administrations have the right to participate in meetings of the Cabinet of Ministers of Ukraine having an advisory vote. Raion, raion in Kyiv and Sevastopol state administrations submit proposals on issues that need to be resolved by the Cabinet of Ministers of Ukraine, in accordance with the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations for further submission to the Cabinet of Ministers, ministries and other central executive authorities.

The Cabinet of Ministers of Ukraine may, within the funding limits provided for in the State Budget of Ukraine, form, reorganize and liquidate, in accordance with the law, state economic associations, enterprises, institutions and organizations, in particular to perform certain functions with regard to state property management. The Cabinet of Ministers of Ukraine approves the regulations and statutes of state economic associations, enterprises, institutions and organizations, the amount of appropriations for their maintenance and the maximum number of employees, appoints and dismisses their heads and deputy heads, applies disciplinary measures to them. The Cabinet of Ministers of Ukraine determines the methodology for approving the financial plans of state economic associations, enterprises, institutions and organizations and for calculating the amount of revenues the budget will

receive from the management of state corporate rights. The Cabinet of Ministers of Ukraine in accordance with the legislation coordinates and controls the activities of these state economic associations, enterprises, institutions and organizations. Heads of state economic associations, enterprises, institutions and organizations established by the Cabinet of Ministers of Ukraine are personally responsible to the Cabinet of Ministers of Ukraine for the performance of these associations, enterprises, institutions and organizations, efficient use of state property.

Powers of the Cabinet of Ministers of Ukraine in its relations with the President of Ukraine

The Cabinet of Ministers of Ukraine shall be accountable to the President of Ukraine. The President of Ukraine has the right to submit to the Verkhovna Rada of Ukraine a proposal to consider the issue of responsibility of the Cabinet of Ministers of Ukraine, taking into account the restrictions set forth in Article 87(2) of the Constitution of Ukraine.

The Cabinet of Ministers of Ukraine ensures the implementation of acts of the President of Ukraine.

The Prime Minister of Ukraine and the Minister responsible for an act of the President of Ukraine issued by the President of Ukraine within the powers provided for Article 106(1)(5), (18), (21), (23) of the Constitution of Ukraine, as well as for the implementation of such an act have to put their signatures on it within five days from the date of receipt of the act.

The Cabinet of Ministers of Ukraine may appeal to the President of Ukraine to designate a draft law submitted to the Verkhovna Rada of Ukraine as urgent.

The President of Ukraine or his authorized representative may take part in the meetings of the Cabinet of Ministers of Ukraine.

In accordance with the law, the National Security and Defence Council of Ukraine coordinates and controls the activities of executive bodies in the field of national security and defence. The Cabinet of Ministers of Ukraine ensures the implementation of the decisions of the National Security and Defence Council of Ukraine, enacted by decrees of the President of Ukraine, which comply with the provisions of the Constitution of Ukraine.

The Secretariat of the Cabinet of Ministers of Ukraine shall respond to requests from advisory, consultative and other subsidiary bodies and services established by the President of Ukraine and provide them with the information necessary to perform the tasks assigned to them.

Members of the Cabinet of Ministers of Ukraine, heads of other executive bodies in agreement with the Prime Minister of Ukraine may be included in advisory, consultative and other subsidiary bodies and services established by the President of Ukraine to exercise their powers and participate in the activities of such bodies and services on a voluntary basis.

Powers of the Cabinet of Ministers of Ukraine in its relations with the Verkhovna Rada of Ukraine, bodies formed by it and members of parliament of Ukraine

In accordance with the Constitution of Ukraine, the Cabinet of Ministers of Ukraine has the right of legislative initiative in the Verkhovna Rada of Ukraine. The Cabinet of Ministers of Ukraine submits draft laws for consideration by the Verkhovna Rada of Ukraine in accordance with the requirements of the Rules of Procedure of the Verkhovna Rada of Ukraine. The Prime Minister of Ukraine shall appoint a member of the Cabinet of Ministers of Ukraine to submit to the Verkhovna

Rada of Ukraine a draft law on behalf of the Cabinet of Ministers of Ukraine. If it is impossible for a certain member of the Cabinet of Ministers of Ukraine to submit a draft law to the Verkhovna Rada of Ukraine, the law may be submitted by the Deputy Minister, head of the central executive authority which is not included in the Cabinet of Ministers of Ukraine with the consent of the Prime Minister of Ukraine of which the Verkhovna Rada of Ukraine shall be informed in writing. The Cabinet of Ministers of Ukraine has the right to withdraw a draft law submitted by it to the Verkhovna Rada of Ukraine in accordance with the procedure established by the Rules of Procedure of the Verkhovna Rada of Ukraine. The newly formed Cabinet of Ministers of Ukraine has the right to withdraw the draft laws submitted to the Verkhovna Rada of Ukraine by the previous Cabinet of Ministers of Ukraine, no longer in power before the law's adoption in the first reading.

The Cabinet of Ministers of Ukraine acting according to the decision of the Verkhovna Rada of Ukraine at the request of the relevant committee of the Verkhovna Rada of Ukraine or on its own shall submit to the Verkhovna Rada of Ukraine conclusions on the completeness of economic justification and financial support of legislative proposals and draft laws which require material and other costs from state or local budgets. The Cabinet of Ministers of Ukraine ensures the examination by other entities with the right of legislative initiative of draft laws submitted to the Verkhovna Rada of Ukraine and sent by the Verkhovna Rada of Ukraine. Members of the Cabinet of Ministers of Ukraine have the right to submit opinions on draft laws with regard to issues that fall within the scope of their competence. Such opinions are sent to the committee of the Verkhovna Rada of Ukraine which was designated as responsible for the development of the relevant draft law. The Prime Minister of Ukraine, other members of the Cabinet of Ministers of Ukraine, deputy ministers, heads of central executive authorities who are not members of the Cabinet of Ministers of Ukraine have the right to attend meetings of the Verkhovna Rada of Ukraine and speak on issues that are being discussed. If the members of parliament of Ukraine raise issues related to the activities of the Cabinet of Ministers of Ukraine or certain central executive authorities at the meeting of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine and other members of the Cabinet of Ministers of Ukraine have the right to reply. Members of the Cabinet of Ministers of Ukraine, officials of ministries, other central executive authorities, the Secretariat of the Cabinet of Ministers of Ukraine have the right to participate in meetings of committees, temporary special and temporary investigative commissions of the Verkhovna Rada of Ukraine on issues related to the powers of the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine shall review and approve the Budget Declaration no later than 1 June of the year preceding the planned year and submit it together with the financial and economic justification to the Verkhovna Rada of Ukraine for consideration in accordance with a special procedure established by the Rules of Procedure. The Cabinet of Ministers of Ukraine drafts the Law on the State Budget of Ukraine based on the Budget Declaration taking into account the recommendations of the Verkhovna Rada on budget policy (if such recommendations are approved in accordance with Article 152 of the Rules of Procedure of the Verkhovna Rada of Ukraine) and submits it to the Verkhovna Rada no later than 15 September of the year preceding the planned one. Consideration and approval of the State Budget of Ukraine takes place in the Verkhovna Rada of Ukraine according to a special procedure determined by the Rules of Procedure of the Verkhovna Rada of Ukraine. The Cabinet of Ministers of Ukraine ensures the implementation of the State Budget of Ukraine. The annual report on the implementation of the law on the State Budget of Ukraine shall

be 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 1 April of the year following the reporting year. Consideration in the Verkhovna Rada of Ukraine of the annual report on the implementation of the law on the State Budget of Ukraine is carried out in accordance with a special procedure determined by the Rules of Procedure of the Verkhovna Rada of Ukraine.

The Cabinet of Ministers of Ukraine shall draft national programs for economic, scientific and technical, social and cultural development, environmental safety, and for other issues and submit them to the Verkhovna Rada of Ukraine. The Cabinet of Ministers of Ukraine submits to the Verkhovna Rada of Ukraine reports on the progress of implementation of national programs together with the report on the implementation of the State Budget of Ukraine during the last year.

At the request of the Accounting Chamber, the Cabinet of Ministers of Ukraine shall provide statistical, financial, accounting and other information necessary for the performance of its tasks, functions and powers established by the Constitution and laws of Ukraine. The Cabinet of Ministers of Ukraine shall receive from the Accounting Chamber information on the results of inspections, audits and surveys, as well as proposals to prosecute those guilty of violating the law, improper and inefficient use of funds, causing material damage to the state, considers such information and proposals, take appropriate measures within its competence and inform the Accounting Chamber thereof.

The Cabinet of Ministers of Ukraine, within the limits established by law, provides the Commissioner for Human Rights with access to acts and other documents of the Cabinet of Ministers of Ukraine, subordinate bodies, enterprises, institutions and organizations, assists the Commissioner in exercising their powers provided for by law. If there are grounds for it set forth in the appeal of the Ukrainian Parliament Commissioner for Human Rights the Cabinet of Ministers of Ukraine shall take appropriate measures within its competence to eliminate human rights violations and inform the Ukrainian Parliament Commissioner for Human Rights thereof.

The Cabinet of Ministers of Ukraine or members of the Cabinet of Ministers of Ukraine who have received an appeal or request from a member of parliament of Ukraine must respond in the manner prescribed by law. The response to the appeal or request of member of parliament of Ukraine sent to the Cabinet of Ministers of Ukraine shall be signed by the Prime Minister of Ukraine. The response to the appeal or request of the member of parliament of Ukraine sent to other members of the Cabinet of Ministers of Ukraine shall be signed by the member of the Cabinet of Ministers of Ukraine to whom the appeal or request is addressed. If the answer to the request of the member of parliament of Ukraine is discussed at the plenary meeting of the Verkhovna Rada of Ukraine, members of the Cabinet of Ministers of Ukraine to whom the request is addressed may be invited to that meeting.

The Cabinet of Ministers of Ukraine considers appeals of committees, the Special Supervisory Panel on Privatization, temporary special and temporary investigative commissions of the Verkhovna Rada of Ukraine related to its activities. The response to the appeals referred to in paragraph one of this Article shall be signed by the Prime Minister of Ukraine or another member of the Cabinet of Ministers of Ukraine to whom the appeal is addressed.

On the days of the plenary meetings of the Verkhovna Rada of Ukraine, every week some time is allotted for questions to the members of the Cabinet of Ministers of Ukraine (hereinafter referred to as the “Hour of Questions to the Government”). The whole Cabinet of Ministers of Ukraine takes part in the “Hour of Questions to the Government” in the Verkhovna Rada of Ukraine, except for those of its members who cannot be present for valid reasons. During the “Hour of Questions to the Government”, members of the Cabinet of Ministers of Ukraine answer questions from members of parliament of Ukraine, committees of the Verkhovna Rada of Ukraine, the Special Supervisory Panel on Privatization, temporary special and temporary investigative commissions of the Verkhovna Rada of Ukraine, and parliamentary factions. MPs of Ukraine and parliamentary factions may in advance notify members of the Cabinet of Ministers of Ukraine in writing of any questions they may be asked. During the “Hour of Questions to the Government”, only issues that fall within the scope of competence of the Cabinet of Ministers of Ukraine and central executive authorities are raised. A member of the Cabinet of Ministers of Ukraine answers questions within the limits of his/her competence. His/her answers may be supplemented by other members of the Cabinet of Ministers of Ukraine, if necessary. “Hour of Questions to the Government” is broadcast live on the first national television and radio channels.

Relations of the Cabinet of Ministers of Ukraine with other public authorities, local self-governing bodies and public associations

The Cabinet of Ministers of Ukraine shall appeal to the Constitutional Court of Ukraine to provide conclusions on the compliance of the Constitution of Ukraine with current international treaties of Ukraine or those international treaties submitted to the Verkhovna Rada of Ukraine for them to be recognized as binding. The interests of the Cabinet of Ministers of Ukraine during the consideration of cases in the Constitutional Court of Ukraine are represented by the Permanent Representative of the Cabinet of Ministers of Ukraine in the Constitutional Court of Ukraine.

The Cabinet of Ministers of Ukraine may be a plaintiff and defendant in courts, in particular, appeal to the court if it is necessary for the exercise of its powers in the manner prescribed by the Constitution and laws of Ukraine. The interests of the Cabinet of Ministers of Ukraine are represented in courts by the Ministry of Justice of Ukraine, unless otherwise provided by the laws of Ukraine or acts of the Cabinet of Ministers of Ukraine. At the request of the Cabinet of Ministers of Ukraine or the Ministry of Justice of Ukraine, executive bodies, state enterprises, institutions and organizations must within the established term submit the materials necessary for consideration of cases in courts. Moreover, the Cabinet of Ministers of Ukraine cooperates with the Supreme Council of Justice, other bodies and institutions of the justice system on issues within their scope of competence.

In accordance with the Constitution and laws of Ukraine, the Cabinet of Ministers of Ukraine shall cooperate with the National Bank of Ukraine, and other public authorities on issues within the scope of its competence.

The Cabinet of Ministers of Ukraine directs the activities of executive authorities to promote the effective functioning and development of local self-government, observance of the rights of local self-governing bodies provided for by law, promoted cooperation of central and local executive authorities and bodies with local self-governing bodies in solving local issues, including economic, social and cultural development of the relevant administrative and territorial units. The Cabinet of Ministers of Ukraine shall take measures to familiarize local self-governing bodies with draft acts of

the Cabinet of Ministers of Ukraine directly related to the functioning of local self-governing bodies or the interests of territorial communities. The Cabinet of Ministers of Ukraine in the manner prescribed by law and using funds provided by the State Budget of Ukraine shall reimburse the costs of local governments incurred as a result of decisions of the Cabinet of Ministers of Ukraine and other executive bodies.

The Cabinet of Ministers of Ukraine may submit to the Verkhovna Rada of Ukraine draft laws on granting local self-governing bodies certain powers of executive authorities. At the same time, the Cabinet of Ministers of Ukraine submits proposals on financing the exercise of such powers in full at the expense of the State Budget of Ukraine or by allocating certain national taxes to the local budget, as well as transfer to communal ownership or for the use of local self-governing bodies of relevant state property. The Cabinet of Ministers of Ukraine, in accordance with the Constitution and laws of Ukraine, ensures control over the implementation by local self-governing bodies of the powers granted to them by executive bodies.

The Cabinet of Ministers of Ukraine ensures the implementation of the rights of public associations provided by law directly or via executive bodies. The Cabinet of Ministers of Ukraine considers proposals of public associations on matters within its competence.

Organisation of the activities the Cabinet of Ministers of Ukraine

The Cabinet of Ministers of Ukraine acts to implement the Constitution and laws of Ukraine, acts of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted pursuant to the Constitution and laws of Ukraine, Action Program of the Cabinet of Ministers of Ukraine, approved by the Verkhovna Rada of Ukraine. In accordance with the Constitution and laws of Ukraine, the Cabinet of Ministers of Ukraine shall exercise its powers by taking decisions at its meetings by the majority of the official composition of the Cabinet of Ministers of Ukraine as determined in accordance with Article 6 of this Law.

1. Prime Minister of Ukraine:

1) leads the Cabinet of Ministers of Ukraine, directs the activities of the Cabinet of Ministers of Ukraine to ensure the implementation of domestic and foreign policy, implementation of the Program of Cabinet of Ministers of Ukraine approved by the Verkhovna Rada of Ukraine and other powers vested in the Cabinet of Ministers of Ukraine;

2) directs, coordinates and monitors the activities of members of the Cabinet of Ministers of Ukraine, heads of other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, gives mandates for this purpose which are obligatory for the respective authorities and officials;

3) submits to the Verkhovna Rada of Ukraine applications for appointment of members of the Cabinet of Ministers of Ukraine (except for the Minister for Foreign Affairs of Ukraine and the Minister of Defence of Ukraine), as well as the Chairman of the Antimonopoly Committee of Ukraine, the Chairman of the State Television and Radio Broadcasting Committee, Head of the State Property Fund of Ukraine;

4) submits for consideration to the Cabinet of Ministers of Ukraine:

proposals on candidates for appointment and dismissal of heads of local state administrations and on submission to the President of Ukraine of applications for appointment or dismissal of heads of local state administrations;

proposals on the direction and coordination by the Cabinet of Ministers of Ukraine of central executive authorities, in particular by a minister who is not head of the ministry;

submission in accordance with the law of candidates for appointment to the position according to the results of competitive selection in accordance with the legislation on civil service and dismissal of members of collegial central executive authorities that are not part of the Cabinet of Ministers of Ukraine;

submission with regard to the formation, reorganization and liquidation of ministries and other central executive authorities;

5) formulates the draft agenda of the meeting of the Cabinet of Ministers of Ukraine;

6) convenes meetings of the Cabinet of Ministers of Ukraine and chairs them;

7) signs acts of the Cabinet of Ministers of Ukraine, the General Agreement;

8) puts their signature on the acts of the President of Ukraine in the cases provided for in Article 106(1)(5), (18), (21) and (23) of the Constitution of Ukraine;

9) represents the Cabinet of Ministers of Ukraine in its relations with other bodies, enterprises, institutions and organizations in Ukraine and abroad;

10) enters into relations with the governments of foreign states, negotiates and signs international agreements in accordance with the law, resolutions of the Verkhovna Rada of Ukraine and acts of the President of Ukraine adopted in accordance with the Constitution of Ukraine;

11) submits to the Cabinet of Ministers of Ukraine proposals for approval of the chairmen of joint intergovernmental commissions on cooperation formed subject to international agreements concluded on behalf of the Cabinet of Ministers of Ukraine;

12) issues instructions on initiating disciplinary proceedings against ministers and their deputies, heads and deputy heads of other central executive authorities. Applies disciplinary sanctions to such persons;

13) issues instructions on initiating disciplinary proceedings against heads and deputy heads of local executive bodies.

The Prime Minister of Ukraine may exercise other powers envisaged by the Constitution, this and other laws of Ukraine. In order for the Prime Minister of Ukraine to exercise his/her powers, an executive support service is established within the Secretariat of the Cabinet of Ministers of Ukraine — the Secretariat of the Prime Minister of Ukraine, whose head is appointed and dismissed by the Prime Minister of Ukraine. In the event of absence of the Prime Minister of Ukraine, the powers of the Prime Minister of Ukraine shall be exercised by the First Vice Prime Minister of Ukraine or Vice Prime Minister of Ukraine in accordance with the division of powers as determined by the Cabinet of Ministers of Ukraine.

First Vice Prime Minister of Ukraine or Vice Prime Minister of Ukraine in accordance with the division of powers:

1) ensures the implementation of the Action Programme of the Cabinet of Ministers of Ukraine, the implementation of other tasks and powers assigned to the Cabinet of Ministers of Ukraine in the relevant areas of activity;

2) prepares issues for consideration at meetings of the Cabinet of Ministers of Ukraine, preliminarily considers and approves draft laws, acts of the President of Ukraine prepared by the Cabinet of Ministers of Ukraine, as well as drafts of relevant acts of the Cabinet of Ministers of Ukraine; promotes the coordination of positions between members of the Cabinet of Ministers of Ukraine, makes proposals on the agenda of meetings of the Cabinet of Ministers of Ukraine;

3) promotes the interaction of the Cabinet of Ministers of Ukraine with the President of Ukraine and the Verkhovna Rada of Ukraine with regard to the activities of the Cabinet of Ministers of Ukraine and other executive bodies;

4) participates in the consideration of issues at meetings of the Cabinet of Ministers of Ukraine, has the right to be present at meetings of the Verkhovna Rada of Ukraine and its bodies, take part in the activities of the boards of ministries and other central executive authorities, meetings of the Council of Ministers of the Autonomous Republic of Crimea;

5) manages advisory, consultative and other subsidiary bodies formed by the Cabinet of Ministers of Ukraine upon the decision of the Cabinet of Ministers of Ukraine;

6) represents the Cabinet of Ministers of Ukraine in its relations with other bodies, enterprises, institutions and organizations in Ukraine and abroad in accordance with the established procedure;

7) takes part in the negotiations and signs international agreements of Ukraine within the scope of powers granted to them;

8) exercise other powers envisaged by this Law and other laws.

The minister of Ukraine:

1) ensures the implementation of the Action Programme of the Cabinet of Ministers of Ukraine, the formation and implementation of state policy, the implementation of other tasks and powers assigned to the Cabinet of Ministers of Ukraine in the relevant areas of activity;

2) directs and coordinates the activities of the relevant central executive authorities;

3) submits for consideration to the Cabinet of Ministers of Ukraine:

proposals for resolving issues related to the exercise of their powers related to directing and coordinating the activities of central executive authorities;

proposals — in case of reasonable refusal of the head of oblast state administration (support for the reasonable refusal of the head of raion state administration by the head of oblast state administration) to agree the appointment of the head of the territorial unit of the ministry, other central executive authority whose activities are guided and coordinated by the minister, government body in the system of the ministry or the head of the enterprise, institution, organisation managed by this

ministry, other central executive authority — as regards granting consent of the Cabinet of Ministers of Ukraine to the appointment of the head concerned;

4) present a proposal to the Prime Minister of Ukraine on appointment and dismissal of first deputy minister and deputy ministers;

5) puts their signature on the acts of the President of Ukraine issued within the powers provided for in Article 106(1)(5), (18), (21) and (23) of the Constitution of Ukraine on matters within the area of activities of the Ministry, and ensures their implementation;

6) approves draft laws, draft acts of the President of Ukraine and the Cabinet of Ministers of Ukraine submitted to the Cabinet of Ministers of Ukraine on issues that fall within the competence of the ministry and central executive authorities the activity of which is guided and coordinated by the minister;

7) submit for consideration of the Cabinet of Ministers of Ukraine draft laws, draft acts of the President of Ukraine, of the Cabinet of Ministers of Ukraine as developed by the ministry or central executive authorities the activity of which is guided and coordinated by him/her;

8) issues binding orders on issues that fall within the competence of the ministry and central executive authorities the activity of which is guided and coordinated by the minister;

9) prepares issues for consideration by the Cabinet of Ministers of Ukraine;

10) participates in the consideration of issues at the meetings of the Cabinet of Ministers of Ukraine and makes proposals on the agenda of the meetings of the Cabinet of Ministers of Ukraine;

11) represents the Cabinet of Ministers of Ukraine in its relations with other bodies, enterprises, institutions and organizations in Ukraine and abroad in accordance with the established procedure;

12) takes part in the negotiations and signs international agreements of Ukraine within the scope of powers granted to them;

13) manages advisory, consultative and other subsidiary bodies formed by the Cabinet of Ministers of Ukraine upon the decision of the Cabinet of Ministers of Ukraine;

14) exercise other powers envisaged by this Law and other laws.

Members of the Cabinet of Ministers of Ukraine are jointly and severally liable for the results of the activities of the Cabinet of Ministers of Ukraine as a collegial body of executive power. Members of the Cabinet of Ministers of Ukraine bear personal responsibility for the state of affairs in the spheres of public administration assigned to them. Members of the Cabinet of Ministers of Ukraine are liable for offences in accordance with the law. A member of the Cabinet of Ministers of Ukraine may be subject to disciplinary action in the manner prescribed by this Law.

The organizational form of the Cabinet of Ministers of Ukraine is its meeting. Meetings of the Cabinet of Ministers of Ukraine are convened by the Prime Minister of Ukraine. A meeting of the Cabinet of Ministers of Ukraine shall be deemed valid if more than half of the officials of the Cabinet of Ministers of Ukraine are present. If the Minister is not able to take part in the meeting of the Cabinet of Ministers of Ukraine, the Deputy Minister shall take part in such meeting with the right of an advisory vote. The Cabinet of Ministers of Ukraine, upon the proposals of the members of the Cabinet of Ministers of Ukraine, determines other persons who have the right to participate in its meetings

with the right of an advisory vote. Meetings of the Cabinet of Ministers of Ukraine are chaired by the Prime Minister of Ukraine, and in his absence, on his behalf — by the First Vice Prime Minister of Ukraine or Vice Prime Minister of Ukraine in accordance with the division of powers as determined by the Cabinet of Ministers. The agenda of the meeting of the Cabinet of Ministers of Ukraine is approved by the Cabinet of Ministers of Ukraine upon the proposal of the Prime Minister of Ukraine. The meeting of the Cabinet of Ministers of Ukraine is transcribed, its decisions are recorded in the minutes, which is an official document. The transcript of the meeting of the Cabinet of Ministers of Ukraine is an internal working document of the Cabinet of Ministers of Ukraine, which is confidential and used to draw up the minutes of the meeting. The transcript of the meeting of the Cabinet of Ministers of Ukraine shall be provided to the Verkhovna Rada of Ukraine, the President of Ukraine, members of the Cabinet of Ministers of Ukraine upon their request. The minutes of the meeting shall be sent to the members of the Cabinet of Ministers of Ukraine, the President of Ukraine and the Verkhovna Rada of Ukraine, and may also be sent to other entities in accordance with the Rules of Procedure of the Cabinet of Ministers of Ukraine.

The Secretariat of the Cabinet of Ministers of Ukraine provides organizational, expert and analytical, legal, informational and logistical support to the activities of the Cabinet of Ministers of Ukraine. The Secretariat of the Cabinet of Ministers of Ukraine provides for the preparation and holding of meetings of the Cabinet of Ministers of Ukraine and the activities of the Prime Minister of Ukraine, First Vice Prime Minister of Ukraine, Vice Prime Ministers of Ukraine and ministers who do not head the ministries. The Secretariat monitors the timely submission by executive bodies of draft laws, draft acts of the Cabinet of Ministers of Ukraine, and other documents for their preparation for consideration by the Cabinet of Ministers of Ukraine. In accordance with the Law of Ukraine “On Access to Public Information” the Secretariat of the Cabinet of Ministers of Ukraine shall consider and provide answers to inquiries received by the Cabinet of Ministers of Ukraine. The Secretariat of the Cabinet of Ministers of Ukraine, ensuring the activities of a member of the Cabinet of Ministers of Ukraine who does not head the Ministry, exercises on their behalf the powers provided by the Law of Ukraine “On Central Executive Authorities” for the Ministry.

The Secretariat of the Cabinet of Ministers of Ukraine is headed by the State Secretary of the Cabinet of Ministers of Ukraine, who is appointed by the Cabinet of Ministers of Ukraine in accordance with the legislation on civil service for a term of five years with the right to be reappointed. The State Secretary of the Cabinet of Ministers of Ukraine shall be dismissed by the Cabinet of Ministers of Ukraine upon the proposal of the Prime Minister of Ukraine on the grounds provided by the legislation on civil service. The State Secretary of the Cabinet of Ministers of Ukraine has a first deputy and deputies who shall be appointed and dismissed by the Cabinet of Ministers of Ukraine in accordance with the legislation on civil service for a term of five years with the right to be reappointed. The First Deputy and Deputy State Secretaries of the Cabinet of Ministers of Ukraine shall be dismissed by the Cabinet of Ministers of Ukraine upon the proposal of the Prime Minister of Ukraine, taking into account the proposals of the State Secretary of the Cabinet of Ministers of Ukraine in accordance with the legislation on civil service.

Civil servants of the Secretariat of the Cabinet of Ministers of Ukraine shall be appointed and dismissed by the State Secretary of the Cabinet of Ministers of Ukraine, except for those appointed and dismissed by the Cabinet of Ministers of Ukraine in accordance with the legislation on civil service. Other employees of the Secretariat of the Cabinet of Ministers of Ukraine are appointed and

dismissed in accordance with the procedure established by labour legislation. The rights, duties and responsibilities of civil servants of the Secretariat of the Cabinet of Ministers of Ukraine are determined by the legislation on civil service. The termination of the powers of the Cabinet of Ministers of Ukraine is not grounds for dismissal of civil servants, other employees of the Secretariat of the Cabinet of Ministers of Ukraine, except for employees of the Secretariat of the Prime Minister of Ukraine, executive support service of the First Vice Prime Minister of Ukraine, Vice Prime Ministers of Ukraine and ministers who do not head the ministries.

The executive support services of the First Vice Prime Minister of Ukraine, Vice Prime Ministers of Ukraine and ministers who do not head the Ministry are created within the Secretariat of the Cabinet of Ministers of Ukraine. Civil servants and other employees of such services shall be appointed and dismissed by the State Secretary of the Cabinet of Ministers of Ukraine upon the proposal of the First Vice Prime Minister of Ukraine, Vice Prime Ministers of Ukraine and a Minister who does not head the Ministry.

The structure of the Secretariat of the Cabinet of Ministers of Ukraine shall be approved by the Cabinet of Ministers of Ukraine upon the proposal of the State Secretary of the Cabinet of Ministers of Ukraine. The Secretariat of the Cabinet of Ministers of Ukraine is a legal entity and operates in accordance with this Law and the Regulation on the Secretariat of the Cabinet of Ministers of Ukraine approved by the Cabinet of Ministers of Ukraine. The cost estimate for maintenance and staff lists of the Secretariat of the Cabinet of Ministers of Ukraine shall be approved by the State Secretary of the Cabinet of Ministers of Ukraine in agreement with the central executive authority for state budget policy within the budget allocations for the Secretariat of the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine shall establish the National Council of Ukraine for the Development of Science and Technology, temporary advisory, consultative and other subsidiary bodies to ensure the exercise of its powers. Civil servants, members of parliament of Ukraine, scientists and other specialists may be engaged in the work of advisory, consultative and other subsidiary bodies upon their consent. Tasks, composition and organization of work of advisory, consultative and other subsidiary bodies are determined by the Cabinet of Ministers of Ukraine. Funds provided for the activities of the Secretariat of the Cabinet of Ministers of Ukraine or the relevant central executive authority may be allocated for the remuneration of specialists involved in advisory, consultative and other subsidiary bodies.

Acts of the Cabinet of Ministers of Ukraine

The Cabinet of Ministers of Ukraine on the basis of and in pursuance of the Constitution and laws of Ukraine, acts of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted pursuant to the Constitution and laws of Ukraine, shall issue binding acts and resolutions and ordinances. Acts of the Cabinet of Ministers of Ukraine of a normative nature are issued as resolutions of the Cabinet of Ministers of Ukraine. Acts of the Cabinet of Ministers of Ukraine on organizational and administrative and other current issues are issued as ordinances of the Cabinet of Ministers of Ukraine. Acts of the Cabinet of Ministers of Ukraine which, by law, are regulatory acts, shall be elaborated, considered, adopted and promulgated in accordance with the requirements of the Law of Ukraine “On the Principles of State Regulatory Policy in the Field of Economic Activity”.

Acts of the Cabinet of Ministers of Ukraine are signed by the Prime Minister of Ukraine.

As a result of suspension of the act of the Cabinet of Ministers of Ukraine by the President of Ukraine pursuant to Article 106(1)(15) of the Constitution of Ukraine the activities of any bodies, persons aimed at implementing the suspended act of the Cabinet of Ministers of Ukraine, exercise of powers under this act shall be stopped. If the Constitutional Court of Ukraine made a decision to refuse to initiate proceedings on a constitutional petition of the President of Ukraine regarding the compliance of an act of the Cabinet of Ministers of Ukraine with the Constitution of Ukraine, the resolutions on termination of constitutional proceedings in such case or recognition of an act of the Cabinet of Ministers of Ukraine as the one that complies with the Constitution of Ukraine restores the effect of this act. The effect of such an act of the Cabinet of Ministers of Ukraine may not be re-suspended by the President of Ukraine subject to Article 106(1)(15) of the Constitution of Ukraine, unless:

1) an act of the Cabinet of Ministers of Ukraine recognized by the Constitutional Court of Ukraine as the one that complies with the Constitution of Ukraine becomes unconstitutional as a result of amendments to the Constitution of Ukraine;

2) the relevant act of the Cabinet of Ministers of Ukraine, with regard to which the Constitutional Court of Ukraine has refused to open constitutional proceedings or decided to recognize it as the one that complies with the Constitution of Ukraine, was amended in a way that is contrary to the Constitution of Ukraine.

An act of the Cabinet of Ministers of Ukraine may be appealed in court in the manner and in cases established by law.

The right of initiative in adoption of acts of the Cabinet of Ministers of Ukraine shall belong to the members of the Cabinet of Ministers of Ukraine, central executive authorities, state collegial bodies, the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv City and Sevastopol City state administrations. Draft acts of the Cabinet of Ministers of Ukraine shall be prepared by ministries, other central executive authorities, state collegial bodies, the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv City and Sevastopol City state administrations. Draft acts of the Cabinet of Ministers of Ukraine shall be prepared and submitted for consideration of the Cabinet of Ministers of Ukraine by the Secretariat of the Cabinet of Ministers of Ukraine, ministries, other central executive authorities (except for those the activity of which is guided and coordinated by the Cabinet of Ministers of Ukraine through the relevant member of the Cabinet of Ministers of Ukraine), state collegial bodies, local state administrations. Draft acts of the Cabinet of Ministers of Ukraine may be also submitted for consideration of the Cabinet of Ministers of Ukraine by the Prime Minister of Ukraine, the First Deputy Prime Minister of Ukraine, the Deputy Prime Ministers of Ukraine and by the minister who does not head a ministry under the established procedure. These drafts may, on the instruction of the relevant members of the Cabinet of Ministers of Ukraine, be prepared by the Secretariat of the Cabinet of Ministers of Ukraine if the subject of their legal regulation does not fall within the competence of ministries and other central executive authorities. Draft acts of the Cabinet of Ministers of Ukraine submitted for its consideration shall be registered by the Secretariat of the Cabinet of Ministers of Ukraine. The registered draft acts of the Cabinet of Ministers of Ukraine shall be entered in the database of the electronic computer network. They shall be published on the official website of the Cabinet of Ministers of Ukraine under the procedure established by the Cabinet of Ministers of Ukraine. The Members of Parliament of Ukraine,

scientists and other experts, upon their consent, may be engaged in preparation of draft acts of the Cabinet of Ministers of Ukraine. Draft acts of the Cabinet of Ministers of Ukraine that have public significance and define the rights and obligations of citizens of Ukraine shall be subject to preliminary publication under the procedure established by the Cabinet of Ministers of Ukraine.

Resolutions and ordinances of the Cabinet of Ministers of Ukraine shall be adopted at the meetings of the Cabinet of Ministers of Ukraine by votes of the majority of the official composition of the Cabinet of Ministers of Ukraine as determined in accordance with Article 6 of this Law. If a draft decision has been supported by exactly half of the official composition of the Cabinet of Ministers of Ukraine and the Prime Minister of Ukraine has voted for it, the decision shall be deemed taken. After the act of the Cabinet of Ministers of Ukraine is signed any changes to its text, including the correction of spelling and stylistic errors, shall be made in accordance with the procedure provided for in paragraph one of this article.

Resolutions of the Cabinet of Ministers of Ukraine, except for resolutions containing restricted information, shall enter into force on the day of their official publication, unless otherwise provided by the resolutions themselves, but not earlier than the day of their publication. In cases provided for by law, resolutions of the Cabinet of Ministers of Ukraine or their individual provisions containing restricted information shall not be published and shall enter into force from the moment of their delivery to the executors, unless these resolutions provide for a later date of entry into force. Ordinances of the Cabinet of Ministers of Ukraine shall enter into force upon their adoption, unless these ordinances provide for a later date for their entry into force. Acts of the Cabinet of Ministers of Ukraine on state customs matters shall enter into force in accordance with the procedure established by the Customs Code of Ukraine.

Acts of the Cabinet of Ministers of Ukraine are included in the Unified State Register of Normative Legal Acts of Ukraine. The resolutions of the Cabinet of Ministers of Ukraine are officially published in the “Government Gazette” newspaper and the Official Journal of Ukraine, as well as in other official printed publications and printed mass media defined by law. Moreover, acts of the Cabinet of Ministers of Ukraine shall be published on the official website of the Cabinet of Ministers of Ukraine.

Composition of the Cabinet of Ministers of Ukraine

As of 24 February 2022 the Cabinet of Ministers of Ukraine consisted of:

- 1) Prime Minister of Ukraine
- 2) First Vice Prime Minister of Ukraine — Minister of Economy of Ukraine
- 3) Vice Prime Minister of Ukraine — Minister of Reintegration of Temporarily Occupied Territories of Ukraine
- 4) Vice Prime Minister for European and Euro-Atlantic Integration of Ukraine
- 5) Vice Prime Minister of Ukraine — Minister of Digital Transformation
- 6) Minister of the Cabinet of Ministers of Ukraine
- 7) Minister of Energy of Ukraine
- 8) Minister of Youth and Sports of Ukraine

- 9) Minister of Infrastructure of Ukraine
- 10) Minister of Foreign Affairs of Ukraine
- 11) Minister of Social Policy of Ukraine
- 12) Minister of Veterans' Affairs
- 13) Minister of Health of Ukraine
- 14) Minister of Justice of Ukraine
- 15) Minister of Finance of Ukraine
- 16) Minister of Internal Affairs of Ukraine
- 17) Minister of Defence of Ukraine
- 18) Minister of Culture and Information Policy of Ukraine
- 19) Minister of Strategic Industries of Ukraine
- 20) Minister of Agrarian Policy and Food of Ukraine
- 21) Minister for Communities and Territories Development of Ukraine
- 22) Minister of Education and Science of Ukraine
- 23) Minister of Environmental Protection and Natural Resources of Ukraine

24. What mechanisms exist for inter-ministerial coordination? Specifically, what mechanisms exist to link strategic planning and budgeting, in each Ministry?

Regarding the inter-ministerial coordination mechanism.

Meeting of Secretaries of State.

In accordance with § 12-1 of the Rules of Procedure of the Cabinet of Ministers of Ukraine, in order to coordinate the preparation of draft program documents of the Cabinet of Ministers, the documents on planning the activities of the Cabinet of Ministers, as well as draft laws, Acts of the President of Ukraine and the Cabinet of Ministers, and to improve their quality, the Secretary of State of the Cabinet of Ministers shall hold meetings with the Secretaries of State of the Ministries.

At the meeting of Secretaries of State, in particular:

1) the information of Secretaries of State of the Ministries shall be heard on:

the beginning of work on drafts of program documents of the Cabinet of Ministers, documents on planning the activities of the Cabinet of Ministers, draft laws and other regulations;

draft acts prepared for submission to the agencies concerned for approval, the list of central executive bodies to which the relevant draft acts will be sent, and the timeframes for their approval;

unresolved differences in the positions of main developers and agencies concerned regarding draft acts;

2) the remarks of the Ministry of Justice on the findings of legal examination of draft acts, as well as those of the Secretariat of the Cabinet of Ministers on compliance of draft acts with legislation, program documents of the Cabinet of Ministers, Ukraine's obligations in the field of European integration, including obligations stemming from international law, with the EU acquis, and the requirements of legal drafting shall be considered;

3) the proposals to improve the quality of draft acts being prepared for consideration by the Cabinet of Ministers shall be made and finalized based on results of the discussion.

Officials whose participation is necessary to discuss the agenda of the meeting may be invited to the meeting of the Secretaries of State, if necessary. The agenda of the meeting of the Secretaries of State shall be formed by the Secretariat of the Cabinet of Ministers in accordance with the procedure established by the Secretary of State of the Cabinet of Ministers. Following the results of the meeting, the Secretariat of the Cabinet of Ministers shall draw up the Minutes to be signed by the Secretary of State of the Cabinet of Ministers and sent to the participants of the meeting. The meetings of the Secretaries of State shall be held as required. In order to ensure the organizational and technical support of the meetings, a responsible employee of the Secretariat of the Cabinet of Ministers shall be appointed.

Government Committees.

According to Section 3-1 of the Rules of Procedure of the Cabinet of Ministers of Ukraine, the working collegial body of the Cabinet of Ministers of Ukraine shall be the Government Committee. The Government Committees shall be formed to ensure the effective implementation of the powers of the Cabinet of Ministers; coordinate the actions of executive bodies through the development of an agreed position on draft regulations, program documents of the Cabinet of Ministers, documents on planning the activities of the Cabinet of Ministers and other documents submitted to the Cabinet of Ministers for consideration. The Government Committees shall be headed by members of the Cabinet of Ministers of Ukraine and composed of members of the Cabinet of Ministers in accordance with their competence, including Deputy Ministers, heads of state collegial bodies and central executive bodies. The decisions of the Government Committees, adopted within their powers, shall be binding.

The Government Committee shall perform its functions by discussing issues and adopting decisions in meetings held as required according to the schedule approved by the Prime Minister. The meetings of the Government Committee are to be convened by the Head of the Government Committee and shall be valid provided that the total number of Committee members and persons with a casting vote present at the meeting is more than half of the approved composition of the Committee.

The issues within the joint competence of several Government Committees shall be considered based on a decision of the Heads of Committees at a joint meeting or by each Committee separately. By decision of the Prime Minister, the meetings of any Government Committee may be convened and chaired by it.

Each Government Committee, within its competence, shall:

- Settle disagreements over draft program documents of the Cabinet of Ministers, documents on planning the activities of the Cabinet of Ministers, as well as draft laws, Acts of the President of Ukraine and the Cabinet of Ministers, regarding which the remarks were made by the agencies

concerned or the Secretariat of the Cabinet of Ministers on the essence of the draft act, in particular on the circumstances (risks and restrictions) that create significant obstacles to the implementation of state policy in areas within their competence; the Ministry of Justice commented on the draft act based on the findings of legal examination and/or the Secretariat of the Cabinet of Ministers concluded that the draft act was inconsistent with legislation, program documents of the Cabinet of Ministers, Ukraine's obligations in the field of European integration, including obligations stemming from international law, and with the EU acquis, if such comments were not taken into account after consideration at the meeting of Secretaries of State; the National Agency on Corruption Prevention, based on the results of anti-corruption examination, provided recommendations on possible ways to eliminate the factors identified in the draft act that contribute to or may contribute to corruption offenses, if such recommendations were not taken into account by the main developer;

- Prepare proposals to the Cabinet of Ministers on decisions regarding the considered draft acts, which are to be drawn up in the form of minutes of the meeting;

- Consider draft expert opinions of the Cabinet of Ministers on draft laws initiated by the members of Parliament of Ukraine, provided there are differences in the positions of agencies concerned.

The Government Committee responsible for European and Euro-Atlantic integration:

- Shall consider other issues related to the fulfillment of Ukraine's obligations in the field of European and Euro-Atlantic integration; hear comprehensive reports on the status of implementation of the 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, the proposals to update the Action Plan for the implementation of the said Agreement and proposals of the Government Office for Coordination of European and Euro-Atlantic Integration of the Secretariat of the Cabinet of Ministers of Ukraine.

- Based on the results of consideration of comprehensive reports on the status of implementation of the 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, proposals to update the Action Plan for the implementation of the said Agreement at the meeting of the Government Committee responsible for European integration and adoption of decision to support it, the relevant document shall be submitted to the Cabinet of Ministers of Ukraine for consideration.

- Based on the results of consideration by the Governmental Committee responsible for European integration, the proposals of the executive body to update the Action Plan for the implementation of the 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, may be rejected in whole or in part.

Regarding the mechanisms of inter-ministerial coordination during the approval of the draft acts of the Cabinet of Ministers

In accordance with paragraph 37 of the Rules of Procedure of the Cabinet of Ministers of Ukraine, the developer of the draft act of the Cabinet of Ministers shall send it to the agency concerned, approved by the head of the developing body, with an explanatory note and comparative

table attached (if the draft act envisages the introduction of amendments to other Acts of the Cabinet of Ministers).

If the draft act of the Cabinet of Ministers is developed by the central executive body, whose activities are directed and coordinated by the Cabinet of Ministers through the Minister, the draft is to be sent to the agency concerned only after its approval by the relevant Minister.

The central executive body, whose activities are directed and coordinated by the Cabinet of Ministers through the Minister shall send the draft act of the Cabinet of Ministers approved by the head of the body, with an explanatory note and comparative table attached (if the draft act envisages the introduction of amendments to other Acts of the Cabinet of Ministers) to the relevant Ministry for approval by the Minister.

The Minister that directs and coordinates the activities of the central executive body shall communicate his position on the draft act of the Cabinet of Ministers to the developer by sending a letter, to which, in the absence of comments, the draft act approved by him is to be attached. The Minister's position may be communicated to the developer through a person authorized by him by sending a letter signed by such person.

In case there are comments and proposals on the draft act of the Cabinet of Ministers submitted by the central executive body, whose activities are directed and coordinated by the Cabinet of Ministers through the Minister, the draft act shall be returned to the developer for finalization and submission to the Minister for consideration in accordance with the established procedure. The procedure for approval of draft acts received from other executive bodies in hard copy shall be established by the Minister that directs and coordinates the activities of the relevant central executive body, taking into account the procedure specified in these Rules of Procedure.

The agency concerned shall be obliged to take part in the elaboration of the draft act of the Cabinet of Ministers and materials attached to it in part within its competence, in the timeframe established by the developer. The head of the agency concerned shall inform the developer of his position on the draft act of the Cabinet of Ministers by sending a signed letter containing the information on approval of the draft act with or without comments or on the fact that the draft act has not been supported.

The comments are to be provided exclusively on the issues that fall within the competence of the agency concerned and relate to the essence of the draft act, in particular to the identified circumstances (risks and restrictions), which if the Act is adopted shall create significant obstacles to the implementation of state policy in areas within the competence of the agency concerned and also forecasts of the impact of implementation of the Act. The comments on the draft act may not relate to legal drafting and editorial clarifications of the text of the draft act. The agency concerned shall be obliged to clearly justify its position on the draft act of the Cabinet of Ministers and, if necessary, submit appropriate proposals to the developer. The agency concerned may also provide comments and proposals on the developer's forecasts regarding the impact.

If the agency concerned is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers through the relevant Minister, the position of such body on the draft act of the Cabinet of Ministers shall be agreed by the relevant Minister. If there are disagreements between the positions of the developer and the agency concerned regarding the draft

act of the Cabinet of Ministers, which cannot be resolved at the level of experts of such bodies, the developer shall be obliged to implement coordination procedures with the relevant agency concerned.

If the developer of the draft act or the agency concerned is the Ministry of Justice, the Ministry of Economy, the Ministry of Finance or the Ministry of Digital Transformation, the coordination procedures may be implemented at the level of first deputies or deputy heads of the said bodies.

The coordination procedures concerning the draft act prepared by the Secretariat of the Cabinet of Ministers shall be implemented by a member of the Cabinet of Ministers, which commissioned the preparation of the draft act. The coordination procedures concerning the draft act prepared by the Secretariat of the Cabinet of Ministers at the request of the Prime Minister may be implemented by the Minister of the Cabinet of Ministers or other member of the Cabinet of Ministers designated by the Prime Minister.

Regarding the mechanisms to link strategic planning and budgeting

1. In order to ensure coordinated and consistent action by the Ministries and other central executive bodies at the governmental level, the Cabinet of Ministers at its meetings shall consider and adopt the decisions on its Action Plans, including the Medium-Term Action Plan and the Government's Priority Action Plan (paragraph 5-1 of the Rules of Procedure of the Cabinet of Ministers).

According to the requirements established by the Rules of Procedure of the Cabinet of Ministers:

The Medium-Term Action Plan of the Government, which is developed for the planning year and two years following the planning one, should be consistent with the provisions of the Budget Declaration in terms of allocation of financial resources for its implementation in the relevant budget periods.

The Government's Priority Action Plan is to be developed taking into account the amount of financial resources allocated in the state budget and shall be approved within one month from the date of official publication of the Law of Ukraine on the State Budget of Ukraine for the relevant year.

In order to coordinate the positions of the Ministries and other central executive bodies regarding the draft Medium-Term Action Plan of the Government and the Government's Priority Action Plan, as well as their compliance with the Budget Declaration and the State Budget, the Secretariat of the Cabinet of Ministers is to organize meetings, working meetings and consultations with the participation of representatives of the said bodies, including the Ministry of Finance.

2. The Ministries, in order to ensure the formation and implementation of the state policy, among other activities, shall develop and implement their own medium-term action plans and/or annual work plans, focused on the achievement of objectives of the Action Program of the Cabinet of Ministers, other program documents of the Cabinet of Ministers and documents on planning the activities of the Cabinet of Ministers (§ 31 of the Rules of Procedure of the Cabinet of Ministers), as well as in accordance with the requirements of the Budget Code of Ukraine.

The Ministry's medium-term action plan (strategic plan) shall be one of the main documents for planning the state policy in the relevant area (sector), which defines the purpose (mission) of the

key spending unit as a public administration entity in the relevant area (sector), strategic goals, objectives, activities and expected outcomes of activities, taking into account the available resources.

The main requirements and characteristics of strategic plans, as elements of the system of state strategic planning, are as follows:

Coverage of the entire area of activity of the Ministry, including the activities of lower-level spending units, enterprises, institutions and organizations subordinate to the relevant Ministry;

Approval by the Minister within one month after the Ministry of Finance allocates the maximum amount of expenditures/state budget loans for the two budget periods following the planning one;

Publication in part that does not contain service information on the official website of the Ministry;

Evaluation of the implementation of the strategic plan is to be carried out after the end of the first year of its implementation. The report on the status of implementation of the strategic plan shall be approved by the Minister not later than March 15 of the year following the reporting one, and published in part that does not contain service information on the official website of the Ministry.

At the same time, in accordance with Part 5 of Article 22 of the Budget Code, the Ministries, as key spending units shall:

Develop medium-term Action Plans (including activities aimed to implement the investment projects) taking into account the Budget Declaration (local budget forecast), the Law on the State Budget of Ukraine (decision on the local budget), forecast and program documents on economic and social development

Organize and ensure on the basis of the Budget Declaration and medium-term Action Plan, the development of the draft budget estimate and budget request, which are to be submitted to the Ministry of Finance of Ukraine

At the same time, within the budget process, taking into account the medium-term Action Plans, forecast and program documents on economic and social development, the Ministries shall prepare and submit to the Ministry of Finance the following:

Budget proposals – during the preparation of the Budget Declaration;

Budget requests developed on the basis of strategic plans, including the information on the purpose, objectives and performance indicators to be achieved in the implementation of budget programs, as well as the information on the goals of the state policy in the relevant area of activity, the formation and/or implementation of which is ensured by the key spending unit, and indicators of their achievement based on the outcomes of the previous budget period, expected in the current budget period and projected for the medium term, shall be available to the public and subject to mandatory publication on the official websites of Ministries;

Taking into account the medium-term Action Plans, forecast and program documents on economic and social development, the Ministries, as key spending units, shall develop the budget programs during the preparation of the Budget Declaration and the draft budget for the planned budget period (Part 3 of Article 20 of the Budget Code of Ukraine) and ensure public presentation of

information on the implementation of budget programs, including the achievement of goals of the state policy in the relevant area of activity, the formation and/or implementation of which is ensured by the key spending unit, within budget programs for the reporting budget period until March 15 of the year following the reporting one, and publish announcements about the time and place of public presentation of such information.

25. What structures exist to ensure the coordination of European Integration issues? How is the compatibility of planned legislation with the EU *acquis* and with international obligations been verified and monitored? Which body is responsible for such verification?

European integration is the main and permanent foreign policy priority of Ukraine, and further development and deepening of relations between Ukraine and the EU is performed on the principles of political association and economic integration.

Resolution of the Cabinet of Ministers of Ukraine of 2 September, 2020 No. 851 established the Commission for Coordination of the 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 (hereinafter – “the Commission”) , which is a temporary advisory body of the Cabinet of Ministers of Ukraine established to coordinate the activities of executive authorities during the implementation of the 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 (hereinafter – “the Association Agreement”).

The main tasks of the Commission are the following:

1) ensure the preparation of proposals for the development of relations with the EU in the field of European integration, taking into account the current state of cooperation with the EU, and submit them to the Cabinet of Ministers of Ukraine;

2) assist in ensuring coordination of actions of executive authorities to ensure uniformity on the following issues:

– communication at the level of bilateral association bodies between Ukraine and the EU, and provide respective recommendations on such communication;

– prepare and hold negotiations/dialogue with the EU on the implementation of the Association Agreement;

3) improve the regulatory framework on issues within its competence.

According to the tasks imposed, the Commission shall:

1) analyse the state of implementation of the Association Agreement and the causes of difficulties in the implementation of state policy in the field of European integration;

2) study the results of the activities of executive authorities on the implementation of the Action Plan for the implementation of the Association Agreement, and agree on proposals regarding their updating if necessary;

3) monitor the activities of executive authorities relating to the drafting of legislative and other normative legal acts aimed at implementation of the Association Agreement, other international treaties of Ukraine on European integration and agreements between Ukraine and the EU;

4) hear, at the meeting of the Commission, the proposals of public authorities, local governments, representatives of public organizations and business on how to deepen and expand relations with the EU and improve the process and results of the Association Agreement;

5) participate in the development of draft normative legal acts on the development of relations with the EU in the field of European integration;

6) based on the results of its work, submit to the Cabinet of Ministers of Ukraine its proposals on the development of relations with the EU in the field of European integration;

7) provide recommendations to the executive authorities on communication at the level of bilateral association bodies between Ukraine and the EU on the implementation of the Association Agreement;

8) hear the proposals of executive authorities on the steps taken for the preparation and conduct of negotiations/dialogues with the EU on the implementation of the Association Agreement, and coordinate them at its meeting.

In 2015, the positions of Deputy Ministers for European Integration were introduced, which provided the institutional capacity to properly coordinate European integration processes within the executive branch. Such coordination is supervised by the Deputy Prime Minister for European and Euro-Atlantic Integration. In addition, each executive authority has a structural unit responsible for European integration processes according to the competence of such authority, and reports on the results of the implementation of the Association Agreement.

Moreover, the Resolution of the Cabinet of Ministers of Ukraine of 13 August, 2014 No. 346 established the Governmental Office for European and Euro-Atlantic Integration within the Secretariat of the Cabinet of Ministers, which directed, coordinated and supervised the European integration processes.

On 4 October, 2017 the Cabinet of Ministers of Ukraine adopted Resolution No. 759 "On the Governmental Office for Coordination of European and Euro-Atlantic Integration", which regulates the activities of the reformed Governmental Office for Coordination of European and Euro-Atlantic Integration (hereinafter – “the Governmental Office”).

According to the Resolution, the Governmental Office coordinates the activities of executive authorities to ensure systematic planning and implementation of public policy measures in line with Ukraine's commitments in the field of European and Euro-Atlantic integration.

The Governmental Office is also responsible for assessment of the results of such activities.

The Governmental Office coordinates activities of executive authorities relating to the development and implementation of measures aimed at the implementation of the Association Agreement between the European Union and Ukraine. Such tasks are reflected in the Action Plan for the implementation of the Association Agreement, approved by the Resolution of the Cabinet of Ministers of Ukraine of 25 October, 2017 No. 1106.

The Government Office has the following key tasks:

- perform examination of draft resolutions, orders and governmental draft laws for the compliance with Ukraine's obligations in the field of European integration, including international law, and European Union law (EU acquis) pursuant to the Regulation of the Cabinet of Ministers of Ukraine approved by the Cabinet of Ministers 18 July 2007 No. 950 (hereinafter – “the Regulation”);
- coordinate the process of adaptation of Ukrainian legislation to the law of the European Union (EU acquis) and NATO standards and recommendations;
- perform analysis of the engagement and use of the international assistance to support the implementation of tasks in the field of European and Euro-Atlantic integration;
- develop and implement strategies, programs and other documents on public awareness and communication in the field of European and Euro-Atlantic integration;
- ensure translation of the EU acquis into Ukrainian, update the glossary of EU acquis terms;
- hold joint meetings of the EU-Ukraine Association bodies and the secretariat services for the Ukrainian part of such bodies;
- assess effectiveness of tasks in the field of European and Euro-Atlantic integration.

It should also be noted that according to the Regulation, the legislator drafting a legal act of the Cabinet of Ministers, which submits the draft legal act to the Cabinet of Ministers, shall while drafting the relevant legal act

1) determine:

the sources of European Union law (EU acquis) regulating legal relations similar to those planned to be regulated by the draft legal act;

the existence of Ukraine's obligations in the field of European integration, including international law, on the subject matter of legal regulation proposed by the draft legal act;

the availability of programme documents in the field of European integration on the subject matter regulated by the draft legal act;

2) conduct comparative and/or comparative and legal analysis;

3) provide justifications in case of inconsistency of the draft legal act with the European Union law (EU acquis), international agreements in the field of European integration, define the term of its validity;

4) propose to consult the European Commission on the compliance of the draft legal act of the Cabinet of Ministers with Ukraine's obligations in the field of European integration and European Union law (EU acquis), namely regarding the draft legal acts of the Cabinet of Ministers implementing the European Union legislation included in Annex XXVII to the Association Agreements, which, upon proposal of the leading legislator developing the act, are sent by the Secretariat of the Cabinet of Ministers to the European Commission for consultations.

Based on the results, the processing the draft legal act of the Cabinet of Ministers on compliance with Ukraine's obligations in the field of European integration and European Union law (EU acquis)

is reflected by the legislator in the note enclosed to the draft legal act submitted to the Government after examination by the Governmental Office.

Organizational, expert and analytical, and informational support of processing of the draft legal act of the Cabinet of Ministers with regard to compliance with Ukraine's obligations in the field of European integration, including the international law and European Union law (EU *acquis*) is provided by the Governmental Office for Coordination of European and Euro-Atlantic Integration at the Secretariat of the Cabinet of Ministers of Ukraine.

In addition, a Governmental Committee has been set up, which is a working collegial body of the Cabinet of Ministers, responsible for the European and Euro-Atlantic integration.

Governmental committees are formed to ensure the effective implementation of the powers of the Cabinet of Ministers, coordinate the actions of the executive branch by developing a coordinated position on draft normative legal acts, policy documents of the Cabinet of Ministers, documents on planning of activities of the Cabinet of Ministers and other documents submitted to the Cabinet of Ministers.

In particular, the above-mentioned Governmental Committee shall consider issues related to Ukraine's obligations in the field of European and Euro-Atlantic integration, hear comprehensive reports on the implementation of the Association Agreement, proposals to update the action plan on the implementation of the Association Agreement, and proposals of the Governmental Office for Coordination of European and Euro-Atlantic Integration at the Secretariat of the Cabinet of Ministers of Ukraine.

At the parliamentary level, the Committee on Integration of Ukraine into the European Union has the coordinating role and performs the following functions:

- participation of Ukraine in the international integration processes related to the activities of the European Union (EU);
- adaptation of the Ukrainian legislation to the legislation of the European Union (EU), ensuring its compliance with Ukraine's obligations under the Council of Europe (CoE);
- assessment of compliance of draft laws with Ukraine's international legal obligations in the field of European integration;
- the state policy in the field of European integration;
- ensuring inter-parliamentary relations within the framework of cooperation between Ukraine and the European Union (EU);
- coordination of European Union (EU) technical assistance programmes to the Verkhovna Rada of Ukraine, and special training programs;
- providing consent to the binding nature of Ukraine's international agreements with the European Union (EU) and its member states (ratification, accession to an international agreement, adoption of the text of an international treaty), denunciation of such international agreements of Ukraine;
- cross-border and interregional cooperation with the countries of the European Union (EU);

– cooperation with the EU institutions on counteractions against external aggression against Ukraine, non-military international forms and methods of deterrence of the aggressor state.

26. What are the structure of local self-government and the competences of the local self government bodies? Please specify.

The system and guarantees of local self-government in Ukraine, the basics of organisation and activity, the legal status and responsibilities of local self-government bodies and officials are defined by the Constitution of Ukraine and the Laws:

"On Local Self-Government in Ukraine" from 21.05.1991, № 280/97-VR;

"On Service in Local Self-Government" of 07.06.2001, No. 2493-III (hereinafter - the Law on LSG);

"On Voluntary Unification of Territorial Communities" of 05.02.2015, No. 157-VIII;

"On Cooperation of Territorial Communities" of 17.06.2014, No. 1508-VII;

"On the Capital of Ukraine - Hero-City of Kyiv" of 15.01.1999, No. 401-XIV.

In addition, the own and delegated powers of village, settlement and city councils and their executive bodies are defined in sectoral laws in the field of education, health care, social protection, youth, sports, culture, etc.

According to Article 133 of the Constitution of Ukraine, the system of the administrative and territorial structure of Ukraine is composed of the Autonomous Republic of Crimea, oblasts, districts, cities, city districts, settlements and villages.

Ukraine is composed of the Autonomous Republic of Crimea, Vinnytsia Oblast, Volyn Oblast, Dnipropetrovsk Oblast, Donetsk Oblast, Zhytomyr Oblast, Zakarpattia Oblast, Zaporizhia Oblast, Ivano-Frankivsk Oblast, Kyiv Oblast, Kirovohrad Oblast, Luhansk Oblast, Lviv Oblast, Mykolaiv Oblast, Odesa Oblast, Poltava Oblast, Rivne Oblast, Sumy Oblast, Ternopil Oblast, Kharkiv Oblast, Kherson Oblast, Khmelnytskyi Oblast, Cherkasy Oblast, Chernivtsi Oblast and Chernihiv Oblast, and the Cities of Kyiv and Sevastopol.

The Cities of Kyiv and Sevastopol have special status that is determined by the laws of Ukraine.

The Autonomous Republic of Crimea

According to Article 134 of the Constitution of Ukraine, the Autonomous Republic of Crimea is an inseparable constituent part of Ukraine and decides on the issues ascribed to its competence within the limits of authority determined by the Constitution of Ukraine.

In accordance with Article 136 of the Constitution of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, within the limits of its authority, is the representative body of the Autonomous Republic of Crimea, whose members are elected on the basis of universal, equal, direct suffrage by secret ballot. The term of powers of the Verkhovna Rada of the Autonomous Republic of Crimea, the members of which are elected in regular elections, is five years.

The Government of the Autonomous Republic of Crimea is the Council of Ministers of the Autonomous Republic of Crimea. The Head of the Council of Ministers of the Autonomous Republic

of Crimea is appointed to office and dismissed from office by the Verkhovna Rada of the Autonomous Republic of Crimea with the consent of the President of Ukraine.

The powers, formation and activities of the Supreme Council of the Autonomous Republic of Crimea and the Council of Ministers of the Autonomous Republic of Crimea are determined by the Constitution of Ukraine and the laws of Ukraine, normative legal acts of the Supreme Council of the Autonomous Republic of Crimea on the issues within its competence.

The city of Kyiv, the capital of Ukraine

Pursuant to Article 6 of the Law of Ukraine "On the Capital of Ukraine - Hero-City of Kyiv" (hereinafter - the Law on Kyiv), local self-government in the city of Kyiv is exercised by the territorial community of the city both directly and through the Kyiv City Council, district councils (if established) and its executive bodies.

According to Article 7 of the Law on Kyiv, the local self-governance system in the city of Kiev includes:

- territorial community of the city;
- Mayor of city;
- city council;
- the executive body of the city council;
- district councils (if established);
- executive bodies of the district councils in the city;
- bodies of self-organisation of the population.

District councils can be established by the decision of the Kyiv City Council, adopted through a local referendum, or by the decision of the Kyiv City Council.

In accordance with Article 10-1 of the Law on Kyiv, the executive body of the Kiev City Council is the Kiev City State Administration, which in parallel performs the functions of the state administrative authority, which is a special feature of the implementation of administrative authority in the city of Kiev.

The head of the Kyiv City State Administration is appointed by the President of Ukraine in accordance with the procedure prescribed by the Constitution and laws of Ukraine.

It should be noted that the Verkhovna Rada of Ukraine has passed the first reading of the draft of the new version of the Law of Ukraine "On the City of Kyiv - Capital of Ukraine" (registration number 2143-3 of 24.09.2019). The draft law proposes to introduce a new system of local self-government and executive power in the capital of Ukraine. In particular, the requirement to establish district councils in the city of Kyiv as representative bodies of the residents of Kyiv districts is proposed. The Kyiv City Council shall establish its own governing body, which shall be chaired by the Kyiv Mayor.

Kyiv City State Administration supervises the implementation of the Constitution and laws of Ukraine by local self-government bodies of Kyiv and coordinates the activities of the territorial bodies of the central bodies of executive power.

Powers of Kyiv city local government

In addition to the powers of the local government defined by the above-mentioned laws, as well as by the Law on Kyiv, the local self-government and executive authorities in Kyiv ensure the implementation of the capital city functions of Kyiv, namely

1) creation of appropriate conditions for the activity in the city of the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, central bodies of state power, official representations of foreign states and international organizations, institutions and establishments of science, education, health, culture and sports, whose location is determined by the legislation to be Kyiv city;

2) resolving issues of location of central bodies that are formed by the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, and also of diplomatic representations and consulates of foreign states and representations of international organizations in Ukraine

3) granting, on a contractual basis, communal, engineering, social and cultural, transport, information and other services to state bodies, diplomatic representations of foreign states, and representations of international organizations located in Kyiv

4) interacting with the President of Ukraine, Verkhovna Rada of Ukraine and Cabinet of Ministers of Ukraine in elaboration and implementation of their activities, programmes and projects that affect interests of the capital;

5) implementation of measures to preserve and restore monuments of history, culture, religion, architecture and urban planning, protected and natural areas and landscapes of national importance;

6) performance of other functions of the city, stipulated by the legislation of Ukraine, specific to the functioning of Kyiv as the capital of the state, within the limits of the legislation of Ukraine.

The system of local self-government in Ukraine

According to Article 140 of the Constitution of Ukraine, local self-government is exercised by a territorial community by the procedure established by law, both directly and through bodies of local self-government: village, settlement and city councils, and their executive bodies.

According to Article 5 of the Law of Ukraine "On Local Self-Government in Ukraine", the system of local self-government includes:

territorial community;

village, settlement, city council;

rural, settlement, mayor;

executive bodies of village, settlement, city council;

the district and regional councils representing common interests of territorial communities of villages, settlements, cities

bodies of self-organisation of the population.

According to Article 1 of the Law on LSG, a territorial community - the inhabitants united by permanent residence within the village, the settlement, the city which are independent administrative and territorial units or voluntary consolidation of residents of several villages, settlements, cities having the single administrative center. A territorial community is the primary subject of local self-government, the main bearer of its functions and powers.

Territorial communities, in accordance with the procedure established by law, may unite into one rural, settlement, city territorial community, form unified bodies of local self-government and elect a village, settlement, or city mayor, respectively.

Village, settlement and city councils are local self-government bodies representing the respective territorial communities and exercising, on their behalf and in their interests, the functions and powers of local self-government as defined by the legislation of Ukraine (Article 10(1) of the Law on LSG).

The village, settlement, town mayor is the chief official of the territorial community of the village (a voluntary association of residents of several villages into one territorial community), settlement, or city, respectively. The village, settlement, town mayor is elected by the respective territorial community on the basis of universal, equal, direct suffrage by secret ballot in accordance with the procedure prescribed by law and exercises his/her powers on a permanent basis. The term of office of a village, settlement and mayor, elected in regular local elections, is determined by the Constitution of Ukraine. A village, settlement and city mayor heads the executive committee of the respective village, settlement and city council and chairs its meetings (Article 12 of the Law).

The executive bodies of village, settlement, town and city district councils (if established) are its executive committees, departments, offices and other executive bodies created by the councils. The executive bodies of village, settlement, city and city district councils are controlled by and accountable to the respective councils, and in the exercise of the executive power delegated to them are also accountable to the respective bodies of executive power.

Regional and district councils are local self-government bodies that represent the common interests of territorial communities of villages, settlements and towns within the authority defined by Ukrainian legislation and the authority delegated to them by village, settlement and town councils (Article 10 (2) of the Law).

In towns with a district division, by decision of the territorial association of the town or city council in accordance with this Law, district councils in the town may be formed. City district councils form their executive bodies and elect the chairman of the council, who is also the chairman of its executive committee (Article 5(2) of the Law).

Village, settlement, town, and city district councils (if established) may authorise, at the initiative of residents, the creation of house, street, neighbourhood and other bodies for the self-organisation of the population and grant them part of their own competence, finances and property (Article 14 (1) of the Law).

According to Article 5 of Law on LSG, the system of local self-government in Ukraine is as follows:

- at the regional and district levels there are councils representing the common interests of territorial communities in their oblasts and districts respectively; the regional and district level powers are exercised by the respective state administrations exercising the functions of executive bodies of regional and district councils; the chairman of regional and district state administrations is appointed by the President of Ukraine;

- At the community level, there are councils with elected members and elected mayors of communities; the powers of these local self-government bodies are also exercised through executive committees; executive bodies of councils, other bodies of self-organisation of the population (Article 14 of the Law On LSG)

Powers of LSG

The own and delegated powers of village, town and city councils and their executive bodies are determined in Articles 26 to 41 of the Law of Ukraine "On Local Self-Government in Ukraine", district and regional councils - in Article 43 of this law, as well as in sectoral laws in the sphere of education, healthcare, social protection, youth, sports, culture, etc.

Given that district and regional councils do not have their own executive bodies and that executive power in districts and oblasts is exercised by local state administrations, Article 44 of the Law defines the powers that district and regional councils delegate to the respective local state administrations.

In particular, the exclusive competence of local councils is to make decisions on the local budget, approve local programmes of socio-economic, cultural development, other targeted programmes, approve local urban planning programmes, master plans for the development of the respective settlements, other urban planning documentation, on behalf of the territorial society of property, land and other resources management, establishment of local taxes and dues, creation of municipal enterprises, institutions, agencies,

The executive bodies of the village, settlement and city councils ensure the implementation of the decisions of the respective councils and other powers determined by the legislation on local self-government and sectoral laws.

The competences of local self-government bodies in villages, settlements and towns include, inter alia:

preparation, approval, organisation and monitoring of socio-economic and cultural development programmes (Article 27 of the Law on LSG)

preparation, approval and implementation of the local budget (Article 28 of the Law on LSG)

communal property management (Article 29 of the Law on LSG)

management of communally owned housing and communal facilities, consumer and trade services, transport and communications (Article 30 of the Law on LSG)

authority in the field of construction, in particular, preparation and approval of the relevant local urban development programs, master plans for development of settlements, other urban planning documentation (Article 31 of the Law on LSG)

establishment of the regime of use and development of land in the respective area, which provides for future urban planning activities and coordination of activities of urban development entities in the respective area for complex development of settlements (Article 31 of the Law on LSG)

management of educational institutions, healthcare, culture, physical education and sports, recreational facilities, youth centres belonging to territorial communities or transferred to them, youth facilities at the place of residence, organisation of their logistical and financial support (Article 32 of the Law on LSG)

preparation and establishment of land tax rates, fees for use of natural resources, withdrawal (buyout) as well as allocation for construction and other needs of lands owned by territorial communities; determination in an established order of amounts of compensation by enterprises, institutions and organisations regardless of ownership for environmental pollution and other environmental losses; establishment of payments for the use of communal and sanitary networks of respective localities (article 33 of the Law on LSG)

- preparation and approval of draft local environmental protection programmes, participation in preparation of national and regional environmental protection programmes (Article 33 of the Law on LSG)

- authority in the area of social protection, in particular, preparation and approval of targeted local programs for improvement of safety and working environment conditions, territorial employment programs and measures for social protection of different population groups against unemployment, organisation of their implementation (Article 34 of the Law on LSG)

authority in the area of foreign economic activity (Article 35 of the Law on LSG)

authority in the field of defence, in particular, organisation and participation in measures related to mobilisation training and civil protection, preparation and fulfilment of territorial defence tasks in the respective territory (Article 36 of the Law on LSG)

authority to resolve the issues related to administrative and territorial division (Article 37 of the Law on LSG)

authority to register place of residence of individuals (Article 37-1 of the Law on LSG)

authority to ensure law and order, protect rights, freedoms and lawful interests of citizens (Article 38 of the Law on LSG)

power to apply to court to declare illegal the acts of executive authorities, other local self-government bodies, enterprises, institutions and organisations that restrict the rights of a territorial community, and registration of civil status acts

authority of local self-government bodies and officials (Article 38 of the Law on LSG)

registration of civil status acts, state registration of legal entities and private entrepreneurs, state registration of rights to immovable property and their encumbrances (Article 38 of the Law on LSG)

establishment of institutions for rendering free primary legal assistance subject to territorial community needs (Article 38-1 of the Law on LSG)

and other powers.

A complete list of possibilities for village, settlement and city councils and their executive bodies is contained in Chapters 1 and 2 of Section II of the Law on LSG. The powers of the village, settlement and city mayor are set out in Article 42 of the Law on LSG. Powers of district and regional councils are contained in Articles 43 and 44 of the Law on LSG.

27. Please describe the electoral system for municipalities. Are regular elections held for municipalities throughout the country? What are the eligibility requirements and the grounds for ineligibility?

Article 141 of the Constitution of Ukraine stipulates that local council deputies and village, settlement, city heads shall be elected for a five-year term by residents on the basis of universal, equal, and direct suffrage by secret ballot.

This is also enshrined in Article 1 of the Electoral Code of Ukraine No. 396-IX of 19.12.2019 (hereinafter – the ECU).

In accordance with Part 2 of Article 2 of the Electoral Code of Ukraine No. 396-IX of 19.12.2019 (Book 1), regular local elections shall be held simultaneously throughout Ukraine, except for restrictions established by law.

The ECU (Book 4) stipulates the basic principles, organization and procedure for holding local elections.

The electoral system shall depend on the size of the territorial community (Article 192 of the ECU):

- Elections of the village, settlement, and city council deputies (territorial communities with up to 10 thousand voters) shall be held under a majority electoral system of relative majority in multi-member constituencies. In each such constituency, at least two and not more than four deputies may be elected;

- Elections of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, rayon, city district council deputies, as well as city, village, settlement council deputies (territorial communities with 10 thousand or more voters) shall be held under a proportional representation system based on open electoral lists of local political parties in territorial constituencies into which a uniform multi-member constituency is divided;

- Elections of the village, settlement, city heads (cities with up to 75 thousand voters) shall be held under a majority electoral system of relative majority in a uniform single-mandate village, settlement, city constituency;

- Elections of the city heads (cities with 75 thousand and more voters) shall be held under the majority electoral system of absolute majority in a uniform single-mandate city constituency.

According to paragraph two of Part four of Article 194 of the ECU, the grounds for recognizing local elections invalid and calling repeat elections are defined in Article 280 of the ECU. Pursuant to Article 280 of the ECU, the Territorial Election Commission on the relevant local elections shall decide on the recognition of elections of deputies in a multi-member constituency, and village, settlement, city heads invalid, and on the calling of repeat elections if:

1) Only one candidate was included in the ballot paper for voting on the day of elections or on the day of re-voting in the elections of deputies in a multi-member constituency, of the village, settlement, city heads, and the number of votes cast in support of such candidate is not more than 50% of the number of voters that participated in the voting;

2) Two mayoral candidates were included in the ballot paper for the mayoral election (cities with 75 thousand and more voters) on the day of elections, and none of the candidates received more than half of the votes of voters that participated in the voting;

3) Two or more candidates were included in the ballot paper on the day of repeat voting, and according to the results of the repeat voting, the largest and at the same time the same number of votes was cast for two or more candidates;

4) According to the results of the elections of deputies in the multi-member constituency, there are vacant deputy mandates (the number of persons elected as deputies in the multi-member constituency is less than the number of mandates distributed in such constituency). The repeat elections in such a constituency shall be called with the number of mandates that remained vacant;

5) As of the day of voting, there are no candidates for deputy, as well as candidates for the position of village, settlement, city heads left in the ballot paper;

6) Voting on the day of voting (the day of repeat voting) was declared invalid or was not organized and conducted in accordance with this Code at all voting stations of the relevant constituency;

7) After the election, the person has not acquired the deputy mandate, powers of the village, settlement, city head in the manner prescribed by this Code, on the grounds specified in paragraphs 3-6 of Part one and Part four of Article 231 of this Code;

8) A person elected a village, settlement, city head, is recognized as having refused the deputy's mandate, the position of the village, settlement, city head;

9) The local elections process was suspended due to the imposition of martial law or a state of emergency in Ukraine or in certain localities within the country.

The Territorial Election Commission shall decide on the recognition of elections of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, rayon, city district, as well as city, village, settlement council deputies (territorial communities with 10 thousand or more voters) as invalid and on the calling of repeat elections, if:

1) On the day of elections, in the ballot paper there is not a single electoral list of the party in the uniform multi-member constituency;

2) According to the election results, it is impossible to form 2/3 of the composition of the Verkhovna Rada of the Autonomous Republic of Crimea, the relevant local council;

3) The local elections process was suspended due to the imposition of martial law or a state of emergency in Ukraine or in certain localities within the country.

According to Article 193 of the ECU, citizens of Ukraine that have attained to the age of eighteen on the day of elections may be elected deputies, village, settlement, and city heads. Citizens found legally incapable by a court shall not have the right to participate in elections.

Citizens of Ukraine with a criminal record for a serious or particularly serious crime, a criminal offense against citizens' suffrage or a corruption criminal offense, or a criminal offense against the foundations of national security of Ukraine (Article 111-1 of the Criminal Code of Ukraine) may not be elected a deputy, village, settlement or city head, unless the conviction has been cancelled or cleared according to the procedure specified by law.

The nomination and registration of candidates in local elections are enshrined in Section 37 of the ECU.

Article 230 of the ECU stipulates provisions on the refusal to register a candidate (candidates) for deputy, candidates for the position of the village, settlement, city head.

Thus, the Territorial Election Commission shall refuse to register all candidates for deputy included in the electoral lists of local political parties or in the list of candidates for deputy in the multi-member constituencies in the relevant local elections, in case of:

- 1) Violation of the procedure for nominating candidates established by this Code, including exceeding the number of candidates for deputy established by this Code in the single electoral list and territorial electoral list of the party in the elections of deputies to the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, rayon, city district, city, village, settlement councils (territorial communities with 10 thousand or more voters), candidates for deputy in each multi-member constituency in elections of deputies to the village, settlement, city councils (territorial communities with up to 10 thousand voters), which may be nominated by parties;
- 2) Absence of at least one of the required documents (paragraphs 1-5 of Part one of Article 222, paragraphs 1, 2, 4 of Part one of Article 223 of the ECU), non-compliance of such documents with the requirements of the ECU (including regarding the amount of monetary collateral);
- 3) Establishing the presence of provisions in the party's election program aimed at the loss of Ukraine's independence, forcible change of the constitutional order, violation of the sovereignty and territorial integrity of the state, undermining its security, unlawful take over the power of the State, propaganda of war, violence, incitement to interethnic, racial, religious enmity, encroachment on human rights and freedoms, public health;
- 4) Nomination of candidates for deputy from the party that promotes communist and/or national socialist (Nazi) totalitarian regimes, their symbols and in respect of which, in the manner prescribed by the Cabinet of Ministers of Ukraine, a decision was adopted on the non-compliance of its activities, name and/or symbols to the Law of Ukraine on Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols.

The Territorial Election Commission shall refuse to register an individual candidate for deputy, candidate for the position of village, settlement, city head in case of:

- 1) Absence of at least one of the documents concerning the candidate for deputy, candidate for the position of village, settlement, city head, specified in paragraphs 5-12 of Part one of Article 222, paragraphs 3-7 of Part one of Article 223, Part one of Article 224 of the ECU, non-compliance of such documents with the requirements of the ECU (including concerning the amount of monetary collateral of the candidate for a position of the mayor);

- 2) Violation of the procedure for nominating a separate candidate for deputy, candidate for the position of village, settlement, city head, established by Articles 216-221 of the ECU, including the prohibition of simultaneous nomination;
- 3) Receipt of information from the authorized body confirming the fact of termination of citizenship of Ukraine by a person nominated as a candidate for deputy, candidate for the position of village, town, city head;
- 4) Receipt of information from the authorized body confirming the fact of departure of a person nominated as a candidate for deputy, candidate for the position of village, town, city head, outside Ukraine for permanent residence;
- 5) Receipt from the court of a duly certified copy of the court decision by which the person nominated as a candidate for deputy, candidate for the position of village, settlement, city head, is declared incapable;
- 6) Presence of a criminal record for a serious or particularly serious crime, a criminal offense against citizens' suffrage or a corruption criminal offense, or a criminal offense against the foundations of national security of Ukraine envisaged by Article 111-1 of the Criminal Code of Ukraine in a person nominated as a candidate for deputy, candidate for the position of village, settlement, city head, unless the conviction has been cancelled or cleared according to the procedure specified by law;
- 7) Identification of other circumstances that deprive a person nominated as a candidate for deputy, candidate for the position of village, settlement, city head, the right to be elected as deputy.

The errors and inaccuracies found in the documents submitted for registration, if they do not constitute an impediment for understanding the content of the information, shall not be the grounds for refusal to register the candidates for deputy, candidates for the position of village, settlement, city head. (Article 230 of the ECU)

The decision on refusal to register the candidate (candidates) for deputy, the candidate for the position of the village, settlement, city head should contain the exhaustive list of grounds for refusal. A copy of such decision shall be issued (sent) not later than the day following its adoption to the representative of the party (in case of nomination of such person by the party) and the candidate for deputy, candidate for the position of the village, settlement, city head (in case of self-nomination). (Article 230 of the ECU)

The cancellation of registration of a candidate for deputy, candidate for the position of village, settlement, city head is enshrined in Article 231 of the ECU.

The Constitution of Ukraine and the Electoral Code of Ukraine prescribe requirements for persons that may elect and be elected to public authorities and local governments.

Thus, according to Article 38 of the Constitution of Ukraine, shall have the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to state authorities and local governments.

Article 70 of the Constitution of Ukraine and Article 7 of the ECU stipulate that citizens of Ukraine who have attained to the age of eighteen as of the day of elections or referendums, shall have the right to vote.

Citizens found legally incapable by a court shall not have the right to vote.

The ECU also prescribes that voters whose electoral address is within the territory of the relevant territorial community, rayon or oblast shall have the right to vote in elections of deputies to local councils.

The membership of citizens in the relevant territorial community and their residence in the relevant territory shall be determined by their electoral address.

The ECU also stipulates that any direct or indirect privileges or restrictions on the voting rights of Ukrainian citizens based on race, color, political, religious or other beliefs, gender, ethnic and social origin, property status, place of residence, disability and health status, linguistic or other grounds shall be prohibited. Restrictions on the participation of citizens of Ukraine in the election process shall not be allowed, except for restrictions envisaged in the Constitution of Ukraine and this Code (Part 8 of Article 7).

In order to exercise their voting rights, voters with health disorders (due to disability, temporary medical conditions, age) shall have the right to be provided with reasonable devices in accordance with individual needs for unimpeded participation in the election process in the manner prescribed by this Code (Part 9 of Article 7).

In accordance with Article 20 of the ECU, in case of imposition of martial law or a state of emergency in Ukraine or in certain localities within the country, the national elections and/or relevant local elections in such areas or parts thereof shall be terminated as of the date of enactment of the relevant Decree of the President of Ukraine.

28. Are local self-government bodies subject to administrative and judicial control?

As enshrined in the Constitution of Ukraine, para. 15, part one of Article 92, the underlying principles of local-self-government are defined exclusively by laws of Ukraine.

Part two of Article 124 establishes that court has jurisdiction over any legal dispute or criminal charge. Courts also handle other cases, when stipulated by law.

The Constitution of Ukraine states that decisions issued by local-self-governments, if allegedly not compliant with the Constitution or laws of Ukraine, shall be suspended according to the legally prescribed procedure, with simultaneous filing of a court claim (part two of Article 144). This constitutional provision is congruent with the Law of Ukraine on Local-Self-Government which establishes in part ten of Article 59 that acts issued by local-self-government bodies and officials, if allegedly not compliant with the Constitution or laws of Ukraine, shall be recognized as illegal in the judicial proceeding. It is echoed by other laws, for example, the Law on the Capital of Ukraine – the Hero City Kyiv, in part three of Article 8, establishes that decisions issued by local-self-governments, if allegedly not compliant with the Constitution or laws of Ukraine, shall be suspended according to the legally prescribed procedure, with simultaneous filing of a court claim.

As provided for in part two of Article 14 of the Ukrainian Code on Administrative Justice, court decisions that have entered into force are mandatory for execution by all state authorities, local-self-government bodies, their officials, as well as natural and legal persons and their associations within the entire territory of Ukraine.

Furthermore, the Law of Ukraine on Local-Self-Government establishes in Article 71 that state executive bodies and their officials cannot interfere in the lawful activity of local-self-government bodies and officials or handle issues designated by the Constitution of Ukraine, this and other law as competencies of local-self-government bodies and officials, with the exclusion of delegated competencies and other cases stipulated by law.

Oversight regarding implementation of delegated competencies is regulated by Government Resolution No. 339 of 3 March 1999 “On approval of control procedure in relation to local-self-governments’ execution of delegated competencies of executive authorities”. Control over local-self-governments’ execution of delegated competencies of executive authorities is assigned to be performed by oblast administrations, rayon administrations, district administrations in cities, city administrations and the Council of Ministries of the Autonomous Republic of Crimea, and in cases specifically stipulated by law, by ministries, other central executive bodies, and their territorial units.

As established in Article 2 of the Law of Ukraine on Local State Administrations No. 586-XIV of 9 April 1999, these authorities within the boundaries of respective administrative territorial units shall ensure compliance and implementation of the Constitution, laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, other high-level executive bodies, as well as legality, public order, and respect of the rights and freedoms of citizens.

However, constitutional amendments enacted on 2 June 2016 (concerning justice sector) and relieving of the Prosecutor’s Office from functions (competencies) relating to the general oversight of legality created a vacuum in Ukraine’s legal system.

These changes disrupted the checks and balances in relations between the state and local self-government, necessitating improvement of legislation on local state administrations enacted back in 1999.

Guided by the provisions laid down in the Concept for the reform of local self-governmental and territorial power that stipulates “change of status of local state administrations: instead of bodies vested with general competencies they should become control and oversight authorities in the system of executive power with the function to coordinate the activity of territorial bodies of central executive authorities within respective territories”. The Ministry of Communities and Territories has elaborated a respective draft law.

In September 2020, conceptual proposals were prepared on amending the Law on Local State Administrations which were accepted as a basis for the draft law amending the Law on Local State Administrations and some other legislative acts of Ukraine regarding the reform of territorial organization of the executive power in Ukraine (registered in Parliament as #4298).

The draft law #4298 is aimed at creating a legal ground and pre-conditions for functioning of prefect-type local state administrations before relevant amendments are introduced in the Constitution of Ukraine (on decentralization of power) and making the legislation on local state administrations aligned and consistent with present-day challenges.

Significant progress in this regard was made in Verkhovna Rada with the adoption of the law in first reading on 4 March 2021 and further robust efforts of parliamentarians to refine and prepare the law for second reading, in collaboration with experts and all-Ukrainian local self-government associations.

During its sessions on 14 July, 22 September and 15 November 2021, the line Verkhovna Rada Committee reviewed the draft law #4298 and recommended the Parliament to adopt it in second reading and in principle.

29. Is there a strategy on decentralization and/or a policy for achieving a balanced organisation between responsibilities and resources across layers of government in line with the subsidiarity principle?

The decentralization reform in Ukraine is implemented in accordance with the Concept for the reform of local self-governmental and territorial power adopted by Government Resolution No. 333 on 1 April 2014 (hereinafter – the Concept) and related government approved implementation plans that inter alia stipulate objectives relating to the transfer of competencies and responsibilities to local self-governments in line with the subsidiarity principle.

Among the key objectives outlined in the Concept, the following two are worth highlighting:

- Achieve optimal distribution of responsibilities between local self-governments and executive authorities.
- Create adequate material, financial and organizational conditions enabling local self-governments to implement own and delegated competencies.

Over the first phase of the reform, several laws were enacted to transfer a considerable amount of executive power competencies and responsibilities to local self-governments in line with the subsidiarity principle, in particular concerning education, welfare, delivery of administrative services, registration actions, and local financial management. Fiscal decentralization was implemented, thereby local budgets of territorial hromadas were handed over considerable financing to support transferred competencies.

Moreover, to facilitate further decentralization and transfer of competencies to local self-governments, the Ministry of Communities and Territories has elaborated, and the Cabinet of Ministers of Ukraine has submitted to Verkhovna Rada the following draft laws:

- Draft law amending the Law of Ukraine on Local Self-Government concerning the division of local self-government competencies due to changes in the administrative and territorial set-up (registered as #6281), and
- Draft law amending 28 sectoral legislative acts on decentralization of competencies of local self-governments and executive authorities, in particular concerning education, healthcare, welfare, culture, sport, youth policy, civil defence, etc. (registered as № 6282).

For the transition period and to the extent allowed by the current Ukrainian Constitution, the draft laws stipulate equal competencies of rural and urban councils and their executive bodies, separate competencies of rayon and oblast councils, rayon and oblast state administrations, and eliminate duplication of competencies assigned to local self-governments at different layers of governance.

Furthermore, if amendments to the Constitution of Ukraine regarding decentralization of power are enacted, it is planned to develop a new version of the Law on Local Self-Government in Ukraine or a Municipal Code of Ukraine. It is expected that these acts, if adopted, will introduce complete

separation of the executive branch from local self-government in terms of competencies and functioning.

More specifically, it is stipulated that a new system of administrative and territorial set-up will be established with hromadas as basic actors. Hromadas will be guaranteed the right for sufficient freely-disposable financial resources and the paramount right – to freely address issues of local interest that are not assigned to the competency of other authorities by the state. Delegated competencies will be fully covered by financing, and any change in local self-government competency will be accompanied by respective change in distribution of financial resources. The state will retain only the functions of administrative oversight to be implemented through prefects. Should there be a decision to develop a Municipal Code of Ukraine, all local self-government competencies that are defined in sectoral legislation to date will be established only in the Code.

The overarching goal of the reform of local self-governmental and territorial power in Ukraine is to build strong and efficient local self-governmental, capable to deliver high-quality, accessible public services within respective territories, and to create conditions for economic, social, and cultural development of hromadas, including investment and innovations, as a foundation for a strong state.

In 2019-2020, a number of important historic decisions were made that turned to be foundational and opened up new opportunities for decentralization.

Own and delegated competencies of rural and urban councils and their executive bodies are defined in Articles 26-41 of the Law on Local Self-Government and respective sectoral laws regulating education, healthcare, welfare, youth, sport, culture, and other sectors.

Apart from local self-government competencies regulated by the above laws, the local self-government and executive authorities in Kyiv city provide for the functions of the capital city, namely:

- 1) creating appropriate conditions in the city for the activity of the President of Ukraine, Verkhovna Rada, the Cabinet of Ministers of Ukraine, central government bodies, official missions and posts of foreign states and international organizations, various institutions and organizations in the fields of science, education, healthcare, culture and sport, the location of which is established in Kyiv city by legislation;

- 2) addressing issues related to location of central bodies established by the President of Ukraine, Verkhovna Rada and the Cabinet of Ministers of Ukraine as well as foreign diplomatic missions and consular posts and offices of international organizations in Ukraine;

- 3) providing, on the basis of contracts, municipal, engineering, socio-cultural, transport, information and other services to state authorities, foreign diplomatic missions and offices of international organizations located in Kyiv;

- 4) engaging with the President of Ukraine, Verkhovna Rada, the Cabinet of Ministers of Ukraine when these institutions design and implement measures, programmes and projects affecting the interests of the capital city;

- 5) taking actions to preserve and restore historical, cultural, religious, architectural and urban landmarks, conservation areas and natural reserves and landscapes of national significance;

6) performance of other functions of Kyiv city, as stipulated by Ukrainian legislation, specific for its functioning as the country's capital, within the scope of Ukrainian legislation.

Every Ukrainian law addressing sectoral issues contains provisions on competencies of state authorities, local self-governments, enterprises, institutions, organizations, voluntary unions (associations) in a particular area. There are more than 200 such laws.

To date, clear delineation of competencies among layers of governance is provided only in the current version of the Law on Local Self-Government. Specifically, Chapters 1-3 of the Law (Articles 25-41) establish competencies and responsibilities of the base layer – rural and urban councils, their executive bodies, and respective mayors. Articles 42-44 define common competencies for regional and sub-regional layers of local self-government.

However, in its current version, the Law on Local State Administrations does not have this kind of delineation for regional and sub-regional layers of executive authorities.

To fill this gap, the Government introduced to Verkhovna Rada the draft law #6281 on distribution of local self-government competencies and the draft law #6282 on delineation of competencies between local self-governments and executive authorities.

The second phase of the reform delivered the following:

- The state moved a considerable range of competencies, resources, and responsibilities from executive authorities to local self-governments of territorial hromadas, in light of the sectoral reforms. The transferred competencies include administrative services, school management, social services, architecture and construction oversight, land management within the boundaries of territorial hromadas, local financial management and other.
- The country's administrative territorial set-up was streamlined.

On 12 June 2020, the Government approved the new administrative territorial set-up of the base layer (24 ordinances on administrative centres and hromadas' territories in 24 oblasts) leading to the creation of 1470 functional territorial hromadas of equal status and direct inter-budgetary relations.

Verkhovna Rada Resolution No. 807-IX of 17 July 2020 "On establishment and liquidation of rayons" adopted a new administrative territorial set-up of sub-regional level, thus creating 136 rayons in the Autonomous Republic of Crimea and 24 oblasts. (Establishment of new rayons helped to ensure that the rayon-level administrative territorial set-up in Ukraine is in line with modern requirements and European standards, which in turn was instrumental for establishing a sound territorial basis for the activity of executive authorities and corresponding local self-governments.)

The new local self-government system rests on the new territorial basis, in line with the provisions of the European Charter of Local Self-Government and the best global standards of societal relations in this area. Specifically, it focuses on local self-government's capacity, within the scope of law, to regulate and manage a significant portion of public affairs under own responsibility and in the interests of local population.

The Cabinet of Ministers recognizes the support to the decentralization reform in Ukraine among its key priorities, which will help advance the development of local self-government and boost the country's economic development overall.

Equally important is recognition of the achieved results by the European and other partners of Ukraine. Thus, on 12 February 2021, the European Parliament stated that the decentralization reform was one of the most successful reforms pursued by Ukraine and called for its finalization through open dialogue between central and local authorities.

Responsibilities of authorities at different layers are established in the Constitution of Ukraine, Laws on the Cabinet of Ministers of Ukraine, on Local State Administrations, on Local Self-Government, and other acts.

As prescribed in Article 19 of the Constitution, state authorities and local self-governments, and their respective officials must act only on the basis of, within the scope of given mandate and in the manner stipulated by the Constitution and laws of Ukraine.

The legal framework for functioning of Ukraine's budget system is defined by the Budget Code which establishes that subsidiarity is one of the central principles underpinning the Ukrainian budget system. It means that distribution of types of expenditures between the state budget and local budgets, and between local budgets at different layers, shall be based on the need to enable delivery of services as close to the end user as possible.

Budget expenditures are classified as follows:

1) expenditures for ensuring the constitutional form of government, state integrity and sovereignty, independent judiciary, and other expenditures stipulated by the Budget Code that cannot be transferred to local self-governments for execution. These expenditures are carried out from the State Budget of Ukraine;

2) expenditures that are determined by functions of the state and can be transferred to local self-governments for execution to ensure best efficiency based on the subsidiarity principle;

3) expenditures towards realization of rights and responsibilities of local self-governments for execution that have local character and are defined by laws of Ukraine.

Expenditures (2) and (3) are carried out from local budgets, including from shares of national taxes and transfers from the State Budget of Ukraine. Their allocation to local budgets is based on the subsidiarity principle, taking into consideration such criteria as comprehensiveness of public services and their proximity to end user:

- expenditures for functioning of budget institutions and implementation of measures ensuring essential prioritized public services for all Ukrainian citizens that are closest to users – are carried out from budgets of local self-governments (rural and urban territorial hromadas);

- expenditures for functioning of budget institutions and implementation of measures ensuring public services for some groups of citizens or implementation of programmes that are needed in all Ukrainian regions – are carried out from oblast budgets;

- Kyiv city budget processes all expenditures stipulated for local budgets.

In this way, the Budget Code of Ukraine establishes clear lists of expenditures carried out from budgets at different levels and assigns respective revenues (including shares of national taxes and inter-budgetary transfers for local budgets) necessary to support them.

30. On fiscal management, how does Ukraine ensure that local governments have the funds needed to fulfil their responsibilities?

Since 2014, Ukraine began a historic and breakthrough process of fiscal decentralization, has significantly increased the funds available to local governments. The goal was to ensure access for local governments to sufficient resources both to meet their legal obligations in providing public services and to fulfill their vision of sustainable social and economic development, in parallel with the transfer of powers on these key issues (see response to question 29).

In the field of fiscal management, Ukraine not only "transferred" resources to the State local budgets, but also expanded the powers to collect revenues at the municipal level and strengthened the autonomy to manage local public finances, which barely existed before 2014.

In 2014, the Ministry of Finance together with the Ministry of Regional Development prepared amendments to the Budget and Tax Codes of Ukraine and carried out a reform of inter-budgetary relations in order to decentralize finance, strengthen the financial basis of local self-government, adopted by the Verkhovna Rada of Ukraine.

At present, in view of the reform of the administrative-territorial system in Ukraine in 2020 and the continuation of the decentralization processes, the revision of the financial provision of local budgets will be required, taking into account the renewed powers of local self-government (it is planned to prepare changes to the Budget Code of Ukraine to improve the mechanism of horizontal equalization of the taxpaying capacity of local budgets).

The analysis shows that the share of own revenues in the structure of local budget revenues increased from 40.9% in 2015 to 66% in 2020.

After the local elections in October 2020 on a new territorial basis, the newly formed 1,438 territorial communities in 2021 moved to a direct relationship with the state budget and received the same powers and resources to ensure their implementation (a two-tier system of relations between the state budget and local budgets).

Local budgets became more autonomous and independent of the state budget. In fact, in 2020, local budgets in Ukraine were filled mainly by their own and fixed sources of income, rather than by interbudgetary transfers from higher budgets. The share of transfers in the resource structure of local budgets in 2020 is 34.0%, in 2019 - 50.1%, in 2015 - 59.1%.

Hence, the use of budgetary resources is actually managed locally, which corresponds to the general principles of the European Charter of Local Self-Government.

Revenues of the general fund of local budgets are increasing annually. Thus, at the beginning of the reform own revenues of local budgets in 2014 amounted to more than one hundred billion hryvnias.

The state budget for 2022 anticipated that own revenues of local budgets will be 437 billion UAH, which is 87 billion UAH more than in 2021.

The proportion of expenditures on self-governing powers has increased, which indicates an increase in the expenditure autonomy of local budgets and the efficiency of the use of budgetary funds

at the local level. At the same time, the financial resource is matched to the real needs of local budgets in terms of expenditures on state delegated powers.

As a result of the budgetary decentralisation:

- the rights of local authorities were extended and they were given full budgetary autonomy;
- the sources of local budgets were expanded. Local authorities received additional resources to execute their own powers;
- a new mechanism of budgetary regulation - horizontal equalization of taxpaying capacity of local budgets was introduced. The system of balancing revenues and expenditures of local budgets has been replaced by a more progressive system of taxpaying capacity equalization, contributing to the interest of local authorities in attracting additional revenues and enlarging the available taxable base;
- a new transfer policy was introduced. Local budgets are provided with new types of transfers.

It should also be noted that in order to implement the optimal model of delimitation of powers between local governments and executive authorities and financial provision for the implementation of the powers of local government, the following draft laws were submitted to the Verkhovna Rada of Ukraine:

- on Amendments to the Law of Ukraine "On Local Self-Government in Ukraine" on the distribution of powers of local self-government in connection with changes in the administrative-territorial structure (registration number 6281);
- on amendments to 28 sectorial legislative acts on decentralization of powers of local self-government and executive authorities, in particular in the fields of education, health, social protection, culture, sports, youth policy, civil protection, etc. (registration number 6282).

The practical implementation of the aforementioned draft laws will create organizational and financial prerequisites for the formation of wealthy communities providing accessible, standardized and high-quality public services, which will provide a comfortable environment for people to live in.

Normative regulation of budgetary decentralization

Revenues of local budgets are generated from their own sources and national taxes, fees and other obligatory payments assigned in accordance with the procedure established by law. Revenues of local budgets of city district councils (if created) are formed in accordance with the scope of powers defined by the relevant city councils. Local budget revenues are entered to the general or special fund of the local budget. Local budget special fund revenues include development budget revenues. State budget funds transferred in the form of grants and subventions are approved in the law on the State Budget of Ukraine for each respective local budget (Article 63 of the Budget Code of Ukraine).

The Budget Code of Ukraine differentiates revenues of the general fund of the budgets of rural, village, urban territorial communities (Article 64) and revenues of the general fund of the district budgets (Article 64-1).

The revenues of the general fund of the budgets of rural, village, and urban territorial communities include:

- 60 percent of personal income tax paid in the respective territory (except for the territory of the cities of Kyiv and Sevastopol);
- 40 percent of personal income tax paid on the territory of Kyiv and paid to the budget of Kyiv;
- 100 percent of personal income tax paid in the city of Sevastopol and paid to the budget of the city of Sevastopol;
- 37% of the rent payment for the special use of forest resources in terms of timber harvested in accordance with the procedure of final felling;
- 45 percent of the rent for special water use (except for the rent for special water use of local water bodies), which is paid to the city budgets of Kyiv and Sevastopol by water users at the place of water intake;
- 25 percent of rent for the use of mineral resources of national importance (except rent for the use of mineral resources for oil, natural gas, gas condensate and amber production), which are paid to the city budgets of Kyiv and Sevastopol;
- 3 percent of the rent payments for the use of subsoil for oil, natural gas and gas condensate production (except for the rent for the use of subsoil within the continental shelf and/or exclusive (maritime) economic zone of Ukraine), which is set off at the location (place of production) of the relevant natural resources;
- 5 percent of the rent payment for the use of subsoil for the extraction of minerals of national importance (except for the rent payment for the use of subsoil for oil, natural gas, gas condensate and amber production), which are paid at the location (place of extraction) of the relevant natural resources;
- 30 percent of the rent payment for the use of mineral resources for amber mining, paid to the local budgets at the location (place of mining) of amber;
- payment for the use of other natural resources, paid to the city budgets of Kyiv and Sevastopol;
- state duty, paid to the budgets of local governments at the place of action and issuance of documents;
- excise tax on sales of excisable goods by retailers;
- 13.44 percent of the excise tax on fuel produced in Ukraine, are paid to the general fund of the relevant budgets of local governments automatically;
- 13.44 percent of the excise tax on fuel imported into the customs territory of Ukraine in accordance with the procedure determined by the Cabinet of Ministers of Ukraine shall be automatically paid to the general fund of the relevant budgets of local governments;
- 10 percent of corporate income tax, which is paid to the budget of Kyiv;
- Profit tax of enterprises and financial institutions of communal property. Profit tax of enterprises and financial institutions of communal property founded by village, settlement and city councils shall be paid to the respective budgets;
- local taxes and fees.

According to paragraphs one and two of Article 10 of the Tax Code of Ukraine (hereinafter - TCU) local taxes include:

- property tax;
- single tax.

Local fees include:

- fee for vehicle parking spaces;
- tourist tax;
- license fees for certain types of economic activities and certificates issued by the executive bodies of the relevant local councils, which is paid to the relevant budgets of local self-government;
- fees for licenses and certificates (other than fees for certification, as defined in paragraph 25-2 of paragraph two of Article 29 of the TCU), paid to the municipal budgets of Kyiv and Sevastopol by licensees at the place of activity;
- license fees for the production of ethyl alcohol, cognac and fruit and grain distillate, rectified ethyl alcohol of grapes, rectified ethyl alcohol of fruits, distillate of grapes alcohol, raw alcohol of fruits, bioethanol, alcoholic drinks, tobacco products. The tax is paid to the city budgets of Kyiv and Sevastopol by licensees at the place of activity;
- license fees for the right of wholesale trade in ethyl alcohol, rectified ethyl alcohol of grapes, ethyl alcohol rectified fruit, paid to the city budgets of Kyiv and Sevastopol by licensees at the place of activity;
- fee for state registration (except the administrative fee for the state registration of legal entities, individuals - entrepreneurs and NGOs), paid to the city budgets of Kyiv and Sevastopol;
- license fees for the right of wholesale of alcoholic beverages, tobacco products and liquids used in electronic cigarettes, which shall be paid to the city budgets of Kyiv and Sevastopol by licensees at the place of activity;
- license fees for the right of retail sale of alcoholic beverages, tobacco products and liquids used in electronic cigarettes, which shall be paid to the city budgets of Kyiv and Sevastopol by licensees at the place of activity;
- license fee for the production of fuel, the right to wholesale fuel, the right to retail fuel, fuel storage, paid to the city budgets of Kyiv and Sevastopol by licensees at the place of activity;
- revenues from rent for the use of the property complex and other property in communal ownership, the founder of which is a village, settlement and city councils;
- rent payment for the use of mineral resources for the extraction of minerals of local importance; rent payment for the use of mineral resources for purposes unrelated to the extraction of minerals; rent payment for special use of water bodies of local importance; rent payment for special use of forest resources (except rent payment for special use of forest resources in terms of timber harvested in the order of final use). Such payments are paid to local budgets at the location of the relevant natural resources, and for water bodies - at the place of tax registration of the payer of the rent;
- payment for the placement of temporarily free funds of the relevant budgets of local governments (except for funds received by institutions of professional (vocational), vocational and higher education from the placement on deposits of temporarily free budget funds received for the provision of paid services, if such institutions are granted the corresponding right by law);
- rent for water bodies (their parts), which are provided for use on the terms of lease by Kyiv and Sevastopol city state administrations, local councils, which is paid to the relevant budgets of local self-government;
- funds from the sale of orphan property (including such property that has been abandoned by its owner or recipient), finds, inherited property (if there are no heirs under the will or by law, if they

are excluded from the right to inherit or if they refuse to accept it), property received by the territorial community as an inheritance or a gift, and currency values and funds whose owners are unknown;

- concession payments for the objects of communal property, the founder of which is a village, town, city councils (except for the concession payments defined in paragraph 3 of paragraph one of Article 69-1 of the Tax Code of Ukraine);

- part of the net profit (income) of municipal unitary enterprises and their associations, withdrawn to the budget, in the manner determined by the relevant local councils;

- fees for other administrative services charged at the place of service;

- administrative fee for state registration of rights to immovable property and their encumbrances by executive bodies of village, settlement, city councils, district state administrations in the cities of Kyiv and Sevastopol, which shall be paid to the budgets of local governments at the place of service provision;

- administrative fee for the state registration of legal entities, individuals - entrepreneurs and non-government organizations, carried out by the executive bodies of village, town, city councils, district state administrations in Kyiv and Sevastopol, which shall be paid to the budgets of local governments at the place of service provision;

- payment for reducing the time frame for services in the state registration of rights to immovable property and their encumbrances and state registration of legal entities, individuals - entrepreneurs and nongovernment organizations, as well as payment for other paid services related to such state registration, which is performed by executive bodies of village, settlement, city councils, district state administrations in Kyiv and Sevastopol, which shall be credited to the budgets of local governments;

- penalties for violation of the patent laws;

- administrative fines and penalties for violations of the law in the field of production and circulation of alcoholic beverages and tobacco products, which are paid at the place of the violation;

- 10 percent of the proceeds of administrative fines for administrative offenses in the field of road safety, recorded in automatic mode, credited at the place of fixation of the offense with the appropriate technical means - monitoring devices;

- administrative fines and other penalties imposed by local executive authorities and executive bodies of local councils or administrative commissions established by them in accordance with the established procedure;

- administrative fines imposed by electric transport authorities (trolleybus, tram), authorized by law to consider cases of administrative offenses related to violations of the rules of use of electric transport;

- penalties as a result of the failure to execute contracts concluded by the spending unit with business entities for the purchase of goods, works and services at the expense of the relevant local government budgets;

- funds received from the participants of the procurement procedure/reduced procurement as a security of their tender offer/proposal of the participant of the simplified procurement, not subject to return to such participants, in terms of procurement at the expense of the relevant budgets of local governments;

- funds received from the winner of the procurement procedure/reduced procurement at the conclusion of the procurement contract as security for the performance of such contract, not subject

to return to the participant in terms of procurement at the expense of the relevant local government budgets;

- 80 percent of funds received by enterprises, institutions and organizations maintained at the expense of local budgets for gold, platinum, platinum group metals, precious stones deposited as scrap and waste, and 50 percent of funds received by these enterprises, institutions and organizations for silver deposited as scrap and waste;

- 50 percent of the fee for licenses to organize and conduct gambling activities in casino gambling establishments and for licenses to organize and conduct gambling activities in gaming halls, which shall be paid to the budgets of local governments at the location of the relevant institution;

- other revenues to be allocated to the budgets of local governments in accordance with the law;

- personal income tax;

- excise tax from the sale by retailers of tobacco products, tobacco and industrial substitutes for tobacco, liquids used in electronic cigarettes is credited to the budgets of local governments automatically in accordance with the parts, which are determined monthly, as the ratio of the value of retailers sold tobacco, tobacco, industrial substitutes for tobacco, liquids used in electronic cigarettes, in the corresponding territory in the reporting month to the total value of retailers sold tobacco, tobacco, industrial substitutes for tobacco, liquids used in electronic cigarettes, during the reporting month in the whole of Ukraine.

As for the preparation of the fiscal impact of the new legislation on the budgets of municipalities

According to Article 20 of the Law of Ukraine "On Associations of Local Self-Government Bodies" and the action plan for the preparation of the draft state budget for the relevant budget period, the Ministry of Finance, Ministry of Regional Development and other central authorities consult annually with representatives of associations of local self-government bodies and local financial authorities to discuss the draft budget in terms of indicators of local budgets and inter-budget relations.

Representatives of all-Ukrainian associations of local self-government bodies attend the discussions at the meetings of the Government (government committees) when considering all issues related to the activities of local self-government.

When preparing any regulatory legal act, an explanatory note is submitted, which includes a section on the impact of the act on local budgets, a forecast of socio-economic and other consequences for local government as a result of the adoption of the regulatory legal act. The developer also encloses a financial and economic substantiation of the regulatory legal act, which is mandatory.

31. How are the administrative boundaries of the municipalities regulated and defined?

In Ukraine, the territories of territorial communities constitute the territorial basis for the activities of basic-level local self-governing bodies (village, settlement, and city/town councils — municipalities).

In accordance with the Law of Ukraine “On Local Self-Government in Ukraine”, the Cabinet of Ministers of Ukraine determines administrative centres (localities where representative bodies — local councils — are situated) and approve the territories of territorial communities (determine the

composition of such territories) when holding preliminary consultations with associations of local self-governing bodies.

On 12 June 2020, the Government approved a new basic-level administrative and territorial division (24 ordinances on determination of administrative centres and approval of territories of communities of 24 oblasts), which resulted in the approval of 1,469 functional territorial communities in Ukraine with the same status and direct intergovernmental fiscal relations.

At the same time, the Land Code of Ukraine and the Law of Ukraine “On Land Management” stipulate that establishing physical boundaries of territorial communities (on terrain) is exercised exclusively by village, settlement, and city/town councils upon prior agreement by adjacent territorial communities.

The Law of Ukraine “On Land Management” (hereinafter “the Law”) defines the term “boundary of the territory of a territorial community” as a conventional line on the ground surface (including water surface) which separates the territory of one territorial community from other territories.

According to Article 46-1 of the Law, land management projects on establishing boundaries of the territories of territorial communities are developed with the purpose to:

- a) determine the effective boundaries of the territory of a territorial community;
- b) resolve a dispute between several local self-governing bodies regarding the boundaries of the territory of their territorial communities;
- c) enter data on the boundaries of the territory of a territorial community into the State Land Cadastre.

When developing land management projects on establishing the boundaries of the territory of a territorial community, it is not acceptable to:

establish the boundaries of the territory of a territorial community which alter the boundaries of administrative and territorial units;

establish a shaped area of land within several territorial communities (other than agricultural lands, lands attached to water reservoirs, lands of natural reserves and other protected areas, land areas on which linear transport infrastructure and energy infrastructure are located).

A land management project on establishing the boundaries of the territory of a territorial community includes:

- a) explanatory note;
- b) terms of reference for the works needed;
- c) copy of the village (settlement) territory boundaries mapping resolution (if any);
- d) description of the boundaries of the territory of the territorial community;
- e) drawings of the boundaries of the territory of the territorial community with a respective scale;

f) catalogue of coordinates of landmarks of the boundaries of the territory of the territorial community.

The boundaries of the territory of a territorial community may cross both land and water. Land management projects on establishing the boundaries of the territory of a territorial community are developed pursuant to a decision of the village, settlement, city/town council in question. Data on the boundaries of the territory of a territorial community are entered into the State Land Cadastre.

32. Which institutions are responsible for local self-government reform?

The Verkhovna Rada of Ukraine, in particular the Committee of the Verkhovna Rada of Ukraine on State Building, Local Governance, Regional and Urban Development the Cabinet of Ministers of Ukraine, the Ministry for Communities and Territories Development of Ukraine, other ministries, within their competence, and oblast state administrations are responsible for the implementation of the reform in the areas of local self-government and territorial structure of government of all levels.

The Verkhovna Rada of Ukraine adopts legislative acts, in particular the laws of Ukraine that launched the reform and ensured its continuation, including the Laws of Ukraine “On Voluntary Amalgamation of Territorial Communities”, “On Amending the Budget Code and the Tax Code As Regards the Reform of Inter-Budget Relations”, “On Cooperation of Territorial Communities”, “On Amending Certain Laws of Ukraine As Regards the Regulation of Certain Issues Related to the Organisation and Activity of Local Self-Governing Bodies and Raion State Administrations”, the Resolution of the Verkhovna Rada of Ukraine “On establishment and liquidation of raions”, and others.

In pursuance of the aforementioned laws, the Cabinet of Ministers of Ukraine as an executive authority responsible for ensuring the implementation of laws, adopted prospective plans for formation of communities’ territories, approved the administrative centres and territories of territorial communities, issued the decision on the procedure for reorganisation of raion state administrations and approved their system.

The Ministry for Communities and Territories Development is the main body responsible for the development and implementation of the public policy in the areas of development of local self-government, territorial structure of governments of all level, and administrative and territorial system. The Ministry for Communities and Territories Development ensures the execution of decisions of the Government, drafts legislative acts, acts of the Cabinet of Ministers of Ukraine concerning the development of respective policies and submits them for the Government’s review.

Draft laws developed by the Ministry for Communities and Territories Development and approved by the Cabinet of Ministers of Ukraine, which are aimed to regulate issues in the areas of development of local self-government, territorial structure of governments of all levels and the administrative and territorial system, are subject to submission for the Parliament’s review.

Draft laws pass preliminary processing by expert deputy committees of the Verkhovna Rada of Ukraine. Issues relating to the development of local self-government, territorial structure of governments of all levels and the administrative and territorial system fall within the scope of

committee of the Committee of the Verkhovna Rada of Ukraine on State Building, Local Governance, Regional and Urban Development. Based on the results of review of draft laws, the Committee issues its opinions proposing approval or further improvement of the legislative initiatives. Following the Committee's review, draft laws and draft resolutions of the Verkhovna Rada are submitted for the Parliament's review.

The Ministry for Communities and Territories Development adopts its own acts in the form of orders in the framework of the development and implementation of the public policy. In particular, the Ministry for Communities and Territories Development of Ukraine approved the Codifier of Administrative and Territorial Units and Territories of Territorial Communities as well as the Guidelines on cooperation of territorial communities. A significant number of other legal and normative acts on decentralisation were adopted.

Oblast state administrations perform preliminary processing of the prepared proposals, implement them within the relevant administrative and territorial units and participate in their direct implementation in cooperation with the international technical assistance projects operating in Ukraine. In particular, oblast state administrations are responsible for communication with territorial communities within their oblast.

33. Are regions/municipalities consulted in any formal way in the context of preparation of legislation, which will either affect them or in which they will be involved in the implementation?

Regarding the rule-making activity of the Verkhovna Rada of Ukraine and subjects of legislative initiative, see answers to questions 11 and 12. On the rule-making activity of the Cabinet of Ministers of Ukraine, see answer to question 23?.

According to § 32 of the Regulations of the Cabinet of Ministers of Ukraine the development of a draft act begins immediately after receipt of the relevant assignment and continues on the basis of the need to take into account in the total time of preparation of the draft act of the requirements established by the Regulations on the time sufficient for approval of the draft act by the interested bodies and the time sufficient to conduct a legal examination of the Ministry of Justice and the examination of the Secretariat of the Cabinet of Ministers

Preparation of regulatory legal acts is carried out in accordance with the requirements of the Regulations of the Cabinet of Ministers of Ukraine. Thus, the order and procedure of their preparation involves:

- sending, on a mandatory basis, to all-Ukrainian associations of local self-governments projects on issues related to the functioning of local self-government, the rights and interests of territorial communities, local and regional development;
- coordination with local public administrations and obtaining their position on draft acts on the development of administrative-territorial units;
- Sending to local self-government bodies draft acts on issues related to the functioning of local self-government or the interests of territorial communities for review and considering proposals, if received from the said bodies in the development of such draft acts.

Besides, if the adoption of a draft law leads to changes in the indicators of the state and/or local budgets, the developer must add a financial and economic substantiation with appropriate calculations (if it is expected to reduce revenues and/or increase budget expenditures, proposals for changes in legislative acts to reduce costs and/or sources of additional budget revenues to achieve its balance shall be submitted).

The Ministry of Finance of Ukraine examines these calculations when approving the draft act and gives a conclusion containing information about the completeness and reliability of the data, the impact of the draft law on budget indicators (with a mandatory determination of the value of such impact), the possibilities of financial provision in the relevant budget period, compliance with the laws governing budgetary relations, and proposals for its consideration .

In accordance with the Law of Ukraine "On Associations of Local Self-Government Bodies" dated 16.04.2009, № 1275-VI (hereinafter - LU "On LSGB") associations of local self-government bodies and their voluntary associations (hereinafter - Associations) are voluntary non-profit established by local self-government bodies for more effective exercise of their powers, coordination of local government activities to protect the rights and interests of territorial communities, the promotion of local and regional development.

Associations are created with all-Ukrainian and local status. All-Ukrainian associations are those that unite more than half of the local self-government bodies of the respective territorial levels.

A local association may be established by at least three local government bodies. Rural, township, city, district in cities, district and regional councils can be members of associations. A local government body may be a member of only one all-Ukrainian association. The local association can participate in the activities of the all-Ukrainian association as a collective member in the manner and forms determined by the statutes of the all-Ukrainian and local associations.

Four associations of local self-government with all-Ukrainian status have been created in Ukraine - Association of Cities of Ukraine, Association of United Territorial Communities, All-Ukrainian Association of Communities, Ukrainian Association of District and Regional Councils, as well as a number of local associations.

In their statutory activities, associations are independent of state bodies, are not accountable to them and are not under their control, except in cases provided for by law. Any interference in the statutory activities of associations and their associations by state authorities, their officials and officers is prohibited; state authorities facilitate the activities of associations.

When taking decisions on issues of local and regional development, as well as in determining the main directions of state policy on local self-governance, interact with associations on the grounds defined by law.

Associations participate in the formulation of state policy in the development of local self-government and participate in the work of the consultative and advisory body on local self-government under the Chairman of the Verkhovna Rada of Ukraine, as well as central executive bodies.

When preparing a draft act of the Cabinet of Ministers on issues related to the functioning of local self-government, the rights and interests of territorial communities, local and regional

development, such draft act is sent in a mandatory manner to all-Ukrainian associations of local self-government bodies.

The main forms of interaction of associations with the state bodies are:

1) participation in consultations of:

a) all-Ukrainian associations with the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the central executive bodies;

b) local associations and regional branches of all-Ukrainian associations with local executive bodies;

2) Provision of associations' conclusions to draft regulatory legal acts on issues related to local and regional development:

a) by all-Ukrainian associations to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the central executive bodies;

b) by local associations and regional branches of all-Ukrainian associations to local bodies of executive power.

All-Ukrainian associations have the right to initiate, before the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, consultations on draft laws and other draft acts on issues related to local and regional development.

The results of consultations are formalized in a record, which may be attached to a bill or draft other act.

Representatives of all-Ukrainian associations may be invited to participate in meetings of state bodies where issues related to local and regional development are considered.

Consultations of the central executive authorities with all-Ukrainian associations are held on the draft law on the State Budget of Ukraine, the provisions of by-laws relating to the budgetary process.

All forms of interaction between associations and government agencies are specified in Chapter IV of the Law of Ukraine "On LSGB".

Regarding the particularities of consultations on the draft law on the State Budget of Ukraine.

Draft laws affecting budget indicators are adopted no later than July 15 of the preceding planned year and are enacted no earlier than the beginning of the planned budget period.

According to the Constitution of Ukraine and the Law of Ukraine "On Local Self-Government in Ukraine" decisions of public authorities, leading to additional costs of local self-government bodies, are obligatorily accompanied by the transfer of necessary financial resources.

All-Ukrainian associations before February 15 of the year preceding the planned budgetary period submit to the Cabinet of Ministers of Ukraine general proposals for taking into account local and regional interests in the preparation of the Budgetary Declaration.

Consultations with all-Ukrainian associations on the draft law on the State Budget of Ukraine shall be held by the Minister of Finance of Ukraine or his/her deputy or other official on behalf of the Minister of Finance of Ukraine not later than seven days prior to submission of the draft law on the State Budget of Ukraine for the relevant year for consideration of the Cabinet of Ministers of Ukraine.

The results of these consultations with all-Ukrainian associations are formalized in a record, which is attached to the draft law on the State Budget of Ukraine, submitted by the Cabinet of Ministers of Ukraine to the Verkhovna Rada of Ukraine.

IV. Civil Society

34. Can all individuals and legal entities express themselves, assemble peacefully and establish, join and participate in non-formal and/or registered organisations?

On the right to express oneself (freedom of expression)

Freedom of expression is guaranteed in Ukraine by the Constitution (Article 34), the Convention for the Protection of Human Rights and Fundamental Freedoms, and the national legislation that apply equally to the professional journalistic community, individuals, and citizens' associations.

The right to freedom of thought and speech, to free expression of their views and beliefs is guaranteed to everyone. Every individual has the right to freely collect, store, use, and disseminate information orally, in writing, or in any other way of their choice. Exercise of these rights may be restricted by law in the interests of national security, territorial integrity, or public order in order to prevent riots or crimes, protect public health, reputation or rights of others, prevent disclosure of information obtained in confidence, or maintain credibility and impartiality of justice.

Hate (hostility) speech is not subject to direct legal regulation. However, there are legal restrictions in place regarding abuse of the right to information, which includes use of information for the purposes of hate (hostility) speech. As stipulated in Article 28 of the Law of Ukraine On Information: "Information shall not be used to call for overthrow of the constitutional order, violation of Ukraine's territorial integrity, propaganda of war, violence, cruelty, incitement to ethnic, racial, religious hatred, commission of terrorist acts, encroachment on human rights and freedoms."

The Law of Ukraine *On Printed Mass Media (the Press) in Ukraine* also stipulates that freedom of speech and expression in print of one's views and beliefs is guaranteed by the Constitution of Ukraine, and according to this Law it implies the right of everyone to freely search for, obtain, record, store, use, and disseminate any information via printed media, except as stipulated by law, where restriction on this right is required in the interests of national security, territorial integrity, or public order in order to prevent riots or criminal offenses, to protect public health, reputation or rights of others, to prevent disclosure of information obtained in confidentiality, or to maintain credibility and impartiality of justice.

At the same time, the Law does not allow for abuse of the freedom of printed media and contains a list of purposes for which use of the printed media is prohibited. In particular, these are calls for seizure of power, forcible change of the constitutional order or territorial integrity of Ukraine; propaganda of war, violence and cruelty; incitement to racial, national, regional, religious hatred;

interference in personal and family life of an individual, except as stipulated by law; inflicting damage to an individual's honour and dignity, etc.

In the context of the armed aggression of the Russian Federation against Ukraine, this list was expanded: justification, recognition as lawful, denial of the armed aggression of the Russian Federation against Ukraine; glorification of the persons who carried out the armed aggression of the Russian Federation against Ukraine.

Having analysed these regulations, one can conclude that the legislation of Ukraine actually links use of hate speech with abuse of the right to information and prohibits such actions. Violation of the Ukrainian legislation on information entails disciplinary, civil, administrative, or criminal liability in compliance with laws of Ukraine.

On the right to peaceful assembly

Freedom of peaceful assembly in Ukraine is guaranteed by the Constitution: citizens have the right to assemble peacefully, without weapons, and hold meetings, rallies, marches, and demonstrations, having notified executive authorities or local governments about them in advance.

Ukraine does not require a permit to hold peaceful assemblies. The Constitution of Ukraine only stipulates the need for timely notification of peaceful assemblies. In paragraph 1 of the substantive part of its Decision of April 19, 2001 No. 4-rp (the case on early notification of peaceful assemblies), the Constitutional Court of Ukraine concluded that setting deadlines for prior notification of executive authorities or local governments in view of the specific forms of peaceful assemblies, their massive attendance, place and time, etc. are subject to legislative regulation.

Currently, aspects regulating realization of the freedom of peaceful assembly are comprised in the Law of Ukraine *On Local Governments in Ukraine*. Thus, Article 38 stipulates that executive authorities of village, settlement, and city councils have delegated powers to decide in accordance with the law on holding of meetings, rallies, manifestations and demonstrations, sports, entertainment and other mass events, and to control maintenance of public order during the events.

Specific requirements for prior notification apply to only one category of peaceful assemblies. According to the Law of Ukraine *On the Procedure for Resolving Collective Labour Disputes (Conflicts)*, the person leading a strike must notify the relevant executive public authority or local government of the planned assembly outside the territory of the institution, enterprise, organisation no later than three days before the peaceful assembly.

At the legislative level, there are no disproportionate restrictions on the time, place, and manner of holding peaceful assemblies. Some restrictions on the venue of an assembly are due to specifics of the territory. For example, according to the Law of Ukraine *On Use of Nuclear Energy and Radiation Security*, meetings, rallies, demonstrations, and other public events in the sanitary protection zone are prohibited.

On the right to establish, join, and participate in non-formal and/or registered organisations

The Constitution of Ukraine, being the fundamental law of Ukraine, guarantees citizens' right to freedom of association in political parties and civic organisations to exercise and protect one's rights and freedoms and to satisfy political, economic, social, cultural, and other interests. Citizens

also have the right to participate in trade unions for the sake of protecting their labor and socio-economic rights and interests.

These provisions of the Constitution are expanded and detailed in special legislation. In particular, the Law of Ukraine *On Civic Associations* stipulates that no one may be forced to join any civic association. Belonging or not belonging to a civic association may not be grounds for restricting rights or freedoms of an individual or for granting them any benefits and advantages by public authorities, other public bodies, public authorities of the Autonomous Republic of Crimea, local governments.

A civic association is established as a civic organisation or union. A civic organisation may be founded by at least two individuals. Foreigners and stateless persons legally staying in Ukraine may also participate in establishment of a civic organisation. Individuals who are at least 18 years old may be founders of a civic organisation, while persons who are at least 14 years old may be its members. Founders of youth and children's civic organisations may be individuals who have reached 14 years of age. A person aged 14 to 35 may be a member of a youth organisation, while members of a children's civic organisation are individuals aged 6 to 18. Legislation — for example, the Law of Ukraine *On Basic Principles of Youth Policy* — contains exceptions where older persons may be founders and members of such organisations.

The minimum number of founders of a civic union is two legal entities. Founders of a civic union may be legal entities under private law, including civic organisations having the status of a legal entity. Legal entities under private law, including civic associations with the status of a legal entity, as well as individuals who have reached 18 years of age may be members of a civic union.

Ukrainian legislation provides for establishment of various types of civic associations, including charitable organisations, self-organizing bodies of population, creative unions, trade unions, religious organisations and others.

Civic associations may operate with or without the legal entity status. Charitable organisations, creative unions, self-organizing bodies of population, trade unions, and religious organisations may be registered and act only as legal entities.

All these legal entities have the right to obtain the non-profitability attribute. Obtaining the non-profitability attribute releases civic associations and other organisations that have acquired it from the obligation to pay the corporate income tax. To obtain the non-profitability attribute, civic associations, other organisations must include into their charter: 1) provisions on prohibition of distribution of income of the association, organisation among its founders and participants, other related entities; 2) in case of liquidation of the association, organisation — the obligation to transfer all assets to another association, organisation of a similar organisational and legal form or as revenues to the state budget.

Thus, in Ukraine the state does not impose any practical obstacles to establishment or joining of civic associations, other organisations, or participation in their activities. Individuals and legal entities may, at their own discretion, create, join civic associations, other organisations or participate in their activities.

35. Please provide an overview of Civil Society Organisations (CSOs), including associations or foundations, and their activities in your country.

An important sign of sustainability of civil society is functioning of civil society institutions (organisations), through which citizens and societal groups ensure self-organisation, representation, implementation and protection of rights and interests.

In Ukraine, the concept of “a civil society organisation” (hereinafter — CSO) is not defined in the law. Therefore, when using the term CSO we imply: civic associations, political parties, charitable organisations, religious organisations, creative unions, trade unions, employers’ organisations, and self-organizing bodies of population.

General provisions on freedom of association are contained in the Constitution of Ukraine. Citizens of Ukraine have the right to freedom of association as political parties and civic organisations to exercise and protect their rights and freedoms and to satisfy their political, economic, social, cultural and other interests, except for the restrictions established by law in the interests of national security and public order, public health, or protection of rights and freedoms of others.

Citizens have the right to participate in trade unions for the sake of protecting their labor and socio-economic rights and interests. Trade unions are civic organisations uniting citizens having common interests due to the nature of their professional activities. Trade unions are established without prior permission based on the free choice of their members. All trade unions have equal rights. Restrictions on membership in trade unions are established exclusively by the Constitution and laws of Ukraine.

No one may be forced to join any association of citizens or restricted in their rights to belong or not to belong to political parties or civic organisations.

All associations of citizens are equal before the law.

Each CSO type is established by individuals or legal entities with its specific purpose and to pursue certain objectives. Currently, there is the respective legal framework in place in Ukraine that defines the legal basis for establishment, rights and guarantees of the CSO types mentioned above. These are the Laws of Ukraine *On Civic Associations*, *On Political Parties in Ukraine*, *On Charitable Activities and Charitable Organisations*, *On Freedom of Conscience and Religious Organisations*, *On Professional Creative Workers and Creative Unions*, *On Trade Unions, Their Rights and Activity Guarantees*, *On Employers’ Organisations, Their Associations, Rights and Activity Guarantees*, *On Self-Organizing Bodies of Population*, and other acts of legislation.

All CSOs have legal guarantees of their activities independent of public authorities. Since CSOs themselves determine the goal of their activities when established. Civic associations have a wide and virtually non-exclusive list of activity domains. Whereas creative and trade unions, religious organisations and self-organizing bodies of population are created for a specific goal and in specific domains. For example, religious organisations act to meet religious needs, while creative unions operate in the field of culture and arts. Charitable organisations also have established domains of charitable activities, but they are sufficient not to violate their rights.

On activities of civic associations

The Law of Ukraine On Civic Associations sets legal and organisational principles of exercising the right to freedom of association guaranteed by the Constitution of Ukraine and Ukraine's international treaties deemed binding by the Verkhovna Rada of Ukraine, the procedures for establishment, registration, operation, and termination of civic associations.

Civic association is a voluntary association of individuals and/or legal entities under private law to exercise and protect rights and freedoms, satisfy public, including economic, social, cultural, environmental and other interests.

Civic associations may be established in the form of civic organisations (the most common type of CSO in Ukraine) and civic unions. A civic association may operate with or without the legal entity status. A civic association having the status of a legal entity is a non-entrepreneurial society, the main purpose of which is not obtaining profit.

Members (participants) of a civic organisation may include citizens of Ukraine, foreigners and stateless persons who legally stay in Ukraine and have reached 14 years of age.

Members (participants) of a civic union may comprise legal entities under private law, including civic associations with the status of a legal entity, individuals who have reached 18 years of age and have not been declared incompetent by court.

The law imposes restrictions on establishment and operation of civic associations. Their establishment and operation is prohibited if their goal (purposes) or actions are aimed at eliminating Ukraine's independence, changing the constitutional order by force, undermining sovereignty and territorial integrity of the state, its security, illegal seizure of state power, propaganda of war, violence, incitement to ethnic, racial, religious hatred, encroachment on human rights and freedoms, public health, propaganda of communist and/or National Socialist (Nazi) totalitarian regimes and their symbols, violation of citizens' equality based on their race, skin colour, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, language or on other grounds; dissemination of information containing justification, recognition as lawful, denial of the armed aggression of the Russian Federation against Ukraine.

Civic associations may not have paramilitary units. Other restrictions on the right to freedom of association, including establishment and operation of civic associations, may be imposed solely by law in the interests of national security and public order, public health, or protection of rights and freedoms of others. No public powers may be delegated to civic associations, except in cases stipulated by law.

Civic associations having the status of a legal entity have the right to financial support from the State Budget of Ukraine, local budgets in compliance with the law.

A civic association having the status of a legal entity for the purpose of pursuing its statutory goal (purposes) has the right to own, use, and dispose of funds and other property transferred in accordance with the law to such civic association by its members (participants) or the state, obtained as membership fees, donated by citizens, enterprises, institutions and organisations, acquired as a result of business activities of such an association, business activities of legal entities (companies,

enterprises) established by it, as well as property acquired at its own expense, temporarily provided for use (except administration), or on other grounds not prohibited by law.

A civic association may be banned by court at the claim of the authorized registration authority in case of detecting signs of the civic association's violation of provisions of Articles 36 and 37 of the Constitution of Ukraine.

A ban on a civic association results in termination of its activities in accordance with the procedures established by the Law of Ukraine *On State Registration of Legal Entities, Individual Entrepreneurs, and Civic Associations*.

On activities of political parties

One of the important types of CSOs in Ukraine is political parties. Political parties operate in compliance with the Constitution of Ukraine, the Law of Ukraine On Political Parties in Ukraine, as well as other laws of Ukraine and in accordance with the party's statute.

Political party is a voluntary association of citizens supporting a certain national societal development program, registered in accordance with the law, that aims to promote formation and expression of citizens' political will, participates in elections and other political events.

In accordance with the Constitution of Ukraine, only a citizen of Ukraine who has the right to vote at elections may be a member of a political party.

The following individuals cannot be members of political parties: judges; prosecutors; police officers; employees of the Security Service of Ukraine; service persons; customs and tax officials; staff of the State Penitentiary Service of Ukraine; employees of the National Anti-Corruption Bureau of Ukraine; civil servants in the cases stipulated by the Law of Ukraine On Civil Service; members of the National Energy and Utilities Regulation Commission; citizens of Ukraine enrolled in voluntary formations of territorial communities; employees of the Bureau of Economic Security of Ukraine; employees of the State Bureau of Investigation; members of the National Commission for State Regulation of Electronic Communications, Radio Frequency Range and Provision of Postal Services.

Provision of in kind and financial support to political parties is performed in the form of contributions to support parties and public funding of statutory activities of political parties.

Contributions in support of political parties are not allowed for: public authorities and local governments; state-owned and municipal enterprises, institutions, and organisations; legal entities where at least 10 percent of their authorized capital or voting rights directly or indirectly belong to the state, local governments; legal entities the final beneficial owners (controllers) of which are entities specified in Articles 3(1)(a), 3(1)(c)-3(1)(i) and 3(2)(a) of the Law of Ukraine On Prevention of Corruption; foreign states, foreign legal entities, legal entities where at least 10 percent of the authorized capital or voting rights directly or indirectly belong to non-residents, as well as legal entities the final beneficial owners (controllers) of which are foreigners or stateless persons; unregistered civic associations, charitable or religious organisations, as well as other political parties; individuals who are not citizens of Ukraine (foreigners and stateless persons), as well as anonymous entities or entities under a pseudonym; citizens of Ukraine who have not reached the age of 18 or who have been declared incompetent in accordance with the procedures established by law; individuals

with whom a contract has been executed for purchase of works, goods, or services to satisfy needs of the state or local community for a total of more than fifty subsistence minimums for able-bodied persons as established on January 1 of the year in which the contribution is made, as well as legal entities with which such a contract is executed for a total amount of more than one hundred subsistence minimums for able-bodied persons as established on January 1 of the year in which the contribution is made — during the term of such contract and for one year after its termination.

The Law of Ukraine *On Political Parties in Ukraine* stipulates that establishment and operation of political parties is prohibited if their programmatic objectives or actions are aimed at: liquidation of Ukraine's independence; change of the constitutional order by force; undermining of sovereignty and territorial integrity of Ukraine; of state security; illegal seizure of state power; propaganda of war, violence, incitement to ethnic, racial or religious hatred; encroachment on human rights and freedoms; encroachment on public health; propaganda of communist and/or national socialist (Nazi) totalitarian regimes and their symbols. Political parties may not have paramilitary units.

Activities of a political party may only be banned by court.

On activities of charitable organisations

Activities of charitable organisations are regulated by the Law of Ukraine *On Charitable Activities and Charitable Organisations*, according to which a charitable organisation is a legal entity under private law, constituent documents of which define charitable activities in one or more domains established in this Law as the main goal of its activities.

Charitable organisations may be established in the form of a charitable society, charitable institution, or charitable foundation.

A charitable society is a charitable organisation established by at least two founders and operating based on its charter.

A charitable institution is a charitable organisation, the constituent act of which established the assets donated by one or more founders to achieve goals of charitable activities at the expense of such assets and / or income from such assets.

A charitable foundation is a charitable organisation that operates based on the statute, has members, and is managed by members who are not required to donate any assets to the organisation in order to achieve the charitable organisation's goals. One or more founders can set up a charitable foundation.

Competent individuals aged at least 14 and legal entities under private law can be founders of charitable organisations.

On activities of religious organisations

Establishment of religious organisations is regulated by the Law of Ukraine *On Freedom of Conscience and Religious Organisations*. Religious organisations are established to meet religious needs of citizens to profess and spread the faith and act in accordance with their hierarchical and institutional structure. Legislation distinguishes religious communities, administrations and centres, monasteries, religious fraternities, missionary societies (missions), theological schools, and associations consisting of the above-mentioned religious organisations.

A religious organisation is recognized as a legal entity starting from the date of its state registration. A religious organisation as a legal entity enjoys rights and bears duties in compliance with the relevant legislation and its charter (regulations).

To register the statute (regulations) of a religious community, citizens — at least ten individuals — who established it and reached the age of 18 submit an application and the statute (regulations) for registration to the regional, Kyiv and Sevastopol city state administrations, and in the Autonomous Republic of Crimea — to the Council of Ministers of the Autonomous Republic of Crimea.

Activities of a religious organisation may be terminated due to its reorganisation (division, merger, accession) or liquidation.

In case of violation of provisions of this Law and of other legislative acts of Ukraine by a religious organisation that is a legal entity, its activity may also be terminated by court.

On activities of trade unions

The Law of Ukraine *On Trade Unions, Their Guarantees and Freedom of Action* defines aspects of legal regulation, principles of establishment, rights and guarantees of trade unions.

Trade union is a voluntary non-profit civic organisation uniting citizens having common interests due to the nature of their professional (labour) activities (studies). To represent and protect rights and interests of trade union members at the respective level of contractual regulation of labour and socio-economic relations, trade unions, trade union organisations may have the status of grass root, local, oblast, regional, republican, and national ones. Trade union organisations are organisational units of a trade union stipulated by the trade union's statute, operating within the powers granted by the statute and the law.

Restrictions on membership in trade unions are established exclusively by the Constitution and laws of Ukraine.

No one may be forced to join or not to join a trade union.

Belonging or not belonging to trade unions does not entail any restrictions on labour, socio-economic, political, personal rights and freedoms of citizens guaranteed by the Constitution of Ukraine and other laws of Ukraine.

Any restriction of rights or provision of benefits is prohibited when concluding, amending, or terminating a labour contract in connection with one's belonging or not belonging to a trade union or a particular trade union, joining or leaving it.

A trade union association is established for the purpose of pursuing its statutory objectives. Trade unions, their organisations (if stipulated in the statute) have the right to voluntarily establish associations (councils, federations, confederations, etc.) on a sectoral, territorial or other basis, as well as to be part of associations and freely leave them.

On activities of creative unions

The Law of Ukraine *On Professional Creative Workers and Creative Unions* establishes the legal status of professional creative workers, as well as legal, social, economic and organisational principles of creative unions' operation in the field of culture and arts.

Creative union is a voluntary association of professional creative workers in the relevant professional domain in the field of culture and arts having fixed membership and operating based on its statute. Professional creative worker is an individual whose creative activities constitute their main occupation culminating in creation and publication of pieces or their interpretation in the field of culture and arts and is the main source of income, regardless of whether they have any legally documented labour relations. Creative activities are individual or collective creative work by professional creative workers, the result of which is a piece or its interpretation that has cultural and artistic value.

A creative union operates based on the principles of voluntary association of its members belonging to the same professional domain of culture and arts, self-regulation, mutual assistance and cooperation, non-interference in the creative process, free choice of forms and methods of creative activities, copyright recognition. One or more voluntary creative associations may be established in each professional domain.

A member of a creative union has the right to suspend or terminate their membership in the creative union at any time by submitting an application to statutory bodies of the creative union. Membership in a creative union is suspended or terminated starting on the date of submission of such application and does not require additional decision-making. On the same day the member of the creative union stops occupying any elected position in the creative union.

On activities of employers' organisations

The Law of Ukraine *On Employers' Organisations, Their Associations, Rights and Guarantees of Their Activities* defines legal, economic, and organisational principles of establishment and operation of employers' organisations, their associations, specifics of legal regulation and guarantees of their activities, as well as basic principles of their interaction with public authorities and local governments, trade unions and their associations, other associations of citizens, enterprises, institutions, and organisations.

Employers' organisation is a non-profit civic organisation that unites employers.

Employers' organisations and their associations may establish associations of employers' organisations, join and leave such associations, participate in their activities on the terms and in the manner prescribed by statutes of associations of the employers' organisations.

A member of an employers' organisation or an association of employers' organisations has the right to terminate their membership in the employers' organisation or association of employers' organisations at any time by submitting an application to the relevant statutory bodies. Membership in an employers' organisation or an association of employers' organisations is terminated starting from the date of submission of such application and does not require additional decision-making.

On self-organizing bodies of population

According to the Law of Ukraine *On Self-Organizing Bodies of Population*, the respective CSO type comprises representative bodies established by residents who legally reside in a village, town, city or parts thereof to address objectives stipulated by this Law.

Self-organizing bodies of population are house, street, neighbourhood committees, micro-district committees, district committees in cities, village, town committees.

A self-organizing body of population is established on the territorial basis. The territory within which a self-organizing body of population operates may be the part of the territory of a village, town, city, district in a city within which the residents who elected this body live.

According to the State Statistics Service of Ukraine, as of January 1, 2021, there were 1,649 self-organizing bodies of population in Ukraine.

Ukraine has a sufficiently well-developed CSO network. Thus, according to the Unified State Register of Legal Entities, Individual Entrepreneurs and Civil Associations in Ukraine, as of March 2022 the following entities were registered:

civic associations (civic organisations and civic unions) — 91,483;

political parties — 377;

charitable organisations — 19,310;

religious organisations — 26,486;

trade unions, their associations, trade union organisations established with statutes of trade unions and their associations — 26,895;

creative unions — 339;

employers' organisations, their associations — 537.

Specifics of CSO development in the post-Maidan period are clearly characterized by the spread of various civic self-organisation unification formats and practices, establishment of CSO coalitions, including advocacy-oriented ones, as a mechanism of CSOs' interaction with public authorities. The purpose of establishing such a mechanism is to express and promote interests of various socio-economic groups, instructions to develop public administration decisions of societal importance.

Besides, a significant number of civic organisations have been focused on addressing issues and protecting interests of combatants (Anti-Terrorist Operation (ATO)/United Forces Operation (UFO) veterans), internally displaced persons, residents of settlements along the contact line. According to the Ministry of Justice of Ukraine, the network of civic associations that had the abbreviation "ATO" or "combatants/veterans" as part of their name in early 2018 comprised more than 500 civic associations. Expansion of the range of civic initiatives and networks in the context of Russia's armed aggression against Ukraine is due to emergence of new social groups — ATO/UFO combatants and veterans, IDPs and other categories of population affected by hostilities in Donetsk and Luhansk regions. Emergence of the above mentioned social groups has resulted not only in an increase in the number of officially registered civic organisations focused on protection and addressing their pressing issues, but also in spread of non-institutionalized civic self-organisation practices and civic initiatives.

In order to ensure favourable conditions for development of civic initiatives and self-organisation in society, establishment and operation of civil society institutions, establishing partnerships between them and public authorities, local governments, the National Strategy for Promotion of Civil Society Development in Ukraine for the period of 2021-2026 was adopted (Decree of the President of Ukraine of September 27, 2021 No. 487).

36. Describe the legal framework governing CSOs and the registration procedure.

As there is no specific legislative concept of CSOs in Ukraine, it is understood as to mean public associations, political parties, charitable organizations, religious organizations, creative unions, trade unions, employers' organizations and self-organization bodies.

Freedom of association is enshrined in the Constitution of Ukraine and provides that citizens of Ukraine have the right to freedom of association in political parties and public organizations to exercise and protect their rights and freedoms and to satisfy political, economic, social, cultural and other interests, except restrictions established by law in the interests of national security and public order, protection of public health or protection of the rights and freedoms of others.

General provisions on freedom of association are contained in the Constitution of Ukraine. Citizens of Ukraine have the right to freedom of association in political parties and public organizations to exercise and protect their rights and freedoms and to satisfy political, economic, social, cultural and other interests, except for restrictions established by law in the interests of national security and public order, protection of public health or protection of the rights and freedoms of others (Article 36 of the Constitution).

Citizens have the right to participate in trade unions in order to protect their labor and socio-economic rights and interests. Trade unions are public organizations that unite citizens with common interests in the nature of their professional activities. Trade unions are formed without prior permission on the basis of free choice of their members. All trade unions have equal rights. Restrictions on membership in trade unions are established exclusively by this Constitution and laws of Ukraine.

No one may be compelled to join any association of citizens or be restricted in their rights for belonging or not belonging to political parties or public organizations.

All associations of citizens are equal before the law.

Each type of CSO is created by individuals or legal entities with its own purpose and to perform certain tasks. Today in Ukraine there is an appropriate legal framework that defines the legal basis for the creation, rights and guarantees of these types of CSOs. These are the Laws of Ukraine "On Public Associations", "On Political Parties in Ukraine", "On Charitable Activities and Charitable Organizations", "On Freedom of Conscience and Religious Organizations", "On Professional Creative Workers and Creative Unions", "On Professional unions, their rights and guarantees of activity", "About the organizations of employers, their associations, the rights and guarantees of their activity", "About bodies of self-organization of the population" and other acts of the legislation.

All CSOs have a legal guarantee of their activities, regardless of the authorities. After all, CSOs themselves determine the purpose of their activities during the formation. Public associations have a wide and virtually non-exclusive list of activities. Whereas creative and professional unions, religious organizations and bodies of self-organization of the population are created for a specific purpose and areas. For example, religious organizations work to meet religious needs, and creative unions work in the field of culture and the arts. Charitable organizations also have established areas of charitable activity, but they are sufficient not to violate their rights.

Regarding the regulation of public associations (civil society organisations)

The Law of Ukraine “On Public Associations” defines the legal and organizational principles of exercising the right to freedom of association guaranteed by the Constitution of Ukraine and international treaties of Ukraine approved by the Verkhovna Rada of Ukraine, the procedure for formation, registration, operation and termination associations.

A public association is a voluntary association of individuals and / or legal entities of private law for the exercise and protection of rights and freedoms, the satisfaction of public, including economic, social, cultural, environmental, and other interests.

Public associations can be formed in the form of public organizations (the most common type of CSO in Ukraine) and public associations. A public association may carry out activities with or without the status of a legal entity. A public association with the status of a legal entity is a non-profit company, the main purpose of which is not to make a profit.

Members (participants) of a public organization may be citizens of Ukraine, foreigners and stateless persons who are in Ukraine legally and who have reached 14 years of age.

Members (participants) of a public union may be legal entities of private law, including public associations with the status of a legal entity, natural persons who have reached 18 years of age and have not been ruled as incapable by a court.

The law imposes restrictions on the formation and operation of public associations. Their formation and activity is prohibited if their purpose (goals) or actions are aimed at eliminating of Ukraine's independence, changing the constitutional order by force, violating the sovereignty and territorial integrity of the state, undermining its security, illegal seizure of state power, propaganda of war, violence, incitement to inter-ethnic , racial, religious hatred, encroachment on human rights and freedoms, public health, propaganda of communist and/or National Socialist (Nazi) totalitarian regimes and their symbols, violation of equality of citizens depending on their race, color, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, language or other characteristics; dissemination of information containing justifications , recognition as lawful, denial of the armed aggression of the Russian Federation against Ukraine.

Public associations cannot have paramilitary formations. Other restrictions on the right to freedom of association, including the formation and operation of public associations, may be imposed solely by law in the interests of national security and public order, public health or the protection of the rights and freedoms of others. Public associations may not be empowered, except in cases provided by law.

Public associations with the status of a legal entity have the right to financial support at the expense of the State Budget of Ukraine, local budgets in accordance with the law.

A public association with the status of a legal entity for the purpose of fulfilling its statutory purpose (goals) has the right to own, use and dispose of funds and other property transferred by law to such public association by its members (participants) or the state acquired as membership fees. donated by citizens, enterprises, institutions and organizations, acquired as a result of business activities of such an association, business activities of legal entities (companies, enterprises) created by it, as well as property acquired at its own expense, temporarily provided for use (except orders)

or on other grounds not prohibited by law.

A public association may be banned by a court at the request of the authorized body for registration in case of detection of signs of violation by the public association of the requirements of Articles 36 and 37 of the Constitution of Ukraine.

The ban on a public association has the effect of terminating its activities in accordance with the procedure established by the Law of Ukraine "On State Registration of Legal Entities, Individuals - Entrepreneurs and Public Associations".

Regarding the regulation of political parties

One of the important types of CSOs in Ukraine is political parties. Political parties operate in accordance with the Constitution of Ukraine, the Law of Ukraine "On Political Parties in Ukraine", as well as other laws of Ukraine and in accordance with the party's statute.

A political party is a legally registered voluntary association of citizens who are supporters of a certain national program of social development, which aims to promote the formation and expression of political will of citizens, participates in elections and other political events.

Only a citizen of Ukraine who, in accordance with the Constitution of Ukraine, has the right to vote in elections may be a member of a political party.

The following may not be members of political parties: judges; prosecutors; police; employees of the Security Service of Ukraine; military; customs and tax officials; staff of the State Penitentiary Service of Ukraine; employees of the National Anti-Corruption Bureau of Ukraine; civil servants in cases provided by the Law of Ukraine "On Civil Service"; members of the National Commission for State Regulation of Energy and Utilities; citizens of Ukraine who are enrolled in voluntary formations of territorial communities; employees of the Bureau of Economic Security of Ukraine; employees of the State Bureau of Investigation; members of the National Commission for State Regulation of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services.

Provision of material and financial support to political parties is carried out in the form of contributions to support parties and state funding of statutory activities of political parties.

Contributions in support of political parties are not allowed: public authorities and local governments; state and municipal enterprises, institutions and organizations; legal entities in which at least 10 percent of the authorized capital or voting rights directly or indirectly belong to the state, local governments; legal entities, ultimate beneficiaries the owners (controllers) of which are the persons specified in subparagraphs "a", "c" - "i" of paragraph 1 and in subparagraph "a" of paragraph 2 of the first part of Article 3 of the Law of Ukraine "On Prevention of Corruption"; foreign states, foreign legal entities, legal entities in which at least 10 percent of the authorized capital or voting rights directly or indirectly belong to non-residents, as well as legal entities, the ultimate beneficial owners (controllers) of which are foreigners or stateless persons; unregistered public associations, charitable or religious organizations, as well as other political parties; natural persons who are not citizens of Ukraine (foreigners and stateless persons), as well as anonymous persons or persons under a pseudonym; citizens of Ukraine who have not reached the age of 18 or who have been declared incapable in accordance with the procedure established by law; natural persons with whom a contract for the purchase of works, goods or services to meet the needs of the state or local community for a

total of more than fifty living wage for able-bodied persons, established on January 1 of the year in which the contribution is made, as well as legal entities, with which such an agreement is concluded for a total amount of more than one hundred subsistence level for able-bodied persons, established on January 1 of the year in which the contribution is made - during the term of such agreement and for one year after its termination.

The Law of Ukraine “On Political Parties in Ukraine” stipulates that the formation and activity of political parties is prohibited if their program goals or actions are aimed at: liquidation of Ukraine's independence; change of the constitutional order by force; violation of the sovereignty and territorial integrity of Ukraine; undermining state security; illegal seizure of state power; propaganda of war, violence, incitement to interethnic, racial or religious hatred; encroachment on human rights and freedoms; encroachment on the health of the population; propaganda of communist and / or National Socialist (Nazi) totalitarian regimes and their symbols. Political parties cannot have paramilitary formations.

The activities of a political party may be banned only by a court decision.

Regarding the regulation of charitable organizations

The activities of charitable organizations are regulated by the Law of Ukraine "On Charitable Activities and Charitable Organizations", according to which a charitable organization is a legal entity of private law, the constituent documents of which define charitable activities in one or more spheres defined by this Law.

Charitable organizations can be established in the form of a charitable society, charitable institution or charitable foundation.

A charitable society is a charitable organization established by at least two founders and operating on the basis of a charter.

A charitable institution is a charitable organization, the constituent act of which defines the assets donated by one or more founders to achieve the goals of charitable activities at the expense of such assets and / or income from such assets.

A charitable foundation is a charitable organization that operates on a statutory basis, has members, and is managed by members who are not required to donate any assets to the organization to achieve the charitable organization's goals. One or more founders can set up a charity.

The founders of charitable organizations may be able-bodied individuals, at least 14 years old, and legal entities of private law.

Regarding the regulation of religious organizations

The formation of religious organizations is regulated by the Law of Ukraine “On Freedom of Conscience and Religious Organizations”. *Religious organizations* are created to meet the religious needs of citizens to profess and spread the faith and operate in accordance with their hierarchical and institutional structure. The legislation distinguishes between religious communities, administrations and centers, monasteries, religious fraternities, missionary societies (missions), theological schools, and associations consisting of the above-mentioned religious organizations.

A religious organization is recognized as a legal entity from the date of its state registration. A

religious organization as a legal entity enjoys rights and bears responsibilities in accordance with current legislation and its charter (regulations).

To register the statute (regulations) of a religious community, citizens of at least ten people who formed it and reached the age of 18 shall submit an application and statute (regulations) for registration to the regional, Kyiv and Sevastopol city state administrations, and in the Autonomous Republic of Crimea - to the Council of Ministers of the Autonomous Republic of Crimea.

The activities of a religious organization may be terminated in connection with its reorganization (division, merger, accession) or liquidation.

In case of violation by a religious organization that is a legal entity of the provisions of this Law and other legislative acts of Ukraine, its activities may also be terminated by a court decision.

Regarding the regulation of trade unions

The Law of Ukraine "On Trade Unions, Their Guarantees and Freedom of Activity" defines the features of legal regulation, principles of establishment, rights and guarantees of trade unions.

A trade union is a voluntary non-profit public organization that unites citizens with common interests by the nature of their professional (labor) activity (study). In order to represent and protect the rights and interests of trade union members at the appropriate level of contractual regulation of labor and socio-economic relations of trade unions, trade union organizations may have the status of primary, local, regional, regional, national, national. Trade union organizations - organizational units of the trade union, defined by the statute of the trade union, operating within the powers granted by the statute and the law.

Restrictions on membership in trade unions are set exclusively by the Constitution and laws of Ukraine.

No one may be compelled to join or not to join a trade union.

Belonging or not belonging to trade unions does not entail any restrictions on labor, socio-economic, political, personal rights and freedoms of citizens guaranteed by the Constitution of Ukraine and other laws of Ukraine.

Any restriction of rights or establishment of benefits when concluding, amending or terminating an employment contract in connection with belonging to or belonging to a trade union or a particular trade union, joining or leaving it is prohibited.

A trade union association is established for the purpose of fulfilling its statutory tasks. composition of associations and freely withdraw from them.

Regarding the regulation of creative unions

The Law of Ukraine "On Professional Creative Workers and Creative Unions" determines the legal status of professional creative workers, establishes the legal, social, economic and organizational principles of creative unions in the field of culture and art.

Creative union - a voluntary association of professional creative workers of the relevant professional field in the field of culture and art, which has a fixed membership, operates on the basis of the statute. Professional creative worker - a natural person whose creative activity is his main

occupation, which ends with the creation and publication of works or their interpretation in the field of culture and art and is the main source of income, regardless of whether he has any legal labor relations. Creative activity - individual or collective creativity of professional creative workers, the result of which is a work or its interpretation that has cultural and artistic value.

The Creative Union operates on the principles of voluntary association of its members, which belong to one professional field of culture and art, self-government, mutual assistance and cooperation, non-interference in the creative process, free choice of forms and methods of creative activity. One or more voluntary creative associations may be established in each professional field.

A member of a creative union has the right to suspend or terminate his / her membership in a creative union at any time by submitting an application to the statutory bodies of the creative union. Membership in the creative union is suspended or terminated from the date of submission of such application and does not require additional decisions. From the same day, a member of the creative union shall remain in any elected position in the creative union.

Regarding the regulation of employers' organizations

The Law of Ukraine "On Employers' Organizations, Associations, Rights and Guarantees of Their Activities" defines the legal, economic and organizational principles of establishment and operation of employers' organizations, their associations, features of legal regulation and guarantees of their activities, as well as basic principles of their interaction with state authorities and local self-government bodies, trade unions and their associations, other associations of citizens, enterprises, institutions and organizations.

Employers' organization is a non-profit public organization that unites employers.

Employers' organizations and their associations may establish associations of employers' organizations, join and leave such associations, participate in their activities on the terms and in the manner prescribed by the statutes of associations of employers' organizations.

A member of an employers' organization or an association of employers' organizations has the right to terminate his / her membership in an employers' organization or an association of employers' organizations at any time by submitting an application to the relevant statutory bodies. Membership in an employers' organization or an association of employers' organizations shall be terminated from the date of submission of such application and shall not require additional decisions.

Regarding the regulation of the self-organization of the population

According to the Law of Ukraine "On Bodies of Self-Organization of the Population", the relevant type of CSOs are representative bodies created by residents who legally reside in the village, settlement, city or parts thereof to solve tasks provided by this Law.

Bodies of self-organization of the population are house, street, quarter committees, committees of microdistricts, committees of districts in cities, village, settlement committees.

The body of self-organization of the population is created on a territorial basis. The territory within which the body of self-organization of the population operates may be part of the territory of the village, town, city, district in the city, within which live the residents who elected this body.

Regarding CSO registration

Since most of these associations are legal entities, they are subject to the provisions on the need for state registration in accordance with the requirements of the Civil Code of Ukraine and the Law of Ukraine "On State Registration of Legal Entities, Individuals - Entrepreneurs and Public Associations" (hereinafter - the Law on Registration).

According to the first part of Article 80 of the Civil Code of Ukraine, a legal entity is an organization established and registered in the manner prescribed by law.

According to the Law on Registration, *state registration* is an official recognition by the state certifying the fact of creation or termination of a legal entity, public organization that does not have the status of a legal entity, certification of the relevant status of a public association, trade union, organization or association , political party, employers' organizations, associations of employers' organizations and their symbols, changes in the information contained in the Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public Associations (hereinafter - the Unified State Register), on legal entities, and other registration actions provided by the specified Law.

The Law on Registration extends to relations arising in the field of state registration of legal entities, regardless of organizational and legal form, form of ownership and subordination, their symbols (in cases provided by law), public entities that do not have legal entity status, and individuals persons - entrepreneurs.

Public formations in the context of the Registration Law are: political parties, structural formations of political parties, public associations, local branches of public associations with the status of a legal entity, trade unions, their associations, trade union organizations provided by the trade union statute and their associations, creative unions, local branches of creative unions, permanent arbitration courts, employers' organizations, their associations, separate subdivisions of foreign non-governmental organizations, representative offices, branches of foreign charitable organizations.

The subjects of state registration are :

Ministry of Justice of Ukraine - in the case of state registration of political parties, all-Ukrainian trade unions, their associations, all-Ukrainian associations of employers' organizations, all-Ukrainian creative unions;

territorial bodies of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol - in case of state registration of primary, local, oblast, regional and republican trade unions, their organizations and associations, structural formations of political parties, regional (local) creative unions, territorial centers of all-Ukrainian creative unions, local, regional, republican Autonomous Republic of Crimea, Kyiv and Sevastopol city organizations of employers and their associations, permanent arbitration courts, public associations.

The list of documents submitted for state registration of a legal entity is defined in part one of Article 17 of the Law on Registration. Thus, the standard package of documents submitted for state registration of any type of legal entity consists of:

applications for state registration of a legal entity;

decision of the founders on the establishment of a legal entity (original or notarized copy);

constituent document of the legal entity;

document on the structure of ownership in the form and content determined in accordance with the law.

At the same time, in case of state registration of certain types of legal entities, the Law on Registration provides for the submission of additional documents. So, for example, for the state registration of a public association are additionally submitted:

information on the governing bodies of public formation (name, date of birth of the head, members of other governing bodies, registration number of the taxpayer's account card (if available), position, contact phone number and other means of communication), information about the person (persons) , which has the right to represent the public formation for registration activities (name, date of birth, contact telephone number and other means of communication);

register of persons (citizens) who participated in the constituent congress (conference, meeting).

An additional document submitted for the state registration of a trade union is a list of participants in the congress, conference, constituent or general meeting of trade union members.

The following documents are submitted for the state registration of a political party:

application for state registration of a legal entity;

minutes of the constituent congress (conference, meeting) on the establishment of a political party;

information on the governing bodies of the political party (name, date of birth of the leader, members of other governing bodies, registration number of the taxpayer's account card (if available), position, contact phone number and other means of communication);

constituent document of the legal entity;

register of citizens who participated in the constituent congress (conference, meeting);

political party program;

list of signatures of citizens of Ukraine in the form established by the Ministry of Justice of Ukraine;

document on payment of the administrative fee.

From the moment of registration of a political party in the manner prescribed by law, it acquires the status of a legal entity.

The registration of the primary branch of a political party is carried out without granting the status of a legal entity by notifying the formation of the primary branch.

Terms of consideration of documents submitted for state registration and other registration actions are defined in Article 26 of the Law on Registration. Deadlines are calculated from the date of submission of documents for state registration and, depending on the type of public formation are:

for a political party, creative union, local branch of a creative union - no later than 30 working days;

regarding the accreditation in Ukraine of a separate subdivision of a foreign non-governmental

organization, branch and representative office of a foreign charitable organization, symbols of public formations in cases provided by law - not later than 20 working days;

in respect of a trade union, its organization or association, employers' organization, its association - not later than 15 working days;

regarding the structural formation of a political party - not later than 10 working days;

in the case of a public association, a local branch of a public association with the status of a legal entity, a public association that does not have the status of a legal entity - not later than three working days;

in respect of the primary branch of a political party - within one working day;

for other types of legal entities, including charitable organizations - within 24 hours after receipt of documents, except weekends and holidays.

administrative fee of the following amount is charged for state registration :

on the establishment of a political party - 140 subsistence minimums for able-bodied persons;

regarding the creation of a separate subdivision of a foreign non-governmental organization, representative office, branch of a foreign charitable organization - 0.28 subsistence level for able-bodied persons;

on the establishment of the All-Ukrainian Creative Union - 0.14 subsistence level for able-bodied persons;

on the creation of a territorial center of the All-Ukrainian Creative Union and a regional (local) creative union - 0.07 of the subsistence level for able-bodied persons.

State registration of other types of legal entities is free of charge, including public associations and charitable organizations.

The list of grounds for refusal of state registration is clearly defined in the Law on Registration, refusal on grounds other than those specified by law is prohibited. There is also a list of grounds on which CSOs are given a 15-day period to correct deficiencies and complete registration. In addition, the decision of the state registrar may be appealed by applying to the Ministry of Justice of Ukraine, its territorial bodies and the court.

The registration of the body of self-organization of the population (hereinafter - BSP) is excellent, which includes several stages. The Law of Ukraine "On Bodies of Self-Organization of the Population" provides for at least two meetings (conferences) of residents at the place of residence: the first - to initiate the creation of BSP, the second - to approve the BSP and elect its staff, other binding decisions.

Thus, the procedure for registering CSOs is overwhelmingly free, fairly fast, and requires an exclusive list of documents.

37. Are there official bodies for dialogue and cooperation between CSOs and public institutions and if so, how are CSOs represented within them? How is this cooperation working in practice? Is there sufficient administrative capacity and funding in order for the mechanism

to achieve its goals? Is the structure sufficiently visible, open and available for CSOs?

The Constitution of Ukraine enshrines the right of citizens to freedom of association in political parties and public organisations to exercise and protect their rights and freedoms and satisfy political, economic, social, cultural and other interests, as well as the right to participate in management of the state affairs (Articles 36, 38 of the Constitution of Ukraine).

In accordance with the Law of Ukraine “On Civic Associations”, public authorities, authorities of the Autonomous Republic of Crimea, local self-governing bodies may involve public associations in the development and implementation of state policy, addressing issues of local importance, in particular, through consultations with public associations on important issues of state and public life, development of relevant draft legal and normative acts, establishment of advisory, consultative and other subsidiary bodies under public authorities, authorities of the Autonomous Republic of Crimea, local self-governing bodies, which will involve representatives of public associations in their activities.

The issue of public participation in the development and implementation of state policy at the state level is currently regulated by the Resolution of the Cabinet of Ministers of Ukraine of 3 November 2010 No. 996 “On ensuring public participation in the development and implementation of state policy” (hereinafter referred to as Resolution No. 996).

The above resolution approved the Procedure for public consultations on the development and implementation of state policy (hereinafter referred to as the Procedure) and the Standard Regulations on Public Council under the Ministry, other central executive body, the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city, raion, raion in Kyiv and Sevastopol State Administration (hereinafter referred to as the Standard Regulations).

Thus, in accordance with point 3 of the Procedure public consultations are held on issues related to social and economic development of the state, exercise and protection of human rights and freedoms and satisfaction of their political, economic, social, cultural and other interests.

Consultations with the public are held in the form of public hearings, electronic consultations with the public (direct forms), and study of public opinion (indirect form).

Public consultations in the form of public hearings and/or electronic consultations with the public on draft legal and normative acts are mandatory if they:

- concern the constitutional rights, freedoms and responsibilities of citizens;

- concern the vital interests of citizens, including those affecting the state of the environment;

- provide for regulatory activities in a particular area;

- define strategic goals, priorities, and objectives in the relevant area of public administration (including draft state and regional programmes for economic, social, and cultural development and decisions on their implementation);

- concern the interests of territorial communities, the exercise of local self-government powers delegated to executive bodies by the relevant councils;

- determine the procedure for provision of administrative services;

concern the legal status of public associations, their financing and activities;

provide for benefits or restrictions for economic operators and civil society institutions;

relate to assigning names (pseudonyms) of physical persons, anniversaries and holidays, names and dates of historical events to legal persons and property items vested to them and property items owned by natural persons;

relate to budget spending (reports of key spending units for the previous year).

The results of public consultations are taken into account by the executive body during the adoption of the final decision or in its further activities.

In addition, the Standard Regulations provide that a Public Council under a ministry, other central executive body, the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city, raion, raion in Kyiv and Sevastopol State Administration is a provisional consultative and advisory body established to facilitate public participation in the development and implementation of public, regional policy.

The Public Council may include representatives of public associations, religious and charitable organisations, artistic unions, trade unions and their associations, employers' organisations and their associations and the media registered under the established procedure. Members of the Public Council may be elected through preferential voting at the constituent assembly or through preferential electronic voting. The decision on the method of composition of the Public Council is made by the executive body.

The main tasks of the Public Council include: facilitating the exercise of the constitutional right to participate in the management of state affairs by citizens; promoting an executive authority to take account of public opinion during the development and implementation of state and regional policy; facilitating the engagement of the representatives of stakeholders in public consultations and monitoring of the results of the development and implementation of state and regional policy; carrying out public monitoring of the activity of an executive authority in accordance with the legislation; preparing expert proposals, opinions, analytical materials relating to the development and implementation of state and regional policy.

The Public Council, in accordance with the tasks imposed thereon: 1) prepares and submits to the executive body proposals for an indicative plan for public consultations; 2) prepares and submits to the executive body proposals on the organisation of public consultations, including the involvement of representatives of stakeholders; 3) prepares and submits for obligatory consideration to the executive body proposals, conclusions, analytical materials with regard to issues in the relevant areas, preparation of draft legal and normative acts, improvement of the body's activities; 4) conduct public monitoring on how the executive body takes into account proposals and comments of the public, ensures its transparency and openness, as well as compliance with regulations aimed at preventing and combating corruption; 5) informs the public on its activities, decisions taken and the status of their implementation, on a mandatory basis provides information to the executive body for publication on its official website and in any other way; 6) collects, summarizes and submits to the executive body proposals from the public on resolving issues of public importance; 7) prepares and publishes an annual report on its activities.

Proposals of the Public Council are considered by the executive body under the established procedure. The outcome of the consideration of proposals relating to draft legal and normative acts is reflected in the report on the results of public consultation.

The secretariat of the Public Council is provided with premises for the council to work and conduct its meetings, as well as, if possible, with means of communication, by the relevant executive body.

Public councils have been established in most ministries and other executive bodies. Moreover, in order to ensure transparency, establish effective interaction with the public, exercise public control over the activities of relevant bodies the law provides that public councils should be created in other public authorities, including the National Agency on Corruption Prevention, National Anti-Corruption Bureau of Ukraine, State Bureau of Investigation, Bureau of Economic Security of Ukraine.

Therefore, Ukraine has sufficient administrative capacity for maintaining cooperation between CSOs and public bodies. CSOs are aware of and make use of such a tool.

In addition, in order to create favourable conditions for the development of public initiative and self-organisation in society, the development and operation of civil society institutions, establishing partnerships between them and public authorities, local self-governing bodies the National Strategy for Promoting Civil Society Development in Ukraine for 2021-2026 was approved by the Decree of the President of Ukraine of 27 September 2021 No. 487/2021.

This question is also partially covered in the answers to questions 43, 46, 72, 137, 139, 190, 245.

38. Are draft laws, bylaws, strategies and policy reforms effectively consulted with CSOs (in terms of adequate access of information, sufficient time to comment, selection and representativeness of working groups, acknowledgement of input, feedback etc.)?

Public participation in the development of legislation, strategies and reforms is ensured with the publication of draft regulations for the purpose of public discussion, the possibility to obtain information about government activities through access to public information, mandatory discussion of draft regulations and other acts, etc.

As regards public consultations

The main requirements for the organisation and holding of public consultations by executive authorities with regard to the formation and implementation of public policy is regulated by the Rules of Procedure for public consultations on the formation and implementation of public policy, approved by the Resolution of the Cabinet of Ministers of Ukraine of 3 November 2010 No. 996.

Public consultations are held in order to involve citizens in the management of state affairs, provide the opportunity for free access to information on the activities of executive bodies, as well as to ensure publicity, openness and transparency of the activities of these bodies.

Public consultations contribute to the establishing a systemic dialogue of executive authorities with the public, improving the quality of preparing decisions on important issues of state and public

life with due regard to the public opinion and creating conditions for the participation by individuals in drafting such decisions.

Public consultations are held on issues related to social and economic development of the state, exercise and protection of human rights and freedoms and satisfaction of their political, economic, social, cultural and other interests.

Public consultations are organised and held by the executive body which is the main author of the draft legal and normative act or the one that prepares proposals for the implementation of state policy in the relevant area of state and public life.

The results of public consultations are taken into account by the executive body during the adoption of the final decision or in its further activities.

To ensure proper access to information about planned public consultations, the executive bodies prepare and publish on their web-sites annual indicative plans for public consultations. Moreover, within the framework of the organisation of consultations, executive bodies should publish a message with the following information: question or title of the draft act submitted for discussion; options for resolving the issue; address of the published text of the draft act; list of stakeholders to which the decision will apply; possible consequences of implementing the decision for stakeholders; information on the place and time of public events; procedure for participation of stakeholder representatives in the discussion; postal and e-mail addresses, deadline and form of submission of written proposals and comments; contact details, etc. The aforementioned and other information related to organising public consultations is published in a specially created section “Consultations with the public” of the official website of an executive authority.

Consultations with the public are held in the form of public hearings, electronic consultations with the public (direct forms), and study of public opinion (indirect form).

Consultations with the public in the form of public hearings, electronic consultations with the public, and study of public opinion on the same issues may be held simultaneously.

Public consultations in the form of public hearings and/or electronic consultations with the public on draft legal and normative acts are mandatory if they:

- concern the constitutional rights, freedoms and responsibilities of citizens;

- concern the vital interests of citizens, including those affecting the state of the environment;

- provide for regulatory activities in a particular area;

- define strategic goals, priorities, and objectives in the relevant area of public administration (including draft state and regional programmes for economic, social, and cultural development and decisions on their implementation);

- concern the interests of territorial communities, the exercise of local self-government powers delegated to executive bodies by the relevant councils;

- determine the procedure for provision of administrative services;

- concern the legal status of public associations, their financing and activities;

- provide for benefits or restrictions for economic operators and civil society institutions;

relate to assigning names (pseudonyms) of physical persons, anniversaries and holidays, names and dates of historical events to legal persons and property items vested to them and property items owned by natural persons;

relate to budget spending (reports of key spending units for the previous year).

The deadline for such public consultations is determined by the executive body and have be no less than 15 calendar days.

Public discussion includes the organisation and holding of public events: conferences, forums, public hearings, round tables, meetings, discussions (meetings) with the public; Internet conferences, video conferences. In addition, meetings of public councils and other subsidiary bodies established under the executive authorities may be held within the framework of public discussion.

Suggestions and comments received during the consultations are studied and analysed with the involvement of relevant specialists, if necessary. Feedback on the submitted proposals and comments is provided as a report on the results of the consultations, which must be published on the official website of the executive body no later than two weeks after the decision on the results of the discussion has been adopted.

It is worth mentioning that Ukrainian legislation provides for a number of specific characteristics with regard to public consultations on certain issues (for example, in case of decisions relating to the environment, nuclear energy, urban planning).

Regarding public participation in the adoption of regulatory acts

The Law of Ukraine “On the Principles of Public Regulatory Policy in the Area of Economic Activity” (hereinafter referred to as the Law) provides for public involvement in the discussion of draft laws and bylaws developed by public authorities and local self-governing bodies.

One of the principles of state regulatory policy is that the activities of regulatory authorities at all stages of their regulatory activities is open to individuals and legal entities, their associations, the consideration by regulatory authorities of initiatives, comments and suggestions provided by individuals and legal entities, their associations in accordance to law is mandatory, the adopted regulatory acts must be brought to the attention of individuals and legal entities, their associations in a timely manner, the public is informed about the course of regulatory activities. Citizens, economic operators, their associations and scientific institutions, as well as advisory bodies established under public authorities and local self-governing bodies which represent the interests of citizens and economic operators, have the right to:

submit proposals to regulatory authorities with regard to the need to prepare draft regulatory acts, as well as the need to revise them;

in cases provided by law, participate in the development of draft regulatory acts;

submit comments and suggestions on published draft regulatory acts, participate in open discussions on issues related to regulatory activities;

be involved by regulatory authorities in the preparation of regulatory impact analyses, expert opinions on regulatory impact and implementation of measures to monitor the effectiveness of regulatory acts;

independently prepare an analysis of the regulatory impact of draft regulatory acts developed by regulatory authorities, monitor the effectiveness of regulatory acts, submit comments and suggestions on the results of this activity to regulatory authorities or authorities which, in accordance with this Law and on the basis of the analysis of reports on monitoring the effectiveness of regulatory acts, make decisions on the need to revise them;

receive from regulatory bodies information on their regulatory activities in response to appeals submitted in the manner prescribed by law.

Each draft regulatory act is published with the view of receiving comments and proposals from individuals and legal entities, their associations. The deadline for submission of comments and proposals by individuals and legal entities, their associations is set by the developer of the draft regulatory act and cannot be less than one month and greater than three months following the day of publication of the draft act and the relevant regulatory impact analysis.

All comments and proposals to the draft regulatory act and the relevant regulatory impact analysis, received before the specified deadline, are subject to mandatory consideration by the entity that developed that draft. Based on the results of the consideration, the entity that developed the draft regulatory act takes into account, in whole or in part, the received comments and proposals or reasonably rejects them.

Therefore, with regard to regulatory activities, individuals and legal entities have adequate access to information on draft regulations through the publication of such regulations, the law provides sufficient time for submitting comments, receiving feedback and taking it into account by public authorities and local self-governing bodies.

It can be concluded that access to information for CSOs in Ukraine during the development of draft laws, bylaws, strategies and policy reforms is organized in a proper way. The time allocated for comments and suggestions, providing feedback is sufficient (at least 15 days, for regulatory acts — one to three months).

This question is also partially covered in the answers to questions 43, 46, 72, 137, 139, 190, 245

V. Public Administration

A. Strategic framework of public administration reform (PAR)

39. Describe the main characteristics of organisation of the public administration (ministries, agencies, coordination functions, distribution of responsibilities across territorial levels).

General features

Pursuant to the Constitution and laws of Ukraine, the system of executive bodies consists of the Cabinet of Ministers of Ukraine, ministries, other central executive bodies and local executive bodies.

Ministries shall ensure the development and implementation of state policies in one or more areas, while other central executive bodies shall perform particular functions of the state policy

implementation. The powers of ministries, other central executive authorities shall extend to the entire territory of the state. Ministries, other central executive authorities shall be guided in their activities by the Constitution of Ukraine, laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine and other legislative acts of Ukraine.

Ministries and other central executive bodies shall be deemed as legal entities under public law. Ministries and other central executive authorities shall be set up, reorganised and dissolved by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine. Members of the Cabinet of Ministers of Ukraine may submit proposals on the setting up, reorganisation or dissolution of ministries and other central executive bodies to the Prime Minister of Ukraine.

Ministries

Ministry means a central executive body that ensures the formation and implementation of state policies in one or more areas designated by the Cabinet of Ministers of Ukraine, for which the Cabinet of Ministers of Ukraine is responsible pursuant to the Constitution and laws of Ukraine.

Main tasks of the ministry as an authority that ensures the development and implementation of state policies in one or more areas shall be as follows:

- 1) ensure legal and normative regulation;
- 2) set priority directions of development;
- 3) inform and provide explanations on the state policy implementation;
- 4) generalise case law, develop proposals for its improvement and submit, in the prescribed manner, draft legislative acts, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine for consideration by the President of Ukraine and the Cabinet of Ministers of Ukraine;
- 5) ensure the sectoral social dialogue;
- 6) implement other tasks specified by laws of Ukraine.

Particular tasks and functions of each ministry are listed in a regulation on a particular ministry approved by the Cabinet of Ministers of Ukraine.

The ministry shall be led by the minister whose key functions are to lead the ministry, manage its activities; and set priorities of the ministry's activities and ways of performing the tasks assigned to it, approve work plans of the ministry, report on their implementation. Also, minister shall perform other top management functions as head of ministry.

The minister has the first deputy minister and deputy ministers. The first deputy minister and deputy ministers shall be appointed and dismissed by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine in accordance with proposals of the relevant minister. The first deputy minister, deputy ministers shall issue instructions binding on civil servants and employees of the apparatus of the ministry and its territorial units (in case of their setting up). Positions of the first deputy minister and deputy ministers shall be deemed as political positions that are not covered by labour and civil service legislation. The number of deputy ministers shall be determined by the Cabinet of Ministers of Ukraine in each particular case.

The state secretary of the ministry is a senior official from among the ministry's civil servants. The state secretary shall be accountable to and controlled by the minister. The state secretary of the ministry shall be appointed by the Cabinet of Ministers of Ukraine for a term of five years, subject to reappointment. The main tasks of the state secretary of the ministry shall be to ensure activities of the ministry, its stable and consistent work, organisation of routine work related to the exercise of the ministry's powers.

An organisationally coherent group of structural subdivisions and positions that support activities of the minister and performance of tasks assigned to the ministry shall represent the apparatus of the ministry led by the state secretary of the ministry. The apparatus of the ministry shall be composed of the secretariat and independent structural subdivisions. The structure of the ministry's apparatus shall be approved by the minister. Requirements to the development of the structure of the ministry's apparatus shall be set by the Cabinet of Ministers of Ukraine.

The Law provides for the possibility to have territorial units functioning within the system of ministries. Territorial units are formed as legal entities under public law within the threshold number of civil servants and employees of the ministry and the budget funding for the maintenance of the ministry. Also, the ministry's territorial units may be set up, dissolved, reorganised by the minister as structural subdivisions of the ministry's apparatus that do not have the status of a legal entity subject to approval by the Cabinet of Ministers of Ukraine.

The ministry's board (collegium) may be set up as an advisory body to make recommendations for the performance of the ministry's tasks. The board shall consist of the minister (chairman of the board), the first deputy minister, deputy ministers, the state secretary of the ministry, and may include heads of independent structural subdivisions of the ministry's apparatus, territorial units of the ministry, and upon agreement, representatives of other public authorities, bodies of the Autonomous Republic of Crimea, local self-governing bodies, scientific and educational facilities, public associations, other persons. Decisions of the board may be implemented through the issue of the ministry's relevant order. The model regulation on the ministry's board shall be approved by the Cabinet of Ministers of Ukraine.

Other standing or temporary advisory and other subsidiary bodies may be set up in the ministry to consider scientific recommendations and hold expert consultations on major activity issues. The minister shall make decisions on the setting up or dissolution of the board, other standing or temporary advisory and other subsidiary bodies. The minister shall approve the numbers and staff composition of the board, other standing or temporary advisory and other subsidiary bodies, as well as relevant regulations thereon.

Other central executive bodies

Central executive bodies are set up to perform designated functions of state policy as services, agencies, inspections, commissions, bureaus. Activities of central executive bodies shall be steered and coordinated by the Cabinet of Ministers of Ukraine in the manner prescribed by this Law and acts of the Cabinet of Ministers of Ukraine through relevant ministers in accordance with law.

The main tasks of central executive bodies shall include:

- 1) provide administrative services;

- 2) exercise state supervision (control);
- 3) manage state property assets;
- 4) submit proposals on the development of state policies for consideration to ministers who guide and coordinate relevant activities;
- 5) perform other tasks set forth by laws of Ukraine.

Central executive bodies may perform one or more tasks specified in part one of this article. If most of the functions of the central executive body are related to investigative activities and pre-trial investigation of criminal offenses, the central executive body may be set up as a bureau. If most of the functions of the central executive body are related to provision of administrative services to natural persons and legal entities, the central executive body shall be set up as a service. If most of the functions of the central executive body are related to management of state property assets under its jurisdiction, the central executive body shall be set up as an agency. If most of the functions of the central executive body are related to control and supervision of compliance by public authorities, local self-governing bodies, their officials, legal entities and natural persons with legislative acts, the central executive authority shall be set up as an inspection.

The head of the central executive body shall be appointed and dismissed by the Cabinet of Ministers of Ukraine pursuant to civil service legislation. The head of the central executive body shall be dismissed by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine or the minister who steers and coordinates activities of this authority.

The head of the central executive body may have deputies appointed by the Cabinet of Ministers of Ukraine pursuant to civil service legislation. Deputy heads of the central executive body shall be dismissed by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine, the minister who steers and coordinates activities of the central executive body, or the head of the central executive body. The number of deputy heads of the central executive body shall be determined by the Cabinet of Ministers of Ukraine based on a reasonable submission of the relevant head. The head of the central executive body and his deputies shall be deemed to be civil servants.

The head of the central executive body shall lead the central executive body, manage its activities and submit to the minister who steers and coordinates activities of the central executive body proposals to ensure the development of state policy in the relevant area, in particular, draft primary, secondary and tertiary legislation, as well as the position on draft documents developed by other ministries.

Deputy heads of the central executive body shall exercise their powers in accordance with the division of responsibilities approved by the head of the central executive body, unless otherwise provided by law.

An organisationally coherent group of structural subdivisions that support activities of the head of the central executive body and performance of tasks assigned to the central executive body shall represent the apparatus of the central executive authority. The head of the central executive body, in coordination with the minister who steers and coordinates activities of the central executive authority, shall approve the structure of the apparatus of the central executive authority. The Cabinet of

Ministers of Ukraine shall set the requirements to the structure of the apparatus of the central executive authority.

The Cabinet of Ministers of Ukraine shall set up territorial units of the central executive body as legal entities under public law within the threshold number of civil servants and employees of the central executive authority and the budget funding for its maintenance. Territorial units of the central executive body also may be set up as structural subdivisions of the apparatus of the central executive body by the head of the central executive body in coordination with the minister who steers and coordinates activities of the central executive body and the Cabinet of Ministers of Ukraine.

A board (collegium) may be set up as an advisory body of the central executive body to make recommendations for the performance of tasks of the central executive authority. The head of the central executive body shall determine the periodicity of board meetings. Decisions of the board may be implemented through the issue of a relevant order by the head of the central executive authority. The model regulation on the board of the central executive authority shall be approved by the Cabinet of Ministers of Ukraine. Other standing or temporary advisory and other subsidiary bodies may be set up in the central executive body to consider scientific recommendations and hold expert consultations on major activity issues. The head of the central executive body shall make decisions on the setting up or dissolution of the board, other standing or temporary advisory and other subsidiary bodies.

Independent (market) regulators and other central executive bodies with a special status

Pursuant to the Constitution and laws of Ukraine, the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the National Energy and Utilities Regulatory Commission, the State Committee for Television and Radio Broadcasting of Ukraine, the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services shall be deemed as central executive bodies with a special status. Also, other central executive bodies with a special status may be established by the Cabinet of Ministers of Ukraine or set up in accordance with law.

The Chairman of the Antimonopoly Committee of Ukraine, the Chairman of the State Property Fund of Ukraine, the Chairman of the State Committee for Television and Radio Broadcasting of Ukraine shall be appointed by the Prime Minister of Ukraine and dismissed by the Verkhovna Rada of Ukraine. The Deputy Chairman of the Antimonopoly Committee of Ukraine, the Deputy Chairman of the State Property Fund of Ukraine, the Deputy Chairman of the State Committee for Television and Radio Broadcasting of Ukraine shall be appointed and dismissed by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine.

Members of the National Energy and Utilities Regulatory Commission shall be appointed in accordance with the Law of Ukraine “On the National Energy and Utilities Regulatory Commission”.

The director of the National Anticorruption Bureau of Ukraine, his/her first deputy and deputies shall be appointed and dismissed in accordance with the procedure established by the Law of Ukraine “On the National Anticorruption Bureau of Ukraine”.

Members of the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services shall be appointed and dismissed in accordance with the procedure established by the Law of Ukraine “On the National Regulatory Commission for Electronic Communications, Radio Spectrum and Postal Services”.

The Prime Minister of Ukraine shall represent activities of the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the State Committee for Television and Radio Broadcasting of Ukraine and other bodies with a special status in the Cabinet of Ministers of Ukraine. The director of the National Anticorruption Bureau of Ukraine shall represent activities of the National Anticorruption Bureau of Ukraine in the Cabinet of Ministers of Ukraine.

Provisions of the Law of Ukraine “On Central Executive Authorities” shall apply to the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the State Committee for Television and Radio Broadcasting of Ukraine, other central executive authorities with a special status set up by the Cabinet of Ministers of Ukraine, unless other specific features of their organisation and procedures governing their activities are set forth in the Constitution and laws of Ukraine.

Support for activities of ministries and other central executive authorities

Financial and logistics support for activities of ministries and other central executive authorities shall be funded from the State Budget of Ukraine, unless otherwise provided by law. Terms of remuneration of civil servants and employees of ministries, other central executive authorities, their financial and household support shall be set by laws of Ukraine and acts of the Cabinet of Ministers of Ukraine.

Local executive bodies

Pursuant to the Ukrainian legislation, local state administrations shall exercise executive powers in oblasts, raions, cities of Kyiv and Sevastopol. The local state administration shall be deemed as a local executive body, part of the executive. The local state administration, within its powers, shall exercise executive powers in the territory of a respective administrative and territorial unit, as well as powers delegated by a relevant council. Local state administrations shall be deemed as legal entities.

Within a relevant administrative and territorial unit, local state administrations shall ensure:

- 1) compliance with the Constitution, laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, other higher-level executive bodies;
- 2) law and order, respect for civil rights and freedoms;
- 3) implementation of state and oblast programmes for socio-economic and cultural development, environmental protection, and ethno-cultural development programmes on indigenous peoples in places where they live in compact groups;
- 4) preparation and approval of relevant budget projections, preparation and execution of relevant budgets;
- 5) reports on relevant programmes and budget execution;
- 6) communication with local self-governing bodies;
- 7) exercise of other powers granted by the state and delegated by relevant councils.

Local state administrations shall be led by chairmen of relevant local state administrations. The President of Ukraine shall appoint chairmen of local state administrations upon the submission of the Cabinet of Ministers of Ukraine for the term of office of the President of Ukraine. Candidates for the

positions of chairmen of raion state administrations shall be submitted by chairmen of relevant oblast state administrations to the Cabinet of Ministers of Ukraine. One candidate shall be nominated for each position. The President of Ukraine may raise before the Cabinet of Ministers of Ukraine the issue of appointing another candidate for the position of chairman of the local state administration. Chairmen of local state administrations shall take office upon appointment.

Chairmen of local state administrations shall have the first deputy and deputies who perform duties designated by chairmen of relevant state administrations and shall be held personally responsible for the situation in the area of work conferred on them. The first deputy chairman and deputy chairmen of the oblast state administration shall be appointed and dismissed by the chairman of the oblast state administration upon agreement with the Cabinet of Ministers of Ukraine. The first deputy chairman and deputy chairmen of the raion state administration shall be appointed and dismissed by the chairman of the raion state administration upon agreement with the chairman of the oblast state administration. First deputy chairmen and deputy chairmen of local state administrations shall announce the termination of their powers to the newly appointed chairmen of local state administrations on the date of their appointment.

The number of deputy heads of these structural subdivisions shall be determined by the criteria set for the apparatus of the central executive body.

40. Describe the institutional set-up for coordination of public administration reform. Is there a central body in charge? Which bodies/institutions are involved in the coordination structures and what are their roles? What is the capacity of the lead institution and the main stakeholders to carry out their tasks?

Public administration reform strategy is approved by the Cabinet of Ministers of Ukraine.

The mechanisms of coordination, implementation, monitoring and reporting are defined in the Public administration reform strategy of Ukraine (hereinafter - the Strategy) for 2022-2025, approved by decree of the Cabinet of Ministers of Ukraine dated July 21, 2021 № 831.

The Minister of the Cabinet of Ministers of Ukraine is the political leader of the public administration reform and is responsible for its implementation, monitoring and evaluation of the state of implementation of the Strategy and preparation of reporting on the implementation of the public administration reform.

Ministers are responsible for reforming public administration in their respective area.

Responsibility for the execution of measures to implement this Strategy lies with the executive authorities identified in the action plan to implement the Strategy, and the officials holding positions of civil service of category "A" in these bodies. In particular, the need to implement the Strategy and to fulfill the action plan are defined in the objectives and key performance indicators of performance, efficiency and quality of state secretaries and heads of central executive bodies.

In addition, the Resolution of the Cabinet of Ministers of Ukraine № 335 of May 18, 2016 established the Coordinating Council for public administration reform (hereinafter - the Council), which is a temporary advisory and consultative body of the Cabinet of Ministers of Ukraine, and the Regulations on it were approved.

The Council consists of:

- Minister of the Cabinet of Ministers of Ukraine, Chairman of the Coordinating Council
- Head (Deputy Head) of the National Agency of Ukraine for Civil Service
- Deputy State Secretary of the Cabinet of Ministers of Ukraine, Secretary of the Coordinating Council
- State Secretary of the Cabinet of Ministers of Ukraine
- First Deputy (Deputy) Minister of Economic Development, Trade and Agriculture
- First Deputy (Deputy) Minister of Communities and Territories Development
- First Deputy (Deputy) Minister of Finance
- First Deputy (Deputy) Minister of Justice
- First Deputy (Deputy) Minister of Digital Transformation
- Head (Deputy Head) of State Audit Service
- Deputy Head of the Office of the President of Ukraine (by consent)
- Representatives of the Committee on the Organization of State Power, Local Self-Government, Regional Development and Urban Planning (by consent)
- Representative of the Accounting Chamber (by consent)
- Representatives of the Committee of the Verkhovna Rada of Ukraine on issues of budget (by consent)
- Representatives of the Committee of the Verkhovna Rada of Ukraine on Finance, Taxation and Customs Policy (by consent)
- Representatives of non-governmental organisations (by consent)

The main objectives of the Rada are to:

- 1) contribute to ensuring coordination of the executive authorities related to the development of projects and the implementation of strategies, as well as the implementation of action plans for their implementation;
- 2) analyse draft legislation aimed at creating a regulatory framework for public administration reforms;
- 3) preparation of proposals on:
 - improvement of the system of executive bodies in order to increase the efficiency of activities of such bodies and civil servants;
 - activities of executive bodies related to the implementation of public administration reform and assistance in its implementation;
 - improvement of the regulatory and legal framework on administrative legal relations, the economic principles of the activities of the central executive authorities, the introduction of efficient administrative procedures;
 - deconcentration of the powers of central executive authorities, simplification of procedures for the provision of management services by executive authorities to individuals and legal entities;
 - defining, together with the relevant central executive authorities, the amount of financial resources needed to implement measures for implementing strategies;

The Rada, in accordance with the missions entrusted to it:

1) performs an analysis of the activities of central executive authorities in the execution of strategies and the implementation of action plans for their execution, prepares and submits proposals to the Cabinet of Ministers of Ukraine to improve the efficiency of such activities;

2) monitors and evaluates the efficiency of the implementation of strategies and the fulfilment of action plans for their implementation, approval and publication of periodic reports on the progress of their implementation;

3) cooperates with civil society institutions, enterprises, establishments and organizations, independent experts, international organizations and their representative offices in Ukraine in the framework of the implementation of strategies and action plans for their implementation;

4) submits to the Cabinet of Ministers of Ukraine recommendations and proposals based on the results of its work.

Representatives of civil society institutions, enterprises, establishments, organizations, mass media, international organizations and their representations in Ukraine may participate in the meetings of the Council by decision of its chairperson.

The Deputy State Secretary of the Cabinet of Ministers of Ukraine, who is the Secretary of the Coordinating Council on Public Administration Reform, ensures the coordination of the activities of the structural unit of the Secretariat of the Cabinet of Ministers of Ukraine on public administration reform.

The Secretariat of the Cabinet of Ministers of Ukraine (hereinafter - SCMU) is responsible for the general coordination of public administration reform. Within the Secretariat of the Cabinet of Ministers of Ukraine, the Public Administration Directorate was established to provide support for the reform and support the activities of the political leadership and reform coordination. The Public Administration Directorate employs civil servants with the appropriate level of professional competence to ensure the sustainable implementation of the Strategy. The Directorate of Public Administration directly ensures the coordination of activities to implement the Strategy, monitoring and preparation of annual reports on the implementation of the Strategy, ensures the activities of the Coordinating Council for Public Administration Reform.

41. Is a comprehensive strategy for the reform of the public administration in place? If so, describe its preparation process, including the public consultation process.

In recent years, Ukraine has shown decisive intentions to modernize its public administration system, in particular to establish closer ties with the EU. Support for public administration reform has been repeatedly expressed at the highest political level, including by the Prime Minister of Ukraine. An important step in public administration reform in Ukraine was the adoption in June 2016 of the Public Administration Reform Strategy (hereinafter - the PAR Strategy) for the period up to 2021 (approved by the Cabinet of Ministers of Ukraine decision dated June 24, 2016 № 474) .

Strategy for public administration reform for the period up to 2021

The purpose of the Strategy was to improve the system of public administration and, accordingly, increase the level of competitiveness of the country. The expected result of the implementation of the Strategy had to be a more efficient and accountable to citizens system of public

administration, which works in the interests of the society, ensures sustainable development of the country and provides quality services.

In 2018, experts from the Support for Improvement in Governance and Management (SIGMA) conducted an assessment of the state of public administration, and the Accounting Chamber conducted an audit of comprehensive public administration reform, resulting in modification of the Strategy due to the gained experience and consultations with stakeholders.

Tasks of the PAR Strategy were implemented in several areas, namely:

- 1) strategic planning, coordination of policy formation and implementation;
- 2) civil service and human resources management;
- 3) accountability - organization, transparency, supervision;
- 4) administrative procedures, administrative services and e-government.

The main objectives of the Strategy were defined in accordance with these sections, the list of which is given below.

Strategic planning, coordination of policy formation and implementation:

- increasing the capacity for strategic planning of the Cabinet of Ministers of Ukraine;
- determination of the list of documents of the state strategic planning;
- approval of the methodology for developing state strategic planning documents;
- coordination of strategic decisions with the possibilities of the state budget in the medium term;
- strengthening the coordination of activities in the field of e-government;
- proper provision of consultations with the public and stakeholders in the formulation of public policy.

Civil service and human resources management

- ensuring increased efficiency and transparency of the civil service by automating processes, human resources management systems based on modern information and communication technologies;
- introduction and support of the system of selection for civil service positions, which is based on the Principles of Public Administration, is transparent, corresponds to the best practices and ensures the involvement of the most professional, competent and motivated specialists;
- introduction of a modern holistic, mobile and flexible civil servants professional training system with a developed infrastructure and adequate resources, which is focused on the development of competencies and needs for professional development of civil servants;
- providing civil servants with proper working conditions, in particular creation of a competitive, transparent and understandable remuneration system;
- formation of organizational culture of the civil service, which is based on the values of achieving results, responsibility, innovation, openness of communications.

Accountability - organization, transparency, oversight:

- clear division of powers, functions and responsibilities among executive bodies, creation of an effective system of their accountability and interaction;
- improving the internal structure of executive bodies, ensuring its rational construction and ability to perform their functions effectively;
- ensuring free access to information about executive bodies and their activities in a convenient form.

Administrative procedures, administrative services and e-government:

- introduction of a general administrative procedure with basic guarantees (principle of legality, establishment of true facts, right to be heard, right for effective protection of rights, to receive a written decision indicating the grounds for its adoption, the right to non-judicial appeal, etc.);
- improving the quality and accessibility of administrative services, including through the centers of administrative services, decentralization of administrative services;
- systematic reduction of administrative burden on citizens and legal entities;
- optimization and increase of executive bodies work efficiency through introduction of electronic interdepartmental interaction and electronic document circulation;
- provision of administrative services in electronic form.

The strategy was implemented until 2021 inclusive, contained 21 performance indicators and a plan consisting of 69 measures. Target values for the end of 2021 were achieved in 12 indicators (57%). A total of 60 measures (87%) were implemented from the action plan.

Public Administration Reform Strategy for 2022-2025

By the order of the Cabinet of Ministers of Ukraine of July 21, 2021 № 831, a new PAR Strategy for 2022-2025 was approved, which became a continuation of the PAR Strategy until 2021. The updated Strategy describes the current challenges, identifies goals, priorities, objectives and indicators of public administration reform in Ukraine, contains a clear action plan, indicative funding and a list of communication activities to support the reform.

Public administration reform is taking into account the European standards of good administration developed by the SIGMA Program and set out in the Principles of Public Administration. This document contains a system of principles and criteria for assessing public administration, based on international standards and requirements, as well as best practices of EU member states and the Organization for Economic Cooperation and Development. The updated Strategy was developed taking into account the European principles and results of the 2018 SIGMA Expert Assessment of the State of Public Administration in Ukraine, as well as the experience gained at the previous stage of public administration reform.

The updated Strategy is designed to ensure sustainability in the implementation of the reform. The document was developed taking into account the approaches to the formation of SIGMA strategies and in accordance with the best principles of development of strategic documents, namely:

- Use of facts and evidence (evidence-based approach): ensuring the collection and analysis of data for the formation of sound policies;
- Accountability: ensuring transparency and clarity of the process for stakeholders and society;

- Sustainability: ensuring consistency in policy implementation, evaluation of results and challenges;
- Involvement: participation of all stakeholders in the policy development process, honest and open dialogue;
- Responsibility: understanding the division of responsibilities and tasks among key actors in the process of policy preparation and implementation;
- Best practices and current solutions: use of international experience and practices of effective public administration systems.

The development of the PAR Strategy for 2022-2025 was carried out in 3 basic stages with the use of analytical tools, broad involvement of stakeholders and coordination of their positions, namely:

Stage 1: research and analytics:

- analysis of official internal documents: report on the results of the annual monitoring of the strategy implementation.
- analysis of external documents: assessment of the state of public administration, conducted by experts of the SIGMA program, research of analytical organizations
- additional research conducted in the framework of the Strategy preparation, in particular, the assessment of the state of public administration and expected changes by citizens, as well as the assessment of the state of public administration by business representatives and the request for reform.

Stage 2: dialogue and consultation:

- public consultations: a total of 8 rounds of consultations were held with the participation of representatives of civil society and business associations, which resulted in more than 50 proposals for the draft Strategy;
- internal consultations: joint definition of the goals and objectives of the Strategy among the authorities involved in the implementation of the reform.

Stage 3: coordination of positions:

- working group: was established at the level of the Secretariat of the Cabinet of Ministers to draft the proposed text, agree on positions and make changes to the draft Strategy. The working group included representatives of relevant public authorities and public organizations;
- Coordinating Council: the meetings of the Coordinating Council discussed the main areas of reform - administrative services, civil service and good governance, and their results became the basis for the first draft of the Strategy;
- discussion in the Verkhovna Rada of Ukraine: for the profile Committee on the Organization of State Power, Local Self-Government, Regional Development and Urban Planning a series of presentations was held on each of the three areas of reform and its communication support with further discussion;
- Political dialogue with the EU: Discussions on the vision of public administration reform took place at the highest level, in particular in the format of the Political Dialogue between Ukraine and the EU. During the project preparation, the EU representatives provided their comments and suggestions on the Strategy, as well as recommendations on taking into account the principles of SIGMA and their reflection in the Strategy.

The aim of the Strategy is to build a service state that works in the interests of citizens and meets European principles.

The expected results of public administration reform by 2025 are:

- ensuring the provision of high quality services and the formation of a convenient administrative procedure for citizens and businesses;
- formation of a system of professional and politically neutral public service focused on protecting the interests of citizens;
- building effective and accountable to citizens state institutions that shape public policy and successfully implement it for sustainable development of the state.

Thus, the Strategy identifies three main areas for public administration reform:

- high quality services and convenient procedures;
- professional public service and personnel management;
- effective governance;

The list of the main tasks of the Strategy in accordance with these areas is given below.

High quality services and convenient procedures:

- introduction of administrative procedure and bringing normative legal acts in compliance with the law regarding administrative procedure;
- training of civil servants, raising public awareness of the general administrative procedure;
- facilitation for the development of a network of centers for the provision of administrative services, taking into account inclusiveness, accessibility and convenience for the subjects of appeals;
- ensuring further integration of services into administrative service centers;
- ensuring further decentralization of powers to provide administrative services by delegating them to local governments (including registration of civil status acts, administrative services of a social nature, state registration of land, vehicles);
- introduction of a system of monitoring and evaluation of the quality of administrative services in accordance with uniform standards in order to further improve them;
- reengineering of administrative services according to the principles of customer orientation and introduction of their provision in electronic form, in particular services related to the initiation and conduct of business activities, comprehensive services related to the death of a person;
- development and submission to the Cabinet of Ministers of Ukraine of proposals for amendments to the legislation on the procedure and methodology for calculating the amount of payment for the provision of administrative services (administrative fees).
- ensuring interaction between state registers (including registers of local self-government bodies) to obtain information necessary for the provision of administrative services without citizen participation (including auditing the quality of registers) by connecting registers to the electronic interaction system of state electronic information resources "Trembita";
- ensuring the use of reliable, secure, modern means and schemes of electronic identification by individuals and legal entities through an integrated electronic identification system.

Professional public service and personnel management:

- updating the selection procedure in terms of improving the assessment of candidate competencies, applying remote assessment and ensuring compliance with the principles of non-discrimination and equal access during the competition by candidates regardless of their gender, ethnic and social origin, disability, etc .;

- modernization of the work of the Commission on Senior Civil Service with the aim of its professionalization, as well as ensuring equal representation of women and men in its composition;

- introduction of the formation of a personnel reserve for civil service positions (ensuring equal rights and opportunities for women and men) from among candidates who have a deferred right to hold office and may be appointed to an equivalent or lower civil service position in this or another public body;

- developing criteria and providing opportunities for career advancement, in particular for positions of the highest category, for civil servants who have received an excellent grade based on the results of the annual performance appraisal;

- motivation for women to participate in competitions for civil service positions of category "A", taking into account their competence, achievements and accomplishments;

- development and implementation of policies to ensure a balanced representation of women and men in various civil service positions;

- creation of opportunities for internships in order to attract young highly qualified specialists to the civil service;

- promotion of civil service;

- introduction of the classification of civil service positions, including ensuring the integration of positions of specialists involved in public bodies in the framework of public administration reform measures into the general remuneration system;

- comprehensive reform of the remuneration system, which involves increasing the permanent part, limiting the variable part on the basis of clear criteria, reducing components in the structure of wages, eliminating the causes of gaps in wages, bringing the wages of civil servants closer to the level of salaries of a similar level of complexity and responsibility in the private sector;

- ensuring the prevention of a reduction in the level of remuneration of civil servants, in particular specialists involved in work in public bodies in the framework of public administration reform measures;

- introduction of the information system on human resources management in public bodies (HRMIS), which, in particular, will allow to collect and analyze quantitative and qualitative indicators on the representation of women and men in various civil service positions;

- analysis of the needs of the state body in providing the required number of civil servants with the necessary qualifications to solve strategic tasks;

- introduction of competency frameworks for various professional groups in the civil service in accordance with the catalog of typical civil service positions and criteria for assignment to such positions;

- strengthening guarantees to prevent unjustified dismissals of civil servants;

- implementation of a program of continuous professional development for employees of personnel management services regarding modern practices and tools of personnel management;

- ensuring the development and support of organizational and managerial culture, ethical behavior in the civil service, focus on cooperation, achievement of results and human-centeredness;

- development and implementation of professional adaptation programs for civil servants;
- conducting an independent review of the system of training of civil servants and preparation of proposals for its development;
- ensuring the development and implementation of training programs for civil servants on project management, strategic planning, management and European integration;
- ensuring the formation of gender competence of civil servants by including a gender component in training and retraining programs for civil servants;
- ensuring the implementation of a training program for civil servants holding civil service positions of categories "A" and "B" on personnel management and performance management, as well as for employees of personnel management services;
- improving procedures and tools for assessing the effectiveness of civil servants, its coordination with the processes of strategic planning and reporting;
- creation of equal opportunities for educational institutions in the field of advanced training of civil servants regardless of the form of ownership;
- improving the mechanism of formation, placement and implementation of the state order for training and retraining of civil servants by introducing an open, transparent system of placing the state order using the functionality of the knowledge management web portal in the field of professional training;

Effective governance:

- improving the system of drafting regulations, in particular by unifying the rules of rule-making and examination of draft acts;
- improving the process of conducting public consultations and consultations with the public regarding the formation and implementation of public policy, in particular the introduction of a module of public consultations on the online platform for interaction of executive authorities with citizens and civil society institutions;
- improving the organization and operation of central executive bodies, including improving the mechanisms of direction and coordination, organizational structure, clear definition and division of functions and powers, including elimination of duplication, implementation and accountability of their activities, taking into account the principles of management accountability defined by SIGMA Program;
- simplification of procedures for the formation and termination of central executive bodies as legal entities under public law, the definition of a clear mechanism of succession in the event of changes in the system of central executive bodies;
- completion of the process of forming directorates to increase the capacity of ministries to formulate public policy in relevant areas;
- continuing the process of depriving ministries of functions and powers uncharacteristic of them, in particular by entrusting such functions and powers to other central executive bodies or transferring them to local executive bodies or local self-government bodies within the framework of decentralization, refusal to perform them by the state;
- introduction of systematic revision of procedures and work processes in public authorities with the aim of their continuous improvement through reengineering, establishment of transparent rules and uniform standards;

- introduction of an electronic archive and creation of appropriate conditions for permanent storage of electronic documents in the electronic archive;
- updating the legislation on citizen's appeals and public information, in particular the Law of Ukraine "On Citizens' Appeals";
- introduction of modern tools and approaches to work with appeals on the principle of "single window", in particular on the online platform for interaction of executive authorities with citizens and civil society institutions;
- introduction of a system of unified processing and consideration of appeals, aimed at reducing the time of their consideration, preventing the provision of ambiguous, unreasonable or incomplete answers, the ability to monitor the status of consideration and control the satisfaction of citizens with the results of appeals.

42. Does the strategy have a sequenced action plan with clear information on responsibilities for implementation, costs and sources of financing?

To achieve the goals of the Strategy an action plan was formed encompassing measures divided according to three reform areas and designed to ensure the implementation of the relevant goals by 2025. Each measure contains information on who is responsible for its implementation, the expected results, the deadline, and the volume and sources of funding. The Action Plan contains 44 measures in total for 2022-2025. The Action Plan for the implementation of the Strategy for Public Administration Reform in Ukraine for 2022-2025 was approved by the Decree of the Cabinet of Ministers of Ukraine No. 831 of 21 July, 2021.

The Action Plan for the implementation of the Strategy for Public Administration Reform in Ukraine, which was implemented until 2021 inclusive, included 69 measures (approved by the Decree of the Cabinet of Ministers of Ukraine No. 474 of 24 June, 2016). A total of 60 measures (87%) were implemented from that Action Plan.

Table: an overview of the implementation of all Strategy measures as of 31.12.2021

Measures (According to the Action Plan)	Completed	In progress or not completed	Total
Strategic planning, coordination of policy formation and implementation	10	1	11
Civil service and human resources management	24	1	25
Subordination: organization, transparency and supervision	16	2	18

Administrative procedures, administrative services and e-government	10	5	15
Total	60 (87 %)	9 (13 %)	69

The Strategy was financed from the State Budget and international technical assistance funds. The largest share of funding is allocated through the budget programme on Support to the implementation of Comprehensive Public Administration Reform.

The Law of Ukraine “On the State Budget of Ukraine for 2021” provided for the expenditures in the amount of UAH 467,324,900 under the budget programme on Support to the implementation of Comprehensive Public Administration Reform.

Budget programme	Budget for 2020, thousand, UAH	Budget for 2021, thousand, UAH	Change, %
1. Support to the implementation of Comprehensive Public Administration Reform	459,161.2	467,324.9	+1.8
including remuneration of reform experts	376,361.4	383,053.1	+1.8
2. E-government	30,803.0	317,849.0	+931.9
3. Professional training of civil servants and local government officials	92,414.9	111,254.5	+ 20.4
4. Adaptation human resources management at the civil service system to the EU standards	14,450.6	18,171.6	+25.7
5. National informatisation programme	73,580	602,000	+718.2
6. Subventions to local budgets to support the development	-	231,000.0	+231.0

of Centres for Administrative Services (ASC)			
TOTAL:	670,409.7	1,747,600.0	+160.7

In addition to a particular budgetary programme for the public administration reform, the State Budget of Ukraine for 2021 provided a number of other budgetary programmes set up to achieve the objectives of the Strategy for Public Administration Reform, in particular "E-Government", "Professional training of civil servants and local government officials", "Adaptation human resources management at the civil service system to the EU standards", "National informatisation programme", subventions to local budgets to support the development of ASCs.

Pursuant to the Agreement executed in 2016 between the European Commission and the Government of Ukraine on financing the programme on Support to Comprehensive Public Administration Reform in Ukraine (hereinafter "the Agreement"), the European Union provides budget support to the Government of Ukraine. The EU funds are credited directly to the State Budget and are not special purpose funds for the support of public administration reform. The amount of funds allocated in the State Budget for PAR is determined within the framework of the annual process of preparation and adoption of the Budget for the next year.

The said Agreement provides for the disbursement of fixed and conditional tranches. The annual fixed share is ERU 5 million. The amount of the conditional share of the tranche depends on the achievement of the indicators specified in the Agreement for the relevant year. Disbursement of the tranche and determination of its amount is based on the results of the assessment by the EU Party of the Report on the implementation of indicators prepared by the Government of Ukraine.

In 2021 the Budget received EUR 19.4 million of budget support, in addition to EUR 49.1 million of such support received during previous periods under the Agreement. Thus, for 5 years of the Agreement implementation, the State Budget received EUR 68.5 million out of maximum EUR 90 million, which is 76%. This percentage is the highest in the history of such agreements.

Pursuant to the Agreement executed in 2016 between the European Commission and the Government of Ukraine on financing the programme on Support to Comprehensive Public Administration Reform in Ukraine (hereinafter "the Agreement"), the European Union provides budget support to the Government of Ukraine. The EU funds are credited directly to the State Budget and are not special purpose funds for the support of public administration reform. The amount of funds allocated in the State Budget for PAR is determined within the framework of the annual process of preparation and adoption of the Budget for the next year.

43. Describe the framework for monitoring implementation of the strategy. Are regular reports on implementation prepared and are they published? Is progress measured against performance indicators? How are civil society and the business community involved in the monitoring process?

The Strategy for Public Administration Reform of Ukraine for 2022-2025 approved by the Decree of the Cabinet of Ministers of Ukraine of No. 83121July, 2021 defines the Mechanisms for coordination, implementation, monitoring and reporting.

The Minister of the Cabinet of Ministers of Ukraine is the political leader of public administration reform and is responsible for its implementation, monitoring and assessment of the implementation of the Strategy and reporting on Public Administration Reform.

The Coordination Council for Public Administration Reform, a temporary advisory body of the Cabinet of Ministers of Ukraine, shall according to its functions:

- 1) analyse the activities of central executive bodies aimed at the implementation of strategies and action plans for strategy implementation, prepare and submit proposals to the Cabinet of Ministers of Ukraine on improvement of the effectiveness of such activities;
- 2) monitor and assess the effectiveness of the implementation of strategies and action plans for strategy implementation, approve and publish regular reports on their implementation;
- 3) cooperate with civil society organizations, enterprises, institutions and organizations, independent experts, international organizations and their representative offices in Ukraine within the framework of the implementation of strategies and action plans for strategy implementation;
- 4) submit to the Cabinet of Ministers of Ukraine recommendations and proposals based on results of its work.

Representatives of civil society organizations, enterprises, institutions, organizations, mass media, international organizations and their representative offices in Ukraine can participate in the meetings of the Council upon the decision of its Chair.

To achieve the goals of the Strategy an action plan was formed encompassing measures divided according to three reform areas and designed to ensure the implementation of the relevant goals by 2025. Each measure contains information on who is responsible for its implementation, the expected results, the deadline, and the volume and sources of funding. The Action Plan contains 44 measures in total for 2022-2025.

Also, for each of the said areas clear performance indicators were identified indicating the progress in the implementation of the Strategy. In total, 20 indicators were identified with a baseline and target values for each of the subsequent years, which will allow to assess both the achievements in the implementation of the Strategy in total and the intermediate results.

The PAR strategy implemented by 2021 inclusive provided for 21 performance indicators. By the end of 2021 target values were achieved for 12 indicators (57%).

Table: an overview of achievement of the target values for the Strategy indicators as of 31.12.2021

Performance indicators	Achieved	Not achieved	Total
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Strategic planning, coordination of policy formation and implementation	0	3	3
Civil service and human resource management	2	5	7
Subordination: organization, transparency and supervision	3	1	4
Administrative procedures, administrative services and e-government	7	0	7
Total	12	9	21

In addition, an annual report on the progress in the implementation of the Strategy is provided for, which reflects the information on progress and data on quantitative indicators (the share of implemented measures and the status of target values by indicators) and qualitative characteristics of the Reform. The said report is published on the Government portal. Since 2016 5 reports in total have been prepared for each year of implementation of the Strategy.

In order to ensure an independent and unbiased assessment of the implementation of the Strategy, the cooperation out with SIGMA Program is established. SIGMA Program constantly monitors the progress achieved. In particular, in 2018 SIGMA conducted a comprehensive assessment of the state of public administration in Ukraine and published a report which served the basis for updated Strategy.

Pursuant to the Agreement executed in 2016 between the European Commission and the Government of Ukraine on financing the programme on Support to Comprehensive Public Administration Reform in Ukraine, the amount of the conditional part of the tranche depends on overall progress in the implementation of the Strategy and indicators for the relevant year. Thus, disbursement of the tranche and determination of its amount is based on the results of the assessment by the EU Party of the annual Report on the implementation of the Strategy and indicators prepared by the Government of Ukraine.

44. What is the state of play of implementation of the strategy and its action plan? What were the shortcomings noticed in the implementation process and how were they overcome?

Based on the results of a five-year implementation of the PAR Strategy, the following key challenges in the implementation of the reform were analysed and accounted for in the revised Strategy:

1. The implementation of the human resource information management system (HRMIS) is delayed due to numerous problems.

It is developed and implemented under the World Bank Grant No. TF0A5324 of 26 June 2017 for the Strengthening Public Resource Management Project funded by the EU under the EU Programme for the Reform of Public Administration and Finances (EUroPAF). The HRMIS is implemented in two phases. The system was expected to be implemented as early as 2019, but it was not possible due to a number of problems. At the end of 2020, the Staff and Personnel, Payroll and Time Sheet, Self-Service Account, Public Portal subsystems were in operation. The implementation of the first phase was completed on 30.03.2021; it involved test operation in 36 bodies (18 central executive authorities (CEAs) and 18 territorial bodies). At the end of 2021, 86 public authorities, out of which 28 ministries and central executive authorities, were connected to the human resource information management system (HRMIS) within public authorities, and 21,757 employee's personal cards were entered therein. The Contractual Agreement provided for the connection of 20 CEAs during the first phase of the implementation; in fact, 28 CEAs were connected.

During the second phase, it is planned to implement the Analytics and Reporting subsystem and the Professional Competence Development and Performance Assessment modules. As of 31.12.2021, the second phase did not start yet.

Ukraine will continue implementing the human resource information management system project within public authorities. The Ministry of Economy and the National Agency of Ukraine for Civil Service concluded the relevant agreement on delegation of powers for the implementation of the Project within the framework of which the HRMIS is implemented. The National Agency of Ukraine for Civil Service and the Ministry of Economy approved the World Bank's proposal for spending the funds allocated for the HRMIS on the procurement for equipment and IT services.

The HRMIS is to be implemented by 2025 in accordance with the Action Plan for the Implementation of the Public Administration Reform Strategy of Ukraine for 2022–2025.

In view of the martial law in Ukraine and military action in the territory of Ukraine, special attention should be paid to technically stable operation of the HRMIS and ensuring the maximum level of protection for the data circulating in the system.

2. It was not possible to promptly implement the remuneration reform. The Public Administration Reform Strategy of Ukraine for 2022–2025 provides for more realistic time limits for the implementation of the remuneration system reform.

The work on the remuneration system reform started in 2020. The Cabinet of Ministers of Ukraine approved the Concept of Reforming the Remuneration System for Civil Servants aimed at modification of the system and of the approaches to the regulation of remuneration in civil service.

For the purpose of preparation of a new remuneration model for civil servants, a pilot project aimed at the classification of civil service positions within the Secretariat of the Cabinet of Ministers, the Ministry of Finance, the Ministry of Digital Transformation, the National Agency of Ukraine for Civil Service and its territorial bodies was implemented. In total, 1,844 civil service positions were classified. Based on the obtained data and information on actual salaries of civil servants in the relevant public authorities in the previous years, a new remuneration model was developed as a system of grades for classified positions.

In order to determine the cost of implementation of the aforementioned model at the national level, it was decided to classify all civil service positions by 1 June 2022, but due to the martial law imposed in the territory of Ukraine, the relevant work is suspended.

It should be specifically mentioned that the implementation of the new remuneration system for civil servants will require legislative action, in regard of which the draft law on implementation of uniform approaches to remuneration of civil servants based on the classification of positions was developed.

This draft law was repeatedly discussed at various levels, with involvement of a wide circle of stakeholders and international experts, but its further consideration was postponed till the cost of the implementation of the proposed remuneration model at the national level was determined.

3. The communication in respect of the reform is not sufficient.

The implementation of the reform requires a high level of communication, political discussion and compromise. It is important to continue achieving a political consensus on the importance of the public administration reform, its main objectives and means of their achievement. One more specific area is a dialogue between the Cabinet of Ministers and the Verkhovna Rada, in particular, the First Deputy Chairperson of the Verkhovna Rada of Ukraine and some Members of Parliament were included in the Coordination Council for Public Administration Reform.

In 2021, a new communication strategy was developed in respect of the public administration reform in Ukraine.

The Public Administration Reform Strategy of Ukraine for 2022–2025 provides for internal and external communication measures to be implemented under the overall coordination of the Secretariat of the Cabinet of Ministers of Ukraine based on the “one voice” principle (communication strategy).

It should be specifically mentioned that a sociological survey was conducted during the preparation of the new Strategy, with support of the EU4PAR project. It is crucial that 82 percent of the respondents believe that the public administration reform is key to the success of all other reforms.

4. No general principles and rules for the administrative procedure, including the mechanism for pre-trial appeal, are enshrined at the legislative level. The decentralisation of powers related to the provision of individual administrative services is taking more time than it was planned.

If the general principles and rules for the administrative procedure are enshrined at the legislative level, it will promote legal certainty and will provide guarantees for the observance of the rights of citizens and legal persons in case when their rights and obligations are determined by public authorities and local self-governing bodies. The implementation of the administrative procedure in Ukraine will require more than passing relevant legislation and reviewing the existing administrative procedures within each executive authority and local self-governing body. It will also require training of all civil servants with regard to the new principles of the implementation of the administrative procedure as well as informing citizens and the business about their new rules.

In order to make administrative services more affordable, it is necessary to continue the efforts with regard to ensuring further decentralisation of powers related to the provision of administrative services through delegating them to local self-governing bodies (including registration of civil status

acts, social administrative services, state registration of land plots and vehicles) and providing relevant resources.

Special attention is paid to further development of administrative service centres, taking account of inclusiveness, affordability and convenience for applicants, increasing the number of administrative services (in particular, of the most popular ones) provided through those centres, and improving their quality.

The Public Administration Reform Strategy of Ukraine for 2022–2025 provides for measures aimed at improvement of the quality of administrative services, simplification/ streamlining of administrative procedures, reduction of administrative burden and development of a network of administrative service centres.

5. The establishment of directorates within ministries for the purpose of enhancing their institutional capacity to develop state policy has slowed down. The delay in the process of establishment of directorates and their staffing in 2020 and 2021 can be mainly attributed to the suspension of competitive selections for civil service positions and a significant reduction of funding of the reform due to the spread of COVID-19 acute respiratory disease and imposition of relevant quarantine restrictions in the territory of Ukraine. In 2020 and 2021, no funds for financing of the remuneration for the newly created reform staff positions within ministries were provided for in the state budget; funding was allocated only for the existing positions.

In addition, at the beginning of March 2020, a new composition of the Cabinet of Ministers of Ukraine was formed, which led to some changes in the structure of the Government, i.e. some ministries and other CEAs were reorganised. It also affected the process of establishment of directorates and building institutional capacity of ministries.

In accordance with the Concept of Implementation of Reform Staff Positions as approved by the Ordinance of the Cabinet of Ministers of Ukraine of 11 November 2016 No. 905-p, reform staff positions must be set up within public authorities based on the main tasks of those bodies. However, in practice, creating new reform staff positions within ministries is limited by the availability of funding for remuneration for those positions in the state budget. In this regard, it is important to review the existing approaches to establishing directorates, arranging their activities and staffing.

Despite the aforementioned challenges, the completion of the reform of ministries is still one of the main tasks of the revised Public Administration Reform Strategy of Ukraine for 2022–2025, which, *inter alia*, provides for the implementation of measures aimed at bringing the structure of the offices of ministries in line with the established requirements as well as for the establishment of directorates for the purpose of development of state policy in all areas under the responsibility of ministries. This process also requires implementing new, or updating existing, processes and procedures as well as new working tools for public authorities.

B. Policy development and coordination

45. Please describe the policy-making system, and the institutional arrangements within the government for strategic planning. Are there specific guidelines on strategic planning? Is there a government work programme, including an annual legislative programme? What are

the main objectives of this programme?

The description of policy development and institutional mechanism for strategic planning of the Government activities

I. In Ukraine, strategic planning is organised at the national (in various sectors, except for security and defence) and regional levels. Strategic planning in the national security and defence sector stands separately due to the specifics of document development and approval in this sector.

(i) **At the national level**, the basis for strategic planning comprises: The Law of Ukraine “On the Principles of Domestic and Foreign Policy” (it defines basic principles for development of the country in various sectors of domestic state policy and principles of foreign policy that actually enshrined focus on the European integration in 2010) and the Law of Ukraine “On State Forecasting and Elaboration of Ukraine’s Economic and Social Development Programmes” (it defines a system of forecast and programme documents on economic and social development) (hereinafter referred to as the “framework laws”).

In addition to those Laws, specific strategic planning issues are regulated by other laws and regulations. In particular, the issues related to development and implementation of: the Medium-Term Budget Declaration (for 3 years) and the State Budget of Ukraine for the planned year (the Budget Code of Ukraine, the Resolution of the Cabinet of Ministers of Ukraine of 26.04.2003 No. 621); state special-purpose programmes (the Law of Ukraine “On State Targeted Programmes”, the Resolution of the Cabinet of Ministers of Ukraine of 31.01.2007 No. 107); the Government’s Action Programme (the Law of Ukraine “On the Cabinet of Ministers of Ukraine”, the Regulations of the Cabinet of Ministers of Ukraine as approved by the Resolution of the Cabinet of Ministers of Ukraine of 18.07.2007 No. 950); action plans of ministries and other central executive authorities (the Law of Ukraine “On Central Executive Authorities”); development strategies for relevant areas, other programme documents provided for in the laws of Ukraine and decrees of the President of Ukraine (the Regulations of the Cabinet of Ministers of Ukraine).

As a rule, policies are reflected in the following documents:

State special-purpose programmes aimed at revolving the most important problems in the areas of development of the state, some sectors of economy or problems of administrative and territorial units. Such programmes are a complex of interrelated tasks and measures funded from the state budget, aligned with each other in terms of periods of implementation, composition of the implementing team and allocated resources.

Strategies determine the direction of shaping and implementation of policies in the corresponding areas in the mid-term and long-term perspective.

All central executive authorities, depending on the policy area, may participate in the Government institutional mechanism of strategic planning. The key policy-maker, as a rule, is one ministry whose competences are related to the policy area in question. Based on the developed policy, the ministry drafts a strategy or a programme and discusses it with all the stakeholders and, on a mandatory basis, with the Ministry of Finance, the Ministry of Economy, the Ministry of Justice and the Ministry of Digital Transformation, which assess the corresponding aspects of the draft. The draft, approved by all the parties involved, is submitted to the Government, where the Secretariat of the Cabinet of Ministers examines the text and prepares the draft strategy or programme for review at a

meeting of the Government. The Government strategy is approved by the Cabinet of Ministers and published. If the strategy is supposed to be adopted by the President of Ukraine or the Verkhovna Rada of Ukraine, the draft approved by the Government is forwarded for their review.

In order to develop the state strategic planning system, the Public Finance Management System Reform Strategy for 2022–2025 as approved by the Ordinance of the Cabinet of Ministers of Ukraine of 29.12.2021 No. 1805 provides for the implementation of a set of measures in the following areas: legislative regulation of the operation of the integral system for state forecasting and strategic planning of economic and social development; development of the system for state forecasting and strategic planning of economic and social development within the framework of implementation of the legislation on state forecasting and strategic planning of economic and social development; further depoliticisation of macroeconomic and budget forecasting and strategic planning processes; improvement of tools and capacity building in the areas of macroeconomic and budget forecasting and strategic planning.

Since the beginning of 2022, in pursuance of those provisions of the Strategy, the draft law on the improvement of the state forecasting and strategic planning system has been under development.

(ii) **At the regional level**, the basis for strategic planning, in addition to the basic laws, includes: the Law of Ukraine “On the Principles of State Regional Policy” (it provides for the development of documents defining state regional policy based on the statutory priorities: the State Regional Development Strategy; regional development strategies; investments programmes (projects) aimed at regional development) and the Law of Ukraine “On Promotion of Regional Development” (in line with State Regional Development Strategy and regional development strategies, it provides for the possibility of concluding regional development agreements between central and local executive authorities and bodies and local self-governing bodies and approving of programmes for overcoming depression of territories by the Government (hereinafter referred to as the “sector-specific laws”).

The State Regional Development Strategy is approved by the Cabinet of Ministers of Ukraine, regional development strategies are approved by oblast and city councils.

The regional-level documents to be developed in accordance with the basic law on state forecasting also include: medium-term forecasts of economic and social development of the Autonomous Republic of Crimea, oblasts, raions and cities; short-term programmes for economic and social development of the Autonomous Republic of Crimea, oblasts, raions and cities.

(iii) **Strategic documents in the area of ensuring national security and defence** are developed in accordance with the Law of Ukraine “On the National Security of Ukraine”. Those documents include:

Long-term planning documents (for over five years): the National Security Strategy of Ukraine (a basic document which lays the basis for the development of other documents in this area), the Military Security Strategy of Ukraine, the Public Security and Civil Protection Strategy of Ukraine, the Strategy for the Development of the Defence Industrial Sector of Ukraine, the Cybersecurity Strategy of Ukraine, and the National Intelligence Programme.

Long-term strategies are developed primarily by the Government and approved by the National Security and Defence Council and then by the Decree of the President of Ukraine.

Medium-term planning documents (for up to five years) include: other strategic documents, development programmes for the components of the security and defence sector, in particular supplying cutting edge weaponry and military equipment, creating necessary inventories and developing necessary capacities in the defence industrial sector, implementing other measures for strengthening of the defence potential of the State. Short-term planning (for up to three years) provides for the annual development of plans for maintaining and developing (activities) of the components of the security and defence sector, main indicators of procurement for defence goods, works and services under closed procurement procedures (for a period of three years), which define the tasks related to the implementation of long-term and medium-term planning documents.

Special recommendations on strategic planning

Strategic planning is subject to requirements of the legislation.

Government strategies (according to the Rules of Procedure of the Cabinet of Ministers of Ukraine) are required to contain the following: description of the problem, analysis of the current state of affairs, trends and reasoning of the necessity to resolve the identified problems, strategic goals and indicators of their achievement, tasks aimed at achieving the set goals, stages of their performance, expected results, approximate volumes of the necessary resources, monitoring procedure, result assessment, reporting, operational plan for the implementation of the strategy for a period of three years.

Methodological support for the processes of preparation of such documents, monitoring and evaluation of their implementation is ensured by the Secretariat of the Cabinet of Ministers.

State special-purpose programmes (under the Law of Ukraine “On State Special-Purpose Programmes” and the Procedure for development and implementation of state special-purpose programmes) are required to specify the purpose of the programme, ways and methods of resolving the problems, objectives and measures, expected results, programme performance, volumes and sources of funding. The Procedure sets detailed requirements to preparation of such documents.

Methodological support for the work on development and implementation of state special-purpose programmes is provided by the Ministry of Economy.

Action Programme of the Cabinet of Ministers of Ukraine

II. The Action Programme of the Cabinet of Ministers of Ukraine is based on coordinated political stances and programme objectives of the coalition of parliamentary factions in the Verkhovna Rada of Ukraine and is submitted to the Verkhovna Rada by the Prime Minister of Ukraine within the period of up to one month from the date of formation of the Cabinet of Ministers of Ukraine.

1) The Action Programme of the Cabinet of Ministers of Ukraine is developed pursuant to the requirements of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” for the term of office of the Cabinet of Ministers of Ukraine.

The Action Programme of the Cabinet of Ministers of Ukraine contains programme goals, criteria and deadlines for achieving programme goals as well as tasks that are necessary to achieve the goals, deadlines for such tasks and other information.

The work related to the development of the Action Programme of the Cabinet of Ministers is coordinated by the Prime Minister or by another member of the Cabinet of Ministers on his/her instruction. The members of the Cabinet of Ministers submit their proposals for the Action Programme of the Cabinet of Ministers to the Prime Minister or to the member of the Cabinet of Ministers as designated by the Prime Minister in the form specified by him/her and within the specified period.

The Secretariat of the Cabinet of Ministers develops the draft Action Programme of the Cabinet of Ministers based on the summarised proposals of the members of the Cabinet of Ministers under the guidance of the Prime Minister or the member of the Cabinet of Ministers as designated by the Prime Minister.

The prepared draft Action Programme of the Cabinet of Ministers is submitted to the Prime Minister or to the member of the Cabinet of Ministers as designated by the Prime Minister for the purpose of its submission for consideration of the Cabinet of Ministers. The draft Action Programme of the Cabinet of Ministers is presented by the Prime Minister at the meeting of the Cabinet of Ministers.

The issue of approval of the Action Programme of the Cabinet of Ministers of Ukraine is considered at the plenary session of the Verkhovna Rada within 15 days after its submission.

Based on the results of the consideration of the Action Programme of the Cabinet of Ministers of Ukraine, the Verkhovna Rada may:

approve the Action Programme of the Cabinet of Ministers of Ukraine (the Action Programme is approved if the majority of the constitutional composition of the Verkhovna Rada of Ukraine, i.e. 226 and more Members of Parliament out of 450, voted for it);

let the Cabinet of Ministers of Ukraine finalise the Action Programme of the Cabinet of Ministers of Ukraine, taking account of the comments and proposals provided during its discussion. The Verkhovna Rada of Ukraine repeatedly considers the Action Programme of the Cabinet of Ministers of Ukraine no later than on the fifteenth day after this decision is taken. The decision to let the Cabinet of Ministers of Ukraine finalise the Action Programme of the Cabinet of Ministers of Ukraine may be taken by the Verkhovna Rada only once.

In case when, based on the results of the consideration of the Action Programme of the Cabinet of Ministers of Ukraine, the Verkhovna Rada has not taken any decision, the Action Programme of the Cabinet of Ministers of Ukraine is deemed to be not approved and is not submitted to the Verkhovna Rada by the incumbent Cabinet of Ministers of Ukraine during the year.

The Action Programme of the Cabinet of Ministers of Ukraine may be repeatedly submitted for consideration of the Verkhovna Rada no earlier than one year after the date of its disapproval.

On 2 April 2020, the Government, formed on 4 March 2020, approved, by its Resolution No. 270, the Action Programme of the Cabinet of Ministers of Ukraine and submitted it for consideration of the Verkhovna Rada of Ukraine. Pursuant to the Resolution of the Cabinet of Ministers of Ukraine No. 665-IX of 4 June 2020 and proposals of committees of the Verkhovna Rada of Ukraine, on 12 June 2020, the Government improved and finalized the Action Programme of the Cabinet of Ministers of Ukraine that was further approved by the Resolution of the Cabinet of

Ministers of Ukraine No. 471 of 12 June 2020 and submitted for review by the Verkhovna Rada of Ukraine (available at <https://www.kmu.gov.ua/npas/pro-zatverdzhennya-programi-diyalnosti-kabinetu-ministriv-t120620>).

On 18 June 2020, the said Programme was reviewed at a meeting of the Verkhovna Rada of Ukraine, but was not approved.

Regarding the law-making programme

The legislative work of the Cabinet of Ministers (legislative drafting) is subject to the Legislative Drafting Plan of the Verkhovna Rada of Ukraine for the year in question and may be adjusted in line with amendments to the legislation (i.e. taking into accounts the laws adopted during the year), socioeconomic developments and political situation.

The Legislative Drafting Plan of the Verkhovna Rada of Ukraine is prepared by committees of the Verkhovna Rada of Ukraine subject to the proposals of the Cabinet of Ministers. Proposals of the Cabinet of Ministers are prepared by ministries based on the provisions of the Action Programme of the Cabinet of Ministers, summarized by the Secretariat of the Cabinet of Ministers and sent by the Prime Minister to the Verkhovna Rada of Ukraine on an annual basis.

The Legislative Drafting Plan of the Verkhovna Rada of Ukraine for 2022 was approved by the Resolution of the Verkhovna Rada of Ukraine No. 2036-IX of 15 February 2022.

Apart from the legislative work under the Legislative Drafting Plan of the Verkhovna Rada of Ukraine, ministries may draft laws at their own initiative, where needed, or if the Prime Minister or the Cabinet of Ministers decides on the necessity of drafting a law.

Performance of the legislative work of the Government results in the submission of the draft law, as approved at a meeting of the Cabinet of Ministers, for consideration by the Verkhovna Rada of Ukraine. Drafting, mutual approval and submission of a law for consideration by the Cabinet of Ministers is regulated by the Rules of Procedure of the Cabinet of Ministers. The procedure for submission and adoption of draft laws at the Verkhovna Rada of Ukraine is regulated by the Rules of Procedure of the Verkhovna Rada of Ukraine.

The performance of the Government's legislative work is controlled by the Secretariat of the Cabinet of Ministers by way of monitoring of and control over:

- meeting the deadlines set for the submission of draft laws;

- ensuring proper wording of draft laws to be in line with the objectives identified in the course of the legislative work planning for the year in question.

Starting 2021, an automated system is used within the Secretariat of the Cabinet of Ministers to ensure efficient control. The system enables real-time monitoring of and control over the progress of performance of the Government's legislative work.

46. What types of legal acts exist? Please explain the course of legislative procedure needed for their adoption.

To date, there is no legislative act that would comprehensively regulate public relations related

to the development of regulations, their adoption, entry into force, defining the system, types, hierarchy of regulations.

At the same time, we note that in accordance with Article 8 of the Constitution of Ukraine, the principle of the rule of law is recognized and applied in Ukraine. The Constitution of Ukraine has the highest legal force. Laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it.

The Verkhovna Rada of Ukraine shall adopt laws, resolutions and other acts by a majority of its constitutional composition, except for the cases provided for by this Constitution.

On the basis of and in pursuance of the Constitution and laws of Ukraine, the President of Ukraine issues decrees and orders that are binding on the territory of Ukraine.

The Cabinet of Ministers of Ukraine on the basis of and pursuant to the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, issues binding acts - resolutions and orders.

Acts of the Cabinet of Ministers of Ukraine of a normative nature are issued in the form of resolutions of the Cabinet of Ministers of Ukraine.

Resolutions and orders of the Cabinet of Ministers of Ukraine shall be adopted at meetings of the Cabinet of Ministers of Ukraine by a majority vote of the staff of the Cabinet of Ministers of Ukraine determined in accordance with Article 6 of this Law. If the draft decision is supported by exactly half of the staff of the Cabinet of Ministers of Ukraine and the Prime Minister of Ukraine votes for this draft, the decision is considered adopted (Article 91, third paragraph of paragraph 31 of Article 106, part one of Article 117 of the Constitution of Ukraine, part one 49, part one of Article 51 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine").

In accordance with the provisions of the Law of Ukraine "On Central Executive Bodies", the Ministry within its powers, on the basis of and pursuant to the Constitution and laws of Ukraine, acts of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine. orders signed by the Minister.

The Ministry within its powers, on the basis of and pursuant to the Constitution and laws of Ukraine, acts of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine issues orders signed by the Minister.

Orders of the Ministry issued within its powers are binding on central executive bodies, their territorial bodies, local state administrations, authorities of the Autonomous Republic of Crimea, local governments, enterprises, institutions and organizations of all forms of ownership and citizens (parts the first, second article 15 of the Law of Ukraine "On Central Executive Bodies").

According to parts one and two of Article 6 of the Law of Ukraine "On Local State Administrations" pursuant to the Constitution of Ukraine, laws of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, ministries and other central executive bodies. own and delegated powers, the head of the local state administration within his powers issues orders, and the heads of structural units - orders.

In accordance with parts one, six, eight of Article 59 of the Law of Ukraine "On Local Self-

Government in Ukraine", the council within its powers adopts regulations and other acts in the form of decisions. The executive committee of the village, settlement, city, district in the city (in case of its creation) council within its powers makes decisions. The village, settlement, city mayor, the chairman of the district in the city, district, regional council within the limits of the powers issues orders.

We would also like to inform you that on November 16, 2021 the Verkhovna Rada of Ukraine adopted the draft Law of Ukraine "On Legislative Activity" (Reg. № 5707 of June 25, 2021, submitted by the People's Deputies of Ukraine Stefanchuk RO and others). principles and procedure for carrying out law-making activities in Ukraine.

47. Please describe the medium-term policy planning system.

The main activities of the Cabinet of Ministers in the government policy planning system are specified in the Action Programme of the Cabinet of Ministers. The Action Programme of the Cabinet of Ministers is adopted for the period that is equal to the period of the mandate of the Cabinet of Ministers (i.e. approximately five years). The medium-term policy planning system also consists of the following elements: Budget declaration, medium-term action plan of the Government for a three-year period, action plants of ministries for a three-year period, programme documents, namely government strategies.

"Budget declaration" means a medium-term budget planning document which sets out the principles of the budgetary policy and state budget indicator for a medium-term period and is the basis for drafting the State Budget of Ukraine and local budget forecasts.

The medium-term action plan of the Government is developed for the purpose of comprehensive identification of the ways to achieve the programme objectives under the Action Programme of the Cabinet of Ministers, taking into account the principles of domestic and foreign policies of the Verkhovna Rada. Such plan is valid for three years covering the planned year (from 1 January of the next year) and two years following the planned one (the draft has been prepared, but it has not been adopted yet due to the martial law). The provisions of the medium-term action plan of the Government should be consistent with the provisions of the budget declaration in terms of financial support for its implementation in the corresponding budget periods.

Action plans of ministries are developed for a medium-term period taking into account the budget declaration, the Law of Ukraine "On the State Budget of Ukraine", forecast and programme documents on economic and social development.

For the purpose of pursuing the state policy in the priority areas of the state development, the Government, at its meetings, reviews and adopts decisions on programme documents. Programme documents of the Cabinet of Ministers are developed for a short-term (up to three years), medium-term (three to seven years) and long-term (more than seven years) periods, depending on the complexity and duration of the objectives and actions to be laid down in them. Programme documents, apart from the Action Programme of the Cabinet of Ministers, include Government's sectoral development strategies (strategies), state special-purpose programmes and other documents of a programme nature, the requirements for the development and implementation of which are determined by laws of Ukraine or decrees of the President of Ukraine.

48. Are impact assessments (fiscal, regulatory, environmental, etc.) systematically prepared for draft legislation and policy proposals? What mechanisms exist to monitor the effective implementation of legal acts by public bodies (e.g. policy monitoring system in place, reporting requirements, administrative oversight, and inspections)?

In the process of drafting of legislative acts, a series of reviews and assessments of their provisions takes place, including:

- digital expert review by the Ministry of Digital Transformation to identify provisions that are inconsistent with the principles of implementation by the state executive authorities of the principles of state digital development policy;

- anti-corruption expert review by the National Agency on Corruption Prevention to identify factors that contribute to or may contribute to the commission of corruption offences;

- legal expert review by the Ministry of Justice, which examines the draft act of the Cabinet of Ministers for compliance with the Constitution of Ukraine, legislation and international treaties of Ukraine currently in force, Council of Europe standards in the field of democracy, rule of law and human rights, including the Convention for the Protection of Human Rights and Fundamental Freedoms, taking into account the case law of the European Court of Human Rights, the principles of non-discrimination (anti-discrimination review) and ensuring equal rights and opportunities for women and men (gender-sensitive legal review);

- strategic environmental assessment, i.e. identifying, description and evaluation of the implications of execution of the state planning documents for the environment, including public health, justified alternatives, development of measures to prevent, reduce and mitigate possible negative consequences (to be performed by the author of the draft);

- financial assessment by the Ministry of Finance, which reviews the financial and economic calculations prepared by the author concerning the impact of the act implementation on revenues and expenditures of the state and/or local budgets;

- economic assessment by the Ministry of Economy implies the study of impact of the act implementation on economic and social development indicators, as well as review of the compliance thereof with Ukraine's commitments under the Agreement Establishing the World Trade Organization;

- review of draft acts of the Cabinet of Ministers aimed at identifying their compliance with Ukraine's commitments in the area of the European integration, including in the area of international law, and with the *acquis* of the European Union, to be performed by the Government Office for Coordination on European and Euro-Atlantic Integration under the Secretariat of the Cabinet of Ministers.

Draft acts of the Cabinet of Ministers on specific issues are coordinated separately, namely:

- on the development of administrative and territorial units — with the relevant local state administrations, which inform the author of their position within the period specified by the author;

on issues related to the functioning of local self-governing bodies or the interests of territorial communities — the author sends the draft to the relevant local self-governing bodies for review and, upon receiving any proposals from such bodies, consider those proposals in the further elaboration of such draft acts;

on issues relating to the development and implementation of the state social and economic policy, regulation of labour, social, economic relations — the author sends the draft to the authorized representative of all-Ukrainian trade unions, their associations and the authorized representative of all-Ukrainian associations of employers' organisations;

on issues relating to the rights of people with disabilities — the author sends the draft to the Government Commissioner for the Rights of Persons with Disabilities, all-Ukrainian civil society organisations of people with disabilities, their associations in line with their statutory activities;

on issues relating to the functioning of local self-government, rights and interests of territorial communities, local and regional development (taking into account the topics of the consultations referred to in the Law of Ukraine “On Associations of Local Self-Governing Bodies”) — the author sends the draft to all-Ukrainian associations of local self-governing bodies;

on issues relating to the areas of scientific and scientific and technical activities — the author sends the draft to the Academic Committee of the National Council of Ukraine on Science and Technology Development for review and preparation of respective recommendations;

on issues relating to the functioning and use of Ukrainian as the state language — the author sends the draft act to the Commissioner for the Protection of the State Language, and the results of such review are reflected in an explanatory note;

In case of drafting an acts that is going to have a regulatory impact, the chief author of the draft act is guided by the provisions of the Law of Ukraine “On the Principles of State Regulatory Policy in the Area of Business”. Author analyses the regulatory impact of every draft regulatory act. Such analysis is subject to the requirements of Article 8 of the said Law before publishing the draft regulatory act with the purpose of receiving comments and proposals. The draft regulatory act, together with the analysis of its regulatory impact, is published in the manner prescribed in Article 13 of the Law. The methodology of the regulatory impact analysis of regulatory acts is approved by the Resolution of the Cabinet of Ministers No. 308 of 11 March 2004.

Regarding the mechanisms of monitoring of efficient implementation of legal and normative acts by public authorities

Monitoring of efficient implementation of legal and normative acts by public authorities includes monitoring of implementation of: programme documents of the Government, adopted acts, mid-term action plans for priority action plans, policies in particular areas.

Monitoring of the implementation of programme documents of the Cabinet of Ministers

1) The Action Programme contains the goals, criteria and deadlines for achieving the goals, and tasks that are necessary to achieve the goals, as well as deadlines for such tasks. On an annual basis, no later than 15 April of the current year, the Cabinet of Ministers of Ukraine submits to the Verkhovna Rada of Ukraine the progress report on the results of the Action Programme achieved in

the previous year (Article 11(2) and (6) of the Law of Ukraine “On the Cabinet of Ministers of Ukraine”).

2) Methodological support for the processes of preparation of programme documents of the Cabinet of Ministers, monitoring and evaluation of their implementation is ensured by the Secretariat of the Cabinet of Ministers, unless otherwise provided by law (paragraph 60 of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

Progress reports on the results of implementation of strategies and other programme documents are prepared by the authors of such documents and submitted to the Cabinet of Ministers at least every 12 months from the date of their approval, unless otherwise provided by such documents, and published on the official websites of bodies preparing such reports.

3) Control over implementation of the state targeted programme is exercised by the Cabinet of Ministers of Ukraine by reviewing the interim, annual and final reports on the results of implementation of the state targeted programme and a summary report on the final results of the programme.

Progress reports on the results of implementation of state targeted programmes are submitted to the Cabinet of Ministers of Ukraine and the Ministry of Economy by the entity ordering the state targeted programme according to the Procedure for Development and Implementation of State Targeted Programmes, approved by Resolution of the Cabinet of Ministers of Ukraine of No. 106 dated 31 January 2007.

Methodological support for the work on development and implementation of state special-purpose programmes, keeping record of such programmes and analysis of the progress of their implementation are among the responsibilities of the Ministry of Economy. Also, the Ministry of Economy submits proposals to the Cabinet of Ministers regarding the further implementation of state special-purpose programmes or their termination, and prepares a summary opinion on the ultimate results of the implementation of such programmes.

Control over implementation of the adopted acts

When developing the draft act, its author, among other things, prepares the estimated results of its implementation and determines the criteria (indicators) to evaluate the effectiveness of its implementation (paragraph 34(1) of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

The Prime Minister or the First Vice Prime Minister on his/her instruction designates the executive authorities responsible for ensuring the implementation of laws of Ukraine, resolutions of the Verkhovna Rada and acts of the President of Ukraine (paragraph 76(1) of the Rules of Procedure of the Cabinet of Ministers of Ukraine). The Secretariat of the Cabinet of Ministers then monitors the implementation by the executive authorities of acts of the Cabinet of Ministers of Ukraine and the assignments of the Prime Minister in terms of compliance with the deadlines set for their implementation (paragraph 79(1)(2) of the Rules of Procedure of the Cabinet of Ministers of Ukraine). The Secretariat of the Cabinet of Ministers systematically informs the Prime Minister about the results of control and monitoring. The Secretariat of the Cabinet of Ministers analyses the information, reports, statistics on the implementation of acts of the Cabinet of Ministers and assignments of the Prime Minister submitted by central and local executive authorities and bodies, the Council of Ministers of the Autonomous Republic of Crimea and prepares relevant materials and

conclusions for the consideration of the Prime Minister. (paragraph 79(2)–(3) of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

It should also be noted that on 16 November 2021, the Verkhovna Rada of Ukraine adopted in the first reading the draft Law of Ukraine “On Law-Making Activity”.

This draft Law provides for the performance of legal monitoring as a systematic activity of lawmakers, aimed at monitoring, analysing and evaluating the legislation during its implementation for the purpose of its further improvement and development forecasting. Legal monitoring is performed to identify the need for and possibility of improving or repealing the legal act currently in effect or preparing a new legal act, eliminating the conflicts and gaps in legal regulation (Article 61 of the draft Law of Ukraine “On Law-Making Activity”).

Monitoring of implementation of medium-term action plans and priority action plans

To implement the tasks determined by the Action Programme and other programme documents, the Cabinet of Ministers of Ukraine approves the medium-term action plans and priority action plans for a period of up to one year.

To monitor the implementation of the medium-term action plan of the Government and the priority action plan of the Government, these documents contain the indicators used to evaluate the achievement of certain goals, namely, the expected outcomes and deadlines for their achievement.

The progress of medium-term action plan of the Government and the priority action plan of the Government is annually monitored by the Secretariat of the Cabinet of Ministers jointly with ministries and other central executive authorities that are responsible for implementation of relevant tasks and activities.

Annually, in January – February, the Secretariat of the Cabinet of Ministers analyses the implementation of the Government’s medium-term action plan and develops recommendations for its updating taking into account the results achieved (paragraph 5-1 of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

Monitoring of policy implementation in certain fields

The Cabinet of Ministers of Ukraine determines the procedure for the development, implementation and monitoring of the implementation of programme documents of the Cabinet of Ministers of Ukraine (Article 4(3) of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” (Bulletin of the Verkhovna Rada of Ukraine (BVR), 2014, No. 13, p. 222)).

Normative legal acts regulating the monitoring of the policy implementation procedure have been adopted in various fields. For example:

1) According to Procedure for Monitoring the Consequences of Implementation of the State Planning Document for the Environment, Including the Health of the Population, approved by Resolution of the Cabinet of Ministers of Ukraine No. 1272 dated 16 December 2020, monitoring is carried out to:

identify the consequences of implementation of the state planning document for the environment, including the health of the population;

take measures to prevent, reduce and mitigate the negative consequences of the implementation of the state planning document; and

take measures to eliminate any identified negative consequences, not provided for by the report on strategic environmental assessment, if any.

Within 5 business days of the date of the approval of a state planning document, the author publishes information about the monitoring measures on its official website.

The author publishes the monitoring results on its official website once a year throughout the whole period of implementation of the state planning document, and a year after the end thereof.

2) The Procedure and Methodology for Monitoring and Evaluating the Effectiveness of the State Regional Policy, approved by Resolution of the Cabinet of Ministers of Ukraine No. 856 dated 21 October 2015, determine the procedure for monitoring and evaluating the effectiveness of state regional policy, which provides for periodic monitoring of relevant indicators based on the available official statistical data and information received from the executive authorities and local self-governing bodies, and conducting evaluation of the effectiveness of indicators by comparing the obtained results with their target values on the basis of the above-mentioned monitoring data.

The evaluation of the effectiveness of state regional policy is carried out by the Ministry of Regional Development with the involvement of public associations and research institutions (by agreement) on the basis of reports prepared by the executive authorities and local self-governing bodies on the results of evaluation of the effectiveness of implementation of documents defining the state regional policy.

3) According to the Procedure for Monitoring the Provision and Evaluating the Quality of Social Services, approved by Resolution of the Cabinet of Ministers of Ukraine No. 449 dated 1 June 2020, the monitoring of social services provision involves collecting and processing of information on social services, analysis of the aggregate information and planning of work related to the development of social services.

The collection of monitoring data takes place once a year or quarterly (monthly) in accordance with the legislation in the field of social services provision; the collection of operational data takes place as and when required.

When monitoring the provision of social services, the results of evaluation of quality of the social services, surveys of residents of the administrative territorial unit on the provision of social services, national surveys (if available) and control over compliance with the Law of Ukraine “On Social Services” should be taken into account.

The surveys of residents of the administrative territorial unit are conducted by regional social security bodies by communication means, information, telecommunication, information and telecommunication systems or in person at the premises of social security body at the place of person’s residence/stay with his/her prior consent.

Regarding the results of implementation of regulatory acts

According to Article 5 of the Law of Ukraine “On the Principles of State Regulatory Policy in the Area of Business”, ensuring implementation of the state regulatory policy includes, in particular:

monitoring of effectiveness of regulatory acts;

revision of regulatory acts;

systematisation of regulatory acts;

prevention of adoption of regulatory acts that are inconsistent or not in line or overlap with other regulatory acts in force.

Each regulatory act is subject to consistent basic, follow-up and periodic effectiveness monitoring (Article 10 of the Law). Monitoring is conducted by the regulatory authority (central or local executive authorities or bodies, the Council of Ministers of the Autonomous Republic of Crimea) that adopted the regulatory act, or was the chief author of the draft regulatory act adopted by the Cabinet of Ministers, or whose competence includes issues regulated by the regulatory act.

Monitoring consists of effectiveness monitoring measures, preparation and publication of effectiveness monitoring reports.

An effectiveness monitoring report on a regulatory act includes the following information:

quantitative and qualitative effectiveness indicators which are the results of effectiveness monitoring;

data and assumptions based on which the effectiveness monitoring was conducted, and ways of their production;

methods used to obtain the effectiveness monitoring results.

The methodology of monitoring the effectiveness of regulatory acts was approved by the Resolution of the Cabinet of Ministers No. 308 of 11 March 2004.

Regulatory act effectiveness monitoring reports are published by the regulatory authority on its official web page or in a printed media outlet (Article 13 of the Law).

The results of analysis of such regulatory act effectiveness monitoring reports may constitute grounds for their revision and/or abolishment (Article 11 of the Law).

A decision of the central executive authority implementing the state regulatory policy on the need to rectify violations of the principles of the state regulatory policy can apply to the regulatory act in general or to specific parts thereof. Such decision is subject to execution by the executive authority that adopted the regulatory act in question within two months of the date of adoption of such decision.

Reporting by the heads of the central or local executive authorities

The decision to hear the report (information) of the head of central or local executive authority or the Chairperson of the Council of Ministers of the Autonomous Republic of Crimea is made at the meeting of the Cabinet of Ministers upon the proposal of the Prime Minister (paragraph 62 of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

The report contains the results of the analysis of implementation of programme documents of the Cabinet of Ministers and legal acts, performance of tasks, exercise of powers, etc., and, in the presence of negative facts, the reasons for their occurrence and measures taken to remedy the situation (paragraph 63 of the Rules of Procedure of the Cabinet of Ministers of Ukraine).

Information and analytical systems to monitor the implementation of policies

1) Unified e-Governance Web Portal

In January 2019, the Unified e-Governance Web Portal was put into trial operation by integrating with SharePoint, Active Directory, Skype for business and PowerBI. As much as 28 modules were launched to monitor the implementation of the Priority Action Plan of the Government for 2019 and the Action Plan for Implementation of Strategy for Reforming the Public Management of Ukraine. In addition, the analytical sub-system and the corporate communication sub-system were introduced.

Furthermore, the Unified e-Governance Web Portal is designated for ensuring vertical and horizontal communication within executive authorities, automation of procedures of collection, processing and analysing of information, support of managerial decisions, creation of the unified environment for placing, search and joint work on draft documents, creation, planning, control and prompt monitoring of the task performance status.

By the Resolution of the Cabinet of Ministers of 01.07.20 No. 548 “On amending the resolutions of the Cabinet of Ministers of Ukraine of 14 March 2012 No. 236 and of 18 September 2019 No. 856” ensuring of functioning of the Unified e-Governance Web Portal is entrusted to the Secretariat of the Cabinet of Ministers.

In particular, this portal provides a possibility to perform real-time monitoring of the implementation by ministries and other central executive authorities of the priority action plans of the Government for the year in question, action plans adopted for the implementation of strategies, the law-making plan of the Verkhovna Rada of Ukraine for the year in question and the National Economic Strategy until 2030. This system shows the tasks of operational plans approved by the ministries and other central executive authorities, whose activities are directed and coordinated directly by the Cabinet of Ministers of Ukraine.

The system is focused on monitoring the implementation of detailed measures, which are pre-determined by the responsible entities (ministries, other central executive authorities), and reflects the phased implementation of tasks defined by the programme and planning documents.

The responsible entities regularly and promptly enter the updated information on the implementation of such tasks and activities to the system.

The system is an effective and important tool allowing not only an in-depth monitoring, but also the adjusting of progress in tasks and public policy implementation in general, if necessary. In addition, a certain and specific indication of entities responsible for the specific tasks increases the effectiveness of implementation of programme and planning documents.

In particular, in the case of monitoring the Government’s Priority Action Plan based on the results of reports on the implementation of the Plan’s tasks prepared with the help of the electronic system, the issue of paying bonuses to first deputy ministers and deputy ministers is resolved.

2) Result-based information and analytical system of policy implementation monitoring

In 2021, by its Resolution “On Approval of Procedure for Running an Experimental Project to Increase the Efficiency of Planning of the Activities of the Cabinet of Ministers of Ukraine” No. 1171

dated 10 November 2021, the Cabinet of Ministers of Ukraine has introduced a pilot project to increase the efficiency of planning of the activities of the Cabinet of Ministers of Ukraine.

The project's aim is to increase the efficiency of the activities planning processes based on the principles of the results-based management by ensuring coordinated and consistent actions of the ministries and other central and local executive authorities to develop, implement and monitor the programme documents of the Cabinet of Ministers of Ukraine and planning documents of the Cabinet of Ministers of Ukraine with the use of information technologies.

The participants of the pilot project are the Secretariat of the Cabinet of Ministers of Ukraine, as well as ministries and other central and local executive authorities that develop, implement and monitor programme documents of the Cabinet of Ministers of Ukraine and planning documents of the Cabinet of Ministers of Ukraine.

This pilot project is implemented with the use of Unified Information System for Planning and Monitoring the Activities of the Cabinet of Ministers of Ukraine software product.

3) Agreement Pulse

The implementation of the Association Agreement between Ukraine, on the one part, and the European Union, the European Atomic Energy Community and their Member States, on the other part, is monitored with a help of Agreement Pulse, an information and analytical system for monitoring the implementation of the Association Agreement, which was developed and implemented by the Government in 2017 and which is publicly available.

4) VzaiemoDiia [InterAction] Platform

In August 2021, a public discussion was held with regard to the draft Resolution of the Cabinet of Ministers of Ukraine "On Online Platform for Interaction of Executive Authorities with Citizens and Civil Society Institutions".

The draft act envisaged the development and operation of VzaiemoDiia [InterAction] Platform, designed to introduce and use e-democracy tools, ensure convenient and accessible electronic communication between the citizens, civil society institutions and executive authorities, increase the transparency of the process of public councils formation with the executive authorities, and assist in the exercising of citizens' rights to participate in the management of public affairs.

5) Information exchange system

The exchange of information on the status of implementation of tasks between the Cabinet of Ministers, the ministries and other central executive authorities is carried out automatically using a secure electronic government database. The structure of the database management system has accounts for the responsible experts from the ministries, the Secretariat of the Cabinet of Ministers and other state authorities (if necessary). Each responsible expert of the ministry is shown an individual list of tasks to be performed and the deadlines set for their performance. The duties of the responsible experts of the ministries include timely provision of information on the status of performance of each assigned task. The duties of the responsible experts from the Secretariat of the Cabinet of Ministers include analysis of information received from the responsible experts of ministries, monitoring the completeness and timeliness of the performance of tasks, evaluating the effectiveness, efficiency and cost-effectiveness of public policy, providing feedback to the ministries

based on the results of study of such information. The Secretariat of the Cabinet of Ministers collects and administers an array of information received from the ministries, records the chronology of each individual task, and maintains statistical data on the completeness and timeliness of the performance of tasks disaggregated by ministries, tasks, time periods, etc.

6) Procedure for checking the executive discipline

The procedure for checking the executive discipline with the executive authorities was approved by Resolution of the Cabinet of Ministers of Ukraine No. 844 dated 15 September 2010. This procedure provides that at the instruction of the Prime Minister of Ukraine, the First Vice Prime Minister of Ukraine, the Vice Prime Ministers of Ukraine, the Minister of the Cabinet of Ministers of Ukraine in accordance with their powers and authority, and to ensure high efficiency and observance of the terms of performance of tasks defined by the legal acts and instructions, to provide the necessary assistance to the heads of executive authorities and to prepare recommendations for the improvement of executive discipline, the executive authorities shall undergo checking of the executive discipline. Within one month after the check, the executive authority that underwent the check informs the Cabinet of Ministers of Ukraine about the work done to eliminate the identified shortcomings and measures taken to hold the employees guilty of violations liable.

C. Public service and human resources management

49. Please present the legal framework governing the public service (civil servants, other public employees, political appointees, temporary employees)?

The following acts are governing public service:

- Constitution of Ukraine;
- Labour Code of Ukraine;
- Law of Ukraine On Civil Service;
- Law of Ukraine On the Cabinet of Ministers of Ukraine;
- Law of Ukraine On Local State Administrations;
- Law of Ukraine On Central Executive Authorities;
- Law of Ukraine On Local Self-Governance in Ukraine;
- Law of Ukraine On Service in Local Self-Government Authorities
- Law of Ukraine On Prevention of Corruption;
- Resolution of the Cabinet of Ministers of Ukraine as of September 10, 2014 № 442 “On Optimization of the System of Central Executive Authorities”;
- Resolution of the Cabinet of Ministers of Ukraine as of March 12, 2005 № 179 “On Streamlining the Structure of the Apparatus of Central Executive Authorities, their Territorial Subdivisions and Local State Administrations”;
- Resolution of the Cabinet of Ministers as of Ukraine of March 25, 2016 № 246 On approval of the Procedure for Holding a Competition for Civil Service Positions;

– Resolution of the Cabinet of Ministers of Ukraine as of December 04, 2019 № 1039 On Approval of the Procedure for Disciplinary Proceedings;

– Resolution of the Cabinet of Ministers of Ukraine as of February 06, 2019 № 106 On Approval of the Regulations on the System of Professional Training of Civil Servants, Heads of Local State Administrations, their First Deputies and Deputies, Local Self-Government Officials and Deputies of Local Councils;

– Resolution of the Cabinet of Ministers of Ukraine as of January 18, 2017 № 15 Issues of Remuneration of Employees of Government Authorities;

– Resolution of the Cabinet of Ministers of Ukraine as of March 25, 2016 № 229 On Approval of the Procedure for Calculating the Length of Civil Service;

– Resolution of the Cabinet of Ministers of Ukraine as of April 20, 2016 № 306 The Issue of Assigning Ranks of Civil Servants and the Relationship between the Ranks of Civil Servants and the Ranks of Local Self-Government Officials, Military Ranks, Diplomatic Ranks and other Special Ranks;

– Resolution of the Cabinet of Ministers of Ukraine as of March 25, 2016 № 243 On Approval of the Regulations on the Senior Civil Service Commission;

– Resolution of the Cabinet of Ministers of Ukraine as of August 23, 2017 № 640 On Approval of the Procedure for Evaluating the Results of Official Activity of Civil Servants;

– Resolution of the Cabinet of Ministers of Ukraine as of April 06, 2016 № 270 On Approval of the Procedure for Granting Additional Paid Leave to Civil Servants;

– Resolution of the Cabinet of Ministers of Ukraine as of August 08, 2016 № 500 On Approval of the Procedure for Providing Material Assistance to Civil Servants to Address Social and Domestic Issues.

50. What are the distinctions between different types of public servants (e.g. civil servant, other public employees, political appointees, etc.) in terms of their status, legal regime, rights and obligations? What are the safeguards in place against the politicisation of the civil service?

Relations arising in connection with the entry into the civil service, its passage and termination are governed by the Law of Ukraine as of December 10, 2015 № 889-VIII “On Civil Service” (hereinafter - the Law) which complies with European principles and standards. The Law defines the principles, legal and organizational basis of ensuring public, professional, politically impartial, effective, citizen-oriented civil service that operates in the interests of the state and society, as well as the procedure for exercising for Ukrainian citizens the right of equal access to civil service based on their personal qualities and achievements.

According to Article 1 of the Law, civil service is a public, professional, politically impartial activity on the practical implementation of tasks and functions of the state, in particular on:

analysis of state policy at the nationwide, sectoral and regional levels and preparation of proposals for its formation, including the elaboration and examination of draft programs, concepts, strategies, draft laws and other regulations, draft international treaties;

ensuring the implementation of state policy, implementation of nationwide, sectoral and regional programs, implementation of laws and other regulations;

ensuring the provision of accessible and high-quality administrative services;

implementation of state supervision and control over compliance with legislation;

management of state financial resources, property and control over their use;

personnel management of government authorities;

implementation of other powers of the government authority defined by the legislation.

A civil servant is a citizen of Ukraine who holds a position of civil service in a government authority, other state authority, its apparatus (secretariat) (hereinafter - the government authority), receives a salary from the state budget and exercises the powers established for this position, directly related to the performance of tasks and functions of such a government authority, as well as adheres to the principles of civil service.

The provisions of Article 6 of the Law provides that civil service positions in government authorities are divided into categories and subcategories depending on the procedure of appointment, nature and scope of powers, content of work and its impact on the final decision, degree of official responsibility, required qualifications and professional competencies of civil servants.

Established civil service positions such as category “A” (senior civil service), category “B” and category “C”.

Category “A” includes the positions of the Chief of Apparatus of the Verkhovna Rada of Ukraine and his Deputies; Chief of Apparatus (Secretariat) of the permanent subsidiary body established by the President of Ukraine; State Secretary of the Cabinet of Ministers of Ukraine and his Deputies, State Secretaries of Ministries; Heads of central executive authorities that are not members of the Cabinet of Ministers of Ukraine and their Deputies; Heads of Apparatus of the Constitutional Court of Ukraine, the Supreme Court, higher specialized courts and their deputies, Heads of Secretariats of the High Council of Justice, the High Qualifications Commission of Judges of Ukraine and their Deputies, the Head of the State Judicial Administration of Ukraine and his Deputies; Heads of civil service in other government authorities whose jurisdiction extends to the entire territory of Ukraine, and their Deputies.

Category “B” includes positions of Heads and Deputy Heads of state government authorities whose jurisdiction extends to the territory of the Autonomous Republic of Crimea, one or more oblasts, cities of Kyiv and Sevastopol, one or more districts, districts in cities, cities of regional significance; Heads of civil service in government authorities whose jurisdiction extends to the territory of the Autonomous Republic of Crimea, one or more oblasts, cities of Kyiv and Sevastopol, one or more districts, districts in cities, cities of regional significance; heads and deputy heads of structural subdivisions of government authorities, regardless of the level of jurisdiction of such government authorities.

Category “C” - other civil service positions not included in categories “A” and “B”.

Determining the subcategories of civil service positions and equating civil service positions is carried out by the Cabinet of Ministers of Ukraine at the request of the central executive authority, which ensures the formation and implementation of state policy in the field of civil service.

Given the difference in the nature and scope of powers, content and its impact on the final decision, the degree of responsibility, the required level of qualifications and professional competencies of civil servants in entering the civil service, different requirements are set for the professional competence of candidates.

Thus, Article 19 of the Law provides that adult citizens of Ukraine who speak the state language in accordance with the level determined by the National Commission on State Language Standards and who have been awarded a higher education degree not lower than a master's degree for positions of categories "A" and "B", bachelor, junior bachelor - for positions of category "C".

In addition, according to Article 20 of the Law, a person applying for a civil service position must meet the following general requirements:

1) for positions of category "A" - total work experience of at least seven years; experience in civil service positions of categories "A" or "B" or in positions not lower than the heads of structural units in local self-government authorities, or experience in managerial positions in the relevant field for at least three years; fluency in the state language, possession of a foreign language, which is one of the official languages of the Council of Europe;

2) for positions of category "B" in a government authority whose jurisdiction extends to the entire territory of Ukraine, ment authorities, or experience in managerial positions of enterprises, institutions and organizations, regardless of ownership for at least two years, fluency in the state language;

3) for positions of category "C" in government authority whose jurisdiction extends to the territory of one or more oblasts, the city of Kyiv or Sevastopol, and its apparatus - experience in civil service positions of categories "B" or "C" or experience in service in local self-government authorities, or experience in management positions of enterprises, institutions and organizations, regardless of ownership for at least two years, fluency in the state language;

4) for positions of category "B" in another government authority, except for those specified in paragraphs 2 and 3 of this part - experience in civil service positions of categories "B" or "C" or experience in local self-government authorities, or experience in management positions of enterprises, institutions and organizations, regardless of ownership for at least one year, fluency in the state language;

5) for positions of category "C" - the presence of higher education not lower than a junior bachelor's degree or a bachelor's degree at the discretion of the subject of appointment, fluency in the state language.

Persons applying for civil service positions of category "A" must meet the standard requirements (including special) approved by the Cabinet of Ministers of Ukraine. Thus, the Resolution of the Cabinet of Ministers of Ukraine as of July 22, 2016 № 448 approved the Standard requirements for persons applying for civil service positions of category "A" (as amended).

Also, in accordance with the norms of the third part of Article 39 of the Law, civil servants holding civil service positions of category “A” are assigned 1, 2, 3 rank, civil servants holding civil service positions of category “B” are assigned 3, 4, 5, 6 rank, civil servants holding civil service positions of category “C” are assigned 6, 7, 8, 9 rank.

It should be noted that in order to bring the legislation on civil service in line with the principles of public administration defined by SIGMA/OECD, as well as to increase public confidence in civil service and competition, promotion and involvement of citizens in civil service, NAUCS was developed and submitted to the Cabinet Minister of Ukraine draft Law of Ukraine “On Civil Service” to improve the procedure for entry, passage, termination of civil service, which, in particular, improved the competitive procedure, strengthened the steadiness and stability of civil service, the heads of the civil service were provided with tools for making effective management decisions. The draft law was registered in the Verkhovna Rada of Ukraine as of December 31, 2021 for № 6496. Currently, the draft law is being working up by the Verkhovna Rada Committee on the Organization of State Power, Local Self-Governance, Regional Development and Urban.

In addition, there are non-civil service positions in government authorities, including patronage positions and service staff.

Thus, according to paragraph 8 of the first part of Article 2 of the Law, service functions are the activities of employees of government authority that do not involve the exercise of powers directly related to performing the tasks and functions specified in the first part of Article 1 of this Law. It should be noted that the Criteria for determining the list of employees of government authorities performing service functions are approved by the Cabinet of Ministers of Ukraine at the request of the central executive authority that ensures the formation and implementation of public policy in the civil service.

According to the Criteria for determining the list of positions of employees of government authorities performing service functions, approved by the Cabinet of Ministers of Ukraine as of April 06, 2016 № 27, the criteria for determining the list of positions of government authorities performing service functions are the content and nature of their work, which in the vast majority does not provide for the exercise of powers directly related to the performance of tasks and functions specified in Article 1 of the Law, as well as work related to ensuring proper conditions for the functioning of government authorities, including:

comprehensive service and repair of buildings, work on the maintenance of the surrounding area, restoration and construction work;

documentation and record keeping (except for employees who process documents that are classified as “for official use” or who are classified as “of special importance”, “top secret”, “secret”);

computer support and implementation of information technologies (except for employees whose competence includes the formation, administration and development of nationwide electronic registers, databases, information systems, as well as information security);

performing the tasks and functions of an interviewer, secretary and stenographer;

computer typing, work with copying and duplicating equipment, recording, accumulation, systematization, verification and processing of digital and other data, selection of reference and information material;

performance of tasks and functions of the cashier, the responsible duty officer, the dispatcher, the operational duty officer;

maintaining an archive and performing library service functions;

material and technical and economic support.

They do not include the positions of employees performing service functions, the positions of heads and deputy heads of independent structural subdivisions of government authorities.

The list of positions of government authorities employees performing service functions is determined in accordance with:

documents, namely regulations, directives, methodical recommendations, manuals, qualification characteristics, position descriptions, normative documents that determine the requirements for the content and nature of work performed in the position, requirements for training (obtaining by person a profession, specialty) and other requirements for the level professional competence of persons applying for positions of employees of government authorities performing service functions;

drafts of organizational and administrative documents that reflect the structure of public bodies, including the ratio of civil service positions and positions of employees of such bodies that perform service functions.

At the same time, the provisions of Article 92 of the Law provides that the positions of patronage service include positions of advisers, assistants, commissioners and press secretary of the President of Ukraine, employees of secretariats of the Chairman of the Verkhovna Rada of Ukraine, his First Deputy and Deputy, employees of the secretariats of parliamentary factions (deputy groups) in the Verkhovna Rada of Ukraine, employees of the patronage services of the Prime Minister of Ukraine and other members of the Cabinet of Ministers of Ukraine, assistant advisers to deputies of Ukraine, assistants and scientific advisers to judges of the Constitutional Court, assistant judges, as well as positions of patronage services in other government authorities.

An employee of the patronage service is appointed to a position for the term of office of the person or for the period of activity of the deputy faction (deputy group) in the Verkhovna Rada of Ukraine, the employee of the patronage service of which he is appointed.

Labor relations with an employee of the patronage service shall be terminated on the day of termination of the person's powers or termination of the activity of the deputy faction (deputy group) in the Verkhovna Rada of Ukraine, the employee of the patronage service of which he is appointed.

Peculiarities of the patronage service in courts, bodies and institutions of the justice system are determined by the legislation on the judiciary and the status of judges.

The time spent on the position of patronage service is included in the length of civil service and is taken into account when assigning a civil servant a rank within the relevant category of positions,

if before the appointment to the patronage service he was in the civil service and returned to the civil service after dismissal.

An employee of the patronage service who has expressed a desire to enter or return to the civil service, exercises this right in the manner prescribed by this Law for persons entering the civil service for the first time, with mandatory competition.

At the same time, Article 12 of the Law of Ukraine “On Central Executive Authorities” provides that the Minister has the right to establish a patronage service of the Minister within the maximum number of civil servants and employees of the Ministry and the costs of maintaining the Ministry. The number of the patronage service of the Minister is not more than ten people.

The Minister’s Patronage Service advises the Minister, prepares the necessary materials for the Ministry’s tasks, liaises with officials of other public authorities, organizes meetings and public relations, the media, and performs other instructions of the Minister.

The Minister independently determines the personnel of the patronage service of the Minister. Employees of the patronage service of the Minister are appointed and dismissed by the State Secretary of the Ministry on the proposal of the Minister, as well as in connection with the dismissal of the Minister.

Employees of the patronage service of the Minister have no right to give instructions to civil servants and employees of the Ministry.

Employees of the patronage service are subject to labor legislation with the peculiarities established by law.

It is also worth mentioning political positions that are not covered by labor and civil service legislation.

According to the third part of Article 6 of the Law of Ukraine On the Cabinet of Ministers of Ukraine (hereinafter - Law № 794-VII), political positions include positions of members of the Cabinet of Ministers of Ukraine (ministers headed by relevant ministries), which are not covered by labor legislation and civil service legislation.

The Prime Minister of Ukraine is appointed on the position by the Verkhovna Rada of Ukraine on the proposal of the President of Ukraine (the procedure for appointment is determined by Article 8 of Law № 794-VII).

On the proposal of the Prime Minister of Ukraine, the Verkhovna Rada of Ukraine may appoint ministers persons who do not head the ministries. No more than two such ministers may be appointed to the Cabinet of Ministers of Ukraine. Regulations on the relevant ministers are approved by the Cabinet of Ministers of Ukraine (part five of Article 6 of Law № 794-VII).

The procedure for appointing members of the Cabinet of Ministers of Ukraine is determined by Article 9 of the Law № 794-VII.

Members of the Cabinet of Ministers of Ukraine, in addition to the Prime Minister of Ukraine, the Minister of Defense of Ukraine and the Minister of Foreign Affairs of Ukraine, are appointed by the Verkhovna Rada of Ukraine on the proposal of the Prime Minister of Ukraine.

The Minister of Defense of Ukraine and the Minister for Foreign Affairs of Ukraine are appointed by the Verkhovna Rada of Ukraine on the proposal of the President of Ukraine.

The positions of the First Deputy Minister and Deputy Ministers belong to political positions that are not covered by labor legislation and civil service legislation, according to part five of Article 9 of the Law of Ukraine On Central Executive Authorities.

The Head of the Security Service of Ukraine is appointed and dismissed by the Verkhovna Rada on the proposal of the President of Ukraine (Article 13 of the Law of Ukraine On the Security Service of Ukraine).

The First Deputy and Deputy Chairman of the Antimonopoly Committee of Ukraine from among the state commissioners are appointed and dismissed by the Cabinet of Ministers of Ukraine on the proposal of the Chairman of the Antimonopoly Committee of Ukraine (Article 9 of the Law of Ukraine On the Antimonopoly Committee of Ukraine).

In addition, the status of local self-government officials is regulated separately at the legislative level. The relations arising in connection with the entry into service in local self-government authorities, its passage and termination are regulated by the Law of Ukraine On Service in Local Self-Government Authorities. The mentioned Law regulates legal, organizational, material and social conditions of realization of Ukrainian citizens' right to serve in local self-government authorities, determines general principles of activity of local self-government officials, their legal status, procedure and legal guarantees of service in local self-government authorities.

According to Articles 1 and 2 of the Law of Ukraine On Service in Local Self-Government Authorities, service in local self-government authorities is a professional, permanent activity of Ukrainian citizens holding positions in local self-government authorities aimed at the realization by the territorial community of its right to local self-government and certain powers of executive authorities provided by law.

Local self-government official is a person who works in local self-government authorities, has the relevant official powers to perform organizational and administrative and advisory functions and receives a salary from the local budget.

The Law On Service in Local Self-Government Authorities does not apply to technical staff and service personnel of local self-government authorities.

According to Article 14 of the Law of Ukraine On Service in Local Self-Government Authorities, seven categories of positions are established in local self-government authorities.

Article 15 of the Law of Ukraine On Service in Local Self-Government Authorities provides that the following ranks of local self-government officials are established: persons holding positions classified in the first category may be assigned 3, 2 and 1 rank, persons holding positions, assigned to the second category, may be assigned 5, 4 and 3 rank, persons holding positions assigned to the third category may be assigned 7, 6 and 5 rank, persons holding positions assigned to the fourth category may be assigned 9, 8 and 7 rank, persons holding positions in the fifth category may be assigned 11, 10 and 9 rank, persons holding positions in the sixth category may be assigned 13, 12 and 11 ranks, persons holding positions classified in the seventh category may be assigned 15, 14 and 13 ranks.

In 2021, a new version of the Law of Ukraine On Service in Local Self-Government Authorities was elaborated. The draft law was duly approved by the Government and registered in the Verkhovna Rada of Ukraine for №6504. Currently, the draft law is being working up by the Verkhovna Rada Committee on the Organization of State Power, Local Self-Governance, Regional Development and Urban. The purpose of the draft law: to ensure the conditions and procedure for the exercise by citizens of Ukraine of the right of equal access to service in local self-government authorities; to make the activity of local self-government officials open, professional, politically impartial and effective, while harmonizing the basic procedures for selection and service in local self-government authorities with the provisions of the Law of Ukraine On Civil Service.

What are the safeguards in place against the politicisation of the civil service?

A key element in ensuring counteracting the politicisation of the civil service is the principle of political impartiality in the civil service of Ukraine.

According to Article 4 of the Law, civil service is carried out, in particular, in compliance with the principle of political impartiality, which is to prevent the influence of political views on the actions and decisions of civil servants, as well as refraining from demonstrating their attitude toward political parties, demonstrating of one's own political views in the performance of official duties.

At the same time, Article 10 of the Law provides that a civil servant must impartially carry out lawful orders (instructions), instructions of leaders, regardless of their party affiliation and their political beliefs.

A civil servant shall not have the right to demonstrate his/her political views and commit other acts or omissions that may in any way indicate his/her special attitude towards political parties and negatively affect the image of the government authority and trust to the government or threaten the constitutional order, territorial integrity and national security, the health and rights and freedoms of other people.

A civil servant has no right to:

- 1) be a member of a political party, if such a civil servant holds a civil service position of category "A". During the civil service in the position of category "A" a person suspends his membership in a political party;
- 2) hold positions in the governing bodies of a political party;
- 3) combine the civil service with the status of a deputy of a local council, if such a civil servant holds a civil service position of category "A";
- 4) involve, using their official position, civil servants, local self-government officials, employees of the budget sphere, other persons to participate in the election campaign, actions and events organized by political parties;
- 5) in any other way to use his official position for political purposes.

In case of registration of a civil servant as a candidate for deputies by the Central Election Commission, election commissions formed in accordance with the established procedure, he/she is obliged to notify the head of the civil service in writing within one day.

According to his/her application, a civil servant is granted unpaid leave for the time of participation in the election process. Mentioned leave is granted by the decision of the head of the civil service from the date of his notification of participation in the election process and until the day of its completion in accordance with the election legislation.

A civil servant has no right to organize and participate in strikes and campaigning (except for the registration of a civil servant as a candidate for deputy by the Central Election Commission, election commissions formed in the prescribed manner, he/she must notify the head of civil service in writing within one day).

It should be noted that one of the tools to counteract the politicisation of the civil service, in particular during the selection of persons to fill a vacant civil service position of category “A”, is the functioning of the Senior Civil Service Commission.

The Commission is called to promote the formation of the professional corps of the civil service, its protection from illegal, primarily political influences.

The Senior Civil Service Commission is a permanent collegial body in accordance with the first part of Article 14 of the Law.

The collegiality of the Commission should guarantee an appropriate level of openness in resolving important personnel issues in the state, trust in appointments to senior civil service positions.

According to the second part of Article 14 of the Law, the Commission consists of:

- 1) a representative of the Verkhovna Rada of Ukraine appointed by the committee of the Verkhovna Rada of Ukraine, the subject of which is the issues on civil service;
- 2) a representative determined by the President of Ukraine;
- 3) a representative determined by the Cabinet of Ministers of Ukraine;
- 4) the head of the central executive authority, which ensures the formation and implementation of state policy in the field of civil service (ex officio), or on his behalf, the deputy head of this authority;
- 5) personnel management expert determined by the Cabinet of Ministers of Ukraine;
- 6) two representatives - one representative each from higher education institutions providing training in the field of public administration, and from public associations elected in accordance with the procedure approved by the Cabinet of Ministers of Ukraine.

The approach provided by Law to the formation of the Commission, in particular the presence of members of the public in its composition, should ensure its impartiality and representation of the interests of society.

51. Please describe the recruitment procedure for the different categories of civil servants (e.g. senior, middle and low level managers, executive/non-managerial level).

Article 38 of the Constitution of Ukraine stipulates that citizens enjoy equal rights of access to the civil service, as well as to service in local self-government authorities.

According to Article 21 of the Law of Ukraine “On Civil Service”, entry into the civil service is carried out by appointing a citizen of Ukraine to a civil service position based on the results of the competition.

Admission of citizens of Ukraine to civil service positions without holding a competition is prohibited, except as provided by law.

In accordance with the provisions of Article 22 of the Law, in order to select persons capable of professionally performing official duties, a competition is held in accordance with the Procedure for Competition, approved by the Cabinet of Ministers of Ukraine.

The Procedure for holding a competition for civil service positions was approved by the Cabinet of Ministers of Ukraine as of March 25, 2016 №246, determines the procedure for holding a competition for vacant civil service positions, which aims to select professionals capable of performing official duties.

The competition is conducted in accordance with the statutory requirements for the professional competence of a candidate for a vacant civil service position based on the assessment of his personal achievements, knowledge, skills, moral and business qualities for the proper performance of official duties.

Requirements for the professional competence of the candidate for the position include qualification requirements, competence requirements and professional knowledge requirements.

In accordance with paragraph 6 of the Procedure for the competition, the competition is conducted in the following stages:

- 1) decision-making on the announcement of the competition;
- 2) publication of the announcement of the competition;
- 3) acceptance and consideration of information from persons wishing to participate in the competition;
- 4) conducting testing and determining its results;
- 5) solving situational tasks and determining their results (in case the Commission or the competition commission determines the need to solve situational tasks);
- 6) conducting an interview and determining its results;
- 7) compilation of the general rating of candidates;
- 8) determination by the subject of appointment or the head of the civil service of the winner (winners) of the competition;
- 9) publication of the competition results.

It should be noted that in order to optimize and professionalize the competitive selection for civil service positions, the Center for Evaluation of Candidates for Civil Service Positions (hereinafter - the Evaluation Center) was established to organize and conduct assessment of professional competence of candidates for civil service positions.

In accordance with the provisions of paragraph 1 of the Procedure, the Evaluation Center conducts testing for positions of category “A”, positions of reforms specialists of categories “B” and “C” and positions of categories “B” and “C” in ministries and other central executive authorities (except for positions in their territorial authorities, which are formed as structural units of the apparatus that do not have the status of legal entities), except for remote testing for knowledge of the law of candidates for positions of categories “B” and “C”, which do not belong to reforms specialist positions (by using the candidate’s computer equipment and connecting through a personal account on the Unified Portal of Civil Service Vacancies).

Other authorities may hold the competition or its individual stages in the Evaluation Center.

For the proper and transparent organization of the competitive selection process, the Unified Portal of Civil Service Vacancies <https://career.gov.ua> has been created and is functioning, which is administered by the NAUCS. This platform communicates with both candidates and representatives of government authorities that are directly involved in the competitive selection of civil servants. Yes, all vacancies for civil service positions are posted on this Portal. Also, all information for participation in the competition is submitted by candidates through the Unified Portal of Civil Service Vacancies. A qualified electronic signature of the candidate is affixed to the electronic documents submitted for participation in the competition.

In accordance with paragraphs 26, 28-30, 32 of the Procedure, candidates undergo the following types of testing:

for positions of category “A” - for knowledge of law and abstract thinking;

for positions of categories “B” and “C” - for knowledge of the law.

All candidates applying for one position undergo the same types of testing.

Testing for knowledge of the legislation is conducted to determine the level of knowledge of the Constitution of Ukraine, civil service legislation, anti-corruption and other legislation.

The list of test questions for knowledge of the law and answer options (indicating the correct answer) is approved by the NAUCS and published on its official website.

Testing and determination of its results are carried out with the help of software, which is administered by NAUCS.

During testing, questions for each candidate are selected automatically from a list of test questions. One test task includes 40 test questions. Each question has four possible answers, one of which is correct.

After the testing, a test of foreign language proficiency is conducted for candidates for category “A” positions.

Such an examination is conducted at the Assessment Center on the basis of tasks approved at a meeting of the Commission on Senior Civil Service (hereinafter - the Commission) and include lexical and grammar test, written comprehension, oral skills (listening), skills of expressing one’s opinion in a foreign language.

Tasks for testing foreign language proficiency of candidates for category “A” positions are not made public.

The next stage of the competition is to solve situational tasks and determine the results. Thus, in accordance with paragraph 41 of the Procedure, the solution of situational tasks may be carried out by candidates for civil service positions of categories “A” and “B” by the decision of the Commission or the competition commission.

Solution of situational tasks is carried out in order to determine the ability of candidates to use their knowledge and experience in the performance of official duties by assessing the competence and professional knowledge of the candidate to the established requirements, including knowledge of special legislation related to tasks and content work of a civil servant in accordance with the position description.

After solving the situational tasks and determining their results, the candidates are interviewed. According to paragraph 50 of the Procedure, the interview is conducted to assess the compliance of the candidate's professional competence with the established requirements that were not assessed in previous stages of the competition, as well as the requirement “Integrity and ethical conduct” for candidates for civil service category “A”.

The interview is conducted by the Commission or the competition commission, as well as the persons involved in its work.

In order to be admitted to the next stage of the competition, the Commission or the competition committee determines the three candidates who scored the highest total number of points according to the overall ranking of candidates.

In order to determine the winner (winners) of the competition, an interview is conducted:

to hold positions of category “A” and positions of category “B”, which exercise the powers of heads of civil service in government authorities - the subject of appointment;

to hold other positions of categories “B” and “C” - the head of the civil service.

It should be noted that from 2021, according to the decision of the appointing entity or the head of the civil service, it can be carried out remotely (without the physical presence of the candidate in the specified premises):

testing for knowledge of the legislation of candidates for positions of categories “B” and “C”, which do not belong to the positions of reform specialists (by using the candidate's computer equipment and connecting through a personal account on the Unified Portal of Civil Service Vacancies);

interview for positions of categories “A”, “B” and “C” (by using technical means in videoconferencing);

an interview to determine the winner (winners) of the competition for the positions of categories “A”, “B” and “C” by the appointing entity or the head of the civil service (by using technical means in videoconferencing).

The results of the competition are published on the Unified Civil Service Vacancies Portal (<https://career.gov.ua>) no later than 45 calendar days from the date of publication of the announcement of such a competition.

In addition, the Procedure defines the features of the competition for the reforms specialists positions of categories “B” and “C”.

In accordance with paragraphs 72 - 74 of the Procedure, in order to ensure maximum transparency of the competition for the reform specialists positions, video recording of the competitive selection procedure (testing, solving situational tasks and interviews) is video-recorded, unless otherwise provided by law.

Candidates for the reform specialists position undergo the following types of testing: analytical skills and/or ability to work with information, as well as testing for knowledge of the law.

Testing for analytical and information skills includes testing for abstract thinking, testing for numerical thinking, testing for verbal thinking.

Such questions of test tasks and answers to them are closed and are not subject to disclosure.

To assess the analytical skills and the ability to work with information, the candidate is tested for abstract thinking and/or testing for numerical and/or verbal thinking, taking into account the established requirements for professional competence of the candidate.

It is worth noting that all types of testing are conducted at the Center for the Evaluation of Candidates for Civil Service Positions.

Given the above, the competitive selection procedure is regulated by the Procedure and contains some differences for different categories of civil service positions.

Thus, for category “A” there are tests for knowledge of law and abstract thinking, testing of foreign language proficiency, solving situational task (by decision of the Commission) and interviews with the Commission and subject of appointment.

For categories “B” - testing for knowledge of the law, solving situational tasks (by the decision of the Commission) and conducting interviews with the competition commission and the subject of appointment or the head of the civil service.

For categories “C” - testing for knowledge of the law and conducting interviews with the competition commission and the head of the civil service.

For the reforms specialists positions of categories “B” and “C” testing for analytical skills and/or abilities to work with information, testing for knowledge of the law, mandatory solution of situational tasks and interviews with the competition commission and the subject of appointment or the head of the civil service.

The use of different assessment methods is due to differences in the nature and scope of authority, content and its impact on the final decision, the degree of responsibility, and hence the need for different levels of qualifications and professional competencies of civil servants categories “A”, “B” and “C”.

It should be noted that in 2021 information sessions were organized and held to improve the selection mechanism for civil service positions, which were attended by representatives of personnel management services, members of competition commissions of government authorities of various jurisdictions, candidates, employees of NAUCS, Evaluation Center, experts of international technical assistance projects

Based on the results of these sessions, the NAUCS in August 2021 prepared a Concept to improve the competition procedure, which aims to solve existing problems and build an effective and efficient competition procedure for civil service positions, which allows to select the best candidates based on meritocratic principles.

52. What are the legal guarantees for ensuring transparency and meritocracy in recruitment/appointment/promotion? Which bodies are in charge of monitoring and reporting on the process?

Article 38 of the Constitution of Ukraine stipulates that citizens have an equal right of access to the civil service, as well as to service in local self-government authorities.

According to article 21 of the Law of Ukraine “On Civil Service”, entry into the civil service is carried out by appointing a citizen of Ukraine to a civil service position based on the results of the competition.

Admission of citizens of Ukraine to civil service positions without holding a competition is prohibited, except as provided by Law.

The procedure for holding a competition for civil service positions was approved by the Cabinet of Ministers of Ukraine as of March 25, 2016 № 246, determines the procedure for holding a competition for vacant civil service positions, which aims to select professionals capable of performing official duties.

The key area for attracting highly qualified specialists to the civil service and increasing the level of trust in competitions is to ensure fair and transparent selection and appointment to civil service positions based on achievements and accomplishments.

According to paragraph 3 of the Procedure, the competition is conducted in accordance with the principles, in particular, ensuring equal access, political impartiality, non-discrimination, transparency, integrity, and effective and fair selection process.

The competition is conducted in accordance with the requirements established by law for the professional competence of a candidate for a vacant civil service position based on the assessment of his personal achievements, knowledge, skills, moral and business qualities for the proper performance of official duties.

Also, in accordance with Article 27 of the Law, the competition for the position of civil service category “A” is conducted by the Senior Civil Service Commission. The competition for civil service positions of category “B” or “C” is conducted by the competition commission formed by the subject of appointment in the government authority.

The Commission is a permanent collegial body formed by the Cabinet of Ministers of Ukraine and consisting of:

1) a representative of the Verkhovna Rada of Ukraine, appointed by the committee of the Verkhovna Rada of Ukraine, the subject of which includes issues of civil service;

2) a representative appointed by the President of Ukraine;

- 3) a representative appointed by the Cabinet of Ministers of Ukraine;
- 4) the head of the central executive body, which ensures the formation and implementation of state policy in the field of civil service, or on his behalf, the deputy head of this authority;
- 5) a specialist on personnel management, appointed by the Cabinet of Ministers of Ukraine;
- 6) two representatives - one representative each from higher education institutions providing training in the field of public management and administration, and from public associations elected in accordance with the procedure approved by the Cabinet of Ministers of Ukraine.

Proposals on the establishment of the Commission, approval of its members and terms of remuneration of its members are submitted to the Cabinet of Ministers of Ukraine by the central executive authority that ensures the formation and implementation of state policy in the field of civil service. Candidates for the Commission, in addition to the members of the Commission who are ex officio members, before their appointment to the Commission undergo testing in accordance with the Procedure for the competition for candidates for civil service positions of category “A”.

According to the decision of the Commission or the competition commission, civil servants, including from other government authorities, scientists and experts in the relevant field may be involved in assessing the compliance of the candidate's professional competencies with the established requirements.

At the same time, by the order of the NAUCS as of April 12, 2016 № 76, the Procedure for electing representatives of public associations to the competition commissions for the selection of persons for civil service positions was approved.

It should be noted that in order to optimize and professionalize the competitive selection for civil service positions, the Center for Evaluation of Candidates for Civil Service Positions (hereinafter - the Evaluation Center) was established to organize and conduct the assessment of professional competence of candidates for civil service positions.

In accordance with the provisions of paragraph 1 of the Procedure, the Evaluation Center conducts testing for positions of category “A”, positions of reform specialists of categories “B” and “C” and positions of categories “B” and “C” in ministries and other central executive authorities (except for positions in their territorial authorities, which are formed as structural units of the apparatus that do not have the status of legal entities), except for testing, provided for in the third paragraph of point 6-1 of this Order.

Other authorities may hold the competition or its individual stages in the Evaluation Center.

In addition, paragraph 23 of the Procedure provides that in order to ensure maximum transparency of the competition for positions of category “A” a video recording of the competition procedure (testing, solving situational tasks) (if they are solved) and their presentation in cases, conducting an interview) is carried out. The videos are published on the official website of the NAUCS no later than the next working day after the completion of the relevant stage.

For the proper and transparent organization of the competitive selection process, the Unified Civil Service Vacancies Portal <https://career.gov.ua> has been created and is functioning (administered by the NAUCS).

Thus, all vacancy announcements are posted on the Unified Civil Service Vacancies Portal, which indicates that information about participation in the competition is open and accessible for all citizens of Ukraine. On the same portal, applicants can submit information for participation in the competition, as well as information about the results of the competition and the winner of such a competition. In addition, the Portal provides constant updating of information on the competition procedure.

The order (instruction) on the announcement of the competition and the conditions of its holding no later than within the next working day from the date of signing the relevant order (instruction) are posted through the personal account on the Unified Civil Service Vacancies Portal. Announcements of competitions for civil service positions, which are published on the Unified Civil Service Vacancies Portal, are numbered in order to identify the relevant vacancy. Such announcements are open and accessible and contain information on the name and location of government authorities, position title, job responsibilities, terms of remuneration, requirements for professional competence of the candidate, information on the timeliness or indefiniteness of the appointment, the essential terms of the civil service contract (in case of conclusion), as well as an exhaustive list of information required for participation in the competition, and the deadline for its submission, date and place of the competition, name, phone number and e-mail address of the person providing additional information on the competition.

It should be noted that a person wishing to take part in the competition provides the competition commission with the necessary information to participate in the competition only through the Unified Civil Service Vacancies Portal, which ensures a transparent and unified approach to entering the civil service.

The announcements together with information on the competition may also be published on the website of the government authority where the competition is announced (if available) and other websites. At the same time, we note that information on civil service vacancies is submitted to the State Employment Service, as well as published on the job search websites Work.ua. and Rabota.ua.

In addition, it should be noted that in accordance with paragraphs 59-1-61, 63 of the Procedure, the information about the winner (winners) of the competition, the absence of the winner, no candidates nominated by the Commission or the competition commission is published on the Unified Civil Service Vacancies Portal.

Disclosure of this information is carried out by:

- special structural subdivision of the NAUCS – for civil service positions of category “A”;
- the personnel management service of the government authority where the competition is announced – for civil service positions of categories “B” and “C”.

Such disclosure shall be carried out within one working day after:

- receiving a decision of the appointee or the head of the civil service on determining the winner (winners) of the competition or on his (their) absence;
- the expiration of 44 calendar days from the date of publication of the announcement of the competition in the event that the appointee or the head of the civil service has not decided to determine the winner (winners) of the competition or his (their) absence;

- the completion of the minutes of the Commission meeting on the absence of certain candidates;

- receiving the minutes of the meeting of the competition commission in the absence of certain candidates.

The information about the winner (winners) of the competition must contain the surname, name and patronymic of the candidate, the title of the position and the total number of points scored by the candidate.

The special structural subdivision of the NAUCS and the personnel management service of the government authority where the competition is announced keep a register of candidates proposed by the Commission or the competition commission to determine the winner (winners) of the competition.

The results of the competition shall be published no later than 45 calendar days from the date of publication of the announcement of its holding.

In accordance with the provisions of article 31 of the Law, the winner of the competition is appointed to the position of civil service.

The decision on the appointment is taken:

1) to the position of civil service of category “A”, – by the appointee, determined by the Constitution and laws of Ukraine, in the manner stipulated by the Constitution of Ukraine, this and other laws of Ukraine;

2) to civil service positions of category “B”, which exercise the powers of heads of civil service in government authorities, – by the appointee, determined by law;

3) to other positions of the civil service of categories “B” and “C”, – by the head of the civil service, unless otherwise provided by law.

It should be noted that according to paragraph 7 of the first part of article 7 of the Law, a civil servant has the right to promotion, taking into account professional competence and conscientious performance of his duties.

Thus, in accordance with the provisions of article 40 of the Law, the promotion of a civil servant is carried out taking into account professional competence by holding a higher position based on the results of the competition in accordance with this Law. Promotion of a civil servant shall not be carried out during the period of application of a disciplinary sanction to him.

At the same time, in accordance with the provisions of article 41 of the Law, a civil servant, taking into account his professional training and professional competencies, may be transferred without compulsory competition:

1) to another equivalent or lower vacant position in the same government authority, including another locality (another settlement), – by the decision of the head of the civil service or the appointee;

2) to another equivalent or lower vacant position in another government authority, including another locality (another settlement), – by decision of the appointee or the head of the civil service in the state body from which the civil servant is transferred, and the appointee or the head of the civil service in the state body to which the civil servant is transferred.

The transfer is carried out only with the consent of the civil servant. The appointee, taking into account professional training and professional competencies, may decide to transfer at least two civil servants simultaneously between the positions they hold. The transfer is carried out only to equivalent positions and with the consent of civil servants. The transfer should not be a punishment in disguised form.

53. Please explain how dismissals of civil servants are regulated, i.e. the specific conditions for triggering the dismissal prescribed by the legislation for each category of staff (senior managers, middle managers and expert/non-managerial staff), the authority which takes the decision and the legal mechanisms for preventing abusive dismissals etc.

Relations arising in connection with the termination of civil service are regulated by the Law of Ukraine “On Civil Service”.

Mentioned thesis suggests that the approaches to the termination of civil service of all categories of civil servants (“A”, “B”, “C”) are unified and identical. The law does not provide benefits and privileges for certain categories or positions of civil service, but it contains processes and procedures that should be followed during dismissing civil servants.

Thus, Article 83 of the Law stipulates that civil service is terminated:

- 1) in case of loss of the right to civil service or its restriction (Article 84 of this Law);
- 2) in case of expiration of the term of appointment to the position of civil service (Article 85 of this Law); 3) on the initiative of a civil servant or by agreement of the parties (Article 86 of this Law);
- 4) at the initiative of the subject of appointment (Article 87 of this Law);
- 5) in case of occurrence of circumstances that have developed independently of the will of the parties (Article 88 of this Law);
- 6) in case of disagreement of a civil servant to perform civil service in connection with a change in its essential conditions (Article 43 of this Law);
- 7) in the event of a civil servant’s retirement or reaching the age of 65, unless otherwise provided by law;
- 8) in the case of application of the prohibition provided by the Law of Ukraine “On Government Cleansing”;
- 9) on the grounds provided for in the contract on civil service (in case of conclusion) (Article 88-1 of this Law).

Please note that this article of the Law clearly regulates that change of heads or composition of government authorities, heads of civil service in government authorities and direct heads cannot be grounds for termination of civil service by a newly appointed head of state.

In case of dismissal from the civil service in case of disagreement of a civil servant to perform civil service in connection with a change in its essential conditions and in case of retirement or reaching the age of 65, unless otherwise provided by law, a civil servant is paid severance pay assistance in the amount of the average monthly salary. The severance payment for a civil servant

who is dismissed in cases of retirement or reaching the age of 65, unless otherwise provided by law, shall be paid once at his / her request in the event of retirement or reaching the age of 65.

Due to the needs of the service, a civil servant may, upon the decision of the subject of appointment, be left in the civil service after reaching the age of 65 with his consent. The decision to extend the term of service in the civil service is made by the appointing entity annually, but not more than until a civil servant reaches the age of 70.

Termination of civil service due to loss of or restriction of the right to civil service

According to Article 84 of the Law, the grounds for termination of civil service in connection with the loss of the right to civil service or its restriction are:

- 1) termination of Ukrainian citizenship or departure for permanent residence outside Ukraine;
- 2) establishing the fact that a civil servant has the citizenship of a foreign state or the acquisition of citizenship of a foreign state by a civil servant during civil service;
- 3) entry into force of a court decision on bringing a civil servant to administrative responsibility for corruption-related offenses punishable by deprivation of the right to hold certain positions or engage in certain activities related to the performance of state or local self-government functions;
- 4) entry into force of a court conviction against a civil servant for committing an intentional criminal offense and / or establishing a ban on engaging in activities related to the performance of state functions;

4-1) entry into force of a court decision on such a civil servant on recognition of his assets or assets acquired on his behalf by other persons or in other cases provided for in Article 290 of the Civil Procedure Code of Ukraine, unreasonable and their recovery into state revenue;

5) the existence of relations of direct subordination of relatives in the case provided for in Article 32 of the Law;

6) a civil servant has a real or potential conflict of interest, which is permanent and cannot be resolved in any other way.

In cases of termination of Ukrainian citizenship by a civil servant or departure for permanent residence outside Ukraine, establishment of the fact that a civil servant has foreign citizenship or acquisition of foreign state citizenship by a civil servant during civil service, entry into force of a court decision on bringing a civil servant to administrative responsibility for corruption-related offenses punishable by deprivation of the right to hold certain positions or engage in certain activities related to the performance of state or local self-government functions and the entry into force of a court conviction against a civil servant for intentional criminal misconduct offense and/or prohibition to engage in activities related to the performance of state functions, the subject of appointment is obliged to dismiss a civil servant within three days from the date of occurrence or establishment of the fact provided for in this article unless otherwise provided by law, and in the case of a relationship of direct subordination of relatives – in the manner prescribed by Article 32 of the Law.

It should be noted that according to Article 32 of the Law, it is not allowed to appoint a person who will be directly subordinated to a close person or to whom close persons will be directly subordinated.

In the event of circumstances that lead to a violation of the first part of this article, the relevant persons close to them are obliged to notify the head of the civil service and take measures to eliminate such circumstances within 15 days.

If such circumstances are not voluntarily eliminated within the specified period, a head of civil service must take measures to eliminate them within one month. To do this, a head of civil service may transfer a civil servant with his / her consent to another equivalent vacant position of civil service in this public authority or give consent to transfer to another public authority. In this case, the transfer of a civil servant is carried out without the need for a competition. In case of impossibility of transfer, the subordinate person shall be subject to dismissal.

Termination of civil service due to the expiration of the term of appointment to a position of civil service

According to the provisions of Article 85 of the Law, termination of civil service in connection with the expiration of the term of appointment to a civil service position occurs in the following cases:

- in case of appointment to a civil service position for a definite term, the civil servant shall be dismissed on the last day of this term (category “A” civil service positions;
- in case of appointment to a civil service position with the conclusion of a civil service contract, the civil servant shall be dismissed on the last day of the contract.

A civil servant appointed to a civil service position for the period of replacement of a temporarily absent civil servant who retained the civil service position shall be dismissed on the last working day before the day of entry into service of the temporarily absent civil servant. In this case, the temporarily absent civil servant is obliged to notify the head of the civil service in writing no later than 14 calendar days of his entry into service.

Termination of civil service at the initiative of a civil servant or by agreement of the parties

Article 86 of the Law stipulates that a civil servant has the right to resign at his / her own will, by notifying the appointing authority in writing no later than 14 calendar days before the day of dismissal.

A civil servant may be dismissed before the expiration of the two-week period provided for in part one of this article, in another term by mutual agreement with the subject of appointment, if such dismissal does not interfere with the proper performance of duties by the state authority.

The appointing entity is obliged to dismiss a civil servant within the period specified in the application submitted by him/her, in cases provided by labor legislation.

Termination of civil service at the initiative of the subject of appointment

Article 87 of the Law stipulates that the grounds for termination of civil service at the initiative of the subject of appointment are:

1) reduction of the number or staff of civil servants, reduction of the position of the civil service due to a change in the structure or staff list of a state authority without reduction of the number or staff of civil servants, reorganization of a state authority;

1-1) liquidation of a state authority;

2) establishing the incompatibility of a civil servant with the position held during the probationary period;

3) receipt by a civil servant of a negative assessment based on the results of performance appraisal;

4) committing a disciplinary misdemeanor by a civil servant, which provides for dismissal.

The reason for termination of civil service at the initiative of the subject of appointment may be non-appearance of a civil servant for more than 120 consecutive calendar days or more than 150 calendar days during the year due to temporary incapacity (excluding maternity leave and childbirth), if the law does not establish a longer period of preservation of the place of work (position) in the case of a certain disease.

For a civil servant who has lost his or her ability to work in the line of duty, a position is retained until his or her ability to work is restored or disability is established.

The appointing entity or a head of civil service shall warn a civil servant of further dismissal in case of reduction of the number or staff of civil servants, reduction of the civil service position due to change in the structure or staff list of the state authority without reduction of the number or staff of civil servants. in writing no later than 30 calendar days.

Simultaneously with the warning of dismissal on the basis of reduction of the number or staff of civil servants, reduction of the civil service due to change of structure or staff list of the state authority without reduction of the number or staff of civil servants, reorganization of the authority, the appointing entity or equivalent civil service position or, as an exception, a lower civil service position in accordance with professional training and professional competencies. This takes into account the preemptive right to stay at work, provided by labor legislation.

A civil servant shall be dismissed on the basis of reduction of the number or staff of civil servants, reduction of the position of civil service due to change in the structure or staff list of a state authority without reduction of the number or staff of civil servants, reorganization of the civil service refusal to transfer to the proposed position.

In case of dismissal from the civil service on the basis of reduction of the number or staff of civil servants, reduction of the civil service due to change of structure or staff list of the state authority without reduction of the number or staff of civil servants, reorganization of the state authority and liquidation of the civil servant. two average monthly salaries.

An order (instruction) on dismissal of a civil servant in the cases specified in this Article may be issued by the appointing entity or the head of the civil service during the period of temporary incapacity of the civil servant or his leave, indicating the date of dismissal, which is the first working day incapacity for work specified in the document on temporary incapacity for work, or the first working day after the end of leave.

In this case, the registration and issuance of the employment record book, as well as the calculation of dismissal are carried out within seven days from the date of dismissal.

Pay your special attention to the fact that according to the Law (Article 66) dismissal from the civil service is an exceptional type of disciplinary sanction and can be applied only in case of disciplinary offenses, such as violation of the Civil Servant Oath; expression of disrespect for the

state, state symbols of Ukraine, the Ukrainian people; excess of official authority, if it does not contain a criminal or administrative offense; use of authority in personal (private) interests or in illegal personal interests of other persons; submission of inaccurate information about the circumstances that impede the exercise of the right to civil service during the entry into the civil service, as well as failure to provide the necessary information about such circumstances that arose during the service; failure to notify the head of the civil service of the occurrence of relations of direct subordination between a civil servant and relatives within 15 days from the date of their occurrence; the appearance of a civil servant in the service while intoxicated, in a state of narcotic or toxic intoxication; making an unreasonable decision by a civil servant that violated the integrity of state or communal property, illegal use or other damage to state or communal property, if such actions do not constitute a criminal or administrative offense, as well as systematic (repeated within a year) absenteeism including absence from service for more than three hours during the working day) without good reason).

The Law (Article 74) clearly stipulates that a disciplinary sanction may be imposed only if the fact of a disciplinary misconduct and the guilt of a civil servant are established in accordance with the procedure for disciplinary proceedings established by law and relevant subsidiary legislation.

Termination of civil service due to circumstances beyond the control of the parties

Article 88 of the Law stipulates that the grounds for termination of civil service in connection with circumstances, that have arisen regardless of the will of the parties, are the following:

- 1) reinstatement in the civil service position of a person who previously held it;
- 2) inability of a civil servant to perform official duties due to health condition in the presence of a medical opinion, the procedure for which is determined by the central executive authority that ensures the formation and implementation of state policy in the civil service and the central executive authority that ensures the formation and implements state policy in the field of health care;
- 3) entry into force of a court decision declaring a person incompetent or restricting a person's legal capacity;
- 4) recognition of a civil servant as missing or declaring him / her dead;
- 5) election to an elected position in authority of state power or a authority of local self-government from the date of taking office;
- 6) death of a civil servant.

Termination of civil service in case of disagreement of a civil servant to perform civil service due to changes in its essential conditions

According to the provisions of Article 43 of the Law, a change in the essential conditions of the civil service is a change:

- 1) belonging of a civil service position to a certain category of positions;
- 2) basic position responsibilities;
- 3) conditions (system and size) of wages or social security;
- 4) mode of service, establishment or cancellation of part-time work;
- 5) location of the government authority (in case of its relocation to another settlement).

If a civil servant does not agree to continue the civil service due to a change in the essential conditions of the civil service, he/she shall submit to the head of the civil service an application for dismissal on the basis of paragraph 6 of part 1 of Article 83 of the Law or an application for transfer to another position offered to him/her not later than 30 calendar days from the date of acquaintance with the notice of change of essential conditions of civil service

Termination of civil service on the grounds provided for in the civil service contract

Article 88-1 of the Law stipulates that a contract on civil service may establish additional grounds, except of those which are envisaged by this Law, for termination of civil service.

It should be noted that in accordance with the third part of Article 6 of the Law of Ukraine “On Central Executive Authorities”, the procedure for appointment and dismissal, termination of office, as well as the status of Minister as a member of the Cabinet of Ministers are determined by the Constitution of Ukraine and the Law of Ukraine “On the Cabinet of Ministers of Ukraine”.

At the same time, we inform that paragraph 10 of the first part of Article 7 of the Law provides that a civil servant has the right to appeal in the manner prescribed by law decisions on disciplinary action, dismissal from civil service, as well as a conclusion containing a negative assessment of his performance.

In addition, the legislation on civil service provides a mechanism for protecting the right to civil service. Thus, according to

Article 11 of the Law, in case of violation of the rights granted by this Law or obstacles to the exercise of such rights, a civil servant within one month from the day when he learned or should have learned about it, may file a complaint to the head of civil service his rights or obstacles to their implementation.

In a complaint, the civil servant may require the head of civil service to establish a commission to verify the facts set forth in a complaint.

The head of civil service is obliged to provide a reasonable written answer (decision) to the civil servant no later than 20 calendar days from the date of receipt of a complaint.

In case of failure to receive a reasoned response to the complaint or disagreement with the response of the head of civil service within the period specified in part three of this article, the civil servant may file a complaint to the court.

It should be noted that the previous versions of the Law provided for the right of a civil servant to file a complaint to the NAUCS to protect his violated rights.

The NAUCS initiated and conducted an official investigation into the complaint in accordance with the procedure established by the Cabinet of Ministers of Ukraine, in order to verify the facts set forth in the complaint.

In case of violation of the rights of a civil servant or creation of obstacles in their implementation, the officials guilty of the violation should have been brought to justice established by law.

Violated rights of civil servants were subject to unconditional renewal, and obstacles to the exercise of these rights were removed.

However, such functions of the NAUCS were excluded from the Law.

It should be noted that Article 80 of the Law stipulates that material and moral damage caused to individuals and legal entities by illegal decisions, actions or inaction of civil servants in the exercise of their powers shall be reimbursed by the state.

The state in the person of the subject of appointment has the right of recourse (regress) in the amount and manner prescribed by law, in particular, to an official (persons) guilty of (unlawful) dismissal, removal or transfer of a civil servant or other employee to another position, regarding compensation for material and moral damage caused to a state authority in connection with the payment of time of forced absence or time of performance of lower-paid work.

In case of application of the reverse claim (recourse) the civil servant bears material responsibility only for the damage intentionally caused by his illegal actions or inaction.

Summarizing the above, it can be unequivocally concluded that the Law establishes only motivated grounds for dismissal from civil service and prevents arbitrary and unlawful dismissals.

54. Please describe the legal framework to promote integrity of the civil service. Is there a Code of Ethics applicable to civil servants? If so, how is its application monitored? Are there specific rules applicable to specific categories of civil servants?

According to the Law of Ukraine “On Civil Service”, civil service is carried out in compliance with such principles, in particular, *integrity*, which provides for the focus of the civil servant's actions on the protection of public interests and the refusal of the civil servant from the prevalence of private interest in the exercise of his powers, *transparency*, which provides for open information about the activities of civil servants, except as provided by the Constitution and laws of Ukraine and *ensuring equal access to the civil service*, which provides for the prohibition of all forms and manifestations of discrimination, the absence of unjustified restrictions or the provision of unjustified benefits to certain categories of citizens when entering and passing the civil service.

The law defines the basic rights and responsibilities of civil servants (Articles 7 and 8 of the Law). In the performance of his/her official duties, a civil servant acts within the powers defined by law and is subordinate to his/her immediate supervisor or the person performing his/her duties or to the person specified in the civil service contract (in case of conclusion).

Also, a civil servant must impartially carry out legal orders (instructions), instructions of managers, regardless of their party affiliation and their political beliefs. A civil servant shall not have the right to demonstrate his/her political views and commit other acts or omissions that may in any way indicate his/her special attitude towards political parties and negatively affect the image of the government authority and trust in the government or threaten the constitutional order and territorial integrity and national security, for the health and rights and freedoms of others.

In case of violation of the rights granted by this Law or obstacles to the exercise of such rights, a civil servant within one month from the day when he learned or should have learned about it, may file a complaint to the head of civil service indicating violations of his rights or obstacles to their exercise. In the complaint, the civil servant may require the head of the civil service to establish a commission to verify the facts set forth in the complaint.

According to the second part of Article 37 of the Law of Ukraine “On Prevention of Corruption”, the central executive authority that ensures the formation and implementation of state policy in the civil service, approves general rules of ethical conduct of civil servants and local self-government officials.

Government authorities of the Autonomous Republic of Crimea, local self-government authorities, if necessary, develop and ensure compliance with industry codes or standards of ethical conduct of their employees, as well as other persons authorized to perform state or local self-government functions, persons equated to them in the field of their management.

In pursuance of the above provisions of the Law of Ukraine “On Prevention of Corruption”, the NAUCS prepared the General Rules of Ethical Conduct for Civil Servants and Local Self-Government Officials, which were approved by the NAUCS order as of August 05, 2016 № 158. These General Rules are a generalized collection of professional and ethical requirements for the rules of conduct of civil servants and local self-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 man and citizen.

At the same time, the NAUCS prepared and issued an order as of April 28, 2021 №72-21 “On Amendments to the General Rules of Ethical Conduct for Civil Servants and Local Self-Government Officials”, registered with the Ministry of Justice of Ukraine on May 20, 2021 №668/36290.

Amendments to these General Rules, among other things, provide for their addition to the requirements concerning the rules of conduct of civil servants and local self-government officials, in particular, on integrity, respect for equal rights and opportunities for women and men, non-discrimination.

It should be noted that when recruiting for civil service or for service in local self-government authorities, a person becomes acquainted with these General Rules. A note on such acquaintance shall be attached to the personal file of a civil servant or local self-government official.

Civil servants and local self-government officials are obliged to adhere to generally accepted ethical standards of conduct in the performance of their official duties.

If a civil servant or local self-government official becomes aware of a threat or violation of these General Rules, in particular, any form of discrimination, gender-based violence, sexual harassment, dishonesty or unauthorized dissemination of restricted information to other civil servants or local self-government officials, he/she must immediately notify the immediate supervisor, the head of the highest level (if necessary).

Heads of government authorities, local self-government authorities or their structural subdivisions in case of detection or notification of violation of these General Rules 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 disciplinary responsibility, and in cases of detection of signs of a criminal or administrative offense, also inform the specially authorized entities in the field of anti-corruption.

55. Is there a transparent legal or regulatory basis for actions taken by civil servants? In

particular, how is impartiality and non-discrimination of actions by civil servants ensured?

Article 24 of the Constitution of Ukraine establishes that citizens have equal constitutional rights and freedoms and are equal before the law.

There can be no privileges or restrictions based on race, colour, political, religious or other beliefs, gender, ethnic or social origin, property, place of residence, language or other grounds.

According to paragraph 1 of part 1 of article 7 of the Law of Ukraine “On Civil Service”, a civil servant has the right, in particular, to respect for his person, honour and dignity, fair and respectful treatment by leaders, colleagues and other persons.

At the same time, article 8 of the Law stipulates that a civil servant is obliged, in particular, to respect human dignity and prevent violations of human and civil rights and freedoms.

Article 4, part 1, paragraph 7 of the Law stipulates that civil service is carried out in accordance with the principle of equal access to civil service – the prohibition of all forms and manifestations of discrimination; the absence of unjustified restrictions or the granting of unjustified advantages to certain categories of citizens when entering and completing the civil service.

Adherence to the principles of non-discrimination and ensuring equal access during the competition includes the possibility of using a reasonable accommodation for a person with disabilities who expressed a desire to participate in the competition, as well as the possibility of using positive actions in accordance with the Law of Ukraine “On principles of preventing and combating discrimination in Ukraine”.

In addition, in order to create a barrier-free environment for access to civil service and to ensure equal and fair conditions for the entry of persons with disabilities into civil service, a Methodology has been prepared for providing persons with disabilities wishing to participate in the competition for civil service positions.

This Methodology was approved by order of NAUCS as of October 01, 2021 № 157-21, which was registered with the Ministry of Justice of Ukraine on October 19, 2021 № 1358/36980. The mentioned Methodology regulates the issues, in particular, regarding the algorithm of consideration of the application of a person with disabilities wishing to participate in the competition for the need to provide reasonable accommodation, types of reasonable accommodation and ways of their use in providing persons with disabilities wishing to participate in the competition with such accommodation, the recommended list of basic criteria for the availability of premises in which the competition is held, buildings and structures in which such premises are located.

Thus, in order to ensure the compliance by civil servants and local government officials with the principles of non-discrimination, gender equality, as well as the prevention of sexual harassment and gender-based violence in the performance of official duties, the order of NAUCS as of April 28, 2021 № 72-21 “On amendments to the General rules of ethical conduct for civil servants and local government officials” was prepared and issued, registered with the Ministry of Justice of Ukraine on May 20, 2021 № 668/36290, and published in the Official Gazette of Ukraine on June 04, 2021. These changes include, in particular, the inclusion of anti-discrimination, sexual harassment and gender equality provisions among civil servants and local self-government officials, with the respective responsibilities of these individuals in compliance with certain principles.

Also, in order to comply with the principle of equal rights and opportunities for women and men, NAUCS approved the order as of July 31, 2020 №143-20 “On Amendments to Certain Legal Acts of the National Agency of Ukraine on Civil Service”, registered with the Ministry of Justice of Ukraine on October 09, 2020 № 984/35267, which provides for the possibility of a flexible work schedule for civil servants, and also states what should be taken into account when establishing it.

Thus, when establishing a flexible working hours, it is necessary to take into account, in particular, the need for effective organization of working hours of civil servants, increase productivity and quality of work, taking into account the specifics of work in a particular area, such as peak hours work from the place of residence of a civil servant, modes of operation of *preschool and general secondary education institutions*.

It should be noted that Article 10 of the Law stipulates that a civil servant must impartially carry out lawful orders (instructions), instructions of managers, regardless of their party affiliation and their political beliefs.

A civil servant shall not have the right to demonstrate his/her political views and commit other acts or omissions that may in any way indicate his/her special attitude towards political parties and negatively affect the image of the government authority and trust to the government or threaten the constitutional order, territorial integrity and national security, the health and rights and freedoms of other people.

A civil servant has no right to:

1) be a member of a political party, if such a civil servant holds a civil service position of category “A”. During the civil service in the position of category “A” a person suspends his membership in a political party;

2) hold positions in the governing bodies of a political party;

3) combine the civil service with the status of a deputy of a local council, if such a civil servant holds a civil service position of category “A”;

4) involve, using their official position, civil servants, local self-government officials, employees of the budget sphere, other persons to participate in the election campaign, actions and events organized by political parties;

5) in any other way to use his official position for political purposes.

In case of registration of a civil servant as a candidate for deputies by the Central Election Commission, election commissions formed in accordance with the established procedure, civil servant is obliged to notify the head of the civil service in writing within one day.

According to his application, a civil servant is granted unpaid leave for the time of participation in the election process. This leave is granted by the decision of the head of the civil service from the date of his notification of participation in the election process and until the day of its completion in accordance with the election legislation.

A civil servant shall not have the right to organize and take part in strikes and agitation (except in the case of registration of a civil servant as a candidate for deputy by the Central Election

Commission, election commissions formed in accordance with the established procedure), civil servant is obliged to notify the head of the civil service in writing within one day.

It should be noted that adherence to the principles of non-discrimination and equal access during the competition includes the possibility of using during its implementation a reasonable accommodation for a person with disabilities who expressed a desire to participate in the competition, as well as the possibility of positive action under the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”.

56. Please describe how independent oversight of the civil service is guaranteed.

According to the Law of Ukraine “On Civil Service” supervision of civil service (public, professional politically impartial activities for the practical implementation of tasks and functions of the state within the meaning of Article 1 of the Law) is provided by monitoring compliance with executive and service discipline (observance of the Oath of a civil servant, conscientious performance of official duties and rules of internal service regulations in accordance with Article 2 of the Law).

Exercising such control in government authority is ensured in accordance with Articles 2 and 17 of the Law by heads of civil service, i.e. officials holding the highest position of civil service in a government authority, whose official duties include exercising powers in civil service and organizing the work of other employees in this authority;

The head of the civil service, as provided for in Article 63 of the Law, is responsible for the inadequate level of service discipline and exercises the authority to bring civil servants to disciplinary responsibility and is obliged, in particular:

- to exercise control over the performance of official duties by civil servants;
- to ensure that civil servants perform their official duties, including through the application of disciplinary sanctions;
- to ensure transparency and objectivity in evaluating the performance of civil servants;
- to organize preventive measures with civil servants to prevent them from committing disciplinary offenses, to detect and stop their commission in a timely manner.

The head of the civil service, who in the manner prescribed by this Law did not take measures to bring civil servant to disciplinary responsibility for a disciplinary offense, as well as did not submit materials on the commission of an administrative offense, corruption or corruption-related offense, criminal offense to the authority authorized to consider cases of such offenses, is liable in accordance with the law.

According to Article 64 of the Law, a civil servant shall be subject to disciplinary liability for non-performance or improper performance of official duties specified by this Law and other normative legal acts in the field of civil service, position description, as well as violation of ethical conduct and other violations of official discipline in accordance with the procedure established by this Law.

According to Article 67 of the Law, a disciplinary sanction must correspond to the nature and severity of the disciplinary misconduct and the degree of guilt of the civil servant.

According to Articles 63 - 79 of the Law, the decision to impose a disciplinary sanction or close disciplinary proceedings on a civil servant is made by the appointing entity on the basis of proposals/submissions of the disciplinary commission.

The decision to impose a disciplinary sanction may be challenged by civil servants in court.

Approved by the Resolution of the Cabinet of Ministers of Ukraine as of December 04, 2019 №1039 the Procedure for disciplinary proceedings determines the procedure for disciplinary proceedings against civil servants by disciplinary commissions for consideration of disciplinary cases.

Also, in accordance with Article 13 of the Law, the central executive authority that ensures the formation and implementation of state policy in the field of civil service (NAUCS) monitors compliance with the conditions of citizens' exercise of the right to civil service services as of September 10, 2020 №168-20.

Control in accordance with this Procedure consists in the implementation of the NAUCS, its territorial authorities of measures aimed at establishing the actual state of compliance by government authorities with the conditions of citizens' exercise of the right to civil service, as well as preventing violations of the Law.

Thus, the NAUCS and its territorial authorities in accordance with the plan in 2021 carried out 134 control measures. 860 inconsistencies and violations of the requirements of the Law, as well as other normative legal acts regulating the issues of citizens' exercise of the right to civil service have been established.

In accordance with the revealed violations, proposals were made to the heads of government authorities to eliminate inconsistencies and violations of the Law, to stop actions or omissions that contain signs of violations, to bring to justice those involved in their commission; ensuring control over compliance with executive and service discipline.

D. Accountability

57. Describe the legal framework governing establishment and organisation of all public bodies under the executive power along with their lines of accountability. Provide an organisational chart of the executive branch at the different levels of governance.

Establishment and organization of all public bodies under the executive power

The legal framework governing establishment and organisation of all public bodies under the executive power along with their lines of accountability comprises of the Constitution of Ukraine, The Law of Ukraine “On Central Executive Authorities” No. 3166-VI of 17 March 2011 and the Law of Ukraine No. 586-XIV “On Local State Administrations” of 9 April 1999 as well as the Resolution of the Cabinet of Ministers of Ukraine No. 179 of 12 March 2005 enshrined the organisation chart of the apparatus of central executive authorities, their territorial units and local state administrations.

Pursuant to the Constitution of Ukraine the Cabinet of Ministers is tasked to perform the following constitutional powers:

- direct and coordinate activities of the ministries and other executive authorities;

- set up, reorganise and dissolve, in accordance with law, ministries and other central executive authorities, operating within the budget funding for the maintenance of executive authorities.

The Law of Ukraine “On Central Executive Bodies” No. 3166-VI of 17 March 2011 establishes that Ministries and other central executive bodies shall be deemed as legal entities under public law. Ministries, other central executive bodies shall acquire the status of a legal entity as of the date of entry of their state registration as a legal entity into the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations. Ministries, other central executive bodies shall be dissolved as legal entities as of the date of entry of state registration of their dissolution into the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations.

Ministries and other central executive bodies shall be set up, reorganised and dissolved by the Cabinet of Ministers of Ukraine upon the submission of the Prime Minister of Ukraine. Members of the Cabinet of Ministers of Ukraine may submit proposals on the setting up, reorganisation or dissolution of ministries and other central executive bodies to the Prime Minister of Ukraine.

The ministry, other central executive bodies shall be set up, reorganised and dissolved depending on the tasks of the Cabinet of Ministers of Ukraine, the need to ensure the exercise of executive powers and avoid their overlapping. The ministry, other central executive body shall be set up as a result of formation of a new body or reorganisation (by merger, division, or transformation) of one or more central executive bodies. The ministry, other central executive body shall be terminated as a result of reorganisation (by merger, accession, division, or transformation) or dissolution.

Ministries, other central executive body, in respect of which the act of the Cabinet of Ministers of Ukraine has entered into force, shall continue to exercise powers and functions in designated areas of competence until the completion of the process to establish the ministry, other central executive body to which powers and functions of the dissolved ministry, other central executive body are transferred and until it becomes possible to ensure the exercise of these functions and powers, as regulated by the relevant act of the Cabinet of Ministers of Ukraine. The act of the Cabinet of Ministers of Ukraine on the dissolution of the ministry, other central executive body shall designate the executive authority to which the powers and functions of the dissolved ministry, other central executive body are transferred.

The local state administration shall be deemed as a local executive body, part of the executive. The local state administrations are oblast state administrations and raion state administrations. The local state administrations are legal entities. Formation and reorganization of raion state administrations are carried out by the Cabinet of Ministers of Ukraine after the Verkhovna Rada of Ukraine adopts a decision on the formation and liquidation of raions.

The Resolution of the Cabinet of Ministers of Ukraine No. 179 of 12 March 2005 enshrined the organisation chart of the apparatus of central executive authorities, their territorial units and local state administrations.

The list and manning table of structural subdivisions that may be set up within the apparatus of the ministry, other central executive authority shall be fixed by the head of the relevant authority depending on the threshold number of the apparatus’s employees, complexity and scope of tasks assigned to the authority.

The following shall be set up in the apparatus of ministries (unless otherwise provided by acts having legal precedence):

directorate means an independent structural subdivision established to perform tasks of ensuring the development of state policies in one or more areas of the ministry's competence, coordinating and monitoring of its implementation, analysing and evaluating its impacts on stakeholders, as well as other tasks, except those related to functions of provision of administrative services, management of state property assets, or exercise of state supervision (control). The directorate shall consist of:

- at least two expert groups and
- where necessary, department (departments), main office (offices).

The directorate shall be led by the director general whose position pertains to those of reform specialists, or the director. The director general (director) of the directorate whose number of employees does not exceed 32, may have one deputy. If the number of employees of the directorate exceeds 32, the director general (director) of the directorate may have no more than two deputies. The director general (director) of the directorate may not have deputies who do not lead expert groups (main offices);

directorate for strategic planning and European integration means an independent structural subdivision that can be set up to perform tasks of strategic and budget planning of the ministry, European integration, coordination of the ministry's compliance with international commitments, as well as coordination of activities on state policy development within the ministry's competence;

Ministries also set up secretariats. Secretariat means a group of independent structural subdivisions and positions that provide organisational, legal, financial, economic, logistics support for activities of the ministry, in particular: the document flow, control of compliance with deadlines and measures for the implementation of which the ministry is responsible; HR management, accounting and reporting; protocol support for international cooperation; implementation of legislation on access to public information, consideration of public appeals; IT support and information protection; public procurement; media outreach and public relations; logistics and economic support; communication with public authorities; compliance with the occupational safety and civil protection requirements.

Departments, offices, divisions and sectors may be established in ministries. If the tasks in a particular area of activities of the directorate, department may be performed by one state expert, officer, the directorate, department shall introduce positions of state experts, officers who are not members of expert groups, departments.

The following structural subdivisions shall be established in the apparatus of other central executive authorities (unless otherwise provided by acts having higher legal precedence):

department means a structural subdivision set up to perform designated tasks of state policy in certain areas of activities of the central executive authority, provided it consists of at least four divisions. If the number of employees of the department exceeds 32, it may include offices (at least two). The department shall be led by the director. The director of the department whose number of employees does not exceed 32 may have no more than two deputies — heads of divisions. If the

number of employees of the department exceeds 32, the director of the department may have no more than three deputies, including one deputy who does not lead the division (office).

office (independent division) means a structural subdivision having specific sectoral or functional profile. The office shall consist of at least two divisions. The number of employees of the independent division shall be at least 5. The office (independent division) shall be led by the head (chief). The head of the office whose number of employees does not exceed 13 may have one deputy — the head of the division. If the number of employees of the office exceeds 13, the head of the office may have no more than two deputies — heads of divisions. The office can operate as an independent structure or as part of the department.

independent sector means a structural subdivision set up to perform tasks in a particular area of activities of the executive authority whose functions cannot be combined with those of other structural subdivisions and whose number of employees is at least 2. The sector shall be led by the head;

division of the department (office) means a structural subdivision set up to perform tasks in one area (function) of activities of the executive authority whose number of employees is least 4. The division shall be led by the head.

The head of the division (both independent and part of the office or department) may have no more than one deputy. Such position may be introduced if the number of employees of the division is at least 5. Heads of divisions of pre-trial investigation bodies of the National Police whose number of employees exceeds 14 may have no more than two deputies.

Where necessary, the sector whose number of employees is at least 2 may be set up in the department, office, or independent division. In case of the department and office, these sectors shall be set up above the standard number of divisions, and above the minimum number of employees of the independent division in case of the independent division.

In the apparatus of the central executive authority, a structural subdivision may be set up to support activities of the head according to the criteria specified in this point.

The following structural subdivisions shall be set up within local state administrations (unless otherwise provided by legislative acts):

department means a structural subdivision of oblast, Kyiv and Sevastopol city state administrations (except for their apparatuses) set up to perform the main tasks of high complexity (multi-sectoral, multi-functional), coordinate activities related to the performance of these tasks, provided that there are at least two offices in its composition;

office means a structural subdivision having specific sectoral or functional profile of the local state administration composed of at least two independent divisions;

division means a structural subdivision of the local state administration set up to perform tasks in one area of activity of the local state administration whose number of employees is at least five in the oblast state administration and at least three in the raion state administration;

sector means a structural subdivision of the local state administration set up to perform tasks in one area of activity of the local state administration whose functions cannot be combined with those of other structural subdivisions and whose number of employees is at least two.

The number of deputy heads of these structural subdivisions shall be determined by the criteria set for the apparatus of the central executive authority.

Organisational chart of the executive branch

To date, there are 20 ministries and 58 other central bodies in Ukraine as well as 25 oblast state administrations, 2 city state administrations and 136 raion state administrations in Ukraine.

Ministries:

Ministry of Internal Affairs of Ukraine

Ministry of Energy of Ukraine

Ministry of Foreign Affairs of Ukraine

Ministry of Infrastructure of Ukraine

Ministry of Culture and Information Policy of Ukraine

Ministry of Defence of Ukraine

Ministry of Education and Science of Ukraine

Ministry of Health of Ukraine

Ministry of Economy of Ukraine

Ministry of Communities and Territories Development of Ukraine

Ministry of Social Policy of Ukraine

Ministry of Veterans Affairs of Ukraine

Ministry of Digital Transformation Ukraine

Ministry of Finance of Ukraine

Ministry of Justice of Ukraine

Ministry of Reintegration of Temporarily Occupied Territories of Ukraine

Ministry of Youth and Sports of Ukraine

Ministry of Environmental Protection and Natural Resources of Ukraine

Ministry of Strategic Industries of Ukraine

Ministry of Agrarian Policy and Food of Ukraine

Other central executive authorities, including those with a special status:

- 1) Administration of the State Border Guard Service of Ukraine
- 2) Administration of the State Service for Special Communication and Information Protection of Ukraine
- 3) State Aviation Service of Ukraine
- 4) State Archival Service of Ukraine
- 5) State Audit Service of Ukraine

- 6) State Treasury Service of Ukraine
- 7) State Migration Service of Ukraine
- 8) State Customs Service of Ukraine
- 9) State Tax Service of Ukraine
- 10) State Environmental Inspectorate of Ukraine
- 11) State Regulatory Service of Ukraine
- 12) State Service of Geology and Subsoil of Ukraine
- 13) State Export Control Service of Ukraine
- 14) State Statistics Service of Ukraine
- 15) State Service of Ukraine for Medicines and Drug Control
- 16) State Service of Ukraine for Transport Safety
- 17) State Service of Ukraine for Food Safety and Consumer Protection
- 18) State Service of Ukraine for Geodesy, Cartography and Cadastre
- 19) State Labour Service of Ukraine
- 20) State Emergency Service of Ukraine
- 21) State Financial Monitoring Service of Ukraine
- 22) National Social Service of Ukraine
- 23) State Service for the Quality of Education of Ukraine
- 24) State Service of Maritime and River Transport of Ukraine
- 25) State Service of Ukraine for Ethnic Policy and Freedom of Conscience
- 26) State Fiscal Service of Ukraine
- 27) State Agency for Motor Roads of Ukraine
- 28) State Agency for Water Resources of Ukraine
- 29) State Agency of Ukraine for Energy Efficiency and Energy Conservation
- 30) State Agency for Forest Resources of Ukraine
- 31) State Reserve Agency of Ukraine
- 32) State Agency for Land Reclamation and Fisheries of Ukraine
- 33) State Agency of Ukraine for Exclusion Zone Management
- 34) State Agency of Ukraine for Cinema
- 35) State Agency for Infrastructure Projects of Ukraine
- 36) State Inspectorate for Energy Supervision of Ukraine
- 37) State Space Agency of Ukraine

- 38) State Nuclear Regulatory Inspectorate of Ukraine
- 39) State Committee for Television and Radio Broadcasting of Ukraine
- 40) Antimonopoly Committee of Ukraine
- 41) National Agency on Corruption Prevention
- 42) National Agency for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes
- 43) National Agency of Ukraine for Civil Service
- 44) National Commission for State Language Standards
- 45) Commission for the Regulation of Gambling and Lotteries
- 46) National Police of Ukraine
- 47) National Health Service of Ukraine
- 48) Ukrainian Institute of National Memory
- 49) State Property Fund of Ukraine
- 50) Pension Fund of Ukraine
- 51) State Agency of Ukraine for Arts and Art Education
- 52) State Agency for Tourism Development of Ukraine
- 53) Public Debt Management Agency of Ukraine
- 54) State Inspectorate for Architecture and Urban Planning of Ukraine
- 55) Bureau of Economic Security of Ukraine
- 56) National Anti-corruption Bureau of Ukraine
- 57) National Energy and Utilities Regulatory Commission
- 58) National Commission for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services

Scheme of steering and coordination of activities of central executive authorities by the Cabinet of Ministers of Ukraine through relevant members of the Cabinet of Ministers of Ukraine

- The Cabinet of Ministers of Ukraine:

Antimonopoly Committee of Ukraine

State Property Fund of Ukraine

National Agency on Corruption Prevention

National Agency for Finding, Tracing and Managing Assets Derived from Corruption and Other Crimes

State Regulatory Service of Ukraine

National Agency of Ukraine for Civil Service

State Statistics Service of Ukraine

State Nuclear Regulatory Inspectorate of Ukraine

Commission for the Regulation of Gambling and Lotteries

Bureau of Economic Security of Ukraine

State Service of Ukraine for Food Safety and Consumer Protection

State Agency of Ukraine for Cinema

- through the Vice Prime Minister of Ukraine — Minister of Digital Transformation:

Administration of the State Service for Special Communication and Information Protection of Ukraine

- through the Minister of Communities and Territories Development of Ukraine:

State Inspectorate for Architecture and Urban Planning of Ukraine

- through the Minister of Internal Affairs:

Administration of the State Border Guard Service of Ukraine

State Migration Service of Ukraine

State Emergency Service of Ukraine

National Police of Ukraine

- through the First Vice Prime Minister of Ukraine — Minister of Economy:

State Export Control Service of Ukraine

State Reserve Agency of Ukraine

State Labour Service of Ukraine

- through the Minister of Energy of Ukraine:

State Inspectorate for Energy Supervision of Ukraine

State Agency of Ukraine for Energy Efficiency and Energy Conservation

- through the Minister of Infrastructure:

State Aviation Service of Ukraine

State Agency for Motor Roads of Ukraine

State Service of Ukraine for Transport Safety

State Agency for Infrastructure Projects of Ukraine

State Service of Maritime and River Transport of Ukraine

State Agency for Tourism Development of Ukraine

- through the Minister of Culture and Information Policy of Ukraine:

Ukrainian Institute of National Memory

State Service of Ukraine for Ethnic Policy and Freedom of Conscience

State Committee for Television and Radio Broadcasting of Ukraine

State Agency of Ukraine for Arts and Art Education

- through the Minister of Education and Science:

State Service for the Quality of Education of Ukraine

National Commission for State Language Standards

- through the Minister of Health:

State Service of Ukraine for Medicines and Drug Control

National Health Service of Ukraine

- through the Minister of Social Policy:

National Social Service of Ukraine

Pension Fund of Ukraine

- through the Minister of Finance:

State Audit Service of Ukraine

State Treasury Service of Ukraine

State Financial Monitoring Service of Ukraine

State Tax Service of Ukraine

State Customs Service of Ukraine

State Fiscal Service of Ukraine

Public Debt Management Agency of Ukraine

- through the Minister of Justice:

State Archival Service of Ukraine

- through the Minister of Environmental Protection and Natural Resources of Ukraine:

State Agency for Forest Resources of Ukraine

State Service of Geology and Subsoil of Ukraine

State Agency for Water Resources of Ukraine

State Environmental Inspectorate of Ukraine

State Agency of Ukraine for Exclusion Zone Management

- through the Vice Prime Minister of Ukraine — Minister for Strategic Industries:

State Space Agency of Ukraine

- through the Minister of Agrarian Policy and Food of Ukraine:

State Service of Ukraine for Geodesy, Cartography and Cadastre

58. Describe how accountability of administrative bodies is ensured (e.g. are administrative bodies accountable or answerable for their actions to other administrative, legislative or judicial authorities and subject to scrutiny by others)?

The procedure for establishment, interaction and powers of a minister in relations with the central executive authority the activities whereof are directed and coordinated via the minister is set forth by the Law of Ukraine “On the Central Executive Authorities” (link).

Central executive authorities are established to perform certain functions for the state policy implementation as services, agencies, inspectorates, commissions, or bureaus. Activities of central executive authorities are directed and coordinated by the Cabinet of Ministers of Ukraine via respective ministers according to the legislation.

Central executive authorities may perform one or more core tasks including: (1) providing administrative services; (2) exercising state supervision (control); (3) managing state property; (4) submitting proposals on ensuring the formulation of the state policy for consideration by the ministers who direct and coordinate their activities; (5) performing other tasks as specified by laws of Ukraine.

If most functions of a central executive authority are those for investigative and search activities and pre-trial investigation of criminal offences, the central executive authority may be established as a bureau.

If most functions of a central executive authority are those for provision of administrative services to natural and legal persons, the central executive authority is established as a service.

If most functions of a central executive authority are those for management of the state property items falling within its scope of management, the central executive authority is established as an agency.

If most functions of a central executive authority are those for control and supervision of observance of legislation by public authorities, local governments, their officials, legal and natural persons, the central executive authority is established as an inspectorate.

Concerning a minister’s powers in relations with the central executive authority the activities whereof are directed and coordinated via the minister

The Cabinet of Ministers of Ukraine directs and coordinates the activities of central executive authorities via a minister according to the procedure set forth by the Law of Ukraine “On the Central Executive Authorities” (link) and by the acts of the Cabinet of Ministers of Ukraine.

In relations with the central executive authority the activities whereof is directed and coordinated via the minister, the minister shall:

- ensure the formulation of the state policy in the respective field and controls its implementation by the central executive authority the activities whereof is directed and coordinated by the minister;

- agree upon the draft laws and draft acts of the President of Ukraine and the Cabinet of Ministers of Ukraine developed by the central executive authority, and submits them to the Cabinet of Ministers of Ukraine for consideration;
- define priority activity areas of the central executive authority and ways of performing the tasks assigned thereto, and approve its work plans;
- agree upon the structure of the central executive authority's office;
- issue binding orders and instructions for the central executive authorities on the matters falling within the central executive authority's scope of activities;
- agree upon appointment and dismissal of heads and deputy heads of autonomous structural units of the office of the central executive authority the activities whereof is directed and coordinated by the minister;
- agree upon the central executive authority head's proposals concerning reorganization and liquidation of the authority's territorial bodies as legal entities of public law, and make a respective submission to the Cabinet of Ministers of Ukraine for consideration;
- agree upon the establishment, reorganization and liquidation of territorial bodies of the central executive authority as structural units of that authority's office;
- request the Cabinet of Ministers of Ukraine to reverse the central executive authority's acts in full or in part;
- instruct the central executive authority head to reverse the authority's territorial bodies in full or in part, and, in case of refusal, reverse acts of the central executive authority's territorial bodies in full or in part;
- request the Cabinet of Ministers of Ukraine to hold the central executive authority head and deputy heads disciplinarily liable;
- initiate holding liable the heads and deputy heads of the central executive authority's office structural units and territorial bodies as well as heads of the enterprises, institutions and organizations falling within its scope of management;
- initiate an official investigation against the central executive authority head and deputy heads, other officials and employees of the central executive authority office and territorial bodies, enterprises, institutions and organizations falling within its scope of management;
- make a decision to carry out an inspection of the activities of the central executive authority and its territorial bodies;
- hear reports on performance of the tasks assigned to the central executive authority and of its work plans;
- designate a structural unit in the ministry office to be responsible for interaction with the central executive authority;
- designate the ministry's officials to be included in the central executive authority's board;
- define a procedure for information exchange between the ministry and the central executive authority as well as information provision frequency;
- address other matters related to direction and coordination of the central executive authority's activities.

Concerning appointment and dismissal of the central executive authority employees

The central executive authority head is appointed and dismissed by the Cabinet of Ministers of Ukraine.

The Commission on the Higher Civil Service Corps submits to the Cabinet of Ministers of Ukraine for consideration its proposals concerning candidates (at most five persons in total) for appointment as the central executive authority head based on results of a competition according to the legislation on civil service.

The central executive authority head is dismissed by the Cabinet of Ministers of Ukraine as proposed by the Prime Minister of Ukraine or the minister who directs and coordinates the authority's activities.

The central executive authority head may have deputies appointed by the Cabinet of Ministers of Ukraine from among the candidates (at most five persons in total) nominated pursuant to the proposals of the Commission on the Higher Civil Service Corps based on results of a competition according to the legislation on civil service.

The central executive authority deputy heads are dismissed by the Cabinet of Ministers of Ukraine as proposed by the Prime Minister of Ukraine, or the minister who directs and coordinates the authority's activities, or the central executive authority head.

The number of the central executive authority deputy heads is decided by the Cabinet of Ministers of Ukraine based on the central executive authority head's substantiated request.

The central executive authority head and deputy heads are civil servants.

Concerning the central executive authority head's powers in interaction with the minister who directs and coordinates the authority's activities

The central executive authority head shall:

- submit proposals as regards ensuring the formulation of the state policy in the respective field, in particular the draft laws, acts of the President of Ukraine and of the Cabinet of Ministers of Ukraine, and the respective ministry's orders as well as its opinion on the drafts authored by other ministries, to the minister who directs and coordinates the central executive authority's activities for consideration;
- submit the central executive authority's work plans to the minister who directs and coordinates the central executive authority's activities for approval;
- approve the central executive authority's office structure after its having been agreed upon by the minister who directs and coordinates the central executive authority's activities;
- ensure execution by the central executive authority of orders and instructions of the minister who directs and coordinates the central executive authority's activities, on the matters falling within the central executive authority's scope of activities;
- ensure the central executive authority's interaction with the ministry's structural unit designated by the minister who directs and coordinates the central executive authority's activities to be responsible for interaction with the central executive authority;
- ensure compliance with the procedure for information exchange between the ministry and the central executive authority, set forth by the minister who directs and coordinates the central executive authority's activities, and timely provision of the information;
- report to the minister on implementation of the central executive authority's work plans and the tasks assigned to the authority, on elimination of violations and drawbacks found during

inspections of work of the central executive authority and its territorial bodies, and on holding the officials guilty of the violations committed liable;

- submit proposals to the minister concerning the establishment, subject to the ceiling on the number of the central executive authority's civil servants and employees and the funds provided for the authority's maintenance, of the central executive authority's territorial bodies as legal entities of public law as well as concerning their liquidation or reorganization of the Cabinet of Ministers of Ukraine;

- establish, subject to the ceiling on the number of the central executive authority's civil servants and employees and the funds provided for the authority's maintenance, liquidate or reorganize, as agreed upon by the Cabinet of Ministers of Ukraine and the minister, the central executive authority's territorial bodies as structural units of the authority's office;

- appoint, as agreed upon by the respective minister and heads of respective local state administrations, and dismiss heads of the central executive authority's territorial bodies;

- appoint, as agreed upon by the minister, and dismiss deputy heads of the central executive authority's territorial bodies;

- establish, liquidate, and reorganize enterprises, institutions and organizations, approve their regulations (statutes), appoint and dismiss their heads according to the established procedure, and perform, within the scope of his/her powers, other functions for management of the state property items falling within its scope of management;

- reverse acts of the central executive authority's territorial bodies in full or in part;

- approve the central executive authority's office's staffing table and budget as agreed upon by the central executive authority that ensures the formulation of the state budget policy;

- decide, according to the established procedure, on allocation of the budget funds managed by the central executive authority;

- exercise other powers according to the Law of Ukraine "On the Central Executive Authorities" (link) and other laws.

- If any real or potential conflict of interest arises to the central executive authority head, he/she must inform thereof the minister who directs and coordinates the central executive authority, no later than the next working day, except for the head of a central executive authority with a special status who must inform in such a case the Cabinet of Ministers of Ukraine. Having considered the above-mentioned information, the minister who directs and coordinates the respective central executive authority, or, in case of conflict of interest for the head of a central executive authority with a special status, the Cabinet of Ministers of Ukraine makes a decision on taking measures to resolve the central executive authority head's conflict of interest and controls implementation of the measures.

The central executive authority's office structure is approved by the central executive authority head as agreed upon by the minister who directs and coordinates the central executive authority's

¹ Terms "real conflict of interest" and "potential conflict of interest" are used in the meaning provided in the [Law of Ukraine "On Prevention of Corruption"](#).

activities. Requirements to the formation of the central executive authority's office structure are set forth by the Cabinet of Ministers of Ukraine.

Concerning the central executive authority's territorial bodies

The central executive authority's territorial bodies are established as legal entities of public law subject to the ceiling on the number of the central executive authority's civil servants and employees and the funds provided for the authority's maintenance, liquidated and reorganized by the Cabinet of Ministers of Ukraine as proposed by the minister who directs and coordinates the central executive authority's activities.

Proposals for establishment, reorganization and liquidation of the central executive authority's territorial bodies are submitted to the minister for consideration by the central executive authority head.

The central executive authority's territorial bodies may be established, liquidated and reorganized by the central executive authority head as structural units of the authority's office, as agreed upon by the minister who directs and coordinates the central executive authority's activities and by the Cabinet of Ministers of Ukraine.

The central executive authority's territorial bodies are established in cases where their establishment is stipulated by the regulations on the central executive authority approved by the Cabinet of Ministers of Ukraine.

Territorial bodies of the central executive authorities may be established in other organizational and legal forms according to the procedure set forth by the legislation.

The central executive authority's territorial bodies may be established in the Autonomous Republic of Crimea, oblasts, Kyiv and Sevastopol cities, raions, city raions, cities of oblast or republican (in the Autonomous Republic of Crimea) significance, and as interregional (with powers covering several administrative-territorial units) territorial bodies (if established).

The central executive authority's territorial bodies act pursuant to the regulations approved by the central executive authority head.

The model regulations on the central executive authority's territorial bodies are approved by the Cabinet of Ministers of Ukraine unless otherwise provided for by the Law of Ukraine "On the Central Executive Authorities" ([link](#)).

The central executive authority's territorial bodies assume legal personality on the day of making an entry on their state registration as legal entities in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations of Ukraine.

The central executive authority's territorial bodies are terminated as legal entities on the day of making an entry in the Unified State Register of Legal Entities, Individual Entrepreneurs

Heads and deputy heads of the central executive authority's territorial bodies are appointed and dismissed by the central executive authority head according to the legislation on civil service. The procedure for appointment of the central executive authority heads is set forth by the Cabinet of Ministers of Ukraine.

Other civil servants of the central executive authority's territorial bodies are appointed and dismissed by the heads of the central executive authority's territorial bodies. Employees of the central executive authority's territorial bodies are appointed and dismissed by the heads of the central executive authority's territorial bodies.

The structure of the central executive authority's territorial bodies is approved by the central executive authority head as agreed upon by the minister who directs and coordinates the central executive authority's activities. The staffing table and budget of the central executive authority's territorial bodies are approved by the central executive authority head.

Concerning the central executive authority's orders

Within its powers, based on and pursuant to the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine and ministerial orders, the central executive authority issues institutional and administrative orders, organizes and controls compliance therewith,

The central executive authority's orders or some of their provisions may be appealed against by natural and legal persons to an administrative court according to the procedure set forth by law.

The central executive authority's orders may be reversed by the Cabinet of Ministers of Ukraine in full or in part.

The central executive authority's orders are subject to mandatory publication according to the Law of Ukraine "On Access to Public Information".

Concerning accountability of central executive authorities with a special status

The Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, the National Commission for Energy and Utility Regulation, the State TV and Radio Committee of Ukraine, and the National Commission for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services are central executive authorities with a special status. Other central executive authorities with a special status may be established by the Cabinet of Ministers of Ukraine or established according to law.

The heads of the Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, and the State TV and Radio Committee of Ukraine are appointed as proposed by the Prime Minister of Ukraine and dismissed by the Verkhovna Rada of Ukraine.

The deputy heads of the Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, and the State TV and Radio Committee of Ukraine are appointed and dismissed by the Cabinet of Ministers of Ukraine as proposed by the Prime Minister of Ukraine.

The members of the National Commission for Energy and Utility Regulation are appointed according to the Law of Ukraine "On the National Commission for Energy and Utility Regulation".

The director, first deputy director and deputy directors of the National Anti-Corruption Bureau of Ukraine are appointed and dismissed according to the procedure set forth by the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine".

The members of the National Commission for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services are appointed and dismissed according to the procedure set forth by the Law of Ukraine "On the National Commission

for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services”.

The matters concerning the activities of the Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, the State TV and Radio Committee of Ukraine, and other authorities with a special status are presented in the Cabinet of Ministers of Ukraine by the Prime Minister of Ukraine.

The matters concerning the activities of the National Anti-Corruption Bureau of Ukraine are presented in the Cabinet of Ministers of Ukraine by the Director of the National Anti-Corruption Bureau of Ukraine.

The provisions of the Law of Ukraine “On the Central Executive Authorities” ([link](#)) apply to the Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, the State TV and Radio Committee of Ukraine, and other central executive authorities with a special status established by the Cabinet of Ministers of Ukraine, except where the Constitution and laws of Ukraine set out different arrangements of their organization and working procedure.

Concerning responsibility of officials of ministries, other central executive authorities and administrative justice bodies

Officials of ministries and other central executive authorities bear criminal, administrative, disciplinary and civil-law responsibility according to law.

Any damage inflicted by unlawful decisions, acts or omission of officials of ministries and other central executive authorities when exercising their powers is indemnified for at the State expense according to the procedure set forth by law.

The State has the right of recourse (regress) to the officials of ministries and other central executive authorities who inflicted damages, in the amount and according to the procedure set forth by the legislation.

The objective of administrative justice is to ensure fair, unbiased and timely settlement by court of disputes in the area of public legal relationships, particularly in cases of appeal against decisions, acts or omission of entities exercising power (Article 2 of the Code of Administrative Justice of Ukraine).

According to Article 19 of the Code of Administrative Justice of Ukraine ([link](#)), jurisdiction of administrative courts applies to cases in public law disputes, particularly disputes between natural or legal persons and an entity exercising power to appeal against the latter’s decisions (regulatory legal acts or individual acts), actions or omission, except when law sets forth a different procedure of court proceedings for consideration of such disputes.

The Constitution of Ukraine defines everyone’s right to compensation, at the expense of the State or local self-government bodies, for material and moral damages caused by unlawful decisions, actions or omission of public authorities, local self-government bodies, their officials and officers when exercising their powers (Article 56 of the Constitution of Ukraine ([link](#))).

This constitutional process is elaborated in other legislative acts:

Any damage inflicted to a natural or legal person by unlawful decisions, acts or omission of a public authority, an authority of the Autonomous Republic of Crimea, or a local self-government

body when exercising their powers is indemnified for by the State, the Autonomous Republic of Crimea, or the local-self government body regardless of guilt of those authorities (Article 1173 of the Civil Code of Ukraine (link)).

Any damage inflicted to a natural or legal person by unlawful decisions, acts or omission of an official or officer of a public authority, an authority of the Autonomous Republic of Crimea, or a local self-government body when exercising their powers is indemnified for by the State, the Autonomous Republic of Crimea, or the local-self government body regardless of guilt of that person (Article 1174 of the Civil Code of Ukraine (link)).

Any damage inflicted to a natural or legal person as a result of adoption by a public authority, an authority of the Autonomous Republic of Crimea, or a local self-government body of a regulatory legal act that was later declared unlawful and reversed is indemnified for by the State, the Autonomous Republic of Crimea, or the local-self government body regardless of guilt of officials and officers of those authorities (Article 1175 of the Civil Code of Ukraine (link)).

Article 21(5) of the Code of Administrative Justice of Ukraine (link) stipulates that claims for damages inflicted by unlawful decisions, actions or omission of an entity exercising power or by other violation of rights, freedoms and interests of public law relationship entities, or claims for collection of property withdrawn pursuant to a decision of an entity exercising power are considered by an administrative court if they are asserted in one proceeding to resolve a public law dispute. Otherwise, such claims are resolved by courts in civil or economic legal proceedings.

According to Article 3(2)(13) of the Law of Ukraine “On the Court Fee” (link), the court fee is not levied for filing a statement of claim for damages inflicted to a person by unlawful decisions, actions or omission of a public authority, an authority of the Autonomous Republic of Crimea, or a local self-government body, or by their official or officer, as well as by unlawful decisions, actions or omissions of the bodies undertaking investigative activities, pre-trial investigation bodies, prosecution bodies, or courts.

Concerning interaction between the Ministry of Finance and key spending units within the budget process framework

The Ministry of Finance (MoF), as the central executive authority that ensures the formulation and implementation of the budget policy, provides organizational and methodological support and coordination to key spending units at all stages of the budget process. Key state budget spending units, according to Article 22 of the Budget Code, may include ministries, judicial authorities, bodies performing anti-corruption functions and security functions, institutions providing support to public authorities, national academies of sciences, other institutions authorized by law to implement the state policy in respective fields (hereinafter referred to as the key spending units).

The powers of MoF and key spending units are defined by the Budget Code and other regulatory legal acts which govern the budget process matters.

The mechanism of coordination provided by MF envisages developing relevant instructions and methodologies and sending them to the key spending units. The instructions and methodologies are binding on all the key spending units.

In particular, at the Budget Declaration preparation stage, MF sends an instruction letter to the key spending units for them to prepare information about changes in the structure of budget programmes for a medium-term period. Based on that information, macroeconomic forecasts received from the Ministry of Economy, and other necessary information from other sources (e.g. on the currency exchange rate from the National Bank of Ukraine, or on social standards from the Ministry of Social Policy), MF calculates expenditure limits and sends them, along with instructions and respective requirements, to the key spending units for drafting of proposals to the Budget Declaration. On the basis of the proposals received from the key spending units, MF formulates the Budget Declaration and submits it to the Government for approval and further submission to the Parliament. The Budget Declaration preparation process is regulated by Article 33 of the Budget Code.

At the stage of drafting the state budget for the next year, MF sends the key spending units instructions on preparation of budget requests in which the units should allocate expenditure limits among budget programmes. Based on the budget requests submitted by the key spending units, MF prepares a draft state budget and submits it to the Government for approval and further submission to the Parliament.

At the stage of implementing the state budget law, MF uses the key spending units' proposals to compile a monthly state budget schedule. Amendments to the budget schedule are also made on the basis of the key spending units' proposals. MF ensures that the budget schedule corresponds to the prescribed budget allocations and that receipts and expenditures are balanced during the budget period.

At the stage of reporting on execution of the state budget, MF is responsible for preparation of the annual report. The report is formulated on the basis of the data submitted to MF by the Treasury and the key spending units. Besides, according to Article 28 of the Budget Code, the key spending units themselves report on implementation of budget programmes, inter alia on achievement of the state policy goals. Reporting takes place by means of public presentation and by placement of necessary information at their official websites.

It should be noted that MF interacts with the key spending units at all stages of the budget process. The key spending units in turn interact with lower-level spending units. According to Article 22 of the Budget Code, a key spending unit manages budget funds within the scope of the budget powers provided thereto, as well as organizes and coordinates the work of lower-level spending units and budget funds recipients in the budget process.

The procedure for adoption of the State Budget of Ukraine and for interaction among the central executive authorities in this process is described in more detail in the answer to question 13 of this questionnaire.

Concerning accountability of the central executive authorities and their officials to the Verkhovna Rada of Ukraine (the Accounting Chamber of Ukraine)

The Verkhovna Rada of Ukraine exercises its control function by adopting a resolution on distrust of the Cabinet of Ministers of Ukraine (the Government), dismissing the Government members, electing and dismissing the officials whom the Verkhovna Rada elects, appoints, or provides its consent to their appointment, asking questions at plenary meetings and from the Parliament members, examining reports on implementation of the Government's Programme of

Activities, considering other reports submitted by the Government and other central executive authorities, holding parliamentary hearings, establishing interim investigative commissions, considering reports of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights (Ombudsman) and instructing him/her to prepare a special report, considering reports of the Accounting Chamber and instructing it to carry out unscheduled state external financial control (audit).

The procedure for using the above-mentioned mechanisms is described in the answer to question 10 of this questionnaire.

Horizontal accountability – the Accounting Chamber’s competence in relation to central executive authorities

Availability of mechanisms for protection of societal interests in the activities of public authorities is one of the principles of their accountability. Such mechanisms include, inter alia, parliamentary scrutiny over the public authorities’ activities. In Ukraine, control on behalf of the Verkhovna Rada of Ukraine is exercised, inter alia, by the Accounting Chamber, as defined by the Constitution of Ukraine (Article 98). In particular, the Accounting Chamber exercises control of receipts and spending of the State Budget funds, for which purpose it carries out financial audits, efficiency audits, and expert analyses (Article 7 of the Law of Ukraine “On the Accounting Chamber”).

According to the legislation, the Accounting Chamber’s control covers public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, other budget-funded institutions, including Ukraine’s foreign diplomatic institutions, economic entities, non-governmental or other organizations, funds of compulsory state social and pension insurance, the National Bank of Ukraine and other financial institutions (Article 7(2) of the Law of Ukraine “On the Accounting Chamber”).

The Accounting Chamber’s powers for inspection of central executive authorities are set out by the legislation. Central executive authorities include ministries, services, agencies, inspectorates, commissions, bureaus, and other authorities, in particular the central executive authorities with a special status: the Anti-Monopoly Committee of Ukraine, the State Property Fund of Ukraine, the National Commission for Energy and Utility Regulation, the State TV and Radio Committee of Ukraine, and the National Commission for the State Regulation of Electronic Communications, Radiofrequency Spectrum and the Provision of Postal Services, etc. (Article 24 of the Law of Ukraine “On the Central Executive Authorities”).

In relation to all central executive authorities, the Accounting Chamber has powers to carry out financial and efficiency audits of: state budget receipts, use of budget funds, implementation of state targeted programmes, investment projects and state orders, provision of state assistance to economic entities from the state budget funds, granting of credits, use of loans, state procurements, and management of state property to the extent that has a bearing on the state budget. Besides, the Accounting Chamber has powers to check the internal control situation in the state budget spending units, in particular the central executive authorities (Article 7(1) of the Law of Ukraine “On the Accounting Chamber”).

The Accounting Chamber's powers in relation to some central executive authorities are defined separately, namely audits of state budget funds management by the State Treasury Service of Ukraine (Articles 7(1) and 9 of the Law of Ukraine "On the Accounting Chamber")

Besides, the Accounting Chamber has certain special powers in relation to some central executive authorities with a special status. In particular, it undertakes preliminary analysis of reports of the Anti-Monopoly Committee of Ukraine and the State Property Fund of Ukraine to the extent that has a bearing on the state budget (Article 7(1) of the Law of Ukraine "On the Accounting Chamber").

The National Bank of Ukraine is a special central public administration authority (according to Article 2 of the Law of Ukraine "On the National Bank of Ukraine"), and the Accounting Chamber also has powers to carry out audits of executing of the NBU's administrative cost estimate (Article 7(1), Article 12 of the Law of Ukraine "On the Accounting Chamber").

Besides, the Accounting Chamber analyses implementation of the recommendations and proposals it provided following the audits and expert analyses (Article 7(1), Article 12 of the Law of Ukraine "On the Accounting Chamber").

The principle of openness of public authorities, being an integral component of accountability, within the Accounting Chamber's work context is secured by the right of the Accounting Chamber officials to access, when exercising their powers, documents and materials of public authorities, including restricted documents, and by their right to obtain necessary explanations and access to premises. Besides, officials of the public authorities where the Accounting Chamber undertakes its activities must take prompt measures to eliminate any violation found and provide information thereon. (Article 32 of the Law of Ukraine "On the Accounting Chamber").

The Accounting Chamber ensures accountability of the executive power, in particular to the Parliament, by informing the Verkhovna Rada of Ukraine and the President of Ukraine (Article 7(3) of the Law of Ukraine "On the Accounting Chamber").

With its activities, the Accounting Chamber promotes compliance with the principle of responsibility of public authority representatives for violations committed, which is a component of accountability as well. For example, if any elements of a criminal or administrative offence are found, the Accounting Chamber informs law enforcement bodies thereof (Article 7(2) of the Law of Ukraine "On the Accounting Chamber").

Parliamentary oversight – a list of specific powers of the legislature to hold governmental authorities accountable, with special focus on: ... the right to demand that supervisory institutions (BOA) undertake inspections/investigations of governmental authorities

As far as the Accounting Chamber is concerned, it undertakes its activities according to its work plans approved at the Accounting Chamber's meeting. Requests from the Verkhovna Rada of Ukraine, its committees and other bodies, requests and addresses from Parliament members, requests from the President of Ukraine and the Cabinet of Ministers of Ukraine with proposals concerning implementation of state external financial control (audit) activities by the Accounting Chamber are considered by the Accounting Chamber's meeting as regards making a decision to include them in the work plans. If such requests and addresses are not taken into account, the Accounting Chamber gives a reasoned reply in due course. The Accounting Chamber may carry out unscheduled activities

upon its own initiative or pursuant to requests. Besides, it carries out unscheduled activities (audits) according to a procedural decision of the Verkhovna Rada of Ukraine made according to the procedure stipulated by the Rules of the Verkhovna Rada of Ukraine (para. 2 of Article 27(3) of the Law of Ukraine “On the Accounting Chamber”).

Concerning the National Agency on Corruption Prevention

According to provisions of Article 4 of the Law of Ukraine “On Prevention of Corruption” (hereinafter referred to as the Law), the National Agency on Corruption Prevention (NACP) is a central executive authority with a special status that ensures the formulation of, and implements, the state anti-corruption policy within the scope specified by this and other laws. The Agency’s powers and rights are set out in Articles 11 and 12 of the Law.

The Law stipulates that NACP is answerable to and controlled by the Verkhovna Rada of Ukraine (VRU) and accountable to the Cabinet of Ministers of Ukraine (CMU).

As regards these provisions, it should first of all be noted that they are declarative because the VRU has no control powers in relation to NACP, and it does not coordinate or direct the Agency’s work.

NACP is not answerable to VRU or CMU. The Law does not stipulate any mechanism to ensure the NACP’s answerability, controllability or accountability to VRU and/or CMU.

Importantly, NACP, as a central executive authority with a special status being part of the system of executive authorities, does not exercise oversight functions in relation to other public authorities.

NACP is governed in its activities solely by the provisions of the Constitution, the Law of Ukraine “On Prevention of Corruption” and other laws, implementing the powers granted thereby and performing the duties assigned to it.

Instead, as a body that ensures formulation and implementation of the state anti-corruption policy, particularly within the scope of its powers, NACP exercises control of compliance with the requirements of the anti-corruption legislation both by the bodies and their officials categorized as entities covered by the requirements of the Law of Ukraine “On Prevention of Corruption”, and provides their coordination.

In particular, NACP carries out:

- monitoring and control of compliance with acts of the legislation on ethical behaviour, prevention and settlement of conflict of interest in the work of persons authorize to perform functions of the State or local government and of equivalent persons;
- control and checking of declarations filed by relevant entities, storage and publication of such declarations, and monitoring of the lifestyle of the declaring entities;
- inspections on the organization of work for prevention and detection of corruption in public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, legal entities of public law, and legal entities mentioned in Article 62(2) of the Law, in particular concerning the preparation and implementation of anti-corruption programmes, the operation of

internal and regular channels of reporting about alleged facts of corruption or corruption-related offences or other violations of the Law, and the protection of whistle-blowers.

Besides, NACP ensures:

- coordination and provision of methodological assistance for detection by public authorities, authorities of the Autonomous Republic of Crimea and local self-government bodies of corruption risks in their work and for their implementation of measures to eliminate the risks, including preparation and implementation of anti-corruption programmes;

- coordination, within its competence, methodological support and analysis of effectiveness of the work of authorized units (authorized persons) for prevention and detection of corruption, operating in public authorities;

- endorsement of anti-corruption programmes of public authorities, authorities of the Autonomous Republic of Crimea and local self-government bodies, development of a model anti-corruption programme of a legal entity;

- coordination of compliance with international commitments on the formulation and implementation of the anti-corruption policy.

If, due to performance of the control functions, any violation of the anti-corruption legislation is found, NACP has the right to issue orders to the head of an authority, enterprise, institution or organization to eliminate the violations of the legislation, carry out an official investigation, and hold a guilty person liable as per law. Such an order is binding.

If elements of a corruption-related administrative offence are detected, NACP officers draw up a report on the offence, which is sent to a court for consideration.

If elements of some other corruption offence or corruption-related offence are detected, NACP approves a reasoned opinion and sends it to other specially authorized entities involved in anti-corruption activities.

NACP prepares an annual report on its activities, which is published at the NACP website. The report is a form of open reporting of an independent institution to an unlimited range of persons (rather than to VRU or CMU).

The mechanism of NACP's interaction with the Parliament and the Government, as set forth by the Law, consists of the drafting by NACP of the annual National Report on the Principles of the Anti-Corruption Policy that demonstrates, in a summary form, results of activities of NACB, SAP, NP, HACC, ARMA, NACP, all ministries, and a number of other public authorities and self-government bodies in the field of formulation and implementation of the anti-corruption policy.

According to Article 20 of the Law, NACP submits a draft of the report by 1 April every year to CMU that considers and endorses the draft and sends it to VRU that in turn holds parliamentary hearings on the situation concerning corruption, approves and published the report.

The National Report is not a report by NACP or by the system of anti-corruption bodies because it shows results of activities of each and every public authority and local-government body in the field of formulation and implementation of the anti-corruption policy. Moreover, failure to endorse the report does not entail any legal consequences either for NACP or for any other institution.

At the same time, to remove any ambiguity or misunderstanding in this area, and to avoid any doubts as to real independence of NACP from VRU and CMU, the Ukrainian Parliament adopted a law on 2 October 2019 the law that established a direct statutory prohibition of any interference with the NACP activities concerning performance of its duties on the part of public authorities, ARC authorities, local self-government bodies, their officials and officers, political parties, public associations, or other persons.

Any written or oral directives, demands, instructions etc. related to NACP's powers but not stipulated by the Ukrainian legislation, sent to NACP or its employees, are unlawful and must not be complied with (Article 9(4) of the Law).

Meanwhile, real mechanisms of control of the NACP's activities, as per Article 14 of the Law, consist of the following forms of control:

- control of spending of funds by NACP – by the Accounting Chamber of Ukraine by means of carrying out an audit every two years;
- public control – by the Public Council at NACP (the Public Council at NACP considers the NACP activity report and provides its opinion);
- external independent assessment of the NACP activity effectiveness (every two years) – by the Commission for Independent Assessment of the NACP Activity consisting of 3 persons appointed by the Government as proposed by the donors who have provided Ukraine international technical assistance in preventing and combatting corruption for two years preceding the assessment.

Such a legislative framework allows ensuring NACP independence in its activities from other public authorities and, at the same time, makes any abuse by NACP impossible due to existing forms of control, including by the public.

See more detailed information on the NACP mandate and powers in the answer to question 145 of this questionnaire.

Concerning the State Audit Service of Ukraine

Activities of the State Audit Service of Ukraine are directed and coordinated by the Cabinet of Ministers of Ukraine via the Minister of Finance. The State Audit Service exercises its powers directly and through interregional territorial bodies established in due course.

The State Audit Service of Ukraine (SASU) and its interregional territorial bodies are not the state supervision authorities activities whereof are regulated by the Law of Ukraine “On the Basic Principles of State Supervision (Control) in Economic Activities” but a central executive authority empowered by the Cabinet of Ministers of Ukraine to implement the state policy on state financial control (a state financial control authority) (Article 1 of the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine”).

The state financial control authority (SASU), according to the main tasks assigned thereto by Article 2 of the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine”, ensures exercising state financial control of: the use and protection of state financial resources, capital and other assets, correct determination of the need for budget funds and correctness of commitments assumed, efficient use of funds and property, status and reliability of accounting and financial reporting in ministries and other executive authorities, state funds, funds of compulsory state social

insurance, budget-funded institutions and economic entities in the public sector of economy as well as in enterprises, institutions and organizations which receive (or received in the period under inspection) funds from budgets of all levels, state funds and funds of compulsory state social insurance or which use (or used in the period under inspection) any state or municipal property (controlled institutions); compliance with the budget legislation; compliance with the legislation on procurements; activities of economic entities regardless of their form of ownership not categorized by law as controlled institutions; and of court decisions made in criminal proceedings.

When performing its tasks and functions, SASU shall have the right, according to the established procedure, to:

- place binding demands on heads and other persons of enterprises, institutions and organizations under control to eliminate any breach of legislation detected; judicially withdraw to the budget any hidden or understated currency and other payments found by audits; request competent authorities to terminate budget financing and crediting if the funds and loans received by enterprises, institutions and organizations are used in violation of the current legislation;

- request competent state authorities to declare invalid any agreements concluded in violation of the legislation; judicially recover to the state budget any funds obtained by controlled institutions under unlawful agreements without statutory grounds and in violation of the legislation.

SASU and its interregional territorial bodies ensure, on behalf of the Government and according to the powers granted to them, state financial control (inspection in the form of revision) and audit of local budgets of all levels. Revision of a local budget is a form of control of performance of local budget formulation and execution functions, which consists of simultaneous revisions of compliance with the budget law requirements by local financial authorities, Treasury bodies and budget process actors which manage and/or use funds of a local budget in question or municipal property.

Based on results of state financial control activities (inspection, audits, procurement checks, monitoring of procurement procedures), SASU:

- drafts its proposals on eliminating any drawbacks and violations found and preventing them in the future;

- takes in due course measures to eliminate the violations of the legislation found in the course of state financial control and to hold guilty persons liable;

- exercises other powers set forth by laws of Ukraine and granted thereto by the Cabinet of Ministers of Ukraine.

The state financial control authority coordinates its activities with local self-government bodies and executive authorities, financial authorities, the central executive authority that implements the state tax policy, the central executive authority that implements the state customs policy, other controlling authorities, prosecution authorities, the National Police of Ukraine, the Security Service of Ukraine, and the Economic Security Bureau of Ukraine.

When exercising their powers, the State Audit Service of Ukraine and its interregional territorial bodies are independent from any interference with their activities. Article 15 of the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine” stipulates that any interference with

the work of the state financial control authority employee entails liability provided for by legislative acts.

According to Article 14 of the Law of Ukraine “On the Basic Principles of State Financial Control in Ukraine”, law enforcement officers must assist officials of the state financial control authority in performance of their duties (in case of obstruction or any other unlawful action).

Concerning the National Anti-Corruption Bureau of Ukraine

The National Bureau was established and started operations in April 2015.

Legal foundations for the National Bureau’s organization and activities are set forth in the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” No. 1698-VII of 14.10.2014 (hereinafter referred to as the Law). According to provisions of the Law, the National Bureau is a central executive authority with a special status charged with preventing, detecting, terminating, investigating and solving corruption-related and other criminal offences covered by its investigative jurisdiction, and with averting commission of any new such offences. The National Bureau’s activities are directed and coordinated directly by the Cabinet of Ministers of Ukraine within the scope and according to the procedure set forth by the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine”. The National Bureau consists of a central directorate and territorial directorates.

The National Bureau’s activities are managed by its Director who is appointed and dismissed by the Cabinet of Ministers of Ukraine through an open competition under the procedure defined by the Law.

The structure, staffing table, regulations on structural units, and job descriptions of the National Bureau staff are approved by the National Bureau Director without any coordination with the Cabinet of Ministers of Ukraine or other public authorities or their officials.

The National Bureau Director appoints the First Deputy Director and Deputy Directors by his/her own decision without any competition. All other National Bureau employees are appointed through an open competition under the procedure defined by the National Bureau Director.

The National Bureau’s mission is to counteract any corruption-related and other criminal offences which are committed by top officials authorized to perform functions of the State or local self-government and which jeopardize national security, and to take other statutory measures to combat corruption.

The National Bureau’s independence in its activities is guaranteed by: a special procedure of competitive selection of the National Bureau Director and by an exhaustive list of grounds for termination of the National Bureau Director’s powers specified by the Law; competitive principles of selection of other National Bureau employees, their special legal and social protection and proper labour remuneration conditions; a statutory procedure for financing and material and technical support of the National Bureau; statutory means of ensuring personal security of the National Bureau employees, their close relatives, property, etc. Using the National Bureau in party, group or personal interests is not allowed.

Any unlawful interference with the National Bureau's activities by public authorities, local self-government bodies, their official and officers, political parties, public associations, or other natural or legal persons is prohibited.

Provisions of Articles 16(1)(4) and 17(1)(3) of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" define the National Bureau's powers for interaction with other public authorities and local self-government bodies as well as powers to demand and obtain information and direct access, including by automated means, to computer-aided information and reference systems, registries and databanks held (administered) by public authorities or local self-government bodies.

Within criminal proceedings, information from public authorities, enterprises, institutions and organizations is obtained according to the provisions of the Criminal Procedure Code of Ukraine, particularly Article 93 and Chapter 15 "Temporary access to property items and documents".

According to the provisions of Article 17(1)(3) of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine", the National Bureau is entitled to demand and obtain information from other law enforcement bodies, public authorities, enterprises, institutions and organizations. At the same time, Article 185-13 of the Code of Ukraine on Administrative Offences provides for liability for failure to provide, incomplete or untimely provision of, information requested by the National Bureau.

The National Anti-Corruption Bureau of Ukraine is a central executive authority with a special status charged with preventing, detecting, terminating, investigating and solving corruption-related and other criminal offences covered by its investigative jurisdiction, and with averting commission of any new such offences.

The National Bureau's investigative jurisdiction is described in detail at its official website in Ukrainian and English at <https://nabu.gov.ua/en/competence>.

The National Bureau's activities are directed and coordinated directly by the Cabinet of Ministers of Ukraine. However, such coordination is provided only within the scope and in the way stipulated by the Law, which is what grants a special status to the National Bureau (Article 4(4) of the Law).

Control of the National Bureau's activities is exercised by the committee of the Verkhovna Rada of Ukraine competence whereof includes combatting corruption and organized crime, according to the procedure set forth by the legislation (Article 26(1) of the Law).

The National Bureau Director:

- 1) informs the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine on key points of activities of the National Bureau and its units, in particular on performance of the tasks assigned to it, compliance with laws, human rights and freedoms;

- 2) submits a written report on the National Bureau's activities for previous six months to the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine no later than 10 February and 10 August every year (Article 26(1) of the Law).

In order to ensure transparency and civil control of the National Bureau's activities, the Public Control Council is established under the National Bureau, consisting of 15 persons. The Council is

formed through an open and transparent competition held by means of an Internet rating vote among citizens residing in the territory of Ukraine (Article 31 of the Law).

The Cabinet of Ministers of Ukraine takes part in the formation of the commission for competitive selection of the National Bureau Director as per the Law. Three persons are appointed as the Commission members directly by the Cabinet of Ministers of Ukraine; three persons are identified by the Cabinet of Ministers of Ukraine pursuant to proposals from the international and foreign organizations which provided international technical assistance to Ukraine in preventing and counteracting corruption, according to international or interstate agreements, during the recent three years prior to expiration of the National Bureau Director's term of office or to early termination of his/her powers. A decision to designate the Competition Commission members is made at an open meeting of the Cabinet of Ministers of Ukraine (Article 7 of the Law).

The Competitive Commission makes a submission concerning the three selected candidates for the National Bureau Director position to the Prime Minister of Ukraine. The Prime Minister of Ukraine must, within five days of receiving the submission from the Competitive Commission's, make a submission on appointment of one of the candidates selected by the Competitive Commission to the Cabinet of Ministers of Ukraine for consideration. Within ten days of receiving the submission from the Prime Minister of Ukraine on appointment of a candidate as the National Bureau Director, the Cabinet of Ministers of Ukraine appoints the person as the National Bureau Director at an open meeting (Article 7 of the Law).

If the Cabinet of Ministers of Ukraine did not make any decision on appointment of the person mentioned in the submission from the Prime Minister of Ukraine as the National Bureau Director, the Prime Minister must urgently make a submission to the Cabinet of Ministers of Ukraine concerning the three candidates selected by the Competition Commission for consideration. In such a case, the person whose candidature was supported by most members of the Cabinet of Ministers of Ukraine by a rating vote at an open meeting of the Cabinet of Ministers of Ukraine held urgently is deemed appointed as the National Bureau Director (Article 7 of the Law).

At the same time, the National Bureau has also other guarantees of its independence which are also stipulated by its having a special status.

For example, the Law of Ukraine "On the Cabinet of Ministers of Ukraine", the Law of Ukraine "On Central Executive Authorities", and other regulatory legal acts which govern activities of executive authorities, as well as the Law of Ukraine "On Civil Service" apply to the National Bureau, its officials, supervisory staff and other employees to the extent not in conflict with the Law. In case of collisions between provisions of the Law and those of other laws and regulations, provisions of the Law apply (Article 2 of the Law).

The structure, staffing table, regulations on structural units and job descriptions of the National Bureau staff are approved by the National Bureau Director. Requirements of the Cabinet of Ministers of Ukraine to the formation of the central executive authority office structure do not apply to the National Bureau (Article 5(3) of the Law).

The National Bureau's acts may not be reversed in full or in part by the Cabinet of Ministers of Ukraine (Article 4(5) of the Law).

Using the National Bureau in party, group or personal interests is not allowed. Activity of political parties in the National Bureau is prohibited (Article 4(2) of the Law).

Any unlawful interference with the National Bureau's activities by public authorities, local self-government bodies, their officials and officers, political parties, public associations, or other natural or legal persons is prohibited (Article 4(3) of the Law).

Any written or oral directives, demands, orders etc. to the National Bureau or its employees, related to organization of the National Bureau's activities, particularly adoption of regulatory legal acts, direct exercise of the National Bureau's powers specified by law, and pretrial investigation in a concrete criminal proceeding, and not provided for by the Criminal Procedure Code of Ukraine are unlawful and must not be complied with. If a National Bureau employee receives such a directive, demand, order, etc., the employee urgently informs thereof the National Bureau Director in written (Article 4(3)).

See more detailed information on the NABU in question 145 of this questionnaire.

59. Explain the legal framework governing the scrutiny by oversight institutions and provide a list of all structures involved (independent institutions).

The independent bodies that exercise parliamentary control over the executive branch are the Ukrainian Parliament Commissioner for Human Rights and the Accounting Chamber.

The procedures for the review the reports of the above-mentioned bodies and for the Verkhovna Rada instructing them to carry out control measures are described in the answer to question 10.

The Accounting Chamber

a) Institutional locus, i.e. formal relations with other bodies of the state power and status among state institutions

The Accounting Chamber is an independent state authority with the status that is formalised in the Constitution of Ukraine (Article 98 of the Constitution of Ukraine). On behalf of the Verkhovna Rada of Ukraine, it controls the receipt and use of the state budget funds.

The Accounting Chamber consists of thirteen Members of the Accounting Chamber. Members of the Accounting Chamber are appointed and dismissed by the Verkhovna Rada of Ukraine through a contest-based procedure.

The Accounting Chamber has the authority to carry out audits and expert-and-analysis measures pertaining to the state budget; the entities subject to those measures may encompass all bodies of the state power, the authorities of the Autonomous Republic of Crimea, bodies of local self-government and budget-financed institutions.

Such measures shall be taken in accordance with the work plan approved by the Accounting Chamber. Extraordinary measures of the state external financial control (audit) are carried out on behalf of the Verkhovna Rada of Ukraine or upon decision of the Accounting Chamber. The Accounting Chamber may also carry out such measures at the request of bodies of local self-government, funds of the mandatory state social and pension insurance, state-owned enterprises and other economic entities of the state sector of the economy.

Based on the results of the state external financial control (audit) measures, a report is prepared, containing conclusions and recommendations. Within one month, the entity under control shall inform the Accounting Chamber on the results of its consideration of the decision taken by the Accounting Chamber, as well as on any action planned and taken in that connection.

b) Mandate – the main functions and tools for their implementation

The current public financial reporting system is under the independent and professional control of the Accounting Chamber, which ensures accountability and transparency in the use of the state funds, as well as the development and improvement of state administration and state services.

The Accounting Chamber is operationally and financially independent.

The powers of the Accounting Chamber are formalised in Article 98 of the Constitution of Ukraine, and further defined in the special law of Ukraine “On the Accounting Chamber”, both of which are to considerable degree consistent with the Lima and the Mexico Declarations. The law stipulates that the International Standards on Supreme Audit Institutions (ISSAI) shall be applied in the activities of the Accounting Chamber.

The Constitution and the regulatory and legal framework grant the Accounting Chamber the powers to conduct financial audits and performance audits as defined in international standards, with the exception of compliance audits.

The independence of the Accounting Chamber is ensured by providing it with the financial, operational and human resources that are necessary to perform its duties. In accordance with the legislation, all members of the Accounting Chamber and audit staff must have the qualifications and professional integrity that are required for full performance of their duties.

As required by law, once a year the Accounting Chamber reports on its work before the Verkhovna Rada of Ukraine, and makes its reports public.

A key feature ensuring trust in the institution is the timely provision of professional and objective audit reports. The Accounting Chamber strengthens the accountability of the government and government agencies as a total. For that end, it has established procedures to monitor the implementation of audit recommendations and to adjust audit activities, as may be necessary.

The Accounting Chamber exercises control over the receipt and use of state budget funds by conducting performance audits, financial audits and expert-and-analytical measures. At the same time, the Accounting Chamber in its activities strives to ensure the highest adherence to the INTOSAI and EUROSAI principles. In the course of financial audits, the Accounting Chamber applies an updated methodology that is fully consistent with ISSAI standards. At present, the methodology to conduct performance audits and bringing it in line with ISSAI standards and European best practices undergoes improvement. Performance audits carried out by the Accounting Chamber also include components of compliance audits. At present, the legislation does not stipulate compliance audits as a separate type. At the same time, work is under way to develop a methodology for compliance audits and to define it as an independent type of audit.

Also, work is under way to expand the mandate of the Accounting Chamber and extend it over all components of the public finance system, not only to the state budget and operations that may

have consequences for the state budget. Those areas of work are specified in the Accounting Chamber Development Strategy for 2019 to 2024.

Regarding the expert-and-analytical activities of the Accounting Chamber, it is necessary to note the expert examination of the draft state budget, as well as the quarterly analyses of the state budget and analysis of the state budget implementation report.

In addition, the Accounting Chamber, within two weeks after the Cabinet of Ministers of Ukraine has submitted its annual report on the implementation of the State Budget of Ukraine, shall prepare and submit to the Verkhovna Rada of Ukraine its conclusions on the implementation of the State Budget of Ukraine, containing evaluation of effectiveness of the state budget funds management, as well as its proposals regarding elimination of any violations revealed over the reporting budget period, and improvements in the budget process in its entirety.

The Accounting Chamber also conducts analytical activities in various areas, in accordance with its powers. Such activities may encompass a considerable range of research resources and assets, as well as focus on matters that are most significant from the social perspective. For example, analysis of the effectiveness of measures to implement the Poverty Reduction Strategy, analysis of the system of mandatory state pension and social insurance and social protection, etc.

The Accounting Chamber is a member of EUROSAI and INTOSAI and actively participates in the exchange of experience and in international audits. In particular, it chairs the activities of the EUROSAI Working Group on Audit of Funds Allocated to Disasters and Catastrophes, supports the activities of its secretariat, and is an active member of other working and special groups of the said international organisations. The Accounting Chamber conducts joint coordinated and parallel audits.

c) Status – guarantees of functional, administrative and organisational independence: rules of appointment/ dismissal, independence in fulfilment of principal functions and investigative powers, budget procedures, internal management of the institution.

The main principles of the Lima and the Mexico Declarations that ensure the organisational, functional, administrative and financial independence of the supreme audit bodies, have been introduced in the activities of the Accounting Chamber and formalised on the legislative basis. The independence, the powers and organisation of the Accounting Chamber as the supreme audit institution are established and protected by the legal framework, and are to a greater extent implemented in practice.

The organisation, powers and procedures of the Accounting Chamber are defined by the Constitution of Ukraine, the Law of Ukraine “On the Accounting Chamber” and other laws of Ukraine. The Accounting Chamber is independent organisationally, functionally and financially, and plans its activities independently.

One of the principles of the Accounting Chamber is the principle of independence of activity. Unlawful interference with the exercise by the Accounting Chamber of its powers, granted by law is prohibited and entails liability as stipulated by law. Interference of state authorities, bodies of local self-government, political parties and public associations, enterprises, institutions, organisations, regardless of ownership and their officials and officials in the activities of the Accounting Chamber is prohibited.

Organisational independence is ensured by a clear procedure for the appointment and dismissal of the Chairperson and Members of the Accounting Chamber. Members of the Accounting Chamber are appointed and dismissed by the Verkhovna Rada of Ukraine; the Chairperson of the Accounting Chamber is appointed by the Verkhovna Rada of Ukraine upon the proposal by the Chairperson of the Verkhovna Rada of Ukraine. The procedure for appointment/ dismissal of the Accounting Chamber Chairperson and Members, the time period for their employment, and guarantees of their inviolability for the duration of their office are determined by respective legislative provisions. Termination of the powers of the Verkhovna Rada of Ukraine shall not serve as grounds for reappointment of the Chairperson and Members of the Accounting Chamber.

In order to exercise its powers, the Accounting Chamber has the administrative structure – the Accounting Chamber Staff, employing civil servants and headed by the Secretary of the Accounting Chamber – Chief of Staff, who is also Head of the civil service at the Accounting Chamber. The Accounting Chamber may establish ad hoc advisory and support structures. The structure and staffing schedule of the Accounting Chamber are approved by the Accounting Chamber itself. Its work plan is also formed by the Accounting Chamber and approved by its decision that is passed at a meeting.

The legal framework provides for the financial independence of the Accounting Chamber from bodies of the executive power. Its financial independence is ensured by the mechanism of the Accounting Chamber budget formation. Specifically, it specifies its financial needs in a budget request and submits it to the Ministry of Finance; if any discrepancies emerge in the course of establishing the amount of financial support for the activities of the Accounting Chamber, and the Cabinet of Ministers has failed to rectify those discrepancies, the Accounting Chamber shall have the right to submit its proposals to the respective Committee of the Verkhovna Rada of Ukraine. The Accounting Chamber shall have the right to use the funds, allocated to it under a separate budget item, according to its own finance plan.

The audit powers of the Accounting Chamber, stipulated by law, are exercised through financial and performance audits, with the exception of compliance audits.

Employees of the Accounting Chamber shall have unrestricted access to the premises of the entities under audit in order to conduct audit activities and decide what information they need in order to conduct an audit. The law guarantees its officers unrestricted access to records, documents and information. Members of the Accounting Chamber shall have the right to access any databases created at the expense of the state budget. In practice, in individual cases, auditors are sometimes denied access to information, which does not pose significant risks to obtaining the necessary audit evidence.

d) Accountability – requirements for accountability and transparency

In its activities, the Accounting Chamber tries to apply ISSAI (IFPP) standards to ensure high quality audits, which produces a positive impact on changes in the governance and functioning of the state sector.

The work of the Accounting Chamber is mainly based on independent professional judgment and evidence-based and reliable analysis. Work is planned and performed with partial application of the ISSAI standards (within the scope that this does not contradict the legislation of Ukraine). This makes it possible to conduct financial audits and performance audit to promote accountability and transparency of public activities, as well as fulfil their duties in a full and objective manner.

The Accounting Chamber maintains the effective quality assurance procedures and is committed to implementing the principles and elements of the quality assurance system defined by International Standards, striving to ensure that members of the Accounting Chamber and its staff adhere to high ethical professional requirements, such as integrity, independence and objectivity, confidentiality and competence.

The official mechanism for consideration of the annual reports of the Accounting Chamber by the Parliament is defined by law and is regularly supported. The Accounting Chamber regularly provides the legislature, and in particular, the Verkhovna Rada Committees, with relevant, objective and timely information.

The Accounting Chamber reports contain relevant and useful recommendations based on logical and clear conclusions that are perceived by entities under audit, stakeholders and the society in general. Procedures have been introduced for further control over the implementation of audit recommendations based on approved audit reports. Work is currently under way to improve the methodology approaches to the formation of recommendations by the Accounting Chamber and to monitor the status of their implementation by entities under control.

The Accounting Chamber informs the Verkhovna Rada of Ukraine on the results of all activities carried out, and also submits to it an annual report on the results of its activities. The Verkhovna Rada and its Committees also hear reports by the Accounting Chamber Members regarding the measures taken. People's Deputies also have the right to attend meetings of the Accounting Chamber. In recent years, a trend has been observed towards strengthening effective cooperation between the Accounting Chamber and the Verkhovna Rada of Ukraine in terms of processing information provided by the supreme audit body of the Parliament and improving accountability of entities under audit.

The Accounting Chamber publishes reports on the results of its audits and expert-and-analytical activities on its website, as well as informs about the decisions made at the meetings.

To ensure accountability of the Accounting Chamber, internal and external audits are also conducted. An external audit may be carried out once every three years by an audit firm that has experience in conducting audits in accordance with international auditing standards. One and the same audit firm may not perform such audits more than three times in succession. At the request of the Accounting Chamber, external evaluation of the Accounting Chamber being in compliance with international auditing standards may be performed by one of the leading members of the International Organisation of Supreme Audit Institutions (INTOSAI). Reports on the results of the external audit and external evaluation must also be posted on the official website of the Accounting Chamber. The latest functional assessment of the Accounting Chamber's activity was conducted in 2018 by representatives of the supreme audit bodies of the United Kingdom, Germany and Poland. Its results, in particular, formed the basis of the first Accounting Chamber Development Strategy.

The Accounting Chamber Development Strategy for 2019-2024 also envisages a number of measures aimed at improving openness and communication with various stakeholders.

The Ukrainian Parliament Commissioner for Human Rights

Parliamentary control over the observance of constitutional human and civil rights and freedoms, and protection of the rights of all on the territory of Ukraine, within their jurisdiction and

on a permanent basis, is exercised by the Ukrainian Parliament Commissioner for Human Rights (hereinafter referred to as “the Commissioner”).

According to Article 4 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, the Commissioner is an official whose status is determined by the Constitution of Ukraine, this Law and other Laws of Ukraine.

The Commissioner carries out their activities independently of other state bodies and officials. The activities of the Commissioner complement the effective means of protection of constitutional human and civil rights and freedoms, do not negate those and do not imply a revision of competences of state bodies that ensure the protection and restoration of violated rights and freedoms.

The Commissioner is appointed and dismissed by the Verkhovna Rada of Ukraine. A citizen of Ukraine who has reached the age of 40 before the day of their appointment, has the state language command at the level stipulated by the National Commission on the State Language Standards, possesses high moral qualities, human rights defence experience and has lived in Ukraine for the last five years, may be appointed Commissioner.

With regard to persons who aspire for the position of the Commissioner, a special inspection shall be conducted upon their written consent, in accordance with the procedure established by the Law of Ukraine “On Prevention of Corruption”. A person may not be appointed Commissioner if they have a criminal history on record or unexpunged conviction for a crime, except for those who were rehabilitated, or who was subject to an administrative penalty for committing an offense related to corruption in the previous year.

Proposals regarding candidate(s) for the position of the Commissioner shall be submitted by the Chairperson of the Verkhovna Rada of Ukraine or by at least one quarter of the People’s Deputies of Ukraine in the constitutional composition of the Verkhovna Rada of Ukraine. Based on the results of the special inspection, the respective Committee of the Verkhovna Rada of Ukraine shall submit to the Verkhovna Rada of Ukraine its conclusions regarding each candidate for the Commissioner position, compliance with the requirements of this Law and absence of any factors that could prevent them from occupying that position.

The candidate who won the majority of votes of the People’s Deputies of Ukraine in the constitutional composition of the Verkhovna Rada of Ukraine shall be considered nominated.

The Commissioner is appointed for five years, starting from the day when they have taken oath at the plenary session of the Verkhovna Rada of Ukraine. The powers of the Commissioner may not be terminated or limited in case the term of office of the Verkhovna Rada of Ukraine has expired or it has dissolved (self-dissolved), or if martial law or state of emergency has been introduced in Ukraine or in its certain areas.

The Commissioner has the right to issue constitutional petitions and petitions.

Constitutional petition of the Commissioner is an act of response to the Constitutional Court of Ukraine for decision on the matter of compliance with the Constitution of Ukraine (constitutionality) of a law of Ukraine or a different legal instrument of the Verkhovna Rada of Ukraine, a statutory instrument of the President of Ukraine and the Cabinet of Ministers of Ukraine; a statutory instrument of the Autonomous Republic of Crimea, official interpretation of the Constitution of Ukraine.

According to the constitutional petition of the Commissioner, constitutional proceedings are instituted in the Constitutional Court of Ukraine.

Petition of the Commissioner is an act submitted by the Commissioner to bodies of the state power, bodies of local self-government, associations of citizens, enterprises, institutions, organisations, regardless of their form of ownership, their officers and officials, in order to take appropriate measures, within one month, to eliminate any revealed violations of human and civil rights and freedoms.

The Commissioner shall carry out their activity on the basis of information on violations of human and civil rights and freedoms, which they receive:

- 1) in connection with appeals of citizens of Ukraine, foreigners, stateless persons or their representatives;
- 2) in connection with inquiries of People's Deputies of Ukraine;
- 3) upon their own initiative.

Every year, the Commissioner shall submit to the Verkhovna Rada of Ukraine an annual report on the status of observance and protection of human and civil rights and freedoms in Ukraine by bodies of the state power, bodies of local self-government, associations of citizens, enterprises, institutions, organisations regardless of their form of ownership and their officials, that violated the human and civil rights and freedoms through their actions (inaction), and on any shortcomings found in the legislation on the protection of human and civil rights and freedoms. The Commissioner submits the annual report to the Verkhovna Rada of Ukraine by March 20 of the current year.

The annual report must contain references to cases of violations of human and civil rights and freedoms in respect of which the Commissioner took the necessary measures, to the results of inspections carried out throughout the year, conclusions and recommendations aimed at improving human and civil rights and freedoms, and information on the status of implementation of the recommendations contained in the annual report for the previous year.

In cases envisaged by law, on their own initiative, or pursuant to a decision of the Verkhovna Rada of Ukraine, the Commissioner shall submit to the Verkhovna Rada of Ukraine a special report (reports) on certain issues of observance of human and civil rights and freedoms in Ukraine.

The Commissioner shall be assigned the functions of the national preventive mechanism in accordance with the [Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#).

In order to fulfil the functions of the national preventive mechanism, the Commissioner shall:

- 1) carry out regular visits to the places specified in [Clause 8](#) of Article 13 of this Law, without prior notice of the time and purpose of visits and without limiting their number;
- 2) interview persons in the places specified in paragraph 8 of Article 13 of this Law, in order to obtain information on the treatment of those persons and the conditions of their detention, as well as interview other persons who may provide such information;
- 3) make proposals to bodies of the state power, state agencies, enterprises, institutions, organisations regardless of their form of ownership, including those specified in [Clause 8](#) of Article

13 of this Law, pertaining to prevention of torture and other cruel, inhuman or degrading treatment and punishment;

4) on a contractual basis (for remuneration or without such), engage representatives of public organisations, experts, academia and specialists, including foreign ones, in regular visits to the places specified in Clause 8 of Article 13 of this Law;

5) exercise other powers envisaged by law.

In carrying out the functions of the national preventive mechanism, the Commissioner shall cooperate with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture, established in pursuance of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as with international organisations and relevant bodies of foreign states whose activities are connected with this area.

Every year, the Commissioner prepares a special report on the status of prevention of torture and other cruel, inhuman or degrading treatment or punishment in Ukraine. That report is published in the mass media and communicated to the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, in compliance with the legislation of Ukraine on information.

According to Article 10 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, in order to provide support for the activities of the Commissioner, a secretariat is established as a legal entity that has its own bank account and a standard-format seal.

The structure of the Secretariat, the division of functions and other matters connected with the organisation of its work are regulated by the Provisions on the Secretariat of the Ukrainian Parliament Commissioner for Human Rights (hereinafter referred to as “the Provisions”). Employees of the Secretariat are subject to the Law of Ukraine “On Civil Service”. The Provisions and the cost estimate of the Secretariat shall be approved by the Commissioner within the finance plan connected with the activities of the Commissioner. Employees shall be appointed and dismissed to/from their positions by the Commissioner.

According to Article 12 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, financing for the activities of the Commissioner shall be provided from the State Budget of Ukraine and envisaged in a separate line, on the annual basis.

The Commissioner develops, submits for approval to the Verkhovna Rada of Ukraine and fulfils their finance plan.

Financial statements shall be submitted by the Commissioner as stipulated by the legislation of Ukraine. For 2022, the budget of the Secretariat of the Commissioner is set at UAH 242,769.9 thousand (after the reduction caused by Russian military aggression – UAH 198,560.4 thousand). Out of that amount, under the program “Parliamentary control over observance of the constitutional human rights and freedoms” – UAH 239,487.9 thousand (after the reduction caused by the Russian military aggression – UAH 195,606.6 thousand); under the programme “The National Preventive Mechanism Implementation Measures” – UAH 3,282.0 thousand (after the reduction caused by the Russian military aggression – UAH 2,953.80 thousand).

60. Describe the legal framework and institutional setup to guarantee access to information.

In addition, the conditions and procedure for ensuring access to information on the use of public funds, the obligation to publish relevant information on the Unified Web Portal for the Use of Public Funds (<https://spending.gov.ua/new/>) are defined in the Law of Ukraine "On the openness of use of public funds". The procedure for disclosure by information managers (public authorities, local self-government bodies, and some other business entities) of information in the form of open data on the Unified State Open Data Portal (<https://data.gov.ua/>) approved by the Resolution of the Cabinet of Ministers of Ukraine dated 21.10.2015 № 835 "On Approval of the Regulation on data sets to be made public in the form of open data" (hereinafter referred to as Resolution № 835).

The open data policy was introduced in Ukraine in 2015 in order to increase the transparency of government activities, prevent and detect corruption, as well as develop innovations based on open data. It is part of the e-governance policy and provides for the publication of public information in the form of open data for further free use.

In April 2015, the Verkhovna Rada of Ukraine defined the concept of "open data" in the Law of Ukraine "On amendments to certain Laws of Ukraine regarding access to public information in the form of open data".

The law obliges state authorities to provide public information in the form of open data on request, publish and regularly update it on the Unified State Open Data Web Portal. The law provides that any person is free to copy, publish, distribute, use, including for commercial purposes, in combination with other information, or by including in his own product, public information in the form of open data with a mandatory reference to the source of such information. This provision of the Law clearly states that all open data in Ukraine comply with the Creative Commons Attribution 4.0 International license.

The amendments made to the said resolution № 835 in 2021 provide for the following norms:

requirements for the disclosure of open data (such as formats, metadata, etc.);

the main characteristics of the proper functioning of the Unified State Open Data Web Portal and the requirements for the publication of data, the list of data sets to be made public by state authorities;

governing procedure for assessing the state of open data of state bodies.

The main characteristic of the open data policy is the publication of data in accordance with 6 principles of the International Open Data Charter, including the principle of openness by default. Ukraine joined the International Open Data Charter in 2016.

In 2018, Ukraine adopted the current Open Data Strategy (CMU Order № 900-r of the 21st of November 2018 "On Approval of the Action Plan for the Implementation of the Principles of the International Open Data Charter"). The strategy is based on 6 principles of the International Open Data Charter.

Open data is also part of three other national digital transformation strategies:

Order of the Cabinet of Ministers of Ukraine of the 8th of November 2017 № 797-r "About approval of the Concept of development of e-democracy in Ukraine and plan of measures for its implementation";

Order of the Cabinet of Ministers of Ukraine of the 20th of September 2017 № 649-r "About approval of the Concept of development of e-governance in Ukraine";

Order of the Cabinet of Ministers of Ukraine of the 24th of February 2021 № 149-r "About approval of action plan for implementation of the Initiative Partnership "Open Government" in 2021-2022";

Some authorities implement their own internal open data policy on the basis of the Resolution of the Cabinet of Ministers of Ukraine of the 21st of October 2015 № 835 "On Approval of the Regulation on data sets to be made public in the form of open data".

Regarding the state structure (institutional structure) of open data regulation:

The Ministry of Digital Transformation is the main authority that ensures the formation and implementation of state policy in the field of open data. The Ministry is also responsible for creating and ensuring the functioning of the Unified State Open Data Web Portal.

The Commissioner of the Verkhovna Rada of Ukraine for Human Rights is a state body that monitors compliance with the requirements of the legislation on access to public information, including open data.

The Ministry of Digital Transformation coordinates the work of CDTO (Chief digital transformation officer) – deputy heads in state authorities for digital transformation. The development of open data is a matter of CDTO's responsibility.

DTPM (Digital Transformation Program Manager) — project managers of the Ministry of Digital Transformation responsible for the implementation of specific digital transformation projects in the authorities.

CDTO at the level of local self-government is the deputy head of local self-government responsible for digital transformation.

Each body at the national and local levels has a structural unit responsible for access to public information and a person responsible for publishing data sets on the Unified State Open Data Web Portal.

The Ministry of Digital Transformation and CDTO are responsible for coordinating open data development projects between the public, private sector, and non-profit (public) organizations. These projects include receiving and processing requests to open data sets and improve the quality of their publication.

The involvement of the maximum number of interested parties in the formation and implementation of the open data policy through both official and unofficial communication channels is enshrined in the Law of Ukraine "On Access to Public Information" and the strategy for the development of open data.

The right of access to information in Ukraine is enshrined in Article 34 of the Constitution of Ukraine, whereby everyone is guaranteed the right to freedom of thought and speech, and to free

expression of their views and beliefs; everyone has the right to freely collect, store, use and disseminate information by oral, written or other means at their discretion. The exercise of those rights may be restricted by law in the interests of national security, territorial integrity or public order for the purpose of preventing disturbances or crimes, protecting public health, protecting the reputation or the rights of other persons, preventing the disclosure of information received in a confidential manner or supporting the authority and impartiality of justice.

Legal mechanisms for the exercise of the right to information by citizens are detailed in the Laws of Ukraine “On Access to Public Information”, “On Information”, “On Prevention of Corruption”, “On Personal Data Protection”, “On the Openness of the Use of Public Funds” and others, in the Resolution of the Cabinet of Ministers of Ukraine of 21.10.2015 No. 835 “On approval of the Regulation on datasets to be published in the form of open data”, etc.

Article 7 of the Law of Ukraine “On Information” guarantees equal rights and opportunities in respect of access to information for all entities involved in information relations, and provides for the right to free choice of the forms and sources of information; Article 21 of this Law contains a list of information to be accessed without any restrictions.

The Law of Ukraine “On Access to Public Information” (hereinafter referred to as the “Law No. 2939”) is a basic legal and normative document that sets out the procedure for exercising and ensuring everyone’s right of access to information held by entities entrusted with power and authority and by other public information administrators, and to information of public interest.

The purpose of this Law is to ensure transparency and openness of entities entrusted with power and authority and to provide mechanisms for the exercise of everyone’s right of access to public information. It defines “public information”, establishes the procedure for obtaining it, including the procedure and the grounds for restriction of access to public information, determines the scope of requesters and administrators, their obligations, the procedure for completing of requests and the time limits for their consideration, the grounds for refusal and deferral in respect of requests, the procedure for appeal against violations in the area of access to public information.

In particular, access to information is ensured through: 1) systematic and timely publication of information: in official print media; on the official websites; on the Single State Open Data Portal; on the information stands; by any other means; 2) provision of information upon request for information (Article 5 of the Law No. 2939).

Article 15 of the Law No. 2939 defines the types of information to be published by administrators. In particular, such information includes:

information on the organisational structure, mission, functions, powers, main tasks, areas of activity and financial resources;

information on preparation, consideration and approval of budgets, cost estimates of administrators of budget funds, and plans for the use of budget funds of recipients of budget funds as well as their execution in accordance with budget breakdowns, Programmes and expenditure;

information on possession, use or disposal of state and communal property, including the copies of relevant documents, the terms of receiving those funds or property, surnames, names and patronymics of natural persons and names of legal persons that have received those funds or property.

The access to the following also may not be restricted: information on the progress and outcome of checks and official investigations into violations committed in the areas of activity referred to in this paragraph; legal and normative acts and individual acts (except for internal acts) adopted by administrators, draft decisions to be discussed, information on the legal framework for activities;

the list and terms of obtaining services provided by relevant bodies, the forms and templates of documents, the rules for completing them;

the procedure for preparation and submission of a request for information, appeal against the decisions, acts or omissions of administrators;

information on the record-keeping system, types of information stored by the administrator;

the list of datasets to be published in the form of open data;

information on the mechanisms or procedures for the public to represent their interests or influence, in any other manner, the exercise of powers by the information administrator;

plans and agendas of public meetings;

locations where the institution's forms and templates are provided to requesters;

the general rules of work of the institution, its internal code of conduct;

reports, including those related to granting requests for information;

information on the activity of entities entrusted with power and authority (their location, postal address, numbers of means of communication, official website and e-mail address; surname, name and patronymic, service numbers of means of communication, e-mail addresses of the head and deputy heads of the body as well as of the heads of structural and regional units, main functions of structural and regional units, except for cases when this data is classified as restricted information; working and visiting hours; vacancies, the procedure and terms of competitive selection for vacant posts; the list of services and the terms of their provision, the forms and templates of documents required for the provision of services, the rules for completing them; the list and service numbers of means of communication of enterprises, institutions and organisations managed by relevant bodies and of their heads, except for enterprises, institutions and organisations established for cover, criminal intelligence and surveillance operations or counterintelligence operations; the procedure for preparation and submission of requests for information, appeal against the decisions, acts or omissions of entities entrusted with power and authority; the record-keeping system, the types of information held by the entity entrusted with power and authority).

In addition, the terms and the procedure for ensuring access to information on the use of public funds, the obligation to publish relevant information on the Single Web Portal on the Use of Public Funds (<https://spending.gov.ua/new/>) are set out in the Law of Ukraine "On the Openness of the Use of Public Funds". The procedure for publication of information in the form of open data by information administrators (public authorities, local self-governing bodies and certain other undertakings) on the Single State Open Data Portal (<https://data.gov.ua/>) is approved by the Resolution of the Cabinet of Ministers of Ukraine of 21.10.2015 No. 835 "On approval of the Regulation on datasets to be published in the form of open data".

The decisions, acts or omissions of information administrators, in accordance with Article 23 of the Law No. 2939, may be appealed by the requester, including: a refusal to grant a request for information; a deferral of granting a request for information; failure to provide a response to a request for information; provision of inaccurate or incomplete information; untimely provision of information; the administrator's failure to fulfil the obligation to publish information; other decisions, acts or omissions of information administrators that have infringed the requester's legitimate rights and interests. Those decisions, acts or omissions of information administrators may be appealed to the head of the administrator, the higher body or court.

Article 17 of the Law No. 2939 provides for three types of control over ensuring access to public information: Parliamentary control, public control and state control.

In accordance with Article 101 of the Constitution of Ukraine and the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", Parliamentary control of the observance of the constitutionally-enshrined human and civil rights and freedoms, including the right of access to public information, is exercised by the Ukrainian Parliament Commissioner for Human Rights.

Any violation of the requirements of the Law No. 2939 entails administrative liability provided for in Article 212³ of the Code of Ukraine on Administrative Offences. In accordance with Article 255(1)(8¹) of this Code, authorised persons of the Secretariat or representatives of the Ukrainian Parliament Commissioner for Human Rights have the right to draw up reports on administrative offences in respect of offences under Article 212³ of the Code. Cases involving administrative offences provided for in this Article of the Code are considered by judges of raion courts, city district courts, city courts or city and rayon courts.

61. What are the procedures to guarantee citizens' rights of recourse against public service actions? Describe these (e.g. parliamentary committees, ombudsperson's office, internal and external audit, inspectorates, standard-setting authorities).

This issue is regulated by the provisions of chapter 3 «Material liability of civil servants», section VIII of the Law of Ukraine «On Civil Service».

In accordance with articles 80-82 of the Law, material and moral damage inflicted on individuals and legal entities by illegal decisions, actions or inaction of civil servants in the exercise of their authority shall be reimbursed at the expense of the state. The state, represented by the subject of appointment, has the right of recourse in the amount and manner prescribed by law.

A civil servant is obliged to compensate the state for the damage caused by the improper performance of his official duties in the following manner.

The head of the civil service submits a written proposal to the civil servant to compensate for the damage, and the civil servant responds to the proposal for voluntary compensation for the damage in writing.

If a civil servant does not respond to a proposal for voluntary compensation, does not refuse to compensate or not compensate for the damage within the period specified in the proposal, the head of the civil service may apply to the court for compensation.

There are examples of compensation for recourse damage from an official in Ukraine, and relevant court decisions have been made.

This information can be found at the following links:

<https://supreme.court.gov.ua/supreme/pres-centr/news/1244431/>

<https://youcontrol.com.ua/catalog/court-document/71825184/>

<https://zakon.rada.gov.ua/laws/show/v0006700-92#Text>

https://ips.ligazakon.net/document/view/VS92006?_ga=2.249720966.1095123318.1648727341-183698292.1603283850.

In accordance with the third paragraph of Article 55, Article 101 of the Constitution of Ukraine, everyone has the right to address to the Ukrainian Parliament Commissioner for Human Rights, who exercises the ongoing parliamentary control of the observance of the constitutionally-enshrined human and civil rights and freedoms.

The parliamentary control as regards interactions of a person with public authorities, local self-governing bodies and their officials and officers is aimed at protection of their human and civil rights and freedoms, their observance and respect, prevention of violation or restoration of violated human and civil rights and freedoms, etc. (Article 3 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”). In accordance with Article 17 of this Law, the Commissioner, upon reviewing a claim and subject to availability of the grounds for doing so, opens the proceedings regarding violation of human and civil rights and freedoms, and ensures the appropriate measures (inspections, monitoring visits, clarification of the case) are taken, including sending Commissioner’s response acts.

Commissioner’s response acts shall be a constitutional submission of the Commissioner and a submission of the Commissioner to state bodies, local self-governing bodies, public associations, enterprises, institutions and organisations, irrespective of their forms of ownership, their officials and officers. Constitutional submission of the Commissioner refers to an act of response submitted to the Constitutional Court of Ukraine regarding compliance with the Constitution of Ukraine (constitutionality) of a law of Ukraine or any other legal act of the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine, a legal act of the Autonomous Republic of Crimea; and regarding the official interpretation of the Constitution of Ukraine. Submission of the Commissioner refers to an act submitted by the Commissioner to state bodies, local self-governing bodies, public associations, enterprises, institutions, organisations, irrespective of their forms of ownership, their officials and officers for taking, within the period of one month, appropriate action to remedy detected violations of the rights and freedoms of individuals and citizens (Article 15 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”).

The Code of Ukraine on Administrative Offenses establishes liability for failure to comply with the Commissioner’s or their representatives’ legitimate requests that shall entail imposing of a fine on officials.

Also, in order to protect human and civil rights and freedoms the Commissioner, in person or through their representative according to the procedure established by law, can apply to the court for protection on rights and freedoms on behalf of those persons who, due to their physical condition,

underage, old age, incapacity or limited legal capacity are unable to independently protect their rights and freedoms; participate in litigations of the proceedings, opened under their filed claims (statements, pleas (applications)); intervene in the proceedings, opened under other persons' filed claims (statements, pleas (applications)) at any stage of their judicial review; initiate reviews of court decisions, regardless of their involvement in the litigation.

Human rights activities are also carried out by the Business Ombudsman Board, Commissioners of the President of Ukraine for Children's Rights and for the Rights of Persons with Disabilities, the Government Commissioner for the Rights of Persons with Disabilities, Education Ombudsman. Besides, application to the court or conducting the case on behalf of citizens can be done by the Bar (lawyers and lawyer associations, particularly on the contractual basis) and public prosecution bodies (representing underage, wholly or partially incapable persons). Exercising the civil right to protection from violations by public law entities is also facilitated by the legal assistance centers, bureaus and consulting offices, established with the assistance of the Ministry of Justice of Ukraine (drawing up application, claims, other documents upon citizens' requests), as well as representing their interests in courts and other bodies, preparing procedural papers for certain categories of citizens, such as children, internally displaced persons, disadvantaged persons, etc.

62. How is implementation of the recommendations formulated by these bodies monitored and taken into account by the public administration?

According to the Annual Report of the Ombudsman for 2020 (published March 2021), the effectiveness of certain forms of work is relatively high. Thus, regarding the consideration of appeals for 2020, there were 22,631 subjects of appeals (p. 334), of which 92% of cases were resolved ("the right was renewed, positively, satisfied, measures were taken, clarifications were provided"). Other cases are still under control or sent to the competent authorities.

The Accounting Chamber does not systematically collect and publish data on the implementation of the recommendations provided by it, nor is there reliable data on the implementation of the recommendations of the Ombudsman.

According to the Rules of Procedures of the Cabinet of Ministers of Ukraine, paragraph 126, recommendations from the Verkhovna Rada Committees, submitted to the Cabinet of Ministers of Ukraine shall be forwarded to the relevant central executive bodies for their consideration and guidance on operational activities by decision of the Prime Minister, the First Vice Prime Minister or a Vice Prime Minister. The bodies in question shall inform the relevant Verkhovna Rada Committee and the Cabinet of Ministers of the consideration results and, if a decision needs to be made, submit appropriate proposals to the Cabinet of Ministers under the established procedure.

63. Do special administrative courts exist? What are their competences?

The provisions of Article 125 of the Constitution of Ukraine stipulate that administrative courts operate to protect the rights, freedoms and interests of individuals in public-law relations.

The Code of Administrative Procedure of Ukraine (“CAP”) establishes the jurisdiction and powers of administrative courts as well as the rules for proceedings before administrative courts.

Article 5 of the CAP stipulates that everyone has the right, in the manner prescribed by this Code, to appeal to an administrative court if they believe that their rights, freedoms or legitimate interests have been violated by a decision, action or omission of an authority and to seek their protection by: recognition as unlawful and invalid of a legal act or individual provisions thereof; recognition as unlawful and repeal of a regulatory act or individual provisions thereof; recognition of actions of an authority as unlawful with an obligation to refrain from taking certain actions; recognition of omissions of an authority as unlawful with an obligation to take certain actions; establishing whether or not an authority is competent; adoption by a court of one of the decisions referred to in points 1–4 of this paragraph and recovery from a defendant, being an authority, of compensation for the damage caused by its unlawful decisions, actions or omissions.

Under Article 19 of the CAP, the jurisdiction of administrative courts extends to public-law disputes, in particular:

- disputes between individuals or legal entities and an authority over its decisions (legal and normative acts or regulatory acts), actions or omissions, except where a different judicial procedure is established by law for the consideration of such disputes;

- disputes of a bond issue administrator who acts on behalf of bondholders under the provisions of the Law of Ukraine “On Capital Markets and Organised Commodity Markets” with an authority to appeal against its decisions (legal and normative acts or regulatory acts), actions or omissions;

- disputes over recruitment to, employment in, and dismissal from public service;

- disputes between authorities over the exercise of their powers regarding governance, including delegated powers;

- disputes arising from the conclusion, performance, termination, cancellation or invalidation of administrative agreements;

- disputes initiated by an authority where the right to take legal action to resolve a public-law dispute is conferred on that authority by law;

- disputes over legal relations concerning the electoral or referendum procedures;

- disputes between individuals or legal entities and an administrator of public information over appeals against its decisions, actions or omissions regarding access to public information;

- disputes over seizure or compulsory disposal of property for public needs or on grounds of public necessity;

- disputes over appeals against decisions of attestation, competition and medical and social expert commissions and other similar bodies whose decisions are binding on public authorities, local self-governing bodies and other persons;

- disputes over the composition of public authorities and local self-governing bodies and the election, appointment or dismissal of their officials;

disputes involving individuals or legal entities against decisions, actions or omissions of a public customer in legal relations arising under the Law of Ukraine “On Defence Procurement”, except for disputes related to the conclusion of a public procurement contract (agreement) with a winner of simplified bidding using the e-procurement system and the simplified selection procedure without using the e-procurement system, as well as to the amendment, termination and performance of public procurement contracts (agreements);

disputes over appeals against decisions, actions or omissions of state border control authorities concerning offences under the Law of Ukraine “On Liability of Carriers in International Passenger Transport”;

disputes over appeals against decisions of the National Commission for Rehabilitation concerning the legal relations arising under the Law of Ukraine “On Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917–1991”.

disputes with authorities over the analysis of public-private partnership performance;

disputes arising in connection with the announcement, implementation and/or establishment of results of the private partner selection procedure and the concession award procedure.

As of 12.04.2022, the system of administrative courts comprises:

27 district administrative courts that are located in each oblast and consider administrative cases as courts of first instance (due to the temporary occupation of the Autonomous Republic of Crimea, two district administrative courts do not operate). Certain categories of administrative cases are considered by local general courts;

8 administrative appellate courts, which carry out appellate review of decisions of first-instance courts located in the appellate district within the jurisdiction of the relevant appellate court. Due to the temporary occupation of the Autonomous Republic of Crimea, one administrative appellate court does not operate. Certain categories of cases are considered by administrative appellate courts as first-instance courts;

Administrative Cassation Court, which is part of the Supreme Court and carries out cassation review of judicial decisions in administrative cases. This court also considers certain categories of cases as a first-instance court (for example, cases regarding appeals against acts, actions or omissions of the Verkhovna Rada of Ukraine, the President of Ukraine or the Supreme Council of Justice) or as an appellate court;

The Grand Chamber of the Supreme Court, which performs appellate review, as an appellate court, judgments in cases heard by the Supreme Court as a first-instance court.

The Justice and Constitutional Justice Development Strategy for 2021–2023, as approved by Decree No. 231/2021 of the President of Ukraine of 11.06.2021, considers the appropriateness of establishing a higher specialized court for administrative cases involving central executive authorities and other public authorities who have jurisdiction throughout Ukraine.

64. Describe the role of the Ombudsperson in the oversight of administrative bodies in

terms of ensuring compliance of the laws, public policies and other regulations with the Constitution as well as with the international human rights instruments. (for other questions related to the Ombudsperson see also under Fundamental rights)

Pursuant to Article 1 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights,” the Ukrainian Parliament Commissioner for Human Rights, governed in their activity by the Constitution of Ukraine, laws of Ukraine and effective international agreements by which the Verkhovna Rada of Ukraine has agreed to be bound, shall permanently exercise parliamentary control of observance of the constitutionally-enshrined rights and freedoms of individuals and citizens and protection of rights of every person in the territory of Ukraine and within its jurisdiction. Article 2 of the Law mentioned above states that the Law covers relations arising from exercising human and civil rights and freedoms between a citizen of Ukraine, regardless of their whereabouts, a foreigner or a stateless person staying in the territory of Ukraine, and public authorities, local self-governing bodies and their officers and officials. Article 2 of the Law mentioned above states that the parliamentary control over observance of human and civil rights and freedoms, exercised by the Commissioner is aimed at, inter alia, facilitation of bringing Ukrainian legislation on human and civil rights and freedoms in compliance with the Constitution of Ukraine, international standards in this field.

Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” defines the basic rights of the Commissioner which they enjoys in the process of the parliamentary control, specifically, the Commissioner has the right to: make an appeal to the Constitutional Court of Ukraine on compliance with the Constitution of Ukraine of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea as regards human and civil rights and freedoms and the official interpretation of the Constitution of Ukraine; submit proposals under the established procedure as regards improving the legislation of Ukraine in the area of protection of human and civil rights and freedoms; send Commissioner’s response acts to relevant authorities in case of detected violations of human and civil rights and freedoms so that these authorities take appropriate measures. Article 15 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” determines that Commissioner’s response acts to violations of provisions of the Constitution of Ukraine, laws of Ukraine, international agreements of Ukraine as regards human and civil rights and freedoms shall include Commissioner’s constitutional petitions and Commissioner’s petitions to public authorities, local self-governing bodies, civil associations, enterprises, institutions and organisations, regardless of their forms of ownership, their officials and officers. Commissioner’s constitutional petition refers to a response act submitted to the Constitutional Court of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of a law of Ukraine or any other legal act by the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine, a legal act of the Autonomous Republic of Crimea; and regarding the official interpretation of the Constitution of Ukraine. Commissioner’s petition refers to an act submitted by the Commissioner to public authorities, local self-governing bodies, civil associations, enterprises, institutions, organisations, regardless of their forms of ownership, their officials and officers for taking, within a month’s period, appropriate action to remedy detected violations of human and civil rights and freedoms. Article 22 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights,” establishes obligation of the public authorities, local self-governing bodies, civil

associations, enterprises, institutions, organisations, regardless of their forms of ownership, their officials and officers, addressed by the Commissioner to cooperate with them and assist them, where appropriate, namely: 1) ensure access to materials and documents, including based on principles set forth by legislative acts on the protection of classified information; 2) provide information and explanations on the actual and legal grounds for their actions and decisions: 1) examine the Commissioner's proposals to improve their activities as regards protection of human and civil rights and freedoms and provide a reasoned written response within a month following the date of receipt of such proposals.

At the same time, the second part of this Article provides that a refusal of public authorities, local self-governing bodies, civil associations, enterprises, institutions, organisations, regardless of their forms of ownership, their officials and officers to cooperate, as well as deliberate concealment or misrepresentation of information, any unlawful interference with the Commissioner's activity for the purpose of counteraction shall be punishable in accordance with applicable legislation. The Code of Ukraine on Administrative Offences enshrines the above provision in Article 188-40 "Failure to comply with legitimate requirements of the Ukrainian Parliament Commissioner for Human Rights" imposing administrative penalty in the form of a fine. Article 18 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights" provides that the Commissioner shall present to the Verkhovna Rada of Ukraine an annual report on the state of observance and protection of human and civil rights and freedoms in Ukraine by public authorities, local self-governing bodies, civil associations, enterprises, institutions, organisations, regardless of their forms of ownership, their officials and officers whose actions (omissions) have resulted in violations of human and civil rights and freedoms, and on the gaps detected in legislation on human and civil rights and freedoms. The annual report shall contain references to cases of violation of human and civil rights and freedoms, in respect of which the Commissioner has taken appropriate action, the annual monitoring results, conclusions and recommendations for improving the state of observance and protection of human and civil rights and freedoms of citizens as well as information on implementation of recommendations set out in the annual report for the previous year. Thus, in case of non-conformity of certain laws and regulations with the Constitution of Ukraine and international commitments as regards human rights, the Commissioner shall exercise the rights granted to them to submit to a relevant body a petition requesting to bring a regulatory act in compliance with provisions of the Constitution of Ukraine and international commitments as regards human rights. In case of detected non-conformity of a law with the Constitution, the Commissioner submits a constitutional petition to the Constitutional Court of Ukraine, which, in its turn, may or may not rule the law or its individual provisions non-compliant with the Constitution of Ukraine (and those shall become void from the moment they are ruled unconstitutional).

Pursuant to Article 150 of the Constitution of Ukraine, Articles 13(1)(3), 15(2) of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights," the Commissioner has the right to: make an appeal to the Constitutional Court of Ukraine on compliance with the Constitution of Ukraine of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea as regards human and civil rights and freedoms and the official interpretation of the Constitution of Ukraine. Commissioner's constitutional petition is a response act to the said Court to violations of provisions of the Constitution of Ukraine, laws of Ukraine, international agreements of Ukraine as

regards human and civil rights and freedoms. The Constitutional Court of Ukraine is currently considering Commissioner's constitutional petitions for: constitutionality of certain provisions of the Law of Ukraine "On Public Service" of December 10, 2015 No. 889–VIII, the Law of Ukraine "On Service in Local Self-Government Bodies" of June 7, 2001 No. 2493–III as regards accruing and revision of pensions to public servants and servants of local self-governing bodies; compliance with the Constitution of Ukraine (constitutionality) of the provisions of Article 16(5), (16) of the Law of Ukraine "On Fundamentals of the Legislation of Ukraine on Health Care" of November 19, 1992 No. 2801-XII, the sixth paragraph of Article 4 of the Law of Ukraine "On State Financial Guarantees of Medical Services to the Population" of October 19, 2017 No. 2168-VIII, the fourth paragraph of Article 29 of the Law of Ukraine "On Protection of Population from Infectious Diseases" of April 6, 2000 No. 1645-111, the second indent of section II of the Law of Ukraine "On Amending and Repealing Certain Legislative Acts of Ukraine" of December 28, 2014 No. 76-VIII. Apart from those, the Commissioner presents legal positions (*amicus curiae*) as requested by Judges Rapporteurs in matters brought before the Court as regards observation of human and civil rights and freedoms.

65. Does the Ombudsman enjoy external and internal independence when acting in execution of its mandate? What guarantees exist for the independence of the Ombudsman officials (e.g. case lawyers)? Please specify in particular the procedures for their selection and appointment, end of mandate and the allocated financial and human resources. What mechanisms are in place to guarantee a transparent selection and appointment process?

Pursuant to Article 4 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", the Commissioner shall be an official whose status is defined by the Constitution of Ukraine, this Law and other laws of Ukraine.

The Commissioner shall perform their responsibilities independently of other state bodies and officials. The Commissioner's activity supplements existing remedies for the protection of the constitutionally-enshrined rights and freedoms of individuals and citizens; they neither abrogates these remedies, nor does they review the competence of other public authorities that protect rights and freedoms or redress wrongs.

The mandate of the Commissioner shall not be terminated or limited in case of expiration of the mandate of the Verkhovna Rada of Ukraine or its dissolution (self-dissolution), declaration of martial law or the state of emergency in Ukraine or certain areas thereof.

Pursuant to Article 5 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", the Commissioner shall be appointed to and dismissed from their post by the Verkhovna Rada of Ukraine through a secret ballot.

Upon their written consent, candidates to the post of the Commissioner shall be subject to a special check in the manner prescribed by the Law of Ukraine "On Prevention of Corruption".

A person who has a criminal record that is not expired or expunged for committing a crime, unless a person is rehabilitated, or a person on whom an administrative penalty has been imposed within the past year for committing a corruption offence shall not be appointed as the Commissioner.

The Commissioner shall be appointed for a term of five years, commencing from the day of their taking oath at a plenary meeting of the Verkhovna Rada of Ukraine.

Proposals for candidate(s) to the post of the Commissioner shall be made by the Chairperson of the Verkhovna Rada of Ukraine or by at least one-fourth of the constitutional composition of the Verkhovna Rada of Ukraine. A respective Committee of the Verkhovna Rada of Ukraine, based on the special inspection pursuant to Article 5 of this Law, shall submit its conclusions to the Verkhovna Rada of Ukraine on each candidate to the post of Commissioner, on their compliance with the requirements set thereby, and on the absence of reasons that might prevent the candidate from holding this post.

The candidate to the post of the Commissioner shall be nominated within twenty days, starting from the next day after:

- 1) this Law has entered into force;
- 2) the term of office of the Commissioner has expired, their mandate has been terminated, or in case of their dismissal;
- 3) the results of voting have been announced, if the Commissioner has not been appointed.

Voting shall be carried out at plenary sessions of the Verkhovna Rada of Ukraine by a secret ballot, but no earlier than ten days and no later than twenty days after the deadline for nomination of candidates for the election.

The candidate shall be deemed appointed if they receive the majority of votes of the MPs making up the constitutional composition of the Verkhovna Rada of Ukraine, with a resolution issued to that effect.

If more than two candidates to the post of Commissioner have been nominated and none of them is appointed, the Verkhovna Rada of Ukraine shall repeat voting between the two candidates who have won the majority of votes.

Repeat voting on the appointment of the Commissioner shall be carried out in accordance with the procedure established by this Article.

Candidates to the post of Commissioner shall be nominated again if none of the candidates has received the required number of votes.

Pursuant to Article 10 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, the Secretariat shall be established to support the Commissioner’s activities. The Secretariat is a legal entity and has its own bank account and a seal of the established template.

The structure of the Secretariat, distribution of its responsibilities and other issues as regards the organisation of its work shall be governed by the Regulations on the Secretariat of the Ukrainian Parliament Commissioner for Human Rights (hereinafter referred to as the “Regulations”). The Law of Ukraine “On Civil Service” shall apply to employees of the Secretariat. The Regulations and the budget of the Secretariat shall be approved by the Commissioner within the spending budget earmarked for the Commissioner’s activities. The Commissioner shall appoint and dismiss employees of the Secretariat.

Pursuant to Article 12 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights,” funding for the Commissioner’s activities shall be allocated from the State Budget of Ukraine and annually specified as a separate line.

The Commissioner shall draw up, submit to the Verkhovna Rada of Ukraine for approval and execute budgetary outlays.

The Commissioner shall submit financial reports according to the procedure established by the Legislation of Ukraine.

The Verkhovna Rada of Ukraine, relevant executive authorities and local self-governing bodies shall create conditions necessary for carrying out the functions of the Commissioner, their Secretariat and representatives.

The budget of the Commissioner’s Secretariat for 2022 is set at UAH 242,769.9 thousand (UAH 198,560.4 thousand following a cut caused by Russian military aggression).

This includes UAH 239,487.9 thousand for the Parliamentary Control of Observance of the Constitutionally-enshrined Human Rights program (UAH 195,606.6 thousand following a cut caused by Russian military aggression), and UAH 3,282.0 thousand for the Actions to Implement the National Preventive Mechanism program (UAH 2,953.80 thousand following a cut caused by Russian military aggression).

The number of employees of the Secretariat is 383.

66. Is access to all official documents granted to the Ombudsperson? Is s/he entitled to suspend the execution of an administrative act if s/he determines that the act may result in irreparable prejudice to the rights of a person? If so, how is this implemented in practice? Does the Ombudsperson have the right to contest the conformity of laws with the Constitution and, if so, how is this implemented in practice?

Pursuant to Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, the Commissioner shall have the right to:

visit, without hindrance, public authorities, local self-governing bodies, civil associations, enterprises, institutions and organisations, regardless of their forms of ownership, and be present at their sessions;

review documents, including those which contain classified information and obtain copies from public authorities, local self-governing bodies, civil associations, enterprises, institutions and organisations, regardless of their forms of ownership, prosecution bodies, including cases pending in courts.

Access to classified information is provided in the manner prescribed by law;

make, in the manner prescribed by law, proposals for improvement of the legislation of Ukraine on protection of human and civil rights and freedoms;

In Ukraine, it is courts and, in some cases, higher institutions in respect to subordinated ones that are entitled to suspend the execution of administrative acts. The Commissioner does not have such powers.

Pursuant to Article 15 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, Commissioner’ response acts to violations of provisions of the Constitution of Ukraine, laws of Ukraine, international agreements of Ukraine as regards human and civil rights and freedoms shall be Commissioner’s constitutional petitions and Commissioner’s petitions to public authorities, local self-governing bodies, civil associations, enterprises, institutions and organisations, regardless of their forms of ownership, their officials and officers.

E. Service delivery

67. Please describe the service delivery policy in place. How is a coherent policy between the different levels of governance ensured?

The Law of Ukraine “On Administrative Services” (hereinafter – the Law) defines legal basis for realization of rights, freedoms and legitimate interests of natural and legal entities in delivering administrative services.

State service delivery policy shall be based on the principles of the rule of law, including legality and legal certainty, stability, equality before the law, openness and transparency, efficiency and timeliness, availability of information on administrative services, personal data protection, rational minimization of the number of documents and procedures required to obtain administrative services, impartiality and justice, accessibility and convenience for users (Article 4 of the Law).

Administrative services are determined solely by the law.

The laws regulating public relations for the administrative services delivery exclusively establish the following: the name of an administrative service and the grounds for receiving thereof; the administrative service provider and its powers to provide administrative services; list and requirements for mandatory documents to obtain administrative services; paid or free administrative services; deadline for providing administrative services; and list of grounds for refusal to provide administrative services (Article 5 of the Law).

Laws shall be adopted by the Verkhovna Rada of Ukraine (Article 91 of the Constitution of Ukraine).

According to Article 3 (1) (2) of the Law, the legislation related to administrative service delivery shall consist of the Constitution of Ukraine, this and other laws, and regulations based on these laws and governing relations in service delivery.

Administrative services are delivered pursuant to “On Peculiarities of Public (Electronic Public) Services Delivery” and this Law, taking into account the features defined by laws governing public relations in relevant areas, in particular “On licensing of economic activities”.

The Law envisages that the Cabinet of Ministers shall:

establish the administrative service delivery monitoring procedure and indicators (Article 7 (4) of the Law);

define requirements to prepare administrative service flow chart (Article 8 (6) of the Law);

develop criteria guidelines for territorial accessibility of the Administrative Service Centre, including its territorial units and administrators' remote (along with mobile) workplaces (Article 12 (4) of the Law);

approve the list of administrative services of executive authorities and administrative services delivered by self-government bodies in fulfillment of delegated powers, which are mandatory for the delivery through Administrative Service Centres (Article 12 (7) of the Law);

approve the Administrative Service Centre model provision and its regulation (Article 12 (10) of the Law);

determine the procedure for Administrative Service Register (Article 16 (3) of the Law);

approve the (Article 17 (4) of the Law).

The Ministry of Digital Transformation of Ukraine is a central executive body that ensures the formulation and implementation of state policy, in particular, for electronic and administrative services (clause 1 of the Regulation on the Ministry of Digital Transformation of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 856 of 18 September 2019).

Pursuant to Article 9 of the Law, administrative services shall be delivered by administrative service providers directly or through Administrative Service Centres.

Pursuant to clause 3, Article 1 (1) of the Law, an executive authority, other public authority, an authority of the Autonomous Republic of Crimea local self-governing body, their officials, a public registrar or an entity of official registration, authorised to provide administrative services shall be the administrative services provider.

Pursuant to paragraph 1, Article 12 (1), and Article 12 (2) of the Law, the Administrative Service Centre shall be a permanent working or executive body (structural unit) of a local self-governing body or a local state administration, which delivers administrative services as established by the list, defined according to the Law.

Administrative Service Centres shall be set up by Kyiv and Sevastopol city councils, Kyiv district council, Sevastopol state administration, as well as by city, village and settlement councils.

Administrative e-services shall be provided using the Unified State Web Portal of Electronic Services, including through integrated information systems of state and local self-government bodies (Article 9 (1) of the Law).

68. Describe the legal/policy framework to guarantee the quality and equal access to public services. How are needs of special groups ensured (such as persons with disabilities, foreigners, senior citizens etc.)?

The Law of Ukraine "On Administrative Services" (hereinafter – the Law) defines legal basis for realization of rights, freedoms and legitimate interests of natural and legal entities in delivering administrative services.

Pursuant to Article 4 of the Law, the service delivery state policy shall be based on the rule of law, including legality and legal certainty; stability; equality before the law; openness and transparency; efficiency and timeliness; availability of information on administrative services; personal data protection; rational minimization of the number of documents and procedures required to obtain administrative services; impartiality and justice; accessibility and convenience for users.

This is ensured, in particular, by an extensive network of Administrative Service Centres (hereinafter – ASCs), equipped premises and a list of services delivered through such centres.

On 29 November 2020, Law of Ukraine No. 943 of 3 November 2020 “On Amendments to Certain Legislative Acts of Ukraine Concerning Optimization of the Network and Functioning of Administrative Service Centres and Improvement of Access to Administrative Services Provided in Electronic Form” (hereinafter referred to the “Law”) came into force. The Law introduced significant changes in service delivery.

Local self-government bodies obtained additional opportunities to organise administrative service delivery and improve accessibility of administrative services for citizens.

Pursuant to paragraphs 4 and of Section II “Final and Transitional Provisions” of this Law, city and village councils exercising their powers in localities — raion administrative centres (as of 01 January 2020) shall be tasked to establish, until 01 January 2022, Administrative Service Centres, regardless of the number of territorial community members.

City, settlement, and village councils representing the interests of territorial communities with the population of:

1) above 10 thousand members — to establish Administrative Service Centres in accordance with this Law until 01 January 2023;

2) below 10 thousand members — to establish Administrative Service Centres in accordance with this Law (in the event of allocation of appropriate public funding for the construction, reconstruction, arrangement of premises and equipment of these centres) until 01 January 2024.

Since the beginning of 2021, self-government bodies established 236 Administrative Service Centres in localities — raion administrative centres (as of 01 January 2020), and as of 01 January 2022 all localities — raion administrative centres (as of 01 January 2020) in all 24 oblasts of Ukraine had the Centres established by self-government bodies.

In general, as of 01 January 2022, there were 2891 access points to administrative services in Ukraine: Ukrainians could obtain services at 1027 Administrative Service Centres, 124 territorial units, 1712 administrators’ remote workplaces or 28 mobile Administrative Service Centres.

Before 24 February 2022, there were 22 Diia Centres in Ukraine. One-stop shop ASCs delivering all necessary services to the population. A place, where users can resolve multiple issues at once, instead of making several visits to obtain only one service. Visitors can get basic services, such as administrative services; online service advice; business advice (Diia.Business); as well as related services, i.e. free legal aid; mail and banking services; payment of utilities; meetings with a head of the territorial community; coworking area; coffee shop or coffee machine.

As a result of the full-scale aggressive war the Russian Federation started and continues against Ukraine and the Ukrainian people, part of the premises of Administrative Service Centres, their

territorial units and remote administrators' workplaces were damaged or destroyed, as well as equipment and machinery, including computers, and equipment for issuing passports and driver's licences. At present, given the active hostilities, it is impossible to estimate the amount of damage and determine the exact number of the affected locations.

In order to create appropriate conditions for territorial accessibility to administrative services and ensure a unified approach to the territorial accessibility of Administrative Service Centres, their territorial units and remote (including mobile) workplaces, criteria guidelines for territorial accessibility of Administrative Service Centres, including their territorial units and administrators' remote (including mobile) workplaces, were developed and approved by order of the Cabinet of Ministers of Ukraine No. 574-p of 02 June 2021.

According to these guidelines, the network of Administrative Service Centres should be developed basing on two key criteria:

- distance to an access point shall not exceed 14 km;
- travel time to the nearest access point shall not exceed 30 minutes, subject to a developed infrastructure.

With the above recommendations in mind, the goal is to increase the network of access points to administrative services to more than 3,500 by 2024.

Requirements for the premises of Administrative Service Centres are determined by the Administrative Service Centre Model Regulations, approved by Resolution No. 588 of the Cabinet of Ministers of Ukraine of 01 August 2013 (hereinafter referred to as the ASC Model Regulations).

Thus, paragraphs 5, 9, 15, 52 of the ASC Model Regulations stipulate that the Administrative Service Centre shall be located in the central part of the city/settlement/village or another convenient place with a developed transport infrastructure.

Tactile and contrast markings for the visually impaired shall be placed at the entrance.

Entrances to Administrative Service Centres with stairs should be equipped with a call button, ramp and handrails on both sides for people with disabilities and reduced mobility, as well as temporary storage spaces for baby carriages and strollers.

Premises of Administrative Service Centres shall be equipped with barrier-free accessible sanitary facilities for persons with disabilities, including those who use wheelchairs, and other persons with reduced mobility.

There shall be organised free parking spaces for service users on the territories adjacent to Administrative Service Centres, including appropriately marked spaces for vehicles driven by/carrying persons with disabilities, in the amount specified by the Law of Ukraine "On Fundamentals of Social Protection of Persons with Disabilities in Ukraine". Buildings, premises and parking lots of Administrative Service Centres shall be arranged with due account for the needs of persons with disabilities and reduced mobility and meet the requirements of related state building standards and regulations.

Premises of Administrative Service Centres shall be divided into open and closed areas. An open area shall occupy the ground or the first floor of a building, subject to ensuring proper conditions for the unimpeded access for persons with disabilities and reduced mobility to the building.

If applicable, a waiting area shall be equipped with an automated queue management system, and a voice announcement system for elderly and visually impaired people.

Persons with disabilities and reduced mobility shall be provided with free access to information, mentioned in this Section, by placing booklets and information sheets on stands, and other necessary Braille materials. Where possible, information terminals shall contain voice and video information; other convenient ways to inform persons with disabilities, including persons with hearing and visual impairments, and persons with reduced mobility, shall be ensured.

A sign language interpreter may be involved in the operation of Administrative Service Centres to ensure that administrative services are provided to the deaf, mute or deaf-mute.

Territorial units and administrators' remote workplaces shall be located on the ground or first floor of a building, provided that appropriate conditions are created for unimpeded access for persons with disabilities and other persons with reduced mobility to the building.

In addition, paragraph 55 of the ASC Model Regulations makes it possible to provide on-site administrative services to users through the Mobile Administrator and Mobile Centre services.

The Mobile Centre service shall be used to provide administrative services and issue the results of provision thereof (including the decision to refuse to satisfy user's application) to residents of settlements designated by the body that established the center, taking into account territorial accessibility.

The Mobile Administrator service shall be used to provide administrative services and issue the results of provision thereof (including the decision to refuse to satisfy user's application) to persons with reduced mobility.

Administrative Service Centres may also provide users with an opportunity to apply for administrative services, delivered in electronic form, through the free self-service spaces.

There were 1,655 self-service spaces in 1,167 administrative service access points as of 01 January 2022.

In addition, pursuant to Article 12 (7) of the Law, basing on which the Cabinet of Ministers of Ukraine approves the list of administrative services of executive authorities and administrative services delivered by self-government bodies in fulfillment of delegated powers, which are mandatory for the delivery through Administrative Service Centres, on 18 August 2021, the Cabinet of Ministers of Ukraine by its Resolution No. 969-p amended Resolution No. 523-p of 16 May 2014 and approved the List of the Administrative Services of executive authorities and administrative services delivered by self-government bodies in fulfillment of delegated powers, which are mandatory for the delivery through Administrative Service Centres.

The List contains services from such public areas:

- Social Security: 101 administrative services
- Businesses and Public Organizations: 79 administrative services

- Land and Environment Protection: 69 administrative services
- Construction and Real Estate: 47 administrative services
- Transportation: 32 administrative services
- Citizenship and Migration: 21 administrative services
- Education, Sport and Tourism, Culture and Religion: 17 administrative services
- Life Safety: 16 administrative services
- Production and Circulation of Certain Types of Goods: 9 administrative services
- State Registration of Civil Status of Citizens: 9 administrative services
- Agriculture: 6 administrative services
- Funds and Taxes: 3 administrative services
- Professional Activity: 1 administrative service

Listed services are provided subject to settlement's status, e.g. there are 410 mandatory services for ASCs in Kyiv, 381 mandatory services for ASCs in cities of regional significance, 336 mandatory services for ASCs in raion centres, and 171 mandatory services for ASCs in territorial communities.

In addition, after the Law on Optimised ASC Network came into force, administrative services, provided by a relevant council (its executive bodies or officials), shall be delivered through ASCs only.

The average amount of services provided through centres was 187 as of 01 January 2022.

There are following principles underpinning the state policy for digital transformation:

openness, i.e. open access to departmental data (information), unless otherwise provided by law;

transparency, i.e. possible usage of open external interfaces for departmental information systems, including application programming interfaces;

multiple use, i.e. open inter-agency exchange of decisions and reuse thereof;

technological neutrality and data portability, i.e. access to departmental services and data, and reuse regardless of technologies or their products;

citizen orientation, i.e. citizens' needs and expectations are taken into account as a matter of priority when making decisions on the forms or methods of state functions;

inclusiveness and accessibility, i.e. opportunities for all citizens to enjoy the latest advancements in information technologies related to service access;

safety and confidentiality, i.e. safe and secure environment for citizens and businesses, where electronic interaction with the state takes place, including full compliance of such environment with the rules and requirements established by the laws of Ukraine on the protection of personal data and state-owned information, electronic identification and trust services;

multilingualism, i.e. delivery of administrative, informational and other services to citizens and businesses, including cross-border ones, using the language of their choice;

decision support, i.e. use of the advanced information technologies to develop software products that support decision-making activities of the executive branch while exercising its powers;

administrative facilitation, i.e. accelerating and simplifying administrative processes by digital transformation thereof;

data storage, i.e. storing decisions, information, records and data; ensuring reliability, integrity and accessibility thereof for a certain period of time in line with the security and privacy policies;

evaluation of efficiency and effectiveness, i.e. comprehensive evaluation and comparison of at least two alternative decisions to ensure effectiveness and efficiency of the powers exercised.

The abovementioned principles are defined by Resolution of the Cabinet of Ministers of Ukraine No. 56 “Certain Issues of Digital Development” of 30 January 2019.

Pursuant to paragraph 37-1 of the Regulation of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 950 of 18 July 2007, the Ministry of Digital Transformation shall carry out a digital expert review of a draft act of the Cabinet of Ministers to identify provisions that are inconsistent with the grounds for implementation of the principles of state digital development policy by state executive authorities, in particular those hindering the creation of the advanced interaction electronic forms and the accessibility of benefits and opportunities given by digital technologies to citizens and businesses.

69. What mechanisms are in place to ensure that the public service is open and transparent? For example, can any citizen affected by an administrative action have access to the legal basis for the action? How are reasons for administrative decisions shared with the affected citizens?

Ukraine's Constitution enshrines the rule of law principle, the cornerstone of good public administration. However, detailed and codified principles of good administration that would be binding for all state administration bodies do not accompany this general declaration. No law uniformly guarantees basic standards of good administration in all proceedings conducted by state administration bodies. Instead, separate laws (approximately 400) regulate specific administrative procedures. While in most cases, the law requires justification and legal grounds for decisions against a party in a proceeding, attaching detailed information about the party's right to appeal is not very common.

Special regulations are not entirely coherent and complete in providing adequate protection of citizens' rights within administrative proceedings. Although, in most cases, the law requires justification and legal grounds for decisions against a party in a proceeding, attaching detailed information about the party's right to appeal is not common.

The key law in this area is the Law of Ukraine "On Administrative Services" (hereinafter - the Law).

State policy in the field of administrative services is based on the principles of the rule of law, including legality and legal certainty; stability; equality before the law; openness and transparency; efficiency and timeliness; availability of information on the provision of administrative services; protection of personal data; rational minimization of the number of documents and procedural actions required to obtain administrative services; impartiality and justice; accessibility and convenience for the subjects of appeals.

According to Article 5 of the Law, the main requirements for the regulation of the provision of administrative services are that only the laws governing public relations for the provision of administrative services establish:

- the name of the administrative service and the grounds for its receipt;
- the subject of providing administrative services and its powers to provide administrative services;
- list and requirements for documents required to obtain administrative services;
- payment or free provision of administrative services;
- deadline for providing administrative services;
- list of grounds for refusal to provide administrative services.

Article 6 of the Law stipulates that the subjects of the application have the right to receive free information on administrative services and the procedure for their provision, which is provided by providing them with free access to the Unified State Web Portal of electronic services, telephone help and informing such subjects. through the media.

Entities providing administrative services are obliged to provide:

- arrangement of information stands with samples of relevant documents and information in the places of reception of the subjects of appeals in the amount sufficient to receive administrative services without assistance;
- creation and operation of websites, which contain information on the procedure for providing relevant administrative services, access to the premises where the subjects of reception are received, the availability of public transport, access roads and parking spaces;
- official reception of the subjects of appeals in accordance with the schedule approved by the head of the relevant subject of administrative services. The number of hours of reception of the subjects of appeals should be at least 40 hours per week;
- providing the subject of the application, who applied with the help of technical means of electronic communications (telephone, e-mail, other means of communication), information on the procedure for providing administrative services;
- publication of reference and information materials on administrative services and free distribution of such materials in the premises where the subjects of appeals are received;
- setting up a box, establishing feedback in electronic form using the Unified State Web Portal of electronic services for the subjects to express comments and suggestions on the quality of

administrative services, conducting an annual analysis of such comments and suggestions, taking appropriate measures;

➤ free provision of consultations to the subjects of appeals on the issues of obtaining administrative services in the places where the subjects of appeals are received.

Thus, in particular, in accordance with paragraphs 35, 46 and 48 of the Model Regulations of the Center for Administrative Services, approved by the Cabinet of Ministers of Ukraine from August 1, 2013 № 588, the administrator of the center when receiving the incoming package of documents is obliged to inquire regarding the method of the personal notification on the result of the administrative service, as well as the desired place of receipt of the formalized result of the administrative service (in the center, its territorial unit, remote (including mobile) workplace administrator (if formed), the method of transfer to the subject application of the outgoing package of documents (in person, by mail, including courier for an additional fee, or telecommunications or in another way chosen by the subject of the application), as indicated in the description of the incoming package of documents in paper and / or electronic form.

The administrator of the center immediately on the day of receipt of the original package of documents notifies the result of the administrative service to the subject in the manner specified in the description of the incoming package of documents, registers the original package of documents by entering the relevant information paper and / or electronic form.

If the subject does not indicate a convenient way to obtain the original package of documents and / or does not receive it in the center within three months, the relevant documents are transferred to the subject of administrative services for archival storage.

Article 19 of the Law provides for liability for violation of the law in the field of administrative services. Thus, officials authorized in accordance with the Law to provide administrative services, administrators are subject to disciplinary, civil, administrative or criminal liability under the law for violating the requirements of the law in the field of administrative services.

Actions or inaction of officials authorized by law to provide administrative services, administrators may be challenged in court in the manner prescribed by law.

Damage caused to natural or legal persons by officials authorized in accordance with the Law to provide administrative services by administrators as a result of their illegal actions shall be compensated in accordance with the procedure established by law.

The state, the Autonomous Republic of Crimea, territorial communities, having reimbursed the damage caused by an official authorized by law to provide administrative services, or the administrator as a result of illegal decisions, actions or omissions, have the right to seek redress against the guilty person under law.

The Strategy of Public Administration Reform 2016-2021 ([link](#)) defined adopting a general administrative procedure as a priority. Accordingly, on February 17th, 2022, the Law on Administrative Procedure was adopted in the second and final reading in Parliament. However, as of 12.04.2022, the adopted Law awaited the signature of the President and official publication.

Once in force, the law on Administrative Procedure will provide complete openness and transparency of administrative procedures. In particular, the possibility and procedure for appealing

against negative decisions of administrative bodies in a pre-trial procedure, including regarding administrative services, will be regulated. Articles 8, 12 and 72 of the Law enshrine this. Specifically:

- Article 8. of LAP:

- The administrative authority shall ensure adequate and complete fact-finding in a case and directly examine evidence and other materials of a case.

- The administrative authority shall provide a rationale for administrative acts it adopts unless otherwise is provided for by law. The administrative actions that may affect the right, freedom or legitimate interest of the person shall contain a rationale that meets the requirements of this Law.

- The administrative authority must justify any changes in its assessment and opinion in identical or similar cases.

- Article 12. of LAP

- The administrative authority must, according to the procedure prescribed by law, ensure the realization of the person's right to access information related to the adoption and execution of respective administrative acts.

- Participants in administrative proceedings shall have the right to know about the commencement of administrative proceedings and their right to participate therein and familiarise themselves with a case file.

- It shall be prohibited to disclose the information in a case file that constitutes classified information according to law.

- Article 72. Rationale (justification) of the administrative act

- Administrative act adopted in written form or oral administrative act confirmed in writing shall contain a rationale (except for cases provided in part 6 of this Article).

- The rationale (justification) of a written administrative act shall enable the person to understand it correctly and to exercise their right to appeal against the administrative act.

- Rationale of an administrative act shall include the following:

- the date of appeal and a summary of the request contained therein;

- factual circumstances of the case;

- content of documents and information taken into account in case consideration;

- reference to evidence and other materials in the case on which the administrative authority based its conclusions;

- detailed legal assessment of circumstances discovered by the administrative authority and a clear indication of conclusions based on such legal assessment of discovered circumstances.

- Administrative act may include no reference to factual circumstances in the case or results of an examination of evidence and other materials if the relevant document contains such information.

- For some types of cases, legislation may stipulate additional information to be specified in the rationale of the administrative act.

70. Describe the legal framework for administrative procedures. How are special administrative procedures regulated? Explain their justification.

Since the adoption of the Ordinance of the Cabinet of Ministers of Ukraine dd. June 24, 2016 №474 “Some issues of reforming the public administration of Ukraine” which endorsed the Strategy for reforming the public administration of Ukraine in 2016-2020 (hereafter — the Strategy), and approved the Action Plan for its implementation (hereafter — the Action Plan), the new phase of implementing a complex public administration reform has begun in Ukraine. It is aimed at building a transparent system of public administration and increasing the competitiveness of the country taking into account the European standards of good administration.

Thus, subpoint 1 point 22 of the Action Plan tasks the Ministry of Justice together with other stakeholders to codify the legislation containing the provisions that regulate administrative procedures with guarantees according to the SIGMA principles of public administration.

In order to complete the task, the Ministry of Justice of Ukraine together with the Ministry of Finance, Ministry of Economic Development, other central executive bodies, regional public administrations, state collegial bodies performed a review of the legislation containing provisions that regulate administrative procedures.

As identified by the comprehensive analysis of the legislation of Ukraine, in practice the administrative procedures are determined not only by legislative acts. Numerous rules and instructions are determined at the level of secondary legislation not only by the Acts of the Cabinet of Ministers of Ukraine but sometimes by the very Orders of the ministries. As a result, they all contain specific procedures, special features, exclusions etc. which are intrinsic to a particular area of social relations.

In the course of completing the task of the codification of the rules for the general administrative procedure, the Ministry of Justice together with the representatives of the Secretariat of the Cabinet of Ministers of Ukraine, ministries, other central executive bodies, the judicial branch, particularly the Supreme Court of Ukraine, and also with the involvement and active support from experts and professionals of the Delegation of the EU to Ukraine, German Fund for International and Judicial Cooperation, experts from the “Support to comprehensive public administration reform in Ukraine (EU4PAR)” project, SIGMA Programme developed a draft Law of Ukraine “On administrative procedure”. It was adopted by the Verkhovna Rada of Ukraine on February 17, 2022 and submitted to the President of Ukraine for signature on March 13, 2022.

Ukraine's Constitution enshrines the rule of law principle, the cornerstone of good public administration. Provisions of the Constitution of Ukraine ([link](#)) govern that everyone shall have the right to address individual or collective petitions, or to personally recourse to public authorities, local self-government bodies, officials, and officers of these bodies obliged to consider the petitions, and to provide a substantiated reply within the period determined by law (Article 40). Public authorities and bodies of local self-government, their officials shall be obliged to act only on the grounds, within the powers, and in the way determined by the Constitution and the laws of Ukraine (Article 19(2) of the Constitution of Ukraine [link](#)). Therefore, Ukraine must guarantee a right to an unbiased, fair solution to the case of each individual within a reasonable period of time. This right must include: a

right of a person to be heard before any individual decision is made that can negatively affect this person; the right of every person for access to a case file that is pertinent to this person; obligation of administrative bodies to substantiate their decisions etc. The aforementioned rights of a person must be embedded in the legislation and apply to all executive authorities and bodies, their officials and other bodies that are legally authorised to perform authoritative administrative functions. However, detailed and codified principles of good administration that would be binding for all state administration bodies do not accompany this general declaration. Separate laws (approximately 400) regulate specific administrative procedures. While not necessarily contradicting principles of good administration, those legal acts do not ensure a unified application of the basic principles of European administrative procedure law. Citizens and businesses are not always guaranteed the same rights during interaction with public authorities on individual administrative acts. There is also no uniform or standard administrative act.

The following horizontal legal acts also regulate aspects of administrative procedure currently:

Law on Peculiarities of Providing Electronic Public Services (1689-IX, [link](#)). This law was designed to accelerate digitalization of public services. It defines principles of providing electronic public services. It also reinforces well-grounded concepts of digital information exchange, use of existing information in public registers, instead of requesting from individuals and even tacit consent.

Law on Administrative Services (5203-VI, [link](#)). The law establishes principles of state policy in the field of provision of administrative services, basic requirements for provision of administrative services as well as quality requirements. The law also provides legal basis for administrative service centres and unified portal of administrative services.

Law on Citizen Appeals (393/96-BP, [link](#)). The law regulates three types of submissions from citizens – proposals, petitions and complaints. The law provides requirements for such submissions, procedure for consideration of them and liability of officials for violation of citizens' rights.

Law on Permit System in Implementing Economic Activities (2806-IV, [link](#)). This law defines legal and organizational principles of the functioning of the licensing system in the field of economic activity and establishes the procedure for the activities of licencing authorities authorized to issue permits and administrators.

Law on the Basic Principles of State Supervision (Control) in the Field of Economic Activity (877-V, [link](#)). This law defines basic principles and procedure for the implementation of state supervision (control) in the field of economic activity, powers of the state supervision, their officials and the rights, obligations and responsibilities of business entities during implementation of state supervision.

Code of Administrative Proceedings of Ukraine (2747-IV, [link](#)). This law defines jurisdiction and powers of administrative courts to consider administrative cases, the procedure for applying to administrative courts and procedure for administrative proceeding. Article 2 of the law provides also principles, which need to be checked by the courts in the actions of authorities, including impartiality, legality, justification, equality before law etc.

Considering the existence of several hundred laws regulating specific administrative procedures and several horizontal laws governing aspects of the administrative services, the Strategy of Public Administration Reform 2016-2021 ([link](#)) defined adopting a general administrative procedure as a

priority. Therefore, elaboration of the Law of Ukraine “On administrative procedure” was aimed at the very implementation of the provisions of the Constitution of Ukraine and completing the tasks of the administrative reform in Ukraine. This law is expected to become an “all-round” legal and normative act that will introduce a new quality to the legislative regulation of external-administrative operations procedures by executive authorities and bodies, their officials and other bodies legally authorised to execute authoritative administrative functions, and protection of rights and legitimate interests of persons and corporate entities in their relations with the state. Accordingly, on February 17th, 2022, the Law on Administrative Procedure was adopted in the second and final reading in Parliament. However, as of 12.04.2022, the adopted Law awaited the signature of the President and official publication.

The draft Law on Administrative Procedure was assessed positively by the OECD Sigma before its adoption in Parliament.

Thus, the Law identifies the administrative procedure as the rules of action when an executive body or local self-government body takes a decision regarding the rights and obligations of persons and corporate bodies.

The Law provides for a framework regulation of principles and rules of conduct for executive bodies in their relations with the citizens and the business; increases the legal protection of citizens and provides for the due course of law, exactitude and predictability of all actions by public authorities that touch on the rights and freedoms of citizens; widens the opportunities of a citizen in his/her interaction with the state.

The Law applies to all cases where public authorities take a decision regarding the rights and obligations of persons and corporate bodies or take any actions that touch on the rights and freedoms of citizens; all public authorities on all levels; all areas of public administration operation: registration of citizens, taxes and customs duties, licensing, land use, construction permits, social benefits, pensions, rights of veterans etc.

The Law will result in simplification of processes at public authorities and avoidance of unnecessary bureaucratic burdens. For example, it strictly prohibits public authorities from demanding from citizens and companies submission of certificates and similar papers that confirm the data contained in the official registries. Public authorities are obliged to obtain access to this data independently, while at the back-office electronic means of data exchange must be installed.

The Law of Ukraine “On administrative procedure” reflects the principle according to which public authorities implement the norms of the existing democratic laws and serve the citizens impartially, predictably and efficiently, with full respect to citizens’ rights, freedoms and personal dignity. By providing for the due course of law, predictability and juridical exactitude, the Law may become an effective anti-corruption tool.

The idea behind the elaboration of this Law foresees that the Laws of Ukraine which are special legislation in relation to the Law of Ukraine “On administrative procedure”, after the draft Law is passed by the Parliament, will require reconsideration and amendments in order to be harmonised with the draft Law and avoid discrepancies. Thus, the Final and transitional provisions of the Law of the Cabinet of Ministers of Ukraine assign a task: within 12 months after the promulgation of this Law, to provide for the adoption of legal and normative acts necessary for the implementation of this

Law; to submit proposals for consideration of the Verkhovna Rada of Ukraine as to harmonising the legislative acts of Ukraine with this Law.

According to the transitional provisions of the adopted Law, a unified administrative procedure will enter into force 18 months after the publication of the Law. This period also includes a timeframe during which the state shall adjust its current laws and regulations to comply with principles enshrined in the adopted Law on Administrative Procedure.

It is worth mentioning that Laws on administrative procedures work in all EU member-states as an integral part of the “right for proper administration” proclaimed by the Charter of Fundamental Rights of the European Union.

The Law of Ukraine “On administrative procedure” adopted by the Verkhovna Rada of Ukraine approximates Ukraine to the standards of the EU member-states where the law on general administrative procedure indispensably exists.

F. Public financial management (PFM)

71. Has Ukraine adopted a comprehensive PFM strategy with a medium-term action plan, covering the key PFM sub-systems and issues in each (i.e. budget preparation, revenue administration and collection, budget execution with cash management, public procurement systems, debt management, public internal financial control, budget inspection, accounting and reporting and external audit, etc.)? If not, is Ukraine planning to adopt a comprehensive reform programme? In what timeframe?

The Public Finance Management Reform Strategy for 2022–2025 and the Action Plan for its implementation were approved by the Order of the Cabinet of Ministers of Ukraine in December 29, 2021, № 1805-r (<https://zakon.rada.gov.ua/laws/show/1805-2021-%D1%80#Text>).

The PFM Strategy was developed taking into account the evaluation of the Public Expenditure and Financial Accountability (PEFA) methodology, as well as the recommendations of experts from the Support for Improvement in Governance and Management Program (SIGMA), the International Monetary Fund technical assistance mission and conclusions of the Accounting Chamber of Ukraine in accordance with the European standards of good governance on the transformation of public administration.

The purpose of the PFM Strategy is to build a modern, sustainable and effective public finance management system aimed at ensuring the financial stability of the state and creating conditions for sustainable growth of a socially inclusive economy by increasing the effectiveness of mobilization and spending of public expenditures.

The following strategic goals are expected for the achieving the purpose of the Strategy:

- maintaining general fiscal discipline in the medium term;
- increasing the efficiency of resource allocation at the level of state policy formation;
- ensuring effective implementation of state and local budgets;
- increasing the level of transparency and accountability in public finance management;

- development of human resources management in the field of public finance.

Tasks and activities of the PFM Strategy are aimed at:

- improving the functioning of tax and customs systems (in particular: improving the efficiency of tax administration and quality of service for taxpayers; expanding the tax base; strengthening the institutional capacity of customs authorities; improving customs control systems, harmonizing customs procedures and promoting international trade, etc.);

- increasing the reliability of macro- and budget forecasting results (in particular: further depoliticization of macroeconomic and budget forecasting and strategic planning processes; improvement of tools and capacity building in macroeconomic and budget forecasting and strategic planning; legislative regulation of integrated state forecasting and strategy development of the system of state forecasting and strategic planning of economic and social development in the framework of the implementation of legislation on state forecasting and strategic planning of economic and social development);

- early detection of fiscal risks and taking measures to avoid and / or minimize their impact on the budget (including: conducting a comprehensive assessment of fiscal risks and determining their impact on the state budget; ensuring effective monitoring of fiscal risks and their minimization; increasing the institutional capacity of the Ministry of Finance and other public authorities to manage fiscal risks; introduction of fiscal risk management of local budgets);

- ensuring debt sustainability and improving the efficiency of public debt, state-guaranteed debt and local debt (including: ensuring the functioning of the Debt Agency; development of the domestic government securities market; improving tools and mechanisms for providing government guarantees, including to support small and medium-sized enterprises; increasing the capacity of local governments in the field of debt management; increasing the share of long-term concessional financing);

- improving the predictability and availability of funds for performance of government functions (in particular: improving the quality of forecasting the movement of funds in the Treasury accounts; improving liquidity management tools);

- ensuring predictability and balance of fiscal policy in the medium term and strengthening the strategic approach of the budget planning (including: creating a reliable medium-term framework for state budget planning; strengthening the financial and economic soundness of decisions of the Cabinet of Ministers of Ukraine; development of the medium-term budget planning at the local level);

- increasing the efficiency and effectiveness of budget funds (in particular: optimization of budget programs and strengthen their compliance with public policy objectives; regular reviews of state budget expenditures; effective performance monitoring; improvement of program-target method at the local level, including gender mainstreaming);

- ensuring the financial capacity of territorial communities (in particular: clear division of powers between executive authorities and local governments; increasing the own financial resources of local governments; improving the mechanism of financial support of expenditure powers transferred by the state to local governments and local executive bodies; strengthening the financial transparency and accountability of the local governments);

- effective functioning of the public procurement system (in particular: improvement of the procedure for public procurement monitoring and improving access to relevant sources of information; improvement of methodological approaches to maintain the control in the field of public procurement: implementation of the Public Procurement Reform Strategy);

- ensuring public investment planning based on strategic priorities and medium-term budgetary perspective (including: strategic planning of public investment in the medium term; harmonization of approaches of evaluation and selection of proposals for investment projects financing; increasing the capacity of line ministries in public investment management; strengthening monitoring and increasing transparency of investment projects implementation; improving approaches to the management of investment projects financed from local budgets);

- strengthening the managerial accountability at all levels of the public sector, improving the effectiveness of internal control and internal audit in public institutions (including: introduction of internal control aimed at strengthening the responsibility of heads of institutions for management and development of the institution; institutional capacity of the central harmonization unit of the Ministry of Finance);

- improving the quality, completeness and reliability of data on which management decisions are made in the field of public finance (in particular: improving national regulations (standards) of accounting in the public sector; improving the organizational framework and quality of accounting services in the public sector; improving the quality of information on the general property status and performance of public sector entities and budgets; improving the disclosure of information in accounting on the implementation of state and local budgets; implementation of the Strategy for modernization of accounting and financial reporting system in the public sector for the period up to 2025);

- improving the system of public financial control, which will contribute to effective public administration, prevent and detect violations of the law and inefficient use of financial and material resources at the state and local levels (including: strengthening public financial control in the most risky areas; ensuring effective interagency cooperation in financial control framework; strengthening the institutional capacity of the State Audit Service of Ukraine at the central, regional and local levels);

- strengthening the role and efficiency of external financial control in accordance with INTOSAI standards (in particular: maximum harmonization of audit methodology and audit practice to INTOSAI standards, strengthening the advisory (expert) role of the Accounting Chamber as the as a supreme audit institution in Ukraine);

- increasing the transparency and accessibility of information on the budget (in particular: ensuring compliance with international standards on budget transparency; ensuring openness and accessibility of information on local budgets);

- ensuring efficiency and transparency in budget execution (in particular: strengthening the institutional capacity of the State Treasury Service of Ukraine; improving the procedures of treasury servicing of budget funds and relevant reporting forms);

- building a modern and effective IT management system to support and digital development of an effective and transparent public financial management system (including: implementation of

common IT standards, development of a unified information and telecommunications system of public financial management; transition to electronic services, including service user-centric IT services model; implementation of the Strategy for Digital Development, Digital Transformations and Digitization of the Public Finance Management System until 2025; prevention of human impact on automatic information processing; strengthening of human resources capacity; protection of processed information in the Unified information and communication system of public finance management system);

- strengthening the human resources capacity for effective formation and implementation of public policy in the field of public finance (in particular: introduction of a strategic approach and improving the efficiency of human resources management in the field of public finance; increasing the professional competence of financial system employees).

The Public Finance Management Reform Strategy for 2022–2025 is a logical continuation of the previous Strategy (for 2017-2020) and consists of 7 Chapters, which contains the purpose, description of problems and main ways to solve them, strategic goals and indicators of their achievement, main results of public finance management system reform during 2017-2020, connection of the Strategy with other strategic documents, expected results and risks, financial support and mechanism for coordination, monitoring and evaluation of the Strategy's implementation.

There is a special section “Public Finance Management Reform Strategy” on the official website of the Ministry of Finance of Ukraine and it contains regularly reports on the implementation of the Strategy, regulations and relevant information regarding this matter: <https://mof.gov.ua/uk/strategija-reformuvannja-sistemi-upravlinnja-derzhavnimi-finansami-na-2017-2020-roki-sudf>.

At the same time, new challenges related, in particular, to the military aggression of the Russian Federation against Ukraine, require new approaches to budget, debt, tax and customs policies. And the significant challenge is to maintain the stability of public finances and the financial system as a whole. Given the above, after the end of the martial law imposed in Ukraine in accordance with the Decree of the President of Ukraine from February 24, 2022, № 64/2022, there will be a relevance to update the Strategy.

72. How is monitoring and reporting of PFM reforms ensured? Is civil society involved in monitoring? How often are monitoring reports prepared? Are they published?

The Public Finance Management Reform Strategy for 2022–2025 was approved by the Order of the Cabinet of Ministers of Ukraine in December 29, 2021, № 1805-r and includes a separate section – "VII. Coordination, monitoring and evaluation of the implementation of the Strategy".

In accordance with the provisions of this section, the Ministry of Finance of Ukraine coordinates the implementation of the Strategy. To ensure the effective implementation of the Strategy, the coordination mechanism consists of three levels and includes:

- Working Subgroups are formed in accordance with the components of the public finance management system and reviewing information regarding the implementation of the Action Plan of

the Strategy, issues on the need to provide amendments, preparing appropriate proposals and draft decisions in case of necessity. The working subgroups include, inter alia, independent experts, representatives of public organizations, international organizations, etc.;

- Interdepartmental Working Group on the development of the public finance management system, which monitors and evaluates the implementation of the Strategy, considers evaluation reports of its effectiveness;

- Coordinating Council for Public Administration Reform, which coordinates the actions of executive bodies related to the implementation of the Strategy and the Action Plan, and monitors and evaluates the effectiveness of their implementation and performance.

The structure of the Interdepartmental Working Group on the PFM and Working Subgroups was approved by the Order of the Ministry of Finance of Ukraine and published on the official website of the Ministry of Finance at the following link: <https://mof.gov.ua/uk/strategija-reformuvannja-sistemi-upravlinnja-derzhavnimi-finansami-na-2017-2020-roki-sudf>.

The Strategy is implemented on the basis of an Action Plan for its implementation, which includes directions for each area of the public finance management system. The achievement of each strategic goal of the Strategy is assessed through the criteria of achievement of the goal defined in each area, and is ensured through the implementation of specific measures.

The Action Plan can be specified, including in terms of the measures, units responsible for the implementation and deadlines. The objectives of the Strategy may be reviewed after an annual comprehensive assessment of the PFM system, and by an Interdepartmental Working Group on the development of the public finance management system in case of necessity.

Monitoring the reform implementation process and evaluating the effectiveness of the Strategy includes the preparation of a report on the implementation of the Action Plan (quarterly), preparation of a analytical report on the status of strategic goals in each area of public finance management and evaluation of the Strategy (annually).

Monitoring of the PFM Strategy Action Plan implementation is provided quarterly by the Ministry of Finance of Ukraine by summarizing the information on the results of the activities defined in Action Plan and submitting a quarterly report till the 25th day of the month following the reporting quarter to the Coordination Council for Public Administration Reform and the Cabinet of Ministers of Ukraine. The bodies, responsible for implementing the measures, prepare and submit a Quarterly Report on the Action Plan implementation to the Ministry of Finance, which compares the actually achieved indicators with the planned ones, indicated issues (if any) and their impact on the implementation of measures and achievement of the goal in each direction of the Strategy (with an explanation of the reasons for their occurrence and indication of the mechanism for solving them).

Accordingly, the first Report on the PFM Strategy Action Plan implementation should be prepared based on the results of the first quarter of 2022.

Evaluation of the effectiveness of the Strategy implementation and achievement of the objectives in each PFM area, as well as evaluation of the achievement of the strategic goals are conducted annually. The relevant report is prepared by the bodies responsible for the Action Plan

components implementation on the basis of monitoring of the PFM Strategy Action Plan implementation and provides for these assessments.

The Report contains: analysis of the activities of the body responsible for the implementation of measures and changes in the relevant PFM areas during the year; analysis of the tasks and their impact on achieving the objectives; achievement of performance indicators; conclusion on the effectiveness of the policy and proposals on the need to extend the implementation of the Strategy or adjust its provisions to achieve the objectives.

The report is submitted by the responsible units to the Ministry of Finance of Ukraine annually by March 1 of the year following the reporting period. The Ministry of Finance prepares Analytical Report on the implementation of the Strategy, performance evaluation and submits it to the Coordination Council for Public Administration Reform by June 1. The Report approved by the Coordinating Council for Public Administration Reform is submitted to the Cabinet of Ministers of Ukraine and posted on the official website of the Ministry of Finance.

The bodies responsible for the implementation of measures shall ensure the timeliness and reliability of the reports submitted to the Ministry of Finance of Ukraine, which shall contain all the information necessary to analyze the effectiveness of the implementation of PFM Strategy in accordance with the requirements of the Ministry of Finance.

If necessary, proposals for PFM Strategy and Action Plan updating could be provided according to the results of the Annual Report, which are considered by the relevant working subgroups and after summarizing submitted to the PFM Interagency Working Group for a final decision on proposals regarding the introduction of appropriate changes.

In order to increase the level of transparency and accountability in public finance management, as well as to ensure the public access to public information a special section “Public Finance Management Reform Strategy” on the official website of the Ministry of Finance of Ukraine was created, with regularly publishes reports: <https://mof.gov.ua/uk/strategija-reformuvannja-sistemi-upravlinnja-derzhavnimi-finansami-na-2017-2020-roki-sudf>.

During the implementation of the previous Strategy (for 2017-2020), quarterly reporting on the implementation of the relevant action plan was also provided. Following the results of the year, the effectiveness of the Strategy was evaluated and an Analytical Report was prepared. Discussions on achievements and necessary changes were also held during the meetings of the Interagency Working Group and working subgroups. The issue of implementing public finance reform was discussed at the annual Strategic Dialogues.

Reports on the implementation of the previous Strategy (for 2017-2020) are published on the website of the Ministry of Finance of Ukraine at the link: <https://mof.gov.ua/uk/zvit>.

73. Please describe the measures that Ukraine has taken to ensure budget transparency across the different phases of the budget cycle (budget preparation, approval, executing and oversight)?

I. The Ministry of Finance of Ukraine takes actions to ensure budget transparency at all stages of the budgetary process.

According to the Budget Code of Ukraine, at every stage of the budget process the following materials are to be published:

1) Budget Declaration (local budget forecast) making and consideration, and making decisions on them:

- The Ministry of Finance publishes a Budgetary Calendar for the planned year on its website and official social media pages;

- The Cabinet of Ministers of Ukraine and the Ministry of Finance of Ukraine publish Budget Declaration on their websites;

- Local state administration and local executive authorities publish corresponding local budgets forecasts on their official websites or otherwise, as determined by the Law of Ukraine 2939-VI dated 13.01.2011 "On the access to the public information";

2) Making draft budgets

Local authorities and local government bodies publish draft decisions and decisions on corresponding local budgets on their websites, or otherwise, as determined by the Law of Ukraine 2939-VI dated 13.01.2011 "On the access to the public information". The local governments publish decisions on the corresponding local budgets in newspapers, that are determined by the corresponding local councils.

3) State Budget (Local budget) draft consideration and adoption of the Law on the State Budget (decision on Local budget):

- Key Spending Units publish budget requests on their websites;

- The Parliament of Ukraine and the Ministry of Finance of Ukraine publish draft state budget on their websites;

- The Parliament of Ukraine and the Ministry of Finance of Ukraine publish adopted the law "On the state budget" on their websites;

- The Ministry of Finance of Ukraine publishes citizens' budget on its website;

- Local authorities publish decisions on adopting a local budget in newspapers defined by local councils and on the local authorities' websites or otherwise, as determined by the Law of Ukraine "On the access to the public information".

4) Budget execution, including amending the law on the State Budget of Ukraine (decision on a local budget):

- The Ministry of Finance publishes information on the consolidated and state budget execution according to the results of a month, a quarter on its website. The publication includes an informational and analytical report, and analytical tables;

- The State Treasury Service of Ukraine makes and publishes monthly, quarterly, and annual reports on the State Budget execution on its website, in accordance with articles 59-61 of the State Code of Ukraine;

- The Parliament of Ukraine publishes a draft and adopted amendments to the law on the State Budget on its website;

- Local governments publish monthly, quarterly, and annual information on corresponding local budget execution on the official websites or otherwise, as determined by the Law of Ukraine "On the access to the public information" They also publish quarterly and annual information in newspapers that are defined by corresponding local councils;

- Decisions on amending local budgets are published in newspapers defined by the corresponding local councils, and on the official websites or otherwise, as determined by the Law of Ukraine "On the access to the public information";

5) Preparation and consideration of a report on budget executing and deciding regarding it:

- The Parliament of Ukraine and the Ministry of Finance of Ukraine publish a report on the execution Law of Ukraine on the State Budget of Ukraine in a corresponding year on their websites;

- Newspaper "Uriadovyy Kurier" ("Government's Courier") publishes information on State Budget execution for the reporting year. Newspapers defined by the local councils publish information on the corresponding local budget execution for the reporting year;

- Public presentation of a report on the State Budget execution for the reporting year is performed at the Ministry of Finance; in local councils' administrative buildings for the local budgets execution reports;

- The Key Spending Units publish the following information on their websites:

a) Reports on the budget programs passports execution for the reporting year;

b) Budget programs efficiency assessment results for the reporting year;

c) Information on the public policy objectives and their achievement indicators for the reporting year;

d) Reports on implementing governmental investment programs in the reporting year;

e) Reports on the State Budget spending reviews for the reporting year.

II. The Accounting Chamber of Ukraine performs control over compliance with the budgetary legislation and audit public finance management efficiency at all the stages of the budgeting process. The Accounting Chamber of Ukraine approves reports on the State Budget execution for the corresponding period on a quarterly basis (the Accounting Chamber of Ukraine publishes the reports on its website). The Accounting Chamber of Ukraine sends the quarterly reports to the Parliament of Ukraine and the Ministry of Finance of Ukraine for consideration.

III. A July 2020 decision on the state citizens' budget web-portal (openbudget.gov.ua) industrial operation introduction contributed to a significant improvement in transparency and public availability of information on the State Budget. The portal is aimed at informing the public about the budgeting policy's key objectives, activities, and priorities. The portal also provides data on the state and local budgets execution in a convenient format

The Ministry of Finance provided an opportunity for publishing other local budgets documents on the abovementioned citizens' budget web portal. So, since December 2021 the local governments can publish budgetary requests, draft decisions, decisions and amended decisions on the local budget, local budgets passports and local budgets passports execution reports, and local budgets forecasts

IV. To improve transparency in the field of public finance the Ministry of Finance introduced: budget indicators analysis tool was introduced that is based on the World Bank methodology (BOOST), analytical panels ('dashboards') on the general secondary and higher education expenditures (allow analysing public expenditures nationwide or on individual establishments'' level). The IFIs project web portal provides access to the register of economic and social development projects that are performed in Ukraine with financial support from the International Finance Organizations.

V. The Ministry of Finance of Ukraine works on providing the public with actual, full and quality budget information. The progress in this field is confirmed by the Open Budget Index 2020 survey, which is performed by the International Budget Partnership (IBP) organization. According to the results of the survey, Ukraine significantly improved its position by receiving 63 of 100 points score (the previous score was 54 points). Ukraine's position in the rating grew from 39th position to 26th among 117 countries. This means Ukraine moved to a group with significant access to the information (61-80 points score) from a group with limited access to information (41-60 points).

The IBP performs the survey for Ukraine and other countries every two years. In 2021 the Ministry of Finance of Ukraine experts provide the IBP with detailed information and comments on the budget data transparency in Ukraine, accordingly to the internationally recognized criteria. The updated results and ratings for the countries partaking in the survey, including Ukraine, will be published by the International Budget Partnership in the first half of 2022.

VI. Civilian oversight over security forces

74. Is there civilian control over the security forces, including intelligence services, and how is it exercised? Please describe the relevant arrangements in place for parliamentary control of security forces.

Ukraine exercises democratic civilian control over Ukraine's security and defence sector, including special services.

This issue is defined at the legislative level.

In particular, under Article 1(1)(5) of the Law of Ukraine

"On National Security" democratic civilian control is defined as "a set of legal, organizational, informational, staff and other measures carried out in accordance with the Constitution and laws of Ukraine to ensure the rule of law, legality, accountability, transparency of security and defence and other entitles the activity of which is connected with the restriction of human rights and freedoms in cases specified by law, the promotion of their effective activities and the performance of their functions, and the strengthening of Ukraine's national security. "

A separate section is devoted to this issue in the mentioned law - Section III

"Democratic Civil Control" (Articles 4-11).

The system of civil control consists of control exercised by the President of Ukraine; control exercised by the Parliament of Ukraine; control exercised by the National Security and Defence

Council of Ukraine; control exercised by the Cabinet of Ministers of Ukraine, executive bodies and local self-government bodies; judicial control; public control.

Civil control is based on the principles of the rule of law, legality, accountability, transparency, efficiency and effectiveness.

The specifics of exercising democratic civilian control over certain components of the security sector are also determined by other relevant laws. In particular, control over intelligence is also carried out taking into account the provisions of the Law of Ukraine "On Intelligence". This law contains a separate section - "Section VIII. Peculiarities of exercising democratic civilian control over intelligence" (Articles 51-55).

The Law of Ukraine "On National Security" clearly defines the essence of control and control mechanisms.

Under Articles 106 and 107 of the Constitution of Ukraine, the President of Ukraine exercises control over the security and defence sector both directly and through the National Security and Defence Council of Ukraine headed by him.

The National Security and Defence Council of Ukraine informs the public about its activities through the official website of the National Security and Defence Council of Ukraine (<https://www.rnbo.gov.ua/>) and through the media.

The Cabinet of Ministers of Ukraine provides civilian control over the activities of the Armed Forces of Ukraine, the State Special Transport Service, the National Police of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the State Emergency Service of Ukraine, the State Migration Service of Ukraine, the State Special Communications and Protection Service information of Ukraine, other executive bodies that are part of the security and defence sector of Ukraine.

Central executive bodies which have under their subordination military formations, intelligence and law enforcement bodies formed in accordance with the laws of Ukraine, ensure civilian control within their mandate. They inform the public on these issues through established public councils, through the websites of these bodies, the media, through periodic reports and more.

Local executive bodies and local self-government bodies shall, if necessary, hear reports of law enforcement officials located in the relevant territory on compliance with the requirements of the legislation on public safety and law and order, inform the public, in particular through the media, about their activities in carrying out tasks related to national security and defence.

Public oversight is an important element of the civil control system.

Citizens of Ukraine participate in the exercise of civil control through public associations of which they are members, through members of local councils, personally by appealing to the Commissioner for Human Rights of the Parliament of Ukraine or authorities.

Public councils have been established in the institutions of the security and defence sector. Information about their activities is published in the media. For example, on the website of the Ministry of Defence of Ukraine there is a special section on the activities of the Public Council under the Ministry of Defence of Ukraine (<https://www.mil.gov.ua/diyalnist/zvyazki-z-gromadskistyuu/gromadska-rada/>).

The media, when covering issues of national security and defence, inform the public about how national interests of Ukraine are protected.

In order to systematically inform the public about the activities of the security and defence sector of Ukraine, to ensure the validity of decisions of authorities on national security and defence, the situation in development of security and defence sector, security and defence entities shall periodically, but at least once every three years, publish white papers or other analytical documents (reviews, national reports, etc.). In particular, information bulletins have been published recently: "White Paper - 2019-2020. Armed Forces of Ukraine, State Special Transport Service", Strategic Bulletin of Border Security of Ukraine "White Paper 2020" and "White Paper - 2021. Foreign Intelligence Service" (for the first time in modern history).

Regarding parliamentary control: basic provisions and mechanisms.

Pursuant to Article 85 of the Constitution of Ukraine, the Parliament of Ukraine exercises parliamentary control and adopts laws of Ukraine that define and regulate the activities of security and defence bodies and their powers, as well as approves relevant budget allocations and decides on how they are to be used.

Pursuant to Article 89 of the Constitution of Ukraine, the Parliament of Ukraine establishes committees of the Parliament of Ukraine, the powers of which include, in particular, ensuring control over the activities of security and defence sector bodies.

Currently, out of 23 committees in the Parliament, 2 committees are responsible for the activities of the components of the security and defence sector of Ukraine: the Committee on National Security, Defence and Intelligence (<https://komnbor.rada.gov.ua/>); Law Enforcement Committee (<https://komzakonpr.rada.gov.ua/>).

Under Article 101 of the Constitution of Ukraine, parliamentary control over the observance of constitutional rights and freedoms of a person and citizen is exercised by the Commissioner for Human Rights of the Parliament of Ukraine (<https://www.ombudsman.gov.ua/>), whose powers are determined by law.

The Cabinet of Ministers of Ukraine, the Security Service of Ukraine, and the Department of State Protection of Ukraine shall submit to the Parliament of Ukraine annual written reports on the activities of the components of the security and defence sector.

In accordance with the Rules of Procedure of the Parliament of Ukraine approved by the Law of Ukraine "On the Rules of Procedure of the Parliament of Ukraine", the Parliament of Ukraine may formally invite or require attendance at a plenary sitting of the Parliament of Ukraine.

The issue of democratic civilian control from year to year is reflected in the annual national programs under the auspices of the NATO-Ukraine Commission, which are approved by decrees of the President of Ukraine. It is reflected in the reporting information on the implementation of these programs. NATO countries have the opportunity to freely receive information from the Ukrainian side on how well democratic civilian control is implemented.

In the annual national program under the auspices of the NATO-Ukraine Commission for 2021, the relevant tasks were successfully completed. In it, in particular, in a separate section (Objective

2.1.1. Democratic civilian control over the security and defence sector of Ukraine strengthens national security) it was determined:

1. Citizens and employees of the bodies that are part of the security and defence sector of Ukraine shall consciously participate in ensuring democratic civilian control, which is achieved by fulfilling the following priority tasks:

a) conducting awareness-raising activities on the tasks of democratic civilian control and the role of citizens in its implementation;

b) creation of a single information resource on democratic civil control for the having of citizens' appeals and timely receipt of feedback on the results of their processing.

1. The activities of the bodies that are part of the security and defence sector of Ukraine shall be carried out transparently in compliance with the balance of openness and confidentiality, which is achieved by fulfilling the following priority tasks:

a) optimizing the level of secrecy of information on the activities of the bodies that are part of the security and defence sector of Ukraine, in accordance with Euro-Atlantic principles and criteria;

b) providing conditions for the effective work of public councils at state bodies that are part of the security and defence sector of Ukraine;

c) ensuring regular public reporting on the activities of bodies that are part of the security and defence sector of Ukraine, and shaping and implementing national security and defence policy;

d) creating conditions for effective activity of foreign advisers in the bodies that are part of the security and defence sector of Ukraine, including taking into account the experience of NATO member states;

e) periodical publication of the "White Book of Ukraine" of the bodies that are part of the security and defence sector of Ukraine.

In the reporting information on the implementation of the ANP-2021, in particular, the following was noted:

«266. The following newsletters were published: "White Paper - 2019-2020. Armed Forces of Ukraine, State Special Transport Service", Strategic Bulletin of Border Security of Ukraine "White Paper 2020" and "White Paper - 2021. Foreign Intelligence Service" (for the first time in modern history).

267. In order to ensure democratic civilian control over the security and defence sector of Ukraine, information on their activities, the progress of the reform, and the implementation of the tasks of the President of Ukraine and the Government shall be posted on the official web portals of the security and defence sector components.

Conclusions:

Ukraine has established and operates a system of democratic civilian control over the security and defence sector;

the legislative basis for the functioning of this system has been created;

in this system of civil control, the mechanisms covered in the answer are realized;

Annually, in the format of annual national programs under the auspices of the NATO-Ukraine Commission, goals and priorities on this issue are set. Their implementation and public reporting are underway.

VII. The Judiciary

A. Organisation and structure of the court and prosecutorial system

75. Please provide a brief description of legislation or other rules governing the structure and functioning of the judicial system, including the organisation framework and number of courts. Are there any tribunals outside the ordinary judicial system (such as military tribunals, juvenile tribunals, etc.)?

Section VIII “Justice” of the Constitution of Ukraine governs the basic principles of justice.

In particular, Articles 124 and 125 of the Constitution stipulate that justice in Ukraine is administered exclusively by courts.

Delegation of the functions of courts and appropriation of such functions by other bodies or officials are prohibited.

The jurisdiction of the courts covers any legal dispute and any criminal charge. Where provided by law, courts may also consider other cases.

It is prohibited to establish extraordinary and special courts.

The organisation of the judiciary and the administration of justice in Ukraine, which operates in accordance with the rule of law principle and European standards and ensures everyone’s right to a fair trial, are governed by Law of Ukraine No. 1402-VIII “On the Judiciary and Status of Judges” (“Law No. 1402-VIII”).

Article 17 of Law No. 1402-VIII stipulates that the judicial system is organised subject to the principles of territoriality, specialisation and instance structure.

The judiciary comprises local courts, appellate courts and the Supreme Court.

Higher specialised courts operate in the judicial system to consider certain categories of cases in accordance with this Law.

The higher specialised courts are the High Intellectual Property Court and the High Anti-Corruption Court (Article 31 of Law No. 1402-VIII).

Pursuant to Article 18 of Law No. 1402-VIII, courts specialise in civil, criminal, commercial, administrative, and administrative offence cases.

Where provided by law and by decision of a meeting of judges of a court, judges may specialise in particular categories of cases.

In local general courts and appellate courts, judges specialise in juvenile criminal proceedings.

It should be noted that Law of Ukraine No. 3018-III “On the Judiciary of Ukraine” of 07.02.2002 provided for the existence of military courts in the judicial system of Ukraine, namely: military courts of garrisons as first-instance courts; military appellate courts of the regions and the

Court of Appeal of the Naval Forces of Ukraine, as appellate courts; and military panels within the Supreme Court of Ukraine.

When Law of Ukraine No. 2453-VI “On the Judiciary and the Status of Judges” of 07.07.2010 (repealed by Law No. 1402-VIII) was adopted, the military courts were liquidated.

76. Please describe the geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud, organised crime and corruption cases and indicate any ongoing and planned changes.

Pursuant to Article 18 of Law No. 1402-VIII, courts specialise in civil, criminal, commercial, administrative, and administrative offence cases.

Where provided by law and by decision of a meeting of judges of a court, judges may specialise in particular categories of cases.

In local general courts and appellate courts, judges specialise in juvenile criminal proceedings.

Under the provisions of Article 22 of Law No. 1402-VIII, a local court is a first-instance court and administers justice in accordance with procedural law.

Local general courts consider civil, criminal, administrative, and administrative offence cases as provided by procedural law. There are currently 663 local general courts, 28 of which are located in the temporarily occupied territory of the Autonomous Republic of Crimea, 31 in the occupied territory of Donetsk oblast and 17 in Luhansk oblast (as of 23 February 2022).

These courts are now district courts and district courts in cities. Following the reform of the administrative-territorial system carried out by the Verkhovna Rada of Ukraine, the number of courts by far exceeds the number of administrative-territorial districts. Previously, there had been a court in each administrative-territorial district. As far as cities are concerned, cities divided into districts almost always have district courts, while cities without districts have at least one court operating in the city.

Local commercial courts consider cases arising from business relations as well as other matters falling within their jurisdiction according to law. There are currently 27 local commercial courts, 2 of which are located in the temporarily occupied territory of the Autonomous Republic of Crimea.

Local administrative courts are competent to consider administrative cases. There are currently 27 local administrative courts, 2 of which are located in the temporarily occupied territory of the Autonomous Republic of Crimea.

Pursuant to Articles 26 and 27 of Law No. 1402-VIII, appellate courts operate as appellate-instance courts or, where specifically stipulated by procedural law, as first-instance courts and consider civil, criminal, commercial, administrative, and administrative offence cases.

Appellate courts: administer justice in the manner prescribed by procedural law; analyse court statistics, study and summarise case law, inform relevant local courts and the Supreme Court of the results of summarising case law; provide methodological assistance to local courts in applying legislation; and exercise other functions established by law.

The map of appellate courts corresponds to the administrative-territorial division of Ukraine into oblasts. So there is an appellate court in every oblast capital city.

Appellate courts for civil and criminal cases and administrative offence cases are appellate courts formed in the appellate districts. There are currently 26 appellate courts, 2 of which are located in the temporarily occupied territory of the Autonomous Republic of Crimea.

Appellate courts for commercial cases and appellate courts for administrative offence cases are, accordingly, appellate commercial courts and appellate administrative courts formed in the relevant appellate districts. In Ukraine, there are 7 appellate commercial courts, 1 of which is located in the temporarily occupied territory of the Autonomous Republic of Crimea, and 8 appellate administrative courts, 1 of which is located in the temporarily occupied territory of the Autonomous Republic of Crimea. The jurisdiction of both an appellate commercial and appellate administrative court covers several oblasts.

According to Articles 31 and 32 of Law No. 1402-VIII, the higher specialised courts are the High Intellectual Property Court (not yet formed, only registered as a legal entity; competition procedures initiated but not completed) and the High Anti-Corruption Court (which has operated since 05.09.2019).

A higher specialised court may establish judicial chambers to hear specific categories of cases in the first instance and an appellate chamber to hear cases in the appellate instance. The appellate chamber of a higher specialised court operates based on the principles of institutional, organisational, personnel and financial autonomy within the court.

Higher specialised courts: administer justice as first-instance and appellate-instance courts for such cases and in such manner as prescribed by procedural law; analyse court statistics, study and summarise case law and inform the Supreme Court of the results of summarising case law; and exercise other functions established by law.

Judgements of higher specialised courts may be challenged by filing an appeal (with the appellate chamber of the relevant higher specialised court) or a cassation appeal (with the relevant cassation court, which is part of the Supreme Court).

Higher specialized courts have jurisdiction across the territory of Ukraine.

In the context of the second part of this question, it is the High Anti-Corruption Court that is competent to administer justice in accordance with the legally stipulated judicial principles and procedures to protect individuals, society and the state against corruption and related criminal offences, exercise judicial control over pre-trial investigation of these offences and observance of the rights, freedoms and interests of persons in criminal proceedings and decide recognizing assets as improperly held and recovering them in favour of the state as provided by law, in accordance with the rules of civil procedure.

Criminal procedural law provides criteria that allow certain criminal proceedings to be classified as falling under the jurisdiction of the High Anti-Corruption Court. Such criteria include a high-level position of a person charged with a crime, conduct of relevant proceedings by the National Anti-Corruption Bureau of Ukraine, and the amount involved in the crime. If corruption-related criminal proceedings fail to meet these criteria, they are processed by a local general court.

Proceedings concerning fraud and crimes committed by members of organised crime groups fall under the jurisdiction of local general courts. There is no specialisation in this context.

Under Article 36 of Law No. 1402-VIII, the Supreme Court is the highest court in the judicial system of Ukraine and ensures the continuity and consistency of case law in the manner set forth by procedural law.

The Supreme Court administers justice as a court of cassation and, where provided by procedural law, as a court of first or appellate instance, in accordance with procedural law; analyses judicial statistics and summarises case law; issues opinions on draft legislation concerning the judiciary, judicial proceedings, status of judges, enforcement of judgements and other matters related to the functioning of the judicial system; concludes whether or not the acts of which the President of Ukraine is accused contain elements of treason or another crime; files, upon request of the Verkhovna Rada of Ukraine, a written submission on the incapacity of the President of Ukraine to exercise his or her powers for health reasons; files a request with the Constitutional Court of Ukraine to decide on the constitutionality of laws and other legal acts and to deliver an official interpretation of the Constitution of Ukraine; ensures that the courts with different specialisations apply the law consistently, in the manner prescribed by procedural law; provides appellate and local courts with methodological guidance on the application of law; and exercises such other powers as are established by law.

According to Article 37 of Law No. 1402-VIII, the Supreme Court includes the Supreme Court Grand Chamber, Cassation Administrative Court, Cassation Commercial Court, Cassation Criminal Court, and Cassation Civil Court.

Judicial chambers for specific categories of cases, considering the specialisation of judges, are organised in each cassation court.

The number and the specialisation of the judicial chambers are decided by a meeting of the cassation court judges and based on the court workload.

In the Cassation Administrative Court, separate chambers are established within the Supreme Court to hear cases concerning taxes, fees and other mandatory charges, protection of social rights, election and referendum procedures and protection of the political rights of citizens.

In the Cassation Commercial Court, separate chambers are established within the Supreme Court to hear cases concerning bankruptcy, protection of intellectual property rights, antitrust and competition law matters, corporate disputes and equity interests and securities.

In the Cassation Criminal Court and the Cassation Civil Court, separate chambers are established within the Supreme Court by a meeting of judges of the respective cassation court. In particular, in the Cassation Criminal Court, a separate judicial chamber has the jurisdiction to review corruption and related criminal cases under the cassation procedure.

The judges of the Cassation Criminal Court also specialise in handling juvenile criminal cases.

77. Is the jurisdiction of every court stipulated in clear and predictable terms? How is the conflict of jurisdiction regulated and how is it enforced by the courts? Are there areas where courts are too small for objective case allocation and/or specialisation? Can the physical

distance and lack of communications be problematic in light of access to justice? Please provide concrete examples.

The Code of Civil Procedure of Ukraine (“Code of Civil Procedure”), Code of Commercial Procedure of Ukraine (“Code of Commercial Procedure”), Code of Administrative Offences of Ukraine (“Code of Administrative Offences”) and the Code of Criminal Procedure of Ukraine (“Code of Criminal Procedure”) determine the subject-matter, instance-based and territorial jurisdiction for civil, commercial, administrative and criminal, including, corruption, cases.

Regarding subject-matter jurisdiction, it should be noted that the provisions of the procedural codes do not allow claims subject to different types of proceedings to be consolidated in a single proceeding unless otherwise prescribed by law (Article 20 of the Code of Civil Procedure, Article 21 of the Code of Commercial Procedure and Article 21 of the Code of Administrative Offences).

Article 19 of the Code of Civil Procedure, Article 20 of the Code of Commercial Procedure, Article 19 of the Code of Administrative Offences and Article 33-1 of the Code of Criminal Procedure set out the categories of cases covered by the jurisdiction of general, commercial and administrative courts, the High Intellectual Property Court and the High Anti-Corruption Court.

Further, Article 21 of the Code of Administrative Offences also provides that if a case concerning related claims falls under the territorial jurisdiction of different local administrative courts, it will be heard by one of these courts at the claimant’s choice.

If one of the claims is subject to the jurisdiction of a district administrative court and the other claim(s) is (are) subject to the jurisdiction of a local general court as an administrative court, the district administrative court will hear the case.

If one of the claims is subject to the jurisdiction of an appellate administrative court and the other claim(s) is (are) subject to the jurisdiction of a local administrative court, the appellate administrative court will hear the case.

Claims for compensation for damage caused by illegal decisions, actions or omissions of an authority or other violation of rights, freedoms and interests of public-law entities, or claims for recovery of property seized by decision of an authority are considered by an administrative court if they are stated in the same lawsuit with a request to resolve a public-law dispute. Otherwise, such claims are handled by courts under the rules of civil or commercial procedure.

According to the provisions of the procedural codes, a court must issue a ruling to terminate proceedings if a case may not be heard under the rules of civil, commercial or administrative procedure.

If proceedings are terminated for this reason, the court clarifies for the plaintiff which court has the jurisdiction to hear the case. An appellate or cassation court must also explain to the plaintiff that the latter has the right to apply to the court, within ten days of the date of receipt of the relevant resolution, for it to refer the case to the competent court, except where several claims that are subject to different rules of procedure are consolidated in the same proceedings.

It should be noted in relation to instance-based jurisdiction that, in accordance with the procedural codes, participants in a case, as well as persons who did not participate in the case — if the court has decided on those persons’ rights, freedoms, interests and/or obligations — have the right

to an appellate review of the case and, where provided by law, to file a cassation appeal against the judgement.

No cassation appeal against a judgement of a first-instance court may be filed without a prior appellate review of that judgement (Article 17 of the Code of Civil Procedure, Article 17 of the Code of Commercial Procedure and Article 13 of the Code of Administrative Offences).

Pursuant to Article 23 of the Code of Civil Procedure, Article 24 of the Code of Commercial Procedure and Article 22 of the Code of Administrative Offences, any cases to be handled under the rules of civil, commercial and administrative procedure are heard, accordingly, by local general courts, local commercial courts and local administrative courts (local general courts as administrative courts and district administrative courts) as first-instance courts, except for the types of cases referred to in those articles.

It should be noted in relation to the territorial jurisdiction that its rules are set forth in Section I(2)(3) of the Code of Civil Procedure, Section I(2)(3) of the Code of Commercial Procedure and Section I(2)(3) of the Code of Administrative Offences.

The procedural codes do not allow any jurisdiction disputes.

A case referred from one court to another in accordance with the procedural codes must be accepted by the court to which it has been referred.

Further, under Article 36 of Law No. 1402-VIII, the Supreme Court is the highest court in the judicial system of Ukraine and ensures the continuity and consistency of case law in the manner set forth by procedural law.

In particular, the Supreme Court summarises case law and ensures that courts with different specialisation apply the rules of law consistently and in the manner prescribed by procedural law.

It should be noted here that legislative inaccuracies in determining jurisdiction are rectified by the Grand Chamber of the Supreme Court, and this was its key task in the context of judicial reform in 2016–2017. So far, the Grand Chamber of the Supreme Court has already dealt with thousands of jurisdictional disputes and developed hundreds of legal opinions overcoming jurisdiction conflicts. Most jurisdictional issues have already been resolved by case law.

In summary, as of 2022, the provisions of procedural and case law give a fairly clear understanding of the competence of any particular court to hear a dispute.

As noted above, given that the number of courts exceeds the number of administrative-territorial districts, there is no problem with geographical access to courts in Ukraine. A district administrative court and a local court operate in each oblast capital city of Ukraine. There are no oblasts in Ukraine that are too small for the objective allocation or specialisation of judges. In all general appellate courts, judges now specialise in civil and criminal cases, and separate civil and criminal judicial chambers have been set up.

79. Please describe the system(s) of appeal procedures.

Article 129 of the Constitution of Ukraine establishes that the right to an appellate review and, where provided by law, the right to file a cassation appeal against a judgment are among the basic principles of legal proceedings.

In line with the referred provision, Article 14 of Law no. 1402-VIII stipulates that participants in judicial proceedings and other persons have the right to an appellate review and, where provided by law, the right to file a cassation appeal against a judgment.

The procedure for appealing against judgments is established by procedural law.

In particular, the procedure for appealing against judgments under the rules of civil, commercial and administrative procedure is provided, respectively, by Section V, Chapter 1 of the Code of Civil Procedure, Section IV, Chapter 1 of the Code of Commercial Procedure and Section III, Chapter 1 of the Code of Administrative Offenses.

In accordance with the procedural codes, participants in a case, as well as persons who did not participate in the case - if the court has decided on those persons' rights, freedoms, interests and / or obligations - have the right to appeal against the judgment of the first-instance court in whole or in part.

Participants in a case and persons who did not participate in the case - if the court has decided on those persons' rights, freedoms, interests and / or obligations - have the right to appeal against the rulings of the first-instance court separately from its judgment only where provided by the procedural codes (Article 352 of the Code of Civil Procedure, Article 254 of the Code of Commercial Procedure and Article 293 of the Code of Administrative Offenses).

According to the procedural codes, an appeal may be filed:

1) against a judgment:

for civil and administrative cases, within thirty days of the date of its pronouncement;

for commercial cases, within twenty days of the date of its pronouncement.

2) against a court ruling:

for civil and administrative cases, within fifteen days of the date of its pronouncement;

for commercial cases, within ten days of the date of its pronouncement.

Where only the introductory and resolute parts of a judgment were announced at the court session, or where a case is considered (the issue is settled) without notification (summons) of the parties to the case, the specified term is calculated from the date the judgment is delivered in full.

A participant in a case who was not served the full text of a judgment or ruling on the date of its pronouncement or issuance has the right to a renewal of the missed appeal period:

1) for a judgment - if the appeal is filed within thirty days (twenty days, for commercial cases) of the date the full text of the judgment is served on the participant;

2) for a ruling - if the appeal is filed within fifteen days (ten days, for commercial cases) of the date the respective ruling is served on the participant.

The appeal period may also be renewed if missed for other valid reasons, except as set out in the procedural codes (Article 354 of the Code of Civil Procedure, Article 256 of the Code of Commercial Procedure and Article 295 of the Code of Administrative Offenses) .

As a general rule, an appeal is filed directly with an appellate-instance court.

The procedural codes further contain the requirements for the form and substance of an appeal (Article 356 of the Code of Civil Procedure, Article 258 of the Code of Commercial Procedure and Article 296 of the Code of Administrative Offenses).

Where no grounds are available to stay or return an appeal or to refuse to initiate appeal proceedings, the appellate court rules that the appeal proceedings be initiated.

Under the rules of the commercial procedure, participants in a case may, before appeal proceedings are initiated, submit their objects against the commencement of the appeal proceedings.

The decision on whether to commence appeal proceedings must be made within five days of the date of receipt of an appeal or application to eliminate defects submitted in accordance with the provisions of the procedural codes.

A ruling to initiate appeal proceedings indicates the time limit for participants in a case to submit a defense to the appeal and whether the case file is to be obtained. If applications or motions are filed together with the appeal, the court sets a time limit in its ruling to initiate the appeal proceedings within which the participants in the case must submit their objects to the filed applications or motions unless otherwise provided by the procedural codes.

According to the rules of civil and administrative procedure, an appellate court sends copies of the appeal and of any enclosed documents to the participants in the case along with the ruling to initiate the appeal proceedings.

At the same time, as per the rules of commercial procedure, an appellant sends the other participants in the case a copy of the appeal and any enclosed documents not available to them by letter with a list of enclosures.

After carrying out the preparatory actions specified in the procedural codes, the judge-rapporteur reports on them to the panel of judges, which decides on additional preparatory actions if necessary and appointing the case for consideration.

The parties to the case shall be notified of the date, time and place of the hearing if the case is heard in accordance with the provisions of the procedural codes.

The court of appellate instance shall review the case on the basis of the evidence available in it and additionally submitted and shall verify the legality and validity of the decision of the court of first instance within the arguments and requirements of the appeal.

The appellate court examines the evidence relating to the facts referred to by the parties to the appeal and / or the response to it.

Evidence that has not been submitted to the court of first instance shall be accepted by the court only in exceptional cases if the party to the case has provided evidence that it is impossible to submit it to the court of first instance for reasons beyond its control.

The appellate court is not limited to the arguments and requirements of the appeal, if during the proceeding it will be found that the case was proceeded with violations of procedural law, which is a mandatory ground for revocation of the decision, or incorrect application of substantive law occurred.

The court of appellate instance does not accept and does not consider claims and grounds of claim that were not the subject of consideration in the court of first instance.

If the arguments of the appeal ignore the obvious illegality or unfoundedness of the decision of the court of first instance in cases of separate proceedings (civil proceedings), the court of appeal shall review the case in full.

The Procedural Codes stipulate that an appeal against a decision of a court of first instance must be considered within sixty days from the date of the decision to initiate appeal proceedings, and an appeal against a decision of a court of first instance must be considered within thirty days from the date of the decision to open an appeal.

In addition, the provisions of the Code of Civil Procedure provide that the appeal against the decision, the decision of the court of first instance in bankruptcy (insolvency) in cases provided by the Law of Ukraine "On restoring the solvency of the debtor or declaring him bankrupt" is considered within sixty days from the date of opening of appeal proceedings in the case.

Based on the results of the appeal, the appellate court has the right to:

- leave the court decision unchanged and the complaint unsatisfied;
- cancel the court decision in whole or in part and make a new decision in the relevant part or change the decision;
- declare invalid the court decision of the court of first instance in whole or in part in the cases provided for by this Code and close the proceedings in the relevant part;
- annul the judgment in whole or in part and in the relevant part to close the proceedings in whole or in part or leave the statement of claim without consideration in whole or in part;
- cancel the court decision and send the case for consideration to another court of first instance under the established jurisdiction;
- cancel the decision, which hinders further proceedings in the case, and refer the case for further consideration to the court of first instance (within the civil and commercial jurisdiction);
- cancel the decision to initiate proceedings in the case and adopt a decision to refer the case to another court of first instance under the established jurisdiction (within civil jurisdiction);
- in cases provided for by procedural codes, cancel its decision (in whole or in part) and take one of the decisions mentioned above.

Based on the results of the appeal, the appellate court shall issue a ruling.

Procedural issues related to the progress of the case, petitions and applications of the parties, issues of adjournment, suspension of proceedings, as well as in other cases provided by procedural codes, are resolved by the court of appeal by ruling.

The decision of the appellate court takes legal effect from the date of its adoption.

With regard to appellate proceedings in criminal proceedings, we would like to inform you that in accordance with Article 392 of the CPC, court decisions that were adopted by the courts of first instance and did not enter into force may be appealed, namely:

- 1) sentences, except for the cases provided for in Article 394 of the CPC;
- 2) decisions on the application or refusal to apply coercive measures of a medical or educational nature;
- 3) other decisions in cases provided by the CPC.

Decisions of the investigating judge in cases provided by the CPC may also be appealed.

According to Article 393 of the CPC , the following have the right to file an appeal:

- 1) the accused in respect of whom a conviction has been passed, his legal representative or defense counsel - in the part relating to the interests of the accused;
- 2) the accused in respect of whom an acquittal has been passed, his legal representative or defense counsel - in terms of motives and grounds for acquittal;
- 3) the suspect, accused, his legal representative or defense counsel;
- 4) the legal representative, defender of the minor or the minor himself, in respect of whom the issue of application of a coercive measure of an educational nature was resolved, - in the part concerning the interests of the minor;
- 5) the legal representative and defender of the person in respect of whom the issue of the application of coercive measures of a medical nature was resolved;
- 6) the prosecutor;
- 7) the victim or his legal representative or representative - in the part relating to the interests of the victim, but within the requirements stated by them in the court of first instance;
- 8) the civil plaintiff, his representative or legal representative - in the part relating to the resolution of the civil claim;
- 9) the civil defendant or his representative - in the part relating to the resolution of the civil claim;
- 9 1) a representative of the legal entity in respect of which the proceedings are conducted - in the part relating to the interests of the legal entity;
- 2) a natural or legal person - in the part relating to its interests in resolving the issue of the fate of material evidence, documents submitted to the court; third party - in the part related to its interests in resolving the issue of special confiscation;
- 9 3) whistleblower - in the part concerning his interests when deciding the issue of payment of remuneration to him as a whistleblower;
- 10) other persons in cases provided by the CPC.

According to Article 395 of the CPC an appeal, unless otherwise provided by the CPC, may be filed:

1) on a sentence or decision on the application or refusal to apply coercive measures of a medical or educational nature - within thirty days from the date of their promulgation;

1 1) on a court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on a measure of restraint in the form of detention or on the extension of detention, decided during court proceedings before the court of first instance in fact, - within five days from the date of its announcement;

2) on other decisions of the court of first instance - within seven days from the date of its announcement;

3) on the decision of the investigating judge - within five days from the date of its announcement.

For a person in custody, the time limit for filing an appeal is calculated from the moment the copy of the court decision is served on him.

If the decision of the court or investigating judge was rendered without summoning the appellant, or if the verdict was rendered without summoning the appellant in the manner prescribed by Article 382 of the CPC, the term of appeal for such person is calculated from the date of receipt court decision.

The appeal must be made in writing with the obligatory indication of certain information (name of the court of appeal; surname, name and patronymic (name), place of residence (stay) of the person filing the appeal, as well as the number of the means of communication the e-mail address, if any, the judgment under appeal and the name of the court which delivered it, the claims of the person lodging the appeal and their justification, indicating the illegality or unfoundedness of the judgment, etc.) . If the appeal indicates circumstances that have not been investigated in the court of first instance, or evidence that has not been submitted to the court of first instance, it shall state the reasons for this.

Pursuant to Article 399 of the CPC , the Judge-Rapporteur, finding that an appeal against a sentence or decision of a court of first instance was filed without complying with the requirements of Article 396 of the CPC, shall issue a decision to leave the appeal without motion. their elimination, which may not exceed fifteen days from the date of receipt of the decision by the person who filed the appeal. A copy of the decision to leave the appeal without motion shall be sent immediately to the person who filed the appeal.

If a person has remedied the deficiencies of the appeal within the time limit set by the judge-rapporteur, he shall be deemed to have been filed on the day of his initial submission to the court of appeal. Within three days after eliminating the shortcomings of the appeal and in the absence of obstacles, the judge-rapporteur shall decide on the opening of the appeal proceedings.

An appeal is returned if:

1) the person has not eliminated the shortcomings of the appeal, which was left without action, within the prescribed period;

2) the appeal was filed by a person who has no right to file an appeal;

3) the appeal is not subject to consideration in this court of appeal;

4) the appeal is filed after the expiration of the term of the appeal and the person who filed it does not raise the issue of renewal of this term or the court of appeal on the application of the person will not find grounds for its renewal.

The Judge-Rapporteur refuses to initiate proceedings only if the appeal is filed against a judgment that is not subject to appeal, or the judgment is appealed solely on grounds on which it cannot be appealed under Article 394 of the CPC.

A copy of the decision to return the appeal, the refusal to initiate proceedings shall be immediately sent to the person who filed the appeal, together with the appeal and all attached materials.

The decision to return the appeal or refuse to initiate proceedings may be appealed in cassation.

Leaving the appeal without motion or returning it does not deprive the right to re-appeal to the court of appeal in the manner prescribed by the CPC, within the period for appeal.

Filing an appeal against a verdict or court decision suspends their entry into force and their execution, except in cases established by the CPC. Filing an appeal against the decision of the investigating judge suspends its entry into force, but does not suspend its implementation, except in cases provided by the CPC.

Preparation for the appellate review is carried out by the judge-rapporteur within 10 days after the opening of the appellate proceedings. All court decisions in preparation for the appeal are set out in the form of a decision, a copy of which is sent to the participants in the proceedings. Based on the results, a decision is made on the completion of the preparation and appointment of the appellate review.

Criminal proceedings on appeal are carried out collectively by a court of at least three professional judges. As a general rule, the appellate review is carried out in accordance with the rules of the trial in the court of first instance, taking into account the features provided for the appellate review.

The non-appearance of the parties or other participants in the criminal proceedings shall not preclude the holding of the hearing if such persons have been duly notified of the date, time and place of the appeal hearing and have not given good reasons for their absence. If the participants in the criminal proceedings, whose participation is mandatory in accordance with the requirements of the CPC or the decision of the appellate court, did not come to the court hearing, the appellate hearing is postponed.

The accused must be summoned to a court hearing to participate in the appellate proceedings if the appeal raises the issue of deterioration of his situation or if the court finds his participation mandatory, and the accused who is in custody - also if it was his request.

As a general rule, the participation of the prosecutor in court is mandatory.

According to Article 406 of the CPC , the appellate court has the right to make a court decision based on the results of written proceedings, if all participants in the proceedings have filed a petition for proceedings in their absence.

If, during the written proceedings, the appellate court concludes that an appellate hearing is necessary, it shall order such a hearing.

According to Article 407 of the CPC, the court of appeal has the right to:

- 1) leave the sentence or decision unchanged;
- 2) change the sentence or decision;
- 3) revoke the sentence in whole or in part and pass a new sentence;
- 4) cancel the decision in full or in part and adopt a new decision;
- 5) cancel the sentence or ruling and close the criminal proceedings;
- 6) revoke the sentence or ruling and appoint a new trial in the court of first instance.

According to the results of the appellate review of the appeal against the verdict of the court on the basis of the agreement, the appellate court, in addition to the decisions provided for in paragraphs 1-5 of part one of this article, has the right to revoke the verdict and send criminal proceedings:

- 1) to the court of first instance for the conduct of court proceedings in the general order, if the agreement was concluded during the court proceedings;
- 2) to the pre-trial investigation body for the pre-trial investigation in the general order, if the agreement was concluded during the pre-trial investigation.

As a result of the appellate review of the complaint against the decisions of the investigating judge or the court's decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention, and to extend the term of detention proceedings in the court of first instance before the court decision on the merits, the court of appeal has the right to:

- 1) leave the decision unchanged;
- 2) cancel the decision and issue a new decision.

Deciding on the results of the appellate review of the appeal against the court's decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention, as well as to extend the term of detention imposed during the trial the court of first instance before making a court decision on the merits, the appellate court decides on the measure of restraint in the manner prescribed by Chapter 18 of Section II of the CPC.

Pursuant to Article 422 1 of the CPC, appeals against the court's decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention, and to extend the term of detention, ruled during the court of first instance before the adoption of a court decision on the merits, shall be considered no later than three days after their receipt by the court of appeal.

The CPC establishes the peculiarities of the appeal of certain court decisions.

and) yes, in accordance with Part 1 of Art. 394 of the CPC, the verdict of the court of first instance, adopted as a result of summary proceedings may not be appealed on the grounds of

proceedings in the absence of participants in the proceedings, failure to examine evidence in court or to challenge the pre-trial investigation.

(ii) The specifics of the appeal are also provided for sentences based on conciliation agreements between the victim and the suspect, and on a guilty plea between the prosecutor and the accused. For example, a verdict based on a reconciliation agreement between the victim and the suspect may be appealed: the accused, his defence counsel, legal representative solely on the grounds of sentencing, more severe than agreed by the parties, sentencing without his consent to sentencing; the victim, his representative, legal representative, solely on the grounds of sentencing, less severe than agreed by the parties to the agreement, sentencing without his consent to sentencing; the prosecutor solely on the grounds of approval by the court of an agreement in criminal proceedings in which the agreement cannot be concluded.

iii) a judgment of the court of first instance may be appealed in cassation on the basis of an agreement (regardless of its type) after its review on appeal, as well as a court decision of the appellate court based on the appeal against such a judgment. These decisions can be appealed only by the parties to the proceedings on the same grounds as in the appellate procedure, except for the grounds specified in the third paragraph of the third part of Article 424 of the CPC of Ukraine grounds for appeal by the prosecutor

iv) as a result of the appellate review of the appeal against the decisions of the investigating judge, the court of appeal has the right to: 1) leave the decision unchanged; 2) cancel the decision and issue a new decision.

The decision of the investigating judge after its review on appeal, as well as the decision of the appellate court on the results of the appeal against such a decision are not subject to appeal in cassation.

According to Article 423 of the CPC, after the appeal proceedings, the materials of the criminal proceedings are sent to the court of first instance no later than within seven days, and in the appeal proceedings against the decision of the investigating judge or the court pre-trial detention, as well as the extension of the period of detention imposed during the trial in the court of first instance before the court decision on the merits - no later than three days.

In conclusion, it should be noted that in Ukraine an almost absolute right to appeal against court decisions in all court proceedings is envisaged. Appeal filters are insignificant and exceptional - this may be the term of the appeal, the subject of the appeal (decisions are not reviewed that do not apply to the person who appeals). With regard to criminal proceedings, the above limitations of the appeal are justified and apply to proceedings on the basis of agreements, and proceedings on criminal offenses in which the perpetrator pleads guilty. In these cases, the right of appeal is limited.

80. Is there a Judicial and/or Prosecutorial Council or a single/joint High Justice Council (gathering both judges and prosecutors), independent from the executive and the legislative, responsible for managing the justice system/prosecution services, incl. the appointment, promotion and career respectively of judges/prosecutors/both professions?

Article 131 of the Constitution of Ukraine establishes the Supreme Council of Justice that: nominates judges; decides whether a judge or prosecutor has committed any acts prohibited for them by virtue of their office; deals with appeals against decisions of the relevant body to bring a judge or prosecutor to disciplinary liability; decides dismissing judges; consents to the detention or custody of a judge; decides suspending a judge from their office; takes measures to ensure the independence of the judiciary; decides transferring a judge from one court to another; and exercises other powers set out in the Constitution and laws of Ukraine.

The status, powers, organisational principles and operational procedures of the Supreme Council of Justice are governed by Law of Ukraine No. 1798-VIII “On the Supreme Council of Justice” of 21.12.2016 (“Law No. 1798-VIII”).

Pursuant to Article 1 of Law No. 1798-VIII, the Supreme Council of Justice is a constitutionally established independent collegiate public body of judicial governance that permanently operates in Ukraine to ensure independence and public responsibility and accountability of the judiciary, integrity and high professionalism of judges and compliance with the Constitution and laws of Ukraine and the professional ethics applicable to judges and prosecutors.

Further, according to Law No. 1402-VIII, the following bodies are part of the judiciary:

The High Qualification Commission of Judges of Ukraine — a collegiate public body responsible for recruiting candidates to be appointed as judges, transferring judges and appraising performance of judges. The Commission comprises 16 members, of which eight are appointed from among judges or retired judges. The Commission members are appointed by the Supreme Council of Justice based on recommendations of an independent competition commission;

The Council of Judges of Ukraine — a higher judicial self-government body that functions as the executive body of the judicial congress of Ukraine. The Council is composed of judges who represent courts of different instances and with different jurisdictions. The Council develops and coordinates measures to ensure independence of courts and judges, considers issues of the legal protection of judges and monitors the functioning of courts and compliance with the legal requirements for resolving conflicts of interest of judges, the Chairperson or members of the High Qualification Commission of Judges of Ukraine and the Chairperson of the State Judicial Administration or his/her deputies;

The State Judicial Administration of Ukraine — a body that provides organisational and financial support for the judiciary. The Administration is authorized to ensure appropriate conditions for the operation of courts, the High Qualification Commission of Judges of Ukraine, the National School of Judges of Ukraine and bodies of judicial self-government, manage judicial statistics and workflow and archiving operations, prepare a budgetary request, coordinate the computerisation of courts that is necessary to administer justice, ensure maintaining the Unified State Register of Judgements and control the operation of the Judicial Security Service. The Administration is accountable to the Supreme Council of Justice.

Please be further informed that the Council of Public Prosecutors of Ukraine is one of the organisational forms of prosecutorial self-government; its operating principles are set forth in Article 71 of Law No. 1697-VII.

In particular, the Council of Public Prosecutors of Ukraine is a higher body of prosecutorial self-government that functions in the period between All-Ukrainian Conferences of Public Prosecutors.

The powers and working procedures of the Council of Public Prosecutors of Ukraine are governed by Law No. 1697-VII and the Regulation on the Council of Public Prosecutors of Ukraine.

According to Article 71(9)(1) of Law No. 1697-VII, the Council of Public Prosecutors of Ukraine submits recommendations to appoint and dismiss public prosecutors to/from administrative positions where provided by the Law on Public Prosecutor's Office. If the Prosecutor General of Ukraine objects to a candidate nominated by the Council of Public Prosecutors of Ukraine and refuses the appointment, he/she nominates another candidate to be considered by the Council of Public Prosecutors of Ukraine.

The organisational principles, powers and operating procedure of the Council of Public Prosecutors of Ukraine are set out in the Regulation on the Council of Public Prosecutors of Ukraine, as approved by the All-Ukrainian Conference of Public Prosecutors on 27.04.2017 (with amendments approved by the All-Ukrainian Conference of Public Prosecutors on 28.08.2021) (the "Regulation").

Point 1.3 of the Regulation provides that the Council of Public Prosecutors of Ukraine is governed by the Constitution of Ukraine, Law of Ukraine "On Public Prosecutor's Office", other Ukrainian legal acts, the Rules and decisions of the All-Ukrainian Conference of Public Prosecutors, this Regulation and the Rules of the Council of Public Prosecutors of Ukraine.

Pursuant to point 2.1 of the Regulation, the key objectives of the Council of Public Prosecutors of Ukraine are in particular to promote the rule of law and lawfulness in the work of the public prosecution service, strengthening the independence of public prosecutors, protection against undue influence on them, transparency in their work and ensuring the organisational unity of the functioning of the public prosecution service.

The Council of Public Prosecutors of Ukraine namely:

- submits recommendations to appoint and dismiss public prosecutors to/from administrative positions where provided by the Law.

Such recommendations may not be submitted with regard to appointing a member of the Council of Public Prosecutors to an administrative position.

Considers a written decision of the Prosecutor General not to appoint a public prosecutor recommended by the Council of Public Prosecutors to an administrative position and his/her nomination for the position in question;

- cooperates with the Prosecutor General's Office with regard to appointment and dismissal of public prosecutors to/from administrative positions where provided by the Law.

If necessary, the Council of Public Prosecutors may request additional information on persons who are being considered to be appointed to or dismissed from administrative positions;

- determines members of the competition commission to conduct a competition for administrative positions within the Specialised Anti-Corruption Prosecutor's Office;

- in the manner prescribed by law, establishes the existence of grounds for the dismissal of a public prosecutor from an administrative position due to improper performance of the official duties stipulated for the respective administrative position (point 4 of the Regulation).

Decisions of the Council of Public Prosecutors adopted to ensure the independence of public prosecutors, protect them against undue influence, pressure or interference in the exercise of their powers may be forwarded to the public prosecutor's office and must be considered in accordance with its scope of competence (point 7.12 of the Regulation).

Thus, the Supreme Council of Justice has constitutional powers regarding both judges and public prosecutors – in relation to bringing them to liability and monitoring the lawfulness of their official acts. The Supreme Council of Justice has no other powers concerning public prosecutors; such powers are exercised by the Council of Public Prosecutors. With respect to disciplinary proceedings, the Law of Ukraine “On Public Prosecutor’s Office” provides that a public prosecutor may file an appeal with an administrative court or the Supreme Council of Justice against a decision resulting from the disciplinary proceedings. The disciplinary powers of the Supreme Council of Justice are therefore limited to reviewing decisions by which public prosecutors are brought to liability.

81. Management body(ies): High Judicial Council / Prosecutorial Council:

a) Describe their composition, powers, premises and budget. Is there a single or separate bodies? How is the institutional independence and stability guaranteed and protected? How are members appointed? What are the powers, if any, of the legislative and/or executive authority in the nomination/dismissal process?

a) Is composition mixed (members coming from the judiciary and members not part of it)? Do the members serve full or part time? Are they part of the national civil service? How long is their mandate? Do members have specific privileges? Can the mandate be renewed and who can renew it? What are their qualifications requirements to become member? How is the career management after serving as a member regulated?

b) Is the High Judicial Council/Prosecutorial Council adopting its procedural rules? By which majority (simple, qualified) and are remedies available in case of non-respect of the rules? What are the current rules regarding quorum and decision-making process in the Councils?

c) How is accountability ensured? How is potential conflict of interest scrutinised and prevented? If the conflict of interest of Council(s) Members occurs, what rules do apply and how is their implementation ensured? What are the current rules regarding quorum and decision-making process in the Councils?

d) Do non-judicial/non-prosecutorial members have the right to vote and what are their exact methods of selection, roles and functions? How disqualification from decision-making of these members is regulated and applied in practice?

e) Do ex-officio members of these Councils have the right to vote and what are their exact powers and functions?

f) If the Minister of Justice is an ex-officio member, do they have the right to vote and if yes, in what cases?

g) Does the High Judicial Council/Prosecutorial Council dispose of and manage its own budget and staff and are these sufficient to allow effective performance of the tasks?

a) Describe their composition, powers, premises and budget. Are there single or separate bodies? How is institutional independence and stability guaranteed and protected? How are the members appointed? What powers, if any, do the legislature and/or the executive have in the nomination/dismissal process? Is the composition mixed (judicial members and non-judicial members)? Do members work full-time or part-time? are they part of the national public service? How long is their mandate? Do members have certain privileges? Can the mandate be renewed and who can renew it? What are the requirements for their qualifications to become a member? How is career management regulated after serving as a member?

Article 131 of the Basic Law provides that the High Council of Justice consists of twenty-one members of whom 10 are elected by the Congress of Judges of Ukraine from among the judges or retired judges, 2 are appointed by the President of Ukraine, 2 are elected by the Supreme Council of Ukraine, 2 are elected by the Congress of Ukrainian Advocates, 2 are elected by the All-Ukrainian Conference of Prosecutors, 2 are elected by the Congress of Law Universities and Academic Institutions.

The President of the Supreme Court is an ex officio member of the High Council of Justice.

The term of office of the elected (appointed) members of the High Council of Justice is four years. The same person may not serve two consecutive terms as a member of the High Council of Justice.

The procedure for the election (appointment) of the members of the High Council of Justice shall be defined by Law No. 1798-VIII.

Thus, according to Article 6 of Law No. 1798-VIII, a citizen of Ukraine, not younger than thirty-five years of age, who speaks the State language, has a higher legal education and at least fifteen years of professional experience in law, belongs to the legal profession and meets the criteria of political neutrality as well as the criteria of professional competence, professional ethics and virtue may be elected (appointed) to the position of member of the High Council of Justice.

The members of the High Council of Justice, with the exception of the President of the Supreme Court, shall exercise their powers on a permanent basis.

The members of the High Council of Justice shall be subject to the requirements and limitations prescribed by the legislation in the field of prevention of corruption.

A member of the High Council of Justice shall not have the right to combine his/her position with any position in a state or local self-government authority, judicial, advocacy or prosecutorial self-government body, with the status of a people's deputy of Ukraine, deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, city, district in town, village or settlement council, with entrepreneurial activity, to hold any other paid position (except the position of the Head of the Supreme Court), to perform any other paid position. A member of the High Council of Justice may not belong to political parties, trade unions or participate in any political activity.

A member of the High Council of Justice who is a judge may not administer justice (except the President of the Supreme Court).

A member of the High Council of Justice who is an advocate shall, for the duration of the term of office of a member of the High Council of Justice, cease to practice law in accordance with the established procedure.

The members of the High Council of Justice shall work full time in accordance with the norms of national legislation. The members of the High Council of Justice shall not be civil servants, they shall not be subject to the norms of Ukrainian civil service legislation and they shall have no privileges or benefits associated with their office.

According to Article 9 of Law No. 1798-VIII, the selection of candidates for membership of the High Council of Justice shall be based on the criteria of professional competence, professional ethics and virtue. For the election of a member of the High Council of Justice by the Congress of Judges of Ukraine, the Congress of Advocates of Ukraine, the Congress of Law Universities and Academic Institutions or the All-Ukrainian Conference of Prosecutors, the body calling the Congress or the conference respectively shall notify the Secretariat of the High Council of Justice of the date and place of the meeting no later than forty five calendar days in advance.

Article 91 of Law No. 1798-VIII provides that in order to assist the bodies electing (appointing) the members of the High Council of Justice to ascertain whether a candidate for the position of a member of the High Council of Justice meets the criteria of professional ethics and virtue, an Ethical Council shall be formed.

The Board of Ethics shall submit to the Competition Commission an opinion on the eligibility of each candidate for the position of member of the High Council of Justice and a list of candidates recommended for appointment to the High Council of Justice. Such list shall contain a number of candidates at least twice as many as the number of vacant positions of members of the High Council of Justice (paragraph fifteen of Article 9 of Law No. 1798-VIII).

We also inform that according to the second part of Article 1 of the Law No. 1798-VIII, the High Council of Justice is a legal entity, and expenses for its maintenance shall be determined as a separate line in the State Budget of Ukraine.

Article 21 of the Law No. 1798-VIII stipulates that remuneration of a member of the High Council of Justice shall be set in the amount of the official salary of a judge of the Supreme Court.

The remuneration of a member of the High Council of Justice who is a judge shall be equal to the amount of his/her judicial remuneration if such amount exceeds the official salary of a judge of the Supreme Court.

The member of the High Council of Justice shall be independent in his activity from any unlawful influence, pressure or interference.

The institutional independence of the High Council of Justice shall therefore be ensured by:

Defining in the Constitution of Ukraine and in Law No. 1798-VIII the legal status, powers, bases of organisation and procedures of the High Council of Justice;

The expenditure for the maintenance of the High Council of Justice shall be specified in the State budget and the Council shall function as the chief administrator of the budgetary funds for the financial provision of its activities;

Empowering the High Council of Justice to independently approve its own rules of procedure for the exercise of its powers (Article 2 of Act No. 1798-VIII);

Establishing a special procedure for the appointment/election of members of the High Council of Justice. In particular, this procedure involves an independent Council of Ethics, which pre-selects candidates on criteria of professional ethics and virtue;

The establishment of a special procedure for the dismissal of a member of the High Council of Justice, according to which dismissal is possible only upon the decision/presentation of the High Council of Justice itself.

Stability in the work of the High Council of Justice shall be ensured by making it impossible for a member of the High Council of Justice to terminate his/her term of office due to the expiry of the term for which he/she was elected (appointed), if as a result the Council may become unauthorised. In such a case the member of the Board shall continue to serve until the day another person is elected (appointed) to his/her position, but in any case not longer than three months from the expiry of the term for which such member was elected (appointed) (Article 5 of the Law). NO. 1798-VIII).

Regarding the dismissal of a member of the High Council of Justice, we inform that the provisions of Article 24 of Law no. 1798-VIII establish the grounds for dismissal of a member of the High Council of Justice.

It is also provided that the decision to dismiss a member of the High Council of Justice on the grounds of incapacity to exercise his/her powers for health reasons shall be taken by the High Council of Justice at its next meeting upon receipt of the medical report or application, respectively. The procedure for the High Council of Justice to decide on the dismissal of a member on the above grounds shall be initiated by the Chairperson of the High Council of Justice or his/her deputy.

The decision to dismiss a member of the High Council of Justice on grounds of gross or systematic neglect of duty, which is incompatible with the status of a member of the High Council of Justice or reveals his/her incompatibility with the position held, other conduct undermining the authority and public confidence in justice and the judiciary, including failure to comply with ethical standards of a judge as part of the professional ethics of a member of the High Council of Justice; revealing the validity of existing circumstances on his/her incompatibility with the professional ethics of a member of the High Council of Justice. The decision on submitting a proposal for the dismissal of a member of the High Council of Justice shall be taken by a majority of the High Council of Justice.

With regard to prosecutorial self-governing bodies, we note that Ukraine has prosecutorial self-governing bodies through the All-Ukrainian Conference of Prosecutors and the Council of Prosecutors of Ukraine.

It should be noted that prosecutorial self-governance is extremely significant and key to enhance the independence of prosecutors and to protect them from interference in their work.

The procedure for the exercise of prosecutorial self-governance is set out in Law no. 1697-VII,

other laws, as well as in the regulations and provisions adopted by the prosecutorial self-governing bodies.

The All-Ukrainian Conference of Prosecutors is the supreme body of the prosecutorial self-government.

The All-Ukrainian Conference of Prosecutors has a number of determining tasks to ensure prosecutorial self-governance, prosecutors' professional ethics and the functioning of the relevant body conducting disciplinary proceedings against prosecutors.

The All-Ukrainian Conference of Prosecutors makes decisions within its competence that are binding on the Council of Prosecutors of Ukraine and any prosecutors.

An ordinary All-Ukrainian Conference of Prosecutors shall be convened by the Council of Prosecutors of Ukraine once every two years.

Extraordinary All-Ukrainian Conference of Prosecutors may be convened by decision of the Council of Prosecutors of Ukraine.

Delegates to the All-Ukrainian Conference of Prosecutors and persons invited to it shall be notified of the day of the conference and of the issues to be considered at the conference no later than thirty days prior to the conference.

Delegates to the All-Ukrainian Conference of Prosecutors are selected:

- a meeting of prosecutors of the Office of the Prosecutor General - 6 prosecutors of the Office of the Prosecutor General;
- the assembly of prosecutors of the regional prosecution offices - three prosecutors from each regional prosecution office
- the assembly of prosecutors of the District Prosecutor's Offices - two prosecutors from each District Prosecutor's Office.

Delegates to the All-Ukrainian Conference of Prosecutors shall be elected by secret ballot by a simple majority of votes from freely nominated alternative candidates.

A prosecutors' conference shall be convened by the head of the respective prosecution service and plenipotentiary if more than half of the total number of prosecutors of the respective prosecution service are present, and shall be decided by a majority vote of the total number of prosecutors of the respective prosecution service.

The All-Ukrainian Conference of Prosecutors shall be plenipotentiary if at least two thirds of the total number of elected delegates are present.

The All-Ukrainian Conference of Prosecutors shall elect by secret ballot a presidium of the conference, the quantitative composition of which shall be determined by a decision of the conference. The Presidium organizes the work of the All-Ukrainian Conference of Prosecutors.

The All-Ukrainian Conference of Prosecutors discusses and approves the agenda and rules of procedure of the conference, elects the counting board, the secretariat and other working bodies of the conference. The work of the All-Ukrainian Conference of Prosecutors shall be recorded in minutes.

Decisions of the All-Ukrainian Conference of Prosecutors shall be taken by a majority vote of the total number of elected delegates by ballot.

Decisions on issues of the election of members of the High Council of Justice, the adoption of decisions on the termination of their powers in accordance with the Constitution and the laws of Ukraine, the appointment of members of the Council of Prosecutors of Ukraine, the appropriate body that conducts disciplinary proceedings - shall be adopted by the conference by secret ballot.

Other issues of the procedure for holding the All-Ukrainian Conference of Prosecutors shall be governed by the rules of procedure adopted by the conference.

It should be noted that in 2021 the first convocation of the All-Ukrainian Conference of Prosecutors took place after a transitional period of almost two years of reform of the prosecution services, as defined by law.

Also, between the All-Ukrainian Conferences of Prosecutors, the Council of Prosecutors of Ukraine is the supreme body of the prosecutorial self-government.

The Council of Prosecutors of Ukraine has a number of important functions in appointing and dismissing prosecutors from administrative positions, measures for ensuring the independence of prosecutors, improving the organisation of prosecution services, legal protection of prosecutors, social protection of prosecutors and members of their families, threats to the independence of prosecutors and ensuring their security.

Under the provisions of Article 71 of Law No. 1697-VII, the Council of Procurators of Ukraine is composed of thirteen persons, of whom: two representatives (prosecutors) from the Office of the Prosecutor General; four representatives (prosecutors) from the regional prosecution offices; five representatives (prosecutors) from the district prosecution offices; two representatives (scholars) appointed by the Congress of representatives of law schools and academic institutions.

The Council of Procurators of Ukraine is empowered subject to the election of at least nine members.

A prosecutor in an administrative position or a member of the relevant body conducting disciplinary proceedings may not at the same time be a member of the Council of Prosecutors of Ukraine.

The term of office of a member of the Council of Prosecutors of Ukraine shall be five years without the right to re-election.

The members of the Council of Prosecutors of Ukraine shall elect the Chairman of the Council of Prosecutors of Ukraine, the Deputy Chairman and the Secretary from among their members at a meeting of the Council.

The Council of Procurators of Ukraine, in the period between the All-Ukrainian Conferences of Procurators, organises the execution of the decisions of the conference, and also decides on the convening and holding of the All-Ukrainian Conference of Procurators.

The authority and procedure for the work of the Council of Procurators of Ukraine shall be determined by this Law and the Statute of the Council of Procurators of Ukraine.

Thus, under Article 71(9) of Law No. 1697-VII, the Council of Procurators of Ukraine

1) Makes recommendations for the appointment and dismissal of prosecutors from administrative positions in cases provided for in this Law. If the Prosecutor General does not agree with the candidate recommended by the Council of Prosecutors of Ukraine and refuses the appointment, he/she shall submit another candidate to the Council of Prosecutors of Ukraine (this paragraph has been suspended until 01.09.2021 according to the Law No. 113-IX)

2) organises the implementation of measures to ensure the independence of prosecutors, to improve the state of organisational support of the activity of prosecution offices;

3) consider issues of legal protection of prosecutors, social protection of prosecutors and members of their families and take relevant decisions on these issues;

4) examine appeals of prosecutors and other communications concerning threats to the independence of prosecutors, and take appropriate measures based on the results of the examination (inform the relevant bodies about the grounds of criminal, disciplinary or other liability; initiate the examination of the adoption of security measures for prosecutors; make public statements on behalf of prosecutors), apply to international organisations with relevant communications, etc.

6) submits proposals on the resolution of issues related to the activities of the Prosecutor's Office to state and local authorities;

7) supervises the implementation of the decisions of the self-governing bodies of the Prosecutor's Office;

7-1) shall provide explanations on the compliance with the requirements of the legislation on the regulation of the conflict of interests in the activity of the prosecutors, the chairperson or members of the relevant body conducting disciplinary proceedings

8) exercise other powers prescribed by this Law.

In addition, the organisational principles of the activity, powers and procedure of the Council of Procurators of Ukraine are defined by the Regulation.

According to paragraph 2.1 of the Regulation, the main tasks of the Council of Prosecutors of Ukraine include, in particular, the promotion of the rule of law and legality in the activity of the prosecution service, strengthening the independence of prosecutors, protection against illegal influence on them, transparency of their work and ensuring organizational unity in the functioning of the prosecution service.

By virtue of the powers defined in paragraph 4 of the Regulation, the Council of Procurators decides on the internal activities of the Procurator's Office, except for issues belonging to the exclusive competence of the National Conference of Procurators, in particular

1) Make recommendations on the appointment and dismissal of prosecutors from administrative positions in cases provided for in the Law.

Such recommendations may not be made on the appointment of a serving member of the Council of Prosecutors to an administrative position.

Consider a written decision of the Prosecutor General rejecting the appointment to an administrative position of a prosecutor recommended by the Council of Prosecutors and his/her nomination to the respective position;

2) co-operate with the Prosecutor General's Office on the appointment and dismissal of prosecutors from administrative positions in cases provided by law.

If necessary, the Council of Prosecutors shall have the right to request additional information on the persons regarding whom the appointment or dismissal from administrative positions is being decided;

3) determine the members of the competition board for administrative positions in the Specialised Anti-corruption Prosecutor's Office;

4) organise the implementation of measures to ensure the independence of prosecutors, improve the organisational support of the work of prosecution offices

5) give explanations on the issues of compliance with the legislation on the regulation of the conflict of interests in the activity of prosecutors, the chairman or members of the relevant body conducting disciplinary proceedings

6) agree on the Regulation on the automated system of distribution of disciplinary complaints (applications), which shall be approved by the relevant body conducting disciplinary proceedings;

7) examine the issues of legal protection of prosecutors, the social protection of prosecutors and members of their families and take relevant decisions on these issues;

8) considers appeals of prosecutors and other communications on threats to the independence of prosecutors, based on the results of the examination, takes relevant measures (informs relevant bodies about the grounds for criminal, disciplinary or other liability; initiates consideration of taking measures to ensure prosecutors' security; publishes statements on behalf of prosecutors), appeals to international organisations with relevant reports, etc.

9) examine a petition regarding the improper performance of the official duties of a prosecutor holding an administrative position established for the respective administrative position;

10) in accordance with the procedure defined by law, establish the existence of grounds for the dismissal of a prosecutor from an administrative position for the improper performance of the official duties established for the respective administrative position;

11) shall submit proposals on the resolution of the issues of the Prosecutor's Office to state and local self-governance bodies;

12) submits a request to the Office of the Prosecutor General on the amount of funds necessary to support the activities of the Prosecutor's Office of Self-Government;

13) in the period between the All-Ukrainian Conferences of Prosecutors, organizes the implementation of the decisions of the conference, decides on the convocation and holding of the next (extraordinary) conference;

14) supervise the implementation of decisions of the organs of prosecutorial self-governance;

15) exercises other possibilities provided by the Law.

Paragraph 5.5 of the Regulation stipulates that for the period of work related to the preparation and participation in the meetings of the Council of Prosecutors and, where necessary, to exercise other

powers, members of the Council of Prosecutors shall be released from their official duties at their main place of work with pay.

The Regulation provides for the accountability of the Council of Procurators only to the National Conference of Procurators on the implementation of the tasks of the procuratorial bodies, the state of financing and the organizational support of the activities of the procurator's office (paragraph 1.4 of the Regulation).

Legislative and executive authorities do not interfere with the appointment and activity of the Council of Procurators of Ukraine.

The procedure for appointing members of the Council of Prosecutors of Ukraine is defined, in particular, in section 7 of the Rules of the All-Ukrainian Conference of Prosecutors, adopted on 27.04.2017.

In accordance with the provisions of the said Regulations, the Conference appoints members of the Council of Prosecutors of Ukraine from the prosecution authorities.

Both prosecutors who are delegates to the conference and prosecutors who are not delegates can be candidates to the Council of Prosecutors of Ukraine.

Candidates who have expressed their desire to be elected to the Council of Prosecutors of Ukraine shall submit documents to the Council of Prosecutors of Ukraine according to a prescribed list and by a certain deadline.

A prosecutor holding an administrative position or a member of the Qualification and Disciplinary Commission of Prosecutors shall not be eligible for election to the Council of Prosecutors of Ukraine.

The decision of the Conference on the appointment of members of the Council of Prosecutors of Ukraine shall be taken by secret ballot by a majority vote of the total number of elected delegates.

Candidates who have obtained a majority of votes of the total number of elected delegates to the Council of Prosecutors of Ukraine shall be deemed appointed to the Council of Prosecutors of Ukraine by secret ballot.

Regarding the financing of the Council of Procurators, it should be noted that in accordance with Article 72 of Law No. 1697-VII, the activities of the Council of Procurators of Ukraine are supported by the Office of the Prosecutor General at the expense of the State Budget of Ukraine.

The Council of Procurators of Ukraine shall submit a request to the Office of the Prosecutor General on the amount of funds necessary to ensure the operation of the Procurator's Office.

The second part of Article 2 of Law No. 1798-VIII provides that the High Council of Justice shall approve the Rules of Procedure of the High Council of Justice, the provisions of which shall regulate the procedural matters of the exercise of its powers.

The decision of the High Council of Justice of 24.01.2017 No. 52/0/15-17 (as amended) approved the Rules of Procedure of the High Council of Justice.

We also inform that, pursuant to the second part of Article 30 of Law no. 1798-VIII, a meeting of the High Council of Justice in plenary, a meeting of the Disciplinary Chamber is competent if a

majority of the High Council of Justice or of the Disciplinary Chamber, respectively, is present. The plenary session of the High Council of Justice, at which the question of the submission of a proposal for the appointment of a judge to a position is examined, shall be competent if at least fourteen members of the High Council of Justice participate therein.

Article 34 of Law No. 1798-VIII stipulates that the decision of the High Council of Justice shall be taken by a majority of the members of the High Council of Justice participating in a meeting of the High Council of Justice, unless otherwise defined by this Law.

The decision of a body of the High Council of Justice shall be taken by a majority of the members of the High Council of Justice attending the meeting of the body of the High Council of Justice, unless otherwise defined by this Law.

The decision of the High Council of Justice, its bodies shall be taken at a meeting of the High Council of Justice, its bodies, unless otherwise defined by this Law.

A decision of the High Council of Justice of its bodies shall be taken in a special room (deliberation room): if the performance of examination in a public session may lead to disclosure of legally protected secrets; to prevent disclosure of information about intimate or other personal aspects of life of persons involved in the examination of a disciplinary case.

The issue of procedural rules of the Council of Prosecutors of Ukraine is regulated by internal acts (Regulations) of the Council of Prosecutors of Ukraine, information on which is not available at the Ministry of Justice of Ukraine.

c) How is accountability ensured? How is a potential conflict of interest checked and prevented? If there is a conflict of interest for the Board(s), what rules apply and how are they enforced? What are the current rules regarding quorum and decision-making process of the Boards?

The accountability of the High Council of Justice is ensured by establishing by law requirements regarding the publicity of the work of the Council (in particular the publication of the decisions taken, draft agendas, openness of the meetings held by the Council). In addition, the powers of a member of the High Council of Justice may be prematurely terminated in case of gross or systematic neglect of duty, behaviour that undermines the authority and public confidence in justice and the judiciary, or significant violation of the requirements of anti-corruption legislation. In case such facts are established, the High Council of Justice may address a relevant representation to the entity that appointed (elected) the member of the Council.

In addition, to comply with Ukraine's obligations to the International Monetary Fund and the European Union, legislative amendments were introduced in August 2021 to provide for the establishment of a Council of Ethics, whose powers include a one-time review of the virtue of serving members of the Council. The Ethics Council began its work but was forced to suspend it as a result of military action.

A member of the High Council of Justice shall not have the right to combine his position with any position in a state or local self-government body, judicial, advocacy or prosecutorial self-government body, with the status of people's deputy of Ukraine, deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, city, district in town, village or settlement council, with entrepreneurial activity, to hold any other paid position (except the position of the

President of the Supreme Court), to hold any other paid position. A member of the High Council of Justice may not belong to political parties, trade unions, participate in any political activity.

A member of the High Council of Justice who is a judge may not administer justice (except the President of the Supreme Court). A member of the High Council of Justice who is a lawyer shall cease the practice of law for the duration of the term of office of the member of the High Council of Justice in the prescribed manner.

Members of the High Council of Justice shall be subject to the requirements of anti-corruption legislation on preventing and resolving conflicts of interest.

Thus, according to the provisions of Article 20 of Law no.1798-VIII, a member of the High Council of Justice must refuse to participate in the examination of an issue if:

- he/she is related to or has other personal relations with the judge, judicial candidate or prosecutor in respect of whom the matter is being considered, as well as the person who has lodged a complaint with the High Council of Justice;
- has a personal, direct or indirect interest in a case pending before such judge;
- if there is any other conflict of interest or circumstances that raise doubts as to his impartiality.

If the actions of a member of the High Council of Justice show indications that there are reasonable grounds for dismissal of a member of the High Council of Justice as defined in paragraphs 3-6 of part one of Article 24 of Law No. 1798-VIII, the High Council of Justice may decide to suspend such member of the High Council of Justice until the end of the procedure prescribed by law in which such facts shall be established, for a maximum period of two months in total. The decision to suspend the powers of a member of the High Council of Justice shall be deemed adopted if a majority of the members of the High Council of Justice vote in favour.

Information on the quorum and the decision-making process is given in the answer to questions b).

d) Do non-judicial/non-prosecutorial members have voting rights and what are their exact methods of selection, roles and functions? How is the removal of these members from decision-making regulated and applied in practice?

e) Do the ex officio members of these Boards have voting rights and what are their powers and functions?

f) If the Minister of Justice is an ex officio member, do they have the right to vote and if so, in what cases?

Non-judicial members of the High Council of Justice have the same rights as judicial members.

The Minister of Justice of Ukraine is not a member of the High Council of Justice.

g) Does the High Council of Justice/Prosecutorial Council manage its own budget and staff and is it sufficient for the effective performance of its tasks?

The High Council of Justice is a legal entity and the expenses for its maintenance are determined as a separate line in the State Budget of Ukraine (Article 1 of Law No. 1798-VIII).

In accordance with the provisions of Article 3 of the Law No. 1798-VIII, the High Council of Justice shall perform functions of the chief administrator of funds of the State Budget of Ukraine for financial provision of its activity.

In addition, we inform that according to the provisions of Article 27 of Law No. 1798-VIII organizational, information, reference and other support for the activity of the High Council of Justice and its bodies shall be provided by the Secretariat.

The Head of the Secretariat and deputies are appointed and dismissed by the High Council of Justice in accordance with the procedure established by the legislation on civil service, taking into account the peculiarities defined by this Law.

The Head and other officials of the Secretariat of the High Council of Justice shall be civil servants, unless otherwise defined by this Law.

The Secretariat of the High Council of Justice shall have a service of disciplinary inspectors as an independent structural unit, which is formed to implement the powers of the High Council of Justice to carry out disciplinary proceedings against judges and shall operate on the principle of functional independence from the High Council of Justice.

The maximum number of staff of the Secretariat, including the disciplinary inspectors of the High Council of Justice shall be approved by the High Council of Justice.

Salaries of the staff of the Secretariat of the High Council of Justice shall be paid from the State Budget of Ukraine.

Salary fund for the staff of the Secretariat of the High Council of Justice shall be formed from the state budget as well as funds coming to the state budget within the framework of assistance programs of European Union, governments of foreign states, international organizations, donor agencies. The procedure for using such funds received in the state budget shall be approved by the Cabinet of Ministers of Ukraine upon submission by the High Council of Justice.

82. How is the transparency of the work and procedures of the management body(ies) ensured? Is the Council working in transparency towards the public (e.g. broadcasting of sessions) and are reports regularly and timely made available online, i.e. through publication on its website?

Article 30 of Law No. 1798-VIII stipulates that sessions of the High Council of Justice and of the Disciplinary Chambers are open to the public. Closed sessions are only allowed under exceptional circumstances provided that there are grounds envisaged by this Law.

The information on the date, time, and venue of sessions of the High Council of Justice, as well as the draft agenda of sessions, except when otherwise provided by the Rules of Procedure of the High Council of Justice, are posted on its official website.

Minutes of sessions of the High Council of Justice and the Disciplinary Chambers are kept with a full recording of sessions with relevant technical means.

Persons wishing to attend sessions are admitted to the room before the session starts provided that there are free seats.

Attendees may take written notes and use portable audio technical devices. Photo, video and audio recording with the use of stationary equipment in the session room is allowed upon consent of the chair of the session, unless otherwise provided by law.

In addition, it should be noted that Article 34 of Law No. 1798-VIII states that decisions of the High Council of Justice and its bodies are adopted via open ballot unless otherwise provided by this Law.

The operative part of a decision of the High Council of Justice or its bodies is publicly announced immediately after its adoption while the full text of the decision is posted on the official website of the High Council of Justice no later than on the seventh day of its adoption unless otherwise provided by law.

We also inform that the Council of Prosecutors of Ukraine publishes its decisions and information about its activities on the website of the Office of the Prosecutor General and on its own website.

Information on the activities of the Council of Prosecutors is also published in the Bulletin of the Public Prosecutor's Office (Visnyk Prokuratury) and in other publications, including electronic ones.

Thus, decisions of the Council of Prosecutors that do not contain restricted information are published on the official websites of the Office of the Prosecutor General and the Council of Prosecutors within seven days of its adoption.

Within the same term, the decision of the Council of Prosecutors is communicated to the person concerned.

A separate section dedicated to prosecutorial self-governance has been created on the official website of the Office of the Prosecutor General.

The section contains information on documents adopted and approved by the All-Ukrainian Conference of Prosecutors. These are, in particular, the Code of Professional Ethics and Conduct for Prosecutors, Regulation on the Council of Prosecutors of Ukraine, Rules of Procedure of the All-Ukrainian Conference of Prosecutors, and the Regulation on the Operation of the Body in Charge of Disciplinary Proceedings.

83. Judicial reform: Is there a general strategy of the reform of the judiciary in place, with a corresponding action plan? If yes, please describe the strategy, its timeframe, action plan specific measures and further plans for reform of the judiciary. Who is or will be responsible for the implementation, coordination and monitoring of the further steps?

With his Decree No. 231/2021, dated 11 June 2021, the President of Ukraine approved the Strategy for Development of Justice and Constitutional Proceedings System for 2021–2023 (the “Strategy”), which determines the key principles and areas of further sustainable functioning and development of the justice system with due account of the best international standards and practices.

The purpose of the Strategy on improvement of the justice system is to identify the key areas and priorities for further improvement of Ukrainian laws on the judicial system, status of judges and

judicial proceedings in connection and interaction with other justice institutions for the practical establishment of the rule of law, effective and fair judicial proceedings, strengthening of the functional basis of arranging the judiciary in accordance with the standards of protection of human rights and values as defined by the Constitution of Ukraine and Ukraine's international legal obligations.

The Strategy sets forth that further judicial reform will be carried out in the following areas:

1. Improvement of access to justice which includes the following sub-areas:

reorganisation of local courts — (new judicial map) to ensure optimal conditions of access to justice for members of local communities;

Supreme Court — includes a scheduled implementation of measures to strengthen the Supreme Court's ability to ensure the unity of applying the rules of substantive and procedural law by the courts of different jurisdictions as well as to determine the procedural order for the Supreme Court's filing of requests to the European Court of Human Rights to give advisory opinions in accordance with Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms;

high specialised courts — take measures to complete competitions for the positions of judges in the Intellectual Property High Court and its Appeals Chamber and to create conditions to commence its operation. In addition, within the framework of this sub-area, the issue of establishing a high specialised court for administrative cases involving central executive bodies and other state bodies whose jurisdiction extends to the entire territory of Ukraine is being studied;

judicial proceedings — which include introduction of the following: the jury court that will decide on a guilt of a person in committing crimes; the mechanism for reviewing sentences of persons sentenced to life imprisonment or imprisonment for a term exceeding 10 years with determination of legislative criteria for such review, in particular through implementation of general measures to enforce the judgments of the European Court of Human Rights; the principle of complaints against non-observance of reasonable terms for consideration of cases in courts and further — the principle of payments of compensations to participants of the judicial process for violating reasonable terms of consideration of cases at the expense of the state budget; consideration of certain categories of cases online, regardless of the location of the parties and the court.

In addition, emphasis is laid on the development of electronic judicial proceedings taking into account world standards in the area of information technology.

development of alternative (extrajudicial) and pre-trial dispute resolution within which the introduction of mandatory pre-trial settlement of certain categories of disputes using mediation and other practices is envisaged. In addition, it is planned to improve the activity of arbitration courts as well as to work on the introduction of institution of justice of peace;

2. Strengthening of independence of the judicial power and accountability to society:

judicial governing and self-government bodies, which provide for improvement of the mechanisms of verifying the integrity of members of judicial governing bodies, rebooting of the High Qualification Commission of Judges of Ukraine, which is responsible for selecting and evaluating judges by forming a new membership on a competitive basis with involvement of international

experts. In addition, the strategy enshrines the reform of the High Council of Justice, which should take place through improvement of the procedure for electing (appointing) council members and conducting a one-time assessment of compliance of current council members with professional ethics and integrity criteria with involvement of international experts.

organisational support of courts, which includes, in particular, the introduction of a unified system of management of performance and monitoring of courts, regulation of mechanisms for monitoring evaluation and control of organising the work of courts, introduction of regulations for transparent planning and allocation of budget resources in judicial system;

interaction with society, which provides for introduction of a mechanism for court performance assessment by participants of the judicial process, introduction of electronic survey mechanisms and a single standard of court performance quality;

3. Judicial career and responsibility of judges:

selection of candidates for the position of a judge, career of a judge and qualification evaluation of judges, which provides for the improvement of procedure for selection, qualification and regular evaluation of judges, methods of checking personal moral and psychological qualities of a judge and taking into account of their results;

responsibility of judges, within which it is planned to update the Code of Judicial Ethics, improve the procedure for bringing judges to disciplinary responsibility, introduce criminal liability of judges for arbitrary abuse of their power while administering justice having envisaged the mechanisms to prevent criminal prosecution to pressure judges. In addition, it is planned to set up a mechanism for monitoring judges' lifestyle, in particular, regarding his/her duty to confirm that the sources of origin of his/her property are legitimate;

4. The system of public prosecution bodies, which enshrines the inevitability and sustainable continuation of reforming of the prosecutor's office (to the extent dealing with completion of re-certification of prosecutors). In addition, it is planned to introduce a system for assessing the quality of the prosecutor's work according to established criteria as well as to improve the mechanism of disciplinary liability of prosecutors;

5. Improvement of the bar, which is intended to strengthen the guarantees of advocacy, improve self-government of the bar, expand the access of attorneys-at-law to state registers, introduce simplified disciplinary proceedings as well as improve the procedure for handling complaints against attorneys-at-law.

Point 2(1) of the abovementioned Decree instructs the Legal Reform Commission to ensure the elaboration of (with participation of representatives of governmental authorities, local self-government bodies, civil society institutions, leading experts in various areas of law and international experts) and to approve the Strategy Implementation Action Plan.

Prior to enactment of martial law in Ukraine, the Legal Reform Commission developed a Strategy Implementation Action Plan.

It is important to note that certain obligations to take measures in judicial reform are set out in the agreements between Ukraine, the European Union and the International Monetary Fund. In particular, on 9 June 2020, the IMF Executive Board approved the Letter of Intent and the

Memorandum of Economic and Financial Policies setting forth the terms and measures which the Government of Ukraine and the National Bank of Ukraine implemented and intend to implement and adhere to in 2020–2021. Point 26 of the said Memorandum provides as follows:

to set up a commission that will conduct preliminary check of integrity of candidates to the High Council of Justice. The commission should conduct a similar inspection of the current members of the High Council of Justice and on the basis of the results thereof it may recommend the entity that appointed a council member to dismiss him/her. At least half of the members of the commission will be esteemed experts with recognised ethical standards and judicial experience, including relevant experience in other countries. Such experts will have the right of decisive vote (*it should be noted that these changes had been already implemented and these functions are performed by the Ethics Council as mentioned above*);

set up a permanent inspection division within the High Council of Justice from among staff members to investigate disciplinary cases against judges and provide recommendations to the council regarding disciplinary actions and sanctions (*these changes had been also made to the legislation*);

referral of individual cases to the Supreme Court. Criteria for determining such cases will include such factors as cases of national importance, cases that exceed a predetermined threshold, or cause significant impact or harm to the country and relate to decisions, actions or omissions of specific national authorities.

On 25 August 2020, the Parliament adopted the Law of Ukraine “On Ratification of the Memorandum of Understanding between Ukraine as Borrower and the European Union as Lender, and of the Loan Agreement between Ukraine as Borrower, the National Bank of Ukraine as the Borrower’s Financial Agent, and the European Union as Lender” that had been initiated by the President of Ukraine. Among the measures that Ukraine has undertaken to take, certain measures are aimed at “strengthening the independence, integrity, and effective functioning of the judicial power.” Such measures include the following:

setting up of a new High Qualification Commission of Judges of Ukraine through transparent selection procedure implemented by competition commission with international participation;

setting up of an Ethics Commission with international participation, which would conduct a one-time assessment of integrity and ethics of current members of the High Council of Justice with an option to recommend their dismissal to electing (appointing) bodies. In the future, the Commission will conduct preliminary selection of candidates to the High Council of Justice from among which the relevant electing (appointing) bodies will determine the members of the council.

In its Resolution No. 2019/2202(INI), dated 11 February 2021, the European Parliament noted the need to quickly resume the work of the High Qualification Commission of Judges of Ukraine formed on the basis of a transparent competition with participation of international experts. It was also regretted that the previous composition of the commission did not take into account the conclusions of the Public Integrity Council in its re-assessment of judges and urges to do so in the future, in particular when selecting new judges. In addition, the European Parliament strongly insists on integrity check of members of the unreformed High Council of Justice.

At the beginning of the full-scale war, Ukraine’s commitments to reform the High Council of Justice and restart the High Qualification Commission of Judges of Ukraine were being fulfilled.

Ukraine adopted the necessary legislative regulations, formed a competition commission, which announced the launch of competition for vacant positions of members of the High Qualification Commission of Judges of Ukraine, and formed Ethics Council which began to check the integrity of candidates to the High Council of Justice. However, due to the war, these processes were stopped and will resume after its end.

B. Independence

84. Are the fundamental principles of statute for magistrates (including judicial independence) set out in internal norms at the highest level? Are these entrenched in the Constitution and reflected in internal law? How are the rights of the judiciary protected? Have there been any complaints about the independence of the judiciary and the autonomy of prosecutors? If so, how were they resolved? How does the public perceive independence of the judiciary and autonomy of prosecutors and based on what type of indicators?

The fundamental principles of independence of the judiciary are set out in the Constitution of Ukraine. In particular, Article 126 stipulates that:

- independence and immunity of a judge are guaranteed by the Constitution and laws of Ukraine;
- any influence on a judge is prohibited;
- without a High Council of Justice’s approval, a judge may not be detained or remanded in custody or arrested until a court renders a sentence declaring him/her guilty — apart from cases when a judge has been detained during or immediately after committing a grave or especially grave crime;
- a judge may not be held liable for a court decision made by him, except for the commission of a crime or disciplinary misconduct;
- a judge holds his position indefinitely;
- the grounds for dismissal and termination of judge’s powers are enshrined at the constitutional level.

The description of these principles and guarantees of judges’ independence is set out in more detail in the legislation. At the same time, when adopting new laws or amending existing laws, it is not allowed to narrow the contents and scope of guarantees of judges’ independence set forth in the Constitution of Ukraine and the law.

It should be noted that the legislation of Ukraine enshrines the concept of disciplinary responsibility of prosecutors.

It should be noted that the concept of disciplinary responsibility of the prosecutor is one of the guarantees of his independence.

Thus, Article 44 of the Law No. 1697-VII stipulates that disciplinary proceedings against prosecutors are carried out by the relevant body.

Such body began to operate on 3 November 2021 after the reforming of prosecution authorities. The relevant decision of a body conducting disciplinary proceedings is published on the website of

the Office of the Prosecutor General.

This section also contains information on the recommended template of a disciplinary complaint, as the provisions of Article 45 of the Law on the Public Prosecutor's Office set forth that anyone who becomes aware of disciplinary offences committed by prosecutors has the right to file disciplinary complaints against prosecutors who committed disciplinary offences to a competent authority.

At the same time, public authorities, local self-government bodies, other public agencies, their officials and officers, as well as individuals and legal entities and their associations should respect the independence of the prosecutor and refrain from exercising influence of any form upon the prosecutor to prevent him/her from performing his/her duties or to make him/her pass an illegal decision.

The scope of justified criticism of the prosecutor's activities is established by taking into account the Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights.

A recommended template of the disciplinary complaint can be found at <https://kdkp.gov.ua/page/zrazok-dystsyplinarnoi-skarhy>.

In addition, under martial law, the body conducting disciplinary proceedings has decided to accept disciplinary complaints and other documents in electronic form for the convenience of citizens.

How are the rights of the judiciary protected?

Pursuant to Article 73(1)(7) of the Law of Ukraine "On the High Council of Justice" and in order to ensure the independence of judges and authority of justice, the High Council of Justice prepares, in cooperation with judicial governing bodies, other bodies and agencies of the justice system and non-governmental associations, and publishes an annual report on the status of ensuring independence of judges in Ukraine.

With its Resolution No. 1333/0/15-17, dated 30 May 2017, the High Council of Justice established a Standing Committee on Preparation of Annual Report on the Status of Ensuring Independence of Judges in Ukraine (the "Standing Committee"). With its Resolutions Nos. No. 3140/0/15-18, dated 16 October 2018, 1335/0/15-19, dated 16 May 2019, No. 3299/0/15-19, dated 3 December 2019, No. 993/0/15-21, 11 May 2021, the High Council of Judges introduced changes into the Standing Committee.

In addition, with its Resolution No. 3475/0/15-20, dated 10 December 2020, the High Council of Justice approved the structure of the annual report on the status of ensuring independence of judges in Ukraine.

In order to prepare annual reports on the status of ensuring independence of judges in Ukraine for the relevant year, the High Council of Justice appeals to bodies and institutions of the justice system, governmental authorities and local self-government bodies, prosecution and law enforcement authorities, professional communities, non-governmental associations and research institutions to provide proposals and relevant information, which are further processed, summarized and included into the annual reports.

The resolutions of the Standing Committee approve the draft annual reports on the status of ensuring independence of judges in Ukraine, which are submitted to the High Council of Justice for approval at the meetings of the High Council of Justice.

In order to exercise its powers to ensure independence of judges and authority of justice, the High Council of Justice has prepared and published four annual reports on the status of ensuring independence of judges in Ukraine for 2017, 2018, 2019 and 2020. It is working on the annual report for 2021.

In addition, the rights of judiciary are protected in the following ways:

the majority of members in the judicial governing bodies (High Council of Justice, High Qualification Commission of Judges) responsible for key matters of the judiciary (forming of judicial staff, bringing judges to disciplinary responsibility and dismissal of judges) should be judges. The activity of these bodies and the said procedures are depoliticised, i.e., political authorities do not have the statutory authority to interfere into their activity or relevant procedures;

separate procedure for financing and organisational support of courts established by law. Expenditures of the general fund of the State Budget of Ukraine related to financial support of courts are considered as protected items of budget expenditures. In addition, judicial salaries are regulated by Law No. 1402-VIII and may not be established by any other legal and normative acts;

the Court Security Service which is set up to maintain public order in court, discontinue manifestations of contempt of court, provide security of court premises, premises of the bodies and institutions of the justice system, perform the functions of state support to personal security of judges, their families and court employees.

criminal liability for obstructing the activity of judicial governing bodies, interfering in the activity of judicial bodies, illegal interference in the work of automated systems in the bodies and agencies of the justice system, threat or violence against a judge, lay judge, juror, intentional destruction or damage to property of a judge, lay judge or juror, encroachment on the life of a judge, lay judge or juror in connection with their activity related to administration of justice, non-execution of a judgment (Articles 351-2, 376, 376-1, 377, 378, and 379 of the Criminal Code of Ukraine);

The Supreme Court has the right to submit a constitutional petition, which it has repeatedly exercised by appealing to the Constitutional Court of Ukraine on the grounds of violation by the Parliament of Article 126 of the Constitution of Ukraine while adopting laws, namely, the principle of judicial independence. These acts have been repeatedly declared unconstitutional (examples are given below).

In addition, the Constitution of Ukraine empowered the High Council of Justice to take measures to ensure the independence of judges. Article 73 of Law No. 1798-VIII sets out a list of measures that can be taken by the High Council of Justice to ensure the independence of judges and authority of justice, in particular the High Council of Justice holds and publishes on its official website the register of statements of judges concerning the interference in the functioning of a judge regarding the administration of justice, checks such statements, publishes the findings and adopts the respective decisions; files motions to the respective authorities or officials on identifying and holding liable of persons who committed acts or a lack of action which are in breach of the guarantees of the judicial independence or which undermined the authority of justice; files a motion to the assembly of judges

of a respective court on the dismissal of a judge from the administrative position in case of this judge's failure to comply with the decision of the High Council of Justice; approves and publishes public statements and appeals; appeals to law-making bodies and bodies authorised to adopt legal acts, with proposals regarding the independence of judges and authority of justice; files requests to the public prosecutor's office and law enforcement agencies to provide information as to solving and investigation of crimes committed against the court, judges, members of their families, employees of the court administrations, crimes against justice committed by judges and employees of the court administration; takes other measures necessary to ensure independence of judges and authority of justice. In addition, the High Council of Justice prepares, in cooperation with judicial governing bodies, other bodies and agencies of the justice system and non-governmental associations, an annual report on the status of ensuring independence of judges in Ukraine.

Have there been any complaints about the independence of the judiciary and the autonomy of prosecutors? If so, how were they resolved?

There had been complaints of interference with the independence of the judiciary. Such complaints were substantiated by the unconstitutionality of legislative changes and were considered by the Constitutional Court of Ukraine. In particular:

On 18 February 2020, with its Decision No. 2-p/2020 the Constitutional Court of Ukraine declared unconstitutional the provisions of Law No. 1402-VIII, which provided for the liquidation of the Supreme Court of Ukraine, the holding of competition for its judges to work in the new Supreme Court and the receiving of a lifetime allowance (under the old rules) by retired judges who did not pass qualification assessment and have not worked for another three years (which is at least two times smaller than the allowance under the new law on judiciary);

On 11 March 2020, with its Decision No. 4-p/2020 the Constitutional Court of Ukraine declared unconstitutional legislative changes to reduce the composition of the Supreme Court, reduce the salaries of judges of that court, introduce a new approach to the forming of the High Qualification Commission of Judges of Ukraine (it was proposed to form a commission on a competitive basis instead of the existing quota principle), introduce the Integrity and Ethics Board that would be authorised to initiate the dismissal of members of the High Qualification Commission of Judges of Ukraine, the High Council of Justice and the Supreme Court. In addition, certain legislative changes regulating the procedure for disciplinary proceedings against judges were declared unconstitutional;

On 11 June 2020, with its Decision No. 7-p/2020, the Constitutional Court of Ukraine declared Article 375 of the Criminal Code of Ukraine unconstitutional. This article established criminal liability of a judge(s) which rendered a knowingly unjust sentence, judgment, ruling or resolution.

How does the public perceive independence of the judiciary and autonomy of prosecutors and based on what type of indicators?

According to a study of the World Economic Forum, during the period of 2015–2019 Ukraine showed progress in terms of “independence of judges”, but still remains in the last third of countries in the ranking. Thus, in 2019 Ukraine ranked 105th out of 141 countries with a score of 3.0 points (where 1 means not independent at all and 7 means completely independent).² For comparison, in

² Global Competitiveness Report 2019, World Economic Forum.

2015 Ukraine ranked 132nd out of 140 countries with a score of 2.3 points.³ Apparently, the perception of judicial independence has improved since the 2016 constitutional changes, which significantly reduced the ability of political bodies to influence the judiciary.

According to a survey⁴ carried out in 2021 upon request of the USAID's "New Justice" Sector Reform Program, 72% of respondents agree that those who have more money always win in courts, 64% say that bribery of judges is a common practice in Ukrainian courts, 62% say that corruption in the courts is growing and only 6% think that courts are independent and not influenced by politicians, government or oligarchs.

85. Do judges enjoy both external and internal independence when deciding an individual case? Does the system guarantee that every judge within the court system, in the context of judicial adjudication, is independent vis-à-vis other judges, also in relation to his/her court president or other (e.g. appellate or superior) courts? What are the measures in place ensuring internal independence of the judiciary? Are the lower courts independent from the Supreme Court or other higher courts? Is the Supreme Court or another high court prohibited from giving instructions, guidance, recommendations, explanations or supervision to the lower courts? Do judicial leadership posts hold any evaluation, appraisal or disciplinary powers? If so, what safeguards exist to prevent the undue influence of the internal judicial hierarchy?

Article 131 of the Constitution of Ukraine stipulates that the High Council of Justice functions in Ukraine and, inter alia, takes measures to ensure the independence of judges.

The powers of the High Council of Justice provided for in Article 3 of the Law of Ukraine *On the High Council of Justice* include, in particular, taking measures to ensure the authority of justice and the independence of judges.

In accordance with Article 73 of the Law of Ukraine *On the High Council of Justice*, the High Council of Justice takes measures to ensure the independence of judges and the authority of justice on its initiative or at the request of a judge, court, judicial bodies or agencies.

The legislation of Ukraine, which regulates the judiciary, guarantees the external and internal independence of judges in the administration of justice. More details on external independence can be found in the reply to question 84.

Regarding internal independence, the Constitution and laws of Ukraine guarantee that in exercising justice, judges are independent of any illegal influence, pressure or interference. Public authorities, local self-government bodies, their officials and officers, as well as individuals and legal entities, and their associations must respect the independence of judges and never encroach on it. Interference in the activities of judges in the administration of justice is prohibited and results in liability established by law. In addition, judges are not required to provide any explanations regarding the merits of cases under their consideration, except in cases envisaged by law.

³ Global Competitiveness Report 2015-2016, World Economic Forum.

⁴ The survey is available at https://newjustice.org.ua/wp-content/uploads/2021/06/2021_Surveys_Presentation_ROL060221_UKR-1.pdf

Does the system guarantee that every judge within the court system, in the context of judicial adjudication, is independent vis-à-vis other judges, also in relation to his/her court president or other (e.g. appellate or superior) courts?

Yes, it does. The current legal framework stipulates that court presidents or other judges (including the judges of higher courts) do not have any authority to monitor, control or influence the consideration of cases by judges. Moreover, pursuant to Article 106(1)(8) of Law No. 1402-VIII, a judge may be brought to disciplinary liability for interference in the process of administering justice by other judges.

What are the measures in place to ensure the internal independence of the judiciary?

Internal independence of judges is ensured by:

- 1) special procedure for appointment, prosecution, dismissal and termination of powers thereof;
- 2) inviolability and immunity of judges;
- 3) irremovability of judges;
- 4) procedure for the administration of justice as defined by the procedural law and the secret of adjudication;
- 5) prohibition to interfere in the administration of justice;
- 6) liability for contempt of court or a judge;
- 7) special statutory procedures for financing and organisational support of courts;
- 8) adequate material and social support of judges;
- 9) functioning of the judicial governance and self-government bodies;
- 10) statutory personal security arrangements for judges, their family members, property, and other legal safeguards; and
- 11) right of judges to retire.

Are the lower courts independent from the Supreme Court or other higher courts?

Yes, they are. Higher courts have no power to influence lower courts.

Is the Supreme Court or another high court prohibited from giving instructions, guidance, recommendations, explanations or supervision to the lower courts?

In accordance with Article 13(6) of Law No. 1402-VIII, the opinions on the application of the provisions of law outlined in resolutions of the Supreme Court are taken into account by other courts while applying these legal provisions. At the same time, provisions of the procedural codes stipulate that courts have the right to depart from the conclusions of the Supreme Court by justifying such a departure.

Thus, courts should take into account only the Supreme Court's conclusions on the application of legal norms, however, the law does not empower either the Supreme Court or judges of the Supreme Court to give instructions or clarifications to the courts of first or appellate instances as to how to consider their cases.

Do judicial leadership posts hold any evaluation, appraisal or disciplinary powers? If so, what safeguards exist to prevent the undue influence of the internal judicial hierarchy?

The judicial leadership does not hold such powers (please see the answer to question 90 for more details on the powers of the judicial leadership).

Regarding the independence of prosecutors

Pursuant to Article 3 of Law No. 1697-VII, public prosecutor's offices operate on the following principles: independence of prosecutors, which implies the existence of guarantees against unlawful political, financial or other influence on prosecutors in connection with their decision-making as part of their official duties; political neutrality of public prosecutor's offices and respect for the independence of judges, which implies a prohibition on any public expression of doubts regarding the lawfulness of court judgments, other than under the appeal procedure established by procedural law.

Article 16 of Law No. 1697-VII stipulates that when performing prosecutorial functions, prosecutors are independent of any illegal influence, pressure and interference, and are guided in their activities only by the [Constitution](#) and laws of Ukraine.

Pursuant to Article 17 of Law No. 1697-VII, all prosecutors exercise their powers within the limits established by law and are subordinated to their superiors exclusively when executing written administrative orders on the organisation of prosecutors' activities and PPOs' functioning.

Administrative subordination of prosecutors cannot be a ground for limiting or infringing prosecutors' independence in exercising their powers.

When exercising powers associated with the performance of prosecutorial functions, prosecutors are independent and make independent decisions on how to exercise such powers, being guided by law, and must execute only those instructions of higher-ranked prosecutors which have been provided in compliance with the provisions of this Article.

Higher-level prosecutors may instruct a lower-level prosecutor, approve certain decisions taken by the latter and carry out other actions directly related to prosecutorial functions exercised by the lower-level prosecutor, exclusively within the limits and in a manner set by law. The General Prosecutor may issue instructions to any prosecutor.

At the same time, the prosecutor need not follow orders and instructions of a higher-level prosecutor that raise his/her doubts as to their legality, if the prosecutor has not received them in writing, as well as manifestly illegal orders or instructions. The prosecutor may address the Council of Prosecutors of Ukraine and report a threat to his/her independence caused by the order or instruction issued (provided) by the higher-level prosecutor (Article 17(5) of Law No. 1697-VII).

The system of remuneration is one of the guarantees of prosecutors' independence established by Law No. 1697-VII.

In particular, Law No. 1697-VII determines that prosecutors' salaries are regulated by this Law and may not be established by any other legal and normative act.

Law of Ukraine No. 113-IX, dated 19 September 2019, *On Amending Certain Legislative Acts of Ukraine on the Priority Measures of Prosecutorial Reform* (hereinafter, Law No. 113-IX) has revised the provisions on the remuneration of prosecutors.

Thus, the salary of a prosecutor of a district public prosecutor's office was increased up to 15 subsistence minimums for able-bodied persons with its further increase to 20 and 25 subsistence minimums in 2021-2022, correspondingly. The basic salaries of other prosecutors are set in pro-rata to the basic salary of a district PPO prosecutor with relevant coefficients.

It is established that the prosecutor's salary includes a basic salary, bonuses and increments for the years of service and the duties performed in an administrative position, as well as other payments established by law.

Payment of bonuses to prosecutors is governed by the procedure approved by the Prosecutor General, based on results of their performance demonstrated in a calendar year within the limits of the bonuses fund, established in the amount not less than 10% of the base salaries and savings in the payroll fund.

Prosecutor's annual bonus cannot be more than 30% of his/her salary for a corresponding calendar year.

At the same time, it should be noted that the performance evaluation system will be approved by the Prosecutor General.

86. Do prosecutors enjoy a proper degree of autonomy when working on an individual case? Do hierarchical instructions and guidelines need to be put in writing and need to be included in the file and/or made publicly available? Do instructions not to prosecute exist and if, with which safeguards? Do lower prosecutors have recourse to an independent mechanism enabling them to contest the hierarchical instructions of senior prosecutors and on what basis? How are the independence of courts and the autonomy of the prosecution service ensured from a financial point of view?

Prosecutors in Ukraine are guaranteed by law with the necessary level of autonomy and independence in the exercise of procedural powers. Such provisions are contained both in the Law of Ukraine "On Public Prosecution Office" and in the CPC.

In particular, according to Para 2, Art. 16 of the Law of Ukraine "On Public Prosecution Office", when performing the functions of the prosecutor's office, the prosecutor is independent of any illegal influence, pressure, interference and is guided in his or her activities only by the Constitution and laws of Ukraine.

Accordingly, these guarantees were embodied in the CPC of Ukraine. Thus, in accordance with Para 1, Art. 36 of the CPC, the prosecutor, exercising his powers in accordance with the requirements of the CPC, is independent in his or her procedural activities, interference in which by persons who do not have the legal authority to do so is prohibited. Public authorities, local governments, enterprises, institutions and organizations, officials and other individuals are obliged to comply with legal requirements and procedural decisions of the prosecutor. Criminal liability has been established for violation of this norm (Article 343 of the Criminal Code of Ukraine).

Prosecutors also have legal guarantees in their dealings with management. In particular, in the exercise of powers related to the implementation of the functions of the prosecutor's office,

prosecutors are independent, independently decide on the exercise of such powers, guided by the provisions of the law, and are obliged to follow only such instructions of the highest prosecutor, which meet legal requirements. At the same time, higher-level prosecutors have the right to give instructions to lower-level prosecutors, approve their decisions and take other actions directly related to the implementation of the prosecutor's office, only within the limits and in the manner prescribed by law.

A prosecutor who has been given an order or instruction orally shall be provided with written confirmation of such order or instruction. The prosecutor is not obliged to comply with the orders and instructions of a higher prosecutor if he or she doubts their legality or if such an order is not received in writing, as well as clearly criminal orders or instructions.

There is also a tool to appeal in case of a threat to the prosecutor's independence. In particular, the prosecutor has the right to apply to the Council of Prosecutors of Ukraine with a notice of threat to his or her independence in connection with the issuance of an order or instruction by the higher-level prosecutor.

No instructions or other by-laws not to prosecute exist, since prosecutors and courts rely exclusively on the provisions of criminal and criminal procedure legislation when deciding on the opening or closing of criminal proceedings and on the issue of guilt or innocence of a perpetrator.

87. How can a decision by a prosecutor not to press charges or to drop a case be challenged, in particular in cases where there is no obvious victim apart from the public interest?

The right to challenge procedural decisions, actions or inaction by the prosecutor, head of the investigative body or investigator is one of the most important guarantees of protection of citizens' rights and freedoms from violation both by the bodies in charge of investigations in criminal proceedings and other persons who take part in them.

Article 24 of the CPC also guarantees that anyone has the right to challenge procedural decisions, actions or inaction by the court, investigating judge, prosecutor or investigator as prescribed by the CPC.

As compared to other procedures, the judicial review of complaints provides greater objectivity, greater opportunities for interested parties to defend their interests, greater authority and binding nature of the decision made upon consideration of the complaint.

Article 55 of the Constitution of Ukraine envisages that everyone is guaranteed the right to challenge in court the decisions, actions or inaction of public authorities, local self-government bodies, officials and officers.

Everyone has the right to protect his or her rights and freedoms from violations or illegal encroachments by any means not prohibited by law.

Taking into account the above, if the prosecutor issues a premature decision to close the proceedings without conducting a full and comprehensive pre-trial investigation, it may be appealed to the investigating judge in accordance with Articles 307-309 of the CPC.

Article 311 of the CPC stipulates that in the course of pre-trial proceedings, the investigator or enquirer who investigates a criminal offence has the right to challenge any decisions, actions and inaction of the prosecutor taken or committed in the pre-trial proceedings unless the CPC provides otherwise.

The investigator or enquirer submits his/her complaints against the prosecutor's decision, action or inaction in writing, within three days after the challenged decision, action or inaction was taken or committed.

The investigator or enquirer submits his/her complaint to a prosecutor of a higher level compared to the prosecutor whose decision, action or inaction is challenged.

The fact that the prosecutor's decisions, actions or inaction are being challenged by the investigator or enquirer does not preclude their execution (Article 312 of the CPC).

Pursuant to Article 313 of the CPC, a prosecutor of the higher public prosecutor's office who received a complaint against the decision, action or inaction by the prosecutor should consider the complaint within three days after its receipt and send his/her decision to the investigator, enquirer or prosecutor whose decision, action or inaction was challenged.

After consideration of the complaint, the following decisions may be taken:

- 1) the decision is upheld, action or inaction is found to be legitimate;
- 2) to partly amend the decision; or
- 3) the decision is repealed and a new decision is adopted; action or inaction is found to be illegitimate, and a request is made to take a new action.

If the decision challenged is repealed or action or inaction is found to be illegitimate, the prosecutor of the higher public prosecutor's office may replace the prosecutor concerned with another one selected from among members of the public prosecutor's office of the same level in pre-trial proceedings where such illegitimate decision, action or inaction has been taken or committed.

The decision made by the prosecutor of the higher public prosecutor's office is final and may not be challenged before the court, other public authorities, officials or officers thereof.

88. Threats against the independence of judges and autonomy of prosecutors: Are there legal provisions establishing sanctions against persons seeking to influence judges/prosecutors in any undue manner? Which authorities can act in specific procedures for protecting judicial independence /prosecutorial autonomy when judges or prosecutors consider that their independence/autonomy is threatened? Which measures can be taken in this case?

- a. Issuing a formal declaration/press release?
- b. Filing of complaint/notifying an authority?
- c. Sanctions against persons seeking to influence judges in an improper manner?
- d. Possible reaction by the Prosecution Service?
- e. Possible reaction by the Supreme Court?

f. Possible reaction by the Judicial Council or judicial inspection?

g. Possible reaction by the Constitutional Court?

Information on the protection of judges from interference in their activities can be found in the reply to question 84.

In addition, it should be mentioned that pursuant to Law No. 1697-VII, public authorities, local self-government bodies, other public agencies, their officials and officers, as well as individuals and legal entities and their associations are obliged to respect the independence of prosecutors and refrain from exercising influence of any form upon prosecutors to prevent them from performing their duties or to make them pass an illegal decision (Article 16(5) of Law No. 1697-VII).

Article 17(6) of Law No. 1697-VII envisages that making (giving) illegal orders or instructions, or their fulfilment, and making (giving) or fulfilling manifestly illegal orders or instructions entail liability as prescribed by law.

The Law also prescribes that the prosecutor may address the Council of Prosecutors of Ukraine and report a threat to his/her independence caused by the order or instruction to the Council of Prosecutors of Ukraine which should immediately check and consider the statement with his/her participation and take, within the powers stipulated by this Law, all necessary measures to eliminate the threat (Article 16(6) of the Law No. 1697-VII). As previously noted, the Council of Prosecutors of Ukraine is authorised to consider prosecutors' appeals and other reports on threats to their independence, as a result of consideration of taking appropriate measures (informs the relevant agencies of the grounds for criminal, disciplinary or other liability; initiates consideration of the issue of taking measures to ensure the security of prosecutors; publishes statements on behalf of prosecutors about the facts of violation of the prosecutor's independence; and submits relevant requests and other communications to international organisations).

Article 376 of the CC of Ukraine establishes criminal liability for any interference in the activities of a judge to prevent him/her from performing his/her official duties or to obtain an unlawful judgment.

Such actions are punishable by a fine of up to fifty non-taxable individual minimum income amounts or correctional labour for a term of up to 2 years, or detention for a term of up to six months.

The same actions that interrupted the prevention of a criminal offence or arrest of a perpetrator, or committed by a person through abuse of his/her office, are punishable by imprisonment for up to three years or deprivation of right to hold certain positions or engage in certain activities for up to five years, or detention for up to six months.

There are the following ways to influence judges: verbal threats, unsubstantiated challenges, negative publications in the media and social networks, video plots on TV channels, out-of-court petitions of participants, reports to law enforcement agencies with allegations of crimes committed by judges, damage/theft of property that belong to judges, telephone calls and text messages, messages in various messengers with instructions on how to try the case, threats, parliamentary petitions, etc.

As judges' reports about interference in the administration of justice is an important indicator of the state of independence of judges and the authority of justice in Ukraine, judges' opportunity to immediately report interference in its activities is safeguarded by Article 48 of Law of Ukraine No. 1402-VIII. The article requires a judge to report to the High Council of Justice and the Prosecutor General on interference in his or her activities as a judge to obstruct the administration of justice. The purpose of the requirement to immediately inform the Prosecutor General of any interference in a judge's administration of justice is to expedite pre-trial investigations into the circumstances of criminal offences.

In 2021, the High Council of Justice received 275 reports of interference in the activities of judges in order to obstruct their administration of justice. In addition, in the reporting year, the judges filed 7 reports on the cases of interference with the administration of justice committed by other judges. Such reports are considered in accordance with Article 73(3) of the Law of Ukraine "On the High Council of Justice" in a manner prescribed by this Law for consideration of disciplinary complaints. In the same reporting year, 1 report was considered in the manner prescribed by the Law of Ukraine "On Appeals of Citizens".

In 2020, the High Council of Justice received 341 reports of interference with the judges' administration of justice. In addition, in 2020, judges filed 4 reports of interference with their administration of justice by other judges, which in accordance with Article 73(3) of the Law of Ukraine "On the High Council of Justice" are considered in the manner prescribed by this Law for consideration of disciplinary complaints.

In 2019, the High Council of Justice received 450 reports of interference with the judges' administration of justice.

All this proves that judges actively use this mechanism to defend their independence.

Regarding the publication of formal declarations/press releases, the High Council of Justice issues formal press releases on the prohibition of interference with the administration of justice and the investigator's obligation to refrain from any ties that could destabilise the society.

Regarding the possible response of the Council of Judges, although such complaints are not within the remit of the Council of Judges, due to their lack of action/powers, most applicants copy in the Council of Judges when filing requests to the High Council of Justice to take certain measures.

When law enforcement agencies consider reports on a crime committed by a judge, a balance is maintained between the independence of the judge, his/her protection from unfounded threats and accusations, and effective investigation into the offence. The latter always serves as a foundation for the public's confidence in public authorities. In such cases, the main guarantees of a judge's independence are a separate procedure for prosecuting the latter and a prompt and effective investigation of criminal proceedings against judges related to their professional activities.

89. Recruitment/nomination: Describe the methods and criteria for the selection/appointment of candidates for judicial office. How are judges and prosecutors recruited (are there competitive and public written exams with anonymous results; are the questions publicly available or not; systematic interviewing of all candidates; comparison of

CVs; etc.)?

On the selection/appointment of judges

To be appointed judge, one must be a citizen of Ukraine of at least thirty years old but no older than sixty-five years old; have a law degree; have practiced law for at least five years; have demonstrated competency and professional integrity; and have the command of the official language at the level required by the National Commission on the Standards of the State Language.

Appointment to a judicial office is denied to:

- 1) individuals found by court to have limited legal capacity or to be legally incapable;
- 2) individuals with chronic mental or other illness that will prevent them from administering justice;
- 3) individuals who have an outstanding or unexpunged conviction;
- 4) individuals earlier dismissed from judicial office for committing a substantial disciplinary offence, gross or systematic neglect of duties which was incompatible with the judicial status or revealed that the individual was unfit for the position he/she was in; for violation of the duty to confirm legitimacy of the source of property; or in connection the guilty verdict entering into force against this individual, unless the dismissal for the above-mentioned reasons was declared illegitimate in court, or when the guilty verdict was cancelled by court.
- 5) individuals previously dismissed from judicial office based on the results of the qualifications evaluation.

To be appointed judge of a court of appeal, one must meet the requirements to candidates for judicial office; have his/her capabilities to administer justice in a court of appeal confirmed in a qualifications evaluation; must meet one of the following requirements:

- 1) at least five year record of service in a judicial office;
- 2) academic degree in law and at least seven years of postgraduate research in law;
- 3) at least seven years of law practice, including representation in court and/or criminal defence;
- 4) at least seven years of overall employment (professional work experience) according to the requirements in points 1-3 of this paragraph.

To be appointed judge of the Intellectual Property High Court, one must meet the requirements to candidates for judicial office; have his/her capabilities to administer justice in the Intellectual Property High Court confirmed in a qualifications evaluation; must meet one of the following requirements:

- 1) at least three year record of service in a judicial office;
- 2) at least five years of professional experience as a representative in intellectual property cases (patent attorney);
- 3) at least five years of professional experience of protecting intellectual property rights in court;

4) at least five years of overall employment (professional work experience) according to the requirements in points 1-3 of this paragraph.

To be appointed justice of the High Anti-Corruption Court, the citizen of Ukraine must meet the general requirements to the candidates for judicial office; demonstrate knowledge and practical skills required to administer justice in corruption cases; and also meets one of the requirements below:

- 1) at least five year record of service in a judicial office;
- 2) academic degree in law and at least seven years of postgraduate research in law;
- 3) at least seven years of law practice, including representation in court and/or criminal defence;
- 4) at least seven years of overall employment (experience) of the type of work (professional activity) mentioned in points 1-3.

To be appointed justice of the Supreme Court, one must meet the requirements to candidates for judicial office; have his/her capabilities to administer justice in the Supreme Court confirmed in a qualifications evaluation; and meet one of the following requirements:

- 1) at least ten year record of service in a judicial office;
- 2) post graduate degree in law and at least ten years of postgraduate research in law;
- 3) at least ten years of law practice, including representation in court and/or criminal defence;
- 4) at least ten years of overall employment (professional work experience) according to the requirements in points 1-3 of this paragraph.

Judicial appointments are made based on the results of the (competitive) selection administered by the High Qualification Commission of Judges of Ukraine.

Stages of the process of judicial selection and appointment:

1. The High Qualification Commission of Judges of Ukraine approves the decision to announce the (competitive) selection;

2. An announcement about the (competitive) selection of candidates for judicial office is posted on the official website of the High Qualification Commission of Judges of Ukraine as well as in the official media sources.

3. Individuals submit their applications and documents to participate in the (competitive) selection.

To this end, candidates submit the following to the High Qualification Commission of Judges of Ukraine:

- 1) a written application for participation in the selection process (competition);
- 2) a copy of a passport of a citizen of Ukraine
- 3) a [filled out] questionnaire form for the position of a judge with information about the candidate;
- 4) a letter of motivation for being appointed a judge;
- 5) a declaration of family ties and a declaration of integrity of a judicial candidate;

6) a copy of his/her diploma of higher education (with annexes) issued in Ukraine, copies of documents that prove a degree in law from a foreign university together with copies of relevant documents that prove the recognition of such academic credentials in Ukraine, as well as copies of documents that prove the candidate's academic degree and/or academic rank (if available);

7) a copy of the employment record, service record (if available) or other employment-related documents;

8) a medical record in a standard format of psychiatric and addiction assessments, and documents regarding follow-up in psychiatric, neurological, or addiction clinics;

9) a written expression of consent to the collection, accumulation, processing and use of information about the candidate for the purpose of assessment of his/her fitness to serve as a judge;

10) a consent to the vetting in accordance with the law;

11) a copy of the declaration of the individual authorised to perform state functions or those of local self-government authorities covering the period of the year preceding the year when the documents were submitted, and a link to the relevant page of the Unified State Register of Declarations of individuals authorised to perform state functions or those of local self-government authorities;

12) a copy of the military card (for servicemen or individuals liable for military duty);

13) documents to corroborate that the candidate for judicial office meet the other requirements of the Law, in particular, in terms of teaching experience, practice of law and experience as patent attorney (for candidates for judicial office in the Intellectual Property High Court.

4. The High Qualification Commission of Judges of Ukraine admits the individuals that at the time of their application meet the statutory requirements to candidates for judicial office to the (competitive) selection;

5. The High Qualification Commission of Judges of Ukraine screens the documents submitted by the candidate for accuracy and seeks to establish that the candidate meets the statutory requirements to a candidate for judicial office;

6. The High Qualification Commission of Judges of Ukraine carries out the actual (competitive) selection which entails the assessment of professional, personal, and social competencies of the candidates, as well as compliance with the ethics and integrity criteria;

7. The High Qualification Commission of Judges of Ukraine issues ratings of the candidates;

8. The High Qualification Commission of Judges of Ukraine makes recommendations to the High Council of Justice regarding the appointment of the highest-ranking candidate for judicial office;

9. The High Council of Justice considers the recommendation of the High Qualification Commission of Judges of Ukraine and makes a decision regarding the appointment of the proposed candidate for judicial office;

10. The President of Ukraine issues a decree on the judicial appointment should the High Council of Justice propose to appoint the judge for office.

The (competitive) selection of candidates for the position of a judge in a local court by the High Qualification Commission of Judges of Ukraine includes the following steps:

1. The written admission exam administered publicly in the form of anonymous testing for general knowledge of law, national language proficiency (Ukrainian), personal moral and psychological characteristics.

The test questions are universally accessible;

2. The identified admission exam results are posted on the official website of the High Qualification Commission of Judges of Ukraine;

3. The candidates who successfully passed the admission exam and went through special background checks, then undergo special training in the National School of Judges which includes both theory and practice;

4. After the special training, the candidates take a public written qualification exam, the results are anonymised.

This exam consists of a test and a practical assignment designed to check that the candidate is fit to administer justice in a local court.

The practical assignment is presented as a case study from court practice. The candidate working on the practical assignment has to prepare a court decision based on the materials of the case study.

The test questions and sample case studies are publicly available;

5. Based on the results of the qualification exam, the judicial candidates are added to the pool of those qualified to fill in the vacant judge positions.

The (competitive) selection of candidates for judicial office in a court of appeal, high specialised court, and the Supreme Court by the High Qualification Commission of Judges of Ukraine entails a qualifications evaluation that comprises:

1. Sitting for the examination.

The examination is the main way to verify that a judge (a judicial candidate) meets the professional competence criterion; the examination is administered as a written anonymous test and a practical assignment to establish the level of proficiency, practical skills and ability to apply the law, ability to administer justice in a relevant court and specialised cases.

The practical assignment is presented as a case study from court practice. The candidate working on the practical assignment has to prepare a court decision based on the materials of the case study.

The test questions and sample case studies are publicly available.

2. Testing of personal moral and psychological characteristics and general aptitude;

3. Building and scrutinising the dossier.

4. Receiving information from public councils on whether the candidates meet the qualifications evaluation criteria.

The Public Integrity Council, comprised of national community leaders, assists the High Qualification Commission of Judges of Ukraine in administering the qualifications evaluation.

The Public Council of International Experts, comprised of foreign representatives, assists the High Qualification Commission of Judges of Ukraine in administering the qualifications evaluation of candidates for judicial offices in the High Anti-Corruption Court.

5. The High Qualification Commission of Judges of Ukraine interviews the candidate on data in his/her dossier.

6. The decision on whether to acknowledge the capability of a candidate to administer justice in a relevant court, as well as his/her rating, is based on the score obtained by the candidate as a result of the examination and the interview.

It is of note that the examination (testing and practical assignment) is administered by the High Qualification Commission of Judges of Ukraine using a special type of software developed by the High Qualification Commission of Judges of Ukraine and positively assessed by the EU and US experts. This remarkable software allows to completely automate the processes of compilation of exam assignments, exam administering, checking and evaluation. The software comes with a requisite certificate for comprehensive information protection and, in particular, ensures anonymity during the administration of the exam and setting of results.

The record high number of candidates for judicial office that at one time took the same exam in the examination hall was 4128.

90. Please describe the appointment procedure carried out for judges, prosecutors and court presidents, including of the highest courts: constitutional and legal basis, procedure, competent bodies, criteria applied, limitation of terms in office for court presidents, and judicial review. How do the procedures of selection/appointment guarantee that the best candidates are finally appointed? Are there deviations from the merit-based appointments, and if yes, on what legal grounds?

Procedure for appointing a judge:

Stages of the process of judicial selection and appointment:

1. The High Qualification Commission of Judges of Ukraine approves the decision to announce the (competitive) selection;

2. An announcement about the (competitive) selection of candidates for judicial office is posted on the official website of the High Qualification Commission of Judges of Ukraine as well as in the official media sources.

3. Individuals submit their applications and documents to participate in the (competitive) selection;

4. The High Qualification Commission of Judges of Ukraine admits the individuals that at the time of their application meet the statutory requirements to candidates for judicial office to the (competitive) selection;

5. The High Qualification Commission of Judges of Ukraine screens the documents submitted by the candidate for accuracy and seeks to establish that the candidate meets the statutory requirements to a candidate for judicial office;

6. The High Qualification Commission of Judges of Ukraine carries out the actual (competitive) selection which entails the assessment of professional, personal, and social competencies of the candidates, as well as compliance with the ethics and integrity criteria;

7. The High Qualification Commission of Judges of Ukraine issues ratings of the candidates;

8. The High Qualification Commission of Judges of Ukraine makes recommendations to the High Council of Justice regarding the appointment of the highest-ranking candidate for judicial office;

9. The High Council of Justice considers the recommendation of the High Qualification Commission of Judges of Ukraine and decides on the appointment of the proposed candidate for judicial office;

10. The President of Ukraine issues a decree on the judicial appointment should the High Council of Justice propose to appoint the judge for office.

The (competitive) selection of candidates for the position of a judge in a local court by the High Qualification Commission of Judges of Ukraine includes the following steps:

1. The written admission exam is administered publicly in the form of anonymous testing for general knowledge of the law, national language proficiency (Ukrainian), and personal moral and psychological characteristics.

The test questions are universally accessible;

2. The identified admission exam results are posted on the official website of the High Qualification Commission of Judges of Ukraine;

3. The candidates who successfully passed the admission exam and went through special background checks, then undergo special training in the National School of Judges which includes both theory and practice;

4. After the special training, the candidates take a public written qualification exam, the results are anonymised;

6. Based on the results of the qualification exam, the judicial candidates are added to the pool of those qualified to fill in the vacant judge positions.

The (competitive) selection of candidates for judicial office in a court of appeal, high specialised court, and the Supreme Court by the High Qualification Commission of Judges of Ukraine entails a qualifications evaluation that comprises:

1. Sitting for the examination.

The examination is the main way to verify that a judge (a judicial candidate) meets the professional competence criterion; the examination is administered as a written anonymous test and

a practical assignment to establish the level of proficiency, practical skills and ability to apply the law, ability to administer justice in a relevant court and specialised cases.

The practical assignment is presented as a case study from court practice. The candidate working on the practical assignment has to prepare a court decision based on the materials of the case study.

2. Testing of personal moral and psychological characteristics and general aptitude;

3. Building and scrutinising the dossier of a judge.

4. Receiving information from public councils on whether the candidates meet the qualifications evaluation criteria.

5. The High Qualification Commission of Judges of Ukraine then interviews the candidate on data in his/her dossier.

6. The High Qualification Commission of Judges of Ukraine then decides whether to acknowledge the capability of the candidate to administer justice in a relevant court and determines his/her rating based on the score obtained by the candidate as a result of the examination and the interview.

Competent authorities:

- The High Qualification Commission of Judges of Ukraine is a state collegial body that administers the (competitive) selection of candidates for judicial office; based on the selection results, it makes a recommendation to the High Council of Justice to appoint a candidate for judicial office;

- The National School of Judges of Ukraine is a special status state institution established under the umbrella of the High Qualifications Commission of Judges of Ukraine; it prepares the tests and practical assignments for the procedures of selection and appointment of judicial candidates, as well as provides special training for judicial candidates;

- The Public Integrity Council is an elective body of representatives of national associations created to assist the High Qualification Commission of Judges of Ukraine in administering the qualifications evaluation of judicial candidates for courts of appeal, Intellectual Property High Court, and Supreme Court;

- The Public Council of International Experts is a body comprised of foreign representatives to assist the High Qualification Commission of Judges of Ukraine in administering the qualifications evaluation of candidates for judicial offices in the High Anti-Corruption Court;

- The High Council of Justice is a state collegial body that considers the candidates for judicial office at the recommendation made by the High Qualification Commission of Judges of Ukraine;

- The President of Ukraine issues decrees to appoint a judge based on the recommendation of the High Council of Justice.

Regarding the appointment of Chief Judges, we hereby inform you that Article 20 of Law No. 1402-VIII stipulates that local court Chief Judge, his/her Deputy, court of appeal Chief Judge and his/her Deputies, high specialised court Chief Judge and his/her Deputies are elected by the judges of the relevant court from amongst themselves at their meeting by secret ballot and a simple majority of the total number of judges of that court, for a three-year term but not exceeding the term of office of a judge, following the procedure established by law.

The Chief Justice of the Supreme Court and his/her Deputy are elected and dismissed by the Plenum of the Supreme Court following the procedure established by this Law.

Thus, the Chief Justice of the Supreme Court is elected from amongst the justices of the Supreme Court for a four-year term and has a right to hold the position of the Chief Justice of the Supreme Court for not more than two consecutive terms.

The procedure for the selection of the Chief Justice of the Supreme Court and his/her dismissal is stipulated by the Regulation of the Plenum of the Supreme Court approved by that Plenum. The procedure thus established can be amended no later than six months before the expiry of the term of office of the Chief Justice of the Supreme Court (Article 40 of Law No. 1402-VIII).

The powers of the Chief Judges of the courts of the first instance, courts and appeals and cassation courts are as described below.

As stipulated by Article 24 of the Law of Ukraine “On the Judiciary and the Status of Judges”, the **local court chief judge**:

- 1) represents the court as a body of state power in relations with other public authorities, local self-government authorities, private individuals and legal entities;
- 2) defines the administrative responsibilities of the local court Deputy Chief Judge;
- 3) controls the performance of the court staff, approves the appointments to the position of chief of court staff, deputy chief of court staff, and makes proposals to apply incentive or disciplinary measures to the chief of court staff or his/her deputy, in accordance with law;
- 4) issues corresponding orders following termination of a judge’s mandate, or following a judicial appointment act, act of transfer of a judge, or act of dismissal from judicial office;
- 5) notifies the High Qualification Commission of Judges of Ukraine and the State Judicial Administration of Ukraine, including through the website of the judicial authorities, about any vacant judicial offices in the court within three days upon the date of opening of these vacant positions;
- 6) ensures that the decisions taken in the local court meetings are implemented;
- 7) organises records-keeping of the court statistics and provides information and analytical support to the judges of the court to improve the quality of court proceedings;
- 8) facilitates compliance with the requirements for the professional development of the local court judges;
- 9) submits proposals regarding the number and personal identities of investigating judges for the consideration of the court meeting;
- 10) performs other duties established by law.

As stipulated by Article 29 of the Law of Ukraine “On the Judiciary and the Status of Judges”, the **chief judge of the court of appeal**:

1) represents the court as a body of state power in relations with other public authorities, local self-government authorities, private individuals and legal entities;

2) defines the administrative responsibilities of the Deputies of the Chief Judge of the court of appeal;

3) controls the performance of the court staff, approves the appointments to the position of chief of court staff, deputy chief of court staff, and makes proposals to apply incentive or disciplinary measures to the chief of court staff or his/her deputy, in accordance with the law;

4) issues corresponding orders following termination of a judge’s mandate, or following a judicial appointment act, act of transfer of a judge, or act of dismissal from judicial office;

5) notifies the High Qualification Commission of Judges of Ukraine and the State Judicial Administration of Ukraine, including through the website of the judicial authorities, about any vacant judicial offices in the court of appeal within three days upon the date of opening of these vacancies;

6) ensures that the decisions taken in the meetings of the court of appeal are implemented;

7) organises records-keeping and analysis of the court statistics, organises the analysis and summing up of the case law, provides information and analytical support to the judges of the court to improve the quality of court proceedings;

8) facilitates compliance with the requirements to the qualifications and professional development of the judges of the court of appeal;

9) exercises the powers of an investigating judge and designates a judge (judges) from amongst the judges of the court of appeal to exercise such powers in cases stipulated by the procedural law;

9-1) in accordance with the Law of Ukraine “On Intelligence”, exercises the powers of a judge authorised to perform judicial control over the protection of the rights, freedoms and interests of individuals during intelligence-gathering activities, and/or designates a judge (judges) from amongst the judges of the court of appeal to exercise these powers while the approval to perform intelligence-gathering activities is under consideration;

10) performs other duties established by law.

As stipulated by Article 34 of the Law of Ukraine “On the Judiciary and the Status of Judges”, the **chief judge of the high specialised court**:

1) represents the court as a body of state power in relations with other public authorities, local self-government authorities, private individuals and legal entities, judicial bodies of other states, as well as international organisations;

2) defines the administrative responsibilities of the Deputies of the Chief Judge of the high specialised court;

3) controls the performance of the court staff, approves the appointments to the position of chief of court staff, deputy chief of court staff, and makes proposals to apply incentive or disciplinary measures to the chief of court staff or his/her deputy, in accordance with the law;

4) issues corresponding orders following termination of a judge's mandate, or following a judicial appointment act, act of transfer of a judge, or act of dismissal from judicial office;

5) notifies the High Qualification Commission of Judges of Ukraine and the State Judicial Administration of Ukraine, including through the website of the judicial authorities, about any vacant judicial offices in the court within three days upon the date of opening of these vacant positions;

6) ensures that the decisions taken in the meetings of the high specialised court are implemented;

7) organises records-keeping and analysis of the court statistics, organises the analysis and summing of up the case law, provides information and analytical support to the judges of the court to improve the quality of court proceedings;

8) facilitates compliance with the requirements to the qualifications and professional development of the judges of the high specialised court;

9) performs other duties established by law.

As stipulated by Article 39 of the Law of Ukraine "On the Judiciary and the Status of Judges", the **Chief Justice of the Supreme Court**:

1) represents the Supreme Court as the highest court in the judicial system of Ukraine in relations with other public authorities, local self-government authorities, private individuals and legal entities, judicial bodies of other states, as well as international organisations;

2) defines the administrative responsibilities of the Deputy Chief Justice of the Supreme Court;

3) convenes the Plenum of the Supreme Court; recommends candidates for position the of Secretary of the Plenum for the consideration of the Plenum; presents issues for the consideration of the Plenum, and presides at the Plenum meetings;

4) controls the performance of the Supreme Court staff, approves the appointments to the position of chief of staff, his/her first deputy, makes proposals to apply incentive or disciplinary measures to the chief of staff or his/her first deputy, in accordance with the law;

5) informs the Plenum of the Supreme Court about the activities of the Supreme Court;

6) performs other duties established by law.

Regarding the appointment of prosecutors

Article 29 of Law of Ukraine 1697-VII stipulates that the selection of candidate prosecutors and their appointment is carried out in line with the procedure established by the Law and includes:

1) the decision of the body in charge of disciplinary proceedings on the selection of candidates for the prosecutorial positions that is published on the official website of the body in charge of disciplinary proceedings and must contain a list of the requirements stipulated by this Law that a candidate prosecutor must meet, as well as a list of documents to be submitted to the body in charge of disciplinary proceedings, and the application deadline;

2) submission of the application and documents determined by the Law to the body in charge of disciplinary proceedings by the individuals wishing to become prosecutors;

3) the body in charge of criminal proceedings checking the compliance of individuals with the requirements imposed on candidate prosecutors based on the documents submitted by them;

4) passing of a qualification examination by individuals meeting the requirements established for candidate prosecutors;

5) the body in charge of disciplinary proceedings publishing on its official website the list of candidates who have successfully passed the qualification examination;

6) the body in charge of disciplinary proceedings organizing the vetting of candidates who have successfully passed the qualification examination;

7) the body in charge of disciplinary proceedings preparing rating lists of candidate prosecutors from among the individuals who have successfully passed the qualification examination and have been vetted, and adding them to the succession pool to fill in vacant prosecutorial positions;

8) special training is taken by candidate prosecutors at the Training Centre for Prosecutors of Ukraine;

9) in case of vacant prosecutorial positions, the body in charge of disciplinary proceedings announcing a competitive selection among the candidates who have been added to the succession pool and have undertaken special training;

10) the body in charge of disciplinary proceedings holding a competitive selection to fill vacant prosecutorial positions based on the candidates' rating;

11) a recommendation submitted by the body in charge of disciplinary proceedings to the head of a district public prosecutor's office regarding the appointment of a candidate to the prosecutorial position;

12) appointment of [successful] candidates to prosecutorial positions;

13) taking the prosecutor's oath by [successful] candidates.

Based on the results of the competitive selection process, the body in charge of disciplinary proceedings sends a submission to the head of a relevant public prosecutor's office proposing that a candidate prosecutor who applied for a position in that public prosecutor's office be appointed to the prosecutorial position.

Based on findings of the vetting envisaged by anti-corruption legislation, the head of the public prosecutor's office issues an order appointing the candidate prosecutor to the public prosecutor's office not later than thirty days after the receipt of the appointment statement from the body in charge of disciplinary proceedings (Articles 34(5) and 35 of Law No. 1697-VII).

The rating selection system allows choosing the best candidate for the position of a prosecutor.

The body in charge of disciplinary proceedings holds a competitive selection to fill vacant prosecutorial positions based on candidates' ratings. When several candidates have equal scores, the preference is given to the candidate who has temporarily held a prosecutorial position or has longer work experience in the field of law.

91. Evaluation/Promotion: Is the performance of holders of judicial office assessed? If yes, describe the body in charge as well as the relevant methods and criteria. Do the promotion criteria contain factors such as ability/efficiency and integrity? What type of career system is established in Ukraine (based on merit, seniority, mixed)? Is there a fair and transparent system of promotion of judges and prosecutors in place? Are there legal remedies available before an independent tribunal against final decisions on the matter?

As for the procedure for evaluating judges

The performance of a judge is subject to evaluation during the following procedures:

- 1) qualification assessment — carried out in order to determine the ability of a judge to administer justice in the relevant court;
- 2) regular evaluation of a judge — carried out in order to identify the individual needs of the judge for improvement, encourage him/her to maintain qualifications at the appropriate level and promote professional growth.

The body that is responsible for the qualification assessment is the High Qualification Commission of Judges of Ukraine.

From the organisational point of view the regular evaluation is carried out by the High Qualification Commission of Judges of Ukraine, specifically by trainers of the National School of Judges of Ukraine during the training of judges, by judges of the relevant court, public associations and the judge via self-evaluation.

Qualification assessment is carried out during the following procedures:

- 1) competition for a judge position;
- 2) in relation to disciplinary sanctions;
- 3) assessment of compliance with the position of judges appointed (elected) to that position before the introduction of the above-mentioned type of assessment (until 2016).

The criteria for qualification assessment are

- 1) competence (professional, personal, social);
- 2) professional ethics;
- 3) integrity;

Means of qualification assessment:

- 1) exam:
 - anonymous testing;
 - anonymous practical task;
- 2) anonymous testing of personal moral and psychological qualities and general abilities;
- 3) research of the file and conducting an interview.

A judge's file must contain the following information

- 1) copies of all statements of the judge related to his/her career and documents attached thereto;
- 2) copies of all decisions made with regard to a judge by the High Qualification Commission of Judges of Ukraine, the Supreme Council of Justice, the High Council of Justice, judicial self-governing bodies, the President of Ukraine or other bodies that made relevant decisions;
- 3) information on the results of the judge's participation in competitions for the position of a judge;
- 4) information on the results of special training of a candidate for the position of a judge at the National School of Judges of Ukraine, training of a judge during his/her term as a judge;
- 5) information on the results of the judge's qualification assessment and regular assessment of the judge during his/her term in office;
- 6) information on the judge's teaching activities;
- 7) information on the judge holding administrative positions with copies of relevant decisions;
- 8) information on the election (appointment) of a judge to the bodies of judicial self-government, the High Qualification Commission of Judges of Ukraine, the Supreme Council of Justice, the High Council of Justice;
- 9) information on the effectiveness of judicial proceedings by a judge, in particular:
 - a) the total number of cases considered;
 - b) the number of revoked court decisions and the grounds for their revocation;
 - c) the number of decisions that became the basis for decisions by international judicial institutions and other international organisations, which established a violation by Ukraine of its international legal obligations;
 - d) the number of changed court decisions and the grounds for their change;
 - e) compliance with deadlines for consideration of cases;
 - f) the average time for the preparation of text of a reasoned decision;
 - g) judicial workload compared to other judges in the relevant court, region, taking into account the instance structure, specialization of the court and the judge;
- 10) information on the disciplinary liability of a judge, in particular:
 - a) the number of complaints against the actions of the judge;
 - b) the number of disciplinary proceedings and their results;
- 11) information on the judge's compliance with the rules of professional ethics:
 - a) whether the expenses and property of a judge and members of his/her family, as well as related persons correspond with declared income, including copies of relevant declarations submitted by a judge in accordance with the legislation in the field of corruption prevention;
 - b) other information on the judge's compliance with the requirements of the legislation in the field of corruption prevention;

c) information on the judge's compliance with the rules of judicial ethics;

12) information on the judge's compliance with the criterion of integrity, in particular, whether the expenses and property of a judge and members of his/her family correspond with declared income, including copies of relevant declarations submitted by a judge in accordance with this Law and the legislation in the field of corruption prevention;

13) declarations of family ties of a judge and declarations of integrity of a judge;

14) the results of tests on the judge's compliance with the criteria for qualification assessment (if any);

15) results of other methods for proving the judge's compliance with the criteria of qualification assessment (if applicable);

16) the conclusion of the Public Council of Integrity (if any);

17) other information and data which can be used to establish the judge's compliance with the criteria of qualification assessment, as well as any other information about the judge recognized by the decision of the High Qualification Commission of Judges of Ukraine as information that should be included in the judge's file.

A questionnaire is used to conduct a regular evaluation of a judge.

During such an evaluation, the following in particular is accessed:

1) the level on which the judge mastered certain knowledge, skills, abilities;

2) analytical skills, ability to evaluate information;

3) ability to interact with colleagues (ability to negotiate, work in a team, work under pressure, etc.);

4) communication skills (drafting documents, speech, etc.);

5) strengths of the judge;

6) recommendations of the judge with regard to areas which require self-improvement or additional training.

The results of the regular evaluation of a judge are the subject of research during the qualification evaluation.

Ukraine uses a mixed system of career advancement based on the results of qualification evaluation (taking into account the judge's merits and experience).

The system of career advancement in Ukraine is absolutely open:

1) the judge's file is open for public, except for information with limited access (passport details, addresses of property, medical information, information about minor children, etc.);

2) all stages of a judge's career are broadcast in real time on the Internet;

3) the results of the evaluation are published on the website of the High Qualification Commission of Judges of Ukraine immediately after they become known;

4) national and international experts are involved in the qualification evaluation procedure.

Currently, the Procedure for regular evaluation of judges has not been approved in due to, in particular, hostilities on the territory of Ukraine. A draft of this procedure was published on the official website of the High Qualification Commission of Judges of Ukraine in order to receive proposals with regard to its content.

A judge (candidate for the position of a judge) who does not agree with the decision of the High Qualification Commission of Judges of Ukraine with regard to his/her qualification evaluation may appeal against this decision in accordance with the Code of Administrative Procedure of Ukraine (to the Administrative Court of Cassation within the Supreme Court).

The decision of the High Qualification Commission of Judges of Ukraine, made based on the results of the qualification evaluation, may be appealed against and revoked only on the following grounds:

1) members of the High Qualification Commission of Judges of Ukraine, which conducted the qualification evaluation, did not have the authority to conduct it;

2) the decision has not been signed by any of the members of the High Qualification Commission of Judges of Ukraine who conducted the qualification evaluation;

3) the judge (candidate for the position of judge) was not duly notified of the qualification evaluation — if failure to confirm judge's (candidate for the position of judge) ability to administer justice in the respective court was based on the fact that he/she did not appear for qualification evaluation;

4) the decision does not contain a reference to the grounds for its adoption as determined by law or the reasons due to which the Commission came to the relevant conclusions.

The judge is promoted, namely employed as a judge in the Court of Appeal or the Supreme Court, on a competitive basis on general grounds, in particular, taking into account the results of the judge's integrity evaluation. The judge submits the declaration of integrity annually, and integrity is verified during the qualification evaluation, among other things.

92. Irremovability of judges: Does the system foresee the principle of “irremovability” of judges and prosecutors? Are there sufficient legal safeguards regarding the transfer of judges without their consent? If such transfers are allowed, can judges be required to move between courts and regions without their consent? Who and how is the decision to move a judge without consent made? Can judges appeal final decisions of transfer?

In accordance with the provisions of Article 126 of the Constitution of Ukraine, a judge holds office for an indefinite period.

Article 48 of the Law No. 1402-VIII provides that the independence of a judge is ensured, in particular, by the irremovability of judges.

In accordance with the provisions of Article 53 of Law No. 1402-VIII, a judge is guaranteed to remain a judge until he or she reaches the age of sixty-five, except in cases of dismissal or termination of a judge in accordance with the Constitution of Ukraine and this Law.

A judge may not be transferred to another court without his/her consent, except for the following:

- in case of reorganisation, liquidation or suspension of operation of the court;
- within the course of disciplinary action.

Article 82 of Law No. 1402-VIII provides that a judge may be transferred, including temporarily as a business trip, to a position of a judge in another court by the Supreme Council of Justice in the manner prescribed by law.

Transfer of a judge to the position of a judge in another court is carried out on the basis and within the framework of the recommendation of the High Qualification Commission of Judges of Ukraine submitted following the competition to fill the vacant position of a judge in accordance with Article 79 of this Law.

Transfer of a judge to the position of a judge in another court of the same or lower level may be carried out without a competition only in cases of reorganisation, liquidation or suspension of operation of the court in which such a judge holds the position of a judge.

A judge is transferred to another court within the framework of disciplinary responsibility upon submission of the body that made the decision to subject the judge to disciplinary responsibility.

It should be noted that Article 72 of Law No. 1798-VIII provides that the decision of the Supreme Council of Justice to transfer a judge may be appealed against and revoked only on the following grounds:

- the Supreme Council of Justice which adopted the relevant decision did not have the authority to adopt it;

- the decision has not been signed by any of the members of the Supreme Council of Justice who participated in its adoption;

- the decision does not contain references to the grounds established by law for the transfer of a judge and the reasons due to which the Supreme Council of Justice came to the relevant conclusions.

Also, the Law No. 1697-VII stipulates that prosecutors in Ukraine have a single status regardless of the place of the prosecutor's office in the system of the Prosecutor's Office of Ukraine or the administrative position held by the prosecutor in the prosecutor's office.

The prosecutor is appointed indefinitely and may be dismissed, his/her powers may be terminated only on the grounds and in the manner prescribed by law (Articles 15, 16 of the Law No. 1697-VII).

In such case, the prosecutor may be transferred with his/her consent to another prosecutor's office, including the one of the highest level, to a vacant or temporarily vacant position. Transfer to a higher-level prosecutor's office is arranged based on the results of a competition, the procedure for which is determined by the relevant body responsible for disciplinary proceedings. The competition should include an assessment of the professional level, experience, moral and business qualities of the prosecutor and verification of his/her readiness to exercise powers in another body of the prosecutor's office, including the highest level.

The prosecutor can participate in the competition if he/she submits an application for transfer, as well as has relevant experience in the position of prosecutor, provided by paragraphs two and three of Article 27 of the Law No. 1697-VII. The relevant competition is organised by the relevant body carrying out disciplinary proceedings (Article 38 of the Law No. 1697-VII).

93. What procedure governs the allocation of judges to particular courts and regions? Who decides on such transfers? For which reasons (e.g. organisational, disciplinary)? Is an appeal against the decision possible?

In accordance with Article 19(6) of the Law No. 1402-VIII, the number of judges in a court (except the Supreme Court) is determined by the Supreme Council of Justice taking into account the advisory opinion of the State Judicial Administration of Ukraine, court workload and expenditures allocated in the State Budget of Ukraine for the maintenance of courts and remuneration of judges.

The High Qualifications Commission of Judges of Ukraine, among other things, keeps records of the number of positions of judges in courts, including vacancies; conducts the selection of candidates for appointment to the position of a judge, including organising special inspections of judges in accordance with the law; and arranges a qualifying examination; makes a recommendation on the transfer of a judge in accordance with this Law, except for cases when the transfer is a disciplinary sanction (Article 93(1) of the Law No. 1402-VIII).

It should be noted that the decision of the High Qualification Commission of Judges of Ukraine to call for the selection of candidates for the position of judge should contain the projected number of vacant positions of judges (Article 70(1)(1) of the Law No. 1402-VIII).

At the same time, the Supreme Council of Justice transfers judges from one court to another.

Business trip as a temporary transfer of a judge to another court of the same level and specialisation is carried out in the manner approved by the Supreme Council of Justice upon the proposal of the High Qualification Commission of Judges of Ukraine agreed on with the State Judicial Administration of Ukraine (Article 70 of the Law No. 1798-VIII).

In general, any appointment of a judge to a position is made based on his/her application (consent). There is no regional differentiation in Ukraine as such. A court, in particular a raion court, may open a vacancy for which a judge may apply, and only in this case may a judge hold the position of a judge in that court. The same applies to the transfer, because any transfer (including a temporary business trip) can be made only based on the application (consent) of the judge. There is only one exception — reorganization (liquidation) of the court.

94. Dismissal of judges/prosecutors: Please describe the exact procedures for the dismissal of judges and prosecutors (legal basis, competent authorities to launch the procedure, reasons for dismissal etc.). Which authorities have the power to propose (and who should be consulted) and to decide on the dismissal of judges/prosecutors and on the withdrawal of judges? Are there legal remedies against the final decisions on dismissal of individual judge/prosecutor?

As regards judges

According to the provisions of Article 126 of the Fundamental Law, a judge can be dismissed on the following grounds:

- inability to perform their duties due to health reasons;

- violation by the judge of the requirements for incompatibility of activities;

- substantial disciplinary misconduct, gross or systematic neglect of duties that is incompatible with the status of a judge or has demonstrated his/her incompatibility with the position held;

- submission of an application for voluntary resignation;

- refusal to transfer to another court in case of liquidation or reorganisation of the court in which the judge holds office;

- breach of the obligation to confirm legitimacy of property source.

In addition, Article 126 of the Constitution of Ukraine sets out a list of grounds on which the powers of a judge are terminated. Such grounds are:

- when a judge reaches the age of sixty-five;

- termination of Ukrainian citizenship or acquisition by a judge of citizenship of another state;

- entry into force of a court decision declaring a judge missing or dead, declaring him/her fully or partially legally incapable;

- death of a judge;

- coming into force of a verdict of guilty for a judge for committing a crime.

In addition, the transitional provisions of the Constitution of Ukraine (paragraphs 16-1) contain another temporary ground for dismissal “whether a judge who was appointed for a term of five years or elected as a judge indefinitely before the entry into force of the Law of Ukraine “On Amendments to the Constitution of Ukraine (on Justice)” is suitable for this position should be assessed in the manner prescribed by law. If as a result of such an assessment the judge is found unsuitable based on the criteria of competence, professional ethics or integrity, or the judge’s refusal to take part in such an assessment, is grounds for dismissal of a judge. The procedure and exhaustive grounds for appealing against the decision on dismissal of a judge based on the results of the assessment is established by law.”

The relevant exhaustive list of grounds for dismissal of a judge and termination of his/her powers is again stated in detail in Law No. 1402-VIII.

That is, an exhaustive list of grounds for dismissal of a judge is provided in the Constitution of Ukraine and it cannot be expanded at the level of law.

Article 112 of Law No. 1402-VIII provides that a judge may be dismissed only on the grounds specified in Article 126(6) of the Constitution of Ukraine.

The decision to dismiss a judge is made by the Supreme Council of Justice in accordance with the procedure established by the Law of Ukraine “On the Supreme Council of Justice”.

In accordance with Articles 55 and 56 of the Law No. 1798-VIII the dismissal of a judge on the grounds specified in Article 126(6)(1) and (6)(3) of the Constitution of Ukraine is considered at a meeting of the Supreme Council of Justice.

The dismissal of a judge on the grounds specified in Article 126(6)(2) of the Constitution of Ukraine (violation of the requirements for incompatibility of activities), is considered by the Supreme

Council of Justice within the framework of the consideration of the case on violation of the requirements for incompatibility of activities set forth in Chapter 3 of Section II of the Law No. 1798-VIII.

The issue of dismissal of a judge on the grounds specified in Article 126(6)(3) and (6)(6) of the Constitution of Ukraine (substantial disciplinary misconduct, gross or systematic neglect of duties that is incompatible with the status of a judge or has demonstrated his/her incompatibility with the position held; breach by the judge of the obligation to confirm legitimacy of property source), is considered by the Supreme Council of Justice based on the submission on the dismissal of the judge made by the Disciplinary Chamber.

When considering the issue of dismissal of a judge on the grounds specified in Article 126(6)(5) of the Constitution of Ukraine (refusal to transfer to another court in case of liquidation or reorganisation of the court in which the judge holds office), the Supreme Council of Justice confirms that the judge refused to be transferred to another court (including the fact of non-compliance with the relevant decision on transfer) based on a statement of a judge or a notification of the High Qualification Commission of Judges of Ukraine on such a statement of a judge, or a notification of the president of the relevant court or his/her deputy on the judge's failure to appear in court to administer justice.

Based on the results of consideration of the issue of dismissal of a judge on the grounds specified in Article 126(6) of the Constitution of Ukraine, the Supreme Council of Justice adopts a reasoned decision.

Article 57 of Law No. 1798-VIII provides that the decision of the Supreme Council of Justice to dismiss a judge on the grounds specified in Article 126(6)(1), (2), (4) of the Constitution of Ukraine may be appealed and revoked on the grounds specified by law.

The decision of the Supreme Council of Justice to dismiss a judge on the grounds specified in Article 126(6)(3) and (6) of the Constitution of Ukraine may be appealed and revoked only on the following grounds: the composition of the Supreme Council of Justice which adopted the relevant decision did not have the authority to adopt it; the decision was not signed by any of the members of the Supreme Council of Justice who participated in its adoption; the decision does not contain references to the statutory grounds for dismissal of a judge and the reasons on which the Supreme Council of Justice reached the relevant conclusions.

The decision of the Supreme Council of Justice to dismiss a judge on the grounds specified in Article 126(6)(5) of the Constitution of Ukraine may be appealed and revoked on the grounds specified in paragraph two of this article, or if the judge was not duly notified of the meeting of the Supreme Council of Justice where the decision was made.

At the same time, the Grand Chamber of the Supreme Court has implemented a well-established practice according to which the Supreme Court has full jurisdiction to review a decision in a disciplinary case. When considering the issues of reviewing the decision on disciplinary measures the Grand Chamber of the Supreme Court applied the legal position of the European Court of Human Rights formed by this court in the case of *Oleksandr Volkov v. Ukraine*. interpreting this decision as one that gives the Grand Chamber the power to exercise full rather than limited judicial control over the disciplinary liability of judges.

As the Grand Chamber notes in the relevant judgments concerning the limits of the review of cases, according to the case law of the European Court of Human Rights, “even if the judicial body that makes decision in disputes with regard to “rights and obligations of a civil nature”, in some respects does not comply with Article 6(1) of the Convention, it is not considered a violation of the Convention if the proceedings in the above body are “subsequently subject to review by a judicial authority having full jurisdiction and in turn guarantees compliance with Article 6(1) of the Convention”. With regard to a complaint under Article 6 of the Convention, in order to determine whether the court of second instance had “full jurisdiction” or whether it ensured “sufficient review” to remedy the lack of independence of the court of first instance, such factors as the subject matter of the judgment, way in which the decision was made, and the content of the dispute, including the desired and valid grounds for appeal have to be considered (decision of the European Court of Human Right of 9 January 2013 in the case of Oleksandr Volkov v. Ukraine, point 123).

The Grand Chamber currently has the power to review the grounds for disciplinary proceedings and ensure compliance with the procedure which Supreme Council of Justice uses for disciplinary proceedings, and therefore, despite the existing legal limitations on its powers, exercises full judicial control over the decision to bring judges to disciplinary responsibility.

As regards prosecutors

General conditions of dismissal of a prosecutor, termination of his/her powers in office are laid down in Article 51 of the Law No. 1697-VII.

Thus, in accordance with that article, the prosecutor can be dismissed in the following cases:

- 1) inability to perform their duties due to health reasons;
- 2) violation by the prosecutor of the requirements for incompatibility of activities provided for in [Article 18](#) of this Law;
- 3) coming into force of a court’s decision on bringing a prosecutor to administrative responsibility for corruption-related offence;
- 3⁻¹) the entry into force of the court decision on recognition of the prosecutor’s assets, or assets acquired on his/her behalf by other persons, or as otherwise provided in [Article 290](#) of the Civil Procedure Code of Ukraine, as unjustified and their recovery as revenue of the state;
- 4) impossibility of transfer to another position due to direct subordination to a connected person;
- 5) a judgement of conviction against him/her takes effect;
- 6) termination of citizenship of Ukraine or acquisition of citizenship of another state;
- 7) submission of an application for voluntary resignation;
- 8) impossibility to further remain in a position that was temporarily vacant;
- 9) liquidation or reorganisation of the prosecutor’s office in which the prosecutor holds office, or in case of reduction of the number of prosecutors of the prosecutor’s office.

Persons who make the decision on dismissal of the prosecutor in accordance with this Law:

- 1) the Prosecutor General — with regard to the Prosecutor General’s Office;

1¹) Head of the Specialized Anti-Corruption Prosecutor's Office — with regard to the prosecutors of the Specialized Anti-Corruption Prosecutor's Office;

2) head of oblast prosecutor's office — with regard to the prosecutors of the relevant oblast prosecutor's office and prosecutors of district prosecutor's offices, which are located within the administrative and territorial unit falling under the territorial jurisdiction of the relevant oblast prosecutor's office.

Law No. 1697-VII also provides for the termination of the prosecutor's powers in the following cases: when a prosecutor reaches the age of sixty-five, death, when a prosecutor is declared missing or dead, by the decision of the relevant body that carries out disciplinary proceedings against prosecutors that further holding a position as a prosecutor is impossible.

The request for dismissal of a prosecutor is submitted by the Supreme Council of Justice or the relevant body responsible for disciplinary proceedings against prosecutors, in cases specified by law.

The decision to dismiss a prosecutor is made by a person authorized by this Law to make a decision on dismissal of the prosecutor only on based on and within the framework of the submission of the relevant body responsible for disciplinary proceedings against prosecutors or the Supreme Council of Justice (Article 62 of the Law No. 1697-VII).

In addition, the powers of the prosecutor are suspended if:

1) the prosecutor is sent on a business trip to the Supreme Council of Justice, the relevant body responsible for disciplinary proceedings, the Prosecutor's Training Center of Ukraine, another body to participate in its work on a permanent basis — until his return from the trip;

2) the prosecutor is dismissed from an administrative position — until a decision is made to appoint him/her to another position in the prosecutor's office in which he/she held an administrative position, transfer him/her to another body of the prosecutor's office or dismiss him/her from the position of prosecutor;

3) the prosecutor is suspended from duty during disciplinary proceedings against him/her — until such prosecutor is dismissed, the decision to suspend him/her from duty for the time of disciplinary proceedings against him/her is revoked, such disciplinary proceedings are closed or disciplinary sanctions are imposed;

4) the prosecutor is suspended from duty in the manner prescribed by the [Law of Ukraine](#) "On Prevention of Corruption" — until the court case on an administrative corruption-related offense is closed;

5) the prosecutor is suspended from duty in the manner provided for in [Articles 154-158](#) of the Criminal Procedure Code of Ukraine — until such injunctive measure in the criminal proceedings as suspension from duty is cancelled based on a respective ruling (Article 64 of the Law "On the Prosecutor's Office").

95. Can decisions by a disciplinary body be appealed before a Court?

In accordance with Article 51 of Law No. 1798-VIII, the judge with regard to which the relevant decision has been made has the right to appeal against the decision of the Disciplinary Chamber in a disciplinary case before the Supreme Council of Justice.

The complainant has the right to appeal the decision of the Disciplinary Chamber in a disciplinary case before the Supreme Council of Justice with the permission of the Disciplinary Chamber for such an appeal.

An appeal against the decision of the Disciplinary Chamber may be filed only with the Supreme Council of Justice.

The Supreme Council of Justice considers appeals against decisions of the Disciplinary Chamber no later than thirty days from the date of their receipt.

Based on the results of consideration of the appeal against the decision of the Disciplinary Chamber, the Supreme Council of Justice has the right to:

- cancel in full the decision of the Disciplinary Chamber to impose disciplinary sanctions on a judge and close disciplinary proceedings;

- cancel in part the decision of the Disciplinary Chamber to impose disciplinary sanctions on a judge and adopt a new decision;

- cancel in whole or in part the decision of the Disciplinary Chamber to impose disciplinary sanctions on a judge and adopt a new decision;

- change the decision of the Disciplinary Chamber by imposing another type of disciplinary sanction;

- leave the decision of the Disciplinary Chamber unchanged.

At the same time, Article 52 of Law No. 1798-VIII provides that a decision of the Supreme Council of Justice adopted as a result of consideration of an appeal against a decision of the Disciplinary Chamber may be appealed and revoked only on the following grounds:

- the Supreme Council of Justice which adopted the relevant decision did not have the authority to adopt it;

- the decision has not been signed by any of the members of the Supreme Council of Justice who participated in its adoption;

- the judge was not duly notified of the meeting of the Supreme Council of Justice — if any of the decisions specified in Article 51(10)(2)–(5) of this Law was adopted;

- the decision does not contain references to the legal grounds for disciplinary liability of judges and the reasons due to which the Supreme Council of Justice came to the relevant conclusions.

The judge with regard to whom the relevant decision was made and the complainant, if the decision of the Supreme Council of Justice was made based on his complaint, have the right to appeal against the decision of the Supreme Council made as a result of the consideration of an appeal against the decision of the Disciplinary Chamber.

A similar procedure for appealing against the decision of the relevant body to bring the prosecutor to disciplinary responsibility is provided for in Articles 53 and 54 of the Law No. 1798-VIII.

As noted above, the Grand Chamber of the Supreme Court reviews the materials of the appeal and the materials of the disciplinary proceedings against the judge, comprehensively and fully clarifies all the factual circumstances of the case on which the appeal is based.

The Grand Chamber considers it possible to consider the complainant's claims not on formal grounds, but to carefully examine whether with regard to the disputed decision the Supreme Council of Justice complied with the requirement to reference legal grounds for disciplinary liability of the judge and the reasons due to which the Supreme Council of Justice came to the relevant conclusions.

96. Can cases be taken away from judges and if so, by whom and under which circumstances? Has the take-over of cases been proscribed in Law? If yes, please describe its functioning? Can judges complain, and to whom, about the taking-away of cases?

In accordance with the provisions of the procedure codes, if one judge or panel of judges initially started considering a case, it must be considered by the same judge or panel of judges, except in cases that make it impossible for a judge to participate in the case and other cases provided by this Code (provisions of Article 33 of the Civil Procedure Code, Article 32 of the Commercial Procedure Code, Article 35 of the Administrative Offences Code).

Procedure codes (Chapter 3 of Section I of the Civil Procedure Code, Chapter 3 of Section I of the Commercial Procedure Code, Chapter 3 of Section I of the Administrative Offences Code, § 6 of Chapter 3 of Section I of the Criminal Procedure Code) stipulate that a judge may not consider a case and is subject to recusal (self-recusal) if:

he/she is a family member or an immediate relative (husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandfather, grandmother, grandson, granddaughter, adoptive parent or an adoptee, guardian or a custodial parent, family member or an immediate relative of the above persons) of a party or other participants in the proceedings, or persons who provided legal assistance to the party or other participants in the case, or another judge who is a member of the court hearing or considering the case;

he/she participated in the case as a witness, expert, specialist, translator, representative, lawyer, court clerk or provided legal assistance to a party or other participants in the case in this or other cases;

he/she is directly or indirectly interested in the case;

the procedure for appointing a judge to the case was violated;

there are other circumstances that cast doubt on the impartiality or objectivity of the judge.

Persons who are family members, relatives of each other or relatives of the spouses cannot be part of the court.

With regard to the consideration of criminal proceedings, there are circumstances that preclude the participation of an investigating judge, judge or juror in criminal proceedings (Article 75 of the Criminal Procedure Code).

Thus, an investigating judge, judge or juror may not participate in criminal proceedings:

if he/she is an applicant, a victim, a civil plaintiff, a civil defendant, a close relative or family member of the investigator, prosecutor, suspect, accused, applicant, victim, civil plaintiff, civil defendant;

if he/she participated in the proceedings as a witness, expert, specialist, probation officer, interpreter, investigator, prosecutor, defense counsel or representative;

if he/she personally, his/her close relatives or members of his/her family are interested in the results of the proceedings;

if there are other circumstances that cause doubt in his/her impartiality;

in case of violation of the procedure for choosing the investigating judge, the judge for consideration of the case.

Related persons may not be members of the court conducting criminal proceedings.

Disagreement of a party with procedural decisions of a judge, decision or dissenting opinion of a judge in other cases, publicly expressed opinion of a judge on a legal issue cannot be grounds for recusal (provisions of Article 36 of the Civil Procedure Code, Article 37 of the Commercial Procedure Code, Article 36 of the Administrative Offences Code).

In addition, Article 37 of the Civil Procedure Code, Article 36 of the Commercial Procedure Code, Article 37 of the Administrative Offences Code and Article 76 of the Criminal Procedure Code define cases of inadmissibility of repeated participation of a judge in the proceedings.

Thus, the provisions of these rules provide that:

a judge who participated in the decision of the court of first instance may not participate in the consideration of the same case in the courts of appeal and cassation, as well as in a new hearing by the court of first instance after revocation of the court's decision or decision to close the case;

a judge who participated in the settlement of a dispute in a case involving a judge may not participate in the consideration of the case on merits or in the review of any court decision adopted with regard thereto;

a judge who participated in the decision of the court of appeal may not participate in the consideration of the same case in the courts of cassation or first instance, as well as in a new hearing after revocation of the decision of the court of appeal;

a judge who participated in the review of the case in the court of cassation may not participate in the consideration of this case in the court of first instance or court of appeal, as well as in its new consideration after revocation of the decision of the court of cassation;

a judge who participated in a case in which the decision was subsequently overturned by a higher court may not take part in the consideration of the application to review the court's decision in this case with regard to newly discovered circumstances;

a judge who participated in the decision of the court of first instance, courts of appeal and cassation may not participate in the consideration of the application to review the court's decision with regard to the exceptional circumstances in this case;

a judge who participated in the criminal proceedings during the pre-trial investigation may not participate in the same proceedings in the court of first instance, courts of appeal and cassation, except in cases when the decision being reviewed is the decision of the court of first instance on issuing pre-trial restraint in the form of detention, changing another measure of pre-trial restraint to a measure of restraint in the form of detention or extending the term of detention, which was decided during the proceedings in the court of first instance before the court decision on merits.

In the abovementioned cases the judge must resort to self-recusal.

Parties to the case may use the same grounds for the recusal of a judge.

If the appeal for recusal of a judge who is considering the case alone is satisfied, the case is considered in the same court by another judge, who is assigned in accordance with the procedure established by the procedure codes.

If the appeal for recusal of one of the judges or the entire court is satisfied, if the case is considered by a panel of judges, the case is considered in the same court by the same number of judges without the judge subject to recusal or by another panel of judges assigned in accordance with the procedure established by the procedure codes.

If the appeal for recusal (self-recusal) of the investigating judge is satisfied, the criminal proceedings is transferred to another investigating judge.

If after the recusals (self-recusals) or under the provisions of the procedure codes, it is impossible to form a new court to consider the case, the president of court orders the case to be transferred to another court determined in accordance with procedure law; the issue of transferring criminal proceedings to another court is resolved in the manner prescribed by the Criminal Procedure Code.

Therefore, neither the president of court nor anyone else can take the case away from the judge, and such an issue is resolved only under the procedure law within the framework of recusal (self-recusal).

97. The allocation of incoming cases within a court/prosecution office: Are general objective criteria for distributing cases within a court pre-established, thus preventing that the allocation of cases is influenced by the wishes of any party to a case or any person concerned with the results of the case (e.g. law, well-established practice)? How are cases allocated (e.g. by court president/chief prosecutors, by court staff, random allocation, pre-defined order) and which authority supervises the allocation?

The judge considers cases received in accordance with the procedure for court case distribution established in accordance with the law. The distribution of court cases between judges cannot be influenced by the wishes of the judge or any other person (Article 8 of Law No. 1402-VIII).

The distribution of court cases in Ukraine is automated and is made on a random basis. The order of distribution of court cases is regulated by the Law No. 1402-VIII, procedure legislation, Regulation on automated court document management system, approved by the Council of Judges of Ukraine No. 30 of 26.11.2010 (as amended), Regulation on the functioning of certain subsystems of the Single Judicial Information and Telecommunications System, adopted by the decision of the Supreme Council of Justice No. 1845/0/15-21 of 17.09.2021.

In accordance with Article 15 of the Law No. 1402-VIII a judge or panel of judges to consider a particular case is appointed by the Single Judicial Information and Telecommunications System in the manner prescribed by procedure law (and before it has become operational — by the automated court record-keeping system).

Cases are distributed automatically, taking into account the specialization of judges, the workload of each judge, the prohibition for a judge who took part in adopting a court decision to participate in the review of those decisions (except in case of a review of newly discovered circumstances), judges on leave, absent due to temporary incapacity for work, on business trips, as well as other cases provided by law, due to which a judge cannot administer justice or participate in court proceedings.

The system ensures the appointment of a judge and, in the case of a collegial hearing, a judge-rapporteur for a particular case, as well as in other cases determines the composition of the court at any stage of the trial, taking into account specialization and uniform workload for each judge on a random basis in chronological order of receipt of cases.

The court cases are distributed in court on the day of their registration, on the basis of information entered into the system by an authorized person from the court secretariat responsible for the automated distribution of court cases.

If one judge or panel of judges initially started considering a case, it must be considered by the same judge or panel of judges, except in cases that make it impossible for a judge to participate in the case and other cases provided by the procedure legislation of Ukraine.

The automated assignment of a judge is not used only if there are circumstances that objectively made it impossible for such system to function and last for more than five working days. Specifics of the distribution of court cases in such an event are determined by the Regulations on the Single Judicial Information and Telecommunications System.

In addition, prosecutors for specific criminal proceedings are appointed by heads of the respective prosecutor's offices, their first deputies and deputies in accordance with the division of responsibilities and within the powers provided by the Criminal Procedure Code.

In order to effectively organize the activities of prosecutors at all levels in criminal proceedings, the Office of the Prosecutor General adopted a sectoral order of 30.09.2021 No. 309 "On Organising Activities of Prosecutors in Criminal Proceedings".

Pursuant to the provisions of this order, heads of prosecutor's offices, their first deputies and deputies according to the division of responsibilities must take into account a number of factors when appointing a prosecutor for a particular criminal proceeding.

In particular, those factors are: the territorial jurisdiction of the prosecutor's office; the number of investigators conducting pre-trial investigations in specific criminal proceedings, their work experience and specialisation; the number of criminal proceedings within the framework of which the relevant prosecutor works independently and as part of a group of prosecutors, work experience, specialisation; the number of prosecutors in particular criminal proceedings; workload (complexity of criminal proceedings where the prosecutor provides procedural guidance, including multi-episodes, public profile, gravity of the crime, place where it was committed, the need for priority, urgent investigative (search) activities and covert investigative (search) activities, etc.).

At the same time, for complex criminal proceedings the head of the prosecutor's office, his/her first deputy and deputy in accordance with the division of responsibilities assigns a group of prosecutors.

In such cases, a group of prosecutors from prosecutor's offices at various levels is formed.

Also, a prosecutor is appointed in the group of prosecutors (a lead of the group of prosecutors), who acts as a leader of the group, is responsible for general planning, division of responsibilities and workload among group members, their access to accumulated information, exchange of necessary information, control over timeliness and completeness of procedural and investigative actions, taking into account the motivated positions of the group's prosecutors on compliance with the law, fulfilling the tasks of criminal proceedings, responding to violations of the requirements of criminal procedure law.

98. What is the salary scale for judges and prosecutors and does it include a system of rewards/ bonuses? How does this compare with other professions (high-ranking civil servants, attorneys, lawyers in private enterprises, etc.) and to the average income? How is the salary of judges and prosecutors set and adjusted in practice? Who is deciding about it? Is information about the system of remuneration publicly available?

As regards judges

In accordance with the provisions of Article 135 of the Law No. 1402-VIII, judges' salaries are regulated by this Law and may not be established by other legal and normative acts.

A judge's salary is paid to a judge from the date he/she joins the relevant court, unless otherwise provided by this Law. The remuneration of judges shall consist of the basic salary and surcharges for: the length of service; holding of an administrative position in court; degree; work that involves the access to state secrets.

The basic amount of judicial salary is:

for judges of the local court — 30 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year (2102 UAH in 2022UAH);

for judges of a court of appeal, high specialised court — 50 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year;

for judges of the Supreme Court — 75 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year;

The following regional coefficients are additionally applied to the basic salary determined in part three of this article:

1.1 — if a judge administers justice in a court located in a settlement with a population of at least one hundred thousand people;

1.2 — if a judge administers justice in a court located in a settlement with a population of at least five hundred thousand people;

1.25 — if a judge administers justice in a court located in a settlement with a population of at least one million people.

Judges receive monthly additional pay for length of service in the amount of: 15 per cent of the base wage if the length of service is over 3 years, 20 percent — over 5 years, 30 percent — over 10 years, 40 percent — over 15 years, 50 percent — over 20 years, 60 percent — over 25 years, 70 percent — over 30 years, 80 percent — over 35 years.

Judges who hold the positions of deputy president of court, secretary, head of court chamber, secretary of plenum of the Supreme Court, Secretary of the Grand Chamber of the Supreme Court receive monthly additional pay in the amount of 5 per cent of the base wage of a judge of a relevant court, president of court — 10 per cent of the base wage of a judge of a relevant court.

Judges receive monthly additional pay for academic degree of candidate of sciences (philosophy doctor) in the amount of 15 per cent of the base wage, doctor of sciences — 20 per cent of the base wage.

Judges receive monthly additional pay for work requiring access to state secrets in the amount depending on the information secrecy level: information and the media ranked as “strictly confidential” — 10 per cent of the base wage of a judge in question; information and the media ranked as “confidential” — 5 per cent of the base wage of a judge in question.

Therefore, all components of a judge’s earnings are set out in the Law and no one has the opportunity to influence the respective payments. Information on such earnings is public and is also noted by judges in their declarations.

The expenditures to ensure the payment of judges’ wages are made under a separate code of economic classification of expenditures.

Information on the remuneration system is publicly available.

As regards prosecutors

In accordance with Article 81 of the Law No. 1697-VII prosecutors’ salaries are regulated by this Law and may not be established by any other legal and normative act.

The public prosecutor’s remuneration consists of the basic salary, bonuses and surcharges for: the length of service; holding of an administrative position as well as other benefits provided for in the legislation.

Payment of bonuses to prosecutors is governed by the procedure approved by the Prosecutor General, based on results of their performance demonstrated in a calendar year within the limits of bonuses fund, established in the amount not less than 10% of the base salaries and savings in the payroll fund.

Prosecutor's annual bonus cannot be more than 30% of his/her salary for a corresponding calendar year.

The basic salary of a public prosecutor at a district public prosecutor's office shall be equal to 15 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year.

From 01.01.2021, the basic salary of a public prosecutor at a district public prosecutor's office has been raised and is equal to 20 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year, and from 01.01.2022, it is equal to 25 subsistence minimums for able-bodied persons set as of 1 January of the relevant calendar year.

The basic salaries of other prosecutors are set in pro-rata to the basic salary of a district PPO prosecutor with the coefficient:

for the prosecutor of the regional prosecutor's office — 1.2;

for the prosecutor of the Prosecutor General's Office — 1.3.

The basic salary of a public prosecutor at the Specialized Anti-Corruption Prosecutor's Office cannot be less than the basic salary of the head of a structural subdivision of the central office of the National Anti-Corruption Bureau of Ukraine, which conducts pre-trial investigation.

Public prosecutors are paid a monthly surcharge for the length of service: for the service of more than one year — 10 percent of the basic salary, more than 3 years — 15 percent, more than 5 years — 18 percent, more than 10 years — 20 percent, more than 15 years — 25 percent, more than 20 years — 30 percent, more than 25 years — 40 percent, more than 30 years — 45 percent, and more than 35 years — 50 percent.

The procedure for payment of the monthly surcharge for the length of service is approved by the Cabinet of Ministers of Ukraine.

The Prosecutor's Office is financed from the State Budget of Ukraine, as well as other sources not prohibited by law, including in cases provided for by international treaties of Ukraine or international technical assistance projects registered in the prescribed manner (Article 89 of the Law No. 1697-VII).

99. Do judges / prosecutors receive non-monetary benefits such as free housing, real estate etc. or monetary compensations such as reimbursement of transport, meals, etc.? If yes, who decides on granting such benefits and upon which criteria? How does this compare with other civil servants? Who is deciding about it? Please describe all the benefits and/or compensations received by judges and prosecutors.

In accordance with Article 138 of the Law No. 1402-VIII after being appointment judges in need of improving their living conditions are provided with official housing near the place where the court is located by local self-governing bodies in the manner prescribed by the Cabinet of Ministers of Ukraine, unless otherwise provided by law.

Also, in accordance with Article 144 of the Law No. 1402-VII, a judge and members of his/her family are entitled to free medical care in public healthcare facilities. Family members of a judge may receive medical services in the same medical facilities as the judge.

Also, Article 83 of the Law No. 1697-VII provides that after being appointment prosecutors in need of improving their living conditions are provided with official housing near the place where the prosecutor's office is located.

Prosecutors and members of their families use free medical services provided by state healthcare establishments according to the procedure established by the Cabinet of Ministers of Ukraine. Family members of the prosecutor who live with him/her are treated in the same healthcare facilities as the prosecutor.

Law No. 1697-VII also provides that the prosecutor may receive financial aid for settling welfare issues in the amount not exceeding the average monthly salary of the prosecutor (like a civil servant).

Prosecutors are subject to compulsory state social insurance pursuant to the law on the compulsory state social insurance.

Prosecutors are provided with a separate workplace and the necessary means to work (Article 91 of the Law No. 1697-VII).

In addition, Law No. 1697-VII provides that the burial of a prosecutor who died in the line of duty or who has been dismissed from office who has died as a result of bodily injury or other damage to health related to the performance of official duties, is carried out at the expense of funds allocated to the prosecutor's office in the [manner and amount](#) established by the Cabinet of Ministers of Ukraine. The family of the deceased retains the right to receive housing on the terms and conditions that existed at the time of the prosecutor's death (Article 84 of Law No. 1697-VII).

100. Describe the legal regime of outside incomes of judges and prosecutors? Are there any limitations, regarding amount or other? Is there any code of ethics in general and in particular as regards gifts?

In accordance with the provisions of Article 54 of the Law No. 1402-VII, a judge may not combine his/her activity with any business activity, practice law, hold any other paid position, perform other paid work (except teaching, research or creative activities), or be a member of the governing body or supervisory board of the enterprise or for-profit organization.

Persons who own shares or other corporate rights or have other property rights or other property interests in the activities of any for-profit legal entity must transfer such shares (corporate rights) or other relevant rights to management of an independent third party (without the right to instruct such person to dispose of such shares, corporate or other rights, or to exercise the rights arising from them) for the duration on the position of judge. A judge may receive interest, dividends and other passive income from the property he/she owns.

The law provides that in order to establish the conformity of the judge's standard of living with his/her and his/her family members' property and income, the judge's way of living is monitored in accordance with the law. A judge's living may be monitored at the request of the High Qualifications Commission of Judges of Ukraine, the Supreme Council of Justice and in other cases specified by law. The results of a judge's living monitoring can also be used to assess a judge's compliance with

the rules of judicial ethics. The information obtained from the monitoring of the judge's living is included in the judge's file.

In order to monitor the living and income of judges, every year judges are required to submit a declaration of a person authorized to perform the functions of the state or local self-government. The comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government is carried out for each judge at least every five years (unless the law provides otherwise) as well as at the respective request of the High Qualification Commission of Judges of Ukraine or the High Council of Justice.

The judge also must annually submit a declaration of integrity of the judge, filling it out on the official website of the High Qualifications Commission of Judges of Ukraine. The form contains surname, name, patronymic of the judge, his/her place of work, position and statements on:

- conformity of the judge's standard of living with his/her and his/her family members' property and income;

- timely and comprehensive submission of a declaration of a person authorized to perform the functions of the state or local self-government, and the accuracy of the information declared in it;

- non-commission of corruption offenses;

- lack of grounds for disciplinary action against a judge;

- conscientious performance of duties of a judge and observance of his/her oath;

- non-interference in the administration of justice by other judges;

- passing the inspection of judges in accordance with the Law of Ukraine "On Restoration of Confidence in the Judiciary in Ukraine" and its results;

- lack of prohibitions set by the Law of Ukraine "On the Purge of Power".

The Declaration of Integrity of a judge may contain other statements aimed at verifying the judge's integrity.

The Declaration of Integrity of a judge is open to the public and is published on the official website of the High Qualification Commission of Judges of Ukraine.

If there is information available that may indicate the inaccuracy (including incompleteness) of the judge's statements in the declaration of integrity, the High Qualification Commission of Judges of Ukraine conducts an appropriate investigation.

Failure to submit, late submission of a provision of deliberately false (including incomplete) statements results in disciplinary action.

The Code of Judicial Ethics, approved by the XI Regular Congress of Judges of Ukraine on 22 February 2013, is in force in Ukraine. In accordance with Article 18 thereof, a judge must be aware of his or her property interests and take reasonable steps to be aware of the property interests of his or her family members.

Also, Article 89 of the Law provides that the Prosecutor's Office is financed from the State Budget of Ukraine, as well as other sources not prohibited by law, including in cases provided for by

international treaties of Ukraine or international technical assistance projects registered in the prescribed manner.

In accordance with Article 19 of Law No. 1697-VII, the prosecutor must, in particular, observe the rules of prosecutorial ethics, in particular not to allow behaviour that discredits him/her as a representative of the prosecutor's office and may damage the authority of the prosecutor's office.

The prosecutor must to undergo a secret integrity check every year.

On 27 April 2017 the All-Ukrainian Conference of Prosecutors approved the Code of Professional Ethics and Conduct of Prosecutors *(as amended by the All-Ukrainian Conference of Prosecutors of 21 December 2018, 28 August 2021)*, which, in particular, established that the prosecutor must strictly adhere to the restrictions provided by law in the field of prevention of corruption, not to allow any manifestations of corruption, including demanding and receiving illegal benefits, as well as receiving gifts in cases not provided by law, and in case if such offers were made must act in accordance with the requirements of the legislation in the field of corruption prevention.

In addition, according to the Code, the prosecutor should avoid personal ties, financial and business relationships that may affect the impartiality and objectivity of professional duties, *discredit him/her as a representative of the prosecutor's office*, prevent actions, statements and behaviour, which can damage his/her reputation and the authority of the prosecutor's office, cause a negative public response.

Prosecutors are required to submit an annual declaration of a person authorised to perform the functions of the state or local self-government.

In the event of a significant change in the property status of a judge or prosecutor, namely the receipt of income, acquisition of property or expenditure that exceeds of 50 subsistence minimums for able-bodied persons as of 1 January 1 of the relevant year, that judge or prosecutor must notify thereof the National Agency on Corruption Prevention within ten days from the day they receive income, acquired a property or made an expenditure. This information is entered into the Unified State Register of Declarations of individuals authorised to perform state functions or those of local self-government and published on the official website of the National Agency on Corruption Prevention.

With regard to the receipt of gifts, the provisions of Article 23 of the Law of Ukraine No. 1700-VII of 14.10.2014 "On Prevention of Corruption" (hereinafter referred to as the Law No. 1700-VII) provides that, in particular, judges, prosecutors are prohibited from receiving gifts for themselves or their relatives from legal entities or individuals directly or through other persons: in connection with the implementation of such legal entities' or individuals' activities related to the performance of state or local government functions; if the giver is subordinate to such a legal entities or individuals.

In particular, judges, prosecutors can accept gifts that meet the generally accepted notions of hospitality, except as provided in paragraph one of this article, if the value of such gifts does not exceed one subsistence minimum for able-bodied persons set on the day the gift was accepted, and the total value of such gifts received from one person (group of persons) during the year does not exceed two subsistence minimums for able-bodied persons set on 1 January of the year in which the gifts are accepted.

The restriction on the value of gifts provided for in this paragraph does not apply to gifts that: are presented by related persons; are given as generally available discounts for goods, services, generally available gains, prizes, premiums, bonuses.

101. Is there a probation period for judges / prosecutors? If so, please describe it. Are there objective and pre-determined procedures to evaluate the work during the probationary period? Who is responsible for this evaluation? Are decisions on end of probation subject to judicial or administrative scrutiny?

In accordance with the provisions of Articles 126, 128 of the Constitution of Ukraine, a judge holds office for an indefinite period.

A judge is appointed on a competitive basis, except in cases specified by law.

The current legislation does not provide for a probationary period for judges.

Law No. 1697-VII also does not provide for a probationary period for prosecutors.

102. Is the guaranteed tenure of office set out in legislation? Is there a mandatory legal retirement age? Who decides on granting permanent tenure and on the basis of which criteria?

As regards judges

As was mentioned above, a judge holds office for an indefinite period (Article 126 of the Constitution of Ukraine).

Article 48 of the Law No. 1402-VIII provides that the independence of a judge is ensured, in particular, by the irremovability of judges.

In accordance with the provisions of Article 53 of Law No. 1402-VIII, a judge is guaranteed to remain a judge until he or she reaches the age of sixty-five, except in cases of dismissal or termination of a judge in accordance with the Constitution of Ukraine and this Law.

In accordance with the provisions of Article 142 of the Law No. 1402-VIII, a retired judge, after reaching the age of 62 for men, and the retirement age as provided in Article 26 of the Law of Ukraine “On Compulsory State Pension Insurance” — for women, has a choice of either receiving pension under the conditions determined by the specified Law, or a monthly lifetime allowance. Men born in 1955 and older after reaching the appropriate age have the right to retirement by age or monthly lifetime allowance before reaching the specified age.

A retired judge who has not reached the age specified in paragraph one of this article receives a monthly lifetime allowance. When such a judge reaches the age specified in paragraph one of this article, he/she retains the right to either receive a monthly lifetime allowance or a pension under the conditions specified by the Law of Ukraine “On Compulsory State Pension Insurance”.

The amount of monthly lifetime allowance paid to a retired judge is 50 percent of the wages for a judge holding the relevant position. For each full year of service as a judge that exceeds 20 years, the amount of the monthly lifetime allowance is increased by two percent.

A judge's pension or monthly lifetime allowance is paid regardless of the judge's earnings (income) after retirement. The monthly lifetime allowance for judges is paid by the bodies of the Pension Fund of Ukraine at the expense of the State Budget of Ukraine.

As regards prosecutors

In accordance with Article 16(3) of the Law No. 1697-VII the prosecutor is appointed indefinitely and may be dismissed, his/her powers may be terminated only on the grounds and in the manner prescribed by law.

Article 86 of the Law No. 1697-VII provides that prosecutors are entitled to a pension for length of service regardless of age, if on the day of application for a pension the number of years of service are at least:

up until and including 30 September 2011 — 20 years, including at least 10 years of service as a prosecutor;

from 1 October 2011 until 30 September 2012 — 20 years and 6 months, including at least 10 years and 6 months of service as a prosecutor;

from 1 October 2012 until 30 September 2013 — 21 years, including at least 11 years of service as a prosecutor;

from 1 October 2013 until 30 September 2014 — 21 years and 6 months, including at least 11 years and 6 months of service as a prosecutor;

from 1 October 2014 until 30 September 2015 — 22 years, including at least 12 years of service as a prosecutor;

from 1 October 2015 until 30 September 2016 — 22 years and 6 months, including at least 12 years and 6 months of service as a prosecutor;

from 1 October 2016 until 30 September 2017 — 23 years, including at least 13 years of service as a prosecutor;

from 1 October 2017 until 30 September 2018 — 23 years and 6 months, including at least 13 years and 6 months of service as a prosecutor;

from 1 October 2018 until 30 September 2019 — 24 years, including at least 14 years of service as a prosecutor;

from 1 October 2019 until 30 September 2020 — 24 years and 6 months, including at least 14 years and 6 months of service as a prosecutor;

from 1 September 2020 and later — 25 years, including at least 15 years of service as a prosecutor.

The amount of pension is 60 percent of the amount of their monthly (current) salary received before the month of application for a pension, which includes all types of wages subject to single contribution to the obligatory state social insurance, and before 1 January 2011 — insurance contributions to the obligatory pension insurance.

In accordance with this article, pensions for length of service are assigned, transferred and paid by authorized public authorities.

The law provides for the provision of official housing to the prosecutor. Thus, in accordance with Article 83 of the Law No. 1697-VII after being appointment prosecutors in need of improving their living conditions are provided with official housing near the place where the prosecutor's office is located.

C. Impartiality

103. Impartiality of the judiciary: Please provide information on the constitutional/legal provisions and the institutional arrangements in place providing for the impartiality of the courts and the prosecution service.

In accordance with Article 129 of the Constitution of Ukraine, in administering justice, judges shall be independent and abide only by the rule of law.

Article 1 of the Law No. 1402-VIII provides that in accordance with the constitutional principles of separation of powers the judiciary of Ukraine is exercised by independent and impartial courts established by law.

In accordance with Article 6 of Law No. 1402-VIII, the courts are independent of any unlawful influence during their administration of justice. Courts administer justice on the basis of the Constitution and laws of Ukraine and based on the rule of law.

Appeals of citizens, organizations or officials who, in accordance with the law, are not participants in the judicial process, with regard to specific court cases are not considered by the court, unless otherwise provided by law.

It is prohibited to interfere in the administration of justice, influence the court or judges in any way, demonstrate contempt to court or judges, collect, store, use and disseminate information orally, in writing or otherwise in order to discredit the court or influence the impartiality of the court, call for non-compliance with the court's decisions; those actions cause liability in a manner established by law.

Public authorities and local self-governing bodies, their officials must refrain from statements and actions that may undermine the independence of judiciary.

Provisions of Article 56(7)(1) of the Law No. 1402-VIII provide that the judge must consider court cases and make decisions on them justly, impartially and in a timely manner in accordance with the law in compliance with judiciary principles and rules of procedure.

It is worth noting that in accordance with Article 3 of the Law No. 1697-VII the activities of the prosecutor's office are based, in particular, on the principles of legality, justice, impartiality and objectivity, strict compliance with professional ethics and conduct.

The requirement of impartiality for prosecutors is one of the key requirements set out in the Code of Professional Ethics and Conduct for Prosecutors. Thus, pursuant to Article 10 of this Code, the prosecutor must act fairly, impartially, in compliance with the provisions of the law regarding the grounds, procedure and conditions for exercising the powers of the prosecutor's office within its functions. The prosecutor must be objective in his/her relations with the authorities, the public and

individuals, and be aware of the social significance of the prosecutor's activities as well as the degree of social responsibility.

104. What are the measures in place to prevent conflict of interest in judiciary and prosecutorial service? Who can decide on it, including the question of recusal? How is implementation ensured and what are the practical challenges in the implementation of these measures? Is the integrity of judges and prosecutors being checked throughout their career, and how?

According to Article 133 of Law No. 1402-VIII the Council of Judges of Ukraine is the supreme body of judicial self-government and acts as an executive body of the Congress of Judges of Ukraine.

The Council of Judges of Ukraine, inter alia, controls the observance of the requirements of the legislation on the regulation of conflicts of interest in the activities of judges, the Chairman or members of the High Qualification Commission of Judges of Ukraine, the Chairman of the State Judicial Administration or his deputies; takes a decision on the regulation of real or potential conflict of interest in the activities of these persons (in case such conflict cannot be settled in the manner prescribed by procedural law).

The legal regulation of the rules of prevention and settlement of conflict of interest in the activity of judges is determined by the Law of Ukraine on Prevention of Corruption, Law 1402-VIII and procedural legislation.

Also, in order to prevent and resolve conflicts of interest, judges apply certain decisions of the Council of Judges of Ukraine which clarify the Council's position on the prevention and settlement of conflicts of interest in the activities of judges, namely

- Decision of 04.02.2016 No. 2 "On the Procedure of Control over Compliance with the Conflict of Interest Legislation";
- Decision No. 36 of 12.05.2016 "On clarification on the presence or absence of conflict of interest in the activities of judges";
- Decision No. 75 of 04.11.2016 "On clarification on the existence of a conflict of interest";
- Decision No. 77 of 04.11.2016 "On the existence of a conflict of interest in the secret ballot of the court";
- Decision No. 34 of 08.06.2017 "On clarification of certain issues of conflict of interest in the activities of judges";
- Decision No. 46 of 07.09.2017 "On clarification of certain issues of conflict of interest in the activities of judges";
- Decision No. 75 of 07.12.2017 "On clarification of the powers of the CJU as the single competent authority to be addressed by judges in cases of conflict of interest".
- Decision of 05.07.2019 No. 40 "On clarification of certain issues of conflict of interest".

In addition, judges may refer to the Methodological Recommendations on prevention and settlement of conflicts of interest in the activities of persons authorised to perform state or local

government functions and persons equated to them, approved by the National Agency for Prevention of Corruption Decision 14.07.2016 No 2 rules, which regulate specific situations of conflict of interest.

In all cases, judges are obliged to act in such a way as to set an example of virtue for their colleagues and participants in judicial proceedings and the public, so they are fully responsible for dealing with their private interest in a way that prevents as much as possible a conflict of interest at the time of their election/appointment as a judge and during their exercise of the functions of administration of justice.

In order to independently manage a conflict of interest, a judge shall apply one or more of the following ways of managing the conflict of interest: 1) recusal in the manner prescribed by the procedural law; 2) disclosure of the conflict of interest, if after such disclosure by the parties to the proceedings or other interested persons he/she has not been challenged; 3) removal from a task, action, decision-making not related to the administration of justice or participation in its adoption with a real or potential conflict of interest; 4) removal of the relevant private interest with the provision of supporting documentation to the Council of Judges of Ukraine; 5) submission of a request for reconsideration of the scope of the official powers of the person not related to the administration of justice in order to eliminate factors causing a conflict of interest; 6) submission of an application for transfer of a person to another position or to another court; 7) submission of an application for dismissal of a person; 8) submission of a voluntary declaration of private interests.

If it is impossible to resolve a conflict of interest independently in the manner prescribed by procedural legislation or otherwise, such entity shall apply to the Council of Judges of Ukraine for external resolution of the conflict. The procedure for consideration, examination and preparation of draft decisions on settlement of a conflict of interest is determined by the Regulation on the Committee on Ethics, Settlement of Conflict of Interest and Professional Development of Judges of the Council of Judges of Ukraine.

Special mention should be made of the Public Council of Virtue, which is formed to assist the High Qualification Commission of Judges of Ukraine in establishing the compliance of a judge (candidate for a judicial position) with the criteria of professional ethics and virtue for the purposes of qualification evaluation.

We also note that the prevention of conflicts of interest is one of the key principles of the prosecutor's activity as defined, in particular, in the Code of Professional Ethics and Conduct of Prosecutors. Thus, according to Article 14 of the said Code, a prosecutor should take all possible measures to prevent real or potential conflicts of interest, not act or take decisions in a real conflict of interest, notify his/her immediate superior no later than the next working day from the time when he/she learned or should not have learned of the existence of a real or potential conflict of interest.

A prosecutor holding an administrative position may not directly or indirectly induce subordinate or other prosecutors to take decisions, act or fail to act in favour of their private interests or the interests of third parties.

When a conflict of interest arises, the prosecutor must act in accordance with legal requirements.

The issue of disqualification of a prosecutor during pre-trial investigation is dealt with by the investigating judge, and during trial proceedings it is dealt with by the court that carries it out.

With the entry into force of the Order of the Prosecutor General of Ukraine from 16.06.2016 № 205 "On Approval of the Procedure for conducting a secret virtue check of prosecutors in the prosecution offices of Ukraine" in the prosecution offices of Ukraine from 24.06.2016 the procedure for secret virtue check of fairness of general and investigative prosecution offices was introduced.

Every prosecutor, in accordance with the requirements of the fifth part of Article 19 of Law No. 1697-VII, is obliged to submit to the internal security unit, by February 01, annually, a handwritten questionnaire of prosecutor's virtue in the form approved by the Order of the Prosecutor General of Ukraine from 16.06.2016 No. 205 (hereinafter - the Questionnaire).

Failure to submit or late submission of the Questionnaire by the prosecutor without a valid reason or submission of the Questionnaire in which the prosecutor does not confirm the allegations identified therein shall indicate his/her failure to fulfill the obligation under Article 19(5) of Law No. 1697-VII and shall be the basis for holding him/her liable under the law.

The questionnaires of prosecutors are to be published on the official website of the Prosecutor General's Office of Ukraine. The Internal Security Unit of the Procurator General's Office of Ukraine is responsible for keeping the Register.

If information is received that may indicate that the statements submitted by a prosecutor in the Questionnaire are inaccurate (including incomplete) and concern a particular prosecutor and contain factual data that can be verified, the internal security unit shall, within ten days of its receipt, notify the relevant head of the prosecution service that an internal investigation should be ordered with the addition of the information received.

The head of the prosecutor's office shall, within seven working days of receipt of such notification, decide in due course whether to appoint an internal investigation and inform the internal security unit for records.

Internal investigations designed to verify the unreliability (including incompleteness) of the allegations submitted by the prosecutor in the Questionnaire shall be conducted with the participation of authorized persons.

The report of the command investigation shall be examined by the internal security unit within fifteen working days from the date of receipt of a copy of the report. If there are no grounds for quashing the report, an authorized person shall draw up a report on the results of the confidential review of the prosecutor's virtue, which shall be agreed with the head of the internal security unit and a copy of which shall be added to the personnel file. If this is not the case, the internal security unit will, in due course, initiate the question of cancelling the report of the command investigation.

If the findings of the command investigation reveal that the allegations submitted by the prosecutor in the Questionnaire are not true (including incomplete allegations), the prosecutor is considered to have passed the secret virtue test and a certificate thereof is drawn up by an authorised officer.

If the results of the investigation appointed during the secret virtue test show that the prosecutor has committed a disciplinary offence, he or she shall be held liable in accordance with the requirements of the law.

It should be noted that Law № 1700-VII defines the legal and organizational basis for the functioning of the corruption prevention system in Ukraine, the content and procedure for the application of preventive anti-corruption mechanisms, the rules of eliminating the consequences of corruption offences, which applies, inter alia, to judges and prosecutors.

Section V of Law No. 1700-VII sets out provisions for the prevention and settlement of conflicts of interest.

In particular, according to the provisions of Article 28 of Law № 1700-VII, the persons referred to in paragraphs 1, 2 of Part one of Article 3 of this Law are obliged:

- to take measures to prevent the occurrence of real, potential conflict of interests;

- notify, no later than the business day following the day when they learned or should have learned about the real or potential conflict of interests of their direct supervisor or, in the case of a person holding a non-executive office or collegial body, the National Agency for the Prevention of Corruption or another authority or collegial body, respectively, in the exercise of their powers where the conflict of interests arose;

- not act or take decisions in the context of a real conflict of interest;

- take measures to resolve real or potential conflict of interest.

Persons authorised to perform state or local government functions may not directly or indirectly induce in any way subordinates to take decisions, act or omit to act contrary to the law in favour of their private interests or the private interests of third parties.

The immediate superior of the person or the head of the body with the authority to dismiss/initiate the dismissal from the position shall, within two working days of receiving notification that the person has a real or potential conflict of interest, decide on the resolution of the conflict of interest and inform the person concerned thereof.

The National Agency for the Prevention of Corruption, in the event of receipt of notification from a person that he/she has a real or potential conflict of interest, shall within seven working days explain to such person the procedure for his/her actions to resolve the conflict of interest.

The immediate supervisor or the head of the body with authority to dismiss/initiate the dismissal of a person who becomes aware of a conflict of interest of a person reporting to him/her shall take the measures provided for in this Act to prevent and manage the conflict of interest of such person.

If a person is in doubt as to whether he has a conflict of interest, he has the right to seek clarification from the National Agency for the Prevention of Corruption. If the person has not received confirmation of the absence of a conflict of interest, he/she shall act in accordance with the requirements provided for in this section of the Act.

If a person has received confirmation that there is no conflict of interest, he/she shall be exempted from liability if a conflict of interest is later found in the actions in respect of which he/she sought clarification.

Laws and other normative legal acts determining powers of state bodies, authorities of Autonomous Republic of Crimea, local self-government bodies, procedure for providing certain types of public services and carrying out other activities related to performance of state or local self-government functions should provide procedure and ways of regulating conflict of interests of officials, whose activities they regulate.

Articles 29-34 of the Law №1700-VII set out measures for external and independent regulation of the conflict of interests.

At the same time, Article 351 of Law №1700-VII stipulates peculiarities of regulation of the conflict of interests arisen in activities of certain categories of persons authorized to perform state or local government functions.

Thus, rules on settlement of conflict of interest in the activity of, in particular, judges, are determined by the laws regulating the status of relevant persons and the principles of organization of relevant bodies.

In case of a real or potential conflict of interest of a person authorised to perform the functions of the state or local self-government, a person of equivalent status who is a member of a collegial body (committee, commission, collegium, etc.), he has no right to participate in decision-making by this body.

Such a person may declare a conflict of interest by any other member of the collegial body concerned or by a participant in the meeting directly concerned. A declaration of a conflict of interest by a member of a collegial body shall be recorded in the minutes of the meeting of the collegial body.

In the event of non-participation of a person authorised to perform functions of the state or local self-government or a person with equal status in the collegial body in decision-making of the body, such person's participation in decision-making shall be exercised under external control. The decision to embody external control shall be taken by the relevant collegial body.

In addition, we note that under Article 62 of Law No. 1402-VIII a judge is obliged to submit by February 1, annually by filling in on the official website of the High Qualifications Commission of Judges of Ukraine a declaration of virtue in the form determined by the Commission.

The declaration of virtue of a judge consists of a list of statements, the honesty of which the judge shall declare by confirming or not confirming them.

105. Can judges be subject to sanctions if they disrespect the obligation to withdraw from adjudicating a case in which their impartiality is in question or is compromised or where there is a reasonable perception of bias?

Article 106 of Law No. 1402-VIII refers to the grounds for disciplinary liability of a judge, in particular, intentional or negligent violation of the rules on recusal (self-recusal); failure to notify, or notify in time, the Council of Judges of Ukraine of a real or potential conflict of interest of the judge (except in cases where a conflict of interest is resolved in accordance with the procedural law).

Judges may be subject to the following disciplinary measures:

warning;

reprimands — with deprivation of the right to receive surcharges to the basic salary of a judge for one month;

severe reprimands — with deprivation of the right to receive surcharges to the basic salary of a judge for three months;

petition to temporarily (from one to six months) suspend from the administration of justice — with deprivation of the right to receive surcharges to the basic salary of a judge and mandatory referral of a judge to the National School of Judges of Ukraine for an advanced training course determined by the body which handles disciplinary proceedings against judges, and further qualification assessments to confirm a judge's ability to administer justice in the relevant court;

petition to transfer a judge to a court of a lower level;

petition to dismiss a judge.

When choosing the type of disciplinary measure against a judge, the nature of the disciplinary misconduct, its consequences, the person of the judge, the degree of his/her guilt, the application of other disciplinary sanctions, other circumstances affecting the possibility of bringing a judge to disciplinary responsibility are taken into account. Disciplinary measure is applied taking into account the principle of proportionality (Article 109 of the Law No. 1402-VIII).

106. Does the legislation provide for remedies against attempts to influence judges and prosecutors when making decisions in a particular case? Are there any sanctions against people who try to influence judges? Please describe the appropriate procedures.

Information on a similar question was provided in response to question № 84.

In addition, we inform that in accordance with part four of Article 48 of Law № 1402-VIII, the judge is obliged to apply with a notice of interference in his activities as a judge in the administration of justice to the High Council of Justice and the Prosecutor General.

We also note that paragraph 5 of Part 1 of Article 3 of Law № 1697-VII defines one of the principles on which the activities of the prosecutor's office are based, the principle of independence of prosecutors, which provides for the existence of guarantees against illegal political, material or other influence on the prosecutor regarding his decision-making in the performance of official duties;

In accordance with Parts 5-6 of Article 17 of Law № 1697-VII, the prosecutor is not obliged to comply with orders and instructions of the prosecutor of the highest level, which cause him to doubt the legality if he did not receive them in writing, as well as obviously criminal orders or instructions. The prosecutor has the right to appeal to the Council of Prosecutors of Ukraine with a message about the threat to his independence in connection with the provision (assignment) by the prosecutor of the highest level of order or instruction. The provision (submission) of an unlawful order or indication or its (its) execution, as well as the provision (response) or execution of a clearly criminal order or instruction, entails the responsibility provided for by law.

Also, in the structure of the Office of the Prosecutor General there is a General Inspection of the Office of the Prosecutor General, which is an independent structural unit of the Office of the

Prosecutor General subordinated to the Prosecutor General. The Department of Interaction with Law Enforcement Agencies and Information and Analytical Work of the General Inspectorate of the Office of the Prosecutor General, in particular, carries out the processing of information on the facts of unlawful interference in the official activities of prosecutors and obstruction of their official duties, encroachment in this regard on their life, health, and property, the state of investigation and trial of these criminal proceedings.

Article 343 of the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code) provides that the influence in any form on a law enforcement officer, forensic expert, an employee of a state executive service body or private executor, as well as a close relative of a state executor or private executor to interfere with the performance of his official duties, the implementation of a forensic expert activity or to achieve an illegal decision, is punishable by a fine of up to one hundred non-taxable minimum incomes. citizens or correctional work for up to one year, or arrest for up to three months.

The same actions, if they prevented the prevention of a criminal offense or the detention of the person who committed it, or committed by an official using his official position, -

punishable by deprivation of the right to hold certain positions or engage in certain activities for up to five years or arrest for up to six months, or restriction of liberty for up to four years.

Article 344 of the Criminal Code provides that non-legal influence in any form, in particular, on the Chairman of the Constitutional Court of Ukraine, a judge of the Constitutional Court of Ukraine, the Chairman or a member of the High Council of Justice, the Chairman or a member of the High Qualification Commission of Judges of Ukraine, the Prosecutor General, in order to interfere with the performance of their official duties or to achieve the adoption of illegal decisions, is punishable by a fine of two hundred to three hundred non-taxable minimum incomes of citizens or arrest for a period of three to six months, either by restriction of liberty for up to two years or imprisonment for the same term.

The same actions, if they are committed by a person using his official position, are punishable by a fine of three hundred to five hundred non-taxable minimum incomes of citizens or restriction of liberty for up to three years, or imprisonment for the same period, with deprivation of the right to hold certain positions or engage in certain activities for up to three years or without it.

Article 376 of the Criminal Code establishes that interference in any form in the activities of a judge to interfere with the performance of his official duties or to achieve an unjust decision is punishable by a fine of one thousand to four thousand non-taxable minimum incomes of citizens or correctional work for up to two years or arrest for up to six months.

The same actions, if they prevented the prevention of a criminal offense or the detention of a person who committed it, or committed by a person using his official position, are punishable by deprivation of the right to hold certain positions or engage in certain activities for up to five years or arrest for up to six months, or imprisonment for up to three years.

107. Is there any analysis carried out by public institutions and/ or by independent organisations of the public perception of the level of corruption in the judiciary? If so, please

provide it

In Ukraine, the public perception of the level of corruption in the judiciary is analysed on a regular basis by Ukrainian and international independent organisations.

For example in late 2020, the Ukrainian Centre for Economic and Political Studies named after Olexander Razumkov, Civil Organisation, carried out a study to define how citizens treated judicial authorities. Let's pay attention, among the set of questions, that 82.2% of the Ukrainian population fully or rather agree with accusations of corruptibility, political dependence and partiality made against Ukrainian judges. 7.5% of the respondents disagree with such a point of view. The rest of the respondents could not decide. It is worth noting that the majority of respondents surveyed when exiting courts, in other words, people with recent personal experience in court communication, also agree with these characteristics. However, these respondents show more optimistic results: 66.6% of the respondents surveyed when exiting courts agree with such accusations, and 18.8% disagree. The rest of the respondents could not decide. (<https://rm.coe.int/zvitsud2020/1680a0c2d7>).

In 2021, the USAID Nove Pravosuddya Justice Sector Reform Program (New Justice) published the results of surveying the Ukrainian population on trust in judicial and other authorities, perception of and reporting corruption. Thus in general, the respondents perceive the judiciary negatively. 72% of the respondents agree with the statement that a person / an entity who has more money always wins the case, 64% of the respondents agree with the statement that bribing judges is a common practice in Ukrainian courts, and 62% of the respondents agree that court corruption is increasing. However, it is worth taking into account that the absolute majority of the respondents (86%) has not participated in judicial proceedings over the past 24 months.

Despite generally unfavourable perception of the Ukrainian judiciary by the population, those who have participated in judicial proceedings over the past 24 months positively assess their experience. 62% of participants in judicial proceedings state that there have been no demands for bribes, unofficial payments, presents or other corruption situations (https://newjustice.org.ua/wp-content/uploads/2021/06/2021_Survey_Population_Report_UKR.pdf).

As regards public authorities, it is worth noting that in 2020, the EU Anti-Corruption Initiative in Ukraine, in cooperation with the National Agency on Corruption Prevention, presented the study on the state of corruption in Ukraine where the population, business and experts considered court to be one of the most corrupted authorities and bodies in Ukraine (https://nazk.gov.ua/wp-content/uploads/2020/05/Corruption_Survey_2020_Presentation_Info-Sapiens.pdf).

According with Article 11(1)(1) and (5) of Law No. 1700-VII, the National Agency on Corruption Prevention is delegated with the following powers: analysing the state of corruption prevention and counteraction in Ukraine, the activities of public authorities, authorities of the Autonomous Republic of Crimea and local self-governing bodies on preventing and countering corruption, as well as organising studies to examine corruption situation; This means that the level of corruption, including within the judiciary, is studied by, first and foremost, the National Agency on Corruption Prevention.

When preparing the draft Anti-Corruption Strategy for 2020–2024, the National Agency on Corruption Prevention, in cooperation with the EU Anti-Corruption Initiative (EUACI), carried out the survey — “Corruption in Ukraine: Understanding, Perception, Prevalence” — which studied the

views of the population, business and experts, in 2020. The study was based on the Methodology for Standard Survey on Corruption Level developed by the NACP and covering, among others, the study of corruption in the judiciary, particularly its prevalence, existing corruption practices when rendering judicial services, and etc. The survey results show that it is corruption prevention in the judiciary that is defined as one of the priority areas of the Anti-Corruption Strategy for the nearest future.

In 2021, the National Agency on Corruption Prevention carried out the expert survey on the assessment of corruption level in Ukraine with its main task to determine areas of public life affected by corruption at most and to implement the respective policy at the state, regional or local levels. The survey results will be used to organise a general standard sociological study on corruption level in Ukraine.

Non-governmental organisations and international technical assistance projects also study the analysis of corruption perception in the judiciary on a regular basis, for example:

The survey regarding trust in the judiciary, judge independence and accountability, perception of and reporting corruption.

The survey of population, judges and legal professionals participating in court proceedings who are not judges or court staff (2021, USAID Nove Pravosuddya Justice Sector Reform Program (New Justice));

Judiciary treatment by Ukrainian citizens (2019, the Razumkov Center as ordered by the Council of Europe Office in Ukraine);

Judicial Reform as Seen by Citizens: What Can Positively Influence Trust in Court (2019, the Razumkov Center in association with Ilko Kucheriv Democratic Initiatives Foundation (DIF) as ordered by the Center of Policy and Legal Reform).

Therefore, public authorities represented by the National Agency on Corruption Prevention as well as independent and non-governmental organisations deal with studies on corruption level in the judiciary on a regular basis.

D. Accountability and discipline

108. Is there a code of ethics/code of conduct for members of the judiciary and prosecutors? If so, who has adopted the code? What is its legal status? How is it being effectively implemented? Is integrity and ethics training part of the curriculum for initial training?

Issues on judicial ethics are regulated by the Code of Judicial Ethics to be approved by the congress of judges of Ukraine on the proposal of the Council of Judges of Ukraine (Article 58 of Law No. 1402-VIII).

Nowadays, the Code of Judicial Ethics approved by decision XI of the (regular) congress of judges of Ukraine dated 22 February 2013 stipulates for provisions aiming at establishing ethics standards related to the status of a judge.

Violation of the requirements of the Code of Judicial Ethics does not constitute a ground for bringing a judge to disciplinary liability. However, Law No. 1402-VIII provides that conduct of a judge, which defames the title of a judge and undermines the authority of justice, particularly as regards morals, honesty, integrity, conformity of the judge's lifestyle with their status, compliance with other judge ethics and conduct standards which ensure public trust in judges, display of disrespect towards other judges, lawyers, experts, witnesses or other participants in a trial, constitutes a ground for bringing the judge to disciplinary liability.

Based on information published on the official website of the National School of Judges of Ukraine, it has prepared Judicial Ethics. Integrity course for judges.

In addition, we inform that main principles, moral standards and prosecutor ethics rules which prosecutors must apply when fulfilling their official duties and out of duty are determined by the Code of Professional Ethics and Conduct of Prosecutors approved by the all-Ukrainian conference of prosecutors on 27 April 2017.

The said code, therewith, provides that the Constitution of Ukraine, Laws of Ukraine "On Prosecutor's Office", "On Protection of Public Moral", "On Prevention of Corruption", "On Principles of Prevention and Counteraction of Discrimination in Ukraine" and other legislation concerning activities of prosecution bodies, orders of the Prosecutor General and the said Code constitute a legal basis for governing relationships in the field of professional ethics and conduct of prosecutors.

International legal documents, including the Convention for the Protection of Human Rights and Fundamental Freedoms and judgements of the European Court of Human Rights, the United Nations Guidelines on the Role of Prosecutors adopted on the Eighth United Nations Congress in 1990, Standards of professional responsibility and statement of the essential duties and rights of prosecutors adopted by the International Association of Prosecutors in 1999, European Guidelines on Ethics and Conduct for Public Prosecutors (the Budapest Guidelines) adopted by the Conference of Prosecutors General of Europe in 2005 and etc. also constitute a regulatory framework in this field.

It is worth noting that, according to Article 33 of Law 1697-VII, a candidate for the position of a prosecutor takes a one-year special training in the Prosecutor's Training Center of Ukraine, which includes, among others, studying prosecutor ethics rules. To complete the special training, a candidate for the position of a prosecutor takes an examination in the form of an anonymous test and a practical task.

109. Do the laws provide immunity to judges/prosecutors? If so, what does immunity cover? What is the procedure for lifting the immunity? What is done to ensure that this is clear and transparent? Please give examples of how this has been implemented. What are the possible sanctions if the immunity is lifted?

The independence and immunity of a judge is guaranteed by the Constitution and Ukrainian laws. A judge may not be detained or arrested without the consent of the High Council of Justice, until a verdict of guilty is rendered by a court, except for cases when the judge is detained when committing or immediately after having committed a serious or an especially serious crime (Article 126 of the Constitution of Ukraine).

In Ukraine, the High Council of Justice that grants a consent for a judge to be arrested or detained, functions (Article 131 of the Constitution of Ukraine).

The independence of a judge is secured with the immunity of a judge (Article 48(5)(2) of the Law of Ukraine No. 1402-VIII dated 2 June 2016 “On the Judiciary and the Status of Judges”).

A judge detained based on the suspicion of an offence stipulating for criminal or administrative liability must be released immediately after he/she is identified, unless any of the following applies: 1) if the High Council of Justice provides its consent for the judge to be detained because of such an offence; 2) the judge is detained when committing or immediately after having committed a serious or an especially serious crime, if such detention is needed to prevent a crime, to prevent or preclude the consequences of the crime or to ensure that the evidence of the crime are preserved. A judge may not be subjected to attachment or forcibly taken to any authority, body or institution other than a court, except as provided in Article 49(2) (Article 49(1)–(3) of the Law of Ukraine No. 1402-VIII dated 2 June 2016 “On the Judiciary and the Status of Judges”).

A petition for a consent for a judge to be detained or arrested is placed for consideration of the High Council of Justice by the Prosecutor General or his/her deputy, and a petition for a consent for a judge of the High Anti-Corruption Court to be detained or arrested is placed by the Prosecutor General (acting Prosecutor General). A petition for a consent for a judge to be detained or arrested must comply with requirements established by the Criminal Procedure Code of Ukraine, and every type of measures of restraint requires a separate petition to be filed. The petition must be well-grounded, contain specific facts and evidence proving that a judge has committed a publicly dangerous offence defined by the Criminal Code of Ukraine, and a rationale for a necessity to detain (arrest) the judge. The High Council of Justice redelivers a petition which does not comply with the requirements of the Article to the Prosecutor General or their deputy (Article 58 of the Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016⁵).

Article 482 of the Criminal Procedure Code of Ukraine establishes special aspects of a procedure for bringing to criminal liability, detaining and applying measures of restraint as regards judges.

Thus, paragraph 1 of the said article specifies that a judge may be detained or arrested upon the consent of the High Council of Justice. A judge may not be detained or arrested without the consent of the High Council of Justice, until a verdict of guilty is rendered by a court, except for cases when the judge is detained when committing or immediately after having committed a serious or an especially serious crime.

A judge detained based on the suspicion of an offence stipulating for criminal liability must be released immediately after he/she is identified, unless any of the following applies: 1) if the High Council of Justice provides its consent for the judge to be detained because of such an offence; 2) the judge is detained when committing or immediately after having committed a serious or an especially serious crime, if such detention is needed to prevent a crime, to prevent or preclude the consequences of the crime or to ensure that the evidence of the crime are preserved. The judge must be immediately released if the aim of such detention (prevention of a crime, prevention or preclusion of the consequence of the crime or ensuring that evidence of the crime are preserved) is reached.

⁵ Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016 (<https://zakon.rada.gov.ua/laws/show/1798-19#Text>)

The procedure for considering a petition for a consent for a judge to be detained or arrested by the High Council of Justice is regulated by Article 59 of the Law of Ukraine “On the High Council of Justice” which provides that:

The High Council of Justice considers a petition for a consent for a judge to be detained or arrested within five days upon the day of the petition receipt. A petition for a consent for a judge to be detained or arrested is considered by the High Council of Justice without the judge. If necessary, the High Council of Justice may call the judge so that he/she can give explanations. The notice of the date, time and place of the respective petition consideration is immediately sent to the Prosecutor General or his/her deputy. A petition for a consent for a judge of the High Anti-Corruption Court to be detained or arrested is considered by the High Council of Justice with the judge or his/her representative to be necessarily present. The notice of the date, time and place of the respective petition consideration is immediately sent to the Prosecutor General (acting Prosecutor General) and the judge of the High Anti-Corruption Court. If the judge of the High Anti-Corruption Court or his/her representative fails to appear at the meeting of the High Council of Justice, the petition is considered without them. Failure of the judge, the Prosecutor General, his/her deputy or a prosecutor authorised by one of them to appear at the meeting of the High Council of Justice does not prevent from considering the petition notwithstanding reasons therefor. The consideration of the petition for a consent for a judge to be detained or arrested starts with a summary presented by the chairperson of the meeting of the High Council of Justice and stating the rationale for necessity to detain (arrest) the judge, specified in the petition. After the summary stating the rationale for necessity to detain (arrest) the judge specified in the petition has been presented, the floor is given to the Prosecutor General, his/her deputy or a prosecutor authorised by one of them. If the judge is called to and appears at the meeting, the floor is also given to the judge whom the petition concerns or his/her representative for them to give explanations. If the judge refuses to give explanations, the High Council of Justice considers the petition for a consent for a judge to be detained or arrested without his/her explanations.

A decision on a consent for a judge to be detained or arrested is announced at the meeting and immediately delivered to the Prosecutor General, his/her deputy or the authorised prosecutor. Such a decision concerning a judge of the High Anti-Corruption Court is immediately delivered to the Prosecutor General (acting Prosecutor General) (Article 60 of the Law of Ukraine “On the High Council of Justice”).

A decision of the High Council of Justice on a consent for a judge to be detained or arrested may be appealed against in a manner established by criminal procedure legislation as a constituent of a complaint against the respective resolution of an investigating judge on detention or arrest of the judge (Article 61 of the Law of Ukraine “On the High Council of Justice”).

A petition for a consent for a judge to be detained or arrested must comply with the requirements stipulated by Article 184 of the Criminal Procedure Code of Ukraine, and, to be exact, a request of an investigator and/or a prosecutor for applying a measure of restrict is filed with a local general court which has a pre-trial investigation body within its territorial jurisdiction, or with the High Anti-Corruption Court when it concerns criminal proceedings on criminal offences under the jurisdiction of the High Anti-Corruption Court, and must contain:

1) a summary of actual circumstances of the criminal offence of which a person is suspected or accused;

2) legal qualification of a criminal offence specifying an article (a paragraph of an article) of a law of Ukraine on criminal liability;

3) the statement of circumstances which afford grounds for suspecting and/or accusing a person of a criminal offense, and reference to materials confirming these circumstances;

4) reference to one or more risks specified in Article 177 of that Code;

5) the statement of circumstances based on which an investigator and/or a prosecutor concludes that one or more risks specified in his/her request exist, and reference to materials confirming these circumstances;

6) a rationale for absence of possibility of preventing a risk or risks specified in the request by applying less restrictive measures of restrict;

7) a rationale for necessity to impose specific duties defined by Article 194(5) of that Code on the suspect or the accused.

The copy of the request and materials reasoning necessity to apply a measure of restrict is delivered to the suspect or the accused not later than three hours before the request is considered. The request is accompanied by: 1) copies of materials which the investigator uses to reason the arguments of the request; 2) the list of witnesses whom the investigator deems necessary to question during the hearing on a measure of restrict; 3) proof that the suspect or the accused has received the copies of the request and materials reasoning necessity to apply a measure of restrict. Applying a measure of restrict to a separate person requires a separate request.

A procedure for considering petitions for a consent for a judge to be detained or arrested as he/she is suspected of an offence which causes criminal liability, by the High Council of Justice is regulated by Chapter 18 of the Rules of Procedure of the High Council of Justice approved by decision of the High Council of Justice No. 52/0/15-17 dated 24 January 2017 as amended.

A special focus is put on a fact that, in view of the provisions of legislation which define general principles of the operation of the prosecutor's office and, particularly, the status of a prosecutor, it may be noted that the status of a prosecutor does not provide for any privileges and immunity.

110. Is there an Inspection Service for the judiciary? Is it within the Judicial Council or the Ministry of Justice? If so, describe its composition, role, way of functioning, budget and number of cases it is dealing with. In case of no specific inspection service, are there other internal control mechanisms established, and if yes, how do they operate?

Ukrainian effective legislation does not provide for the existence of an inspection service for the judiciary. In addition, according to effective legislation, the High Council of Justice has no powers to inspect the activities of courts and judges but to consider complaints against actions of judges within disciplinary proceedings.

According to Article 108 of Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges" dated 2 June 2016, disciplinary proceedings against judges are carried out by disciplinary chambers at the High Council of Justice as stipulated by the Law of Ukraine "On the High Council of Justice", taking into account the requirement of the Law.

According to Article 26 of Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016, the High Council of Justice establishes disciplinary chambers from among members of the High Council of Justice to consider cases on disciplinary liability of judges.

The number of disciplinary chambers and the number of members of each chamber are determined by a decision of the High Council of Justice.

Each disciplinary chamber is composed of at least four members of the High Council of Justice. When establishing disciplinary chambers, the High Council of Justice should ensure that at least half of, or if it is not possible, at least a significant part of, members of each disciplinary chamber be judges or resigned judges.

Point 4.2. of the Rules of Procedure of the High Council of Justice, approved by decision of the High Council of Justice No. 52/0/15-17 dated 24 January 2017 (as amended) stipulates that the Chairperson of the Supreme Court is not comprised in any disciplinary chamber.

If needed, the High Council of Justice may adopt a decision on involving members of one disciplinary chamber in activities of another disciplinary chamber or on delegating powers to adopt such decisions to the Chairperson of the High Council of Justice. Such powers are delegated to the Chairperson of the High Council of Justice by decision of the High Council of Justice No. 198/0/15-17 dated 7 February 2017.

In 2021, there were three disciplinary chambers at the High Council of Justice, which fully completed considering 7,418 disciplinary complaints and adopted 66 decisions on bringing 74 judges to disciplinary liability.

On 5 August 2021, Law of Ukraine No. 1635-IX “On amendments to certain legislative acts of Ukraine on the procedure for selecting (appointing) members of the High Council of Justice and activities of disciplinary inspectors of the High Council of Justice” dated 14 July 2021 (hereinafter referred to as Law No. 1635-IX) took effect amending the Law of Ukraine “On the High Council of Justice”, particularly in terms of disciplinary proceedings against judges.

According to Article 27(5) of Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016 (as amended by Law No. 1635-IX), the service of disciplinary inspectors functions as an independent structural subdivision at the secretariat of the High Council of Justice, which is established to exercise powers of the High Council of Justice on disciplinary proceedings against judges and operates based on the principle of functional independence from the High Council of Justice.

The threshold quantity of employees of the secretariat, including disciplinary inspectors of the High Council of Justice, is approved by the High Council of Justice (Article 27(6) of Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016).

According to Article 28 of Law of Ukraine No. 1798-VIII “On the High Council of Justice” dated 21 December 2016, the service of disciplinary inspectors at the High Council of Justice is composed of persons who have higher legal education, at least fifteen years of professional experience in law, including eight years, in total, of experience as a judge, prosecutor or lawyer.

Peculiar aspects of activities of disciplinary inspectors of the High Council of Justice are stipulated by the Regulation on the Disciplinary Inspector of the High Council of Justice approved by the High Council of Justice.

The service of disciplinary inspectors of the High Council of Justice is chaired by the deputy head of the secretariat of the High Council of Justice — the head of the service of disciplinary inspectors who is appointed and dismissed by the High Council of Justice as determined by legislation on public service, taking into account peculiar aspects determined by the Law of Ukraine “On the High Council of Justice”.

A disciplinary inspector of the High Council of Justice:

- 1) preliminary examines a disciplinary complaint allocated to the inspector as a result of the automatic case allocation;
- 2) analyses materials of disciplinary cases;
- 3) collects, when necessary, information, documents, other materials;
- 4) prepares draft resolutions and decisions of the disciplinary chamber at the High Council of Justice within disciplinary proceedings against a judge;
- 5) analyses materials concerning complaints against decisions in disciplinary cases against judges and prosecutors, prepares draft opinions and decisions of the High Council of Justice;
- 6) analyses and summarises the practice of disciplinary proceedings and made decisions on bringing or refusal to bring a judge to disciplinary liability.

As of today, the service of disciplinary inspectors is not established. According to point 6 of Section II “Final and Transitional Provisions” of Law No. 1635-IX, a competition for positions of disciplinary inspectors of the High Council of Justice is announced after compliance of members of the High Council of Justice (except for the Chairperson of the Supreme Court) with professional ethics and integrity criteria is assessed but not later than in one year after the effective date of the said Law.

111. What are the grounds for disciplinary proceedings against judges and prosecutors? Who may initiate disciplinary proceedings? Who investigates/prosecutes/adjudicates? Is there an effective legal remedy allowing for challenges against disciplinary decisions?

Information concerning judges

Grounds for disciplinary liability of judges are determined by Article 106 of Law No. 1402-VIII.

Thus, a judge may be brought to disciplinary liability under disciplinary proceedings based on the following grounds:

when committed intentionally or caused by negligence:

unlawful denial of access to justice (including unlawful denial to consider any claim, appeal or cassation appeal on the merits) or any other substantial violation of procedural law when administering justice, which has made impossible for participants in a trial to exercise their procedural

rights and comply with their procedural obligations, or has resulted in infringement of the rules for court jurisdiction or composition;

failure to specify, in the judgment, grounds for the acceptance or rejection of parties' arguments on the merits of the dispute;

violation of principles of publicity and openness of a trial;

violation of principles of equality of all participants in a trial before the law and the court, adversarial procedure and freedom of the parties to present their evidence to the court and to prove the preponderance of evidence before the court;

failure to ensure the accused's right to defence, hindering other participants in a trial from exercising their rights;

infringement of the rules for disqualification (recusal);

unreasonable delay or failure of the judge to take action to consider an application, a complaint or a case within the time limits stipulated by law, delays in producing a substantiated judgment, late provision by the judge of a copy of the judgment to be recorded in the Unified State Register of Judgments;

conduct of the judge, which defames the title of a judge and undermines the authority of justice, particularly in terms of morals, honesty, integrity, conformity of the judge's lifestyle with his/her status, compliance with other judicial ethics and conduct standards which ensure public trust in judges, display of disrespect towards other judges, lawyers, experts, witnesses or other participants in a trial;

intentional, or gross-negligence, violation of human rights and fundamental freedoms or other major violation of law resulting in essential negative effects, allowed by the judge participating in adopting the judgment;

disclosure by the judge of secrets protected by law, including the secrecy of deliberations or information that has become known to the judge during the hearing in private;

failure of the judge to notify the High Council of Justice and the Prosecutor General of any cases of interference in the judge's activities concerning the administration of justice, including cases of being addressed by participants in a trial or other persons, including persons authorised to perform the functions of the state, with issues concerning specific cases being heard by the judge, if such an address is made in a manner other than a manner stipulated by procedural legislation, within five days after he/she has become aware of such a case;

failure to notify, or notify in time, the Council of Judges of Ukraine of a real or potential conflict of interest of the judge (except where a conflict of interest is resolved as stipulated by procedural law);

interference in the administration of justice process by other judges;

failure to submit, or submit in time, a declaration of a person authorised to perform the functions of the state or local self-government for publication in a manner stipulated by legislation on corruption prevention;

specification of deliberately false information or intentional failure to specify data determined by legislation in the declaration of a person authorised to perform the functions of the state or local self-government;

use of the status of a judge in order to illegally gain, by him/herself or by any third party, material or other benefits, if such an offence does not contain the elements of crime or criminal offence;

dishonest conduct allowed by the judge, including expenditures by the judge or members of his/her family in excess of the income of the judge and members of his/her family; detection of discrepancy between the lifestyle of the judge and the declared income; failure of the judge to confirm legitimacy of property sources;

failure to submit information or submission of deliberately false information at the legitimate request of a member of the High Qualification Commission of Judges of Ukraine or a member of the High Council of Justice, including failure to adhere to submission time limit determined by laws;

failure to complete advanced qualification courses at the National School of Judges of Ukraine in the field determined by a body that carries out disciplinary proceedings against judges, or failure to complete further qualification evaluation to confirm judge's ability to administer justice in the respective court, or failure to confirm judge's ability to administer justice in the respective court based on the qualification evaluation results;

finding of the judge's guilt in a corruption corruption-related offence in cases stipulated by laws;

failure of the judge to submit, or submit in time, a declaration of family relationships in a manner stipulated by that law;

provision of deliberately false (including incomplete) data in a declaration of family relationships of the judge;

failure of the judge to submit, or submit in time, a declaration on judicial integrity in a manner stipulated by that law;

provision of deliberately false (including incomplete) statements in a declaration on judicial integrity.

According to Article 107(1) of Law No. 1402-VIII, any person has the right to file a complaint against a disciplinary offence of a judge informing of the disciplinary offence committed by the judge (a disciplinary complaint). Individuals exercise the said right personally or through their lawyers, legal entities exercise the right through their lawyers, and public authorities and local self-governing bodies exercise the right through their managers or representatives.

Disciplinary proceedings against judges are carried out by disciplinary chambers at the High Council of Justice as stipulated by the Law of Ukraine "On the High Council of Justice" taking into account the requirement of the Law (Article 108 of Law No. 1402-VIII).

Information on appealing the decision of a disciplinary body is provided in the answer to question No. 95.

Information concerning prosecutors

According to Article 43 of Law No. 1697-VII, a prosecutor may be brought to disciplinary liability under disciplinary proceedings based on the following grounds:

- 1) failure to fulfill, or duly fulfill, official duties;
- 2) unreasonable delay in considering a petition;
- 3) disclosure of a secret protected by law, of which the prosecutor has become aware when exercising their powers;
- 4) violation of a procedure for submitting a declaration of a person authorised to perform the functions of the state or local self-government, stipulated by laws;
- 5) taking actions that defame the title of a prosecutor and may cast doubt on his/her objectivity, impartiality and independence, honesty and integrity of the prosecution authorities;
- 6) systematic (two or more times within one year) or one-time major violation of the rules for prosecutor's ethics;
- 7) violation of the internal service regulations;
- 8) the prosecutor's interference in or any other influence on, in cases or in a manner not stipulated by legislation, official activities of another prosecutor, officers, officials or judges, including by making public statements on their decisions, actions or inactivity, with no signs of an administrative or criminal offence;
- 9) a public statement made in breach of the presumption of innocence.

Law No. 1697-VII provides, therewith, that bringing a prosecutor to disciplinary liability does not exclude the possibility of bringing the prosecutor to administrative or criminal liability when it is stipulated by laws.

Disciplinary proceedings are carried out by the respective body. The respective body that carries out disciplinary proceedings determined 03.11.2021 as its start date in Decision No. 163п-21 (16zp-21) dated 26 October 2021.

It should be noted that decisions, actions or inactivity of a prosecutor within a criminal process may be appealed against only in a manner determined by [the Criminal Procedure Code of Ukraine](#). If the consideration of the appeal against decisions, actions or inactivity of a prosecutor within a criminal process results in the established facts of violation by the prosecutor of rights or laws, such decisions may be deemed to be grounds for disciplinary proceedings.

Every person who is aware of the facts of commission by a prosecutor of a disciplinary offence has the right to file a disciplinary complaint with the respective body that carries out disciplinary proceedings. A recommended sample disciplinary complaint is available on the website of the Prosecutor General's Office.

The secretariat of the respective body that carries out disciplinary proceedings registers the disciplinary complaint on its receipt day and determines, through an automatised system, a member of the respective body that carries out disciplinary proceedings to resolve on the initiation of disciplinary proceedings.

An opinion on commission or non-commission of the disciplinary offence by the prosecutor is considered at the meeting of the respective body that carries out disciplinary proceedings, where a person who has filed the disciplinary complaint, the prosecutor against whom the disciplinary proceeding has been initiated, their representatives and other parties, if necessary, are invited.

An opinion on commission or non-commission of the disciplinary offence by the prosecutor is considered on the basis of the adversarial system. The meeting of the respective body that carries out disciplinary proceedings hears explanations of an inspecting member of the respective body that carries out disciplinary proceedings, the prosecutor against whom the disciplinary proceeding has been initiated, and/or their representative and other parties, if necessary.

The respective body that carries out disciplinary proceedings takes a decision within the disciplinary proceedings by its majority vote. When taking a decision within the disciplinary proceedings, the nature of the offence, its consequences, the prosecutor's identity, the degree of the prosecutor's guilt, circumstances impacting a type of a disciplinary sanction are taken into account.

The decision of the respective body that carries out disciplinary proceedings is made in writing, signed by the chairperson and members of the respective body that carries out disciplinary proceedings, who have participated in the consideration of the opinion on commission or non-commission of the disciplinary offence, and announced at the meeting of this body.

The copy of the decision of the respective body that carries out disciplinary proceedings is delivered to a prosecutor whom it concerns, or sent to the prosecutor by the registered letter with acknowledgement of receipt within seven days. The copy of the decision is sent to a head of a prosecution body where the prosecutor whom it concerns holds the position.

In addition, the decision of the respective body that carries out disciplinary proceedings, resulting from the consideration of the disciplinary proceedings, is published on its website within seven days (Articles 46–49 of Law No. 1697-VII).

Law No. 1697-VII provides, therewith, for the prosecutor's right to appeal against the decision resulting from the disciplinary proceedings in an administrative court or the High Council of Justice within one month upon the delivery or receipt of the copy of decision by registered letter.

An administrative claim on the appeal against the decision of the High Council of Justice is considered in a manner stipulated by procedural laws.

Bringing the administrative claim against the decision of the High Council of Justice on bringing the prosecutor to disciplinary liability or on impossibility for the prosecutor to continue holding the position before a court does not suspend the effect of this decision, but the court may, as the security for the administrative claim and by the respective resolution, suspend the effect of the decision of the High Council of Justice on bringing the prosecutor to disciplinary liability or on impossibility for the prosecutor to continue holding the position (Article 50 of Law No. 1697-VII).

112. Are judges and prosecutors obliged to declare their assets? Which body is responsible for verifying the accuracy of assets' declarations and what happens with its findings? Are these declarations cross checked with other information databases, such as tax or property? Are there sanctions for falsifying declarations?

According to Article 45 of Law No. 1700-VII, judges and prosecutors are obliged to submit, annually by 1 April, a declaration of a person authorised to perform functions of the state or local self-government for the previous year in a form determined by the National Agency on Corruption Prevention by completing it on the official website of the National Agency on Corruption Prevention.

Article 60 of Law No. 1402-VIII provides that comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government, which is submitted by a judge, is carried out, as stipulated by law, by a central executive authority with a special status, which ensures the formation of and implements a public anti-corruption policy, and aims at establishing reliability of the declared evidence and accuracy of the assessment of the declared assets, checking for existing conflict of interest and signs of illegal enrichment. The NACP is the very authority.

The comprehensive examination of the declaration of a person authorised to perform functions of the state or local self-government is carried out for each judge at least every five years (unless the law provides otherwise) as well as at the respective request of the High Qualification Commission of Judges of Ukraine or the High Council of Justice.

If false or incomplete information is submitted, a judge may be brought to administrative or criminal liability.

Legislation also provides for an institute of judge resignation termination. Thus, Article 145 of Law No. 1402 provides that the resignation of a judge is terminated if an indictment for an intentional crime committed by the judge takes effect.

113. How can a decision by a prosecutor not to press charges or to drop a case be challenged, in particular in cases where there is no obvious victim apart from the public interest?

In the indicated circumstances, the prosecutor's decision to close the criminal proceedings may be challenged in accordance with part 6 of Art. 36 of the CPC of Ukraine - the Prosecutor General, the head of the regional prosecutor's office, the head of the district prosecutor's office, their first deputies and deputies in overseeing compliance with the law during the pre-trial investigation have the right to revoke illegal and unfounded decisions of investigators and lower-level prosecutors.

114. Have there been any allegations on corruption in the judiciary and, if so, are there any convictions in such cases? Is there a strategy/action plan to fight corruption in the judiciary? If so, what are the practical results in their implementation? Please provide statistics on indictments and convictions in cases of corruption in the judiciary over past 5 years.

Since 2016, the National Anti-Corruption Bureau of Ukraine (hereinafter referred to as NABU) as a special agency carries out pre-trial investigation of criminal offences committed by judges (except for judges of the High Anti-Corruption Court), judges of the Constitutional Court of Ukraine.

According to Article 26 of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine", annually on 10 February and 10 August at the latest, the Director of the National Anti-Corruption Bureau of Ukraine submits the written report on the NABU activities for the previous six

months, including statistical indicators of the activities of the bureau, to the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine

Thus, the statistics contained in the NABU reports demonstrates the number of judges accused of corruption offences.

The national report on implementing the principles of anti-corruption policy, which is prepared by the National Agency on Corruption Prevention annually, contains evidence on the number of notifications on criminal corruption and corruption-related offences registered by each of specially authorised agencies in the field of corruption prevention.

Pursuant to the requirements of Article 11(1)(9) of the Law “On Prevention of Corruption” dated 14 October 2014, the National Agency on Corruption Prevention (NACP) ensures that the Unified State Register of Persons that Committed Corruption or Corruption-Related Offenses, where evidence on persons that committed corruption or corruption-related offences are recorded according to the Regulation on the Unified State Register of Persons that Committed Corruption or Corruption-Related Offenses, approved by the NACP decision dated 9 February 2018, is maintained.

Since 5 September 2019, the High Anti-Corruption Court (HACC) administers justice as a court of first instance and a court of appeal in criminal proceedings as regards offences falling within its jurisdiction under procedural laws. In particular, cases on corruption offences committed by judges are heard by the HACC.

The High Anti-Corruption Court regularly publishes information on the results of its activities, including reports on persons brought to criminal liability and on types of punishments.

Open-source statistics shows that the number of indictments against judges who committed criminal corruption offences has increased since the establishment and full launch of the system of anti-corruption agencies (NABU - SAPO (Specialized Anti-Corruption Prosecutor's Office) - HACC).

There were corruption allegations within the judiciary.

In 2021, indictments against four judges took legal effect, and the National Anti-Corruption Bureau of Ukraine which legally investigates corruption offences committed by judges served three judges with notices of accusation.

A corruption scandal related to the Kyiv District Administrative Court is serious. In 2019–2020, the National Anti-Corruption Bureau of Ukraine published materials on covert actions of investigation, information in which could witness attempts of certain judges in that court to interfere with activities of other public authorities (including the High Council of Justice, the High Qualification Commission of Judges of Ukraine, the Constitutional and Supreme Courts). Nowadays, criminal proceedings based on the facts published are in progress.

Problems with corruption prevention in the judiciary constitute a part of principal strategic documents of the state.

Thus, the Anti-Corruption Strategy for 2014–2017, approved by the Law of Ukraine “On Principles of the State Anti-Corruption Policy in Ukraine”, defined measures to be taken to prevent corruption in the judiciary, including:

1) to adopt, taking into account opinions of the European Commission for Democracy through Law (the Venice Commission), laws on amendments to the Constitution and to laws of Ukraine aiming to reform the judiciary and the status of judges based on European standards, providing, in particular, that:

judicial immunity be reduced and judges be granted with functional immunity only (immunity from accusation of actions taken when performing functions of a judge);

issues on preventing and resolving conflict of interest within the activities of the representatives of judicial authorities be settled;

particular aspects of special check of candidates for the position of a judge be defined;

information in a property, income, expense and financial obligation declaration of judges be submitted, published (including on the Internet), and reliability thereof be monitored;

a separate body within the judiciary be established or judicial self-governance bodies (not related to disciplinary functions) be entrusted with consultative functions concerning ethics standards, conflict of interest and property, income, expense and financial obligation declarations;

judges be periodically trained in issues related to corruption prevention and counteraction standards, taking into account them during judge competency evaluation.

We also inform that corruption prevention in the judiciary is defined as one of priority areas in the Anti-Corruption Strategy for 2021–2025. Measures defined by the Strategy intend to resolve problems with integrity of members of judicial governance and judges, to enhance procedures for judge qualification evaluation and selection, to introduce efficient mechanisms to support integrity of judicial manpower and react to proven facts of influence on, pressure on and interference in their activities. In addition, the Strategy offers to fill in gaps and remedy defects in legislation, which cause corruption risks.

The draft law approving the said Strategy has been adopted at the first reading on 5 November 2020, and is expected to be adopted entirely. Meanwhile, the draft Strategy was highly assessed by the European Parliament (Resolution No. 2019/2202(INI) dated 11.02.2021) that called the Verkhovna Rada to adopt it in the nearest time:

The draft Anti-Corruption Strategy for 2021–2025 that is proposed to be approved by draft law No. 4135 “On Principles of Anti-Corruption Policy for 2020–2024” also defines “corruption risks caused by gaps and defects of legislation in the justice system” as a problem. The draft Strategy defines the expected strategic results of the problem resolution, particularly:

1) mechanisms disabling one person to hold an administrative position in court for a long period of time are implemented;

2) electronic judiciary is ensured, including by allowing that certain categories of cases may be heard online despite the location of parties and a court, which promotes fair allocation of cases among courts and judges;

3) the scope of alternative methods of dispute resolution and pre-trial dispute settlement is expanded;

4) the system of enforcement of judgements is improved;

5) rules of procedure for transparent planning and allocation of budget resources within the judiciary are introduced based on objective and clearly defined criteria; the audit of the activities of the State Judicial Administration of Ukraine, particularly financial and economic security for courts and judicial authorities, management by state-owned facilities within its management scope, is ensured;

6) the network of local judges is reviewed and formed taking into account the administrative and territorial reform, necessity to ensure direct access to justice and economic justification;

7) the amount of remuneration for judges, provided by the Law of Ukraine “On the Judiciary and the Status of Judges”, is not limited by other legal and normative acts.

Meanwhile, the Strategy for the Development of the Justice System and Constitutional Courts for 2021–2023 approved by the Decree of the President determines the following problems: “dishonesty of certain judges, employees of judicial authorities and institutions”, “no efficient mechanisms for monitoring how judges of the Constitutional Court of Ukraine apply anti-corruption restrictions and bans”.

The Strategy simultaneously determines areas and measures to be implemented for the said problems to be resolved, particularly:

to enhance mechanisms for verifying integrity of members of judicial governance bodies;

to enhance the procedure for selecting (appointing) members of High Council of Justice and to assess, on a once-off basis, compliance of active members of the High Council of Justice with professional ethics and integrity criteria, involving international experts, as well as to ensure that members of the High Council of Justice comply with professional ethics and integrity standards;

to optimise authorities and bodies of the justice system by establishing autonomous personnel and disciplinary bodies members of which are appointed through competition (involving international experts in competitive selection), to ensure that personnel and disciplinary bodies continuously perform their functions;

to introduce common approaches to resolve conflict of interest of members of judicial governance bodies and members of public bodies which participate in procedures for selecting and assessing judges and candidates for the position of a judge;

to introduce a procedure for appointing by the High Council of Justice judges from the list of candidates considered at the meeting of judges to administrative positions in courts if a chairperson of a court or his/her deputy (deputies) is not elected by the meeting of judges for a long period of time;

to establish, at the legislative level, the principles of the stability and predictability of remuneration, labour and social benefit compensation for members and employees of judicial governance bodies as elements of their independence;

to regulate mechanisms for monitoring assessment of and control over the organisation of court operation (with no interference in the field of justice management) such as an internal audit and/or anti-corruption control system;

to introduce effective mechanisms for complying by judges of the Constitutional Court of Ukraine with anti-corruption legislation requirements and for monitoring how they are met by the judges.

E. Professionalism/Competence

115. Initial training (delivered before or upon appointment): Please describe the training system for judges and prosecutors. Is it compulsory? Which institution is responsible for the legal framework of initial training and which institution implements the initial training, including the enrolment process, delivery of training, its final evaluation? How long does the initial training take? In the case where initial training is an obligatory requirement for entering the career of a judge or prosecutor, what are the selection criteria for being admitted to such training? If there is a requirement to have passed a final examination, how is such an examination organised?

Pursuant to Article 70(1) of Law No. 1402-VIII the selection and appointment of a judge to the position take place in the manner prescribed by this Law, and include the following stages:

- completion of special training by the candidates who have passed the eligibility assessment and a special verification procedure;
- obtaining a certificate of completion of special training;
- passing a qualification exam by candidates who undertook special training and establishing its results.

Pursuant to Article 77 of the Law No. 1402-VIII, the special training of a candidate for the position of a judge includes theoretical and practical training of a judicial candidate at the National School of Judges of Ukraine (NSJ).

The program, curriculum and procedure for special training of candidates for the position of judge are approved by the High Qualifications Commission of Judges of Ukraine (HQCJ) upon recommendation of the NSJ.

The special training takes twelve months (unless another term is determined by the decision of the HQCJ) at the expense of the State Budget of Ukraine.

For the period of training, the candidates retain their main job, are paid a monthly allowance in the amount equal to the salary of assistant judge of a local court. The term of special training at the NSJ is added to the record of professional activity in the field of law.

Following the special training, the candidates receive a certificate of a standard form approved by the HQCJ. The successful completion of the training program is regarded as completion of the special training by the candidate.

The NSJ sends materials on the candidates who have completed the special training to the HQCJ for their further qualification exam.

Where a candidate for the position of judge deviates from the special training procedure which, in turn, entails their expulsion, suspends such training at their own initiative, or fails to complete the special training, they are obligated to reimburse the funds spent on their training. The candidates for

the position of a judge are obliged to reimburse the funds spent on their special training in case they fail to appear, without a valid reason, to take a qualification exam or, within three years after the transfer to the reserve, they do not submit an application for participation in a competition for a vacant judicial position, or if they are excluded from the reserve upon their request.

Pursuant to Article 78 of Law No. 1402-VIII, the qualification exam is an evaluation of a person who has undertaken training and expressed an intention to be recommended for appointment to the position of judge.

The qualification exam is aimed at identifying the level of theoretical knowledge and professional skills of a candidate to the position of a judge, including those gained during their tertiary legal education and special training, and a degree of their readiness to administer justice.

The qualification exam procedure and the methods of evaluation of candidates are established by regulation approved by the HQCJ.

In addition, pursuant to Law No. 1697-VII, the candidates for the position of prosecutor pass the qualification exam to check the level of their theoretical knowledge in the field of law, European standards in the field of human rights protection, proper command of the state language, and analytical and practical skills. This exam consists of anonymous testing and a practical task. The qualification exam procedure is determined by Article 31 of Law No. 1697-VII.

Thus, the relevant disciplinary body notifies the candidates for the position of prosecutor admitted to the qualification exam of the date, time and place of its holding no later than seven days before the date of examination.

The exam takes place at the specially designated premises. The qualification exam is recorded with the help of video and audio-recording devices.

After the qualification exam, the relevant disciplinary body checks the works and scores the candidates for the position of prosecutor.

After obtaining the results of qualification exam, the relevant disciplinary body determines a passing score, which cannot be less than 60% of the maximum possible score.

The qualification exam procedure and evaluation methods are determined by the relevant disciplinary body.

The qualification exam results are valid for three years.

A person who has not passed the qualification exam may be re-admitted to the exam not earlier than in one year.

The information about the results of qualification exam and the candidate's position in the ranking is publicly available and is published on the official website of the relevant disciplinary body.

The relevant disciplinary body enlists to the reserve to fill the vacant positions of prosecutors all candidates who have successfully passed the qualification exam and who have not been denied enlisting to the reserve as a result of a special verification. The relevant disciplinary body refers the candidates to take special training at the Prosecutors' Training Center of Ukraine for one year in order to obtain knowledge and practical skills of a prosecutor, as well as study legal drafting and the rules of prosecutorial ethics.

To complete the special training, the candidate for the position of prosecutor takes an exam consisting of the anonymous testing and a practical task.

During the period of training, the candidate for the position of prosecutor is paid a monthly allowance of at least two thirds of the salary earned by prosecutor of the district prosecutor's office.

The curriculum, the special training procedure for candidates for the position of prosecutor and the methods of their evaluation are approved by the relevant disciplinary body.

Based on the results of the candidate's special training, the Prosecutors' Training Center of Ukraine issues a reasoned decision on the successful or unsuccessful completion of such training, a copy of which is given to the candidate for the position of a prosecutor.

The candidates for the position of a prosecutor are considered to have successfully completed the special training if they score more than 50% of the maximum possible score at the exam (Articles 31–33 of Law No. 1697-VII).

Even though Question #115 does not expressly mention tertiary legal education, it is worth noting that a master's degree in law is an academic qualification required by law to qualify for judgeship or a prosecutorial position. Professionalism/competence of legal professionals, including judges and public prosecutors, is not possible without the high quality of tertiary legal education. That is why the Cabinet of Ministers of Ukraine's Action Plan (Section 13.4) provides for comprehensive legal education reform aimed to modernize Ukraine's legal education system and ensure legal education quality as a precondition for upholding the rule of law in Ukraine going forward.

116. Continuous training: Are specific training courses organised for judges and prosecutors in areas such as company law, cybercrime, organised and financial crime, corruption, EU law, procedural rights, victims' rights, rights of the child, non-discrimination, ECHR case-law, etc.? Are training needs assessed as part of the overall annual evaluation of judges, prosecutors and other court and prosecution offices' staff? What is the system of the evaluation of judicial training? What is the average time a judge or prosecutor spends annually on continuous training? Is continuous judicial training compulsory in any circumstances? What percentage of judges, prosecutors and other staff in the judicial sector has received further training over the last 5 years (compared with the profession as a whole)?

Pursuant to Article 105 of Law No. 1402-VIII, the National School of Judges of Ukraine: ensures special training of candidates for the position of judge; trains judges, including those who have been selected to administrative positions in courts; ensures regular continuous training of judges aimed at increasing their level of qualifications; conducts training courses as determined by a qualification or disciplinary body to increase the qualifications of judges who are suspended from administering justice; conducts research in the field of improving the judiciary, status of judges and judicial proceedings; studies the international experience of court organisation and functioning; provides scientific and methodological support to the operations of courts, High Qualification Commission of Judges of Ukraine and High Council of Justice.

There are special training courses for judges in such areas as: company law, cybercrime, organised and financial crime, anti-corruption law, EU law, procedural rights, victims' rights, rights of the child, non-discrimination law and practice, ECHR case-law.

Judges are obliged to take continuous training at the National School of Judges of Ukraine at least once every three years. Such training shall be at least 40 academic hours in every three years of his/her holding position of judge. The National School of Judges of Ukraine provides the training for judges as required to improve their knowledge, skills and capacities depending on the experience, level and specialisation of courts they are working in, as well as taking into account their individual needs. To this end, the National School of Judges organises mandatory trainings as part of the training course, and optional trainings for judges depending on their needs.

A regular evaluation of judges during their term in the office is aimed at identifying their individual needs for improvement, encouraging to maintain their qualification at a proper level and promoting professional growth.

Judges are regularly evaluated by lecturers (trainers) of the National School of Judges of Ukraine based on the results of training and completion of a questionnaire; other judges of the relevant court by offering to fill in a questionnaire; the judge himself/herself by filling in a self-evaluation questionnaire; public associations by independent evaluation of the judge's work in court sessions. The procedure and methodology of the judge's evaluation/self-evaluation are approved by the High Qualification Commission of Judges of Ukraine.

Public associations may organise independent evaluation of the judge's work in the open court sessions. The results of an independent evaluation of the judge's work in a court session are recorded in the questionnaire that includes such information as duration of trial, observance by the judge of the judicial rules and respect to rights of the trial participants, communication culture, level of the judge's impartiality, level of satisfaction of the trial's participants with the judge's conduct, comments to the trial conduct, etc.

The completed questionnaire of an independent evaluation of the judge's work in court session may be attached to the judge's dossier.

The results of regular evaluations may be taken into consideration when making a decision to open a competition for a vacant position in the relevant court.

All judges and judicial staff are regularly undertaking continuous training.

In addition, Law No. 113-IX provided for the establishment of the Prosecutor's Training Center of Ukraine at the National Prosecution Academy of Ukraine to ensure the professional development of prosecutors.

To this end, in 2020, the Prosecutor's Training Center of Ukraine was established at the National Prosecution Academy of Ukraine. It is a state institution operating under the Prosecutor General's Office, which has been established, *inter alia*, to ensure the prosecutors' continuous training.

The continuing professional training is an integral part of the responsibilities of each prosecutor and is carried out taking into account the individual needs of professional development.

During the term of their office, the prosecutors are obliged to continuously improve their skills

and professional level.

An important aspect of the continuous training is the ability to choose and use the most relevant forms of continuous training, taking into account the prosecutor's activities, their specific needs for improvement, acquisition of new knowledge and development of skills and capacities.

To improve the prosecutors' skills, the national and international experience in the field of criminal justice and other areas of prosecutorial activity is being used.

The provisions of Regulation on the System of Continuous Professional Training of Prosecutors, approved by Order of the Prosecutor General No. 200 of 15 June 2021, provide for several forms of prosecutors' training.

For instance, it can be an independent training of a prosecutor, internship at the prosecutor's office of higher level, participation in seminars and other collective forms of training, training at the Prosecutor's Training Center of Ukraine, training (teaching) activities at the Prosecutor's Training Center of Ukraine and research activities.

The prosecutor is considered to have completed the continuous training at the Prosecutor's Training Center of Ukraine if, while undertaking the training course, he/she earned at least 60 credits within 48 months of training.

The prosecutor's continuous training is taken into account in their career growth, in particular when conducting the annual evaluation of the quality of prosecutors' work.

In this case two components are subject to evaluation: results of the prosecutor's work (performance of official/job duties), which make 80% of the total score, plus professional development, including mandatory continuous training, and professional activity of the prosecutor, which make another 20%.

117. Are the following subjects part of initial and continuous training of judges, public prosecutors or lawyers: rule of law, fundamental rights, digitalisation, judgecraft (set of skills and attitudes of being a justice professional), foreign languages, non-legal knowledge (e.g. behavioural sciences, psychology, anthropology, economics and cognitive linguistics)?

As part of the training programmes for judges, the National School of Judges of Ukraine provides special trainings for candidates to the position of judge, trainings for judges and employees of the court secretariat on the rule of law, fundamental human rights, judgecraft and non-legal knowledge.

For instance, the special training programme for candidates to the position of judge includes: fundamentals of judge's professional activity (judicial ethics, rule of law, anti-corruption legislation, courtroom management, judicial time management, professional psychological adaptation to judge's professional activity, disciplinary liability of a judge, overcoming gender stereotypes, preventing and combating discrimination, judicial administration, art of legal drafting and procedural paperwork, basics of judicial communication and business language);

basic jurisdictional component as per judicial specialisation of the judge-to-be (training courses covering procedural aspects of proceedings/case consideration under the relevant jurisdiction: application of the Convention for the Protection of Human Rights and Fundamental Freedoms and case law of the European Court of Human Rights in the administration of justice; evidence and proof;

specific aspects of consideration certain categories of cases; specific aspects of writing court judgements).

The study of foreign languages is a key component in strengthening the special training programme for candidates to the position of judge.

The training and retraining programmes for current judges are based on standardised training programmes and have a vast training component aimed at developing practical skills in the administration of justice based on the human rights values and the rule of law, combating corruption, developing high standards of professional ethics and implementing good practices into professional activities, preventing the conflicts of interest, counteracting to money laundering and terrorist financing, developing socioeconomic competence of judges, psychological adaptation to professional activity, studying the conflict and behavioural sciences, economic bases of judicial power, linguistic competence, etc.

According to the Statute of the Prosecutor's Training Centre of Ukraine, approved by Order of Prosecutor General No. 243 of 29 May 2020, the Training Centre has the right to independently develop its educational and training programmes; determine the forms and methods of teaching, define the procedure of training process organisation, etc.

118. Is there an entity providing judicial training? If so, what are its exact role and status (independence)? Are there any other training facilities? Are there sustainable and adequate resources (financial, human and material) for the judicial training body?

Article 131(10) of the Constitution of Ukraine provides that, according to the law, the bodies and institutions of judiciary are established, in particular, to ensure the selection of judges and their professional training.

Pursuant to Article 104 of Law of Ukraine No. 1402-VIII, the National School of Judges of Ukraine is a state institution with a special status in judiciary, which ensures training of highly qualified personnel for judiciary and carries out scientific and research activities. The legislation on higher education is not applicable to the National School of Judges of Ukraine.

The National School of Judges of Ukraine is established under the High Qualification Commission of Judges of Ukraine and operates according to this Law and the Statute approved by the High Qualification Commission of Judges of Ukraine.

Being an autonomous judicial training institution, the school independently develops its curricula, implements them in the territory of Ukraine through its central office in Kyiv and 5 regional offices. It receives the state funding guaranteed by a separate item of the State Budget of Ukraine (funds allocated to judiciary) and is accountable to the judiciary branch.

Thus, the National School of Judges of Ukraine has sustainable and sufficient resources (financial, human and material) for the efficient training of judges.

According to Council of Europe experts, the training system of the National School of Judges of Ukraine is in line with the European standards and contributes to improving the quality of the judiciary (Assessment of the 2014–2018 Judicial Reform in Ukraine and its Compliance with the Standards and Recommendations of the Council of Europe. Consolidated summary. April 2019 // <https://rm.coe.int/assessment-consolidated-ukr/168094dfe7>).

There are no other educational institutions in Ukraine that train judges.

F. Quality

119. What is the annual budget of the judiciary, in absolute terms and in percentage of the national budget? Please provide a breakdown for courts and prosecution offices. What is the budget of the judiciary per inhabitant? Please provide an overview for the last five executed years. What is the procedure for deciding the budget? Who is managing the budget in judiciary? How is the financial autonomy of the judiciary guaranteed?

According to the Law of Ukraine of 02.12.2021 № 1928-IX "On the State Budget of Ukraine for 2022", expenditures on ensuring the administration of justice by local, appellate courts and the functioning of bodies and institutions of the justice system should amount to UAH 19 billion. 32.5 million UAH

For the entire judiciary allocated 22 billion 493 million UAH

As for the expenditures on the prosecutor's office, they are laid at the level of 14 billion. 34.5 million UAH The total amount of expenditures from the state budget in 2022 is provided in the amount of 1 trillion 499.5 billion UAH.

Thus, in percentage terms, the budget of the judiciary is 1.4%, and the budget of the prosecutor's office is 0.9%. from the national budget.

The budget of the judiciary per resident, it is about UAH 550, and the budget of the prosecutor's office is about UAH 340. (based on the total population of Ukraine – 41 million).

In accordance with Article 130 of the Constitution of Ukraine, the state provides funding and appropriate conditions for the functioning of courts and the activities of judges. The centralized procedure for financing judicial bodies from the State Budget of Ukraine in volumes that should provide appropriate economic conditions for the full and independent administration of justice, financing the needs of courts (costs for consideration of court cases, utilities, repair and protection of court premises, purchase of office equipment, postal expenses, etc.) should limit any influence on the court and is aimed at guaranteeing judicial activity based on the principles and regulations of the Constitution of Ukraine. The absence of established standards for financing courts by the state cannot be the basis for arbitrary determination of its volumes by legislative or executive authorities, since the necessary expenses from the State Budget of Ukraine for courts cannot be reduced to a level that does not ensure compliance with the requirements of Article 130 of the Constitution of Ukraine regarding the financing of courts. Consequently, the expenditures of the State Budget of Ukraine for the maintenance of the judiciary are protected directly by the Constitution of Ukraine and cannot be reduced by legislative or executive authorities below the level that ensures the possibility of full and independent administration of justice in accordance with the law. This is the conclusion of the Constitutional Court of Ukraine in its decision of the 24th of June 1999 № 6-rp/1999.

According to Article 151 of Law № 1402-VIII, the State Judicial Administration of Ukraine is a state body in the justice system that provides organizational and financial support for the activities of judicial authorities within the powers established by law.

Part three of Article 148 of Law № 1402-VIII stipulates that the State Judicial Administration of Ukraine performs the functions of the main manager of funds of the State Budget of Ukraine on the financial support of courts, except for the Supreme Court, high specialized courts, and the High Council of Justice.

According to part four of Article 148 of Law № 1402-VIII, the functions of the manager of budgetary funds for local courts are carried out by the territorial departments of the State Judicial Administration of Ukraine.

Expenditures on the maintenance of courts in the State Budget of Ukraine are determined by a separate line regarding the Supreme Court, the High Council of Justice, the Appeals Chamber of the High Specialized Court, as well as in general regarding appellate and local courts.

In accordance with Article 89 of law № 1697-VII, the functions of the chief manager of funds of the State Budget of Ukraine on the financial support of the prosecutor's office are carried out by the Office of the Prosecutor General.

It is also worth noting that in accordance with paragraphs 4, 7 of part five of Article 22 of the Budget Code of Ukraine, the main manager of budgetary funds: approves the estimates of lower-level budget managers (plans for the use of budget funds of recipients of budgetary funds) unless otherwise provided by law; manages budget funds within the limits of the budgetary powers established by it, ensuring effective, effective and targeted use of budget funds, organization and coordination of the work of lower-level budget managers and recipients of budget funds in the budget process.

As for the procedure itself, in accordance with the provisions of the Budget Code of Ukraine, the main managers of budgetary funds ensure the preparation of budget requests for submission to the Ministry of Finance of Ukraine in accordance with the Budget Declaration and the requirements of instructions for the preparation of budget requests, taking into account the plans of activities for the medium term, reports on the implementation of passports of budget programs, the results of assessing the effectiveness of budget programs, conclusions on the results of control measures. Further, the Ministry of Finance of Ukraine at any stage of drafting and consideration of the draft State Budget of Ukraine conducts an analysis of the budget request.

Based on the results of the analysis, the Minister of Finance of Ukraine decides to include the budget request in the draft State Budget of Ukraine before submitting it to the Cabinet of Ministers of Ukraine.

Consideration and approval of the State Budget of Ukraine take place in the Verkhovna Rada of Ukraine under a special procedure determined by the Regulations of the Verkhovna Rada of Ukraine.

Year	Budget appointments of the SJA of Ukraine at the end of the year, million UAH	Budget of Ukraine, UAH 1 million	Percentage in the budget of Ukraine, %	Population size, thousand *	Budget of the SJA of Ukraine per resident, UAH
2018 year	13 487,0	991 930,7	1,4%	42 386,4	318,2
2019 year	15 777,9	1 093 021,7	1,4%	42 153,2	374,3
2020 year	15 699,8	1 270 677,1	1,2%	41 902,4	374,7
2021 year	17 303,2	1 444 342,1	1,2%	41 588,4	416,1
2022 year	19 035,4	1 499 469,9	1,3%	41 167,3	462,4

120. Is jurisprudence consistent across the legal system and are measures in place to ensure consistency? Are verdicts and their reasoning electronically available to other judges within a reasonable amount of time? Are court rulings publicly available? Is it easily accessible?

In accordance with paragraph 6 of part two of Article 36 of Law № 1402-VIII, ensuring the uniform application of the rules of law by courts of different specializations is entrusted to the Supreme Court. First of all, the unity of judicial practice and enforcement is ensured by determining in the law that the conclusions on the application of the rules of law set forth in the resolutions of the Supreme Court are taken into account by other courts in the application of such rules of law.

The procedural codes enshrine mechanisms for ensuring the unity of judicial practice in civil, administrative, economic cases and criminal cases. Thus, the Supreme Court may refuse to open cassation proceedings if it has already set out in its decision a conclusion on the application of the rule of law in such legal relations, violated in the cassation complaint and the court of appeal reviewed the court decision in accordance with this conclusion (except in the case of a decision of the Supreme Court to deviate from such a conclusion or when the Supreme Court considers it necessary to deviate from the conclusion on the application of the rule of law in such legal relations). If the court establishes the existence of such a circumstance after the opening of the cassation proceedings, then this may be the basis for the closure of the cassation proceedings.

In addition, in civil, economic, administrative, and criminal cases, the panel of judges of the Court of Cassation, which hears the case, has the right to refer the case to the Chamber / Joint Chamber / Grand Chamber of the Supreme Court, if this panel considers it necessary to deviate from the conclusion on the application of the rule of law in similar legal relations set forth in the previously adopted decision of the Supreme Court as part of a panel of judges, chamber, the joint chamber or the Grand Chamber of the Supreme Court. The decision of the Supreme Court should contain an opinion on how exactly the rule of law should be applied, with the application of which the panel of judges, the chamber, the joint chamber that referred the case to the Chamber, the United Chamber, the Grand Chamber, did not agree.

Also in administrative proceedings, there is an institute of exemplary case - a typical administrative case, which was accepted for proceedings by the Supreme Court as a court of the first instance to make an exemplary decision. Typical are cases of the defendant in which there is the same subject of power (its separate structural subdivisions), the dispute which arose on similar grounds, in relations governed by the same rules of law, and in which the plaintiffs made similar claims.

If there are typical administrative cases in the proceedings of one or more administrative courts, the number of which determines the expediency of making an exemplary decision, the court considering one or more such cases may apply to the Supreme Court for consideration of one of them by the Supreme Court as a court of the first instance. The court considering a typical case has the right to stop the proceedings at the request of the party to the case or on its initiative if the Supreme Court opens proceedings in the relevant exemplary case.

When deciding a typical case that corresponds to the features set forth in the decision of the Supreme Court based on the results of consideration of an exemplary case, the court should take into account the legal conclusions of the Supreme Court set out in the decision on the results of consideration of an exemplary case.

The Supreme Court in this format and with such powers began its functioning on the 15th of December 2017, and since then the issue of the legislative and institutional model of unity of judicial

practice has been largely resolved. The Grand Chamber of the Supreme Court adopted more than 1,000 legal positions on legal issues, most of which remained debatable for decades, in particular, to a large extent in matters of conflict of judicial jurisdictions. As for ensuring the unity of judicial practice within one jurisdiction, in this sense, it is effective to consider cases by the joint chambers of the cassation courts, which have also solved hundreds of legal problems since the beginning of their functioning. Every year these procedural instruments, despite their relative novelty, begin to work better.

According to part, one of Article 11 of Law № 1402-VIII, court decisions are open, except in cases established by law.

Part two of Article 2 of the Law of Ukraine of 22.12.2005 № 3262-IV "On Access to Court Decisions" (hereinafter referred to as the Law № 3262-IV) determines that court decisions are open and subject to electronic release no later than the day after their manufacture and signing, except for rulings on the seizure of property and temporary access to things and documents in criminal proceedings, which are subject to publication no earlier than the day of their appeal for execution. At the same time, if the trial took place in a closed court session, the court decision is made public with the exception of information that, according to the court decision on the consideration of the case in a closed court session, is subject to protection from disclosure. In cases determined by law, the court decision on granting permission to conduct an intelligence event or refusing to grant such a permit, issued in a closed court session, is not made public or published.

Access to published court decisions is provided through the Unified State Register of Court Decisions – an automated system for collecting, storing, protecting, accounting, searching, and providing electronic copies of court decisions. Courts are obliged to enter in the register all court decisions and individual opinions of judges, set out in writing, no later than the day after their adoption or production of the full text.

Court decisions entered in the register are open for free round-the-clock access. To exercise the right of access to court decisions entered in the register, the user is allowed to search, view, copy and print court decisions or their parts. Access to the texts of decisions is provided through the official website of the register - <https://reyestr.court.gov.ua/>.

Restriction of the right of free use by the official web portal of the judiciary of Ukraine is allowed to the extent necessary to protect information that, by a court decision on the consideration of a case in a closed court session, is subject to protection from disclosure. General access to decisions on permission to search a person's home or other possession, refusal to grant a request for a search of a person's home or other possession, permission to conduct an undisclosed investigative (search) action, refusal to satisfy a petition for an undisclosed investigative (search) action is ensured one year after such rulings are submitted to the Register.

Judges have the right to full access to all information resources of the Register, including the information specified in Article 1402-VIII of the Law. Access of judges to state secrets contained in court decisions is ensured in accordance with the Law of Ukraine of 21.01.1994 № 3855-XII "On State Secrets".

The right to full access to the information resources of the Register has officials or officials defined by the Regulations on the Unified Judicial Information and Telecommunication System.

Individuals and legal entities, states, and other bodies have the right to full access to court decisions in the Register adopted in cases in which they participated as participants in the case.

Court decisions are available electronically not only for judges but also for the general public. Appropriate access is provided through the Unified State Register of Court Decisions.

To prevent threats to the life and health of judges and participants in the trial during martial law, access to the Unified State Register of Court Decisions has been temporarily suspended.

Ukraine also uses digital tools to ensure the unity of judicial practice, which will be discussed in response to question 132.

121. What measures are taken to ensure transparency of justice? Is there a recording of court hearings? Are the trials open to the public in what way?

Article 129 of the Basic Law defines the publicity of the judicial process and its full fixation by technical means among the basic principles of legal proceedings.

In accordance with Article 11 of Law № 1402-VIII, court decisions, court hearings and information on cases considered by the court are open, except in cases established by law. No one may be restricted in the right to receive oral or written information in court about the results of the consideration of his court case. Any person has the right to free access to a court decision in accordance with the procedure established by law.

Information about the court considering the case, the parties to the dispute and the subject of the claim, the date of receipt of the statement of claim, appeal, cassation appeal, application for review of the court decision, the stage of consideration of the case, the place, date and time of the court session, the movement of the case from one court to another is open and should be immediately published on the official web portal of the judiciary of Ukraine, except in cases established by law.

Consideration of cases in courts takes place openly, except in cases established by law. Any person has the right to be present in an open court hearing. In case of committing actions by a person indicating contempt of court or participants in the trial, such a person may be removed from the courtroom by reasoned court decision.

Persons present in the courtroom, and representatives of the media can conduct the courtroom photography, video, and audio recording using portable video and audio equipment without obtaining a separate court permit, but taking into account the restrictions established by law. The court hearing is broadcast with the permission of the court. If all participants of the case participate in the court session by videoconference, the course of the court session is broadcast on the Internet without fail.

Photography, video recording, as well as the broadcasting of the court session in the courtroom should be carried out without creating obstacles in the conduct of the meeting and the exercise of their procedural rights by the participants of the trial. The court can determine the place in the courtroom from which the photography and video recording should be conducted.

Consideration of the case in a closed court session is allowed by a reasoned court decision only in cases determined by law.

When considering cases, the course of the trial is fixed by technical means in the manner prescribed by law, except for cases granting permission to conduct intelligence activities.

Participants of the trial based on a court decision are provided with the opportunity to participate in the court session by videoconference in accordance with the procedure established by law. The obligation to ensure videoconference rests with the court that received the court decision to hold a video conference, regardless of the specialization and instance of the court that made such a decision.

Court hearings are held exclusively in a specially equipped courtroom for this purpose - a courtroom that is suitable for placing the parties and other participants in the trial and allows them to exercise the procedural rights granted to them and perform procedural duties.

Also, the issue of publicity and openness of the judicial process is established in the norms of procedural law (Article 27 of the Criminal Procedure Code of Ukraine, Article 10 of the Code of Administrative Procedure of Ukraine, Article 8 of the Commercial Procedural Code of Ukraine, Article 7 of the Civil Procedure Code of Ukraine).

In addition, Article 2 of the Law of Ukraine of 22.12.2005 № 3262-IV "On Access to Court Decisions" stipulates that the court decision is pronounced publicly, except when the case was considered in a closed court session. Everyone has the right to access court decisions in the manner prescribed by this Law.

Court decisions are open and subject to publication in electronic form no later than the day after their manufacture and signing, except for decisions on the seizure of property and temporary access to things and documents in criminal proceedings that are subject to publication no earlier than the day of their appeal for execution. Court decisions may also be published in printed publications in compliance with the requirements of this Law.

If the trial took place in a closed court session, the court decision is made public except for the information that, by a court decision on the consideration of the case in a closed court session, is subject to protection from disclosure. In cases determined by law, the court decision on granting permission to conduct an intelligence event or refusing to grant such a permit, issued in a closed court session, is not made public or published.

Also today, the possibility of broadcasting court hearings by technical means courts on the Internet has been implemented. That is, the court independently, with the help of video cameras located in courtrooms, broadcasts court hearings on the YouTube portal "Judiciary of Ukraine" at the link: <http://bit.ly/2qJsIaB> . Updates are available on the courts' websites at the link: <http://court.gov.ua/affairs/online/>.

122. Is there a system of monitoring the day-to-day activity of the courts based on data collection (e.g. number of incoming cases, number of decisions, and number of postponed cases, timeframes for judicial proceedings)?

Collection and processing of statistical information on quantitative indicators of court activities is provided by the Unified Judicial Information and Telecommunication System, which provides electronic document flow in courts, and also, performs analytical and statistical processing of information.

The State Judicial Administration of Ukraine is responsible for the organisation of judicial statistics (Article 151(1) of the Law No. 1402-VIII), and the organisation of court's statistics in an individual court is entrusted to the head of the court.

A system for monitoring of the court activities on the basis of data collection is in place, but for each reporting unit a certain reporting period is selected — a quarter, a half-year, nine months and a year. No reporting by the courts on the daily basis is provided for. In particular, collection of information on the number of incoming cases, the number of decisions and the number of adjourned cases, and deadlines for judicial scrutiny, etc. is provided for for the following forms of reporting approved by the relevant orders of the SJA of Ukraine and distributed according to type of proceedings.

In accordance with the order of the State Judicial Administration of Ukraine of 09.03.2017 No. 311 "On approval of reporting forms on the administration of justice by local and appellate courts", the courts submit the following forms of statistical reports: "Report of local general courts on consideration of the cases", "Report of district administrative courts on consideration of the cases", "Report of local commercial courts on consideration of the cases", "Report of appellate courts on consideration of the cases", "Report of administrative courts of appeal on consideration of the cases", "Report of appellate commercial courts of appeal on consideration of the cases".

In accordance with the order of the State Judicial Administration of Ukraine of 23.06.2018 No. 325 "On approval of annual reporting forms as regards the administration of justice by local and appellate courts" the courts annually submit the following forms of statistical reports: "Report of courts of first instance on consideration of the cases under the administrative proceedings", "Report of the courts of first instance on the consideration of the cases of administrative offenses", "Report of the courts of first instance on the consideration of cases under the commercial proceedings", "Report of the courts of first instance on the consideration of criminal case-files", "Report of the courts of first instance on the consideration of the cases under civil proceedings", "Report of the courts of appeal on the consideration of appeals under the administrative proceedings", "Report of the courts of appeal on the consideration of appeals in cases of administrative offenses", "Report of the courts of appeal on the consideration of appeals under the commercial proceedings", "Report of the courts on consideration of the cases under the criminal proceedings", "Report of the courts of appeal on consideration of appeals under the civil proceedings", "Report on the number of persons prosecuted and on the types of criminal punishments", "Report on the convicts by types", "Report on juvenile convicts".

The Supreme Court of Ukraine and the High Anti-Corruption Court maintain separate statistics based on their own forms.

The above reports are submitted on a regular basis (quarterly or annually), and the information contained in them is calculated automatically on the basis of information entered into the courts' automated document management system. As part of collection of statistical data on the courts' activities, the following information is collected and analysed: the number of files and cases pending, the number of cases considered, the number of unexamined cases remaining at the end of the reporting period, the reasons for adjourned cases, the total duration of cases before the courts, the percentage of cases heard, the average number of cases considered per judge.

Statistical information collected on the basis of reports is processed and summarised by the State Judicial Administration of Ukraine, and on its basis, the Supreme Court prepares annual analytical reviews of the state of the administration of justice.

The Order of the Head of the State Judicial Administration No. 286 of 7 June 2018 approved the Methodology of analysis of the court activities.

Such analysis is carried out on a quarterly basis and aims at serving as a basis for informed management decisions to improve the court proceedings and the efficient use of budget funds.

In the process of analysing court activities, two main aspects that characterise the activities of the court are studied, and particularly: 1) the effectiveness of court proceedings; 2) efficient use of resources.

Each aspect is given one of two ratings: “A” indicates a positive rating of the aspect; and “B” indicates a negative rating of the aspect.

There are the following types of ratings:

“AA” Rating The Court examines cases on a timely basis by efficiently using labour and financial resources.

“AB” Rating The Court examines cases on a timely basis but uses labour and financial resources inefficiently because of the overabundance of labour and financial resources. Measures should be taken as regards limiting labour and financial resources.

“BA” Rating The Court fails to examine cases but at the same time, uses labour and financial resources efficiently. It shows that labour and financial resources are insufficient. Measures should be taken as regards recruitment and increasing funding.

“BB” Rating The Court fails to examine cases and at the same time, uses labour and financial resources inefficiently. Urgent measures should be taken with a view to improvement of the court’s performance.

Assessment of the court performance as regards consideration of the cases is based on two indicators: 1) percentage of completed cases; 2) time-frame for consideration of pilot cases.

The following input data are used for calculation of indicators: 1) the number of pilot cases admitted to examination over the reporting period; 2) the number of pilot cases considered over the reporting period; 3) the number of pilot cases pending at the end of the reporting period.

The percentage of cases considered is determined by dividing the number of cases considered by the number of cases received and multiplying by 100.

The percentage of examination of pilot cases is determined by dividing the number of pending cases by the number of cases considered and extrapolated in accordance with annual values, and multiplying by 365.

The extrapolation in accordance with annual values is carried out by multiplying the data for the first quarter by 4, the data for the first half — by 2, the data for 9 months by dividing by 0.75.

Each indicator is evaluated by comparing the indicator of a particular court with the model value of that indicator. The model value of the indicator “percentage of cases considered” is 100%.

To evaluate the indicator, its model value (100%) is subtracted from the value of the indicator of a particular court.

To evaluate the indicator “term of consideration of the pilot case”, the average for all courts under analysis is taken as its model value. First, the percentage of the indicator of a particular court of the model value is determined by dividing the term of consideration of the pilot case by a particular court by the model value and multiplying by 100. After that, the percentage value of the indicator of a particular court is deducted from 100%.

The determined percentage difference between the two indicators is summed up. If the value of the sum of these two indicators is with a plus sign, then a rating of “A” is assigned, if with a minus sign, “B” is assigned.

Assessment of resource efficiency is carried out by using the following indicators: 1) performance of the judges; 2) costs of a pilot case examination.

The following input data are used for calculation of other indicators: 1) the number of pilot cases considered over the reporting period; 2) the average annual number of judges. If the analysis is performed for a period of less than one year, the actual data for the last reporting month are extrapolated to the subsequent months until the end of the year. The average annual number of judges is calculated by summing up the indicators for 12 months and dividing the amount obtained by 12; 3) the annual budgetary expenditure of court.

The performance of judges of a particular court is determined by dividing the number of considered pilot cases by the average annual number of judges.

The cost of considering one pilot case is determined by dividing the annual budgetary expenditure of the court by the number of considered pilot cases, extrapolated in accordance with the annual values.

To assess the performance of judges, its model value is an indicator equal to the average duration of a judge's work over the year. It is determined by the SJA of Ukraine on the annual basis based on the results of the reporting year by analysing the judges' time sheets. Only judges who have exercised their powers for an entire calendar year are included into the sampling (except for judges who have been appointed or had their powers terminated during the year). For each judge included in such sampling, the number of man-days he/she has worked is calculated. The results obtained are summed up and divided by the total number of judges sampled.

During the subsequent phase, the percentage value of the indicator of a particular court of the model value is determined by dividing the performance of the judges of a particular court by the model value and multiplying by 100. 100% is deducted from the percentage value of the performance of a particular court.

To evaluate the indicator of the value of consideration of the pilot case, the average for all courts under analysis is taken as its model value. The percentage ratio of the indicator of a particular court's performance to the model value is determined by dividing the cost of consideration of the pilot case by a particular court by the model value and multiplying by 100. The percentage value of the indicator of a particular court is deducted from 100%.

The determined percentage difference between the two indicators is summed up. If the sum of these two indicators is with a plus sign, then a rating of “A” is assigned, if with a minus sign, “B” is assigned.

Thus, in accordance with the above Methodology, the State Judicial Administration has carried out evaluations of, and published reports on, the courts’ performance in 2017 — H1 2020. (https://dsa.court.gov.ua/dsa/pokazniki-diyalnosti/efekt_roboti_sudiv1/)

It should be also noted that the Strategy for the Development of the Judiciary and Constitutional Justice for 2021-2023 approved by the President provides for the need in:

introduction of a unified system of performance management and monitoring of the courts’ activities;

regulation of mechanisms for monitoring of assessment of and control over the organisation of court activities (with no interference with justice management field), such as an internal audit and/or anti-corruption control system;

mechanism for evaluating activities of the court by participants in the judicial process, the use of other forms of polls, and the introduction of an electronic polling mechanism.

In addition, information about the court hearing the case; a party to dispute and the subject-matter of the claim; the date of receipt of the statement of claim, appeal, cassation appeal, application for retrial; stages of the proceedings in the case; venue, date and time of the hearing, transfer of the case-file between the courts, is open and must be promptly published daily on the official web portal of the judiciary of Ukraine, except in cases as provided by law.

The main tasks of the web portal of the judiciary of Ukraine are to provide the public and participants in the judicial process with information on the activities of the courts, bodies and institutions of the justice system, reference information and other public information, information from open registers of the judiciary and other registers related to administration of justice in Ukraine, online broadcasts of court hearings, the possibility of paying court fees, fines.

The web portal makes it possible for any citizen of Ukraine to obtain information on each specialised or general court of Ukraine, its contact information, tasks, composition and functions of its units, as well as the main indicators of the court. The resource also informs on significant events, draft laws in the judiciary sphere. The web portal of the judiciary of Ukraine provides links to other official Internet resources, templates of standard claims and other documents; there is also a section where users can ask questions and get answers. In addition, access to information is provided not only as regards higher specialised courts, the Supreme Court, but also, as regards the information of each local and appellate court of general jurisdiction in any region of Ukraine.

123. Availability of Alternative Dispute Resolution Methods (ADR)

(a) Is there a mechanism for judicial mediation?

(b) Are there extrajudicial mechanisms for mediation?

(c) Is arbitration possible?

(d) Is judicial reconciliation available?

Procedural Codes provide a mechanism for resolving a dispute with the participation of a judge (Chapter 4 of Section III of the CPC, Chapter 4 of Section III of the Civil Code, Chapter 4 of Section II of the CAP)

Also, procedural legislation provides for the institution of a settlement agreement between the parties (reconciliation of the parties).

In accordance with the provisions of Article 207 of the CPC and Article 192 of the EPC, a settlement agreement is concluded by the parties for the purpose of resolving the dispute based on mutual concessions and should concern only the rights and obligations of the parties. In a settlement agreement, the parties may go beyond the subject of the dispute, provided that the settlement agreement does not violate the rights or interests of third parties protected by law.

The parties may conclude a settlement agreement and notify the court by making a joint written statement at any stage of the trial.

In accordance with the provisions of Article 190 of the CAP, the parties may settle the dispute in whole or in part based on mutual concessions. Reconciliation of the parties may concern only the rights and obligations of the parties. The Parties may reconcile on terms that go beyond the subject of the dispute if such conditions of reconciliation do not violate the rights or interests of third parties protected by law. The terms of reconciliation may not contradict the law or go beyond the competence of the subject of power.

Article 46 of the Criminal Code notes that a person who first committed a criminal offense or reckless non-serious crime, except for corruption criminal offenses, criminal offenses related to corruption, violations of traffic safety rules, or the operation of transport by persons who drove vehicles in a state of alcoholic, narcotic or other intoxication or were under the influence of drugs that reduce attention and speed of reaction, is exempt from criminal liability if she reconciled with the victim and compensated for the damage caused by her or eliminated the damage caused.

Parts four and five of Article 56 of the CPC established that at all stages of criminal proceedings the victim has the right to reconcile with the suspect, and the accused and conclude a reconciliation agreement.

If the victim is the administrator on the issue of bonds, the implementation of his refusal to charge, appeal, cassation complaint, the conclusion of a reconciliation agreement are possible with the consent of the meeting of bondholders received in accordance with the provisions [of the Law of Ukraine](#) "On Capital Markets and Organized Commodity Markets".

In Ukraine, there is a procedural institution for resolving a dispute with the participation of a judge. The procedure is subject to the procedural requirements defined by the procedural codes and is carried out by a qualified lawyer - a judge.

Settlement of a dispute with the participation of a judge is a judicial procedure provided for in civil, administrative, and economic proceedings, which consists in holding joint (with the participation of all parties) and closed (with each of the parties separately) meetings for the peaceful settlement of the dispute.

Settlement of the dispute with the participation of a judge is carried out within a reasonable period, but not more than thirty days from the date of the ruling on its holding, while the term of

settlement of the dispute with the participation of the judge is not subject to extension. To start the dispute settlement procedure, the following conditions are required:

Consideration of the court case has not actually begun.

Both sides agreed to settle the dispute with the participation of the judge.

Third parties who declare independent claims on the subject of the dispute are absent.

If all these conditions are available, the court decides to conduct a dispute settlement procedure with the participation of a judge, which simultaneously stops the proceedings in the case. At the first stage of dispute settlement, the judge holds a joint meeting, at the beginning of which explains to the parties the purpose, procedure for resolving the dispute with the participation of a judge, and the rights and obligations of the parties. During joint meetings, the judge finds out the grounds and subject of the claim, the grounds for objections, explain to the parties the subject of evidence on the category of the dispute under consideration, invites the parties to submit proposals on ways to peacefully resolve the dispute and carries out other actions aimed at peaceful settlement by the parties to the dispute. The judge may offer the parties a possible way to peacefully resolve the dispute. During closed meetings, the judge has the right to draw the parties' attention to judicial practice in similar disputes, and to offer the party and /or its representative possible ways of peaceful settlement of the dispute. As a rule, meetings are held in an informal atmosphere, which contributes to the formation of trusting relationships. The judge participates in meetings without a mantle. During the settlement of the dispute, the judge has no right to provide the parties with legal advice and recommendations, to assess the evidence in the case. The information obtained by either party, as well as by the judge during the settlement of the dispute, is confidential. In this regard, during the settlement of the dispute with the participation of the judge, the minutes of the meeting are not kept and are not recorded by technical means.

A detailed procedure for resolving a dispute with the participation of a judge is defined in the Commercial Procedural, Civil Procedural Codes of Ukraine, and the Code of Administrative Proceedings of Ukraine.

There are peculiarities to resolving the dispute with the participation of a judge in administrative and economic processes.

In addition, the procedural codes provide for the right of the parties to achieve reconciliation through mediation, at any stage of the trial, which is the basis for closing the proceedings in an administrative case (the provisions of Article 49 of the CPC, Article 46 of the EPC, Article 47 of the CAP).

It is worth noting that on 16.11.2021, the Verkhovna Rada of Ukraine adopted the Law of Ukraine № 1875-IX "On Mediation" (hereinafter referred to as the Law № 1875-IX), which entered into force on 15.12.2021.

Thus, the Law of 1875-IX provides that mediation can be applied in any conflicts (disputes) arising in civil, family, labor, economic, administrative legal relations, as well as criminal proceedings during the conclusion of reconciliation agreements between the victim and the suspect, the accused and other spheres of public relations.

Currently, there is an extrajudicial model of mediation in Ukraine, and pilot projects are underway to determine the category of disputes where the introduction of such a model will be an effective mechanism.

The law defines the legal basis and procedure for mediation as an out-of-court procedure for resolving a conflict (dispute), the principles of mediation, the status of a mediator, requirements for its preparation, and other issues related to this procedure.

Mediation can be carried out before appealing to the court, arbitration court, international commercial arbitration or during the pre-trial investigation, judicial, arbitration, arbitration proceedings, or during the execution of a court decision, arbitration court, or international commercial arbitration.

Mediation is carried out by mutual agreement of the parties to mediation, taking into account the principles of voluntariness, confidentiality, neutrality, independence, the impartiality of the mediator, self-determination, and equality of rights of the parties to mediation. The requirements for the mediator and its preparation are also defined.

Regarding arbitration, we inform that part six of Article 4 of the EPC provides that an agreement of the parties on the transfer of the dispute for consideration by the arbitration court (international commercial arbitration) is allowed.

Any dispute that meets the requirements specified in the legislation of Ukraine on international commercial arbitration, except in cases specified by law, may be transferred to international commercial arbitration under the agreement of the parties.

Any dispute arising from civil or economic legal relations may be transferred to the arbitration court under the agreement of the parties, except in cases provided for by law.

Similar provisions regarding the arbitral tribunal are contained in Article 4 of the CPC.

The activities of arbitration courts in Ukraine and the requirements for arbitration proceedings are regulated by the Law of Ukraine of 11.05.2004 № 1701-IV "On Arbitration Courts".

According to the Unified Register of Public Organizations of the Ministry of Justice of Ukraine, more than 500 arbitration courts have been registered in Ukraine. Currently, of the more than 500 registered arbitration courts, only up to fifty have information sites. About 10 arbitrary judges are actively working, considering cases, and available for communication.

One of the largest arbitration courts in Ukraine are the Permanent Court of Arbitration at the Ukrainian Chamber of Commerce and Industry, the Permanent Court of Arbitration at the Association of Ukrainian Banks, and the Permanent Court of Arbitration at the All-Ukrainian Public Organization "All-Ukrainian Financial Union".

Currently, the Verkhovna Rada of Ukraine has prepared for the second reading a draft law aimed at improving the quality of work of arbitration courts and reducing the number of arbitration courts by re-registering them according to increased requirements. The only registration body for arbitration courts should be the Ministry of Justice of Ukraine.

We also inform that by the Law of Ukraine of 24.02.1994 № 4002-XII "On International Commercial Arbitration" in Ukraine there are the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry and the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry.

International commercial arbitration has a special status among arbitration courts since it considers disputes with foreign elements. In particular, 1) disputes on contractual and other civil law

relations arising in the implementation of foreign trade and other types of international economic relations may be transferred to the ICAC under the agreement of the parties if the commercial enterprise of at least one of the parties is abroad; 2) disputes of enterprises with foreign investments and international associations and organizations established on the territory of Ukraine, among themselves, disputes between their participants, as well as their disputes with other subjects of law of Ukraine; 3) disputes between the administrator on the issue of bonds, acting in the interests of bondholders by the provisions of the Law of Ukraine "On Capital Markets and Organized Commodity Markets", and the issuer of bonds and/or persons providing collateral for such bonds, if at least one of the parties to the dispute is an enterprise with foreign investments.

In turn, the Maritime Arbitration Commission also has a special status, since it exclusively resolves disputes arising from contractual and other civil relations arising from merchant shipping, regardless of whether the subjects of Ukrainian and foreign or only Ukrainian or foreign law are parties to such relations.

124. Is confidentiality of mediation guaranteed? What is the enforceability of agreements resulting from mediation?

Article 4 of the Law No. 1875–IX stipulates that mediation takes place by mutual consent of the parties in mediation, with an account made of the principles of voluntariness, confidentiality, neutrality, independence and impartiality of the mediator, self-determination and equality of rights of the parties in mediation.

Pursuant to Article 6 of the Law No. 1875–IX, a mediator and other parties in mediation, as well as the entity ensuring mediation, have no right to disclose confidential information unless otherwise provided by law or unless all parties in mediation have otherwise agreed in writing.

For the purposes of that Law, all information that became known during the preparation for mediation and in the process of mediation, including as regards the proposal and readiness of the aggrieved parties (parties to the dispute) to participate in mediation; facts and circumstances, opinions and proposals presented by the parties in mediation with a view to settle a conflict (dispute); the content of the mediated agreement are deemed confidential information.

If the mediator has received confidential information from one of the parties, it may disclose such information to the other party (parties) only with the consent of the party that provided such information.

The entities specified in paragraph one of that article are held accountable for disclosure of confidential information in accordance with law.

A mediator may not be interviewed, as a witness in a case (proceedings), regarding information that became known to him/her during the preparation for, and conduct of, mediation.

As to legal force of agreements concluded as a result of mediation, the following should be noted. Presently, there is no enforcement of mediation agreements in Ukraine. On 7 August 2019, Ukraine signed the UN Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention on Mediation), but to date, the convention has not been ratified.

125. Have there been provisions adopted providing a legal basis for conducting oral hearings through videoconference or other distance communication technology in cross-border judicial proceedings in civil, commercial and criminal matters?

The provisions of the Procedural Codes and the Law No. 1402–VIII stipulate that the participants in the proceedings have the right to participate in the court hearing through videoconference, outside the courtroom, provided that the court has the appropriate technical capability, which the court states in its ruling on opening of the proceedings, except in cases where appearance of that participant to the court hearing is recognised by the court as mandatory.

To meet that requirement, the videoconferencing subsystem is used, the procedure for which is determined by the Regulation on the procedure for the operation of individual subsystems of the Unified Judicial Information and Telecommunication System (UJITS), which is approved by the Supreme Council of Justice.

In August 2021, the Supreme Council of Justice approved the Regulation on the operation of certain sub-systems (modules) of the Unified Judicial Information and Telecommunication System, including the mentioned videoconferencing sub-system. That said, the UJITS videoconferencing sub-system makes it possible for the participants to take part in court sessions, outside the courtroom, by using their own electronic accounts and their own technical means, either in other courthouse, by using technical means of the court. User authorisation in UJITS videoconferencing sub-system can be done by: entering a login and password; QES (qualified electronic signature); use of the Electronic Account subsystem. To conduct court hearings through videoconference, both inside and outside the courtroom, a person must be pre-registered in an Electronic Account.

A party to the proceedings applies for attendance of the court hearing through videoconference outside the courtroom no later than five days prior to the court hearing. A copy of the application is sent to the rest of the participants in the proceedings at the same time.

The participants in the proceedings take part in the court hearing by videoconference outside the courtroom using their own technical means and electronic signature in accordance with the Regulation on the Unified Judicial Information and Communication System and/or regulations governing operation of its individual subsystems (modules).

During quarantine imposed by the Cabinet of Ministers of Ukraine with a view to prevention of the spread of the coronavirus disease (COVID-19), the participants in the proceedings take part in the court hearing through videoconference outside the courtroom using their own technical means. Identification of a participant in the proceedings is performed through the use of an electronic signature, and where a person has no such signature, under the procedure established by the Law of Ukraine “On the Unified State Demographic Register of Ukraine and Documents Affirming the Citizenship of Ukraine, Identifying a Person or Its Special Status” or by the State Judicial Administration of Ukraine.

The risks of technical incapability to participate in a videoconference outside the courtroom, communication breaks, etc. are borne by the party who submitted the application.

The court, by its ruling, may decide on the participation of a participant in the proceedings in a court hearing through the videoconference in the court premises designated by the court.

The witness, interpreter, specialist, expert may participate in the court hearing through the video conference exclusively in the court premises.

In the request for the participation in a court hearing through the videoconference in the courtroom, a court to host its conduct must be indicated on the mandatory basis. Such a request may be filed not later than five days prior to the relevant court hearing.

A copy of the ruling on the participation of a person in a court hearing through videoconference in the courtroom is immediately sent to the court, which is bound to make arrangements for its implementation, and to the person who will participate in the court hearing through videoconference.

The court, which arranges the videoconference, checks the attendance and identifies those who have appeared, as well as verifies the credentials of the representatives.

Technical means and technologies used by the court and the participants in the proceedings must ensure proper quality of the image and sound, as well as information security. Participants in the proceedings should be able to hear and see the progress of the court hearing, ask questions and receive answers, exercise other procedural rights and responsibilities.

The videoconference, in which the participants in the proceedings take part, is recorded by the court hearing the case by using the technical means of video and audio recording. Video- and audio-records of the videoconference are kept in the case-file.

The court may, in the manner prescribed by this Article, on its own initiative or at the request of a participant in the proceedings held in a pre-trial detention facility or penitentiary institution, decide, by its ruling, on participation of the above person in a court hearing through videoconference from the premises of such institution. In that case, actions as provided for in paragraph nine of that article are performed by an official of such institution.

Moreover, Article 336 (1), (2) and (7) of the CPC stipulate that the court proceedings may be conducted through the use of videoconferences by means of streaming from other premises, including those located outside of the courthouse (distance court proceedings) in the following cases:

impossibility of direct participation of a participant in the criminal proceedings in court proceedings due to health condition or other valid reasons;

there is a need to ensure the safety of persons;

interviewing of a minor or juvenile witness, victim;

the need to take such measures to ensure the promptness of court proceedings;

existence of other grounds found sufficient by the court.

The court decides on the conduct of the distance court proceedings on its own initiative or at the request of a party to, or other participants in, the criminal proceedings. Where the party to the criminal proceedings or the victim objects to the conduct of the distance court proceedings, the court may decide to hold it only by a reasoned ruling justifying the decision taken. The court has no right to decide on holding the distance court proceedings in which an accused stays outside the courtroom, if he or she objects.

The course and results of the procedural actions carried out through the videoconference are recorded with by technical means of video recording.

There is no separate or special legal framework governing the use of videoconferencing in cross-border examination of the cases by the courts.

In summary, the use of technical tools and video conferencing saves time and resources, speeds up the proceedings and, most importantly, facilitates access to justice.

G. Efficiency

126. What is the average length of (a) a civil/ commercial case, including a small value cases, (b) a criminal case and (c) administrative law cases? In case of delays in handling cases, which problems are they mainly linked with? (For example: complex summoning process, prolonged period for collection of evidence; police evidence not being accepted in courts; failure by witnesses to appear; failure by judicial experts to appear; workload associated with enterprise registration; workload associated with high number of appeals; absence of alternative dispute resolution mechanisms; complex case management; lack of technical equipment.)

According to statistics of judicial activity for 2021, the average length of cases is as follows:

for civil cases considered by: local general court — 90 days; court of appeals — 89 days;

for commercial cases considered by: local commercial court — 92 days; commercial court of appeals — 99 days;

for administrative law cases considered by: local general court — 93 days; district administrative court — 78 days; administrative court of appeals — 61 days;

for criminal cases considered by: local general court — 54 days (for criminal proceedings (i.e. consideration on the merits) it is 175 days, and for pre-trial investigation cases (e.g. when issuing pre-trial restraint or search orders, etc.) is 11 days). In the court of appeal, the average length of criminal cases is 15 days (the average length of criminal proceedings is 157 days, and the average length of pre-trial investigation cases 23 days).

The most common reasons for cases delay are the failure by any party to/participant of the case to appear and the need to request the production of new evidence. The length of cases is also negatively affected by the excessive workload of judges caused by the understaffing of the judiciary (as of 31 December 2021, the total number of judges in the local courts and courts of appeal was equal to 7,039 positions, while the number of actually filled positions was 5,022).

Average length of case (days)	2019	2020	2021
In total, including:	57	57	57
criminal proceedings	34	41	54
criminal cases	*	145	175
pre-trial investigation cases (investigating judges)	*	8	11
administrative law cases	78	92	93
civil proceedings	96	100	90

cases involving administrative offences	24	26	28
commercial proceedings , including:	109	129	92
commercial cases, except for bankruptcy cases	*	*	74
bankruptcy cases	*	*	187

**Was not separately assessed*

The reasons for delays in handling cases are:

In local general courts:

Delayed cases with pending proceedings as of the end of the reporting period (in total):		
because of failure to appear by	any party to/participant of the case	
	because of	not being served the court summons
		other reasons
	prosecutor	
	other participants of the case	

In criminal proceedings:

Reasons for cases being adjourned	Failure to bring the accused held in custody to the courtroom
	Failure by the accused to appear
	Illness of the accused
	Failure by prosecutor to appear
	Failure by defence lawyer to appear
	Failure by witness/victims to appear
	Failure of other participants of the criminal proceedings to appear
	Other reasons

In commercial proceedings:

Delayed cases with pending proceedings as of the end of the reporting period (in total):	
eca	failure by any party to/participant of the case to appear

	technical problems that make it impossible for a person to participate in a court hearing via videoconference
	failure to produce the required evidence
	need to request production of new evidence
	need to replace the disqualified judge or forensic expert

127. What is the clearance rate, i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year:

a) In first instance for civil/commercial, administrative and criminal cases; b) In appeal for the same categories of cases;

c) At the Supreme Court;

d) At the Constitutional Court;

According to statistics of judicial activity for 2021, the clearance rate is as follows:

98.2% in local commercial courts;

97.1% in local general courts (including civil, criminal and certain administrative cases);

88.2% in district administrative courts;

98.2% in commercial courts of appeal;

98.1% in general courts of appeal (including civil and criminal cases);

92.9% in administrative courts of appeal;

in Supreme Court: 94% in Commercial Court of Cassation, 109.5% in Civil Court of Cassation, 107% in Administrative Court of Cassation (data for H1 2021).

		Pending cases and materials		Resolved cases and materials	Clearance rate (i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year)
		in total	including incoming cases in the reporting period		
Local general courts					
criminal proceedings	2019	1,407,798	1,292,012	1,272,933	0.99
	2020	1,059,321	931,513	921,296	0.99
	2021	1,079,113	947,148	945,395	1.00

administrative law cases	2019	70,353	57,374	57,013	0.99
	2020	52,720	40,773	41,921	1.03
	2021	48,366	38,769	36,739	0.95
civil proceedings	2019	1,249,121	998,205	955,064	0.96
	2020	1,212,635	953,734	898,076	0.94
	2021	1,477,533	1,198,938	1,140,068	0.95
administrative offences	2019	842,511	791,976	782,382	0.99
	2020	908,752	853,217	833,384	0.98
	2021	980,201	910,516	882,859	0.97

Local commercial courts	Pending cases and materials		Resolved cases and materials	Clearance rate (i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year)
	in total	including incoming cases in the reporting period		
2019	132,661	104,202	99,914	0.96
2020	139,984	109,617	103,922	0.95
2021	145,666	113,130	111,041	0.98

District administrative courts	Pending cases and materials		Resolved cases and materials	Clearance rate (i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year)
	in total	including incoming cases in the reporting period		
2019	260,091	215,623	194,301	0.90
2020	371,582	309,819	249,121	0.80
2021	635,664	520,552	459,354	0.88

Courts of appeal		Pending cases and materials		Resolved cases and materials	Clearance rate (i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year)
		in total	including incoming cases in the reporting period		
criminal proceedings	2019	251,871	242,385	241,438	1.00
	2020	253,168	243,238	241,700	0.99
	2021	247,224	236,117	234,692	0.99
civil proceedings	2019	104,960	88,718	84,444	0.95
	2020	97,312	76,992	74,999	0.97
	2021	108,378	86,247	81,389	0.94
administrative offences	2019	23,622	21,568	21,440	0.99
	2020	28,896	26,773	25,211	0.94
	2021	31,500	27,944	27,597	0.99

Commercial courts of appeal	Pending cases and materials		Resolved cases and materials	Clearance rate (i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year)
	in total	including incoming cases in the reporting period		
2019	31,009	25,581	26,846	1.05
2020	29,026	23,882	22,677	0.95
2021	34,865	28,347	27,843	0.98

Administrative courts of appeal	Pending cases and materials		Clearance rate (i.e. the
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	in total	including incoming cases in the reporting period	Resolved cases and materials	ratio of the number of resolved cases over the number of incoming cases in a given year)
2019	113,006	101,082	99,837	0.99
2020	119,538	106,374	97,902	0.92
2021	164,469	142,854	132,640	0.93

128. Are there dedicated measures/plans to reduce the backlog of cases?

The introduction of extraterritorial jurisdiction, i.e. the possibility to consider certain categories of cases online, regardless of the parties' or court's location, will have a positive effect on reducing the length of proceedings. It will also contribute to an even distribution of cases between courts and judges. The introduction of the extraterritorial jurisdiction is envisaged by the Strategy for the Development of the Judiciary and Constitutional Justice for 2021–2023, approved by Decree of the President of Ukraine No. 231/2021 of 11 June 2021.

The Strategy also provides for a number of measures and areas of focus that are directly or indirectly aimed at solving the problem of the backlog of cases, excessive workload and a significant length of court proceedings.

As for the activities of the Supreme Court:

strengthening the functional and procedural capacity of the Supreme Court to ensure uniform application of the provisions of substantive and procedural law by courts of different jurisdictions and consideration of inter-jurisdictional disputes;

improving the institution of model cases by determining specific aspects of the enforcement of resolutions of the Supreme Court in that cases and/or introducing the institution of model (pilot) resolution of the Supreme Court, which is adopted by the Grand Chamber of the Supreme Court at the request of the Court of Cassation;

defining the procedural mechanism for ensuring the unity of court practice by the Supreme Court in cases that are not subject to cassation appeal.

As for judiciary in general:

introducing the institute of a temporary return of a retired judge (with their consent) by the decision of the High Council of Justice in respect of judges who at the time of resignation confirmed their suitability for the position (ability to administer justice in the relevant court) and meet the criteria of integrity;

expansion of the institute of written proceedings in cassation proceedings;

transition to single-judge hearing in courts of first instance (except for certain categories of cases considered by high specialised courts and the Supreme Court as the courts of first instance);

defining in the procedural codes the categories of cases that are reviewed by a single judge of the court of appeal; categories of court judgements (which not final in the case) that are issued by a single judge of the court of cassation;

revising the provisions in the procedural codes concerning the categories of cases considered by the courts of appeal as courts of first instance, with a view to refer these cases to local courts;

developing the e-justice taking into account global standards in the field of information technology, its integration into the national e-government infrastructure by:

introducing the possibility to consider certain categories of cases online, regardless of the parties' or court's location, and other e-litigation services.

As for the development of alternative (out-of-court) and pre-trial dispute resolution:

establishing a mandatory pre-trial procedure for dispute resolution by resorting to mediation and other practices for certain categories of cases determined by law;

elaborating the issue of introduction of the institute of magistrate;

introducing the pre-trial administrative appeal procedures in the administrative law cases with the expansion of possibilities of application of pre-trial and out-of-court procedures for dispute resolution;

optimising the court costs and procedures for their administration to encourage the use of the out-of-court dispute resolution procedures;

improving the procedure for the establishment and operation of arbitration courts, including increasing the requirements for the founders of arbitration courts, strengthening the institutional capacity of arbitration self-government, expanding the jurisdiction of arbitration courts, extending the confidentiality guarantees to arbitrators;

introducing and developing the institute of mediation;

improving the dispute resolution procedure with the participation of a judge.

129. What roles/competence do judges have (including outside the usual court proceedings, such as the enforcement of court decisions, registry issues, etc.)? What roles/competencies do prosecutors have (including outside of criminal proceedings, such as the enforcement of court decisions, civil or family cases, etc.)

The powers of the prosecutor's office are defined by Article 131¹ of the Constitution of Ukraine, according to which the functions of the prosecutor's office include: maintaining public prosecution in court; organizing and procedural management of the pre-trial investigation, resolving other issues in accordance with the law during criminal proceedings, supervision of secret and other investigative and investigative actions of law enforcement agencies; representing the interests of the state in court in exceptional cases and in the manner in order, defined by law.

At the same time, paragraph 9 of Section XV "Transitional Provisions" of the Basic Law establishes that the prosecutor's office continues to perform, in accordance with the current laws, the function of the pre-trial investigation until the beginning of the functioning of the bodies to which the relevant functions are transferred by law, as well as the function of supervising the observance of laws in the execution of court decisions in criminal cases, when applying other measures of a compulsory nature related to the restriction of personal freedom of citizens, - until the entry into force of the law on the creation of a double system of regular penitentiary inspections.

Also, in accordance with subparagraph 9 of paragraph 16¹ of Section XV "Transitional Provisions" of the Constitution of Ukraine, representation in accordance with the law by the Prosecutor's Office of citizens in courts in cases in which proceedings were initiated before the entry into force of the Law of Ukraine "On Amendments to the Constitution of Ukraine (regarding justice)" is carried out according to the rules that were in force before it entered into force - until the adoption of final court decisions in the relevant cases, which are not subject to appeal.

At the same time, Law № 1697-VII establishes that the prosecutor's office cannot rely on functions not provided for by [the Constitution of Ukraine](#).

Part three of Article 129¹ of the Constitution of Ukraine stipulates that the court exercises control over the execution of a court decision.

Judicial control over the execution of decisions within the framework of civil and commercial proceedings provides that the parties to enforcement proceedings have the right to appeal to the court if they believe that the decision, action, or inaction of the state executor or other official of the state executive service body or private executor during the execution of a court decision adopted in accordance with the provisions of the CPC and the MPC violated their rights (Section VII of the CPC, section VI of the EPC).

Article 14 of Law № 1404-VIII stipulates that a prosecutor may act as a participant in enforcement proceedings.

Judges and prosecutors may not be representatives in enforcement proceedings, except when they act as legal representatives or authorized persons of the relevant body that is a party to enforcement proceedings (Article 17 of Law № 1404-VIII).

The prosecutor, as a participant in enforcement proceedings, has the right to familiarize himself with the materials of enforcement proceedings, make extracts from them, remove copies, declare recusals in cases provided for by this Law, have the right to access to the automated system of enforcement proceedings, the right to appeal against the decision, actions or omissions of the executor in the manner prescribed by this Law, to provide additional materials, to make petitions, to participate in the commission of enforcement actions, provide oral and written explanations, object to petitions of other participants in enforcement proceedings and enjoy other rights granted by law (Article 19 of Law № 1404-VIII).

At the request of the prosecutor in case of representation of the interests of a citizen or the state in court, the executor begins the enforcement of the decision based on the executive document specified in Article 3 of this Law (Article 26 of Law № 1404-VIII).

Section VI of the CPC defines procedural issues related to the execution of court decisions in civil cases and decisions of other bodies (officials).

The court that issued the executive document may, at the request of the collector or debtor, correct the error made during its execution or issuance, or recognize the executive document as unenforceable. The Court recognizes the executive document as not enforceable in whole or in part if it was issued by mistake or if the debtor's obligation is absent in whole or in part due to its termination, voluntary execution by the debtor or other person, or for other reasons (Article 432 of the CPC).

A judge may renew the missed deadline for submitting an executive document for execution in case of missing such a period for reasons recognized by the court as valid (Article 433 of the CPC).

The court that issued the executive document is authorized to approve the settlement agreement concluded between the parties, as well as applications for refusal of the collector from enforcement in the process of execution of decisions submitted in writing to the court through a public or private executor (Article 434 of the CPC).

At the request of the party, the court, which considered the case as a court of the first instance, may delay or delay the execution of the decision, and at the request of the collector or executor (in cases established by law), to establish or change the method or procedure for its implementation (Article 435 of the CPC).

The court of cassation at the request of the participant of the case or on its initiative can stop the execution of the appealed court decision or stop its action (if the decision does not provide for enforcement) until the end of its review in cassation (Article 436 of the CPC).

The court, on the proposal of the state executor, has the right to decide on the temporary placement of the child in a children's or medical institution (Article 437 of the CPC).

The court has the right to decide on the announcement of the search for the debtor or child, the debtor's drive at the place of execution of the decision, or the last known place of residence (stay) of the debtor or child or the location of their property, or at the place of residence (stay) of the collector (Article 438 of the CPC).

The court is authorized to decide on the forced entry into the dwelling or other possession of the debtor - an individual or a person who has the debtor's property or property and funds belonging to the debtor from other persons, or a child for whom there is an executive document on its removal, in the execution of court decisions and decisions of other bodies (officials) on the proposal of the state executor, the private executor (Article 439 of the CPC).

The court at the request of the collector or public or private executor may decide to foreclosure on funds belonging to a person who is in arrears to the debtor, which is not disputed by the said person or confirmed by a court decision that has entered into legal force. Also, at the request of the collector, the court may seize funds that are in accounts (deposits) or stored in banks, other financial institutions and belong to a person who is in arrears to the debtor, which is not disputed by the said person or confirmed by a court decision that has entered into legal force. The issue of foreclosure on the debtor's immovable property, the ownership of which is not registered in accordance with the procedure established by law, during the execution of court decisions and decisions of other bodies (officials)

are decided by the court on the proposal of the state executor, the private executor (Article 440 of the CPC).

The court may decide on a temporary restriction on the right to travel outside Ukraine of an individual who is a debtor by an unfulfilled court decision or by a decision of other bodies (officials) if such a person evades the fulfillment of the obligations imposed on him by the relevant decision for a period until the fulfillment of obligations under the decision executed in the enforcement proceedings (Article 441 of the CPC).

In case of departure of one of the parties to the enforcement proceedings, the court replaces such a party with its successor (Article 442 of the CPC).

The question of determining the share of the debtor's property in the property, which he owns together with other persons, is decided by the court on the proposal of a public or private executor (Article 443 of the CPC).

130. Please describe the procedure for executing civil / criminal judgements. How are effectiveness and promptness in the execution of judgments ensured? What legal remedies exist against non execution of judgments and how frequently are they used? Have structural causes for delays in execution, if any, been addressed by competent authorities and how?

The procedure for enforcement of court judgements and decisions of other bodies (officials) (hereinafter referred to as “decisions”) is regulated by the Law of Ukraine of 02.06.2016 No. 1404-VIII “On Enforcement Proceedings” (hereinafter referred to as the “Law No. 1404-VIII”).

The enforcement proceedings as a final stage of the court proceedings and enforcement of decisions is a set of actions of bodies and persons set out in the Law, which are aimed at enforcement of decisions and are performed on the grounds, within the powers and in the manner prescribed by the Constitution of Ukraine, this Law, other laws and legal and normative acts adopted pursuant to this Law as well as by decisions that are enforceable in accordance with this Law (Article 1 of the Law No. 1404-VIII).

In accordance with Article 5 of the Law No. 1404-VIII, enforcement of court judgements and decisions of other bodies (officials) is entrusted to the bodies of the State Enforcement Service and, in cases set out in this Law, to private bailiffs whose legal status and organisation of activities are laid down in the Law of Ukraine “On Bodies and Persons Carrying Out Enforcement of Court Judgements and Decisions of Other Bodies”.

The list of enforceable decisions and executory instruments is set out in Article 3 of the Law No. 1404-VIII.

In particular, in accordance with the Law No. 1404-VIII, decisions are enforced pursuant to the following documents:

writs of execution issued by courts in cases provided for by law under court judgements, arbitral awards, international commercial arbitral awards, judgements of foreign courts and on other grounds set out by law or by an international treaty of Ukraine.

court orders;

court rulings and resolutions in civil, commercial, administrative cases, cases involving administrative offences, criminal proceedings in the cases provided for by the law;

enforcement inscriptions by notaries;

warrants of labour disputes commissions as issued under the relevant decisions of those commissions;

orders of state bailiffs on imposition of the enforcement fee, orders of state bailiffs or private bailiffs on recovery of costs related to enforcement proceedings, on imposition of a fine, orders of private bailiffs on collection of basic remuneration;

resolutions of bodies (officials) authorised to review cases involving administrative offences in the cases provided for by law;

decisions of other public authorities and decisions of the National Bank of Ukraine, recognised as executory instruments by law;

judgements of the European Court of Human Rights, with an account taken of the peculiarities provided for in the Law of Ukraine “On the Execution of Judgements and Application of the Case Law of the European Court of Human Rights”, as well as decisions of other international jurisdictional bodies in the cases provided for by international treaties of Ukraine;

decisions (resolutions) of state financial monitoring entities (their authorised officials) if their execution is entrusted by law to enforcement bodies and officers.

An executory instrument must comply with the requirements provided for in Article 4 of the Law No. 1404-VIII.

It should be noted that the executory instrument may be issued in paper or electronic format. The executory instrument issued in the electronic document form, in addition to the requirements set out in Article 4(1) and (2) of the Law No. 1404-VIII, must contain an electronic signature or electronic seal in accordance with the Law of Ukraine “On Electronic Trust Services”.

A bailiff initiates the enforcement of a decision pursuant to an enforcement instrument referred to in Article 3 of the Law No. 1404-VIII: at the enforcement request of the recoverer; at the public prosecutor’s request in case of representation of the interests of a citizen or the State in court; in case when an enforcement instrument has been received from court in cases provided for by law; in case when an enforcement instrument has been received from court under a ruling permitting the enforcement of a foreign court judgement (those of courts of a foreign state, other competent authorities of a foreign state in charge of consideration of civil or commercial cases, foreign or international arbitrations) in accordance with the procedure established by law; in case when an enforcement instrument has been received from the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (Article 26(1) of the Law No. 1404-VIII).

In accordance with Article 8 of the Law No. 1404-VIII, enforcement instruments and documents in the enforcement proceedings are registered and enforcement actions are recorded in the automated enforcement proceedings system, the procedure for the operation of which is determined by the Ministry of Justice of Ukraine.

The bailiff must take measures provided for in Article 8 of the Law No. 1404-VIII for the enforcement of decisions, perform enforcement actions in an impartial, efficient and timely manner and in full, take enforcement measures in the manner and under the procedure laid down by the relevant enforcement instrument and by this Law.

In accordance with Article 10 of the Law No. 1404-VIII, enforcement measures include: the levy of execution on the debtor's funds, securities, other property (property rights), corporate rights, intellectual property rights, intellectual property and creative activity items, other property (property rights), including cases when they are held by other persons or are owed to the debtor by other persons or the debtor owns them jointly with other persons;

the levy of execution on the debtor's salary, pension, scholarship and other income;

seizure of items referred to in the decision from the debtor and their transfer to the recoverer;

imposition on the debtor of the prohibition on disposal and/or use of the property owned by it, including funds, or imposition on the debtor of the obligation to use that property under the terms set out by the bailiff;

other coercive measures provided for in this Law.

Efficiency and promptness of enforcement of decisions are ensured by means of entrusting bailiffs with relevant powers.

In particular, in accordance with Article 18(3) of the Law No. 1404-VIII, when carrying out enforcement proceedings, the bailiff has the right to:

verify the execution, by debtors, of decisions that are enforceable in accordance with this Law;

verify the execution, by legal persons, irrespective of ownership, natural persons and individual entrepreneurs, of decisions in respect of debtors employed by them;

for the purpose of protection of the recoverer's interests, obtain, free of charge, explanations, certificates and other information, including confidential information, required for the performance of enforcement actions, from public authorities, enterprises, institutions, organisations, irrespective of ownership, officials, parties and other participants in the enforcement proceedings;

if there is a reasoned court judgement on the forced entry to the natural person's housing or other possession, enjoy an unimpeded access to land plots, residential and other premises of the debtor being a natural person, a person who holds the debtor's property or the property and funds owed to the debtor by other persons, examine them, if necessary, forcibly open them with involvement of police officers under the established procedure, seal those premises, attach, seal and seize the property which is owned by the debtor and located therein and on which the execution may be levied in accordance with the law. Forced entry to land plots, residential and other premises with a view to enforcement of the court judgement on expulsion of the debtor and moving in of the recoverer and the decision on elimination of obstacles to the use of premises (housing) is made only under this court judgement;

enjoy an unimpeded access to land plots, premises, storages, other possession of the debtor being a legal person, examine them, forcibly open and seal them;

impose attachment on the debtor's property, seal, seize, transfer that property for storage and realise it under the procedure established by the legislation;

impose attachment on the debtor's funds and other valuables, including funds at cash desks, in bank accounts, other financial institutions and bodies providing treasury service of budget funds (except for funds in the single account opened under the procedure set out in Article 35-1 of the Tax Code of Ukraine, funds in tax payers' accounts in the electronic VAT administration system, funds in electronic accounts of excise tax payers, funds in accounts with a special regime of use, special and other accounts, the levy of execution on which is prohibited by law), and on securities accounts, as well as seal cash desks, the premises and locations where money is stored;

register encumbrances on the property in the course of and in connection with the enforcement proceedings;

use, at the owner's consent, premises for temporary storage of the seized property as well as the vehicles of the recoverer and the debtor, at their consent, for transportation of the property;

submit to the court or the body that issued an enforcement instrument a request (submission) for clarification of the decision, for issuance of a duplicate enforcement instrument in cases provided for in this Law to the court that issued the enforcement document, a request (submission) for establishing or changing the procedure and the manner of execution of the decision, for deferral or extension of execution of the decision;

make a decision on deferral or extension of the execution of the decision (except for court judgements) upon the recoverer's written request;

submit a request for child search, for delivering a reasoned judgement on forced entry to the housing or other possession of the debtor being a natural or other person who keeps a child in respect of which the enforcement instrument on taking him/her away has been issued;

submit a request for forced entry to the housing or other possession of the debtor being a natural or other person who holds the debtor's property or the property and funds owed to the debtor by other persons;

summon natural persons and officials with regard to enforcement instruments engaged in the enforcement proceedings. In case when the debtor has not arrived upon the bailiff's summons without a good reason, the bailiff has the right to apply to court for imposition of attachment thereon;

engage, under the established procedure, attesting witnesses, police officers and other persons as well as experts, specialists and, for the purpose of property valuation, appraisal entities being economic operators;

impose a penalty in the form of a fine on natural and legal persons and officials in cases provided for by law;

use photo, video and motion-picture recording;

request explanations with regard to non-compliance with the bailiff's decisions or legitimate demands or other violation of the legislation on enforcement proceedings from materially liable persons or officials of debtors being legal persons and from debtors being natural persons;

in case when the debtor evades the performance of the obligations imposed thereon by the decision, apply to court for imposition of temporary restriction on travel abroad for the debtor being a natural person or the manager of the debtor being a legal person until the obligations imposed by the decision are performed or the debt is repaid under the decision for collection of periodic payments;

engage economic operators in performance of or arrangement for enforcement actions, if necessary, including on a paid basis, at the expense of the recoverer's retainer;

obtain from banking institutions and other financial institutions information on the debtor's accounts and/or their status, flow of funds and transactions in the debtor's accounts as well as information on the debtor's agreements for storage of valuables or property rent (lease) of an individual bank safe secured by the bank;

exercise other powers provided for in this Law.

In the course of enforcement of decisions, the bailiff also has the right of direct access to information on debtors, their property, income and funds, including confidential information, contained in state databases and registers, including electronic ones. The procedure for access to such information from databases and registers is established by the Ministry of Justice of Ukraine jointly with other public authorities ensuring their maintenance.

It also should be noted that the bodies of the State Enforcement Service charge the enforcement fee for the enforcement of decisions, and private bailiffs charge basic remuneration.

The enforcement fee and basic remuneration are charged in the amount of 10 percent of the amount to be forcibly collected and recovered, or of the value of the debtor's property to be transferred to the recoverer under the enforcement instrument, or of the maintenance debt.

The enforcement fee and basic remuneration for the enforcement of non-pecuniary decisions are charged in the amount of two minimum wages from the debtor being a natural person and in the amount of four minimum wages from the debtor being a legal person.

Regarding legal remedies against non-execution of court judgements

The procedure for holding persons liable for violations committed during the enforcement proceedings is set out in Articles 75 and 76 of the Law No. 1404-VIII.

In accordance with Article 75 of the Law No. 1404-VIII, in case of non-execution, without a good cause, of a decision compelling the debtor to perform certain actions and a decision on reinstatement of employment within the time limit set by the bailiff, the bailiff issues an order on imposition of a fine on the debtor being a natural person in the amount of 100 non-taxable minimum incomes of citizens, on officials in the amount of 200 non-taxable minimum incomes of citizens, on the debtor being a legal person in the amount of 300 non-taxable minimum incomes of citizens, and sets a new time limit for execution.

In case of repeated non-execution of the decision by the debtor without a good cause, the bailiff imposes a fine in the double amount under the same procedure and reports a criminal offence to pre-trial investigation bodies.

Article 76 of the Law No. 1404-VIII stipulates that guilty persons are liable in accordance with the law for non-compliance with the bailiff's legitimate demands, violation of the requirements of

this Law, including untimely submission or failure to submit reports on deductions from the debtor's salary and other income, failure to submit or submission of false information on the debtor's income and property status, the debtor's failure to submit tax returns upon the bailiff's request or providing false information in a tax return or failure to notify of changes in that information, the debtor's failure to notify of a change of its place of residence (stay) or location or place of employment (receipt of income) as well as for failure to arrive upon the bailiff's summons without a good cause. In particular, Article 188¹³ of the Code of Ukraine on Administrative Offences provides for the administrative liability for non-compliance with the legitimate demands of the state bailiff and the private bailiff.

If there are elements of a criminal offence in the actions of a person who deliberately impedes the execution of the decision or otherwise violates the requirements of the law on enforcement proceedings, the bailiff executes a report on the offence and notifies pre-trial investigation bodies of the commitment of the criminal offence. In particular, the Criminal Code provides for the liability for the actions of the debtor or other persons who deliberately impede the execution of the decision or otherwise violate the requirements of the law on enforcement proceedings, including: resistance to a representative of public authorities, law enforcement officer, state bailiff, private bailiff, a member of a community formation for the protection of public order and state border or a military servant, an authorised person of the Deposit Guarantee Fund (Article 342 of the Criminal Code); interference with activity of a law enforcement officer, forensic expert, officer of the State Enforcement Service, private bailiff (Article 343 of the Criminal Code); non-execution of a court judgement (Article 382 of the Criminal Code); illegal actions in relation to the distrained or pledged property or the property which is written-off or is subject to confiscation (Article 388 of the Criminal Code).

Attention also should be paid to the measures provided for in the Law No. 1404-VIII, which are applied to debtors for non-execution of court judgements on payment of maintenance.

In particular, if there is a maintenance debt with total amount exceeding the amount of payments for three months, the bailiff issues a notice of entering the debtor's data to the Unified Register of Debtors; levies execution on the debtor's property; sends a written explanation to the recoverer on its right to submit a report on a criminal offence involving failure to pay maintenance by the debtor to pre-trial investigation bodies.

If there is a maintenance debt with total amount exceeding the amount of relevant payments for four months, the state bailiff issues reasoned orders: on imposition of temporary restriction on the debtor's right to travel abroad until the maintenance debt is repaid in full; on imposition of temporary restriction on the debtor's right to operate vehicles until the maintenance debt is repaid in full; on imposition of temporary restriction on the debtor's right to use firearms, hunting, pneumatic and replica weapons, domestically produced devices for shooting of cartridges equipped with rubber or similar in characteristics missiles of non-lethal action until the maintenance debt is repaid in full; on imposition of temporary restriction on the debtor's right to hunt until the maintenance debt is repaid in full.

In case when there are elements of an administrative offence under Article 183¹ (Failure to pay maintenance) of the Code of Ukraine on Administrative Offences in the debtor's actions, the state bailiff executes an administrative offence report and submits it to court at the location of the body of the State Enforcement Service.

Regarding the elimination of causes of non-execution of decisions

On 30.09.2020, the National Strategy for Resolving the Issue of Non-Execution of Court Judgements Where the Debtors Are Public Authorities or State-Owned Enterprises, Institutions and Organisations for the Period until 2022 was approved by the Ordinance of the Cabinet of Ministers of Ukraine No. 1218-p.

The purpose of this National Strategy is to resolve a systemic issue of non-execution and lengthy execution of court judgements. The Strategy is aimed at further alignment of the Ukrainian legislation and case law with the Council of Europe's standards in the area of execution of court judgements.

In addition, the Action Plan for Implementation of the National Strategy for Resolving the Issue of Non-Execution of Court Judgements Where the Debtors Are Public Authorities or State-Owned Enterprises, Institutions and Organisations for the Period until 2022 was approved by the Ordinance of the Cabinet of Ministers of Ukraine of 17.03.2021 No. 210-p.

This Action Plan contains regulatory and institutional objectives and measures aimed at resolving the issue of lengthy non-execution of national court judgements in Ukraine.

In pursuance of this Action Plan, the Ministry of Justice of Ukraine took a number of regulatory measures.

In particular, the draft Law of Ukraine "On Enforcement of Decisions" (Reg. No. 5660 of 14.06.2021) (hereinafter referred to as the "draft Law No. 5660") is being considered in the Verkhovna Rada of Ukraine and was passed in the first reading on 14.07.2021.

The purpose and objective of the draft Law No. 5660 is comprehensive improvement of the process of enforcement of court judgments and decisions of other bodies (officials).

Novelties provided for in the draft Law No. 5660 can be nominally broken down by the following areas: enhancing of the powers of private bailiffs and facilitating the access to the private bailiff profession to increase their total number, enhancing of the powers of assistant private bailiffs; digitalisation of the enforcement of decisions; defining the peculiarities of execution of certain categories of decisions, new approaches to the levy of execution on the debtor's property, defining the peculiarities of the levy of execution on certain types of property.

The Ministry of Justice of Ukraine also developed the draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine As Regards Ensuring the Enforcement of Court Judgements Guaranteed by the State" (as regards setting the time limit for submission of a request for execution of a court judgement to plan expenditure on payments provided for by this Law during the preparation of the draft State Budget of Ukraine for the relevant year and as regards the review of the mechanism for granting state guarantees for execution of court judgements where the debtor is a state-owned enterprise in respect of the grounds for inclusion debtors being state-owned enterprises to Article 2 of the Law of Ukraine "On the State Guarantees for Execution of Court Judgements").

The procedure for execution of court judgements in the criminal proceedings is set out in Article 534 of the Criminal Procedure Code of Ukraine.

In particular, in accordance with the said Article of the Criminal Procedure Code, if necessary, the manner, the time limits, and the procedure for execution of court judgements may be specified in the court judgement itself.

A court judgment that has entered into force or is subject to immediate execution must be unconditionally executed.

A judgment of acquittal or a court judgement to release the accused from custody are executed in this respect immediately after their pronouncement in the courtroom.

If the court of appeal has renewed the time-limit for appeal, the issue of suspending the execution of the judgment or the ruling concerned is decided simultaneously. Execution of a sentence or ruling may be suspended also in other cases stipulated in the Criminal Procedure Code.

Procedural issues related to the execution of court judgements in the criminal proceedings are decided by the judge of the court of first instance alone, unless otherwise provided by the Criminal Procedure Code.

Article 535 stipulates that a court judgement which has entered into force, unless otherwise provided by the Criminal Procedure Code, is enforced within three days after it entered into force or after the materials of criminal proceedings were returned to the court of first instance from the court of appeal or cassation court.

The court sends the copy of the court judgment, together with its execution order, to the authority or institution which has been charged with the execution of the court judgement.

The ground for execution of a court judgment that has entered into force by the entity charged with state registration of legal entities, individual entrepreneurs and public organisations is its electronic copy sent to the entity charged with state registration of legal entities, individual entrepreneurs and public organisations under the procedure for information interaction between the Unified State Register of Court Judgements and the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations as approved by the Ministry of Justice of Ukraine jointly with the State Judicial Administration of Ukraine.

In case when a court judgement or a part thereof is subject to execution by state treasury bodies, the execution is carried out under the direct debit procedure.

In case when a court judgement or a part thereof is subject to execution by the bodies of State Enforcement Service or by the private bailiff, the court issues a writ of execution to be enforced under the procedure prescribed by the law on enforcement proceedings.

Bodies and persons executing a court judgement notify the court that has delivered it of its execution.

In addition, Article 382 of the Criminal Code provides for the criminal liability for wilful failure to execute a sentence, judgment, ruling or resolution of a court, which has come into effect, or preclusion of their execution in the form of a fine of 500 to 1,000 non-taxable minimum incomes of citizens, or imprisonment for a term up to three years.

The same actions committed by an officer are punishable by a fine of 750 to 1,000 non-taxable minimum incomes of citizens, or imprisonment for a term up to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

Actions as provided for in Article 382(1) and (2) of the Criminal Code, committed by an officer who occupies a responsible or especially responsible position, or by a person previously convicted for the offence under this Article, or where these actions caused any significant damage to legally

protected rights and freedoms of citizens, state or public interests, or interests of legal persons are punishable by imprisonment for a term of three to eight years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

Wilful failure of an officer to comply with the judgment of the European Court of Human Rights, the judgment of the Constitutional Court of Ukraine and wilful non-compliance with the opinion of the Constitutional Court of Ukraine are punishable by imprisonment for a term of three to eight years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

131. Equipment: Is there an IT-supported case management system in the courts? Are systems and software compatible across Ukraine? (The need to manage the computerisation on the national level calls for a central capacity to define needs, implement computerisation, including procurement of software and hardware, as well as to advise and help computerised courts.) Please describe briefly the main tools provided by the system.

There is an automated document management system of the court (ADMSC) operating in courts, developed, introduced, maintained and administered by “Information Judicial Systems” state-owned enterprise managed by the State Judicial Administration.

ADMSC ensures registration of incoming correspondence, automated court case distribution, interaction with the public services of the electronic court, and transfer of signed court decisions to the Register.

General IT equipment needs are identified by the State Judicial Administration of Ukraine as the administrator of budget funds, based on the information from courts and taking into account relevant standards for such provisioning. Proposals for including the amounts of funding necessary to meet such needs into the State Budget of Ukraine are submitted via the Ministry of Finance of Ukraine. Over the past several years, there has been no state budget expenditures of development on the procurement of necessary IT equipment. Procurement for courts and their provisioning is carried out either centrally by the State Judicial Administration of Ukraine, or independently by specialised courts and courts of appeal. Functions of providing local courts with necessary supplies are performed by territorial departments of the State Judicial Administration of Ukraine. Procurements are carried out in accordance with the Law “On Public Procurement”.

Courts are constantly assisted and consulted on the matters related to software and information systems usage. “Information Judicial Systems” state-owned enterprise, that has its regional support centres, is managed by the State Judicial Administration of Ukraine. Consultations on the usage of information systems and user support are mostly provided by the enterprise. Moreover, with this aim, online trainings for users concerning the above mentioned matters are held regularly and to the extent necessary, by means of video conferencing sub-system.

Article 15¹ of the Law No. 1402-VIII provides for the functioning of the Unified Judicial Information and Telecommunication System in courts, the Supreme Council of Justice, the High Qualification Commission of Judges of Ukraine, the State Judicial Administration of Ukraine and their bodies and subdivisions, that ensures, in particular:

electronic document management, including electronic document flow within relevant authorities and institutions, as well as among them, registration of incoming and outgoing documents and stages of their management;

centralised storage of procedural and other documents and information in the unified database;

storage of cases and other documents in the electronic archive;

document and information sharing (sending and receiving documents and information, joint work with documents) in electronic format among courts, other bodies within the system of justice, participants in legal proceedings, as well as holding real-time video conferences;

automation of courts, the Supreme Council of Justice, the High Qualification Commission of Judges of Ukraine, the State Judicial Administration of Ukraine, their bodies and subdivisions;

assignment of a judge (judge rapporteur) to examine a particular case, in the manner prescribed by the procedural law;

selection of people to be invited to participate in the administration of justice through a jury;

case distribution in the High Qualification Commission of Judges of Ukraine, the Supreme Council of Justice and its bodies;

audio and video recording of court sessions, meetings of the High Qualification Commission of Judges of Ukraine, the Supreme Council of Justice and its bodies and their broadcasting on the Internet in the manner prescribed by the law;

maintenance of the Unified State Register of Court Decisions;

functioning of the official web portal of Ukraine's judiciary and the websites of the Supreme Council of Justice and the High Qualification Commission of Judges of Ukraine.

The work on a complete launch of that system is underway. Meanwhile, the Law allows for gradual implementation of individual modules of that system. In particular, three sub-systems were officially launched on 05.10.2021, namely:

“Electronic Cabinet”, which is a sub-system ensuring the procedure of user registration in the Unified Judicial Information and Telecommunication System, as well as their further identification in order to provide them with access to the sub-systems (modules) of the Unified Judicial Information and Telecommunication System;

“Electronic Court” is a sub-system enabling users to electronically create and send procedural or other documents to court, to other authorities and institutions within the system of justice, and to receive information on the status of such documents and the results of their examination or other documents. The subsystem makes it possible to electronically issue a power of attorney to represent interests in court, as well as to automatically send case materials in electronic form. Since 08.04.2022, additional functionality was launched, enabling users to send documents to other participants' electronic cabinets before sending them to court and to receive confirmations (receipts) of the delivery of such documents;

video conferencing sub-system enabling the participants of the case to take part in court sessions via a video conference outside the courthouse using their electronic cabinet and their own technical

means, in other courthouse — using the technical means of the court, at pre-trial detention facility, penitentiary institution or health care facility — using the technical means available in the facility concerned. Video conferencing sub-system also allows users to participate in the meetings of other authorities and institutions within the system of justice via a video conference.

Moreover, since September 2021, “e-Court” mobile application, which is a version of the “Electronic Court” sub-system adapted for its use via mobile devices, has been functioning. The application allows its users to: receive subpoenas and notifications on court sessions; look through court decisions and other procedural documents concerning the case; look through applications, requests and other case documents the user created in the cabinet; look through powers of attorney and warrants issued by the user with a possibility to cancel them.

By the time of the complete launch of the Unified Judicial Information and Telecommunication System, automated distribution of procedural documents submitted to court is performed on a random basis through the Unified Judicial Information and Telecommunication System of Court Document Management. The system also ensures the preparation and automated formation of statistical data, general and analytical indicators, obtained on the basis of information entered into the automated system, centralised storage of original electronic court documents and other procedural documents, and performs other functions necessary to ensure electronic document management in court.

132. Is there a Supreme Court database with case law accessible to courts, legal and judicial professions?

According to Article 36 of Law No. 1402-VIII, the Supreme Court, inter alia, conducts the analysis of court statistics, summarises case law and ensures that courts of different specialisations apply the rules of law consistently and in the manner prescribed by procedural law.

The Supreme Court has an official printed organ, where case law materials of the Supreme Court and other materials are published. The official printed organ may be published electronically (Article 47(3) of Law No. 1402-VIII).

Thus, the Supreme Court’s decisions on model cases, as well as case law and statistics are available on the official web portal of Ukraine’s judiciary.

In Ukraine, there is a Unified State Register of Court Decisions, ensuring open and free-of-charge access to the texts of Ukrainian courts’ decisions (<https://reyestr.court.gov.ua/>). All court decisions (including the Supreme Court case law) and even certain opinions of judges shall be published in the Register. Texts of the Supreme Court decisions can be searched for in the Register by context, judges’ surnames or by court decision details or case details. Search results are shown as a table with links to documents.

There is also a separate Database of Legal Positions of the Supreme Court, allowing for the search for relevant case law (<https://lpd.court.gov.ua/login>) in order to avoid future cancellation of decisions. Legal positions of the Supreme Court, published in the Database, are systematised by categories. Each legal position of the Supreme Court has a short description, key information and the full text of the relevant court decision. There is also a User Manual available on the home page of the Database. In addition, the Database contains all digests of the Supreme Court. There are several search

options available in the Database: by a large text fragment; by key word(s); by a text document, and by a link to a court decision from the Unified State Register of Court Decisions. The Database also has a legal classifier, allowing for thematic search for legal positions.

The key goal for developing the Database was to provide a full-text selection of relevant case law. I.e., so that any user could, for the purpose of search, upload a full-text document (draft court decision, draft statement of claim, draft appeal or cassation appeal) to which the Database would automatically match relevant case law of the Supreme Court.

The Database was also created with the purpose to form unique content. While the Unified State Register of Court Decisions includes all decisions of the Supreme Court, the Database of Legal Positions has them systematised, and positions there do not duplicate each other, which simplifies the search for case law.

The Database is available to the general public since July 2021 and is constantly supplemented, its technical search tools are constantly improved.

The Supreme Court regularly prepares systematised case law analyses: analyses of the Grand Chamber of the Supreme Court trials, digests on of the Grand Chamber of the Supreme Court case law and reviews of cassation courts case law are published on the Court's website (<https://supreme.court.gov.ua/supreme/pokazniki-diyalnosti/analiz/>). Moreover, reviews regarding the case law of the European Court of Human Rights are prepared in Ukrainian on a monthly basis.

133. Are databases of law enforcement agencies accessible by courts? Is there a centralised electronic criminal register accessible by relevant authorities?

According to Article 106¹ of the Criminal Procedure Code, an information and telecommunication system of pre-trial investigation is a system that ensures creation, collection, storage, processing, transfer of and search for materials and information (data) during criminal proceedings.

The functioning of the information and telecommunication system of pre-trial investigation is regulated by the provision jointly approved by the Prosecutor General's Office, the authority within which a pre-trial investigation agency is functioning, and the authority that approves provisions regarding the system functioning in court under Article 35 of the Criminal Procedure Code.

The information and telecommunication system of pre-trial investigation interacts with the Unified Register of Pre-Trial Investigations and the system functioning in court under Article 35 of the Criminal Procedure Code, and can also interact with other information or information and telecommunication systems in cases provided for by law.

The information and telecommunication system of pre-trial investigation is used by investigators, inquiring officers, prosecutors, investigating judges, courts and defence lawyers (upon their consent) and may be used by other participants of legal proceedings in the exercise of their powers, rights and interests provided for in the Criminal Procedure Code, on conditions and according to the procedure set out in the provision regarding that system.

In case of using the system specified in that Article, the materials of pre-trial investigation, available in such system, can be studied by accessing them through that system.

The materials of pre-trial investigation contained in the information and telecommunication system of pre-trial investigation are transferred and their copies are provided electronically, however, if the investigator, inquiring officer, prosecutor, investigating judge or court that transfers or provides them decides so, they are transferred and provided in paper form.

Documents signed and approved in the information and telecommunication system of pre-trial investigation with the use of qualified electronic signature, and their copies in both electronic and paper forms are recognised as original documents.

Electronic document management in criminal proceedings, in relation to matters not regulated by the Criminal Procedure Code, is regulated by other laws on electronic documents and electronic document management.

The information and telecommunication system of pre-trial investigation is subject to protection by means of the integrated information protection system with confirmed compliance.

Unauthorised interference into the operation of the information and telecommunication system of pre-trial investigation entails liability as provided for by law.

134. Do judges and prosecutors have access to the archives and legal databases? How is access to recently adopted laws ensured? Are archives computerised?

There are paid as well as free databases of legal and normative acts in Ukraine. Judges and prosecutors use both. In particular, all laws are published on the website of the Verkhovna Rada of Ukraine, with the possibility of opening them in their versions valid as of a certain date, which allows for using them in their current version as well as conducting their retrospective analysis. As for bylaws, the website of the Cabinet of Ministers of Ukraine, where government acts are published, is their free database. There are no problems with access to legal and normative acts. Official printed organs ensuring official publication of legal and normative acts are also available electronically on official websites.

135. Please describe the internal legal and institutional framework for consideration of war crimes, crimes against humanity, and genocide, as well as the situation with the initiation of any case; please provide a translated copy of the relevant laws

The Ukrainian national legal framework for consideration of war crimes, crimes against humanity, and the crime of genocide includes mainly two legal acts – the Criminal Code of Ukraine (adopted in 2001), which contains the norms of substantive criminal law and an exhaustive list of criminal offenses, and the Criminal Procedure Code of Ukraine (adopted in 2012), which defines the rules and procedures for the pre-trial investigation of criminal offenses and consideration of criminal offenses. proceedings in court.

The current version of the Criminal Code of Ukraine in the Special Part contains Section XX "Criminal offenses against peace, security of mankind and international law and order", which includes the following articles with definitions of the composition of the relevant crimes:

- Propaganda of war (Article 436);
- Planning, preparation, unleashing, and waging an aggressive war (Article 437);
- Violation of the laws and customs of war (Article 438), i.e. war crimes;

- The use of weapons of mass destruction (Article 439), which is a separate case of violation of the laws and customs of war, that is, a war crime;
- Genocide (Article 442).

Separately, we draw attention to the statistical information on the consideration by courts of criminal proceedings (cases) on the commission of criminal offenses against peace, security of mankind, and international law and order for 2019 (according to the operational data of local and appellate general courts):

propaganda of war (Article 436 of the Criminal Code) – 1 criminal proceeding was pending in court, which at the end of the reporting period remained unresolved;

preparation, unleashing, and waging an aggressive war (Article 437 of the Criminal Code) – 11 criminal proceedings were pending in the courts; considered with the imposition of a guilty verdict – 2; not reviewed at the end of the reporting period – 9;

mercenary (Article 447 of the Criminal Code) – 1 criminal proceeding was pending in court, which was closed at the end of the reporting period.

As for other crimes against peace, security of mankind and international law and order provided for by the Criminal Code of Ukraine, there are currently no verdicts.

The Criminal Code of Ukraine does not provide for the so-called universal jurisdiction (action) of the criminal law on the listed crimes. At the same time, Part 1 art. Article 8 of the Criminal Code of Ukraine provides that foreigners or stateless persons who do not permanently reside in Ukraine who have committed criminal offenses abroad are subject to liability under this Code in Ukraine in cases stipulated by international treaties or if they have committed serious or especially grave crimes provided for by this Code against the rights and freedoms of Ukrainian citizens or the interests of Ukraine. this provision allows to prosecute under the Ukrainian criminal law officials of foreign states who organized the commission of the above crimes against citizens of Ukraine or the interests of Ukraine. At the same time, in accordance with Part 5 of Article 49 of the Criminal Code of Ukraine, the crimes provided for in Articles 437-439 and Part 1 of Article 442 does not apply to the statute of limitations for bringing to criminal responsibility.

According to Part 2 of Article 401 of the Criminal Code under the relevant articles of the section "Criminal offenses against the established procedure for military service" (military criminal offenses)" are responsible for servicemen of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the National Guard of Ukraine and other military formations formed in accordance with the laws of Ukraine, the State Special Transport Service, the State Special Communications Service and protection of information of Ukraine, as well as other persons defined by law.

Ukraine has not yet ratified the Rome Statute of the International Criminal Court. However, by the Statement of the Verkhovna Rada of Ukraine of 04.02.2015, it recognizes, in accordance with Paragraph 2 of Article 11 and Paragraphs 2, 3 of Article 12 of the Rome Statute, the jurisdiction of the International Criminal Court regarding crimes against humanity and war crimes committed by senior officials of the Russian Federation and heads of terrorist organizations "DNR" and "LNR". that led to particularly grave consequences and mass murder of Ukrainian citizens, starting from the 20th of February 2014 to the present.

The Criminal Procedure Code of Ukraine stipulates that the crimes provided for by Art. 436, 437, 438, 439, and 442 of the Criminal Code of Ukraine are being investigated by the investigative units of the security agencies of Ukraine (Security Service of Ukraine).

With the entry into force of Law №113-IX, military prosecutor's offices, prosecutors and investigators of military prosecutor's offices ceased to exercise their powers, as provided for in subparagraph 1 of paragraph 21 of Section II "Final and Transitional Provisions" of this Law.

At the same time, the same Law amended part two of Article 7 of Law № 1697-VII, which stipulates that, if necessary, the decision of the Prosecutor General may form specialized prosecutor's offices as a structural unit of the Office of the Prosecutor General, as regional prosecutor's offices, as a unit of the regional prosecutor's office, as district prosecutors, as a unit of the district prosecutor's office.

At the same time, it was established that the list, formation, reorganization, and liquidation of specialized prosecutor's offices, determination of their status, competence, structure, and staffing are carried out by the Prosecutor General.

Thus, in the future, in 2020-2021, several decisions of the Prosecutor General established a specialized prosecutor's office in the field of supervision of criminal proceedings on war crimes and the field of the military-industrial complex (as a structural unit of the Office of the Prosecutor General) and specialized prosecutor's offices in the military and defense sphere (as regional and district prosecutor's offices, respectively).

It should be noted that according to the investigation determined by Article 216 of the CPC, pre-trial investigation of criminal offenses against the established procedure for military service (military criminal offenses) is carried out by the investigating bodies of the State Bureau of Investigation; criminal offenses committed by a soldier of the highest officer of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Special Transport Service, the National guards of Ukraine and other military formations formed in accordance with the laws of Ukraine - detectives of the National Anti-Corruption Bureau of Ukraine; criminal offenses related to the disclosure of military information constituting a state secret, or the loss of documents or materials containing such information by security officials.

Also, according to Article 2 of the Law of Ukraine "On the Security Service of Ukraine", the tasks of the Security Service of Ukraine, among other things, include the prevention, detection, termination and disclosure of criminal offenses against the peace and security of mankind.

On 20.05.2021, the Verkhovna Rada of Ukraine adopted the Law "On Amendments to Certain Legislative Acts of Ukraine on the Implementation of International Criminal and Humanitarian Law" (Draft Law № 2689 of December 27, 2019), which aims to ensure the completeness of the implementation of the provisions of international criminal and humanitarian law on criminal prosecution for international crimes (genocide, crime of aggression, crimes against humanity and war crimes), as well as ensuring the implementation of international obligations to prevent legal and actual impunity for the commission of such crimes.

On 07.06.2021, this Law was sent for signature to the President of Ukraine.

VIII. Anti-Corruption Policy and strategy

136. Please give an overview of the efforts geared towards tackling the prevention and repression of corruption (i.e. adoption of legislation, alignment with international conventions, adoption of strategies and action plans to implement legislation, reinforcement of institutional and human resources capacities to deal with corruption). Which are the main priorities in this field? Which are the bodies responsible for the fight against corruption? How is coordination between different services ensured horizontally as well as across the levels of governance?

Overview of anti-corruption efforts

Ukraine has signed and ratified key international treaties on the fight against corruption, in particular, the United Nations Convention against Corruption; the Criminal Law Convention on Corruption of the Council of Europe; the Civil Law Convention on Corruption of the Council of Europe.

Certain provisions of these international treaties have been implemented in national legislation, in particular, with the adoption of the Laws of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Liability for Corruption Offences” (2011); “On the Principles of Corruption Prevention and Counteraction” (2011); “On Amendments to the Criminal and Criminal Procedural Codes of Ukraine on the Implementation of the Action Plan for the Visa Liberalisation for Ukraine by the European Union” (2013); “On Amendments to Certain Legislative Acts of Ukraine on Adjusting National Legislation to the Standards of the Criminal Law Convention on Corruption” (2013); “On Amendments to Certain Legislative Acts of Ukraine in the Field of State Anti-Corruption Policy in Connection with the Implementation of the Action Plan on Visa Liberalisation for Ukraine by the European Union” (2014).

Since 2014, Ukraine has focused significantly on the introduction of a system of specialised bodies responsible for preventing and combating corruption, the trial of relevant criminal proceedings, and on the introduction of specialised tools for preventing corruption. In order to ensure the proper legal basis, to bring national legislation in line with the provisions of international treaties, a number of laws were adopted, including following Laws of Ukraine:

- “On Prevention of Corruption” (2014);
- “On the National Anti-Corruption Bureau of Ukraine” (2014);
- “On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Activities of the National Anti-Corruption Bureau of Ukraine and the National Agency on Corruption Prevention” (2015);
- “On Amendments to Certain Legislative Acts of Ukraine on Prevention and Counteraction of Political Corruption” (2015);
- “On the National Agency of Ukraine for finding, tracing, and management of assets derived from corruption and other crimes” (2015);
- “On the High Anti-Corruption Court” (2018);
- “On Amendments to the Law of Ukraine “On the Judiciary and the Status of Judges” in connection with the adoption of the Law of Ukraine “On the High Anti-Corruption Court” (2018);

- “On Amendments to Certain Legislative Acts of Ukraine on the Confiscation of Illegal Assets of Persons Authorised to Perform the Functions of the State or Local Self-Government, and Punishment for the Acquisition of Such Assets” (2019);
- “On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Effectiveness of the Institutional Mechanism for Corruption Prevention” (2019);
- “On Amendments to the Law of Ukraine "On Prevention of Corruption” regarding whistleblowers of corruption” (2019).

Also in 2014, the last strategy was adopted – the Anti-Corruption Strategy for 2014-2017. Later, an action plan was adopted – the State Program for the Implementation of the Principles of the State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2015-2017. According to various estimates of authorities and civil society, 60 to 80% of the policy measures specified in these documents were implemented.

The implementation of these laws and policy measures in general has allowed the creation of a new institutional system for preventing and combating corruption, which is still at the stage of its formation, development and capacity-building for the proper implementation of the assigned tasks.

At the same time, Ukraine also focused on comprehensive sectoral reforms, which also had a positive impact on reducing corruption and eliminating corruption risks. Among such reforms, efforts in the banking sector, public procurement reform, in the energy sector, etc. can be particularly noted.

This allowed Ukraine to make some progress in reducing the level of corruption in the state, which was confirmed in a number of studies, including the Chatham House study “Are Ukraine’s Anti-corruption Reforms Working?” from 2018 financed by the EU Anti-corruption Initiative (EUACI), and found in the further reduction of the people's experience of corruption.

Given the overall positive impact of the combination of the two above approaches, the draft of the new Anti-Corruption Strategy is based on the same principles. Currently, a draft Law of Ukraine “On the Principles of the State Anti-Corruption Policy for 2021-2025”, which is positively assessed by all stakeholders, has been prepared for adoption in the Parliament. Its preparation was accompanied by extraordinary transparency of the process, as well as the extensive involvement of stakeholders in consultations and discussions (see question 137).

Implementation of anti-corruption reforms faces certain obstacles and failed attempts to undermine achievements. Such attempts are manifested, in particular, in certain legislative initiatives. Also, a number of decisions of the Constitutional Court of Ukraine recognized the provisions of anti-corruption legislation as unconstitutional (in particular, decisions 1/p-2019; 4-p (II)/2019; 13-p/2020). However, it should be noted that Ukraine has ensured the restoration of the necessary legislation provisions in accordance with the Constitution of Ukraine and international standards.

In particular, it refers to the adoption of Laws “On Amendments to Certain Legislative Acts of Ukraine on the Confiscation of Illegal Assets of Persons Authorised to Perform the Functions of the State or Local Self-Government, and Punishment for the Acquisition of Such Assets” (2019); “On Amendments to the Law of Ukraine “On Prevention of Corruption” on the Restoration of the Institutional Mechanism for the Prevention of Corruption” (2020); “On Amendments to the Code of Ukraine on Administrative Offences, the Criminal Code of Ukraine on Improvement of

Responsibility for Declaring False Information and Failure of the Subject of Declaring the Declaration of a Person Authorised to Perform the Functions of the State or Local Self-Government” (2021); “On Amendments to Certain Laws of Ukraine on Adjustment of the Status of the National Anti-Corruption Bureau of Ukraine to the Requirements of the Constitution of Ukraine” (2021).

The updated legislation establishes an appropriate legal framework for the institutional structure to combat corruption.

For specialised bodies, legislative guarantees of independence are enshrined, although in some cases in practice there are attempts to violate them by individual stakeholders. Bodies have the necessary scope of powers, although sometimes there is a need for their further strengthening or proper practical implementation of legislation. Institutions also receive adequate funding and the number of staff, the latter, however, would be beneficial to further increase for certain bodies in view of the increased volumes of tasks.

To strengthen the personnel capacity of specialised bodies, special open competitive recruitment procedures are applied with due attention to the competence and integrity of candidates. When selecting heads of specialised bodies, in recent years, independent international experts on anti-corruption issues take part in the activities of tender committees to ensure transparency of selection. In addition, staff of specialised bodies participate in a large number of exchange and capacity building activities.

Key Anti-Corruption Priorities

Ukraine continues efforts in two main areas:

- *strengthening the institutional capacity of specialised bodies* responsible for combating corruption, with special attention to combating high-level corruption;
- *Conducting sectoral activities* to minimise opportunities for corruption.

For the regulatory consolidation of this approach, it is expected that the following Anti-Corruption Strategy, which has already been registered in the Verkhovna Rada of Ukraine, will be adopted as soon as possible.

In the first direction, efforts are currently mostly focused on the practical implementation of legislative requirements and ensuring the independence of specialised bodies in practice, although further improvement of the legal basis of the institutional system for preventing and combating corruption is also underway. One of the priorities in this aspect is to strengthen the autonomy and institutional capacity of the Specialised Anti-Corruption Prosecutor's Office.

As for the second direction, such work is in progress in various sectors. In recent years in particular, special attention has been paid to digitalisation, which eliminates the prerequisites for so-called "domestic" corruption and enhances the transparency of the activities of state bodies. Particular attention was paid to reducing corruption risks in the security and defence sector, which was manifested in improving the legal regulation of defence procurement and corporate management of military-industrial complex enterprises. Further development of legislation and its practical implementation is required. In 2021, a legislative foundation was laid for a comprehensive reform of the judiciary, which significantly will contribute to strengthening the integrity of the judiciary, and the practical implementation of these changes has already started.

Bodies responsible for combating corruption

The National Agency on Corruption Prevention (NACP) exercises its powers to ensure the formation and implementation of the state anti-corruption policy; monitoring, coordination, and assessment of the effectiveness of its implementation; protection of whistleblowers; prevention of political corruption; implementation of financial control measures regarding persons authorised to perform the functions of the state or local self-government; monitoring compliance with the requirements for conflict of interest and other related restrictions; coordination of the activities of authorised units/persons on the prevention and detection of corruption, their consulting and methodological support; determination of procedures for assessing corruption risks in the public sector and approval of anti-corruption programs of state bodies; ensuring the formation of intolerance to corruption; public involvement in the corruption prevention.

In a number of state and local self-government bodies specified in Article 13-1 of the Law “On Prevention of Corruption”, the authorised units (persons) for the prevention and detection of corruption, which are entrusted with the tasks of preventing corruption, managing corruption risks, providing methodological and consulting assistance to employees, working with whistleblowers, monitoring compliance with anti-corruption legislation and informing the authorised bodies of violations. Coordination of the activities of such units (persons) is carried out by the NACP.

The NACP and the National Police are empowered to draw up protocols on administrative offences related to corruption. Such protocols are considered in court with the mandatory participation of the prosecutor, and such representation is carried out by prosecutors of different levels in accordance with their competence. The trial is carried out by the local general courts as a first instance and by the courts of appeal as an appellate instance.

Pre-trial investigation of corruption and corruption-related offences committed by senior officials or which caused significant losses (damage) is carried out by the National Anti-Corruption Bureau of Ukraine (NABU). Procedural guidance, supervision and support of the public prosecution in such criminal proceedings is carried out by the Specialised Anti-Corruption Prosecutor's Office (SAPO), which is an independent structural unit of the PGO with certain guarantees of autonomy.

Pre-trial investigation of other corruption and corruption-related criminal offences is carried out by the bodies of the National Police and the SBI, procedural guidance in such proceedings is carried out by prosecutors of the prosecutor's office.

The judicial consideration of criminal proceedings on corruption and corruption-related criminal offences against senior officials is carried out by a specialised court in the judicial system of Ukraine – the High Anti-Corruption Court (HACC), which acts as a court of first and appellate instances; for the appellate review of decisions in this court, an Appeal Chamber was established. Criminal proceedings for corruption and corruption-related criminal offences are also considered by local general courts, courts of appeal, and the Supreme Court. A separate chamber has been established within the Criminal Court of Cassation of the Supreme Court, which specialises in the criminal proceedings in relation to corruption or corruption-related criminal offences.

Prosecutors of the Specialised Anti-Corruption Prosecutor's Office (and, in exceptional cases, prosecutors of the Office of the Prosecutor General) are authorised to file claims for recognition of assets as unjustified and for their collection into the state revenue; the collection of evidence in such

cases rests respectively with the National Anti-Corruption Bureau of Ukraine or the State Bureau of Investigation. Court proceedings of such cases in civil proceedings is carried out by the High Anti-Corruption Court as a court of first and appellate instances, with the possibility of their cassation review by the Supreme Court; in exceptional cases, as a court of first instance, such cases are considered by the local court, within the jurisdiction of which the High Anti-Corruption Court is located, and the appellate review is considered by the Court of Appeal under the relevant territorial jurisdiction.

Coordination

Coordination of the implementation of the Anti-Corruption Strategy should be carried out by the NACP.

It is expected that with the adoption in general and the entry into force of the Law of Ukraine "On the Principles of the National Anti-Corruption Policy in 2021-2025" (Anti-Corruption Strategy), the coordination of actions of various bodies in the field of combating corruption will be better thanks to better coordination mechanisms. For such purposes, this draft law provides for the formation of a Coordination Working Group on Anti-Corruption Policy.

The NACP, within its competence, coordinates the activities of the authorised units (persons) for the prevention and detection of corruption.

In addition, the NACP coordinates the implementation of international obligations in the field of anti-corruption policy (first, the recommendations of GRECO and the OECD).

The National Council on Anti-Corruption Policy, which is an advisory body to the President of Ukraine, also plays a coordinating role. This council includes representatives of state bodies, civil society, the private sector, as well as representatives of international organisations and international technical assistance projects as observers. The main tasks of this council include, in particular, the preparation and submission to the President of Ukraine of coordinated proposals to improve coordination and interaction between entities that carry out measures in the field of prevention and counteraction to corruption.

The Office of the Prosecutor General holds coordination meetings with the participation of the Prosecutor General and heads of law enforcement agencies. In particular, in 2021, there were such meetings on anti-corruption, on improving the efficiency of the asset recovery system, on the state of implementation of the institution of recognition of assets as unjustified and their recovery into the state revenue.

The cooperation between NABU and SAPO is carried out in line with the criminal procedural legislation of Ukraine and relevant regulatory acts. It is governed by the general order between NABU and SAPO *"On the Approval of the Procedure of Interaction, Cooperation, and Coordination of Actions during the Pre-Trial Investigation and Monitoring the Compliance with the Law during the Pre-Trial Investigation"*. The provisions of this procedure aim at ensuring mutual respect and understanding of the joint responsibility for the assigned task, efficiency, exercise of vested powers and performance of the assigned duties, prompt, comprehensive, unbiased pre-trial investigation, approval of procedural actions and measures to ensure completion of criminal proceedings within reasonable time limits.

137. Is there a national anti-corruption strategy and multi-annual action plan? Was this strategy the subject of broad consultation at all levels (e.g. interdepartmental, consultations with stakeholders in the private sector, civil society and the media)? What is the status of adoption of strategic policy documents, including the action plans, at all levels of governance? Which sectoral anti-corruption plans are in place?

Lack of anti-corruption strategy and state program for its implementation in Ukraine. Development of a new Anti-Corruption Strategy draft

The principles of anti-corruption policy (*Anti-Corruption Strategy*) are determined on the basis of the corruption situation analysis, as well as the previous anti-corruption strategy implementation results. The Anti-Corruption Strategy (hereinafter – ACS) is implemented through the State Program i.e. national action plan to prevent and combat corruption (hereinafter - SP). The NACP develops ACS and SP projects while the Parliament and the Government approve it.

There are currently no ACS and SP in Ukraine and the deadline for the implementation of the previous ACS for 2014–2017 and the corresponding SP expired on 31 December 2017.

The new ACS and SP were to enter into force on 1 January 2018. At the same time, at the end of August 2019 (after more than a year in Parliament) the draft Law of Ukraine “On Anti-Corruption Strategy for 2018-2020” was withdrawn due to termination of powers of the Verkhovna Rada of Ukraine of the VIII convocation.

That is why, starting from January 2020, one of the main priorities of the NACP was to prepare a draft of a fundamentally new ACS involving the best Ukrainian experts in preventing and combating corruption: scientists, independent experts, members of the public and international organisations.

Involvement of the public in the development and extensive discussion of the new Anti-Corruption Strategy draft

Representatives of the following non-governmental organisations took part in the development and/or discussion of the ACS draft project for 2020-2024: NGO Centre of Policy and Legal Reform, NGO Anti-corruption Action Center, NGO Transparency International Ukraine, DEJURE Foundation, NGO All-Ukrainian Association “Avtomaidan”, Better Regulation Delivery Office, Reforms Delivery Office of the Cabinet of Ministers of Ukraine, NGO “Together Against Corruption”, NGO “Antitrust League”, NGO “Chesno” Movement, NGO “Center for Economic Strategy”, NGO “Institute for Economic Research and Policy Consulting”, NGO “Independent Anti-Corruption Commission”, NGO “StateWatch”, CF “Patients of Ukraine”, NGO “100% Life”, Anti-corruption Research and Education Centre, Business Ombudsman Council, Ukrainian Network of Integrity and Compliance.

On 23 June 2020, the ACS draft for 2020-2024 was published on the official website of the NACP in order to ensure a broad discussion of this document by all stakeholders (<https://cutt.ly/ZDSPn7U>).

During June – July 2020, the NACP held 8 public consultations during which the ACS priority sectors were discussed (270 participants, 30 experts, 31,500 viewers of the NACP social media pages took part in the public consultations).

As a result, the NACP received 8 detailed joint comments/conclusions from international and non-governmental organisations, as well as 30 other unique (in addition to the above) appeals to the official NACP mail address.

During October 2020, the coalition of public organisations “Reanimation Package of Reforms” held 4 public discussions “Anti-corruption strategy in the judiciary: a fair trial”, the subject of which was the ACS draft for 2020-2024, including its subsection 3.1 “Fair Court”⁶.

In addition, during November – December 2020, 28 regional public hearings were organised in various cities of Ukraine. The total number of participants in these discussions was: 755 representatives of the judiciary, MPs and deputies of local councils, lawyers and other legal professionals, representatives of central executive bodies, public and party activists, as well as active citizens.

During the preparation of this document, the NACP actively cooperated and consulted with experts from the European Union Anti-Corruption Initiative in Ukraine (EUACI), the Support to Anti-Corruption Champion Institutions (SACCI) Project, the European Union Advisory Mission Ukraine (EUAM Ukraine), USAID/Ukraine, The International Foundation for Electoral Systems, IFES, World Bank and the British Embassy.

As the ACS draft for 2020–2024 concerned the activities of many state bodies, it was sent to 13 ministries, 11 other central executive bodies and 14 other interested public institutions.

During July – August 2020, NACP specialists processed [more than 1,000 comments, suggestions and observations](#)⁷. Each of these comments, suggestions and observations was the subject of a thorough study by NACP experts, many of which were taken into account during the finalisation of the project before submission to the Government.

In late August – early September 2020, conciliation procedures were held with the relevant authorities. Most of the comments and suggestions made by other central executive bodies have been taken into account or settled in the relevant conciliation procedures.

In order to ensure maximum openness and transparency of the ACS project, the results of processing all comments, suggestions and observations together with the justification of each decision [were published as a table on the official website of the NACP](#).

Thus, the process of developing the ACS project for 2020-2024 took place in compliance with the highest standards for the development of such documents, as it was not only completely open and transparent, but also provided maximum involvement of all stakeholders in its development and refinement.

Consideration of the new Anti-Corruption Strategy draft by the Government and the Parliament

⁶ Videos of public discussions: <https://www.facebook.com/291274317692074/videos/344030340156553>,
<https://www.facebook.com/291274317692074/videos/776967906480681>
<https://www.facebook.com/291274317692074/videos/446949766273235>
<https://www.facebook.com/291274317692074/videos/1061784000941047>

⁷ Detailed description <https://nazk.gov.ua/wp-content/uploads/2020/09/NAZK-Porivnyalna-tablytsya-do-proektu-Antykoruptsiynoyi-strategiyi-na-2020-2024-roky.pdf>

On 16 September 2020, the Government approved the draft Law of Ukraine “On the Principles of State Anti-Corruption Policy for 2020-2024”, and already on 21 September 2020 registered it in the Verkhovna Rada of Ukraine with No. 4135⁸.

On 30 September 2020, the bill was declared urgent by the President. On 5 November 2020, the ACS draft was adopted by the Parliament in the first reading.

Despite the fact that the Verkhovna Rada Committee on Anti-Corruption Policy with the participation of the NACP considered all the amendments, recommended the Parliament to adopt the bill as a whole and provided a comparative table for the second reading on 17 May 2021, the ACS for 2021-2025⁹ *remains unapproved*.

Formation of the state anti-corruption policy through other national program documents

In the absence of approved ACS and SCP, the formation of anti-corruption policy is carried out by systematically including the relevant priorities¹⁰ in other national documents of strategic, programming and planning nature.

Thus, during 2020-2022 NACP initiated the inclusion of appropriate measures in the following documents:

- *National Economic Strategy* for the period up to 2030, approved by the Cabinet of Ministers of Ukraine resolution No.179 from 03 March 2021 (ways to achieve strategic goal No. 4 “Ensuring the effective operation of the anti-corruption system to prevent, detect and punish corruption” were identified within the strategic course of “The rule of law”);

- *Program of the Cabinet of Ministers of Ukraine activities*, approved by the resolution of the Cabinet of Ministers of Ukraine No. 471 dated 12 June 2020¹¹ (subsection 4.3. Anti-corruption policy);

- *Government Priority Action Plans* for the year (for example, the 2021 Plan identifies 5 steps (101-105) in the field of anti-corruption policy);

- *Annual national programs under the auspices of the NATO – Ukraine Commission and action plans for their implementation* (for example, the 2021 program identifies Objective 1.2.1, according to which an effective system for preventing and combating corruption should ensure a steady reduction in corruption in Ukraine and promote its economic growth).

Sectoral anti-corruption plans and sectoral priorities in the ACS project for 2021-2025

One of the main sectoral anti-corruption priorities in Ukraine is the implementation of OECD-developed principles and standards of corporate governance in the public sector.

Based on the results of analytical, sociological and other research in the ACS draft for 2021-2025, the most priority areas in terms of combating corruption were identified (Section 3).

⁸ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70007.

⁹ Technical and legal amendments were made in preparation for the second reading of the draft Law of Ukraine “On Approval of the Anti-Corruption Strategy for 2020-2024”, namely the period for which it should be approved was changed.

¹⁰ These priorities are not determined *arbitrarily*, but have their *source* in the draft of the ACP for 2021-2025 adopted by the Verkhovna Rada of Ukraine in the first reading.

¹¹ Preparation of a *new draft of the Government's Action Program* is underway, taking into account results-oriented management principles. The final detailed proposals of the NACP were sent to the Government in September 2021.

Such areas include, but are not limited to: the court, the prosecutor's office, and law enforcement agencies; state regulation of Economy; customs and taxation; construction, land relations and infrastructure, health care, education and science, social protection and others.

These areas (sectors) will serve as a springboard for the development of specific sectoral measures in the SP, aimed at addressing the issues identified by the ACS project for 2021-2025.

[According to the Law of Ukraine “On Prevention of Corruption”](#), the NACP has the authority to monitor, coordinate and evaluate the effectiveness of the Anti-Corruption Strategy (paragraph 2, part 1, Article 11 of the Law).

138. Is there a monitoring/evaluation mechanism or is there mid-term review planned and is there an impact assessment planned at the end of the implementation to see whether or not the strategy/action plan generated tangible results (e.g. does the strategy contain a clear vision and how does it focus on priorities that are likely to bring about real change)? Is there a designated monitoring body, which meets regularly and oversees effectively the implementation? Please provide information about budget allocated in this regard.

Mechanisms for monitoring and evaluation, mid-term review, impact assessment of strategy and/or action plan

Certain issues of monitoring, evaluation, mid-term review and impact assessment of the strategy/action plan are defined by the current [Law of Ukraine “On Prevention of Corruption”](#).

The National Agency on Corruption Prevention (hereinafter - NACP) is authorised to monitor, coordinate and evaluate the effectiveness of the Anti-Corruption Strategy (Paragraph 2, part 1 of Article 11 of the [Law of Ukraine “On Prevention of Corruption”](#)).

Every year, the NACP is obliged to prepare a draft national report on the implementation of anti-corruption policy, which should include, in particular, a report on the implementation of the Anti-Corruption Strategy and a generalised analysis of the corruption situation, and results of sociological research (Paragraphs 4, 5, Part 1 of Article 20 of the [Law of Ukraine “On Prevention of Corruption”](#)).

An annual review of the state program for the implementation of the Anti-Corruption Strategy is envisaging the results of its implementation, as well as the conclusions and recommendations of parliamentary hearings on corruption (Part 5 of Article 18 of the [Law of Ukraine “On Prevention of Corruption”](#)).

The results of the implementation of the previous Anti-Corruption Strategy are taken into account when the National Agency on Corruption Prevention develops a draft of a new Anti-Corruption Strategy (Part 3 of Article 18 of the [Law of Ukraine “On Prevention of Corruption”](#)).

The Anti-Corruption Strategy has not yet been finally approved in Ukraine, although its draft is ready for adoption in the second reading in the Verkhovna Rada. This bill improves the system of monitoring, coordination and evaluation of the effectiveness of the strategy/action plan.

The draft Anti-Corruption Strategy improves the monitoring and evaluation mechanism, mid-term review and impact assessment of the strategy and / or action plan

According to the draft of the new Anti-Corruption Strategy for 2021-2025 (and the corresponding changes proposed in the Law of Ukraine “On Prevention of Corruption”), the NACP will receive quarterly information on the status of implementation of the strategy/action plan which will be collected electronically and be published online in a machine-readable format. Based on the analysis and summarization of the received information, NACP prepares an annual report on the status of implementation of the strategy/action plan, submits it to the Government and publishes it.

The draft Anti-Corruption Strategy contains certain indicators of the effectiveness of its implementation, while the policy measures are formulated as expected results to be achieved. The State Anti-Corruption Program for the Implementation of the Anti-Corruption Strategy requires the definition of performance indicators for each measure.

According to the results of monitoring and evaluation of the effectiveness of the Anti-Corruption Strategy, according to the draft law, the NACP will have the right to initiate amendments to it; also, it will be able to initiate a revision of the State Anti-Corruption Program for the Implementation of the Anti-Corruption Strategy, which may not be amended without public discussion and approval by the National Agency for the Corruption Prevention.

In the year of completion of the Anti-Corruption Strategy, the NACP will have to prepare a national report on the effectiveness of state anti-corruption policy, which should include, in particular, a generalised analysis of corruption and the impact of anti-corruption measures (based on statistics and surveys); report on the state of implementation of the Anti-Corruption Strategy and the state Anti-Corruption Program for the implementation of the Anti-Corruption Strategy.

Existence of a monitoring body that holds regular meetings and effectively monitors the implementation of the strategy/action plan

As mentioned above NACP is the authorised monitoring body.. In the absence of a strategy/action plan, the NACP monitors the implementation of anti-corruption measures provided for in other policy documents: the Government Program, the National Economic Strategy 2030, and the NATO-Ukraine Annual National Programs.

In 2015, the National Council on Anti-Corruption Policy under the President of Ukraine (hereinafter - the National Council) was established in Ukraine. The National Council is an advisory body. The National Council, among other things, carries out a comprehensive assessment of the situation and trends in the field of preventing and combating corruption in Ukraine, analyzes national anti-corruption legislation and measures to implement it; monitors and analyzes the effectiveness of the anti-corruption strategy and makes proposals to improve the interaction of bodies responsible for its implementation (paragraphs 1, 2, paragraph 4 of the Regulation on the National Council, approved by Presidential Decree #808/2014 of 14 October 2014, with following changes). The last meeting of the National Council took place in November 2020.

Other monitoring bodies have not yet been established, but legislative initiatives to establish them are already in place. The draft Law of Ukraine “On Principles of State Anti-Corruption Policy for 2021-2025” provides for the establishment of a Coordination Working Group on Anti-Corruption Policy at the National Agency on Corruption Prevention, which will be tasked with facilitating coordination of public authorities' activities, and implementation of measures of the state anti-corruption program.

Key indicators identified in the draft Anti-Corruption Strategy for 2021-2025 and ways to assess the state of their achievement

The draft Anti-Corruption Strategy identifies the following key indicators for assessing the effectiveness of its implementation:

- 1) implementation of measures provided by the state program;
- 2) compliance of the adopted regulations provided for in the state program with international standards and world best practices;
- 3) increasing Ukraine's position in the Corruption Perceptions Index;
- 4) increasing the share of the population that has a negative attitude to corruption;
- 5) reduction of the share of the population that had personal corruption experience;
- 6) an increase in the number of citizens willing to report the facts of corruption, as well as citizens who have reported the facts of corruption to the competent authorities.

Assessment of these indicators achievement will be carried out:

- 1) according to indicator 1 - on the basis of the NACP analysis of implementation of the measures of the state Anti-Corruption Program by the responsible persons according to the envisaged performance indicators;
- 2) according to indicator 2 - in the framework of international monitoring missions on the implementation of anti-corruption policy in the country (OECD Anti-Corruption Network for Eastern Europe and Central Asia, GRECO, UN Convention against Corruption);
- 3) according to indicator 3 - according to the dynamics of changes in Ukraine's assessment in the international rating "Corruption Perceptions Index" (CPI).

The level of achievement of indicators 4-6 will be determined by the results of national surveys of the population and business representatives of Ukraine, as provided by the Methodology of the Standard Survey on Corruption in Ukraine .

Budget for the implementation of the strategy/action plan

The implementation of state anti-corruption policy measures should be carried out within the budget funding provided to state bodies responsible for the implementation of relevant measures of the strategy/action plan.

Significant changes in budget funding should take place after the adoption and entry into force of the draft Law of Ukraine "On the Principles of State Anti-Corruption Policy for 2021-2025", which is being considered by Parliament. NACP should develop and the Cabinet of Ministers of Ukraine should approve the State Anti-Corruption Program for the Implementation of the Anti-Corruption Strategy, which, in particular, will determine the sources and amounts of financial resources needed to implement the measures (Part 2 of Article 18-1 of the Law of Ukraine "On Prevention of Corruption" as amended bill).

Sources of funding for the implementation of the Anti-Corruption Strategy, as provided in the bill, should be the State budget, local budgets and international technical assistance. Additionally, the draft law contains provisions according to which the Cabinet of Ministers of Ukraine is instructed to

provide for expenditures related to the implementation of the Anti-Corruption Strategy from the State Budget of Ukraine for the following years.

139. Are civil society and non-governmental organisations associated to developing and monitoring the national anti-corruption policy? Is there a transparent mechanism to ensure/monitor follow up of their recommendations (and at what frequency does it meet?)

Legal provisions on participation of the public in the development and assessment of the implementation of state anti-corruption policy

According to Clause 17, part 1 of Article 11 of [the Law “On Prevention of Corruption”](#), the NACP has powers to involve the public in shaping, implementing, and monitoring the state anti-corruption policy. According to the Article 21 of the mentioned Law, public associations, their members or authorised representatives as well as other individuals in their corruption prevention activities have rights to:

- submit proposals to the state bodies empowered with legislative initiative regarding the improvement of the current legislation;
- participate in the parliamentary hearings;
- exercise public control over the implementation of the corruption prevention laws.

It is also worth adding that the Public Council under the NACP has broad powers in the development and assessment of the state anti-corruption policy. According to the Part 3 of Article 14 of the Law “On Prevention of Corruption”, the Public Council participates in the development of the anti-corruption strategy and the state programme for its implementation. The Public Council also draws opinions on the draft regulatory acts of the NACP.

Public Council under the NACP

According to Part 2 of Article 14 of the Law “On Prevention of Corruption”, public control over the activities of the NACP is ensured through the Public Council, which is composed of 15 persons elected on the basis of open and transparent competition. The nominations for candidates are submitted by the public associations that have been active in preventing and/or combating corruption for at least two years and have been implementing related projects. The latest competition to the Public Council was held in 2020, with the final results being available in June of the same year. More on the activities of the Public Council can be found in the [Compliance Report on Ukraine in the Fourth evaluation round of GRECO in 2020](#).

The Public Council actively participates in the development of draft regulatory acts, having assessed more than 20 of those and drafting the related opinions. In 2020, the Public Council also participated in the preparation of the Draft Anti-corruption strategy for 2021-2025.

Involving the public in the development of the Draft Anti-Corruption strategy

The NACP started drafting the Anti-corruption strategy for 2021-2025 in January 2020. The best experts from 18 civil society organisations were involved in the development and discussion of the first draft. The NACP also held consultations with the experts of 7 international organisations, and diplomatic missions. [Find more information in the reply to question 137.](#)

Involving the public in monitoring anti-corruption policy

One of the forms of public monitoring is the preparation of analytical reports on the effectiveness of implementation of state anti-corruption policy. In particular, the following reports were prepared by the NGO Centre of Policy and Legal Reform in cooperation with Transparency International Ukraine, Reanimation Package of Reforms, and other independent experts in 2015, 2017, 2019 and 2021. In the mentioned reports, experts assess the implementation of the previous recommendations.

Moreover, the Public Council under the NACP provides and approves the opinion about the Draft National report on the implementation of the principles of the anti-corruption policy (Clause 5, part 3 of Article 14 of the Law “On Prevention of Corruption”). For example, remarks and suggestions of the Public Council were taken into consideration during the preparation of the Draft National report in 2020.

Mechanisms to monitor the consideration of the recommendations of the public

During July - August of 2020, the NACP experts processed over 1 000 remarks, suggestions, and comments to the Draft Strategy provided by: 36 state bodies in 8 detailed joint comments / opinions prepared by international and civil society organisations; in 30 other unique applications received by the NACP via email. The processing results along with the related comments were published on the official NACP website in the form of a table with 676 pages of text. Likewise, upon holding public discussions on drafts of the other regulatory acts, the NACP was publishing the results of proposal considerations along with the relevant justifications.

Consultations with the public on shaping and assessing the anti-corruption policy in 2021-2021

During 2020 and 2021, the NACP held public discussions with the representatives of civil society organisations and the public on 13 drafts of regulatory acts. The announcements of the discussion were published on the official website of the NACP or its pages on social media. The results of the discussions are published in the form of reports. The full list of draft acts is provided in Para 12 of Object 8 of [the Self-assessment report of the NACP on its effectiveness](#)

140. Please describe efforts to strengthen implementation of the above and provide concrete results related to the fight against corruption.

Main achievements of anti-corruption infrastructure: NACP, NABU, SAPO, HACC

During 2019-2020, the development of the network of specialised anti-corruption bodies was completed, and the necessary conditions were established for the effective exercise of their powers.

1. In 2019, the effective operation of the *newly established High Anti-Corruption Court* was ensured. On 18 September 2019 the Law of Ukraine No. 100-IX was passed, which specified the substantive jurisdiction of the HACC, provided the HACC with premises to administer justice, and court staff formation was completed. With the beginning of the HACC’s work, the issue of sentences began with real punishment for corruption crimes in the form of imprisonment. During its activities (September 2019 - April 2022), the HACC, as a court of first instance, has passed 68 verdicts (58 convictions, regarding 69 people). The HACC sentenced 41 persons to imprisonment (actual), including 12 judges, 3 prosecutors, 3 advocates, 1 chairperson of local council, 1 local council deputy,

3 heads of state enterprises. Up to 22 people were sentenced to confiscation of property or part of it. The amount of satisfied civil lawsuits filed in criminal proceedings is about 11 million hryvnias. Special confiscation in the total amount of 5 million 217 thousand hryvnias was applied. Investigative judges of HACC considered more than 24,000 applications, petitions, complaints of detectives, prosecutors, suspects and their defenders, and other participants in criminal proceedings at the stage of pre-trial investigation of criminal proceedings. In addition to the administration of justice in criminal cases, judges of HACC also consider civil confiscation lawsuits. 2 such lawsuits were already considered, one of which was satisfied by the court: unjustified assets of a People's Deputy were confiscated. As of 12 April 2022 HACC is considering 186 criminal proceedings against 473 people at the trial stage.

2. *The NACP was “rebooted”* and a number of institutional mechanisms ensuring its independence and effective performance were introduced. Namely, on 2 October 2019, the Verkhovna Rada of Ukraine passed the Law of Ukraine No. 140-IX, which changed the collegial model of the NACP management into single-person management, the role of the Public Council under the NACP was reinforced and approaches to its formation were changed, external independent performance assessment of the NACP was introduced, and direct automatic access to all the necessary state registers and databases was provided.

3. The concept of *whistleblowers* is developing. Initially, on 17 October 2019, the Verkhovna Rada of Ukraine adopted the Law of Ukraine No. 198-IX, which introduced an extensive system of guarantees of protection for whistleblowers and their rights, gave whistleblowers the right to receive remuneration, established requirements for various channels for whistleblower reports, and clearly determined the list of state entities and their responsibilities regarding the protection of whistleblowers, consideration of their reports, etc. On 1 June 2021, the Verkhovna Rada adopted the Law of Ukraine No. 3450, which provided for the creation of a single portal of whistleblower reports.

4. *Civil forfeiture* was introduced on 31 October 2019, when the Verkhovna Rada passed the Law of Ukraine No. 263-IX, introducing a new procedure of civil forfeiture of unexplained assets of public officials. After that, the mechanism of civil forfeiture was introduced in practice as well. In May 2021, the SAPO filed the relevant lawsuit with HACC based on NACP materials for the first time in Ukraine's history. SAPO requested forfeiture of unexplained assets in the amount of over UAH 1.2 million from an MP to the budget revenue. By HACC decision of 13 August 2021 in case No. 991/3608/21, the claim was granted in full. Due to the fact that this decision was unchanged by the HACC Appeals Chamber, it entered into force on 27 October 2021.

5. *Certain results of the joint activities of NABU and SAPO have become unprecedented in Ukraine.* 2020 turned out to be a record year in the history of NABU and SAPO not only in terms of the number of instances when officials were caught red-handed and the amounts of illegal benefits offered, but also in terms of the amount of compensation in criminal proceedings — UAH 1.14 billion was recovered to the budget.

Actual implementation of the draft Anti-Corruption Strategy 2021-2025

The draft Anti-Corruption Strategy 2021-2025 identified priority problems and ways to overcome them, and some of its parts are already being implemented.

1. One of the problems was the public distrust in the judicial system and the absence of certain key qualification requirements to the members of the *High Council of Justice and the High Qualification Commission of Judges of Ukraine*. As a result, starting in 2021, a large-scale judicial reform was launched, which began with the adoption of the relevant Laws No. 1629-IX of 13 July 2021 and No. 1635-IX of 14 July 2021. To ensure their implementation, an Ethics Council under the HCJ was established, which is meant to assess current HCJ members and candidates.

2. One of the key ideas promoted by the draft Anti-Corruption Strategy 2021-2025 is the *introduction of digital tools*. During 2020-2021, a number of projects were launched to simplify the exercise of powers by public authorities through digital transformation, thereby minimising corruption risks. The main achievements towards building a digital government in 2021 include electronic documents, business registration online, and about 50 online services that can be obtained through the use of digital tools.

3. Systematic and mandatory conduct of *anti-corruption examinations of regulatory acts* was also one of the requirements of the draft Anti-Corruption Strategy 2021-2025. As early as June 2020, the NACP already began conducting the first examinations and approved the Procedure and Methodology for this. In 2021, in addition to the anti-corruption examination of draft laws, the NACP began examining draft acts of the Government. A total of 139 anti-corruption examinations were conducted during the operation of the relevant instrument.

4. The draft Anti-Corruption Strategy identifies *land relations among the priority areas*. Resolving these issues is made possible in particular due to the close cooperation of the NACP with the Ministry of Agrarian Policy and the State Geocadastrre. On 18 October 2021, the authorities signed a Memorandum aimed at improving the procedure for certification of land surveying engineers, making it clearer and more digital; making the maintenance of the State Land Cadastre and the activities of state cadastral registrars transparent; and introducing public control over land use and protection.

5. In 2021, *guarantees of institutional and operational independence of the National Anti-Corruption Bureau* were provided, as stipulated by the draft Anti-Corruption Strategy 2021-2025. On 19 October 2021, the Verkhovna Rada passed the Law of Ukraine No. 1810-IX “[On Amendments to Certain Laws of Ukraine to Harmonise the Status of the National Anti-Corruption Bureau of Ukraine with the Requirements of the Constitution of Ukraine](#),” which, among other things, includes special guarantees for appointment and dismissal of the NABU director.

6. One of the problems, according to the draft Anti-Corruption Strategy 2021-2025, is the fact that a significant number of provisions of existing and draft regulatory acts contain corruption-causing factors. One of the ways to resolve this problem was the adoption of the relevant Law, which would establish requirements for the procedure of their preparation and regulate the elimination of inconsistencies. On 16 October 2021, the draft Law “[On Legislative Activity](#)” (Reg. No. 5707 of 25 June 2021) was adopted as a basis, which would contribute to resolving this issue.

7. The Law “[On Administrative Procedure](#),” passed on 16 November 2021, awaits the signature of the President of Ukraine. It is required to overcome the high level of tolerance to corruption in the private sector of economy, in line with the respective section of the Strategy.

141. Which measures are taken to raise awareness of corruption as a serious criminal offence (e.g. campaigns, media and training)? Who is responsible for awareness-raising? Are measures that include awareness raising included in the national anticorruption strategy and other policy documents? Please provide some practical example.

Entities responsible for anti-corruption education

The main body responsible for raising awareness about corruption and its negative impact is the NAPC, as part of the function of seeking “zero tolerance” for corruption among citizens. As part of the prevention of corruption crimes, NABU is engaged in educational work. Raising public awareness of corruption and its negative consequences is a task assigned to the NABU External Communications Department. The High Anti-Corruption Court, in addition to administering justice, is also engaged in educational work.

Also, anti-corruption education is actively practised by public organisations, which implement information campaigns or other activities aimed at explaining the negative impact of corruption, as well as emphasising alternative behaviours. These organisations include both specialised organisations, such as Transparency International Ukraine, the Anti-Corruption Center, and the Anti-Corruption Headquarters, and non-governmental organisations that work on other topics and integrate anti-corruption education, such as EdCamp Ukraine, Smart Education, SOS Parents, etc.

State policy in terms of anti-corruption education and formation of intolerance to corruption

The draft Anti-Corruption Strategy for 2021-2025 defines 5 principles for the formation and implementation of anti-corruption policy, one of which is the formation of public intolerance to corruption, the establishment of a culture of integrity and respect for the Rule of Law.

To form such public intolerance to corruption, the document provides for:

- integration of anti-corruption issues into the content of all levels of education;
- creation of favourable conditions for professional development of educators and people who work with the population, in particular on the formation of students’ attitudes to intolerance of corruption in all its manifestations;
- active and systematic informational and educational activities aimed at forming values of life, incompatible with participation in corrupt practices (integrity, decency, ethics, joint efforts for common anti-corruption goals, etc.);
- informing the public about the negative consequences of corruption.

In December 2021, the NAPC presented the *Strategy for the Development of Zero Tolerance to Corruption*, which defines the vision, approaches, and tools of the NAPC for educational activities to develop zero tolerance to corruption¹².

Raising anti-corruption awareness in other program and planning documents

The issue of raising awareness on anti-corruption issues and promoting integrity is found in a number of program documents, in particular:

¹² The content of the Strategy, including its English version, can be found at: <https://cutt.ly/QFTUIBw>

- The National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine No. 392/2020 of September 14, 2020, among the main directions of foreign and domestic political activity of the state to ensure its national interests and security, provides for the adoption of the principle of zero tolerance to corruption, ensuring the effective operation of bodies that prevent corruption and combat corruption offences;

- The National Youth Strategy until 2030, approved by Presidential Decree No. 94/2021 of 12 March 2021, provides for the creation of conditions for the approval of integrity principles among young people, as well as promoting the development of social school entrepreneurship in order to form students' entrepreneurship, gain knowledge, skills, compliance with integrity standards and anti-corruption principles necessary for successful and ethically balanced conduct of their own business;

- The Law of Ukraine "On Education" of 5 September 2017, among the principles of state policy in the field of education and principles of educational activities, defines intolerance to corruption and bribery.

Implementation of the idea of promoting the narrative of integrity and good behaviour as an alternative to corruption

The promotion of the narrative of integrity and good behaviour as an alternative to corruption was taken as a basis for communication by NACP in the framework of promoting zero tolerance to corruption.

Therefore, most of the training materials and activities focused on the importance of good behaviour in everyday life.

Activities implemented by the NACP during 2021-2022 (training, education campaigns, etc.) to raise awareness of corruption and its harm

In 2020, after the re-launch of the NACP, the Department of Educational Work and Training Programs (operating under the NACP Integrity Office brand) was established to work for zero tolerance to corruption in the Ukrainian society. To form a negative attitude towards corruption in the minds of citizens, the Department has launched a number of projects:

1. "Transparent School"

It aims to create a virtuous and transparent environment in Ukrainian schools through the interaction of all participants in the educational process (students, teachers, administration, parents), the introduction of comprehensive education on integrity (anti-corruption education), as well as providing appropriate conditions for acquiring knowledge that will promote the formation of virtuous youth.

Within the project:

- An online course for teachers, "Transparent School: How to Build a Virtuous Environment," has been developed and launched to raise teachers' awareness of integrity and anti-corruption (<https://cutt.ly/RFTy1CC>);

- The All-Ukrainian "Integrity Week" for schoolchildren was held, which was attended by 4,258 teachers from most regions of Ukraine;

- A panel discussion on "Integrity in Schools: a Reality Check" was organised and held.

2. “Transparent Universities”

The project aims to build a transparent and virtuous environment in higher education institutions of Ukraine through the formation of zero tolerance for corruption and create a virtuous environment in higher education institutions, providing all participants in the educational process (professors, students, administration representatives) with the necessary tools of virtuous education and interaction, as well as to promote communication and interaction between different groups in the academic environment, bringing together active participants of the educational process into the community to promote the ideas of integrity.

Within the project:

- The All-Ukrainian Survey of Students, Teachers, and Representatives of Higher Education Institutions was conducted, aimed at clarifying the general level of awareness of key participants in the educational process on the mechanisms for detecting and preventing corruption in higher education institutions. 3,384 students, 1,671 teachers and 190 representatives of higher education administrations took part in the survey;

- An online course for educators entitled “6 Steps to Integrity: From Theory to Practice” was developed and launched. The aim of the course is to raise educators’ awareness of integrity and anti-corruption issues (<https://cutt.ly/kFTy4cD>).

3. The NAPC School of Integrity information and education project

It is aimed at raising the awareness of active citizens about the phenomenon of corruption and its negative impact, the system of anti-corruption bodies in Ukraine, as well as anti-corruption tools that can be used to monitor and control public servants. In two years, 920 listeners joined.

Examples of awareness-raising activities implemented by NABU

Over the last seven years, the NABU External Communications Department has implemented several awareness-raising projects with assistance from its international partners. The information campaign “Students Against Corruption”, launched in collaboration with UNDP in Ukraine, has been the largest so far. In 2017-2018, NABU and UNDP visited 17 cities across Ukraine and 21 higher educational institutions, reaching over 3,500 students.

NABU teamed up with UNDP, the EUACI, and anti-corruption civic organisations to convene the anti-corruption opinion exchange festivals, DumkoFest, which were conducted in 2018 and 2019. Dumkofest was a platform where everyone could express their opinions, deepen their knowledge, critically evaluate the progress of anti-corruption reforms in Ukraine and think about the contribution of every citizen of Ukraine to anti-corruption. In total, the festivals gathered 2000+ participants, 59 speakers, and 29 NGOs.

NABU's online projects implemented with the support of the EUACI have become very popular among students and university teachers alike: the investigation game “NABU investigates” (over 16,000 unique plays) and “NABU Anti-Corruption School” (106 graduates). As part of the training, the Anti-Corruption School students participated in discussions with representatives of Ukraine’s anti-corruption agencies, performed practical tasks, and launched anti-corruption projects. The online game “NABU investigates” won the Best Practices in Educational Innovations contest launched by the National Agency of Ukraine for Civil Service in 2021.

In October 2021, NABU, jointly with Transparency International Ukraine and supported by the International Renaissance Foundation, presented the educational series “From reporting corruption to a court sentence”. Their aim was to explain the work of anti-corruption agencies and the ways of protecting one’s rights when facing corruption.

Other NABU projects aimed at promoting zero tolerance for corruption in society include the “Anti-Corruption Alphabet, Back to Alma Mater”, and the “All-Ukraine Anti-Corruption Moot Court”. A number of social media campaigns were conducted.

As part of cooperation with the expert community, NABU and the International Renaissance Foundation, organised JustTalk discussions explaining detectives’ work, in particular, "Investigative Interview" and " Criminal Investigation Standards".

Examples of awareness-raising activities implemented by HACC

The HACC is organising educational and awareness raising events for students and youth, in particular, a national round of The Philip C. Jessup International Law Moot Court Competition, National Anticorruption Moot Court Competition, National Criminal Law Moot Court Competition, etc.

HACC judges regularly conduct anti-corruption lectures for law students at universities not only in Ukraine but also in other European countries, deliver public speeches, participate in public discussions at events dedicated to the prevention of corruption.

Starting from 2019, the HACC launched a series of educational materials called "HACC Education", judges-speakers of the HACC provided 25 materials to this section.

142. What are the measures, approaches, strategies etc. targeting prevention of corruption (transparency and integrity measures, corruption-proof legislative drafting, etc.)? What is the practical experience with their implementation? How effective is the compliance with these mechanisms and what sanctions exist in case of non-compliance?

The main principles of the anti-corruption policy for 2021–2025, defined by the draft Anti-Corruption Strategy for 2021–2025

Within the framework of the draft Anti-Corruption Strategy for 2021–2025, the NACP formulated the following main principles of the anti-corruption policy for 2021–2025:

1) optimization of the public administration and local self-government functions, including: elimination of duplicated powers of various agencies; temporary suspension of exercise of low-efficiency powers with high corruption risks; elimination of cases when the same agency exercises powers the combination of which creates an additional corruption risk;

2) digital transformation of the exercise of powers by public authorities and local self-government, transparency and disclosure of data as a basis for mitigating corruption risks in their activities;

3) creation, in contrast to existing corrupt practices, of more convenient and legal ways to meet the needs of individuals and legal entities;

4) ensuring inevitable legal liability for corruption and corruption-related violations, which creates an additional deterrent effect for all subjects of legal relations;

5) formation of social intolerance to corruption, establishing the culture of integrity and respect for the rule of law.

The draft of the Anti-Corruption Strategy stipulates that these principles should be taken into account during the development of:

- program documents of the Cabinet of Ministers of Ukraine, other public authorities to ensure effective corruption prevention in all public policy sectors;

- anti-corruption programs of public institutions specified in Part 1 of Article 19 of the Law "On Prevention of Corruption", as well as in the activities of local self-government bodies.

The adoption of the Anti-Corruption Strategy by the Parliament remains an urgent priority for the further development of mechanisms to prevent corruption in various sectors of the economy.

System of measures enshrined in the current legislation aimed at preventing corruption in Ukraine (general description)

Measures, tools and strategies aimed at prevention of corruption in Ukraine [are regulated by the Law of Ukraine "On Prevention of Corruption"](#) (hereinafter referred to as the Law), as well as other regulatory legal acts.

The system of measures, strategies and tools provided by the legislation aimed at preventing corruption can be systematised as follows:

1. Restrictions, requirements and measures of individual action that apply to each person referred to in Article 3 of the Law: declaration, compliance with the rules on conflict of interest, lifestyle monitoring, etc.

2. Institutional measures, tools and strategies that are aimed not at specific employees, but affect the activities of public institutions as a whole in order to prevent corrupt practices. This group, in particular, includes: anti-corruption expertise, anti-corruption programs of the legal entity, digitalisation, deregulation, etc.

The main of these activities are described below.

Prevention and settlement of conflicts of interest

The law distinguishes between real and potential conflicts of interest. According to Article 1 of the Law potential conflict of interests shall mean a private interest in the field in which he/she exercises his/her official or representative powers, which may affect the objectivity or impartiality of his/her decision-making, or the performance or omission to perform actions during in the exercise of these powers.

In turn, a real conflict of interests is a contradiction between a person's private interest and his or her official or representative powers, which affects the objectivity or impartiality of decision-making, or cause actions to be taken or omitted in exercising the said powers.

Measures to prevent and settle conflicts of interest are defined in Section V of the Law.

The law provides for the following prohibitions and restrictions related to *conflicts of interest*:

- restrictions on receiving gifts (Article 23 of the Law);
- restrictions on combining and aligning with other activities (Article 25 of the Law);
- restrictions after the termination of activities related to the performance of the functions of the state or local self-government (Article 26 of the Law);
- limitation of joint work of close persons (Article 27 of the Law).

In the event of a conflict of interest, the persons are obliged to take measures to resolve the real or potential conflict of interest. According to part 1 of Article 29 of the Law on External Settlement of Conflicts of Interest is carried out by:

- 1) removal of a person from the performance of a task, taking actions, making a decision or participating in its adoption in the conditions of real or potential conflict of interests;
- 2) application of external control over the implementation of the relevant task by the person, his/her performance of certain actions or decision-making;
- 3) restriction of a person's access to certain information;
- 4) review of the scope of official powers of the person;
- 5) transfer of a person to another position;
- 6) dismissal of a person.

In addition, Part 2 of Article 27 of the Law provides for the possibility of eliminating the direct subordination of close persons by transferring or dismissing a subordinate. Violation of restrictions after the termination of activities related to the performance of the functions of the state or local self-government is the basis for termination of the employment contract and recognition of transactions in the field of business activity as invalid (Part 2 of Article 26 of the Law).

Violations of the requirements for the prevention and settlement of conflicts of interest may be grounds for bringing a person to disciplinary responsibility.

In order to ensure the same application and compliance with the norms on conflict of interest, the National Agency on Corruption Prevention (hereinafter referred to as the NACP) has developed Guidelines for the application of certain provisions of the Law of Ukraine "On Prevention of Corruption" in relation to the prevention and settlement of conflicts of interest, compliance with restrictions on the prevention of corruption¹³.

For more details on the NACP's jurisdictional activities in relation to the application of conflict of interest rules in 2020 – see Subsection 1.1.7. of the National Report on the Implementation of the Principles of Anti-Corruption Policy in 2020¹⁴.

Declarations and other financial control tools

Section VII of the Law imposes an obligation on a wide range of persons authorised to perform the functions of the state or local self-government to submit a declaration, the content of which is specified in Article 46 of the Law.

¹³ Methodological recommendations are available at: <https://wiki.nazk.gov.ua/wp-content/uploads/2021/04/K.I.-09.04.2021-1.pdf>

¹⁴ Available at: https://nazk.gov.ua/wp-content/uploads/2021/06/NAZK_Nats.dopovid_15_06.pdf

For more details on the declaration of assets, the status of its implementation and responsibility for failure to comply with the requirements of financial control – see the answer to question 163 of this Questionnaire.

Transparency of activities and financing of public authorities and local governments and the introduction of digital technologies

The activities of public authorities in Ukraine are carried out in compliance with the principle of openness and are changing in the direction of digital transformation, which in the context of corruption prevention includes:

1. Public authorities that are managers of *public information are obliged to publish, including on their official websites* (if any), a wide range of information relating to their activities, provided for in Part 1 of Article 15 of the Law of Ukraine "On Access to Public Information", in particular, all legal acts and acts of individual action adopted by the manager, except for internal, in compliance with the requirements of the legislation on personal data protection.

In case of failure to publish information that is subject to publication in accordance with the Law of Ukraine "On Access to Public Information", the decision, action or inaction of information managers may be appealed in accordance with Article 23 of the said Law, and the guilty persons may be brought to administrative (Part 1-2 of Article 212³ of the Code of Administrative Offences), disciplinary and civil liability.

2. In the formation and implementation of national policy, state authorities *are obliged to hold consultations with the public* in the cases and in the manner prescribed by the Procedure for holding consultations with the public on the formation and implementation of the national policy, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 03 November 2010 No. 996¹⁵. According to p. 4 of the Procedure, the results of public consultations are taken into account by the executive body during the final decision or in its further work.

3. Public authorities operate *exclusively at the expense of budgetary funds* (Article 2 of the Law of Ukraine "On Sources of Financing of Public Authorities"). Operational, monthly, quarterly and annual reports are submitted on the implementation of the state budget (Part 4 of Article 58 of the Budget Code of Ukraine) in the manner prescribed by Chapter 10 of the Budget Code of Ukraine.

Likewise, the composition of revenues of local budgets as a material and financial basis of local self-government bodies is determined by Chapter 11 of the Budget Code of Ukraine. Reporting on the implementation of local budgets is submitted in the manner prescribed by Article 80 of the Budget Code of Ukraine.

4. *Digital transformation* of the exercise of powers by public authorities and local self-government, which is enshrined in the main program documents of Ukraine, is¹⁶ effectively implemented.

¹⁵Resolution of the Cabinet of Ministers of Ukraine dated 03 November 2010 No. 996. - Available at: <https://zakon.rada.gov.ua/laws/show/996-2010-%D0%BF#Text>

¹⁶See, in particular, the order of the Cabinet of Ministers of Ukraine dated 17 February 2021, No. 365-p "Certain issues of digital transformation" (available at: <https://zakon.rada.gov.ua/laws/show/365-2021-%D1%80#Text>), the resolution of the Cabinet of Ministers of Ukraine dated 30 January 2019, No. 56 "Certain issues of digital development" (available at: <https://zakon.rada.gov.ua/laws/show/56-2019-%D0%BF#Text>), the draft Anti-Corruption Strategy for 2020-2024 (available at:).

Deregulation as the main tool to reduce corruption in business and government relations

Another strategy aimed at mitigating corruption risks in the business sector is *deregulation*, which means *reducing or abolishing control, verification and other excessive functions*.

Deregulation is enshrined in the main program documents of the Cabinet of Ministers of Ukraine relating to economic activity¹⁷.

Anti-corruption examination of draft regulations and current regulations

According to Article 1 of the Law, anti-corruption examination is the activity of identifying in normative legal acts, draft normative legal acts provisions that, independently or in combination with other norms, can contribute to corruption offences or offences related to corruption.

Anti-corruption examination is carried out in cases and in the manner prescribed by Article 55 of the Law, by the Ministry of Justice of Ukraine, the NACP, the Committee of the Verkhovna Rada of Ukraine on Anti-Corruption Policy, as well as by individuals, public associations and legal entities.

Based on the results of the anti-corruption examination, recommendations are formed to eliminate corruption factors.

For more details on the results of the anti-corruption examination by the Ministry of Justice of Ukraine, see Reports on the results of anti-corruption examination of legal acts and draft legal acts by the Ministry of Justice of Ukraine¹⁸.

Regarding the performance summarised for all subjects and other statistics related to anti-corruption examination – see in more detail the National Report on the implementation of the principles of anti-corruption policy in 2020¹⁹ (subsection 5.4.).

Identification of corruption risks in the activities of public authorities and local governments

According to Article 19 of the Law, public authorities and other entities specified in these provisions of the Law shall be responsible for the development and approval of anti-corruption programs.

Anti-corruption programs and amendments to such programs are subject to approval by the NACP and, among other things, should contain an assessment of corruption risks in the activities of the body, institution, or organisation, the reasons that give rise to them and the conditions that contribute to them; measures to eliminate the identified corruption risks, persons responsible for their implementation, terms and necessary resources.

For more details on the concept and meaning of anti-corruption programs – see the answer to question 153 of this Questionnaire.

¹⁷ See, in particular, the Action Plan for the deregulation of economic activity for 2020 – 2022, approved by the order of the Cabinet of Ministers of Ukraine dated 04 December 2019 No. 1413-r. Available at: <https://zakon.rada.gov.ua/laws/show/1413-2019-%D1%80#Text>

¹⁸ Available at: https://minjust.gov.ua/uncorrupt_exp/zvit_pro_rez_ancorrupt_npa.

¹⁹ Available at: .

A. Institutions

143. What specialised anti-corruption bodies exist? Please describe them, indicating their legal and institutional status, composition, functions, powers and resources including staffing (i.e. public and private sector corruption). How are the independence and appropriate level of expertise and resources for these bodies ensured?

System of specialised anti-corruption institutions in Ukraine.

The system of specialised anti-corruption institutions in Ukraine comprises:

1. The National Agency on Corruption Prevention (hereafter — the NACP), the body shaping and enforcing state anti-corruption policy.
2. National Anti-corruption Bureau of Ukraine (hereafter — the NABU);
3. Specialised Anti-corruption Prosecutor's Office (hereafter — the SAPO);
4. National Agency of Ukraine for finding, tracing and management of assets derived from corruption and other crimes (Asset Recovery and Management Agency, ARMA);
5. High Anti-Corruption Court of Ukraine (hereafter — the HACC).

1. National Agency on Corruption Prevention.

Legal and institutional status of the NACP

According to the Part 1 of Article 4 of the [Law of Ukraine 'On Prevention of Corruption'](#) (hereafter — the Law), the NACP is the central executive authority (with a special status) shaping and implementing the state anti-corruption policy. For more details on the legal and institutional status of the NACP please [see the answer to question 145 of this Questionnaire](#).

Structure of the NACP

According to the Paragraph 2 of Part 2 of Article 8 of the [Law](#), the regulation on the NACP's staff, its structure and regulations on the separate structural units of the staff shall be approved by the Chairman of the NACP. The maximum number of employees of the NACP's staff shall be approved by the Cabinet of Ministers of Ukraine upon submission of the Chairman of the NACP.

The current structure of the NACP has been approved on 28 February 2020 by the Order No. 74/20 of the Chairman 'On Organising the Structure of the National Agency on Corruption Prevention'²⁰ further amended and revised.

Structure of the NACP allows performing all of its tasks²¹.

Main functions and powers of the NACP

Powers of the NACP can be split into two categories: those related to *shaping* anti-corruption policy (clauses 1-5, p. 12 of part 1 of Article of the [Law](#)) and to *implementation* of said policy (the other clauses of Part 1 of Article 11 of the [Law](#)).

²⁰ Order of the Chairman of the NACP of 28 February 2020 no. 74/20 (<https://cutt.ly/2FWm3uz>).

²¹ See, for example, p. 76 of the Alternative Report at: <https://cutt.ly/MFWm6eX>

For more details on the powers and functions of the NACP, please see the answer to question 145 of this Questionnaire.

Material, financial, human and other resources of the NACP

Foundations of funding of the NACP are set forth in Article 17 of the [Law](#).

Expenditures for financing the NACP are determined in the State Budget of Ukraine as a separate line at a level sufficient to ensure the proper exercise of the powers of the NACP.

The NACP is supplied with all the necessary materials, equipment and other assets to carry out its official duties. The amount of funding provided for the above purposes in the State Budget of Ukraine for 2020-2021 was sufficient²². Besides, international donors provide the NACP with intangible assets, software, materials, equipment, hardware, etc.

The maximum number of employees is 408 persons²³. As of 31 December 2021, the actual number of employees was 342 persons²⁴, which is 84% of the total authorised strength compared with 75% in 2020²⁵.

For more details on material, financial, human and other resources of the NACP, see the answer to question 145 of this Questionnaire.

Legal and organisational framework for the functioning of the NACP

GRECO evaluated performance of the NACP during the Fourth Evaluation Round in 2021 (the recommendation had been dealt with in a satisfactory manner). In particular, GRECO noted substantial progress in practical implementation of legal changes evaluated in the previous compliance report.

For more details on the legal and organisational framework for independent functioning of the NACP, see the answer to question 146.

Ensuring high qualifications of NACP personnel and protection thereof

High level of qualification of the staff of the NACP is ensured by:

1. Competitive procedure for appointments, except the position of the Chief of the Staff and employees performing the functions of maintenance or patronage (Paragraph 3 of Part 2 of Article 8 of the [Law](#)), and in case of transfer under the procedure established by the Law of Ukraine ‘On Civil Service’²⁶.

2. Competitive salaries as per Article 16 of the [Law](#).

3. Mandatory advanced training at least once in every two years (Part 4 of Article 8 of the [Law](#)).

2. National Anti-Corruption Bureau of Ukraine

²² Detailed information is provided in the Self-Assessment Report on the effectiveness of activities of the NACP of 2021 according to the criteria adopted by the Resolution of the Government of 20 May 2020 no. 458. Access at: <https://cutt.ly/nFWQuFI>

²³ Resolution of the Cabinet of Ministers of Ukraine of 05 April 2014 no. 85. Access at: <https://cutt.ly/yFWQsDk>

²⁴ NACP Report of 2021. Access at: <https://nazk.gov.ua/uk/pro-nazk/>.

²⁵ NACP Report of 2020. Access at: <https://cutt.ly/JFWQcC1>

²⁶ Order of the NACP of 20 March 2020 no. 109/20. Access at: <https://cutt.ly/2FWWtU5>

Legal and institutional status of NABU

Pursuant to the Law “On the National Anti-Corruption Bureau of Ukraine”, No.1698-VII of 14 October 2014, (NABU Law) (Article 1(1)), the National Bureau is the central authority of the executive power with the special status. Its key tasks are prevention, detection, suppression, investigation and solving of corruption offences within its investigative jurisdiction. NABU activities are directed and coordinated directly by the Cabinet of Ministers of Ukraine as prescribed by the NABU Law (Article 4(4)). NABU was set up in April 2015 and soon became operational. For more details on the legal and institutional status of the NABU please see the answer to question 145 below.

Structure of NABU

The National Bureau consists of central and territorial departments. The activities of the National Bureau are managed by its Director, who is appointed, after going through an open competition, by the Cabinet of Ministers. The Director can also be dismissed by the Cabinet of Ministers, the procedure for which is established by the Law. The NABU Law provides for an exhaustive list of reasons for dismissal (Article 6 (4)). More information about the structure of NABU: <https://nabu.gov.ua/en/structure-0>.

Main functions and powers of NABU

The task of the National Bureau is to prevent corruption-related and other criminal offences committed by high-ranking officials authorised to perform functions of the state or local self-government functions and pose a threat to national security, as well as to take other anti-corruption measures provided by the NABU Law. More information about the NABU's investigation jurisdiction: <https://nabu.gov.ua/en/competence>.

Material, financial, human and other resources of NABU

The National Bureau is financed by the State budget. Financing of the National Bureau from any other sources is prohibited, except in cases envisaged by the international treaties of Ukraine or international technical assistance projects.

The total number of staff of the National Bureau, as laid down in the Law: 700 people, including 500 officers and 200 civil servants (Article 5 (6)). In order to perform the functions of the National Bureau more effectively, NABU sees the need to increase the staff by 300 employees as well as have its own forensic centre.

The structure, number of staff, regulations on structural units, job descriptions of employees of the National Bureau are approved by the NABU Director. The Director appoints his first and other deputies. For them, no competition is required. All other employees of the National Bureau are appointed on the basis of the results of an open competition, the procedure of which is laid down by the Director of the NABU.

For more details on material, financial, human and other resources of NABU, please see the answer to the question 145 below.

Legal and organisational framework for independence of NABU and ensuring high qualifications of NABU's personnel and protection thereof

The independence of the National Bureau is safeguarded in the following ways (Article 4):

- 1) a special selection procedure of a director, who is appointed following the results of an open competition provided in the NABU Law;
- 2) an exhaustive list of grounds for termination of powers of the NABU Director laid down in the NABU Law;
- 3) competitive principles of selection of other employees of the National Bureau, their special legal and social protection;
- 4) appropriate staff remuneration;
- 5) the procedure for financing and logistical support of the National Bureau laid down in the NABU Law;
- 6) means of ensuring personal security of the NABU employees, their close relatives and property, as laid down in the NABU Law.

The use of the National Bureau in party, group or personal interests is prohibited. Illegal interference of state authorities, local self-government bodies, their officials and employees, political parties, public associations, other individuals or legal entities in the activities of the National Bureau is prohibited.

For more details concerning this issue, please refer to answers provided to questions 146, 150, and 173.

3. The Specialised Anti-Corruption Prosecutor's Office

Legal and institutional status of SAPO

SAPO is legally a part of the Office of the Prosecutor General, but in practice it is an autonomous anti-corruption institution responsible for prosecution in cases investigated by detectives of the National Anti-Corruption Bureau of Ukraine (NABU) and also for civil confiscation cases. The organisational and operational activities of SAPO, as well as the guarantees of its independence, are provided mainly in Article 8-1 of the [Law “On the Prosecutor's Office”](#), adopted in 2015.

Structure of SAPO

The staff of SAPO is 51 prosecutors, divided into 6 units, including 10 prosecutors of managerial level. The head of SAPO is legally endowed with the status of Deputy Prosecutor General. Appointment of the Head of SAPO is based on the results of an open selection process, the procedure of which is directly mentioned in the law “On Prosecutor's Office”. The Selection Commission to the Head of SAPO consists of 11 members - 7 is delegated by the Parliament of Ukraine and 4 by the Council of Prosecutors. SAPO has been without a head since August 2020. The selected candidate to the head of SAPO is appointed by the Prosecutor General. Ordinary SAPO prosecutors should be also selected by an open competition, and the composition of the selection commission is defined by the Prosecutor General and Head of SAPO.

Material, financial, human and other resources of SAPO

SAPO's financing is guaranteed by a separate budget line provided in the state budget of Ukraine. For 2022 it was set at UAH 132.3 million, including UAH 97.8 million for salaries. SAPO

has its own premises (a separate building) and vehicles. For resolving organisational issues SAPO relies on the resources of the PGO and with regard to concrete criminal cases also on the resources of NABU.

Legal and organisational framework for independence of SAPO and ensuring high qualifications of SAPO's personnel protection thereof

The independence of SAPO's activities is guaranteed by law from any influence of the Prosecutor General or his deputies. The Prosecutor General and his deputies are legally limited to only provide instructions to SAPO prosecutors in particular cases. Only the Prosecutor General may charge a SAPO prosecutor of a crime committed. The head of SAPO, his deputies and other SAPO prosecutors may not be transferred to another subdivision of the Office of the Prosecutor General or to the regional or district prosecutor's office without their consent. Every SAPO prosecutor is obliged to conduct a series of training sessions in the Training Centre of Prosecutors of Ukraine²⁷. Training on anti corruption and prosecutorial ethics should be conducted on an annual basis. During 2016-2021 almost all current SAPO prosecutors successfully completed training sessions with the support of the European Union and they have good command in methods of investigating corruption and bringing it to justice.

4. The National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (ARMA)

Legal and institutional status of the ARMA

According to Article 2 of the [Law of Ukraine On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes](#) (hereinafter – Special Law) ARMA is a central executive authority with a special status, which ensures the formation and implementation of the state policy in the field of finding and tracing of assets which can be seized in criminal proceedings, or in the case of recognizing of the unfounded nature of assets and their recovery into the revenue of the state and/or management of the assets, which have been seized in criminal proceedings or in the case of recognizing of the unfounded nature of assets and their recovery into the revenue of the state or which were confiscated in criminal proceedings or recovered by court decision in state revenue due to recognition of them unfounded.

Structure of ARMA

The structure of ARMA includes its central office and six interregional territorial offices. According to the Resolution of the Cabinet of Ministers of Ukraine from 05 April 2014, № 85 «Certain issues on approving the limiting number of employees of the central office and territorial bodies of central executive bodies and other state bodies» the limiting number of employees of the central office of ARMA - 195 staffing positions, interregional territorial offices of ARMA – 240 staffing positions.

The structure of ARMA is stipulated by the Order of ARMA from 29 December 2018, No. 374 “On approval of the structure and staffing of the central office of ARMA”.

Main functions and powers of ARMA

²⁷ Order of Prosecutor General No. 200 from 15 June 2021 (<https://bit.ly/3M3shRF>)

Functions and powers of ARMA are defined by the articles 9, 10 of the Special Law.

Finding, tracing and management of assets are the main functions of ARMA.

Asset finding and tracing activity

According to the Law, ARMA has access to all national registers and databases (more than 200), and has gained direct access to more than 40 closed registers and databases, including the information concerning: ownership rights to immovable property; acts of civil status; objects of intellectual property rights; persons, vehicles and goods crossing the state border; current dislocation of ships; resources of the National Securities and Stock Market Commission; bank information etc. ARMA also uses OSINT, the algorithmic Big Data analysis.

The Agency has established cooperation with all Ukrainian pre-trial investigation bodies on the basis of joint Order «On approval of the Procedure for interaction in considering the appeals of pre-trial investigation bodies, prosecutors and executing requests of foreign states for finding and tracing of assets» .

ARMA ensures cooperation with competent authorities of foreign states, relevant international organisations, initiatives, networks, the activity of which is aimed at ensuring international cooperation in the field of finding and tracing of assets. ARMA is cooperating with 65 countries within the framework of joint investigations.

ARMA has developed a draft procedure for cooperation between ARMA, the Office of the Prosecutor General and the Specialized Anti-Corruption Prosecutor's Office, which provides a mechanism for cooperation with law-enforcement agencies in the field of finding and tracing of assets that may be seized in the case of establishment of the unexplained assets and their recovery into the state revenue.

Asset management activity

ARMA manages movable and immovable property including cars and trucks, cargo trailers, production assets, cash, residential property, railway carriage, land plots, apartments, corporate rights, parking lots, non-residential premises, objects of incomplete construction, office property, agricultural products, agricultural equipment, ships, integral property complexes and energy objects.

The task of ARMA in the sphere of management is to preserve the seized assets until the final court ruling.

Material, financial, human and other resources of ARMA

The principles of ARMA financing are defined in article 14 of the Special Law.

ARMA is financed from the State Budget of Ukraine. Costs for financing of the National Agency shall be determined in the State Budget of Ukraine by a separate line at the level that ensures appropriate performance of the powers of the National Agency.

The National Agency is provided with the necessary inventory, devices, equipment and other property required to perform its official duties.

The following financing was allocated to ARMA from the state budget:

- In 2019 - UAH 239,728,400.

- In 2020 - UAH 190,450,000.
- In 2021 - UAH 273,491,200.
- For 2022 (as of 13 April 2022) - UAH 232,993,200.

Funding from the State Budget is sufficient for the functioning of the agency. For its further development and improvement, the agency relies on additional capacity building funding from donors, such as the EUACI.

Legal and organisational framework for independence of ARMA

According to Article 12 of the Special Law, an external audit of ARMA should be carried out exclusively by an international or national audit firm, which is recognized and has a high business reputation in the relevant market of Ukraine. An international or national audit firm should send a report on the external audit of ARMA to the Cabinet of Ministers of Ukraine and ARMA, which shall be attached to the conclusion of the independent external assessment of the activities of the National Agency. The form and content of the report on external audit of activities of the National Agency shall be approved by the Cabinet of Ministers of Ukraine subject to the requirements provided for by the Special Law. The Head of the National Agency can be dismissed from office as a result of an independent external audit.

In addition, at the beginning of the launch of ARMA in 2018, a technical assessment of ARMA, evaluating effectiveness, efficiency and independence, was carried out by international experts, funded by the EU Anti-Corruption Initiative in Ukraine (EUACI). ARMA has implemented its recommendations. In 2021 began an external technical assessment of ARMA's asset management function by international experts selected by the EUACI. The group of independent experts produced a report with recommendations for improvement of the work of the Agency.

According to Article 6 of the Special Law, the selection process of ARMA's head is carried out by the special procedure with a selection commission appointed by different state agencies, the Prosecutor General Office and the Parliament. The National Agency has performed its function without a permanent head for more than two years.

Ensuring high qualifications of ARMA personnel and protection thereof

Given the incredible pace of technology and business development, the issue of ensuring the qualifications of ARM's staff is indeed relevant. Training and other capacity building is conducted not only in areas such as public administration, but also in specialised educational programs for employees in the field of asset finding, tracing and management.

5. The High Anti-Corruption Court

Legal and institutional status of the HACC

The High Anti-Corruption Court is a permanent high specialised court, an integral part of the judicial system of Ukraine.

The structure of the HACC

The HACC consists of the first instance court (with trial and pre-trial functions) and Appellate chamber. The HACC, as a court of first instance, consists of 27 judges: 12 are elected as investigating

judges, the rest 15 formed 5 panels consisting of 3 judges each. The Appellate Chamber consists of 11 judges, who form 4 panels.

The main functions and powers of the HACC

The High Anti-Corruption Court was established by a law in June 2018 with a mandate to administer justice in high-profile corruption criminal cases investigated by the National Anti-Corruption Bureau of Ukraine and prosecuted by the Specialised Anti-Corruption prosecutor's office. The HACC began administering justice on 5 September 2019. In October 2019 mandate was supplemented with adjudication of civil motions on forfeiture of unjustified assets filed by Specialised Anti-Corruption prosecutor's office. The powers of investigative judges are to exercise judicial control over the observance of the rights, freedoms and interests of persons in criminal proceedings. The competence of the panels of judges is to consider criminal proceedings on the merits, as well as lawsuits to declare the assets unjustified and confiscate them in civil proceedings. The Appellate Chamber of the High Anti-Corruption Court reviews the decisions of investigative judges and verdicts on merits.

Material, financial, personnel and other support of the HACC activity

According to the approved staffing table of the HACC, the staff of the court is 326 positions:

judges of the first instance – 27.

judges of the Appeals Chamber – 12 (1 vacant).

assistants of the first instance judges – 54.

assistant of the Appeals Chamber judges – 24.

public servants (first instance) – 127.

public servants the Appeals Chamber – 54.

employees performing service functions – 4.

employees of working professions – 24.

In order to ensure a sufficient number of employees in June-August 2019, HACC has organised public recruitment processes for 147 public service positions of categories "B" and "C". The court received 3312 applications from potential candidates. The transparency, openness and fairness of the selection process was ensured by inviting as permanent observers representatives of international and national stakeholders, including the European Union Anti-Corruption Initiative (EUACI) and the International Law Development Organisation.

One of the outstanding issues for HACC to become operational were premises. Just after appointment of HACC judges in April-May 2019 several buildings were temporarily allocated for the needs of HACC. All preparatory repairs in the most suitable premises were carried out as soon as possible. In July 2020, legislation concerning HACC was amended, according to update,s the HACC became the subject of management of state-owned property, which allowed the court to obtain permanent premises. As of today, the building at Peremohy Avenue, where the first instance court is located, has been transferred to permanent management of the HACC. Reconstruction of this building

was planned for the near future. Active cooperation with several government agencies is taking place regarding refurbishment of the permanent building for the Appeals Chamber of HACC.

The following financing was allocated to HACC from the state budget:

- in 2019 - UAH 318,130,000.
- in 2020 - UAH 272,351,200.
- in 2021 - UAH 374,880,000.
- for 2022 (as of 12 April 2022) - UAH 293,478,600.

Financing from the state budget covered all the necessary resources for the stable operation of the HACC. At the same time, HACC has established a fruitful cooperation with international partners (EUACI, USAID, INL, OSCE) for additional initiatives that are important for the development of the HACC.

Legal and organisational support for the independence of the HACC

In addition to all the guarantees of independence provided to any other court in Ukraine (described in other parts of the questionnaire), HACC's independence has the following safeguards:

- Exclusive jurisdictions of the court (eligible criminal proceedings cannot be transferred to other courts).

Unique procedure of appointment of HACC judges, with a particular role of assessment of candidates' integrity by international experts.

- Judges from other courts cannot be transferred to HACC without a competition.
- All types of cases on the trial and appellate stages are adjudicated by panels consisting of 3 judges (jurisdiction disputes – by 5 judges).
- Sufficient judicial remuneration and accommodation provided by the state for judges.
- Individual lines in the state budget for the first instance of HACC and Appellate Chamber of HACC (separate from other courts in Ukraine).

Transparency, professionalism, fairness, integrity, and inclusiveness are the cornerstones of the selection process of HACC judges.

First selection process took place in August 2018, when the High Qualifications Commission of Judges of Ukraine launched the competition to fill 39 vacancies of HACC judges: 27 positions in the court of first instance and 12 positions in the Appeals Chamber.

Almost 350 candidates applied for the competitions: 45% of candidates were judges, 34% - advocates, 14% - representatives of academia. Only 270 candidates were admitted to the exams.

As a supportive body to the HQCJ, the Public Council of International Experts (PCIE) was established. The task of PCIE was to assist the HQCJ in assessment of candidates' integrity. PCIE consists of 6 international experts with an impeccable business reputation and significant professional experience. They were nominated by international organisations that have been providing technical assistance to Ukraine in the anti-corruption field. Local civil society organisations and journalists

provided their inputs to background checks of candidates. As a result, 42 candidates were excluded from the selection process due to noncompliance with integrity criteria.

Based on anonymous testing, practical tasks, tests of personal moral and psychological qualities and the final interview, best candidates were identified. Judges of HACC were appointed in April 2022.

Ensuring a high level of qualification of HACC staff and its protection.

Judges and staff of the HACC staff systematically improve their professional skills in educational institutions, which have the right to provide relevant educational services, including the National School of Judges of Ukraine and the Ukrainian School of Governance.

MOOC platforms like Prometheus, Edera, and Diya Digital education, educational hub of Kyiv and others also play an important role in the training of HACC staff. In addition, the employees were trained on the issues of the work of HACC's e-documentation flow system "D3, which was conducted by the State Enterprise "Information Judicial Systems". Thanks to international technical support projects (the OSCE Project Co-ordinator in Ukraine, the EU Anti-Corruption Initiative in Ukraine and the US Embassy in Ukraine, etc.) annual seminars for HACC judges and staff are organised.

Homes of judges are equipped with alarm buttons. According to the Law on HACC judges should have permanent 24 h personal guards. In practice, some judges who are under threat are provided with personal guards.

144. In case there is a dedicated anti-corruption body in line with the UNCAC provisions

Two kinds of bodies have been created in Ukraine to meet the commitments under the UN Convention against Corruption:

1. A body on corruption prevention (Article 6 of the UN Convention against Corruption) — the National Agency on Corruption Prevention.
2. Specialised bodies to fight corruption (Article 36 of the UN Convention against Corruption) — the National Anti-corruption Bureau of Ukraine and the Specialised Anti-corruption Prosecutor's Office.

For more details on their legal status, functions and guarantees of independence, see the answers to questions 136, 140, 143, 145-148, and 164 hereof.

145. Has it sufficient budget, staffing, equipment and a clear mandate? Describe its legal status and mechanisms of accountability.

National Agency on Corruption Prevention

Legal Status

The National Agency on Corruption Prevention shall be a central executive authority with a *special status* shaping and implementing the state anti-corruption policy (Part 1, Article 4 of the [Law of Ukraine On Prevention of Corruption](#) (hereinafter – the Law)).

The *specific nature* of the NACP's legal status is that the Law has priority in regulating this status; as for the requirements of *other* legislative acts regulating the activities of central executive bodies, civil service etc., they apply to the NACP and its employees *only in the part not contrary to the Law*.

The *peculiarities* of the NACP's legal status are broadly reflected in Section II of the Law and include, in particular, special requirements for the management of the NACP (Article 5), special procedure of selection and appointment of the Chairman of the NACP, improved guarantees of the NACP's independence (Article 9), social protection and remuneration of its management and employees (Articles 15 and 16), as well as in the powers (Article 11) and rights of the NACP (Article 12).

Mandate (Powers)

The powers of the NACP can be divided into those related to the *shaping* of anti-corruption policy (Paragraphs 1-5, Part 12, Article 11 of the Law) and *implementing* it (the rest of the paragraphs of Part 1, Article 11 of the Law).

The latter include, among others, maintenance of the register of property declarations of civil servants; verification of such declarations, implementation of other financial control measures over the assets of civil servants; drawing up protocols on administrative offences, monitoring compliance with the legislation on preventing and settling the conflicts of interest, monitoring the financing of political parties; cooperating with whistle-blowers and ensuring their legal protection, providing general and individual clarification of the anti-corruption legislation, etc.

The powers of the NACP and other specially authorised entities in the field of anti-corruption are clearly delineated at the legislative level so there is no overlapping.

Budget

The principles of the NACP financing are defined in Article 17 of the Law.

Expenditures for financing the NACP are determined in the State Budget of Ukraine as a separate line at a level sufficient to ensure the proper exercise of the powers by the NACP.

In particular, the Law of Ukraine "On the State Budget of Ukraine for 2021" provides for expenditures for the NACP in the amount of UAH 1,144,345.7 thousand, under the following budget programmes:

1) Code of the Programme Classification of Expenditures and Lending (hereinafter - KPKVK) 6331010 "Leadership and management in the field of prevention of corruption" in the amount of UAH 447252.2 thousand;

2) KPKVK 6331020 "Financing the statutory activities of political parties" in the amount of UAH 697093.5 thousand. The expenditures under the budget program 6331010 amounted to 97.4% of the NACP's needs.

All budget requests, budget programme passports, and the NACP budget and financial statements are openly available on the agency's official website²⁸. The NACP also receives international technical assistance.

Equipment

The NACP is supplied with all the necessary materials, equipment, appliances, and other assets to carry out its official duties. The amount of funds allocated from the State Budget in 2020–2021 for financing these purposes was sufficient. In addition, international donors (such as the European Union Anti-Corruption Initiative EUACI, USAID/SACCI programme) donate intangible assets, software, materials, equipment, appliances, and other assets to the NACP.

As of 01 January 2022, information on the value of fixed assets, intangible assets, and inventories is published on the NACP's official website²⁹.

Staffing

The *maximum* number of the NACP staff employees is 408 people³⁰. As of 31 December 2021, the *actual* number of staff employees of the NACP was 342 people³¹, which is 84% of the total number of staff employees in comparison to 75% in 2020³².

Staff employees of the NACP are civil servants, employees of the patronage service, as well as other employees who perform ancillary functions. The higher education degree and length of service of the NACP employees meet the requirements of the Law of Ukraine “On Civil Service”, as well as general and special requirements for the professional competence of civil servants.

Detailed information is available in the NACP Reports for 2020³³ and 2021³⁴.

Mechanisms of Accountability

In accordance with Part 2 of Article 4 of the Law “On Prevention of Corruption”, within the limits set by this and other laws, the NACP is accountable to and controlled by the Verkhovna Rada of Ukraine and accountable to the Cabinet of Ministers of Ukraine. However, the NACP is independent of political influence, and these provisions of the Law are purely declarative, since there are no real mechanisms for “responsibility”, “control”, or “accountability” of the NACP to the Parliament of Ukraine or the Cabinet of Ministers of Ukraine. The Parliament and the Government of Ukraine do not coordinate or guide the activities of the NACP, they have no right whatsoever to give the NACP any instructions or orders, they are not authorised to evaluate its performance.

However, the real mechanisms of accountability are provided in Article 14 of the Law.

²⁸ Access mode: <https://nazk.gov.ua/uk/prozoryj-byudzheta/>.

²⁹ Access mode: <https://nazk.gov.ua/wp-content/uploads/2022/02/Balans-na-01-sichnya-2022-roku-forma-1-ds.pdf>.

³⁰ Resolution of the Cabinet of Ministers of Ukraine of 05 April 2014 No. 85. Access mode: <https://zakon.rada.gov.ua/laws/show/85-2014-%D0%BF#Text>.

³¹ 2021 Annual NACP report. Access mode: <https://nazk.gov.ua/uk/pro-nazk/>.

³² 2020 Annual NACP report. Access mode: <https://nazk.gov.ua/wp-content/uploads/2021/04/NAZK-Zvit-za-2020-rik-15.04.2021-1.pdf>.

³³ 2020 Annual NACP report. Access mode: <https://nazk.gov.ua/wp-content/uploads/2021/04/NAZK-Zvit-za-2020-rik-15.04.2021-1.pdf>.

³⁴ 2021 Annual NACP report. Access mode: <https://nazk.gov.ua/uk/pro-nazk/>.

The NACP's budget spending is controlled by the Accounting Chamber through an *audit* once every two years (Part 1 of Article 14 of the Law)³⁵.

Civil control over the activities of the NACP are ensured through its Public Council, which, among other things, is authorised to prepare the opinion on the NACP's annual report, to monitor the effectiveness of exercise by the NACP of its powers, to consider the draft national report on implementation of the principles of anti-corruption policy and approve the opinion on it, etc. Detailed information on the exercising of these powers is set out in the report of the Public Council for 2020-2021³⁶.

The NACP prepares *annual reports* on its activities, which are published on the NACP website. These reports include information on the annual performance indicators and are a form of open reporting by an independent institution to an unlimited number of people (general public). Opinions on the reports are provided by the NACP's Public Council³⁷.

Also, the NACP cooperates closely with the relevant committee of the Parliament of Ukraine, including reporting at the request of the committee on certain issues related to its activities.

At the end of 2019, amendments to the legislation³⁸ introduced an *external independent evaluation* of the NACP's performance.

The evaluation shall be conducted every two years by the Commission [for the Independent Evaluation of the Performance of the National Agency] composed of three persons appointed by the Cabinet of Ministers of Ukraine based on proposals of donors who have been providing international technical assistance to Ukraine in preventing and combating corruption for the last two years prior to the assessment. Based on the results of such assessment, an opinion shall be drawn on the efficiency or inefficiency of the NACP performance. The commission's opinion on the inefficiency of performance shall constitute an unconditional ground for dismissal of the NACP Chairman (Paragraph 9, Part 5, Article 5 of the Law). Assessment criteria and methods for the practical implementation of these provisions were approved by the Cabinet of Ministers of Ukraine.

On 24 January 2022, *for the first time in the history of NACP*, the External Assessment Commission of the Performance of the NACP began its work. The government has appointed the following experts to conduct an independent evaluation of the NACP: Joseph Gangloff (USA); Diana Kurpniece (Latvia); Laura Stefan (Romania)³⁹. The work of the commission is ongoing, information about its current status is published on the website of the Cabinet of Ministers⁴⁰.

National Anti-Corruption Bureau of Ukraine

³⁵ According to the results of the audit conducted by the Accounting Chamber in 2021, it was established that the NACP **in general properly ensured** the efficiency of use of budget funds in 2020 and in the first half of 2021. Access mode: https://rp.gov.ua/upload-files/Activity/Collegium/2021/32-3_2021/R_RP_32-32021.pdf.

³⁶ Access mode: <https://nazk.gov.ua/wp-content/uploads/2022/01/Zvit-GR-pry-NAZK-za-2020-2021-roky.pdf>.

³⁷ In 2020, the Public Council assessed the report and performance of the NACP as "good" and provided recommendations for improvement. Access mode: https://nazk.gov.ua/wp-content/uploads/2021/04/GR_vysnovok-na-zvit-NAZK.pdf

³⁸ Access mode: <https://zakon.rada.gov.ua/laws/show/140-20#n325>

³⁹ You can get acquainted with their bios in the appendix to the order of the Cabinet of Ministers of Ukraine. Access mode: <https://www.kmu.gov.ua/storage/app/sites/1/perevirka%20NAZK/commission-press-statement.pdf>

⁴⁰ Access mode: <https://www.kmu.gov.ua/gromadskosti/diyalnist-komisiyi-z-provedennya-nezalezhnoyi-ocinki-efektivnosti-diyalnosti-nacionalnogo-agentstva-z-pitan-zapobigannya-korupcivi>

Legal status

The Legal framework for organisation and operation of NABU is laid down in the Law of Ukraine On National Anti-Corruption Bureau of Ukraine, No. 1698-VII of 14 October (Hereinafter - NABU Law).

Mandate

The National Anti-Corruption Bureau of Ukraine is a central executive body with a special status vested with powers to prevent, disclose, terminate, investigate, and solve corruption and other criminal offences within its investigating jurisdiction, as well as to avert new ones (Article 1). Investigative jurisdiction of NABU is described in detail in the official website of NABU in Ukrainian and English at <https://nabu.gov.ua/en/competence>.

Budget

NABU is financed from the State Budget (NABU Law Art 24 (1)), and it sufficiently covers NABU's basic needs.

The general fund of NABU budget for year 2022, as amended (reduced by 101,578,400 UAH, which is about 3,163,030 EUR), amounts to 1,226,012,200 UAH, which is about 38,176,550 EUR.

It is prohibited to finance NABU from any other sources except for the cases specified in the international treaties of Ukraine on international technical assistance projects (NABU Law Article 25 (1)).

Equipment

Due to finances provided by the international technical assistance projects, NABU satisfies its needs to purchase state-of-the-art technologies and equipment required by NABU in order to efficiently fulfil its functions, etc.

The main necessary software and hardware tools have been partly purchased and partly provided by international donors during 2016-2021 which ensure the performance of a wide range of tasks and effective data management.

Current software and hardware support:

- data collection from external sources, incl. various government agencies;
- reliable processing and storage of the collected data;
- data management and decision-making based on a variety of data;
- management of criminal cases.

However, current software is expected to be developed, particularly information collection, storage and management.

Due to the war in Ukraine, the critically important tasks of security and distributed duplication of information resources, as well as remote access to information systems, need to be additionally resolved.

Staffing

The total number of NABU staff members is specified by the NABU Law and is 700 people, among whom there are 500 officers and 200 civil servants (Article 5 (6)).

In order to more efficiently perform the functions of NABU, it is required to increase its staff by 300 people and to establish the Forensic Science Centre within NABU.

The NABU Director is appointed through a competitive process for a 7 years term of office. The NABU Director cannot be dismissed, and the act of the Cabinet of Ministers on his or her appointment cannot be cancelled except for the exhaustive list of grounds specified by the Law (Article 6(2)). The Cabinet of Ministers of Ukraine exclusively on the grounds specified by the NABU Law may decide to dismiss the NABU Director from his or her office if at least two thirds of its members vote for it (Article 6 (2)).

Mechanisms of Accountability

The activities of NABU are guided and coordinated by the Cabinet of Ministers of Ukraine. Such coordination is carried out only within the limits and in a way specified by the NABU Law, and that is what gives NABU a special status (Article 4(4)).

Control of NABU activities is carried out by the Verkhovna Rada Committee competent in countering corruption and organised crime, and according to the procedure specified by the NABU Law (Article 26 (1)).

NABU Director:

1) informs the President of Ukraine, Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine about the main issues on the agendas of NABU and its separate units, about delivering assigned outputs, respect for the laws, rights and freedoms of persons;

2) annually, no later than 10 February and 10 September, submits a written report on NABU activities within the preceding six months to the President of Ukraine, Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine (Article 26 (1)).

The Public Oversight Council at the National Anti-corruption Bureau of Ukraine is established in order to provide transparency and civil control over the work of the NABU. 15 members of the Public Oversight Council are selected through an open and transparent competition by means of rating online voting by citizens living in Ukraine.

146. Does it enjoy the necessary independence and is it protected from political influences? Is it cooperating with other anti-corruption bodies, national security agency, NGOs?

The National Agency for Prevention of Corruption

Cooperation of the NACP with other anti-corruption bodies

The cooperation with NABU (on high-level corruption cases), as well as with the *State Bureau of Investigation* and the *National Police of Ukraine* (on low-level corruption) is primarily to provide *information indicating criminal offences* for pre-trial investigation.

In addition, the bodies of the National Police of Ukraine are sending materials on the identified

facts of administrative offences, for which the police are authorised to draw up reports. Information on the number of materials submitted by the NAPC and their effectiveness is contained in the NAPC Reports for 2020-2021⁴¹, as well as in the National Reports on the Implementation of Anti-Corruption Policy in 2019-2020⁴² and the Self-Assessment Report on the Efficiency of the NAPC in 2021, according to the criteria approved by the Government Resolution of 20 May 2020 No. 458⁴³.

Cooperation with *the SAPO* is based on the results of special inspections and monitoring of the way of life of declarants. Thus, the NAPC submits to SAPO the relevant materials for preparation of a civil lawsuit to declare the assets unfounded and recover them to the state income (civil confiscation)⁴⁴.

The draft Anti-Corruption Strategy for 2021-2025 provides for the transfer of consideration of cases of administrative offences related to corruption under administrative protocols drawn up by the NAPC to the HACC. The implementation of this extremely important initiative will lead to systematic and direct interaction between the NAPC and the HACC.

Cooperation of the NAPC with national security agencies

The state body of special purpose with law enforcement functions, which ensures the state security of Ukraine, is the Security Service of Ukraine (hereinafter – *SSU*).⁴⁵

Cooperation between the NAPC and the SSU takes place in several areas⁴⁶:

- verification of declarations of SSU officers, whose positions are secret, according to a special procedure that guarantees their additional security;
- timely response to violations of anti-corruption legislation;
- formation of zero tolerance of corruption among SSU employees through training events with the participation of the NAPC employees.

Cooperation of the NAPC with the public

The public representatives with which the NAPC cooperates can be divided into 2 groups: a) specialised entities and b) civil society in general. Specialised entities include the Public Council at the NAPC, as well as specialised public associations (anti-corruption, legal, analytical, sociological, etc.).

Members of the Public Council at the NAPC were elected based on the results of open online voting⁴⁷, and its composition was approved by the order of the NAPC Chairman dated 17 June 2020,

⁴¹ NAPC report for 2020. Access mode: <https://cutt.ly/EFQ9UgJ>; NAPC report for 2021. Access mode: <https://nazk.gov.ua/uk/pro-nazk/>.

⁴² <https://nazk.gov.ua/uk/zvity/>

⁴³ https://nazk.gov.ua/wp-content/uploads/2022/02/Zvit-NAZK_2021.xlsx

⁴⁴ <https://cutt.ly/7FQ9QLj>; access mode: <http://surl.li/bszvm>

⁴⁵ See PArticle 1 of Article 1 of the Law of Ukraine “On the Security Service of Ukraine” (<https://zakon.rada.gov.ua/laws/show/2229-12#Text>).

⁴⁶ In addition, since the beginning of the full-scale invasion of Ukraine by the Russian Federation, the NAPC has formed a database for the SSU of 245 people who may be traitors to Ukraine. (<https://www.facebook.com/NAZKgov/posts/336110675221418>).

⁴⁷ <http://surl.li/btaef>

No. 265 / 20.⁴⁸ The Public Council provides control over the activities of the NAPC, as well as cooperates with the NAPC in the areas specified by law (Article 14 of the Law).

Cooperation with specialised entities took place in the following areas: development of a draft Anti-Corruption Strategy⁴⁹, conducting joint training events and developing training products⁵⁰; informing about corruption vulnerabilities⁵¹; anti-corruption expertise^{52,53}; sociological research⁵⁴; evaluation of the efficiency of the NAPC's activities⁵⁵.

Regarding the effectiveness of information interaction with the public, including the media, the NAPC conducted an internal audit in 2020⁵⁶ based on the results of which recommendations were developed.

Independence and protection of the NACP from political influence/pressure

General guarantees of independence of the NAPC are defined in Article 9 of the [Law “On Prevention of Corruption”](#) (hereinafter referred to as the Law). These include (1) the special status of the National Agency; (2) a special procedure for the selection, appointment, and termination of the powers of the Chairman of the National Agency; (3) the special procedure for financing and logistical support of the National Agency; (4) appropriate conditions of remuneration of the Chairman, Deputy Chairmen of the National Agency and employees of the National Agency, determined by this and other laws; (5) transparency of NAPC activities. In addition, the guarantees of NAPC's independence are competitive selection of staff, their integrity testing, automated distribution of responsibilities for inspections⁵⁷, NAPC access to all databases, and effective public control over the agency's activities.

Guarantees of political neutrality are accountability and non-control of the Government and

⁴⁸ <http://surl.li/btafr>

⁴⁹ For more information, see the answer to question №137.

⁵⁰ For example, in June 2021, the online course “POLITDATA: e-Reporting of political parties” was launched on the platform of the EdEra online education studio. The online course was developed by the NAPC in collaboration with the International Foundation for Electoral Systems (IFES) and the online education studio EdEra, with support from the United States Agency for International Development (USAID) and the Department of International Affairs of Canada. Access mode: <https://study.ed-era.com/uk/courses/course/419>.

⁵¹ In particular, cooperation has been established with the NGO “Together Against Corruption” to obtain information from members of the public on corruption vulnerabilities of the authorities that have submitted their own anti-corruption programs of the NAPC for approval.

⁵² Anti-corruption expertise of the updated NAPC: the result of the first 50 examinations [S. Derkach, O. Kryvoshei, T. Bunkevych, O. Yermak, V. Hrytsenko]. - K., 2021. - Access mode: <http://surl.li/btaai>

⁵³ In addition, the NAPC receives the conclusions of the public anti-corruption expertise on such projects, which it takes into account when conducting its own anti-corruption expertise. For example, in 2021, 50 proposals sent by the NGO “Institute of Legislative Ideas” were taken into account.

⁵⁴ In November-December 2021, the sociological company InfoSapiens, with the support of the EU Anti-Corruption Initiative (EUACI) for the NAPC conducted a sociological survey on corruption in Ukraine in accordance with the updated Methodology of the Standard Corruption Survey in Ukraine. The analytical report was planned to be posted on the NAPC website approximately in March 2022 after the sociological company presented the results of the study, but today this has not happened due to martial law.

⁵⁵ Transparency International Ukraine annually prepares a study of the capacity, management, and interaction of anti-corruption infrastructure bodies, including the NAPC, which, in turn, implements the relevant recommendations in its activities.: <http://surl.li/bszzn>

⁵⁶ Access mode: <https://nazk.gov.ua/wp-content/uploads/2020/02/1-1.pdf>

⁵⁷ Including inspections of the organisation of work to prevent and detect corruption in government; legal entities of public law and legal entities specified in Part 2 of Article 62 of the Law of Ukraine “On Prevention of Corruption;” verification of declarations of civil servants and persons equated to them; special inspections carried out in accordance with Article 56 of the Law; verification of reports of political parties on property, income, expenses and financial obligations; inspections on issues related to internal control powers.

Parliament⁵⁸; direct ban on the activities of political parties in the NAPC and their interference in the work of the body (Article 9); ethical rules of apolitical employees⁵⁹ and disciplinary [liability](#) for non-compliance; requirements for the candidatures of the Chairman, Deputy Chairmen of the NAPC (Part 3 of Article 5 of the Law).

The evaluation of the independence of NAPC activities was provided by GRECO within [4th round of evaluation in 2020](#) (recommendation was implemented *satisfactorily*). In particular, GRECO noted that the measures taken by the NAPC demonstrated tangible progress in the practical implementation of the legislative changes evaluated in the previous compliance report.

Real independence and protection from political influence are illustrated by the following examples that took place in 2020-2021⁶⁰:

1) The NAPC Chairman handed over two protocols on administrative offences to the current President of Ukraine in connection with the detection of signs of administrative offences, due to failure to submit notifications of significant changes in property status;

2) the NAPC stopped funding a number of parliamentary political parties, including both representatives of the opposition (“Batkivshchyna,” “Holos”) and the party forming the coalition-mono-majority (“Servant of the People”). In addition, the NAPC found signs of criminal offences based on the results of consideration of reports of 3 parties: “Congress of Ukrainian Nationalists;” “Vilkul Block 'Ukrainian Perspective'” and “Servant of the People;”

The NAPC has issued several orders to the Government and personally to the Prime Minister of Ukraine. In particular, in 2021 an order was issued to the Prime Minister of Ukraine to eliminate violations of Article 26 (restrictions after the termination of activities related to the performance of state and local self-government functions) of the [Law](#) in connection with the appointment of the former Acting Minister of Energy Yurii Vitrenko as the Chairman of the Board of Naftogaz of Ukraine National Joint-Stock Company;

4) The NAPC protected the interests of the whistleblower — the commissioner for the implementation of the anti-corruption program of one of the largest state enterprises (Oleh Polishchuk) — National Nuclear Energy Generating Company of Ukraine “Enerhoatom”— in a number of court cases;

5) The NAPC provided the SAPO with information found during the monitoring of the lifestyle of one of the MPs, which was used to file a lawsuit for civil confiscation to the HACC.

The National Anti-Corruption Bureau of Ukraine

The independence of NABU is ensured by its Law (1698-VII, 14 October 2014). For more detailed information regarding its independence, please refer to the answers provided in response to Q173. NABU investigates corruption crimes committed by all high-ranking officials, irrespective of their status or affiliation to a political party. More detailed information about the cases and suspects investigated by NABU are publicly available on the NABU website (also in English) at

⁵⁸ For more information, see the answer to question No. 145.

⁵⁹ Code of Ethics for NAPC employees (<http://surl.li/btaaqq>).

⁶⁰ A more detailed description of these facts can be found in the Situation Report of Ukraine under the 4th round of Greco evaluation in 2021.

<https://nabu.gov.ua/en/reports>.

NABU cooperates with other anti-corruption bodies and law enforcement and state bodies, in particular with the National Agency on Corruption Prevention, the State Financial Monitoring Service of Ukraine, the State Bureau of Investigation, the Security Service of Ukraine, and others.

A number of MoUs and joint orders were concluded between the National Bureau with the state authorities or law enforcement bodies, specifying the organisation of such co-operation.

NABU has an external communication department for working with the general public and has an open-door policy for co-operation with NGOs and other partners. As mentioned in response to question 145, NABU has a Public Oversight Body that is another gateway for co-operation with NGOs and also for ensuring transparency and accountability of the National Bureau.

147. Is able to rely on other agencies for obtaining data? It is well connected with the law enforcement bodies and receives feedback on potential cases handed over to these bodies. Is the non-delivery of requested data punishable?

National Agency on Corruption Prevention

Receiving the documents and information from the other state and local governance bodies

Authorised persons of the NACP⁶¹ have a right to request any necessary documents or other information, including those with restricted access, in connection with the exercise of their powers (Articles 12-13 of [the Law](#)).

The requested information is provided within 10 working days of the request receipt, and if the request is sent to conduct a background check – within 3 days.

The NACP has direct automated access to all the necessary state registries and databases as well as the right to receive information from the foreign registries⁶². It allows for reducing the number of requests, and consequently, enables speedier and more effective detection and documentation of anti-corruption legislation violations.

In practice, there were certain problems with receiving the information from the District Administrative Court of Kyiv (full refusal), local governance bodies (refusal justified by the need to protect personal data) and technical inventory office (refusal due to the fact that the NACP has access to the required database).

Cooperation with the NABU, the National Police, and other law enforcement agencies

Feedback in cases initiated on the basis of the NACP materials

The directions of cooperation with the mentioned bodies are mostly described in the [reply to question 146](#).

When it comes to the feedback, the current legislation does not oblige the law enforcement

⁶¹ According to the Law, those are: Chairperson, Deputy Chairperson, and other Staff members authorised by the Chairman of the NACP,

⁶² According to Subclause 2-1, Part 1 of Article 12 of the Law, the NACP has the right to obtain information from open databases, registers of foreign countries, including after payment for receiving relevant information, if such payment is required for access to information.

agencies to notify the NACP of the consideration results of the submitted materials. Thus, the NACP has to independently monitor the results of their consideration by the courts of Ukraine using the open registries.

Liability for non-provision of the information upon the NACP request

One of the means to ensure timely provision of complete and accurate provision of information upon the NACP request is administrative liability envisaged by Part 1 of Article 188-46 of the Code of Ukraine on Administrative Violations (hereinafter – CUAV).

Namely, a failure to comply with legal demands of the NACP to remedy the violations of legislation on preventing and countering corruption, non-provision of information, documents, and violation of the legally established time limits for their provision, provision of deliberately false or incomplete information leads to a fine from 100 to 250 tax-free minimum incomes of citizens (UAH 1700-4250).

Reoffence within a year of the previous violation (Part 2 of Article 188-46 CUAV) leads to a fine from 200 to 300 tax-free minimum incomes of citizens (UAH 3400-5100). The procedure of holding liable for this violation is a standard one: the NACP staff members draw up a protocol which is later sent for the court's consideration.

Statistical data for 2018-2020 regarding the use of this instrument is provided in the National report for 2020⁶³. In particular, during 2018 the courts received 63 cases under Article 188-46; in 2019 - 101, in 2020 - 49. However, currently, there is no possibility to establish which of those cases were related to the non-provision of the requested information.

The National Anti-Corruption Bureau of Ukraine

NABU Law Article 16 (1) (4) and Article 17 (1) (3) specify the powers of NABU when interacting with the other state bodies, local self-government bodies, as well as the powers pertaining to demanding and receiving information, and also accessing information and reference systems, registers, and databases maintained and administered by the state bodies or local self-government bodies, both manually and in automatic mode.

Within criminal proceedings, the receipt of information from the state bodies, enterprises, institutions or organisations is carried out in line with the Code of Criminal Procedure: Article 93 (Collection of Evidence) and Chapter 15 (Provisional Access to Objects and Documents). Pursuant NABU Law Article 17 (1) (3), NABU has the right to demand and receive information from other law enforcement agencies, state authorities, enterprises, institutions, and organisations. CUAV Article 185-13, provides for the liability for the provision of incomplete information, untimely provision of information or failure to provide information requested by NABU.

148. Has the Agency/Commission/Department or any other authority operational responsibilities (including the power to start administrative investigations) related to:

⁶³ Access mode: <http://surl.li/btagt>

i. Asset declarations and verifications?

ii. Conflicts of interest?

iii. Political party financing?

iv. Lobbying (keeping register)?

NACP monitoring and control functions:

Verification of declarations and implementation of other financial control measures.

The NACP conducts the following types of *control* concerning declarations filed by subjects of declaration (Article 51⁻¹ of the [Law](#)): 1) concerning the timeliness of the submission; 2) concerning correctness and completeness of information provided; 3) logical and arithmetic control.

In addition, the NACP conducts a *full verification of declarations* (Article 51⁻³ of the [Law](#)) — to find out the accuracy of the declared information, the accuracy of the assessment of declared assets, check for conflicts of interest and signs of illicit enrichment or unfounded assets, as well as *selective lifestyle monitoring* of subjects of declaration (Article 51⁻⁴ of the Law) — verification of compliance with the standard of living of the subject of declaration to the declared property and income.⁶⁴

Peculiarities of full verification of declarations and lifestyle monitoring of judges of general courts and the Constitutional Court of Ukraine are defined in Article 52⁻² of the Law.

The above-mentioned forms of control and verification, as well as reports from citizens, including whistleblowers, information in the media and on social networks, make it possible to identify corruption and corruption-related offences.

If there is a suspicion of an administrative offence committed by officials holding a responsible or especially responsible position, the NACP is empowered to draw up protocols under Article 172⁻⁶ of the Administrative Code (untimely submission of a declaration, failure to notify or notify in a timely manner about opening a bank account in foreign currency or about significant changes in the financial status, filing knowingly false information in the declaration, if such information differs from the truth by 100 to 500 subsistence minimums) and send them to the court (Article 12 of the Law, Article 255 of the Administrative Code). The prosecutor has similar powers, and the National Police can exercise such powers in relation to petty corruption.

Peculiarities of drawing up protocols concerning judges of general courts and the Constitutional Court of Ukraine are defined in Article 257⁻¹ of the Administrative Code.

In the exercise of these powers, signs of criminal violations under Arts. 366-2, 366-3, 368-5 of the Criminal Code of Ukraine (declaring false information for the amount exceeding over 500 subsistence minimums, intentional non-submission of the declaration, illicit enrichment). In this case, the materials are handed over to the authorised law enforcement agencies for a pre-trial investigation. In addition, in case of detection of possible unexplained assets, the materials are transferred to the SAPO to initiate the procedure of their civil forfeiture.

During 2021, the NACP completed 1,076 full inspections of officials' declarations; 181 declarations contained inaccurate information in amounts sufficient to bring persons to administrative

⁶⁴ Details on these functions are provided in the answer to Question 163.

liability; 123 declarations contained inaccurate information in amounts sufficient to prosecute their filers. Possible unjustified assets were identified in 11 declarations; illicit enrichment — in one. More detailed information on the practical implementation of the financial control function by the NACP, including bringing perpetrators to liability, is contained in NACP reports for 2020-2021,⁶⁵ National Reports on the Implementation of Principles of Anti-Corruption Policy in 2019-2020,⁶⁶ and in the Self-Assessment Performance Report of the NACP in 2021, in accordance with the criteria approved by the Government Resolution No. 458 of 20 May 2020.⁶⁷

Monitoring and control over compliance with the legislation on conflicts of interest

According to Article 11 of the Law, the NACP is authorised to monitor and control the implementation of legislation on ethical conduct, prevention and settlement of conflicts of interest in the activities of persons authorised to perform the functions of state or local government, and persons equated to them. Monitoring measures help resolve potential conflicts of interest and prevent corruption-related offences. In view of this, *only the NACP is also authorised* to provide clarifications in this area (Article 28 of the Law).⁶⁸

In practice, the NACP has focused on identifying violations of anti-corruption legislation by high-ranking officials, including through the use of digital technologies — the Hidden Interests portal.⁶⁹

Activity results concerning administrative liability under Article 172⁷ of the Administrative Code is contained in NACP reports for 2020-2021,⁷⁰ National Reports on the Implementation of Principles of Anti-Corruption Policy in 2019-2020,⁷¹ and in the Self-Assessment Performance Report of the NACP in 2021, in accordance with the criteria approved by the Government Resolution No. 458 of 20 May 2020.⁷²

A significant problem in the exercise of the NACP's exclusive authority to provide individual clarifications on the presence of potential conflict of interest in a person's actions is related to the activities of the highest body of judicial self-government — the Council of Judges of Ukraine. Contrary to its competence defined in paragraph 6 of Part 8, Article 133 of the Law of Ukraine ["On the Judiciary and the Status of Judges,"](#)⁷³ this body provides clarification to judges who do not meet the requirements of the law and uses them as grounds to be exempted from liability.

Monitoring and control over compliance with prohibitions and restrictions set by law (gifts,

⁶⁵ NACP report for 2021. Access mode: <https://nazk.gov.ua/uk/pro-nazk/>

NACP report for 2020. Access mode: <https://cutt.ly/gFQGp31>

⁶⁶ Access mode: <https://nazk.gov.ua/uk/zvity/>

⁶⁷ Access mode: <https://cutt.ly/6FQGhtc>

⁶⁸ More details are available in the response to Question No. 162.

⁶⁹ Access mode: <https://interes.shtab.net/> Currently, due to the armed aggression of the Russian Federation against Ukraine, access to the portal is limited.

⁷⁰ NACP report for 2021. Access mode: <https://nazk.gov.ua/uk/pro-nazk/>

NACP report for 2020. Access mode: <https://cutt.ly/gFQGp31>

⁷¹ Access mode: <https://nazk.gov.ua/uk/zvity/>

⁷² Access mode: <https://cutt.ly/6FQGhtc>

⁷³ According to item 7 of Article 9, part 1 item 1 of Article 20 of the Procedure for monitoring compliance with the law on conflicts of interest in the activities of judges and representatives of the judiciary and their settlement, approved by the Council of Judges of Ukraine decision of 04 February 2016 No. 2, if the person received confirmation of no conflict of interest (provided by the Council of Judges of Ukraine), they shall be exempted from liability if a conflict of interest is subsequently identified in the acts in respect of which said person sought clarification.

multiple offices, relatives, corporate rights)

The NACP's powers in this area are usually exercised through the procedures described above.

For persons who have not complied with the restrictions set by law, the authorised persons of the NACP draw up protocols under Article 172⁻⁴ (Violations of holding multiple offices), 172⁻⁵ (Violations concerning receipt of gifts) of the Administrative Code according to standard procedure.

*Control over the legality and transparency of political party financing and election campaigns.
Distribution of funds to finance the statutory activities of parties*

The NACP performs the function of monitoring the legality and transparency of political party financing and election campaigns by checking the electronic reports of political parties using a risk-oriented approach. In particular, in 2020, thanks to the joint efforts of the NACP and the International Foundation for Electoral Systems in Ukraine (IFES), the POLITDATA⁷⁴ register was created, put in trial operation, and in the spring of 2021 in permanent operation. It allows political parties to submit quarterly financial statements electronically in a quick and convenient way, and provides better access to this information for citizens.

All conclusions on the results of political party reports analysis are posted on the official website⁷⁵. In addition, the NACP in its annual activity reports⁷⁶ provides information on the effectiveness of monitoring, achievements and challenges, as well as delivers National Reports on the Implementation of Anti-Corruption Policy⁷⁷. In order to assess the effectiveness of the NACP, periodic surveys of political parties' and NGOs' representatives are conducted⁷⁸. Detailed information is available in the answer to question No. 19.

Administrative liability for offences in this area is provided under Articles 212⁻¹⁵ (Violation of the procedure for providing or receiving a contribution in support of a political party, financing its statutory activities, financial (material) support for campaigning or referendum campaigning)⁷⁹ and 212⁻²¹ (Violation of the procedure for submitting a financial report on the receipt and use of election funds, a party's report on property, income, expenses and liabilities of a financial nature) of the Code of Ukraine on Administrative Offences. The results of the use of these instruments are available in the NACP reports for 2019–2021⁸⁰, in the National Reports for 2019–2020⁸¹ and in the Self-Assessment Report on the NACP Effectiveness in 2021, according to the criteria approved by the Government Resolution as of 20 May 2020 No. 458⁸².

In addition, in case the NACP detects violations in the field of political party financing, which have signs of a criminal offence under Article 159⁻¹ (Violation of the procedure for financing a

⁷⁴ Available at <https://politdata.nazk.gov.ua/>

⁷⁵ Available at <https://cutt.ly/HFQGmiG>

⁷⁶ Available at <https://nazk.gov.ua/uk/zvity/>

⁷⁷ Available at <https://nazk.gov.ua/uk/zvity/>

⁷⁸ Available at <https://www.facebook.com/ifesukraine/posts/1671786332973383/>

⁷⁹ In order to bring the perpetrators to justice in a timely manner, the law sets a shortened term of 3 days for the court to consider materials under article 212⁻¹⁵ of the Code of Ukraine on Administrative Offences (Article 277 of the Code of Ukraine on Administrative Offences)

⁸⁰ NACP Report 2021 available at <https://nazk.gov.ua/uk/pro-nazk/>

NACP Report 2020 available at <https://cutt.ly/gFQGp31>

⁸¹ Available at <https://nazk.gov.ua/uk/zvity/>

⁸² Available at <https://cutt.ly/6FQGhtc>

political party, pre-election campaigning or referendum campaigning) of the Criminal Code of Ukraine, this data is transferred to the National Police. The state of pre-trial investigation for 2018–2020 in this category of cases is analysed in the National Report for 2020⁸³.

Besides, the NACP distributes funds from the State Budget of Ukraine to finance political parties, as determined in articles 17⁻³, 17⁻⁴, 17⁻⁵ of the Law of Ukraine “On Political Parties in Ukraine”. In case of violations in regard to these funds, the NACP is authorised to suspend or terminate state funding of parliamentary political parties.

Some examples of funding suspension are provided in the answer to question No. 146, and detailed information is available in the NACP reports for 2020–2021⁸⁴ as well as in the National Reports on the Implementation of Anti-Corruption Policy in 2019–2020⁸⁵ and in the Self-Assessment Report on the NACP Effectiveness in 2021, according to the criteria approved by the Government Resolution as of 20 May 2020 No. 458⁸⁶.

Status of implementation of lobbying legislation in Ukraine

Lobbying in Ukraine is currently not regulated at the legislative level. However, the anti-corruption vector of Ukraine’s state policy necessitates legislative regulation of lobbying.

Four different bills on this issue⁸⁷ were submitted to the Verkhovna Rada of Ukraine of the 9th convocation, which were returned to the initiators for revision. On 31 March 2021, a revised draft Law “On State Registration of Lobbying Entities and Lobbying in Ukraine” (Registration No. 3059) was submitted for consideration of the Verkhovna Rada. The bill provides, inter alia, for the creation of an electronic register of lobbying entities. The bill on lobbying is being prepared now. In particular, two working groups – the Verkhovna Rada Committee on Legal Policy and the Verkhovna Rada Committee on Anti-Corruption Policy – were set up in the Parliament. Relevant legislation is expected to be adopted in the near future.

149. To what extent and from which sources are statistical data available on corruption cases (investigations, cases in court, convictions and sanction level), international co-operation in corruption cases, the link between corruption and organised crime and the link between corruption and money-laundering?

Sources of the statistical data on corruption cases

A number of systems to collect, analyse, and generalise statistical data have been organised in Ukraine. They describe the pre-trial investigation bodies and courts anti-corruption activities fighting

⁸³ Available at <https://nazk.gov.ua/uk/zvity/>

⁸⁴ NACP Report 2021 available at <https://nazk.gov.ua/uk/pro-nazk/>

NACP Report 2021 available at <https://cutt.ly/uFQG00g>

⁸⁵ Available at <https://nazk.gov.ua/uk/zvity/>

⁸⁶ Available at <https://cutt.ly/6FQGhtc>

⁸⁷ Bills “On State Registration of Lobbying Entities and Lobbying in Ukraine” (Registration No. 3059), “On Lobbying” (Registration No. 3059-1), “On Legal and Transparent Regulation of Lobbying Activity” (Registration No. 3059-2), and “On Lobbying Activity” (Registration No. 3059-3)

corruption legislation violations and law infringements related to corruption in a comprehensive and objective way.

There are three main *sources* of anti-corruption statistics.

Every month the *Office of the Prosecutor General* (PGO) discloses statistical data based on the reports from pre-trial investigation bodies on its website⁸⁸. It contains the information on the registered corruption legislation violations as well their pre-trial investigation results, including details of the persons who have committed them. Progressive total for the data is refreshed throughout a reporting year.

The *National Anti-Corruption Bureau of Ukraine* draws a report on its activities and publishes it⁸⁹ twice a year. The report follows the criteria established by the standing legislation⁹⁰.

The statistical data on the corruption cases trials are reported respectively by the State Judicial Administration of Ukraine and High Anti-Corruption Court.

Every year the *State Judicial Administration of Ukraine* discloses⁹¹ statistical data on the results of the original jurisdiction and appeal courts activities. Concerning the analysis of the statistical data on fighting of the *corruption legislation violations, law infringements related to corruption and administrative violations related to corruption* it is necessary to highlight the following reports related to the cause: on consideration of criminal proceedings (*Form No. 1-к*), on criminally liable persons and types of criminal punishment (*Form No. 6*), on prison population (*Form No. 7*), on consideration of administrative violation cases (*Form No. 1-n*).

The Office of the Prosecutor General and State Judicial Administration reporting follows the criteria established by the respective articles of the Criminal Code of Ukraine and Code of Ukraine on Administrative Offences which allow data generalising for the sake of its further analysis and detailed study of the corruption cases pre-trial investigation and court proceedings. However, a *substantial drawback* is an impossibility to select the crimes according to some articles which are considered corruption-related only when committed in office as pursuant to the note of Article 45 of the Criminal Code of Ukraine.

The information related to the crimes (including corruption-related) described in the articles of the Criminal Code of Ukraine which fall into the *High Anti-Corruption Court of Ukraine* jurisdiction can be found in its annual statistical reports covering justice administration issues⁹² and published on the HACC website annually. Please see reports on criminal proceedings and cases consideration (*Form No. 1-K BAKC*), on criminally liable persons and types of punishments (*Form No. 1-III BAKC*).

⁸⁸ Section “Статистика” [*Statistics*] / Website of the Office of the Prosecutor General. – Available at: <https://cutt.ly/GFbQqB4>

⁸⁹ Section “Reports” // Website of NABU. – Available at: <https://nabu.gov.ua/reports>

⁹⁰ Article 26 of the Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” / Verkhovna Rada of Ukraine // Verkhovna Rada of Ukraine official web portal. - Available at: <https://cutt.ly/jFbOxgg>

⁹¹ Section “Судова статистика” [*Court Statistics*] (reports) / State Judicial Administration of Ukraine // Ukrainian Judiciary official website - Available at: https://court.gov.ua/inshe/sudova_statystyka/zvitnist_21

⁹² Section “Судова практика й статистика” [*Court Practice and Statistics*] / “HACC Statistical Reports on Justice Administration” // High Anti-Corruption Court of Ukraine official website – Available at: <https://hcac.court.gov.ua/hcac/gromadyanam/reports/>

In accordance with Article 20 of the [Law of Ukraine “On Prevention of Corruption”](#) the statistical data of the specially authorised anti-corruption entities can also be found in the national report on the state of the anti-corruption policy basics implementation prepared by the National Agency on Corruption Prevention annually⁹³.

NACP has also provided its information on the system to collect, analyse, and publish statistical data on anti-corruption in its Self-evaluation Report for the Fifth Round monitoring of Ukraine within OECD Anti-Corruption Network for Eastern Europe and Central Asia (OECD/ACN) (Area 9. Anti-Corruption Fight)

International co-operation in administrative cases (NACP)

Pursuant to Clause 19, part 1 of Article 11 of the [Law of Ukraine “On Prevention of Corruption”](#) the NACP has the power to performing exchange of information with the competent authorities of foreign states and international organisations. In regard to this authority NACP prepares and sends respective inquiries for international legal assistance in mostly administrative corruption-related cases to foreign agencies when NACP needs to establish the veracity of declared information and examine declarations for the signs of unjust enrichment in the declarations submitted by persons authorised to perform state or local government functions. These inquiries are formed in accordance with part 1 of Article 43 of the United Nations Convention against Corruption and are sent to States Parties of the Convention.

Over 100 inquiries of such kind were sent in 2021. A substantial problem has surfaced when it turned out that a considerable number of the foreign agencies are not authorised to exchange information necessary to run administrative cases investigation in respect of corruption-related violations. Also, there are no other international agreements provisions apart from the United Nations Convention against Corruption clauses which have been mentioned above to enable more efficient exchange of such information.

Statistical data on such inquiries is reflected in the draft annual national report on implementation of the principles of the anti-corruption policy prepared by the National Agency on Corruption Prevention pursuant to Article 20 of the [Law of Ukraine “On Prevention of Corruption”](#).

Besides, some relevant statistical data can also be obtained by means of inquiries to procure public information according to the order envisaged by the [Law of Ukraine “On Access to Public Information”](#).

International co-operation in criminal cases (National Anti-Corruption Bureau of Ukraine and Specialised Anti-Corruption Prosecutor’s Office)

Pursuant to Criminal Code Article 545 and the relevant statements of Ukraine pertaining to a number of multilateral international treaties of Ukraine, NABU functions as the central body of Ukraine in the matters of cooperation with foreign jurisdictions dealing with sending/receiving the requests for international legal assistance in criminal proceedings on the pre-trial investigation stage falling within NABU jurisdiction. As of 31 December 2021, NABU had sent to the foreign competent authorities 1183 MLA requests, including 822 MLAs that have been fulfilled by the foreign

⁹³ Draft annual national report on implementation of the principles of the anti-corruption policy in 2020. – Available at: <https://cutt.ly/ADXvp15>

competent authorities (over 80 countries). NABU had received 103 MLA requests, including 97 MLA requests fulfilled by NABU.

Relation of corruption to legalisation of money laundering

Corruption crimes in Ukraine are classified as crimes that may precede money laundering crimes. The results of two rounds of the national assessments of the risks of money laundering and terrorist financing, which were conducted in Ukraine in 2016 and 2019, confirm the fact that corruption crimes are one of the predominant structures of predicate offenses in criminal proceedings related to money laundering both at the stage of pre-trial investigation and at the stage of trial.

In order to monitor the effectiveness of the national system of preventing and counteracting to legalisation (laundering) of the proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction (AML/CFT) functioning, Ukraine has taken a number of measures to introduce AML/CFT complex administrative reporting.

Article 19 of the [Law of Ukraine “On Prevention and Counteraction to Legalization \(Laundering\) of the Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”](#) obliges state financial monitoring entities, law enforcement and judicial authorities to ensure formation of AML/CFT complex administrative reporting in order to monitor the effectiveness of the national AML/CFT system functioning.

With the aim of implementing these requirements of the Law, the Cabinet of Ministers of Ukraine by the Resolution of 05 August 2020 No. 692 approved Procedure for forming and publishing AML/CFT complex administrative reporting as well as types of statistical information to be collected by responsible state and law enforcement authorities, including the Office of the Prosecutor General (on pre-trial investigations related to money laundering and pre-money laundering crimes) and the National Anti-Corruption Bureau of Ukraine (on international cooperation in the AML/CFT area, including joint investigation groups).

The Order of the Ministry of Finance of Ukraine of 14 September 2021 No. 504 approved the list of indicators of complex administrative reporting, according to which participants of the national anti-legalisation system of financial monitoring should introduce collection and transfer of the relevant information to the SFMS for summarising and publishing.

During 2022, law enforcement and other state authorities are taking measures to determine the regulatory mechanism for collecting information according to the list of indicators, in order to ensure by the SFMS in 2023 summarising complex administrative reporting for 2022 and publishing it on the SFMS official website.

150. Is there any specific training on combating corruption or training on ethics for public officials, the judiciary and the law enforcement?

Overall state of affairs, activities of educational institutions, and the National Agency of Ukraine for Civil Service (NAUCS)

Development and functioning of the professional education system for civil servants, heads of local state administrations, their first deputies and deputies, local government officials, and local MPs is ensured by the National Agency of Ukraine for Civil Service.

According to the Ukrainian legislation, civil servants and local government officials are obliged to constantly develop their professional competencies.

During 2019-2021, educational institutions developed over 100 professional (certificate) and short-term training programs on corruption prevention, ensuring the integrity, and ethics of the civil service. During those years, 66 133 civil servants and local government officials participated in study programs on corruption prevention and ensuring integrity. Those studies were financed from the state and local budgets.

Studies and training organised by the NACP Integrity Building Office

In order to strengthen compliance with the requirements of the anti-corruption legislation by public officials, the NACP Integrity Building Office (an internal department of the NACP) has developed standard educational materials and conducted periodical thematic studies on conflict of interest, declaring, and reporting by political parties.

Conflict of interest and other limitations of the anti-corruption legislation

Online course “Conflict of interest easily understood” (<https://cutt.ly/PFWBIVE>)

The target audience of the materials and training: civil servants, local government officials, representatives of local government, court staff and judges, and employees of law enforcement agencies.

Goal: to raise awareness about detecting, preventing, and managing a conflict of interest among public officials.

The course was launched in November 2021 on the «Prometheus» MOOC platform. The NACP developed the course with the financial support of the European Union Anti-Corruption Initiative project (hereinafter - EUACI project).

Basic training on conflict of interest (<https://cutt.ly/wFWNlmc>)

The training was conducted either in the form of online webinars or offline. It was developed on the basis of the NACP’s Methodological recommendations on the conflict of interests. The content of the training: 1) Persons who are subjected to the requirements; 2) Elements of conflict of interest; 3) Resolving a conflict of interest; 4) Liability.

In 2021, 15 training sessions were held for 1770 persons.

Educational cartoon “Conflict of interest”

Goal: in a simplified manner accessible for all the representatives of the target audience, to tell about the daily routine of the officials facing a choice: to act with integrity or in their personal interest. Living through the stories of the cartoon characters, the viewer has an opportunity to gain a better understanding of typical situations and circumstances under which the conflict of interest might appear and how to correctly manage it. A playlist with all the episodes of the cartoon is available on the NACP YouTube channel: <https://cutt.ly/JFWN4xi>

Electronic declaration

The target audience of the materials and training: civil servants, local government officials, representatives of local government, court staff and judges, and employees of law enforcement agencies.

Online course «E-declaration simply explained» (<https://cutt.ly/8FWM73R>)

Goal: to raise awareness of declarants of the rules and the completeness requirements of filing e-declarations.

The course was launched in March 2021. It was developed by the NACP with the financial support of the project «Support to Anti-Corruption Champion Institutions in Ukraine» (USAID).

Basic training on electronic declaring (<https://cutt.ly/hFW3Yo5>)

The training was conducted either in the form of online webinars or offline. It was developed on the basis of the NACP Explanations on declaring. The content of the training: 1) Types of declarations, their peculiarities, and submission terms; 2) Information required to work with the Register; 3) General rules of filing the declarations; 4) Information to be provided in different chapters of the declaration; 5) Peculiarities of declaring; 6) Notice of substantial changes in the material status; 7) Notice of opening a foreign currency account; 8) Liability for electronic declaring-related violations.

In 2021, 22 training sessions were held for 1062 persons.

Additional materials for self-study by declarants

Goal: additional materials to explain certain issues and simplify the declaration procedure.

The list of materials: «A memo on full verification of declarations», «Declaring for the first time: how to file an e-declaration», «Declaring once again: what is worth remembering», «Peculiarities of declaring for military officers, Peculiarities of declaring for public officials».

Link to the materials: <https://cutt.ly/6FW3eFu>

Reporting by political parties

Online course «POLITDATA: electronic reporting by political parties»

Goal: to help representatives of political parties to avoid mistakes during the reporting on the use of state finances and to enable civil activists to conduct effective monitoring.

The course was developed by the NACP with the support of the U.S. Agency for International Development (USAID) and Global Affairs Canada.

Link to the course: <https://cutt.ly/KFW3KwV>

Studies and training for the NACP staff

In 2021 and 2022, an ISO 31000 risk assessment training for the staff of the NACP Department of prevention and detection was held. During the same years, a number of training sessions were conducted in order to develop competencies in the key spheres of the NACP work, in particular, anti-corruption policy, corruption prevention, financial control, and conflict of interest. The training was conducted with the support of the EUACI project.

Studies and training for the NABU staff

NABU staff are regularly building their capacities. A number of technical assistance projects have been assisting NABU with that. In 2017-2021, The EUACI alone conducted 118 different training sessions for NABU only as well as 35 joint training sessions for NABU, SAPO, SFMS, and ARMA. The total number of NABU detectives trained during the period was over 1000 (i.e. many detectives were taking part in several trainings).

In order to comply with the legal requirements as well as with the anti-corruption standard ISO 37001:2016 (Anti-bribery management systems - Requirements with guidance for use), a series of training sessions on preventing and fighting corruption as well as on the professional ethics was held for the NABU staff. The sessions are conducted on a yearly basis as private meetings and with the use of the internal online platform according to the developed program (a study course “Basics of ethical behaviour of the NABU employees”, developed in cooperation with the EUACI project).

Assisted by the EUACI, NABU is the first law enforcement agency in Ukraine and one of the first law enforcement agencies in Europe and the world, which confirmed its full compliance of its anti-bribery management systems with the requirements of [the international standard ISO 37001:2016](https://nabu.gov.ua/en/novyny/anti-bribery-management-system-nabu-meets-requirements-iso-370012016-standard). The NABU received the corresponding Certificate in April 2019 (<https://nabu.gov.ua/en/novyny/anti-bribery-management-system-nabu-meets-requirements-iso-370012016-standard>).

Studies and training for the SAPO staff

Prosecutors of SAPO regularly partake by themselves or with detectives of NABU in training sessions organised by different actors (foreign and domestic, private and public) pertaining to their sphere of responsibility (mainly supervising investigations of criminal corruption cases, often with cross-border elements, accounting and computer forensics aspects). Assisted by the EUACI, in 2017-2021, SAPO attended 23 specialised training, with the total number of 70 SAPO prosecutors trained.

Yes, in 2021 the Training Center for Prosecutors of Ukraine together with the General Inspectorate of the Office of the Prosecutor General developed and implemented a number of various trainings on professional ethics for prosecutors, conflicts of interest prevention and corruption in prosecutor's office and other violations of this law for civil servants of the prosecutor's office.

Among the training courses for prosecutors developed by the Training Center of Prosecutors of Ukraine there are: “Procedural guidance of pre-trial investigations into corruption offenses”, “Procedural guidance and support of public prosecution in cases of legalization (laundering) of crime proceeds”, “Pre-trial investigation of criminal offenses in the official duty”, “Prevention of conflicts of interest and corruption”, and “Professional ethics of prosecutors”.

In pursuance of paragraph 177 of the Report of the Council of Europe Group of States against Corruption (GRECO) on Ukraine's implementation of the recommendations of the fourth round of “Prevention of Corruption among MPs, Judges and Prosecutors”, published on 23.03.2020, developed mandatory distance learning courses “Professional ethics of prosecutors” and “Compliance with the Law on Prevention of Corruption” in order to provide annual training for prosecutors to improve the professional level of ethics, prevention of conflicts of interest and corruption.

151. Does Ukraine take any measures to protect whistle-blowers in the fight against corruption? If yes, please provide detail on such measures, their legal basis and their implementation.

The system of guarantees for the protection of whistleblowers in Ukraine

[The Law of Ukraine “On Prevention of Corruption”](#) empowers the NACP to (1) receive and consider reports, (2) cooperate with whistleblowers, (3) participate in ensuring their legal and other protection, (4) verify compliance with legislation on whistleblower protection, (5) issue instructions requiring the elimination of labour violations (dismissal, transfer, inspection, change of working conditions, refusal of appointment, reduction of wages, etc.) and other rights of whistleblowers and bringing to liability those guilty of violating their rights in connection with their reports.

The Law of Ukraine “On Amendments to the Law of Ukraine ‘On Prevention of Corruption’ Concerning Corruption Whistleblowers No. 198-IX of 17 October 2019 significantly expanded the system of guarantees for corruption whistleblowers.

The rights of a whistleblower shall arise from the moment of reporting information on possible facts of corruption or corruption-related offences, other violations of [the Law of Ukraine “On Prevention of Corruption”](#) (hereinafter the Law).

Whistleblowers and their family members are protected by the state. The whistleblower has the right to:

- be notified of his/her rights and obligations under the Law;
- submit evidence in support of his/her report;
- receive from the authorised body to which he/she submitted the report, confirmation of its acceptance and registration;
- give explanations, testimonies or refuse to give them;
- receive free legal assistance in connection with the protection of the rights of the whistleblower;
- confidentiality;
- report the facts of possible corruption or corruption-related offences or other violations of this Law without specifying his/her personal data (anonymously);
- in the case of a threat to life and health, security in respect of himself/herself and his/her close persons, property and homes or refuse to accept such measures;
- receive reimbursement of expenses in connection with the protection of the whistleblower's rights, reimbursement of lawyer's fees in connection with the protection of the rights of a person as a whistleblower, costs of court fees;
- receive remuneration in cases specified by law;
- receive psychological assistance;
- be exempted from legal liability in cases specified by law;

- receive information on the status and results of consideration, verification and/or investigation of the information reported by him/her.

The rights and guarantees of protection of whistleblowers shall extend to close persons of the whistleblower.⁹⁴

A whistleblower, his/her close persons shall not be refused employment, dismissed or forced to dismiss, subjected to disciplinary liability or subjected by the head or the employer to other negative measures (transfer, performance appraisal, change in working conditions, denial of appointment to a higher position, reduction in pay, etc.) or threatened with such measures due to the reporting of possible facts of corruption or corruption-related offences or other violations of the Law.

It is prohibited to disclose information about the identity of the whistleblower, his/her close persons or other data that may uncover the identity of the whistleblower, his/her close persons, to third parties not involved in the consideration, verification and/or investigation of the facts reported by him/her, as well as to persons, whose actions or omissions relate to the facts reported by him/her, except in cases provided for by the law.

The whistleblower is not legally liable for reporting possible facts of corruption or corruption-related offences, other violations of the Law, disseminating the information specified in a report, despite the possible violation of official, civil, labour or other duties or obligations by such a report.

In case of a whistleblower application, the NACP shall:

1) represent in court the interests of the whistleblower in cases where the whistleblower is unable to defend his/her violated or contested rights independently or to exercise procedural competences; and representatives or bodies, which are granted by law the right to protect the rights, freedoms and interests of the whistleblower, do not exercise or improperly exercise his/her protection;

2) have the right to attend court hearings of all instances, including closed court hearings, subject to the consent of the whistleblower in whose interests the proceedings are declared closed;

3) have the right to file a statement of claim (petition) to the court to protect the rights and freedoms of whistleblowers, to participate in court hearings of cases in which proceedings have been commenced on its claims (petitions, applications (submissions));

4) have the right to intervene in cases in which proceedings have been commenced on claims (applications, petitions (submissions)) of whistleblowers at any stage of their proceedings;

5) have the right to initiate, regardless of the participation of the National Agency in judicial proceedings, the review of judgements in the manner prescribed by law.

Implementation of measures to ensure the rights of whistleblowers taken by the NACP in 2020-2022

In 2020-2022, the NACP supported 98 lawsuits involving whistleblowers, of which 63 lawsuits had been opened since the beginning of 2020, and 21 cases have been decided in favour of

⁹⁴ The law includes members of his family, as well as the following relatives, in the definition of close persons: husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, siblings, cousins, siblings of wife (husband), nephew, niece, uncle, aunt, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, adoptive parent or adopted child, guardian or trustee, person who is under the guardianship or custody of the specified person;

whistleblowers. In addition, the NACP filed 5 applications to intervene in cases opened based on whistleblower lawsuits, which were granted.

During 2020-2022, the NACP issued 7 instructions (including 2 on the violation of the right to confidentiality, and 5 on the elimination of violations and restoration of the rights of the whistleblower).

The NACP also drew up 3 protocols on administrative offences under Article 188-46 of the Administrative Code of Ukraine and submitted to law enforcement agencies 2 applications concerning criminal offences under Article 172 of the Criminal Code of Ukraine, for the purpose of taking measures for bringing the persons guilty of violation of labour rights of whistleblowers to criminal liability. Relevant information has been entered into the Unified Register of Pre-Trial Investigations.

Under part 7 of Article 53 of the Law of Ukraine “On Prevention of Corruption,” the NACP shall constantly monitor the implementation of the law in the field of protection of whistleblowers, and shall carry out an annual analysis and review of the state policy in this area. Research has been prepared based on this monitoring (<https://cutt.ly/1FRF0LD> and <https://cutt.ly/1FRF4ZW>).

Within its competences, the NACP also provides methodological and explanatory support to whistleblowers, namely:

1) 8 explanations on the protection of whistleblowers have been prepared, available at <https://cutt.ly/GFRGwGt>;

2) Requirements to the Protection of Anonymous Communication Channels for Reports of possible corruption, corruption-related violations or other violations of the Law of Ukraine “On Prevention of Corruption” have been developed and approved by the NACP order No. 127/20 of 02 April 2020, registered in the Ministry of Justice of Ukraine on 22 April 2020 under No. 370/34653 (<https://cutt.ly/wFRGo5u>).

3) educational courses and methodological materials have been developed for whistleblowers and for people who work with whistleblowers:

- a practical guide to working with whistleblowers for authorised units (authorised persons) on the prevention and detection of corruption (available at: <https://cutt.ly/DFRGRyw>);

- a practical guide to working with whistleblowers for authorised units (authorised persons) on the prevention and detection of corruption of the National Police;

- general short-term programme of professional development “Organisation of work with corruption whistleblowers in state and local government” (developed jointly with the Ukrainian School of Government), which has been used to train 340 employees of authorised units (authorised persons) on corruption prevention and detection in state and local government bodies.

- training course Whistleblower in Law (<https://cutt.ly/3FRG5rg>);

- online course Affect and Report (<https://cutt.ly/TFRHiSA>)

- in the mobile application Your Right, there is a separate section on whistleblowers “The Rights of Corruption Whistleblowers”;

- A specialised training course on whistleblower protection for lawyers of the free legal aid system has been developed, and a pilot training was conducted on 25-26 November 2021.

Respect for the rights of applicants and whistleblowers by NABU

The Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” and regulations of the National Bureau⁹⁵ stipulate the duty of an employee of the National Bureau who became aware of illegal actions or inaction of another employee of the National Bureau to immediately notify the Director of the National Bureau and the Internal Control Unit of the National Bureau.

Applicants and whistleblowers, as well as members of their families, who are employees of the National Bureau, have the right to protection from unlawful influence by the Director of the National Bureau, the First Deputy Director, Deputy Directors of the National Bureau, Heads of Independent Structural Units and their immediate supervisor, namely:

- may not be removed from office or forced to resign;

- may not be prosecuted or otherwise harassed for reporting illegal actions or inaction of other employees of the National Bureau and actively participating in the detection, prevention, cessation and disclosure of illegal actions or inaction of other employees of the National Bureau, except for prosecution for knowingly false reporting about the commission of a crime;

- officials of the National Bureau are prohibited from disclosing information about applicants and whistleblowers.

If there is data indicating a real threat to life, health or property of applicants and whistleblowers, as well as their relatives, the Director of the National Bureau may decide to apply security measures under the Law of Ukraine "On State Protection of Judicial and Law Enforcement Officials.”

152. Are internal control and audit bodies in place and do they regularly perform checks and report on them?

Laws and regulations in the field of internal control and internal audit

The issues of internal control and internal audit of budget managers of all levels (main budget managers and lower level budget managers, both for state and local budgets) are laid down in part 3 of Article 26 of the Budget Code of Ukraine. In particular, budget managers, represented by their heads, organise internal control and internal audit and ensure their implementation in their institutions and enterprises, institutions and organisations belonging to the management sphere of such budget managers.

Internal control is a set of measures used by the head to ensure compliance with the law and efficiency of budget funds usage.

⁹⁵ Order of the Director of the National Bureau "On approval of the Regulations on interaction with employees of the National Anti-Corruption Bureau of Ukraine who report illegal actions or inaction of other employees of the National Anti-Corruption Bureau of Ukraine" of 02 March 2018 No. 45.

Internal audit is an activity aimed at improving the management system, internal control, prevention of illegal, inefficient and ineffective use of budget funds, errors or other shortcomings in the activities of the budget manager and enterprises, institutions and organisations.

The main principles of internal control and internal audit and the procedure for establishing internal audit units are defined by bylaws approved by the Cabinet of Ministers of Ukraine, namely:

- The basic principles of internal control by budget managers, approved by the Cabinet of Ministers of Ukraine No. 1062 from 12 December 2018 (hereinafter - the Basic Principles), determine the principles and elements of internal control, organisation and implementation of internal control by budget managers;

- The procedure for internal audit and the establishment of internal audit units, approved by the Cabinet of Ministers of Ukraine No. 1001 from 28 September 2011 (hereinafter - the Procedure No. 1001), determines the formation mechanism of internal audit structural units and their activities.

Organisational and methodological principles of organisation and implementation of internal control and internal audit are defined by bylaws approved by the Ministry of Finance of Ukraine, in particular:

- Methodical recommendations on the organisation of internal control by managers of budget funds in their institutions and subordinate budget institutions, approved by the order of the Ministry of Finance No. 995 from 14 September 2012 (determines the practical aspects of building internal control in the institution in terms of five elements of internal control - internal environment, risk management, control measures, information and communication, monitoring);

- Internal audit standards approved by the order of the Ministry of Finance No. 1247 from 04 October 2011, which defines common approaches to internal audit activities in government agencies and defines the provisions, requirements and approaches to the organisation of internal audit activities, planning, conducting internal audits, reporting on it results;

- The Code of Ethics of Internal Audit Officers, approved by the order of the Ministry of Finance No. 1217 from 29 September 2011 and registered with the Ministry of Justice on 17 October 2011 as No. 1195/19933, which declares principles of the system of moral and professional values and rules of conduct of internal audit units.

Organisation and implementation of internal control

In accordance with the Basic Principles, the head of the institution organises and ensures the implementation of internal control, covering issues of planning the institution activities, budget process, management of budget funds, state property and other resources, organisation of accounting, preparation of reporting, provision of administrative services, implementation of control and supervisory functions, procurement of goods, works and services, legal work, work with staff, activities to prevent and detect corruption, ensuring secrecy and information security, protection of information in informational, telecommunication and information-telecommunication systems, organisations document management, including e-document management and information flow management, interaction with the media and the public, addressing other issues related to the functioning of the institution (paragraph 4 of the Basic Principles).

The internal control system in the institution consists of elements (internal environment, risk management, control measures, information and communication, monitoring). Elements of internal control are interrelated, they apply to 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 head of the institution is responsible and accountable for the proper management and development of the institution.

Regarding the organisation and implementation of internal audit activities

The function of internal audit function was introduced in Ukrainian state bodies on 1 January 2012.

Internal audit units must be established in ministries, other central executive bodies, the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations, and other main managers of state budget funds (such units are established in all these state bodies).

According to the decision of the head of the state body, internal audit units may be formed in the territorial divisions of state bodies and budgetary institutions that belong to the sphere of management of the state body.

The norm of the Procedure No. 1001 on the establishment of internal audit divisions is a recommendation for local self-government bodies. A number of local governments have established internal audit units having it in mind. At the same time, the share of such

bodies is insignificant.

In accordance with paragraph 4 of the Procedure No. 1001, the main task of the internal audit department is to provide the head of the institution with objective and independent conclusions and recommendations on the functioning of the internal control system and its improvement; improving 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 organisations belonging to the sphere of its management.

Unscheduled internal audits may be conducted according to the decision of the head of the institution.

Examples of internal control and internal audit in anti-corruption institutions (NACP and NABU) are presented below.

Internal control in the NACP

In order to ensure the integrity of NACP staff, Article 17-1 of the Law of Ukraine “On Prevention of Corruption” provides for the establishment of the Internal Control Unit. Its main powers include monitoring and control of the compliance with the acts of legislation on ethical conduct and conflicts of interest of NACP staff; control over the timeliness of filing and comprehensive examination of their declarations; integrity checks and lifestyle monitoring of NACP officials, official investigations in relation to NACP employees. In 2020, the Internal Control Unit was established in the NACP to fulfil the legislative requirements; it includes 9 staff positions, with six of them currently

filled and three vacant.

According to the Procedure of Internal Audit and the Establishment of Internal Audit Units approved by the Resolution of the Cabinet of Ministers of Ukraine of 28 September 2011 No. 1001, the chief specialist on internal audit performs the function of internal audit within the NACP structure. His or her functions include the implementation of measures for planning, organisation and implementation of internal audits, documenting their results, preparation of audit reports, conclusions and recommendations, monitoring compliance with recommendations and reporting.

Conducting inspections and other measures by the NACP ICU aimed at ensuring scrupulous performance of duties by all NACP staff members.

During 2021, the Internal Control Unit provided 67 consultations to NACP employees; 23 full verifications of NACP employees' declarations were conducted; 138 appeals from individuals and legal entities regarding the actions of employees were considered, 4 official inspections, 9 integrity checks and 2 lifestyle monitoring checks of employees were conducted.

These results are published in the annual NACP reports, reports on the fulfilment of NACP action plan for a year or six months, or in the self-evaluation reports on NACP performance.

In 2021, 6 internal audits were conducted, namely on planned financial activities and accounting and activities of individual NACP units, which resulted in 23 recommendations provided, 10 of which as of 01.01.2022 have been implemented, and for 13, there is time remaining to fulfil them.

Internal control in NABU

The activities of the NABU Internal Control Unit are governed by the NABU Law that also provides for the specific features of the internal control units formed in order to prevent, detect, and investigate the violations in the activities of NABU staff members; to check the integrity of NABU staff members and to monitor their life styles; to conduct internal investigations pertaining to NABU staff members; to take measures to protect NABU staff members reporting about unlawful actions or inaction of other NABU staff members, etc.

The NABU internal control system is implemented in line with COSO model (The Committee of Sponsoring Organisations of the Treadway Commission), and there are processes carried out to integrate it with the anti-corruption management system built in accordance with the requirements of the international anti-corruption standard ISO 37001:2016 (Anti-bribery management systems — Requirements with guidance for use), which forms the basis for the national standard ISO 37001:2018 (ISO 37001:2016, IDT).

Annually, starting from 2019, the internal control system in NABU undergoes external independent audit for compliance with ISO 37001:2016 (Anti-bribery management systems — Requirements with guidance for use).

The reports of the Internal Control Unit are included into the written report on NABU activities drafted and published twice a year.

Additionally, there is a separate Internal Audit Unit working in NABU and reporting directly to the NABU Director.

The Internal Audit Unit regularly conducts internal audits in line with the Strategic and Operational Activity Plans on the Internal Audit in the National Anti-Corruption Bureau of Ukraine approved by NABU director. As a follow up to the results of each internal audit, the head of the Internal Audit Unit provides their findings and recommendations to the NABU Director in order to facilitate the relevant managerial decision-making.

At the beginning of the year, the head of the Internal Audit Unit reports to the NABU Director on the implementation of the Plans of Internal Audit and Improving the Quality of Internal Audit. NABU also reports to the Ministry of Finance of Ukraine on the internal audit status and on the implementation of the internal audit plans.

153. Are integrity plans in place in key parts of the public administration and judiciary? Are there commonly accepted guidelines available for designing and monitoring integrity plans? Do such plans/guidelines contain safeguards with respect to the use of public resources?

Integrity issues related to reforms in public administration

On 21 July 2021 the Public Administration Reform Strategy of Ukraine 2022-2025 was approved by the ordinance (order?) № 831-p by the Cabinet of Ministers of Ukraine. This Strategy aims to continue the development of professional, honest, politically neutral state service and service in local self-government bodies with the view to safeguard the interests of citizens. In order to ensure a successful development of state service it is planned to continue the development and implementation of instruments that help to minimise the risks of unethical behaviour of state servants and their abuse of power. These instruments include the following components:

- Opportunities for state servants to receive consultations in ethically complicated situations and opportunities to file complaints if dishonest behaviour is disclosed;
- Trainings of practical aspects of integrity; issues related to ethical behaviour of states servants will be included into the professional development programs;
- Tests and surveys on unethical behaviour among the state servants;
- Declaration of interests of a state servant confirming that there is no conflict of interests related to the state servant personally and/ or family members (especially for category A of state service positions).

The Action Plan for the Implementation of Public Administration Reform Strategy of Ukraine 2022-2025 provides the annual training for state servants including integrity matters, project management, strategic planning, and good governance.

Anti-corruption programmes as an overall framework for integrity

One of the elements of the state anti-corruption policy in Ukraine envisaged in Chapter III of the Law of Ukraine “[On Prevention of Corruption](#)” (hereinafter – the Law), namely in Article 19 of the Law, is an obligation of the state bodies and certain local government bodies to adopt anti-corruption programmes including integrity requirements. Anti-corruption programmes are adopted in:

- the Administration of the President of Ukraine, the Staff of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights, the Prosecutor General's Office, the Security Service of Ukraine, ministries, other central executive authorities, other state authorities with jurisdiction covering the entire territory of Ukraine, Oblast, Kyiv and Sevastopol city state administrations, state trust funds;

- the Staff of the National Security and Defence Council of Ukraine;

- the National Bank of Ukraine;

- the Accounting Chamber, the Central Election Commission, the High Council of Justice, the Supreme Rada of the Autonomous Republic of Crimea, oblast councils, Kyiv and Sevastopol city councils, the Council of Ministers of the Autonomous Republic of Crimea.

The full list of bodies who adopt the programmes is prescribed by the NACP and published on its website under the following link: <https://cutt.ly/oRF1GR5>. The list includes 169 bodies, among which there are the Supreme Court, the High Anti-Corruption Court, and the Constitutional Court of Ukraine.

Other state bodies not mentioned in Article 19 of the law are not legally obliged to adopt anti-corruption programmes. Nevertheless, the NACP encourages to adopt such a programme thus ensuring an “integrity plan” that envisages:

- Assessment of corruption risks in activities of an authority, institution or organisation, and the causes and conditions which facilitate them;

- Measures to eliminate the identified corruption risks, persons responsible for their implementation, terms, and resources required;

- Awareness-raising measures and measures to disseminate information on targeted anti-corruption programmes;

- Procedures for monitoring, evaluation of the implementation, and periodic review of the programmes;

- Other measures aimed at preventing corruption and corruption-related offences.

The anti-corruption programmes of the bodies in Article 19 of the Law are to be approved by the NACP.

Legal basis for the preparation of anti-corruption programmes

The legal basis for the preparation of anti-corruption programmes of state bodies is comprised of the following documents:

1) Methodology for assessing the corruption risks in the activities of the state bodies, approved by the NACP decision of 02 December 2016 No. 126 (<https://cutt.ly/hPafC8j>) (expires on 04 June 2022). By the decree of the NACP of 28 December 2021 No. 830/21 «On improving the process of management of the corruption risks» (enters into force on 04 June 2022) a new complex Methodology for managing the corruption risks was adopted. It has detailed guidance on the identification and management of the corruption risks (<https://cutt.ly/oFWt5PS>).

2) Procedure for preparation and filing anti-corruption programmes for the NACP

approval and procedure for their approval, approved by the NACP decision of 08 December 2017 No. 1379 (<https://cutt.ly/XPsWYlt>) (expires on 04 June 2022). In 2021, the NACP developed a new Procedure for filing anti-corruption programmes and amendments thereof for the NACP approval and procedure for their approval. It was approved by the NACP decree of 28 December 2021 No. 830/21 and will come into force on 04 June 2022 (<https://cutt.ly/5FWuaKV>).

Moreover, the NACP developed, distributed and / or updated the following methodological recommendations on the preparation of anti-corruption programmes:

- 1) Typical mistakes in development of an anti-corruption programme: <https://cutt.ly/6Pgp7hT>;
- 2) Monitoring, implementation assessment, and periodic review of state bodies' anti-corruption programmes: <https://cutt.ly/AQIayAw>;
- 3) Explanations on the involvement of external stakeholders in the development of state bodies' anti-corruption programmes: <https://cutt.ly/gPgo9qs>;
- 4) Recommendations on how to file the anti-corruption programme for the NACP approval: <https://cutt.ly/4PgoL1Q>;
- 5) Advices for developing an anti-corruption programme: <https://cutt.ly/TPgoRZX>;
- 6) Checklist to prepare for the NACP approval regarding the issues of implementation of the anti-corruption programme: <https://cutt.ly/fPgaUvc>;
- 7) Checklist to prepare for the NACP approval regarding the issues of implementation of the anti-corruption programme of a legal entity: <https://cutt.ly/bPgaMhB>.

To ensure public access to the information on the current status of approval of the anti-corruption programmes, the NACP has developed a tool «monitoring the status of approval of anti-corruption programmes», available under the following link: <http://surl.li/bksdv>. The tool also includes an online form, through which the public can submit their suggestions to the anti-corruption programmes being reviewed by the NACP (<http://surl.li/bksdv>).

In 2020, the NACP received 106 anti-corruption programmes for approval, while in 2021 - 155. In 2020, the NACP reviewed 71 anti-corruption programmes, of which 37 were approved, and 34 were refused approval. In 2021, the NACP reviewed 122 programmes, of which 62 were approved, and 60 were refused approval.

Analysis of the implementation of the anti-corruption programmes

Anti-corruption legislation obliges the bodies that adopt the anti-corruption programme to provide, on a semi-annual basis, the NACP with the information on the current stage of implementation of measures envisaged by the anti-corruption programmes (Part 11 of Chapter II of the Model Regulation of the authorised unit (the authorised person) on corruption prevention and detection, approved by the NACP decree of 27 March 2021. No. 277/21 (<https://cutt.ly/pFW4By6>).

In order to analyse the implementation of the anti-corruption programmes, the NACP has developed a separate module for the Anti-corruption Portal. The module allows for filing the report on the results of periodic monitoring and the implementation assessment of the anti-corruption programmes via the user's personal cabinet of the Portal. Such reports are to be filed on a semi-annual

basis by the authorised persons on corruption prevention and detection of the state bodies. Due to the military aggression of the Russian Federation, the launch of this module is temporarily suspended. Following the mentioned analysis, the state bodies review their anti-corruption programmes. The NACP recognizes the best practices and bodies that perform the best and provides recommendations and guidance to those that perform poorly.

B. Domestic legal framework

154. Please provide succinct information on legislation or other rules governing this area.

In particular, please mention:

a) Whether there is a clear definition of corruption (passive and active) and in which type of acts: policy documents and/or legal texts? Which type of conduct can be sanctioned as corruption? Is active and/or passive bribery sanctioned? In the public and/or private sector? Trading in influence? Corruption of foreign and international public officials? What kind of sanctions exist (e.g. possibility of confiscation of proceeds, disqualification measures)? Does legislation contain provisions designed to prevent corruption?

b) Whether the criminal code criminalises the following offences: bribing national and international public officials, money-laundering embezzlement, misappropriation or other diversion by a public official, trading of influence, abuse of office; bribery and embezzlement in the private sector, laundering of proceeds of crime, concealment and obstruction of justice.

c) Whether illicit enrichment is criminalised.

d) *Definition of corruption and what kind of conduct can be considered corrupt*

The definition of corruption and corruption offences is contained in Article 1 of the Law of Ukraine ["On Prevention of Corruption"](#):

Corruption is the use by a person referred to in part 1, Article 3 of this Law of granted official powers or powers associated with opportunities to obtain unlawful benefit or receipt of such benefit or receipt of a promise/offer of such benefit for himself/herself or others, or respectively the promise/offer or granting of an unlawful benefit to the person referred to in part 1, Article 3 of this Law or upon his/her request to other individuals or legal entities with a view to persuade the person to unlawfully use his/her official authorities or associated opportunities granted to him/her.

Corruption offence is an act that has the signs of corruption, was committed by a person referred to in part 1, Article 3 of this Law and for which the Law established criminal, disciplinary and/or civil liability.

In addition to the above, the [Criminal Code of Ukraine](#) contains the definition of a *criminal offence of corruption*.

According to para. 1 of the note to Article 45 of the Criminal Code, criminal offences of corruption under the Code are criminal offences provided by Articles 191, 262, 308, 312, 313, 320, 357, 410, in case of their commission by abuse of office, as well as criminal offences under Articles 210, 354, 364, 364-1, 365-2, 368-369-2 of the Code.

Active and passive bribery

Ukrainian law provides for liability for both passive and active corruption.

As follows from Article 1 of the Law of Ukraine "On Prevention of Corruption," integral features of corruption are, in the case of passive corruption: the use of official powers and opportunities, receipt of illegal benefits or acceptance of promises / offers of such benefits as a form of action; illicit gain as its object or purpose — and in the case of *active corruption*: promise / offer to provide, or provision of, illicit gain as a form of action; use of official powers and relevant opportunities as a means to achieve the goal of obtaining illegal benefits.

Manifestations of *active and passive bribery* are punishable at the level of various criminal offences under the Criminal Code.

Thus, liability for active bribery is provided by:

- Criminal Code, Article 354, parts 1, 2 (bribery of an employee of an enterprise, institution or organisation);
- Article 369 of the Criminal Code (offer, promise or provision of illegal benefit to an official);
- Part 1, 2, Article 368³ of the Criminal Code (bribery of an official of a legal entity of private law, regardless of organisational and legal form);
- Part 1, 2, Article 368⁴ of the Criminal Code (bribery of a person providing public services);
- Article 369² of the Criminal Code (trading in influence).

In turn, liability for passive bribery is provided by:

- Criminal Code, Article 354, parts 3, 4 (bribery of an employee of an enterprise, institution or organisation);
- Article 368 of the Criminal Code (acceptance of the proposal, promises or provision of illegal benefit by an official);
- Part 3, 4, Article 368³ of the Criminal Code (bribery of an official of a legal entity of private law);
- Part 3, 4, Article 368⁴ of the Criminal Code (bribery of a person providing public services).

Corruption in the public and / or private sector

According to the legislation of Ukraine on criminal liability, manifestations of corruption in both the public and private sectors constitute criminal offences.

Private sector:

- bribery of an employee of an enterprise, institution or organisation (Article 354);
- abuse of power by an official of a legal entity of private law (Article 364¹);
- bribery of an official of a legal entity of private law (Article 368³).

Public sector:

- abuse of power or official position (Article 364);
- abuse of power by persons providing public services (Article 365²);

- acceptance of the proposal, promises or provision of illegal benefit by an official (Article 368);
- bribery of a person providing public services (Article 368⁴);
- offer, promise or provision of illegal benefit to an official (Article 369).

Mixed, ie for both the public and private sectors:

- misappropriation, embezzlement of property or taking it by abuse of office (Article 191 of the Criminal Code);

- appropriation or seizure by abuse of office of firearms, ammunition, explosives, radioactive materials (Article 262); narcotic drugs, psychotropic substances, their analogues (Article 308); precursors (Article 312); equipment intended for the manufacture of narcotic drugs, psychotropic substances or their analogues (Article 313); documents, stamps, seals (Article 357); military property (Article 410).

Sanctions for corruption offences

Criminal sanctions for corruption offences: fine, public works, detention, restriction of liberty, imprisonment with or without disqualification to hold certain positions or to conduct certain activities, with or without confiscation of property.

Article 366-2 CC of Ukraine provides for criminal liability for inaccurate declaration.

Article 96-1 CC of Ukraine provides for a special confiscation amounting to a compulsory, unremunerated requisitioning of money, valuables, and other property in favour of the state by a court decision in cases specified by this Code.

For legal entities in cases specified by the CC of Ukraine, the court can use such criminal justice measures (Article 96-1 CC of Ukraine) as a fine, confiscation of property, liquidation.

A person authorised to exercise state functions or local self-government functions regarding whom a court decision became effective to declare their assets non-justified and to forfeit such assets in favour of the state.

Provisions designed to prevent corruption

The provisions of the Law of Ukraine "On Prevention of Corruption" are aimed at introducing legislative restrictions, mechanisms and requirements aimed at preventing corruption. For specific anti-corruption mechanisms, please see answer to question 142 of this Questionnaire.

b) bribing national and international public officials, money-laundering embezzlement, misappropriation or other diversion by a public official, trading of influence, abuse of office; bribery and embezzlement in the private sector, laundering of proceeds of crime, concealment and obstruction of justice

- Bribing an employee of an enterprise, an institution or an organisation (CC Article 354),
- Accepting a proposal, promise or receipt of an unlawful benefit by an official (CC Article 368),
- Bribing an officer of a legal entity under private law regardless of the form of ownership (CC Article 368-3),

- Bribing a person providing public services (CC Article 368-4 CC of Ukraine),
- Proposing, promising or providing an unlawful benefit to an officer (CC Article 369),
- Improper influence (CC Article 369-2),
- Unlawful influence on the results of any official sports competitions (CC Article 369-3),
- Legalisation (laundering) of proceeds of crime (CC Article 209),
- Deliberate violation of law requirements to prevent and counter legalization (laundering) of proceeds of crime, financing terrorism, and financing the proliferation of weapons of mass destruction (CC Article 209-1 CC of Ukraine),
- Misuse of public funds, incurring the budget expenditure or providing loans from the budget without the specified budget allocations or exceeding such allocations (CC Article 210 CC of Ukraine),
- Misappropriation or embezzlement of property or unlawful acquisition of such property through abuse of authority (CC Article 364),
- Abuse of authority by an official of a legal entity under private law regardless of the form of ownership (CC Article 364-1).

CC Article 364 provides for criminal liability for abuse of authority or official position, that is a deliberate use of power or official position by an official contrary to the interests of their office if such actions caused significant damage to the rights, liberties, and interest of separate citizens, state or public interest, or the interest of legal entities where such interest is protected by the law, with a view to receive any unlawful benefit for themselves or for any other individual or entity.

According to note 1 to the aforementioned article, the officers mentioned in articles 364, 368, 368-5, 369 of this Code include the persons who permanently, temporarily or due to any special powers perform the functions of representatives of state authorities or local self-government, and also those who permanently or temporarily occupy in state bodies, local self-government bodies, or state or communal enterprises, in any institutions or organisations the offices related to exercise of organisational and management functions, as well as the administrative and economic functions, or those who exercise such functions due to some special powers vested upon such a person by an authorised state body, local self-government body, central state agency having a special status, a body or a person authorised by an enterprise, institution or organisation, by a court or by the law.

According to note 2 to CC Article 364, such officials also include officers of foreign states (persons holding their offices in a legislative, executive or judicial body of a foreign state, including the jury members, other persons exercising functions of the state for a foreign state, namely for a state body or a state enterprise), as well as foreign arbitrators, persons authorised to decide on civil, commercial, or labour disputes in foreign states according the procedure alternative to a court trial, officers of international organisations (employees of international organisations or any other persons authorised by such organisation to act on its behalf), members of international parliamentary assemblies where Ukraine is a member, and judges and officials of international courts.

Trading in influence

Criminal liability for trading in influence is provided by Article 369² of the Criminal Code. A proposal, promise or provision of illegal benefit to a person who offers or promises (agrees) to influence the decision of a public official for such benefit or for providing benefit to third party, as well as acceptance of an offer, promise or receipt of illegal benefit for oneself or a third party for influencing the decision of a public official, or a proposal or promise to exercise influence for providing such a benefit are both punishable.

Corruption of foreign and international public officials

Under Article 18, part 4, and clause 2 of the note to Article 364 of the Criminal Code, the following individuals are considered officials:

- a) officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons performing state functions for a foreign state, in particular for a state body or state enterprise);
- b) foreign arbitrators, persons authorised to resolve civil, commercial or labour disputes in foreign countries as an alternative to judicial procedure;
- c) officials of international organisations (employees of an international organisation or any other person authorised by such organisation to act on its behalf);
- d) members of international parliamentary assemblies, of which Ukraine is a member;
- e) judges and officials of international courts.

Therefore, the above entities are subject to criminal liability under the same articles as Ukrainian officials; committing acts of corruption in relation to them is as criminally punishable as committing such acts against officials of Ukraine. However, Article 8 of the Criminal Code stipulates that foreigners or stateless persons not permanently residing in Ukraine shall be liable in Ukraine under this Code if they have committed a corruption offence under the Code outside of Ukraine in cooperation with officials who are citizens of Ukraine under Articles 368, 368³, 368⁴, 369 and 369² of the Criminal Code, or if they offered, promised, provided illegal benefits to such officials, or accepted an offer, promise of illegal benefit or received from them such benefit. These persons are not exempt from criminal liability for offering, promising and providing illegal benefits (Articles 354, 368³, 368⁴, 369 and 369² of the Criminal Code), even if after offering, promising or providing illegal benefits they voluntarily declared what happened to a law enforcement body and actively promote the disclosure of a crime committed by a person who has obtained an improper benefit or accepted his or her offer or promise.

Misappropriation of money, embezzlement etc. by civil servants

Liability for misappropriation, embezzlement of property or taking it by abuse of office is stipulated by Article 191 of the Criminal Code. The subject of this criminal offence may be both a public official and a private sector official, as the criminal offence under Article 191 of the Criminal Code can be committed by an official as defined by Article 18 of the Criminal Code.

Money laundering

Liability for money laundering is stipulated by Article 209 of the Criminal Code.

In 2019, Ukraine adopted the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction (hereinafter — the Law), which redefined the Criminal Code's concept of money laundering, namely: "Acquisition, possession, use, disposal of property in respect of which the facts indicate its receipt by criminal means, including financial transactions, transactions with such property, or relocation, change of form (transformation) of such property, or actions aimed at concealing, masking the origin or possession of such property, the right to such property, its sources of origin, location, if these acts were committed by a person who knew or should have known that such property directly or indirectly, in whole or in part was obtained by criminal means."

This crime, depending on the presence of aggravating factors, belongs to the category of serious or particularly serious ones and is additionally punishable by deprivation of the right to hold certain positions or engage in certain activities and confiscation of property.

Obstruction of justice

In addition to the above corruption offences, the Criminal Code of Ukraine also provides for liability for other acts specified in anti-corruption international treaties, namely:

- illegal actions with respect to property seized, pledged or property inventoried or subject to confiscation (Article 388);
- threat or violence against a judge or jury (Article 377);
- encroachment on life of a judge or jury (Article 379);
- coercion to testify (Article 373);
- obstructing the appearance of a witness, victim, expert, forcing them to refuse to testify or provide an opinion (Article 386).

c) Illicit enrichment

For a long time, the obligation to criminalise illegal enrichment in the legal system of Ukraine was formalised in various versions of Article 368² of the Criminal Code, which, however, was ruled unconstitutional⁹⁶ by the Constitutional Court of Ukraine in 2019, mostly on the grounds of the lack of legal certainty as part of the principle of rule of law, and the principle of presumption of innocence.

To replace it at the end of 2019, the Criminal Code was supplemented by the new Article 368⁵, which establishes liability for the acquisition of assets by a person authorised to perform the functions of state or local government whose value exceeds their legal income by six thousand five hundred non-taxable minimum incomes. However, innovations of the Civil Procedure Code of Ukraine stipulate that assets shall be recognized unexplained and forfeited to state income in cases when the value of such assets does not reach 6,600 non-taxable minimum incomes but is equal to or exceeds 200 minimum salaries (such cases are considered by the High Anti-Corruption Court).

⁹⁶ Decision of the Constitutional Court of Ukraine of 26 February 2019 No. 1-r / 2019. Access mode: http://www.ccu.gov.ua/sites/default/files/docs/1_p_2019.pdf

155. Protection of the financial interests of the European Union (criminal aspects)

In order to implement the provisions of the Association Agreement on the protection of EU financial interests, the Government has introduced a national mechanism for coordinating the interaction of public authorities to protect the financial interests of Ukraine and the European Union (CMU Resolution of 25 October 2017 No. 1110). The national mechanism includes the establishment of an Interdepartmental Coordination Council for Combating Violations Affecting the Financial Interests of Ukraine and the EU, as well as a National Contact Point. By the resolution of the Cabinet of Ministers No. 702 of 07 July 2021 the State Audit Office has been designated as the National Contact Point for the Organisation of Interaction with the European Anti-Fraud Office (OLAF) and the European Court of Auditors (ECA).

In order to develop cooperation and determine the order of interaction, it is envisaged to conclude agreements between the relevant public authorities and with OLAF. Memoranda of understanding/cooperation agreements have already been signed between OLAF and NABU, OLAF and the Office of the Prosecutor General. Bilateral work is underway to agree on an administrative arrangement between OLAF and the State Service.

In accordance with sub-clause 17-1 of clause 3 of the Regulation on the State Audit Office of Ukraine, approved by the Cabinet of Ministers of Ukraine No. 43 of 3 February 1996, the State Audit Office participates in on-site inspections conducted by the European Anti-Fraud Office to protect EU financial interests against fraud and other irregularities in Ukraine in accordance with the provisions of Council Regulation (Euratom, EU) No. 2185/96 of 11 November 1996, and the legislation of Ukraine.

Ukraine is working on introducing amendments to the legislation (including amendments to the Criminal Code and Criminal Procedure Code) to transpose EU Directive 2017/1371.

A draft Law of Ukraine “On Protection of the Financial Interests of the European Union” has been prepared, which should become the legal framework for the protection of the financial interests of the European Union and implement the provisions of Directive (EU) 2017/1371 in the national legislative field.

The Draft Law:

- identifies the subjects of 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 informing about possible cases of fraud, the procedure for tracking cases of suspected fraud and recovering improperly used EU funds;
- establishes an act that harms the financial interests of the EU and determines the responsibility for their commission;
- regulates the procedure for detecting, preventing and informing about possible cases of fraud;
- regulates cooperation in the field of tracking cases of suspected fraud, return of improperly used funds.

The draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine" provides an additional basis for liability for illegal actions with funds from the budget of the European Union, including:

- concealment or deliberate distortion by a person of information which is a prerequisite for obtaining funds from the European Union budget, which has led to the misappropriation of funds from the European Union budget;
- entering in the documents submitted to obtain funds from the budget of the European Union, knowingly false information, other forgery of such documents, as well as intentional submission to obtain funds from the budget of the European Union documents containing knowingly false information, other forgery that led to misappropriation of funds the budget of the European Union;
- misuse of European Union budget funds.

Customs control

According to the Criminal Code of Ukraine, criminal liability is established for crossing the customs border of Ukraine outside customs control or with concealment from customs control: cultural property, poisonous, potent, explosive, radioactive materials, weapons or ammunition (except smooth-bore hunting weapons or ammunition), parts of firearms, as well as special technical means of covert information gathering (Article 201); timber or lumber of valuable and rare species of trees, unprocessed timber, as well as other timber prohibited for export outside the customs territory of Ukraine (Article 201-1); narcotic drugs, psychotropic substances, their analogues or precursors or falsified drugs (Article 305).

The Customs Code of Ukraine provides for administrative liability in the form of fine and confiscation, in particular, for transferring or actions aimed at transferring goods, commercial vehicles across the customs border of Ukraine outside customs control, i.e. outside the location of the customs authority or outside set working hours, and without the completion of customs formalities, or with illegal exemption from customs control due to abuse of office by officials of the customs authority.

In addition, as of today the Verkhovna Rada of Ukraine is already considering 3 bills, the provisions of which are aimed, in particular, at establishing criminal liability for smuggling goods:

1) the draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Criminalization of Illegal Transferring of Excisable Goods" (Reg. No. 4556 of 29 December 2020), submitted by People's Deputies of Ukraine Getmantsev DO, Kovalchuk OV, Sova OG, Ustenko OO. The provisions of Bill 4556 encompass the introduction of criminal liability for smuggling of excisable goods, i.e. actions aimed at transferring excisable goods across the customs border of Ukraine outside customs control or with concealment from customs control.

2) the draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine on Criminalization of Transferring and Actions Aimed at Transferring Goods Across the Customs Border of Ukraine with Concealment from Customs Control and Outside of Customs Control" (Reg. No. 4556-1 of 18 January 2021), submitted by the People's Deputy of Ukraine Kholodov AI. draft law No. 4556-1 provides for the establishment of criminal liability for illegal transferring and actions aimed at transferring goods across the customs border of Ukraine with concealment from customs

control and outside of customs control, not only excisable goods but also any other goods, if such acts are committed on a large scale.

3) the draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine on Criminalization of Smuggling of Goods and Excisable Goods and Inaccurate Declaration of Goods" (Reg. No. 5420 of 23 April 2021), introduced by President draft law No. 5420 provides for criminal liability for smuggling goods and excisable goods.

It is envisaged that the pre-trial investigation of new crimes will be carried out by investigative bodies of the Bureau of Economic Security of Ukraine.

According to the results of the first reading, draft law No. 5420 was adopted as a basis and prepared by the relevant Verkhovna Rada Committee for consideration in the second reading.

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 Criminal Code of Ukraine 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.

The process of making amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine on liability for the acts of fraud and fraud-related criminal offences affecting the Union budget is currently under way.

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 Law of Ukraine "On Protection of the European Union's Financial Interests" has been drafted 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.

Furthermore, in order to implement the provisions of Directive (EU) 2017/1371, Ukraine 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 No. 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 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 (ECA).

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 No. 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) No. 2185/96 of 11 November 1996 and the legislation of Ukraine.

Also, 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.

156. Does the law criminalise fraud against the Union's financial interests, covering both expenditure and revenue?

As stated above, a draft law providing for criminal liability for illegal actions with the European Union funds is currently underway.

The following actions are proposed to be criminalised:

- "concealment or deliberate distortion of information, the provision of which is a prerequisite for obtaining funds from the EU budget" (Part 1 of Article 210(1) as amended);

- "entering into the documents of knowingly false information, other forgery of documents, the provision of which is a prerequisite for obtaining funds from the EU budget" (Part 2 of Article 210(1) as amended);

- "misuse of European Union budget funds" (Part 3 of this article in the draft law);

- "misuse of funds from the budget of the European Union in particularly large amounts" (Part 4 of this article in the draft law);

- "concealment or willful misrepresentation of information which is a prerequisite for obtaining EU budget funds", "introduction of knowingly false information into documents, other forgery of documents which are a prerequisite for obtaining EU budget funds" and "non-target use of funds from the budget of the European Union ", committed repeatedly or by prior agreement of a group of persons or an official using his official position (Part 5 of this article in the draft law);

- "concealment or willful misrepresentation of information which is a prerequisite for obtaining EU budget funds", "introduction of false information into documents, other forgery of documents which are a prerequisite for obtaining EU budget funds", if they led to the loss of EU budget funds in large amounts and especially large amounts (Part 6, Part 7 of this article in the draft law).

From the above it can be seen that the proposed criminal offences cover actions both in obtaining EU budget funds (Part 1, Part 2 of this article) and in their use (Parts 3, 4 of this article).

For more information please see the reply to question 155.

157. Does the law provide for the concepts of criminal liability of heads of businesses and liability of legal persons for these offences?

No. The imposition of criminal liability of heads of businesses and liability of legal persons for fraud-related offences affecting the Union's financial interests will be addressed through the implementation of the rules provided for in the draft Laws referred to in the answer to Question 155.

At the same time, the liability of legal persons is enshrined in Section XIV-I of the Criminal Code of Ukraine.

In cases provided for by the Criminal Code of Ukraine, a court may order the following criminal justice action in respect of legal persons (Article 96-1 of the Criminal Code of Ukraine): fine, confiscation of property; dissolution.

It should be specifically mentioned that criminal legislation does not separately recognise a head of a business as a subject of crime, but applies a more comprehensive concept of "official", which may include a head of a business.

Article 18 of the Criminal Code of Ukraine defines 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 Criminal Code of Ukraine 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 Criminal Code of Ukraine, the commission of a crime by an official is a distinct qualifying element, which is defined in a separate article of the Code.

At the same time, the draft Law of Ukraine “On Amending the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine”, mentioned in the answer to Question 155, proposes to add Article 210-1 “Misappropriation of funds from the budget of the European Union” to the Criminal Code of Ukraine to establish legal grounds for ensuring criminal justice action. The Bureau of Economic Security of Ukraine will have the competence to investigate these offences.

Specifically, the draft Law will impose liability of natural persons, including public officials and legal persons.

The draft Law proposes to qualify the relevant crime as a corruption offence.

The introduction of such liability will be resolved in the framework of the implementation of the norms of the draft laws described in the answer to question 155.

In particular, the draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine" proposed to supplement the Criminal Code of Ukraine with Article 210-1 "Illegal actions with the European Union budget". It will determine the legal basis for criminal measures. The competence to investigate such offences rests with the Economic Security Bureau of Ukraine.

The draft law provides for liability of officials and legal entities.

The liability of legal entities is provided for in Section XIV-I of the Criminal Code of Ukraine.

In cases provided by the Criminal Code of Ukraine, such measures of a criminal law (Article 96-1 of the Criminal Code of Ukraine) legal entities can be subject to the punishment with a fine; confiscation of property; liquidation.

It should be noted that the criminal law does not single out the head of the company as a subject of crime, but uses a more comprehensive concept of "official" which may include the head of the company as well.

In particular, Article 18 of the Criminal Code of Ukraine provides the following definition of 'an official':

Officials are persons who permanently, temporarily or by special authority perform the functions of government or local government representatives, as well as permanently or temporarily hold in public authorities, local governments, enterprises, in institutions or organisations positions related to the performance of organisational-administrative or administrative-economic functions, or perform such functions under special powers, which a person is endowed with an authorised body of state power, local government, central government with special status, authorised body or an authorised official of an enterprise, institution, organisation, court or law. Officials are also recognized as officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons performing state functions for a foreign state, in particular for a state body or state enterprise), foreign arbitrators, persons authorised to settle civil, commercial or labour disputes in foreign states in an alternative, judicial procedure, officials of international organisations (employees of an international organisation or any other persons authorised by such organisation to act on its behalf), as well as members of international parliamentary assemblies, in which Ukraine is a member, and judges and officials of international courts.

Moreover, footnote to Article 364 of the Criminal Code of Ukraine additionally states that:

officials in Articles 364, 368, 368-5, 369 of this Code are persons who permanently, temporarily or by special authority perform the functions of government or local government, as well as hold permanently or temporarily positions in state authorities, local self-government bodies, state or communal enterprises, institutions or organisations related to the performance of organisational or administrative functions, or perform such functions under special powers conferred on a person by authorised body of state power, body of local self-government, central body of state administration with special status, authorised body or authorised person of an enterprise, institution, organisation, court or law. Officials are also recognized as officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons performing state functions for a foreign state, in particular for a state body or state enterprise), as

well as foreign arbitrators, persons authorised to settle civil, commercial or labour disputes in foreign states in an alternative, judicial procedure, officials of international organisations (employees of an international organisation or any other person authorised by such organisation to act on its behalf), members of international parliamentary assemblies, in which Ukraine is a member, and judges and officials of international courts.

At the same time, a crime committed by an official is determined by the Criminal Code of Ukraine as a separate qualifying feature, which is indicated in a separate article of the Code.

158. Has Ukraine established jurisdiction over all of these offences?

Pursuant to the draft Law of Ukraine “On Amending the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine”, described in the answer to Question 155, it is the Bureau of Economic Security of Ukraine that has jurisdiction to investigate relevant offences.

Article 1(1) of the Law of Ukraine “On the Bureau of Economic Security of Ukraine” governs that the Bureau of Economic Security of Ukraine is a central executive body mandated to counteract offences that affect the functioning of the national economy. In accordance with the assigned tasks, the Bureau of Economic Security of Ukraine performs law enforcement, analytical, economic, information and other functions.

Also, Article 4 of the Law of Ukraine “On the Bureau of Economic Security of Ukraine” rules that in accordance with the assigned tasks, the Bureau identifies and investigate offences associated with receiving and using international technical assistance.

In the case of criminal prosecution for offences (questions 154-157 of this Questionnaire) ("Illegal actions with funds from the European Union budget"), Ukraine will have automatic jurisdiction over such offences.

According to the draft Law of Ukraine "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine", described in answer to question 155, the competence to investigate relevant crimes rests with the Economic Security Bureau of Ukraine.

Article 1 (1) of the Law of Ukraine "On the Economic Security Bureau of Ukraine" stipulates that the Economic Security Bureau of Ukraine is a central executive body empowered to combat offences that affect the functioning of the state economy.

Article 4 of the Law of Ukraine "On the Economic Security Bureau of Ukraine" stipulates that the Bureau carries out, in particular, the detection and investigation of offences related to the receipt and use of funds provided by the international technical assistance.

159. What measures have been taken to implement Council of Europe Group of States Against Corruption (GRECO) recommendations? Which recommendations are pending? Why? Please provide reasons and plans of action with clear indicators to fulfil the recommendations.

Main steps taken by Ukraine to implement the recommendations provided to Ukraine under the 4th GRECO Evaluation Round.

So far, Ukraine has finally passed and closed 3 rounds of GRECO evaluation.

According to the results of the Joint 1st and 2nd round as well as 3rd round, only 1 outstanding recommendation remained, which indicates that Ukraine has taken appropriate measures to implement the GRECO recommendations within these rounds.

Starting in 2017, the 4th round of evaluation is being implemented, within which GRECO provided [31 recommendations](#) to Ukraine. Progress in implementing the recommendations is reflected in [two Compliance Reports](#), in which GRECO noted the most significant achievements.

In 2020, the NACP was “reset” and a new Head of the National Agency was appointed as a result of transparent and open competitive selection. Thus, new acts regulating the work of the NACP were revised and developed, the Public Council of the NACP was established, which actively cooperates with NACP, and new methodological recommendations for MPs, judges, and prosecutors on the implementation of the [Law of Ukraine “On Prevention of Corruption”](#) were introduced. Therefore, recommendations I and V were implemented satisfactorily.

To implement recommendation XI, the procedural immunity of parliamentarians has been abolished. This will not impede the criminal prosecution of MPs suspected of committing corruption crimes.

The Judicial Protection Service has been established to ensure the safety of judges so that they are less subject to external pressure and corruption. It has already provided protection for 80% of judicial bodies and institutions.

As a precondition for implementing recommendations XXI and XXXI specialised and regular training was introduced for judges at the National School of Judges, as well as for prosecutors at the Prosecutors' Training Centre.

The introduction of legislative requirements for the Attorney General's compliance with the relevant qualification criteria, as well as the introduction of a new system for the promotion and periodic evaluation of prosecutors was welcomed by GRECO, which considered the implementation of Recommendation XXII as satisfactory.

The current state of implementation of these recommendations.

Reasons why GRECO considers certain recommendations as not implemented.

The last assessment of the implementation of the recommendations within the 4th round took place on 3 December 2021, when the Second Conformity Assessment Report of Ukraine was approved at the 89th plenary session of GRECO. GRECO found that 9 recommendations were implemented satisfactorily, 14 were partially implemented and 8 were not implemented.

Regarding Recommendation II, GRECO notes that significant negative consequences for the effectiveness of the anti-corruption system in Ukraine were caused by the Constitutional Court's decision of 27 October 2020 No. 13-r, and although relevant changes have been made, they still need to be tested in practice.

There are still some difficulties in implementing Recommendation III, as NABU still does not have direct access to recipients' accounts numbers.

Implementation of recommendations VII, VIII, IX, X on the prevention of corruption among parliamentarians remains problematic, as their implementation requires the adoption of relevant draft laws, which are still pending in Parliament.

A number of recommendations on judges regarding the selection, evaluation and disciplinary responsibility of judges and responsible bodies (XV, XVII, XIX) remain partially implemented or not implemented due to the blocking of the resumption of most judicial self-government bodies.

Recommendations on the appointment and evaluation of prosecutors also remain unfulfilled or partially implemented due to the fact the respective system has just started working and there is no significant progress.

In addition, GRECO notes some problems in implementing the recommendations on disciplinary liability of both judges and prosecutors. First of all, there are no clear definitions of disciplinary offences related to the conduct of judges, as provided for in Recommendation XIX. The composition of the Qualification and Disciplinary Commission of Prosecutors does not meet the requirements of Recommendation XXIII, and appeals against decisions on disciplinary action are still possible in the High Council of Justice, while according to the requirements of Recommendation XXX such appeals should be made in court only.

The main measures planned to be taken in the near future to implement the GRECO recommendations provided to Ukraine within the 4th GRECO evaluation round.

By 31 December 2022, Ukraine must submit to GRECO a report on the measures taken to implement the outstanding recommendations. Accordingly, after the discussion of the Second Compliance Report of Ukraine, ways were developed to further implement the GRECO recommendations, taking into account the positions of the group of experts conducting the assessment.

In order to satisfactorily implement Recommendation II, it is necessary to confirm its effectiveness in practice by providing examples and statistical information on declaration verification, lifestyle monitoring, automatic checks, access to databases, conflicts of interest detection, etc. An important role for the implementation of this recommendation will also be played by the NACP Performance Assessment Report, which is provided for in Part 4 of Article 14 of the Law of Ukraine "On Prevention of Corruption". The evaluation is currently being conducted by the NACP Independent Performance Review Commission, which will approve the Report.

A number of bills have been drafted to implement the recommendations on parliamentarians, so the adoption of the draft Law "On Amendments to Certain Legislative Acts on Combating Discrimination and Adherence to Ethical Behaviours by People's Deputies of Ukraine" No. 2559, which is one of the bills regulating lobbying⁹⁷, should bring Ukraine closer to satisfactory implementation of recommendations.

⁹⁷ "On State Registration of Lobbying Subjects and Lobbying in Ukraine" (Reg. #3059), "On Lobbying" (Reg. #3059-1), "On Legal and Transparent Regulation of Lobbying Activities" (Reg. #3059-2) and "On Lobbying" (Reg. #3059-3).

In 2022, the work of the Ethics Council at the High Council of Justice began. It was to check the current members of the High Council of Justice and its candidates according to the criteria of professional ethics and integrity. It is the continuation of its proper functioning that will unblock further implementation of judicial reform and will enable the implementation of most of the GRECO recommendations provided on the prevention of corruption among judges.

In order to fully implement GRECO's recommendation on the appointment and evaluation of prosecutors, it was envisaged to provide consistent implementation of relevant new legislation, the effectiveness of which GRECO was unable to assess.

160. Has Ukraine aligned its legislation to UN Convention against Corruption (UNCAC), Merida 2003 PDF 31/10/2003?

Ukraine signed the UN Convention against Corruption (hereinafter - the Convention) on 31 October 2003, it was ratified on 18 October 2006, and it entered into force for Ukraine on 1 January 2010. The following is an overview of Ukraine's implementation of legislative measures.

Preventive anti-corruption policies and practices

National legislation provides for the preparation and adoption of the Anti-Corruption Strategy and the State Program for its implementation (Article 18 of the [Law "On Prevention of Corruption"](#)). The previous Anti-Corruption Strategy, approved by the law of Ukraine, was designed for 2014-2017. Currently, the draft Law "On the Principles of State Anti-Corruption Policy for 2021-2025" is pending for the adoption in the Verkhovna Rada.

National legislation provides for an assessment of the effectiveness of anti-corruption policies, in particular, the draft annual national report on the implementation of anti-corruption policy should include a generalised analysis of the situation with corruption in the country based on statistical data and the results of sociological research, indicating, among other things, the impact of measures taken on the level of corruption (Article 20 of the Law "On Prevention of Corruption").

Preventive anti-corruption bodies

The National Agency on Corruption Prevention (hereinafter referred to as the NACP) has been established and operates according to the Law on Prevention of Corruption. It has the following functions: (1) shaping and implementing anti-corruption policy, (2) developing draft regulations on these issues; (3) developing draft Anti-Corruption Strategy and state program for its implementation; (4) monitoring, coordination and evaluation of the effectiveness of the Anti-Corruption Strategy; (5) informing the public about the measures taken by the NACP to prevent corruption, (6) implementation of measures aimed at shaping a negative attitude towards corruption among citizens and raising awareness; (7) engaging the public in the formation, implementation and monitoring of anti-corruption policy (Article 11 of the Law "On Prevention of Corruption").

The NACP has broad guarantees of its independence, which include, in particular: (1) the special status of the Agency; (2) special procedures for selection, appointment and termination of powers of the NACP Chairman; (3) a special procedure for financing and technical and material support of the NACP established by law; (4) proper remuneration of NACP management and

employees, determined by law; (5) transparency of NACP operations, etc. (Article 9 of the Law on Prevention of Corruption).

Preventing corruption in the public sector

At the legislative level, the measures specified in Part 1, 2 of Article 7 of the Convention, are embodied in many special laws regulating the status of public officials, including the Laws of Ukraine "On Civil Service", "On Service in Local Self-Government Bodies", ["On the Judiciary and the Status of Judges"](#), "On the Prosecutor's Office", "On the National Police", etc.

Measures to increase transparency in the financing of candidates for elected public office and, where appropriate, in the financing of political parties are also embodied in legislation such as the Electoral Code of Ukraine and the Law of Ukraine on Political Parties in Ukraine.

Measures to prevent and resolve conflicts of interest are provided by the Law of Ukraine "On Prevention of Corruption". Certain rules of conflict of interest for some categories of public officials are also established by other special laws, including procedural codes (for judges), the Law of Ukraine ["On the Judiciary and the Status of Judges"](#), the Law of Ukraine "On Local Self-Government", the Rules of Procedure of the Verkhovna Rada of Ukraine, the Law of Ukraine "On the Cabinet of Ministers of Ukraine", the Law of Ukraine "On Central Executive Bodies".

Codes of conduct for public officials

Section VI of the [Law on Prevention of Corruption](#) sets requirements for the rules of ethical conduct of public servants, which implement the principles set out in Part 1 of Article 8 of the Convention. National legislation contains a number of codes of ethical conduct, such as: General Rules of Ethical Conduct for Civil Servants and Local Government Officials, Code of Judicial Ethics, Code of Professional Ethics and Conduct for Prosecutors, Code of Ethics for Employees of the National Anti-Corruption Bureau of Ukraine, etc.

Ukraine has introduced comprehensive guarantees for the protection of persons who report corruption or corruption-related offenses, and appropriate legal preconditions have been created for such reporting (Section VIII of the Law on Prevention of Corruption).

Legal requirements for the periodic submission of declarations by public servants, which indicate information about assets, income, interests, extracurricular activities have been put in place (Section VII of the Law "On Prevention of Corruption").

Violation of the rules of ethical conduct is considered a disciplinary offence and entails liability under special laws governing the professional status of individuals (in particular, Article 65 of the Law "On Civil Service", Article 106 of the Law "On Judiciary and the Status of Judges", Article 43 Law "On the Prosecutor's Office", etc.).

Public procurement and management of public finances

Procurement procedures are regulated by the Law of Ukraine "On Public Procurement", which provides for (1) the procedure for public announcement of procurement procedures; (2) determination of criteria for determining the winner depending on the applicable procedure and criteria for evaluation of proposals; (3) identification of winners of such procedures and conclusion of agreements with them; (4) appeal procedures; (5) rights and responsibilities of authorised persons for public procurement, etc.

The procedure for preparation and approval of the national budget is regulated by the Budget Code of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine.

Internal control and audit systems are provided by the Budget Code of Ukraine, as well as bylaws of the Cabinet of Ministers of Ukraine, and supervision over the functioning of these systems is carried out in accordance with the Law "On Basic Principles of Public Financial Control in Ukraine". Accounting issues are regulated by the Law of Ukraine "On Accounting and Financial Reporting in Ukraine".

In order to prevent falsification of accounting and other reporting, criminal liability is established under Article 366 of the Criminal Code of Ukraine.

Public reporting

With regard to the adoption of "procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public", the Constitution of Ukraine provides for the official promulgation of laws of Ukraine, as well as requires state registration of regulations of the Cabinet of Ministers of Ukraine, ministries and central executive bodies - however, the law governing this procedure required by the Constitution of Ukraine has not yet been adopted, and the procedure is applied in accordance with the provisions of the Cabinet of Ministers of Ukraine.

In order to simplify administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities, the Verkhovna Rada adopted the Law on Administrative Procedure, which, however, is awaiting the signature of the President of Ukraine and has not yet entered into force.

Concerning publishing information, which may include periodic reports on the risks of corruption in its public administration, Article 20 of the Law "On Prevention of Corruption" provides for the publication of the annual national report on the implementation of the principles of anti-corruption policy, which, in particular, indicates the generalised results of anti-corruption proofing of regulations and draft regulations; generalised analysis of the situation on corruption with indication of identified corruption by state bodies, authorities of the Autonomous Republic of Crimea, local governments in their activities and their implementation of measures to eliminate these risks, the results of sociological and analytical studies on corruption conducted by state bodies authorities of the Autonomous Republic of Crimea, local governments, international organisations, public associations.

Measures relating to the judiciary and prosecution services

Ukraine has adopted the Code of Judicial Ethics. Violation of the requirements provided by it may result in disciplinary action. The state also pays considerable attention to strengthening the honesty and integrity of the judiciary: among the latest legislative measures in this direction is the adoption of the Laws of Ukraine "On Amendments to the Law" On the Judiciary and the Status of Judges "and some laws of Ukraine on the resumption of the High Qualifications Commission of Judges of Ukraine" and the Law "On Amendments to Certain Legislative Acts of Ukraine Concerning the Procedure for Election (Appointment) to the Positions of Members of the High Council of Justice

and Activities of Disciplinary Inspectors of the High Council of Justice”. Both laws were adopted in 2021.

The Code of Professional Ethics and Conduct for Prosecutors has been adopted in Ukraine.

Private sector

In order to properly implement anti-corruption policies in the private sector, Section X of the Law on Prevention of Corruption sets out requirements for the prevention of corruption in the activities of legal entities, as well as requirements for anti-corruption programs of legal entities.

Requirements for auditing and financial reporting are established by the Laws of Ukraine "On Auditing Financial Reporting and Auditing" and the Law of Ukraine "On Accounting and Financial Reporting in Ukraine".

Legislation sets out requirements for disclosure of ownership structure and information on the ultimate beneficial owner in the state registration of legal entities (Articles 17, 17-1 of the Law "On State Registration of Legal Entities, Individuals - Entrepreneurs and Public Associations"). Information about the founders of the legal entity and the ultimate beneficial owner is open to free public access. Ukraine is considering further legislative measures to introduce effective mechanisms for verifying information on final beneficial owners, and to this end, a draft Concept of a mechanism for verifying the accuracy of information on final beneficial owners has been prepared.

In order to prevent conflicts of interest regarding the professional activities of former public officials in the private sector, Article 26 of the Law "On Prevention of Corruption" imposes restrictions after the termination performance of state functions or local self-government functions for them.

Participation of society

At the legislative level, the NACP is authorised to implement measures aimed at shaping a negative attitude towards corruption among citizens and raising awareness; engage the public in the formation, implementation and monitoring of anti-corruption policy (Article 11 of the Law "On Prevention of Corruption"). The NACP also establishes a Public Council, which has broad powers to interact with the NACP, in particular in matters of policy formulation and implementation, providing opinions on reports and draft reports, etc. (Article 14 of the Law on Prevention of Corruption).

The draft Law "On the Principles of State Anti-Corruption Policy for 2021-2025" provides for a number of expected results in the shaping of intolerance to corruption in society, however, this draft is awaiting adoption by the Verkhovna Rada.

Article 21 of the Law "On Prevention of Corruption" regulates the issue of public participation in measures to prevent and combat corruption.

Laws of Ukraine "On Information" and "On Access to Public Information", certain provisions of the Law "On Prevention of Corruption", certain provisions of special laws on transparency and periodic reporting of specific government agencies also provide for the implementation of guarantees under Article 13 of the Convention on ensuring effective access to information for the population, as well as on respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information on corruption.

Measures to prevent money-laundering

Provided by Article 14 of the Convention measures are implemented by Ukraine in the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction".

This law also provides for the exchange of information between competent authorities at the national and international levels. Also, in accordance with this Law, a financial intelligence unit was established - the State Financial Monitoring Service.

The requirement to report the movement, in particular, of cash in excess of a certain amount across a border is established by national law.

Ukraine implements the FATF and MONEYVAL recommendations at the legislative level.

Criminalization

Ukraine has taken the necessary measures to criminalise acts recognized as crimes under the Convention:

1) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties (Article 15 of the Convention) - criminal liability is established for proposing or promising to an official to provide him/her or a third party with an undue advantage, as well as the giving of such advantage for an act or omission committed by an official through abuse of power or official position in favour of a person offering, promising or giving such advantage, or in favour of a third party (Part 1 of Article 369 of the Criminal Code of Ukraine);

2) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties (Article 15 of the Convention) - criminal liability for acceptance of an offer, promise or receipt (acceptance) of an undue advantage by an official, as well as a solicitation of such advantage to himself/herself or a third party for an act or omission committed by this official through abuse of power or official position in favour of the person offering, promising or providing an improper advantage or in favour of a third party (Part 1 of Article 368 of the Criminal Code of Ukraine);

3) acts recognized as crimes under Article 16 of the Convention: the list of "officials" within the meaning of the Criminal Code of Ukraine includes, in particular, officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons performing state functions for a foreign state, in particular for a state body or state enterprise), foreign arbitrators, persons authorised to resolve civil, commercial or labour disputes in foreign states in an alternative, judicial procedure, officials of international organisations (employees of an international organisation or any other person authorised by such an organisation to act on its behalf), as well as members of international parliamentary assemblies to which Ukraine is a member, and judges and other officials of international courts (Part 4 of Article 18 of the Criminal Code of Ukraine);

4) acts specified in Article 17, 22 of the Convention, also constitute criminal offences in

Ukraine: according to Part 1, 2 Article 191 of the Criminal Code of Ukraine, there is criminal liability for misappropriation or embezzlement of somebody else's property by a person to whom it was entrusted, as well as for misappropriation, embezzlement or diversion of property by malversation; according to part 1 of Article 210 of the Criminal Code of Ukraine, criminal liability is provided for Misuse of budget funds by an official, as well as the implementation of budget expenditures or the provision of loans from the budget without established budget allocations or with their excess contrary to the Budget Code of Ukraine or the law on the State Budget of Ukraine for the respective year, where the subject of such actions were budget funds in large amounts;

5) acts specified in Article 18 of the Convention, constitute criminal offences in accordance with Part 1, 2 Article 369-2 of the Criminal Code of Ukraine, namely: proposing, promising or providing undue advantage to a person who offers or promises (agrees) for this advantage to a third party to influence the decision-making of a person authorised to perform the functions of the state or local government; accepting a proposal, promise or acceptance of undue advantage for himself/herself or a third party for influencing the decision-making of a person authorised to perform the functions of the state or local government, or offering or promising to exercise influence for receiving such advantage; these articles do not explicitly cover both real and supposed influence, as stated in Article 18 of the Convention;

6) acts provided by Article 19 of the Convention are criminalised under Article 364 of the Criminal Code of Ukraine, namely abuse of power or official position, that is deliberate, committed by an official's for the purpose of obtaining any undue advantage for himself/herself or another individual or legal entity use of power or official position against the interests of the service, where it has caused substantial damage to legally protected rights, freedoms and the interests of individual citizens or state or public interests, or the interests of legal entities;

7) illicit enrichment provided by Article 20 of the Convention - criminal liability established under Article 368-5 of the Criminal Code of Ukraine for illicit enrichment, namely for the Acquisition by a person authorised to perform the functions of the state or local government of assets, the value of which exceeds his/her lawful income by more than six thousand and five hundred tax-free minimum incomes;

8) acts provided for in Article 21 of the Convention, criminalised under (1) Part 1 of Article 354 of the Criminal Code of Ukraine, according to which criminal liability is established for a proposal or promise to an employee of an enterprise, institution or organisation, who is not an official, or a person working for the benefit of the enterprise, institution or organisation, to provide him (her) or a third party with improper advantage, as well as providing such advantage for committing or failure to commit any action through abuse of office by an employee, or a person working for the benefit of the enterprise, institution or organisation, in favour of the person offering, promising or providing such advantage, or in favour of a third party; (2) under Part 3 of Article 354 of the Criminal Code of Ukraine - for acceptance of an offer, promise or receipt by an employee of an enterprise, institution or organisation, which is not an official, or a person working for the benefit of the enterprise, institution or organisation, of improper advantage, as well as a request to provide such advantage for himself/herself or a third party by committing or failing to commit any action through abuse of position held by the employee at the enterprise, institution or organisation, or in connection with the activities of a person performed for the benefit of the enterprise, institution or organisation,

in favour of the person who offers or provides this advantage, or in favour of a third party; (3) according to part 1, 3 of Article 368-3 of the Criminal Code of Ukraine, which establish criminal liability for acceptance of an offer, promise or receipt by an official of a legal entity of private law, regardless of the organisational and legal form, of improper advantage for himself/herself or a third party for acts or omissions through abuse of power in favour of a person who offers, promises or provides such advantage, or in favour of a third party; (4) Acceptance of an offer, promise or receipt by an official of a legal entity of private law, regardless of the organisational and legal form, of improper advantage for himself/herself or a third party for acts or omissions through abuse of power in favour of a person who offers, promises or provides such advantage, or in favour of a third party; (5) if a person performs public functions - criminal liability arises under Article 368-4 of the Criminal Code of Ukraine;

9) the requirements of Article 23, 24 of the Convention are met by establishing criminal liability under Article 209 of the Criminal Code of Ukraine for acquisition, possession, use, disposal of property in respect of which the factual circumstances confirm that they are proceeds of crime, including conducting financial operation, transaction with such property, or transfer, change of form (transformation) of such property, or actions aimed at concealing, hiding the origin of such property or possession, the right to such property, its sources of origin, location, where these actions were committed by a person who knew or should have known that such property directly or indirectly, wholly or partially proceeded from crimes;

10) acts that are recognized as crimes in accordance with Article 25 of the Convention, also criminalised in Ukraine in accordance with Article 343 (influence in any form on a law enforcement officer, forensic expert, employee of the state executive service or private executor, as well as a close relative of the state executor or private executor in order to prevent him/her from performing official duties, conducting forensic activities or to make an illegal decision), 345 (Threats of murder, violence, destruction or impairment of property made in respect of a law enforcement officer, or his/her close relatives in connection with his/her official duties), 347 (deliberate destruction or damage of property belonging to a law enforcement officer, an employee of the state executive service, a private executor (including after dismissal) or their close relatives, in connection with the performance of official duties by a law enforcement officer or enforcement of decisions by a state executor or a private executor (including in the past)), 348 (Murder or attempted murder of a law enforcement officer or his/her close relatives connected with his/her official duties, and also of a member of a public association for the protection of public order, or a military servant connected with their activities related to the protection of public order) 373 (coercion to testify during interrogation through illegal actions by a prosecutor, investigator, interrogator or employee of a unit conducting criminal intelligence activities), 377 (threat of murder, violence or destruction or damage to property of a judge, juror or juror, as well as their close relatives in connection with their activities related to the administration of justice; intentional infliction of beatings, light or moderate or severe bodily harm to a judge, lay judge or juror or their close relatives in connection with their activities related to the administration of justice), 378 (willful destruction or impairment of property owned by a judge, assessor or juror or their close relatives in connection with their activities related to the administration of justice), 379 (murder or attempted murder of a judge, assessor, juror or their close relatives in connection with their activity related to the administration of justice), 386 (obstruction of appearance of a witness, victim, expert or specialist before a court, pre-trial investigation authorities, ad-hoc

investigation commissions and special ad-hoc investigation commissions of the Verkhovna Rada of Ukraine, or coercion of the above persons to refuse to testify or give an opinion, and also give any knowingly false testimony or opinion, by threats of murder, violence, destruction of property of these persons or their close relatives, or disclosure of defamatory information about them, or tampering with a witness, victim or expert for the same purposes, and also any threats to commit any such actions as a revenge for any previously presented testimony or opinion) of the Criminal Code of Ukraine.

Liability of legal persons

In Ukraine, criminal legal measures may be applied to legal entities in the case of commission by an authorised person on behalf of and in the interests of this legal entity of any of the criminal offences provided, in particular, in Article 209, Article 343, 345, 347, 348, 349, parts 1, 2 Article 368-3, Part 1, Article 368-4, Article 369, 369-2, 376-379, 386 of the Criminal Code of Ukraine; in case of failure to fulfil the obligations imposed on its authorised person by law or the constituent documents of the legal entity to take measures to prevent corruption, which resulted in the commission of any of the criminal offences provided for by Articles 209 and 306, parts 1 and 2 of Article 368-3, parts 1 and 2 of Article 368-4, Articles 369 and 369-2 of the Criminal Code of Ukraine (paragraphs 1, 2, 5, part 1 of Article 96-3 of the Criminal Code of Ukraine)

The application of such measures is possible provided that a natural person who has committed a criminal offence is prosecuted, so the criminal liability of an individual is not denied. A fine may be imposed on a legal entity - twice the amount of illegally obtained illegal benefit or, if the illegal benefit was not received, or its amount cannot be calculated, the amount of the fine is determined depending on the severity of the criminal offence (Articles 96-7 of the Criminal Code).

Participation and attempt

In Ukraine, accomplices are criminally liable (Articles 26, 27 of the Criminal Code of Ukraine). Criminal liability also arises in case of preparation for a criminal offence or attempt to commit it (Articles 14-16 of the Criminal Code of Ukraine).

Knowledge, intent and purpose as elements of an offence

National legislation defines the fact which needs to be proven in a criminal proceeding, among which is that the accused is guilty in the commission of a criminal offence, the form of guilt, motive and purpose of the criminal offence (paragraph 2, part 1 of Article 91 of the CPC of Ukraine). Proving includes collection, verification and evaluation of evidence in order to establish the circumstances relevant to the criminal proceedings (Part 2 of Article 91 of the CPC of Ukraine). The burden of proving these circumstances rests, in particular, on the investigator, prosecutor (Part 1 of Article 92 of the CPC of Ukraine). Thus, the requirements of Article 28 Conventions are met in legislation.

Statutes of limitation

The statute of limitations is provided by Article 49 of the Criminal Code of Ukraine and are calculated from the date of commission of the criminal offence to the date of entry into force of the sentence against the individual who committed it. These time limits are three to fifteen years for acts recognized as crimes under the Convention, depending on the severity of criminal offence, which in turn is determined on the basis of Article 12 of the Criminal Code of Ukraine, taking into account the punishment established by the relevant article of the Criminal Code of Ukraine.

The statute of limitations shall be saved where a person who committed a criminal offence evaded investigation or trial. In these cases, the statute of limitations shall be restored from the date of a person's surrender or his/her detention, and from the date of the commission of a criminal offence it shall be five years. In this case, a person shall be released from criminal liability if fifteen years have passed since the commission of the criminal offence.

Prosecution, adjudication and sanctions

Sanctions for acts recognized as crimes under the Convention are based on the degree of danger of such acts, are effective and deterrent, although they require further coherence.

With regard to the immunities of officials, some categories of persons are subject to unbalanced criminal prosecution requirements that create unjustified obstacles.

The legislation provides for the possibility of applying the necessary and proportionate precautionary measures to suspects, accused at the stages of pre-trial investigation and court proceedings (Articles 176-206, 315, 331 of the CPC of Ukraine).

National law also provides for special rules for parole, which take into account the higher degree of public danger of those acts which constitute crimes under the Convention. Parole may be applied if the person has in fact served at least two-thirds of the sentence (if the person has been convicted of a minor corruption or corruption-related criminal offence, or of intentional gave offence) or at least three-quarters such a term (if a person is convicted of an intentional special serious crime), in accordance with Article 81 of the Criminal Code of Ukraine. Release from serving a sentence on probation in case of committing a corruption or corruption-related criminal offence is not allowed under the general rule (Part 1 of Article 75 of the Criminal Code of Ukraine) and is applied by courts in some cases in the case of a plea agreement (Part 2 Article 75 of the Criminal Code of Ukraine). Similarly, stricter rules have been established for replacing the unserved part of a sentence with a milder punishment (Article 82 of the Criminal Code of Ukraine). It is impossible to impose a sentence less than a minimum provided by law for corruption and corruption-related criminal offences (Article 69 of the Criminal Code of Ukraine)

National legislation provides for the possibility of suspending public officials from office if they are suspected or accused of committing a criminal offence (Articles 154-158 of the CPC of Ukraine, Article 65-1 of the Law on Prevention of Corruption). Also, certain provisions are provided by special laws governing the status of such public officials.

Based on a court decision, a convicted person may be deprived of the right to hold certain positions or engage in certain activities. In addition, a person may be deprived of the right to hold certain public positions, in accordance with special laws governing the status of public officials until his or her criminal record is cancelled or revoked.

At the legislative level, there are no restrictions on the application of disciplinary sanctions, if criminal penalties have already been applied or may be applied.

Freezing, seizure and confiscation

Article 96-1, 96-2 of the Criminal Code of Ukraine provide for a special confiscation (asset forfeiture) procedure, which is applies if money, valuables and other property (1) have been obtained due to committing a criminal offence and/or if they are income from such property; (2) were intended

(used) to persuade a person to commit a criminal offence, to finance and/or provide material support for a criminal offence or to be rewarded for its commission; (3) were the subject of a criminal offence (with some exceptions); (4) were found, manufactured, adjusted or used as means or tools of committing a criminal offence (with some exceptions). If such funds or property have been partially or completely converted, the property or funds completely or partially converted shall be subject to special confiscation; and in case of impossibility of their allocation - the sum of money corresponding to cost of such property is subject to special confiscation.

In addition, sanctions under certain articles of the Criminal Code also provide for punishment in the form of confiscation of the convicted person's property.

National legislation provides for the freezing of property in order to ensure the preservation of material evidence; special confiscation; confiscation of property as a type of punishment or measure of a criminal legal nature against a legal entity; compensation for damage caused as a result of a criminal offence (civil lawsuit), or recovery from a legal entity of illegal benefits (Articles 170-175 of the CPC of Ukraine).

Detection and search of assets at the request of the investigator, prosecutor, court (investigating judge) is entrusted to the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (Article 9 of the Law "On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes"), which has the necessary powers and can carry out international cooperation on these issues. Also, certain assets that have been seized in criminal proceedings on the basis of a relevant decision of the investigating judge or court may be transferred to this body.

Based on the decision of the investigating judge or the court, the parties to the criminal proceedings may obtain temporary access to the necessary documents, including if they contain a secret protected by law (commercial or bank secret, the secret of financial monitoring) - according to Article 159-166 of the Criminal Procedure Code of Ukraine. These actions may be taken within the framework of international legal assistance in criminal proceedings under Article 561, 562 of the Criminal Procedure Code of Ukraine.

In addition, the assets of persons authorised to perform state or local government functions may be deemed unfounded and collected from the state revenue outside criminal proceedings, in civil proceedings, if it is not established on the basis of evidence that the asset was acquired from legal income.

At the same time, the law does not violate the rights of third parties who are bona fide purchasers.

Protection of witnesses, experts and victims

Ukraine has a Law On Ensuring Security of the Persons who Participate in Criminal Legal Proceedings, which provides for the right to security, in particular, of witnesses, whistleblowers, experts, specialists, victims, suspects, accused, and their relatives (Article 2 of this Law).

The following measures may be taken against these persons, regardless of the criminal offense in respect of which the criminal proceedings are being conducted and in which the person is participating: personal protection, protection of housing and property; giving special personal

protective equipment and equipment for notification about danger; use of technical means of control and surveillance on telephone and other conversations, visual observation; replacement of documents and change of appearance; change of place of work or study; relocation to another place of residence; placement in a preschool educational institution or an institution of social protection; ensuring the confidentiality of personal information; closed court proceedings; other measures may also be taken (Article 7 of the Law).

If it is necessary to ensure the security of a person, procedural actions may also be carried out in a special manner, for example, he/she may be interrogated by videoconference with such changes in appearance and voice, which would be impossible to recognize (Article 232 CPC of Ukraine).

Protection of reporting persons

National law provides comprehensive protection for whistleblowers who report possible corruption or corruption-related offences (Section VIII of the Law on Prevention of Corruption).

Consequences of acts of corruption

The Law on Public Procurement restricts the participation in public procurement procedures of natural persons who have a criminal record for committing criminal offences based on mercenary motives; legal entities, information on which is entered in the Unified State Register of Persons who have committed corruption or corruption-related offences; legal entities whose officials represent it in the procurement procedure and who have been hold liable in accordance with the law for committing a corruption offence or an offence related to corruption (Article 17 of this Law). Other measures at the legislative level have not yet been taken to implement Article 34 of the Convention.

Compensation for damage

National legislation provides for the right of a person to whom pecuniary and/or non-pecuniary damage has been caused by a criminal offence or another socially dangerous act shall have the right to enter a civil action in the course of criminal proceedings before the court proceedings against a suspect or accused or an individual or legal entity civilly liable by law for the damage caused by the acts of the suspect or accused or insane person who has committed a socially dangerous act; the prosecutor may file a civil lawsuit in the interests of the state (Article 128 of the CPC of Ukraine).

According to Article 66, 68 of the Law "On Prevention of Corruption" losses and damage caused to the state as a result of corruption or a corruption-related offence shall be compensated by the person who committed the offence, in the manner prescribed by the law; individuals and legal entities whose rights were violated as a result of corruption or a corruption-related offence and who experienced harm and who have incurred moral or pecuniary damage or losses, shall be entitled to restoration of their rights, payment of damages and losses in accordance with the law.

Specialised authorities

The National Anti-Corruption Bureau of Ukraine has been established and operates in Ukraine. It conducts pre-trial investigations into criminal proceedings under its jurisdiction. The Bureau is responsible for corruption and corruption-related criminal offences if they cause significant damage or injury, or if they are committed by high-ranking government officials (Part 5 of Article 216 of the CPC of Ukraine). Broad guarantees of independence are enshrined in law for the Bureau in accordance with Article 4 of the Law "On the National Anti-Corruption Bureau of Ukraine" and other

provisions of this Law. The necessary staff and resources have been provided for the Bureau, although the number of staff needs to be at least doubled in order to carry out the tasks assigned to the Bureau effectively.

In order to provide procedural guidance and uphold public prosecution in these criminal proceedings, the Specialised Anti-Corruption Prosecutor's Office has been established and operates as an independent structural unit of the Office of the Prosecutor General, with certain guarantees of autonomy that need to be expanded.

Cooperation with law enforcement authorities

National legislation provides for the remuneration of whistleblowers (Article 130-1 of the CPC of Ukraine).

According to Article 66 of the Criminal Code of Ukraine, mitigating circumstances are the appearance of a confession, sincere repentance or active assistance in uncovering a criminal offence. Also Part 5 of Article 354 of the Criminal Code of Ukraine establishes that a person who has offered, promised or provided an undue advantage shall be released from criminal liability for crimes provided for by Articles 354, 368-3, 368-4, 369, 369-2 of the Criminal Code of Ukraine, if, after a proposal, promise or provision of an undue advantage, he/she, before receiving information from other sources about this crime by a body whose official is entitled by law to report a suspicion, voluntarily stated what happened to such a body and actively assisted in disclosing the crime, committed by a person who has received an undue advantage or accepted his/her offer or promise (except in cases of committing these offences against foreign officials - officials specified in Part 4 of Article 18 of the Criminal Code of Ukraine). The rules of mitigation of punishment for persons with whom a plea agreement has been concluded are not clearly defined by law and need to be further improved. Immunity from criminal prosecution for a person cooperating with the investigation is not provided by national law.

As noted above, persons who are participants in criminal proceedings (including those who cooperate with the investigation) may be subject to measures to ensure their safety, as required by Article 32 of the Convention.

Cooperation between national authorities and Cooperation between national authorities and the private sector (Article 38, 39 of the Convention)

At the legislative level, encouragement to report corruption and corruption-related criminal offences is ensured by providing guarantees of protection to whistleblowers of possible facts of such offences, as well as by providing them with financial rewards in cases defined by law (Chapter VIII of the Law on Prevention of Corruption, Article 130-1 of the CPC of Ukraine). Interaction of law enforcement agencies with banking and financial institutions and other financial monitoring entities in accordance with the Law "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction." Is also provided for. Other measures have not yet been taken at the legislative level.

Bank secrecy

Information constituting bank secrecy may be provided without a court decision at the request of the prosecutor's office or pre-trial investigation bodies (Article 62 of the Law on Banks and

Banking), so there are no obstacles at the legislative level to accessing banking information.

Criminal record

Ukraine ensures the registration of persons who have been convicted in Ukraine for committing corruption or corruption-related offences, in accordance with Article 59 of the Law "On Prevention of Corruption". Other measures under Article 41 Conventions were not applied at the legislative level.

Jurisdiction

A person may be criminally liable under the Criminal Code of Ukraine if such a criminal offence has been committed in the territory of Ukraine (ie, the offence has been initiated, continued, completed or discontinued in the territory of Ukraine or and the perpetrator or at least one of the accomplices acted in the territory of Ukraine (Part 1-3 Article 6 of the Criminal Code of Ukraine). Also, liability under the provisions of the Criminal Code of Ukraine may arise for a citizen of Ukraine, or a stateless person permanently residing in Ukraine, unless otherwise provided by international treaties of Ukraine, and if the person has not been criminally punished for this offence outside Ukraine (parts 1, 2 Article 7 of the Criminal Code of Ukraine).

According to Part 2 of Article 8 of the Criminal Code of Ukraine, foreign nationals or stateless persons who do not reside permanently in Ukraine are also liable in Ukraine under the Criminal Code if they have committed outside Ukraine any criminal offence provided for by Articles 368, 368-3, 368-4, 369 and 369-2 in complicity with officials who are citizens of Ukraine or if they offered, promised, provided undue advantage to such officials, or accepted an offer, a promise of undue advantages or received this advantage from them.

International cooperation

National legislation establishes the appropriate legal basis for international cooperation in accordance with the Convention. Relevant issues are duly regulated by the Criminal Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, as well as special laws that provide for cooperation between the competent authorities of Ukraine and foreign states within their powers.

As shown above, Ukraine has criminalised all acts recognized as crimes under the Convention, so the issue of compliance with the principle of "double criminality" of these acts for the provision of mutual legal assistance does not arise.

Extradition

National legislation provides for the possibility of extradition in accordance with Chapter 44 of the CPC of Ukraine. Extradition is not possible if the act is not criminally punishable in Ukraine or the punishment of this act established by the Criminal Code of Ukraine for the relevant criminal offence does not provide for imprisonment. A request for extradition shall be considered if, under the law of Ukraine, at least one of the crimes in respect of which extradition is requested is punishable by imprisonment of at least one year or the person is sentenced to imprisonment and the unserved term is not less than four months (Article 574 of the CPC of Ukraine).

The absence of an international agreement on extradition is not a ground for refusing to extradite a person in accordance with Article 589 of the Criminal Procedure Code of Ukraine.

National legislation provides for the procedure of extradition in a simplified manner in

accordance with Article 588 of the CPC of Ukraine, with the consent of the person and approval by the investigating judge.

Extradition examination must be carried out within 60 days, but it can be extended (Article 587 of the CPC of Ukraine).

National legislation provides for the possibility of detaining a person, provisional arrest, detention in custody (extradition arrest) or other measure of restraint not related to detention (Articles 582-586 of the CPC of Ukraine).

According to Article 589 of the CPC of Ukraine, where extradition is refused on the grounds of citizenship and status of a refugee or other grounds not precluding criminal proceedings, the Prosecutor General's Office of Ukraine, upon request of the competent authority of the foreign state, shall instruct to carry out pre-trial investigation in respect of such person as prescribed by this Code.

National legislation determines the procedure for enforcing sentences of foreign states (Chapter 46 of the CPC of Ukraine).

In addition, at the legislative level, the rights of the person in respect of whom the matter of his or her extradition is being resolved are guaranteed, in accordance with Article 581 of the Criminal Procedure Code of Ukraine.

According to the general rules of Part 2 of Article 589 of the CPC of Ukraine, a person who has been recognised as a refugee or a person requiring subsidiary protection, or who has been granted temporary protection in Ukraine may not be extradited to the state from which he has been recognised to have taken refuge or to a foreign state where his/her health, life or liberty may be in jeopardy on the grounds of race, denomination (religion), ethnicity, citizenship (nationality), affiliation with a particular social group or political conviction, except as otherwise provided for by an international treaty of Ukraine.

National law does not contain any of the provisions that would provide for the refusal to extradite a person solely on the grounds that a particular crime is related to tax matters.

Transfer of sentenced persons

National legislation provides for the possibility and procedure of extradition of convicted persons to a foreign state to serve the sentence (Chapter 46 of the CPC of Ukraine). Ukraine is a state party, in particular, to the European Convention on the Transfer of Sentenced Persons. Measures defined in Part 3 of Article 46 of the Convention, may be implemented, in particular, in accordance with Article 561 of the CPC of Ukraine, according to which in the territory of Ukraine any procedural actions provided by this Code or an international agreement may be carried out for the purpose of fulfilling the request for international legal assistance.

Mutual legal assistance

National legislation provides for adequate opportunities for mutual legal assistance in accordance with the requirements of Article 46 of the Convention.

The exchange of information is also possible on the basis of bilateral interdepartmental agreements or international treaties of Ukraine.

National legislation does not contain obstacles to the provision of international legal assistance

in terms of providing information, documents that contain bank secrecy, if the requirements of the CPC of Ukraine are met.

Refusal to comply with the request for international legal assistance is carried out on the grounds provided by international treaties of Ukraine (Part 1 of Article 557 of the CPC of Ukraine).

According to Article 565 of the CPC of Ukraine, the possibility of temporary transfer of persons, and the established procedures consistent with the relevant requirements of Article 46 of the Convention are provided.

Ukraine has designated central bodies to consider or submit requests for international legal assistance in criminal proceedings, including the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the Ministry of Justice (Article 545 of the CPC of Ukraine), and the Office of the Prosecutor General and the Ministry of Justice – on extradition matters (Article 574 of the CPC of Ukraine).

Requirements for the content of requests for international legal assistance, as defined in Article 552 of the CPC of Ukraine, are consistent with the relevant requirements of the Convention.

The CPC of Ukraine also establishes rules for fulfilling requests for international legal assistance in criminal proceedings.

St. 567 of the CPC of Ukraine allows, on certain grounds, to conduct an interrogation at the request of the competent authority of a foreign state by video or telephone conference. Also according to Article 563 of the CPC of Ukraine a representative of the competent authority of a foreign state, which has been granted the appropriate permission, may be present during the proceedings.

According to Article 553 of the CPC of Ukraine, evidence and information obtained from the requested party as a result of the request for international legal assistance may be used only in criminal proceedings which the request concerned, unless otherwise agreed with the requested party. Article 556 of the CPC of Ukraine establishes rules of confidentiality regarding the fact of the request, its content, and provided or received information.

National legislation provides for adequate opportunities for mutual legal assistance in accordance with the requirements of Article 46 of the Convention.

The exchange of information is also possible on the basis of bilateral interdepartmental agreements or agreements, international agreements of Ukraine.

National legislation does not contain obstacles to the provision of international legal assistance in terms of providing information, documents that contain banking secrecy, if the requirements of the CPC of Ukraine are met.

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The grounds for refusing to comply with the request, established by Article 46 of the Convention, will have priority over the rules of national law in accordance with Part 4 of Article 9, part 1 of Article 557 of the Criminal Procedure Code of Ukraine. Part 2 of Article 555 of the CPC of Ukraine requires the central body of Ukraine to report the reasons for refusing to comply with the request, as well as the conditions under which the request may be reconsidered. National law does not provide for a refusal to comply with a request solely on the grounds that the offence is related to tax matters.

According to Part 2 of Article 558 of the CPC of Ukraine, as a general rule, requests must be processed within a month, but in certain circumstances this period may be extended. According to Part 3 of Article 555 of the CPC of Ukraine, where there are grounds for rejecting the request or for delaying it, the central authority of Ukraine may agree with the requesting party the procedure for executing the request under certain limitations; Where the requesting Party accepts these conditions, the request shall be executed after the requesting party has fulfilled these conditions.

Parts 4,5 of Article 572 of the CPC of Ukraine determine the procedure for expenses related to international legal assistance: such expenses are made at the expense of funds provided in the state budget of Ukraine; unless otherwise provided by international treaties ratified by the Verkhovna Rada of Ukraine, the competent authority of the foreign state shall reimburse the costs associated with the summoning the parties to the criminal proceedings, witnesses and experts to the territory of a foreign state, particularly in cases of temporary extradition; conducting expert examinations and ensuring security of the parties to criminal proceedings.

According to Article 566 of the CPC of Ukraine, the summoned person shall not be convicted of a criminal offence; arrested; be subjected to an imposed restraint measure in the form of detention; be subjected to other measures in support of criminal proceedings or restriction of personal freedom either for any criminal offence that is the subject of criminal proceedings or any other criminal offence committed before crossing the state border of Ukraine when entering Ukraine. A sentence passed on the person before that person has crossed the state border of Ukraine may not be executed. A suspect, defendant or convict may be arrested or subjected to a restraint measure or execution of a sentence only for an offence specified in the summons. However, all guarantees specified above shall be void where, being in a position to leave the territory of Ukraine, a summoned person fails to do so within fifteen days from the moment of receipt of a written notification from a pre-trial investigation agency, a public prosecutor's office or a court that his/her participation in any investigative or other procedural

activities is no longer required, or within a different time period specified in the international treaty, ratified by the Verkhovna Rada of Ukraine.

Transfer of criminal proceedings

National legislation provides for a procedure for a Takeover of a criminal proceedings (Chapter 45 of the CPC of Ukraine).

Law enforcement cooperation

National legislation creates the necessary preconditions for effective cooperation between law enforcement agencies. Thus, the Law “On the National Anti-Corruption Bureau of Ukraine” provides for the right of the Bureau (1) to carry out legal cooperation with competent bodies of foreign states, international organisations on operational and investigative activities, pre-trial investigation, detection of unjustified assets and collection of evidence of their unfoundedness according to laws and international treaties of Ukraine; (2) to provide international instructions on carrying out operative-search and investigative actions, (3) to conclude agreements on cooperation on the matters within its powers with foreign and international law enforcement bodies and organizations, (3) to apply on behalf of Ukraine to foreign state bodies in accordance with the legislation of Ukraine and relevant states; (4) to create and participate in international investigative teams in accordance with the law and other legislative acts and international treaties of Ukraine, (5) to involve foreign experts in fight against corruption. Similarly, Article 93, 94 of the Law "On the Prosecutor's Office" give the Office of the Prosecutor General the authority to conclude interagency international agreements.

Also, specific actions within criminal proceedings are carried out by national competent authorities in accordance with the CPC of Ukraine and international treaties of Ukraine.

Joint investigations

National legislation provides for the possibility of establishing joint investigation teams (Article 571 of the CPC of Ukraine).

Special investigative techniques

National legislation provides for the possibility of using special methods of investigation, including electronic and other forms of surveillance, covert operations; subject to compliance with the requirements for these measures, evidence collected during such operations is recognized in court as admissible (Chapter 21 of the CPC of Ukraine).

The implementation of covert investigative actions within the framework of international legal assistance in criminal proceedings is also possible in compliance with Article 561, 562 of the CPC of Ukraine, as well as other requirements of this Code.

Asset recovery

National legislation provides adequate opportunities for international cooperation on asset recovery.

At the legislative level, the measures provided for in Article 52 of the Convention, are carried out in accordance with the [Law " On Prevention and Counteraction to Legalisation \(Laundering\) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction "](#). Proper regulation of banking is provided by the Law of Ukraine "On Banks and

Banking". In addition, the requirements of this Article on the disclosure of financial information about relevant government officials are provided in Section VII of the Law "On Prevention of Corruption", and are combined with administrative and criminal liability for violation of the requirements. The same Law sets the requirement to provide information on the opening of foreign currency accounts by public officials or members of their families in the institutions of non-resident banks. Violation of these requirements triggers administrative liability.

According to Article 96-1, 96-2 of the Criminal Code of Ukraine, a special confiscation (asset forfeiture) procedure may be applied in respect of money, valuables and other property (1) obtained as a result of committing a criminal offence and/or if they are income from such property; (2) intended (used) to persuade a person to commit a criminal offence, to finance and/or provide material support for a criminal offence or to be rewarded for its commission; (3) which were the subject of a criminal offence, except for those that are returned to the owner (legal owner), and in the case when it is not established, become the property of the state; (4) were found, manufactured, adjusted or used as means or tools of committing a criminal offence, except for those returned to the owner (legal owner), who did not know and could not know about their illegal use. Article 96-1 of the Criminal Code of Ukraine determines in cases of committing which criminal offences special confiscation may be applied, and on what grounds.

National law also allows for the use of special confiscation when a person is not subject to criminal liability because of not reaching the age from which criminal liability may arise, or due to insanity, or because the individual is released from criminal liability or punishment on the grounds provided for by this Code (except for exemption from criminal liability in connection with the expiration of the statute of limitations) - such a provision is established by Article 96-2 of the Criminal Code of Ukraine.

The Criminal Code of Ukraine allows for the use of special confiscation from third parties if this property was acquired from the suspect, accused, a person who committing a socially dangerous act at the age of which no criminal liability arises, or in a state of insanity, or from another person free of charge, at a market price or at a price above or below market value. The necessary condition for such confiscation is that the third party knew or should have known that the property meets any of the criteria under which special confiscation is applied. However, such circumstances must be established on the basis of evidence. It is also established that special confiscation may not be applied to property owned by a bona fide purchaser, as well as to money, valuables and other property that are legally subject to return to the owner (legal owner) or intended to compensate for damage caused by a criminal offence.

Procedures for seizure of property are regulated by Article 170-175 of the Criminal Procedure Code of Ukraine. The arrest is allowed for the following purposes: (1) to ensure the preservation of material evidence; (2) special confiscation; (3) confiscation of property as a type of punishment or measure of a criminal law nature against a legal entity; (4) compensation for damage caused as a result of a criminal offence (civil action), or (5) recovery of undue advantage received by a legal entity. The seizure may be applied to property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, subject to asset forfeiture from the suspect, accused, convicted person, third parties, confiscation from a legal entity, to secure a civil action or recovery from the legal entity of the received undue advantage, possible confiscation of property.

Article 568 of the CPC of Ukraine allows to carry out actions provided by law to identify assets and seize them within the framework of execution requests for international legal assistance. At the request of a foreign state, the assets may be transferred to the competent authority of the requesting party as evidence in criminal proceedings or for being returned to the owner thereof, or may be confiscated based on a decision made by the court of the requesting party which has entered into legal force. Assets that may be transferred to the owner or transferred as material evidence, according to the CPC of Ukraine, may be provided provisionally or postponed to be provided, where such assets are necessary for the purposes of civil or criminal proceedings in Ukraine or may not be taken abroad for other reasons specified by law. Confiscated assets shall be turned into revenue of the State Budget of Ukraine, except for the transfer of the assets or their monetary equivalent to the requesting party that ruled to seize the assets as a compensation for damage inflicted on the victims of the offence or where international treaties of Ukraine on the distribution of seized assets or their monetary equivalent provide otherwise. The CPC of Ukraine does not establish a mandatory requirement for the fulfilment of the requests specified in this paragraph solely on the basis of international agreements of Ukraine.

National legislation allows foreign states to apply to the courts of Ukraine to protect their rights, freedoms and interests; they have procedural rights and obligations on an equal footing with individuals and legal entities of Ukraine, unless otherwise is provided by the Constitution and laws of Ukraine, as well as international treaties approved by the Verkhovna Rada (Article 496 of the Civil Procedure Code of Ukraine).

According to the [Law "On the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes"](#), the Agency is authorised to (1) fulfil the requests from investigator, detective, prosecutor, investigative judge, court with regard to the issues on finding, tracing, evaluation and management of assets, and the requests for enforcing the decisions of foreign competent authorities on seizure and confiscation of assets; (2) manage seized and confiscated assets in cases established by law; (3) participate in ensuring the representation of the rights and interests of Ukraine at foreign jurisdictional authorities in cases related to the recovery of assets derived from corruption and other criminal offences to Ukraine; (4) conclude multi-agency international agreements on cooperation with authorities of foreign states the competence of which includes the issues concerning finding, tracing and management of assets derived from corruption and other criminal offences, take part in drafting international agreements on distribution and recovery of assets to Ukraine.

Enforcement of a court ruling on confiscation, special confiscation of assets, forfeiture of assets into the revenue of the State are also entrusted to the National Agency.

Financial intelligence unit

The State Financial Monitoring Service has been established and operates in Ukraine. It is responsible for certain tasks provided for by Article 58 of the Convention, according to the provisions of Article 25 of the [Law "On Prevention and Counteraction to Legalisation \(Laundering\) of Criminal Proceeds, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction "](#).

161. Has Ukraine aligned its legislation with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and OECD 2021

Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions html?

Ukraine is not a member of OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter — the Convention) and has not ratified it. At that the content of most national legislation provisions are in conformity with the Convention requirements. The assessment of implementation of the Convention requirements is provided below.

Criminalization of Bribery of Foreign Public Officials

In Ukraine, criminal liability is established for a proposal or promise to an official to provide him/her or a third party with an improper advantage, as well as the provision of such advantage for an act or omission by an official in favour of a person offering, promising or providing such advantage, or in favour of a third party, committed through abuse of power or official position (p. 1 Article 369 of [the Criminal Code of Ukraine](#), hereinafter — CC of Ukraine).

In view of p. 4 Article 18 [CC of Ukraine](#), officials shall also mean officials of foreign states (persons holding positions in the legislative, executive or judicial body of a foreign state, including jurors, other persons performing state functions for a foreign state, in particular for a state body or state-owned enterprise), foreign arbitrators, persons authorised to resolve civil, commercial or labour disputes in foreign countries in the manner alternative to judicial, officials of international organisations (employees of an international organisation or any other person authorised by such organisation to act on its behalf), as well as members of international parliamentary assemblies Ukraine is a member of, and judges and officials of international courts. This list does not contain any clear definition of the term “foreign state” covering all levels of government systems, from central to local state bodies, as required in item. “b” p. 4 Article 1 of the Convention.

In Ukraine there established a criminal liability for any abuse of influence, abuse of office, proposal, promise or provision of improper advantage to a person who offers or promises (agrees for) such advantage or for granting such advantage to a third party to influence the decision-making of a person authorised to perform the functions of the state or local government (p. 1 Article 369-2 CC of Ukraine). According to the note to the aforementioned article Persons authorised to perform the functions of state or local government shall mean persons defined in part 4 of Article 18 [CC of Ukraine](#).

The national legislation also provides for criminal liability for a wilful co-participation of several criminal offenders in an intended criminal offence, apart from a principal offender or co-principal offender, also for an organiser, abettor and accessory (Article 26, 27 CC of Ukraine).

According to Article 14, 16 CC of Ukraine, preparation for a criminal offence (which includes conspiring for an offence) also entails criminal liability. However, where CC of Ukraine provides for a punishment in the form of imprisonment for up to two years, or another lighter punishment, preparation for a criminal offence does not entail liability. This exception applies for actions specified in p 1. Article 369-2 CC of Ukraine (maximal punishment is imprisonment for up to two years).

Article 15, 16 CC of Ukraine provide for criminal liability for a criminal attempt, where the criminal offence has not been consummated for reasons beyond that person's control.

Crimes specified in Article 369, p. 1 Art 369-2 CC of Ukraine shall be punishable by

imprisonment for a term of more than one year — such a term is enough for extradition, e. g. in accordance to the European Convention on Extradition. List of punishments for bribing any national officials applies to any foreign officials as well because the same articles of CC of Ukraine apply in such cases.

In view of the above, Ukraine fulfils the requirements of Article 1 of the Convention in the great majority of respects.

Liability of Legal Entities

In view of the peculiarities of the personal nature of criminal liability in Ukraine's legal system, Ukraine has not established criminal liability for legal entities; however, there is a so called "quasi-criminal liability of legal entities" established in the country which provides for criminal justice measures for legal entities including but not limited to the following cases:

- the commission by an authorised person on behalf of and for the benefit of a legal entity of any of the criminal offences provided for by Article 369, 369-2 CC of Ukraine (item 1 p. 1 Article 96-3 CC of Ukraine);
- failure to fulfil the obligations imposed on its authorised person by law or the constituent documents of the legal entity to take measures to prevent corruption, which resulted in the commission of any of the criminal offences provided for by Articles 369, 369-2 CC of Ukraine (item 2 p. 1 Article 96-3 CC of Ukraine);

In such cases fines can be applied to a legal entity, and the amount of such a fine shall be equal to the double amount of the improper advantage (p. 1 Article 96-7 CC of Ukraine); if such improper advantage had not been received or if its amount is difficult to calculate, then, depending on the severity of the committed criminal offence, the amount of such a fine can be from 85 000 UAU to 1 700 000 UAH, which is from about 2,665 EUR to about 53,310 EUR (p. 2 Article 96-7 CC of Ukraine).

In view of the above, Ukraine fulfils the requirements of Article 2, p. 2 Article 3 of the Convention in the great majority of respects.

Additional Civil or Administrative Penalty

Currently, national legislation does not contain separate provisions on civil or administrative liability for bribes to foreign officials. Their introduction is optional in view of p. Article 3 of the Convention.

Confiscation

Special confiscation is provided based on Article 96-1, 96-2 CC of Ukraine.

It can be applied in case there is committed a deliberate criminal offence or a socially dangerous act containing signs of the action provided for in the Special Part of the CC of Ukraine where the main penalty is provided in the form of imprisonment. Hence, it can be applied for a proposal, promise or provision of an improper advantage to an official (Art 369) and for abuse of influence (p. 1 Article 369-2).

Special confiscation is applied if the money, valuables or other property were obtained as the result of a criminal offence and/or represent an income obtained from such property; were meant

(used) for influencing a person to commit a criminal offence, for financing and/or supporting a criminal offence or for a remuneration for such an offence; were the object of a criminal offence, were selected, manufactured, adjusted or used as means or tools of a criminal offence (with some exceptions).

For legal entities, criminal legislation provides that where criminal justice measures are applied, this legal entity is obliged to fully reimburse the caused damage and loss, as well as the amount of the improper advantage that had been obtained or could be obtained by such legal entity (p. 2 Article 96-6 CC of Ukraine).

In view of the above, Ukraine fulfils the requirements of p. 3 Article 3 of the Convention in the great majority of respects.

Jurisdiction

A person can incur criminal liability provided by Article 369, p. 1 Article 369-2 CC of Ukraine if such criminal offence had been committed in the territory of Ukraine (that is the offence has been initiated, continued, completed or discontinued in the territory of Ukraine), and if the principal to such offence, or at least one of the accomplices, has acted in the territory of Ukraine (p. 1-3 Article 6 CC of Ukraine). Also citizens of Ukraine and stateless persons permanently residing in Ukraine shall be criminally liable under this Code, unless otherwise provided for by the international treaties of Ukraine, also if such a person has not received a criminal penalty for such an offence outside of Ukrainian territory. (p. 1, 2 Article 7 CC of Ukraine).

According to p. 2 Article 8 CC of Ukraine, foreign nationals or stateless persons who do not reside permanently in Ukraine shall also be liable in Ukraine under this Code if they have committed any criminal offence outside Ukraine provided for by [Articles 368](#) (Accepting an offer, promise or receiving an improper advantage by an official), 368-3 (Bribery of an official of a legal entity of private law, regardless of the organisational and legal form), 368-4 (Bribery of a person providing public services), 369 (Proposal, promise or providing an improper advantage to an official), and 369-2 (Abuse of influence) CC of Ukraine in complicity with officials who are citizens of Ukraine, or if they offered, promised, provided improper advantages to such officials, or accepted a proposal, a promise of improper advantages or received such advantage from them.

Article 577 of the [Criminal Procedural Code of Ukraine](#) (hereinafter — CPC of Ukraine) provides for the possibility to form joint investigative teams for pre-trial investigation of the circumstances of criminal offences committed in the territories of several states or if the interests of such states are violated.

Hence, Ukraine has predominately fulfilled the requirements of p. 1-3 Article 4 of the Convention.

Period of Limitations

In view of the penalties provided by Article 369 CC of Ukraine, as well as Article 12, 49 CC of Ukraine, the period of limitations for the specified offences are from 5 to 10 years.

In view of the punishments provided by p.1 Art 369-2 CC of Ukraine, as well as Article 12, 49 CC of Ukraine, the period of limitations for the specified offence is 3 years. In the same way, the period of limitation specified for applying the criminal justice measures to legal entities, in line with

Article 96-5 CC of Ukraine.

Accordingly, the periods of limitation for p. 1 Article 369-2 CC of Ukraine are insufficient for the investigation and prosecution of such offences, as required by Article 6 of the Convention.

Money Laundering

According to p 1 Article 209 CC of Ukraine, criminal liability is established for acquisition, possession, use, disposal of property in respect of which the factual circumstances confirm that they are proceeds of crime, including conducting financial operation, transaction with such property, or transfer, change of form (transformation) of such property, or actions aimed at concealing, hiding the origin of such property or possession, the right to such property, its sources of origin, location, where these actions were committed by a person who knew or should have known that such property directly or indirectly, wholly or partially proceeded from crimes.

As far as any criminal action can be deemed a predicative criminal offence for the purposes of p. 1 Article 209 CC of Ukraine, Ukraine fulfils the requirements of Article 7 of the Convention.

Law Enforcement

In Ukraine, the investigative jurisdiction of criminal proceedings under Article 369, part 1 of Article 369-2 of the Criminal Code of Ukraine, committed against an official defined in Part 4 of Article 18 of the Criminal Code of Ukraine, is assigned to the National Anti-Corruption Bureau of Ukraine (paragraph 1, item 3, part 5, Article 216 of the CPC of Ukraine).

Procedural guidance, supervision of compliance with laws and support for public prosecution in such criminal proceedings are carried out by prosecutors of the Specialised Anti-Corruption Prosecutor's Office of the Office of the Prosecutor General (Part 5, Article 8 of the Law of Ukraine On the Prosecutor's Office).

Thus, Ukraine has created the preconditions at the legislative level for the independence and effectiveness of criminal prosecution of bribery of foreign officials, as required by Article 5 of the Convention.

Reporting

Ukraine, having adopted the Laws of Ukraine On Accounting and Financial Reporting and On Audit of Financial Reporting and Auditing, mainly implements the requirements of Article 8 of the Convention.

According to Part 1 of Article 366 of the Criminal Code of Ukraine, an official is criminally liable for drawing up or issuing knowingly false official documents, entering knowingly false information into official documents, and for other forgery of official documents.

Mutual legal Assistance

Ukraine provides an appropriate legal basis for mutual legal assistance in criminal proceedings (Section IX of the CPC of Ukraine).

One of the grounds for refusing to comply with the request for international legal assistance is, in particular, that the request concerns an act that is not a criminal offence under the Law of Ukraine on Criminal Liability (item 4 of Part 2 of Article 557 of the CPC of Ukraine), in the absence of

international treaty with Ukraine. However, as noted above, as bribery of foreign officials is considered a crime under Article 369, part 1 of Article 369-2 of the Criminal Code of Ukraine, obstacles to the principle of "double criminality" should not arise.

The provisions of the Law of Ukraine On Banks and Banking, as well as the provisions of the CPC of Ukraine do not prohibit the provision of information that constitutes banking secrecy in the framework of international cooperation in criminal proceedings.

Therefore, the provisions of Article 9 Conventions are legally implemented.

Extradition

In accordance with Part 1 of Article 573 of the CPC of Ukraine, extradition is possible if the law of Ukraine for at least one of the crimes for which extradition is requested, provides for imprisonment for a maximum term of not less than one year or a person sentenced to imprisonment has the unserved term of not less than four months. The law provides for such punishments that extradition is possible under Article 369, part 1 of Article 369-2 of the Criminal Code of Ukraine. Part 1 of Article 589 of the CPC of Ukraine prohibits the extradition, in particular, of citizens of Ukraine.

Given the provisions of Article 543, 544 of the CPC of Ukraine, international legal assistance may be provided both on the basis of an international agreement with Ukraine and on the basis of a request of a foreign state or if requested on the basis of reciprocity. Part 3 of Article 544 of the CPC of Ukraine stipulates that Ukraine considers a request of a foreign state in the absence of an international agreement only if there is a written guarantee of the requesting party to accept and consider Ukraine's request on a reciprocal basis in the future.

As noted above, criminal liability for bribery of foreign officials is provided for citizens of Ukraine if such an act is committed outside of Ukraine. As for the possibility of providing materials of such proceedings, item 6 of Part 2 of Article 557 of the CPC of Ukraine provides for the refusal to comply with the request of a foreign state, if the request relates to a criminal offense that is the subject of pre-trial investigation or trial in Ukraine, in the absence of an international treaty with Ukraine.

The requirement regarding "double criminality" in Ukraine has been met.

Therefore, Ukraine mainly implemented the requirements of Article 10 of the Convention.

Implementation of 2021 OECD Recommendation on Further Combating Bribery of Foreign Officials in International Business Transactions

At present, at the legislative level, Ukraine has not taken measures to implement the latest OECD Recommendation on the further combating bribery of foreign officials in international business transactions.

However, in view of the above, some of the provisions of the Recommendation have already been implemented in national legislation and further revision of national legislation is planned in order to fully take into account the latest OECD Recommendations in accordance with the principles of the national legal system.

162. What are the rules and institutional arrangements for the avoidance of conflict of

interest in the case of officials, irrespective of whether they are members of parliament, government, the administration and the judiciary?

The matter of prevention and resolution of a conflict of interest is regulated by Article 28–35-1 of the Law of Ukraine [On Prevention of Corruption](#) (hereinafter — the Law).

General obligations pertaining to prevention and resolution of a conflict of interest, as specified by the Law, regardless of a position or status, include:

- obligation to take steps aimed at preventing a conflict of interest;
- obligation to report a conflict of interest;
- obligation to avoid any actions and/or decisions in case of conflict of interest;
- obligation to take steps to resolve a conflict of interest.

Articles 29 – 34 provide for *measures to resolve a conflict of interest* and the procedure to use them.

Measures of *external resolution of a conflict of interest* include:

- 1) suspension of a person from fulfilling the task, performing actions, making decisions or participation in making decisions under the conditions of a real or potential conflict of interest;
- 2) use of external monitoring to control how a person fulfils a certain task, performs certain actions or makes decisions;
- 3) restricting a person's access to certain information;
- 4) reviewing the scope of a person's official powers;
- 5) reassignment of a person to another position;
- 6) termination of employment of a person.

Persons who have an actual or potential conflict of interest, can independently *take steps to resolve it* by eliminating the respective private interest and providing documents that prove it to their immediate head or the head of an authority which has the powers to dismiss/initiate dismissal from a position.

Elimination of a private interest shall exclude any possibility of its concealment.

Besides, the rules in Article 35-1 of the Law provide that there are *some peculiarities in resolution of a conflict of interest* for certain categories of subjects that are specified by the laws governing the status of such persons and the organisation of such bodies.

According to the Law, such subjects include, namely, people's deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of central executive bodies, who are not part of the Cabinet of Ministers, judges, judges of the Constitutional Court of Ukraine, deputies of local councils, some officials in local self-government.

The existence of such peculiarities in resolving a conflict of interest is caused by the status of such offices, subordination of such officials, exercise of their powers, their activities, peculiarities of decision-making, as well as by impossibility to apply the general measures of external resolution of a conflict of interest.

Thus, Article 31-1 of the Law of Ukraine On the Rules of Procedure of the Verkhovna Rada of Ukraine⁹⁸ provides for some peculiarities in resolving the conflict of interest of the *people's deputies of Ukraine* arising during their participation in a plenary session of Verkhovna Rada of Ukraine.

Article 45-1 of the Law of Ukraine On the Cabinet of Ministers of Ukraine⁹⁹ provides for some peculiarities of resolving the conflict of interest of the *Cabinet members arising during the Cabinet meetings*.

Peculiarities in resolving a conflict of interest of a head of a central executive body are specified in p. 7 Article 16 of the Law of Ukraine On the Central Executive Bodies¹⁰⁰.

Part 10 Article 133 of the Law of Ukraine On the Judiciary and the Status of Judges¹⁰¹ provides for some peculiarities in resolving the conflict of interest of *judges*.

Article 60 of the Law of Ukraine On the Constitutional Court of Ukraine¹⁰² provides for some peculiarities in resolving the conflict of interest of a *judge of the Constitutional Court of Ukraine*.

Article 59-1 of the Law of Ukraine On the Local Self-Government in Ukraine¹⁰³ provides for some peculiarities in resolving the conflict of interest of *deputies of local councils and some local self-government officials arising at the meetings of local councils and their working collegial authorities*.

Part 2 Article 35-1 of the Law¹⁰⁴ separately provides for the rules to resolve the conflict of interest arising with the *members of a collegial authority*.

163. Is there a legal obligation to declare assets? By whom? Which laws specify those obligations? Are declarations of assets made public and are they pro-actively used as a tool to undercover illicit wealth? Is there any independent monitoring agency, national security agency, or NGO verifying the asset declarations? If yes, are their reports public? What is the role of the tax authority, if any in verifying asset declarations?

Legal obligation to declare assets? By whom? What laws specify those obligations?

The obligation to declare assets and income is provided in the Law of Ukraine [“On Prevention of Corruption”](#) (hereinafter the Law). Persons listed in [clause 1, subclause “a”](#) and [“c”](#), clause 2, clause 4 of part 1 of Article 4 of the Law (hereinafter “subjects of declaration”), are obliged to file annually the declaration of a person authorised to perform the functions of the state or local government (hereinafter “the declaration”).

⁹⁸ This Article of the Law of Ukraine On the Rules of Procedure of the Verkhovna Rada of Ukraine is available at: <https://cutt.ly/XFWD0Av>

⁹⁹ This Article of the Law of Ukraine On the Cabinet of Ministers of Ukraine is available at: <https://cutt.ly/3FWFvAl>

¹⁰⁰ This Article of the Law of Ukraine On the Central Executive Bodies is available at: <https://cutt.ly/sFWGk19>

¹⁰¹ This Article of the Law of Ukraine On the Judiciary and the Status of Judges is available at: <https://zakon.rada.gov.ua/laws/show/en/1402-19#Text>

¹⁰² This Article of the Law of Ukraine On the Constitutional Court of Ukraine is available at: <https://zakon.rada.gov.ua/laws/show/en/2136-19#Text>

¹⁰³ This Article of the Law of Ukraine On the Local Self-Government in Ukraine is available at: <https://cutt.ly/tFWHHI4>

¹⁰⁴ This Article of the Law of Ukraine On Prevention of Corruption is available at: <https://zakon.rada.gov.ua/laws/show/en/1700-18#Text>

Such subjects of declaration include, among others: the President of Ukraine, MPs, government officials, civil servants, local government officials, members of local councils, judges, judges of the Constitutional Court of Ukraine, military officials of the Armed Forces of Ukraine, other bodies, rank and file and commanding officers of the State Penitentiary Service, chief members of civil defence bodies and units, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, persons holding special ranks of the Bureau of Economic Security of Ukraine, officials of the prosecution, the Security Service of Ukraine, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the Bureau of Economic Security Of Ukraine, police officers, officials of legal entities of public law, members of the Board of the National Bank of Ukraine, persons who are members of the supervisory board of a state bank, state enterprise or state for-profit organisation, business association with over 50% of shares (equity) belonging to the state.

The full list of subjects of declaration is available at <https://cutt.ly/3FRLFSU>.

Are declarations of assets made public and are they pro-actively used as a tool to uncover illicit wealth?

All declarations submitted by these persons are public and published on the NACP website, excluding information that is personal data of the subjects of declaration.

Only declarations submitted by the personnel of the intelligence bodies of Ukraine and / or persons holding positions with duties directly related to state secrets in connection with operational, investigative, counter-intelligence, intelligence activities are not subject to disclosure.

The structure of the declaration is defined by the Law and provides information on all assets which belong to the subject of the declaration without exception, as well as those belonging to his or her immediate family members (spouse, regardless of the formal marriage, children). In particular, information is provided on real estate, vehicles regardless of their value, all movable property worth more than 100 subsistence minimums (as of 1 January 2022 — UAH 248,100), securities, corporate rights, beneficial ownership, income, monetary assets, cryptocurrencies, intellectual property rights, etc. In addition, all subjects of declaration provide data on all their accounts in financial institutions.

Is there any independent monitoring agency, national security agency, or NGO verifying the asset declarations? If yes, are their reports public?

All information in declarations is subject to verification by the NACP, which applies several mechanisms to this end.

Based on the Procedure for control over the completeness of the declaration of a person authorised to perform the functions of the state or local government, approved by the order of the National Agency for Corruption Prevention of 31 August 2021 No. 553/21, information in declarations is automatically compared with data from the following state registers: hereditary register, unified register of powers of attorney, unified state register of legal entities, individual entrepreneurs and public associations, state register of civil status acts, state register of real property rights, unified register of enforcement proceedings, register of vehicles, register of the State Tax Service (income information).

All declarations submitted to the register of declarations are subject to such verification, and an act is drawn up based on the results of such verifications, which is subsequently published on the

NACP website. If the system detects discrepancies, a NACP officer checks for a technical error, and if the violation is confirmed, provides the necessary documents to the relevant law enforcement agencies to initiate proceedings to bring the perpetrator to administrative or criminal liability, draws up a report on an administrative offence within their competence.

The NACP also carries out a full verification of the declaration. This constitutes a much more profound verification of declarations of persons holding senior positions in the government (the President of Ukraine, members of the Government, judges of the Supreme Court and the High Anti-Corruption Court, senior prosecution officials, heads of central bodies of executive power, members of the Parliament, etc.), as well as persons with high-risk declarations as identified by the automatic verification systems with the help of specially developed mathematical algorithms.

Within this procedure, information from all available state registers and databases is additionally verified, information from the media is analysed, information from available foreign registers and databases is received, banking privilege is disclosed, movement of assets between officials' accounts is traced, information on the declared crypto assets is verified, and so on. In 2021, the NACP conducted 1,076 full inspections.

The results of the full inspection are formalised as a reference certificate stating reasons for verification, information sources used, identified violations of the law by the subject of declaration, identified characteristics of an administrative or criminal violation. Such certificates are also public and published on the website of the National Agency.

If features of an administrative or criminal offence are found, the NACP submits the relevant materials to law enforcement agencies for a criminal investigation or administrative report. The NACP also draws up reports on administrative offences within its competence.

What is the role of the tax authority, if any in verifying asset declarations?

The State Tax Service of Ukraine, like other authorities, actively cooperates with the NACP.

The NACP has automatic access to the register maintained by tax agencies, which contains all information on the income of all subjects of declaration.

In addition, at the request of the NACP, the State Tax Service provides information on legal entities and individual entrepreneurs, in particular, on open accounts in banking institutions, counterparties, the amount and nature of taxes paid, debts, etc.

164. Are citizens being made aware on how to report irregularities and are complaint mechanisms easily accessible? Is there a legal obligation to follow up on complaints and to inform citizens accordingly?

Possibilities and channels to report the violations of anti-corruption legislation

The Parliament adopted the Law «On amending the Law of Ukraine of 01 June 2021 № 1502-IX «On Prevention of Corruption» to sort out certain issues of protection of whistleblowers» which envisages the creation of the *Unified Portal of Whistleblower Reports*. The latter strives to optimise and speed up the consideration of corruption-related reports.

According to Clause 2 of Chapter II «Final and transitional provisions» of the mentioned Law, the NAPC should issue a separate decision on the beginning of the Portal's functioning. Before that, the corruption-related reports are received and considered in a manner valid before the adoption of the mentioned Law.

Currently, the Portal is still being developed.

Thus, the provisions of the Law of Ukraine «On Prevention of Corruption» (hereinafter – the Law) remain effective.

The Law envisages the following channels for reporting corruption:

1) internal channels to report corruption – channels of protected and anonymous reporting of information to a head of the body or the authorised unit (persons) of a body or legal entity where a whistleblower works, serves, studies, or by whose order he/she performs work;

2) regular channels to report corruption – channels of protected and anonymous reporting of information to the NAPC or another state authority that has the power to decide on the related matters. Regular channels are obligatory to be created by specially authorised subjects in the corruption prevention sphere, law enforcement agencies, those responsible for exercising control of legislation adherence in the related spheres, and other state bodies and institutions;

3) external channels to report corruption – via private persons or legal entities, including via mass media, journalists, unions of citizens, professional unions, etc.

The state ensures the obligatory presence and functioning of the internal and regular channels. The external channels exist autonomously and can be used by a whistleblower upon his/her will and discretion. All the corruption reports are subject to obligatory consideration by the relevant bodies with further notification of their consideration results.

Informing citizens of the current channels to report violations of anti-corruption legislation

Information on the whistleblowers' possibilities to report corruption is provided at the NAPC website under the following link: <https://cutt.ly/qFR2xXt>.

Moreover, the NAPC developed educational products to inform and educate citizens on how to report corruption:

- educational tv-show «Whistleblower in law»: <https://cutt.ly/9FR7SuS>.
- online course «Disclose, make an impact» <https://cutt.ly/JFR7JR7>.

The NAPC website also has information (infographics, visualisations) of the algorithms explaining how the reports on criminal corruption and corruption-related offences are considered. Those are available to everyone¹⁰⁵.

NABU regularly informs the public about ways to report facts that may indicate the commission of a corruption offence, including through the official website and social media pages (Facebook, Twitter, Telegram, Instagram, YouTube).

¹⁰⁵ <https://cutt.ly/NFThXnf>, <https://cutt.ly/TFTh4wB>, <https://cutt.ly/WFTjiOB>, <https://cutt.ly/3FTjhKK>, <https://cutt.ly/8FTjQO0>, <https://cutt.ly/zFTjPI2>. A

The explanation on how to do that is provided both in visuals and in videos), as well as through live broadcasts with NABU detectives.

The National Bureau website's main page has a toll-free phone number (0-800-213-200) where a person can leave a request/report/message, which will be processed within the next 24 hours.

Electronic fill-in forms, the e-mail/postal addresses of the National Bureau and its territorial offices are also available on the website.

Additionally, NABU broadcasted successful cases opened and investigated thanks to the information and evidence provided by whistleblowers (projects "[Whistleblowers' stories](#)" - "I expose corruption with NABU").

NABU detectives adhere to the requirement of Article 214 of the Criminal Procedure Code of Ukraine (CPC) regarding the commencement of pre-trial investigation after the receipt of the application or information about the committed criminal offence, or after detecting the circumstances that may be the evidence of a criminal offence received from any source, as well as the requirement of Article 60 of CPC of Ukraine regarding the right of the applicant to receive the document certifying the receipt and registration of their application and an extract from the Unified Register of Pre-Trial Investigations.

Procedure for considering applications and reports, the related feedback

The procedure for consideration of the corruption-related reports is prescribed by [the Law](#) (Article 53-2). A specific provision is dedicated to the right to receive information on the status and results of consideration, verification, and/or investigation in connection with the report of possible facts of violations (Article 53-6 of [the Law](#)).

Consideration of anonymous reports

Anonymous reports of corruption must be verified no later than 15 days of their receipt, with the possibility of extension of this term to 30 days by the decision of a head of the body or his/her deputy.

In case of confirmation of the information provided in the report, the head of the responsible body takes actions to cease the disclosed violation, remedy its consequences, and hold the guilty persons disciplinarily liable. In case of detection of elements of criminal or administrative offences, the head also informs the specially authorised counter-corruption entity.

Consideration of corruption reports whose authors are known

A report undergoes a *preliminary verification* for no longer than 10 working days, which results in issuing of one of the following decisions:

- to initiate an internal (service) verification or investigation if the reported facts were confirmed or it is necessary to further verify the credibility of the provided information;
- to transfer the materials to a law enforcement agency, should the elements of a crime were discovered, or to transfer them to the other bodies authorised to react to the discovered offences following the provisions of [the Criminal Procedural Code of Ukraine](#);
- to close the proceedings if the reported facts were not confirmed.

The whistleblower should be informed of the results of the preliminary verification of his/her report no later than three days of the verification completion.

If the received information on possible facts of corruption does not fall within the competence of the body or legal entity that received such information, the whistleblower shall be communicated within three days (and without preliminary verification) with an explanation of the competence of bodies or legal entities authorised to conduct verification or investigation of the relevant information.

If the received information is related to actions or inactions of the chief of the related body or a legal entity that received such information, such information, without a preliminary verification, is sent within three days to the NAPC, which further decides on the procedure of its further consideration.

Internal (service) check or investigation upon notice of potential facts of criminal corruption or corruption-related violations, other violations of the Law should be conducted for no longer than 30 days of the day of completing the preliminary verification. The term might be extended to 45 days with the relevant notice being sent to the whistleblower.

Upon the results of the internal (service) verification, the person in charge issues one of the following decisions:

- to transfer the materials to a law enforcement agency, should the elements of a crime were discovered, or to transfer them to the other bodies authorised to react to the discovered offences;
- within its powers, to hold the guilty persons liable, to cease the detected violations, their causes, circumstances, and consequences, to take measures to restore the rights and legitimate interests of individuals, and to compensate for the damages caused.

165. Is there a general policy in place to prevent corruption in the private sector, e.g. have accounting and auditing standards been introduced in the private sector? If yes, what has been the result so far of such policy?

General principles of corruption prevention in the activities of legal entities

In order to implement the obligations that Ukraine undertook in Article 12 “Private Sector” of Chapter II of the UN Convention against Corruption, the national legislation of Ukraine has enshrined provisions that impose obligations on private business regarding corruption prevention and liability for their violation.

At the same time, it should be noted that the national legislation of Ukraine does not specifically distinguish and does not separately define legal regulation for private and state businesses.

The general requirements for the corruption prevention system are provided for in the [Law “On Prevention of Corruption”](#) (hereinafter referred to as the Law); Section X establishes requirements for preventing corruption in the activities of legal entities.

The general legal framework for preventing corruption in the activities of legal entities (both for the public and private sector) is defined in Article 61 of the Law and provides for:

1) the development and adoption of measures that are necessary and justified to prevent and counter corruption in the activities of a legal entity;

2) regular assessment of corruption risks in its activities and implementation of appropriate anti-corruption measures;

3) performance of certain duties defined by Article 61, part 3 of the Law (in particular, not to commit corruption offences, to inform about cases of incitement to corruption or corruption violations by other employees, to inform about the emergence of a conflict of interest, etc.) by officials of legal entities, other persons who perform work and are in labour relations with legal entities.

Special requirements

Special requirements for corruption prevention provided by the Law for legal entities of private law, which fall under the criteria defined in Article 62, part 2 of the Law (are participants in the procurement procedure in accordance with the [Law “On Public Procurement,”](#) if the cost of purchasing goods, service (services), works is equal to or exceeds UAH 20 mln, business associations (in which the state or municipal share exceeds 50%), where the average number of employees for the reporting (financial) year exceeds fifty people, and the gross revenue from the sale of goods (works, services) during this period exceeds UAH 70 mln.).¹⁰⁶

In accordance with Article 53-1 of the Law, such legal entities are obliged to provide conditions for reporting information on possible facts of corruption or corruption-related offences and other violations of the Law.

The following conditions must be ensured by:

1) the implementation of mechanisms for encouraging and forming a culture of reporting possible facts of corruption or corruption-related offences, other violations of this Law;

2) providing employees and persons who are serving or training, or performing certain work, with methodological assistance and consultations on reporting possible facts of corruption or corruption-related offences, other violations of this Law;

3) the organisation and consideration of reports on possible facts of corruption or corruption-related offences, other violations of this Law;

4) mandatory ensuring the functioning in cases provided for by this Law, internal and regular channels for reporting possible facts of corruption or corruption-related offences, other violations of this Law.

In addition, legal entities of private law, provided for by Article 62, part 2 of the Law are obliged to approve anti-corruption programmes and appoint a Commissioner — a person responsible for the implementation of the anti-corruption programme in the activities of the enterprise, the legal status of which is determined by the Law (Article 62, pp. 2,5)

Other private legal entities are encouraged to adopt anti-corruption programmes and appoint an anti-corruption commissioner, but such requirements are not mandatory for them.

¹⁰⁶ According to the analytical module of the Prozorro platform, with the use of which public procurement is conducted, there are more than 3,000 legal entities of private law in Ukraine that fall under this legal regime.

Article 63 of the Law defines a list of provisions that may be included in the anti-corruption programme of a legal entity, and Article 64 of the Law regulates the legal status of the anti-corruption commissioner.

In order to bring the Model Anti-Corruption Programme of a legal entity closer to international standards of corruption prevention, in particular, the ISO 37001:2016 standard “Anti-Bribery Management Systems” and considering the emergence of new corruption risks in the activities of legal entities, in 2021, by the order of the National Agency on Corruption Prevention, dated 10 December 2021, No. 794/21 “On Approval of the Model Anti-Corruption Programme of a Legal Entity” (<https://cutt.ly/MFnjEFO>), a new version of the Model Anti-Corruption Programme was approved, which was put into effect on January 18, 2022.

This document is a mandatory basis for legal entities of private law who participate in public procurement under the conditions provided for by Article 62 of the Law, to approve their own anti-corruption programmes.

It should also be noted that sectoral compliance/corruption prevention standards are actively developing in Ukraine, first of all, those regarding the financial sector. Thus, in 2018, the National Bank of Ukraine adopted Resolution #64, which amended the Regulation on Organisation of Risk Management System in Ukrainian Banks and Banking Groups. In accordance with this resolution, banks of Ukraine/responsible persons of banking groups shall develop/finalise and implement intrabank/intragroup documents on risk management, implement measures to introduce the requirements of the Regulation, in particular, the creation of a compliance unit, preparation and revision of compliance and anti-corruption documents — Code of Conduct (Ethics), policies to prevent conflicts of interest, mechanism for reporting unacceptable behaviour in the bank, management of compliance risks, etc.

In addition, on 12 March 2020, the Corporate Governance Code, its key requirements and recommendations were approved by the decision No. 118 of the NCSSM (National Commission on Securities and Stock Market).

The Code was developed together with Ukrainian and international experts and applies the best world practices and developments in corporate governance. The adoption of the Code is recommended for legal entities of private law in which the state share is equal to or exceeds 50%.

Inspections and liability

The National Agency on Corruption Prevention is authorised:

- to conduct inspections of the organisation of work on the prevention and detection of corruption in legal entities specified in Article 62, part 2 of the Law, in particular, regarding the preparation and implementation of anti-corruption programmes, the functioning of internal and regular channels of reporting possible facts of corruption or corruption-related offences, other violations of this Law, protection of whistleblowers;

- to make precepts to eliminate the identified violations. Failure to comply with the precepts is the basis for bringing to administrative liability (Article 188-46 of the Code of Ukraine on Administrative Offences).

For violation of anti-corruption legislation in the activities of legal entities of private law, Article 354 of the Criminal Code of Ukraine establishes liability for bribery of an employee of an enterprise, institution, organisation (<https://cutt.ly/6FndDX0>).

Business Ombudsman

In order to ensure transparency of the activities of state authorities, to help reduce corruption and prevent unfair (dishonest) behaviour towards business entities, in 2014, the Business Ombudsman Council was established in Ukraine, which is a permanent advisory body of the Cabinet of Ministers of Ukraine.¹⁰⁷

In 2020, draft Law of Ukraine “On the Establishment of a Business Ombudsman in Ukraine,” aimed at introducing a business ombudsman institution in Ukraine at the legislative level and expanding the powers of the business ombudsman,¹⁰⁸ was developed and registered in the Verkhovna Rada of Ukraine.

On 19 May 2019, the Business Ombudsman Council, with the support of the European Bank for Reconstruction and Development and the Organisation for Economic Cooperation and Development, presented the Ukrainian Network of Integrity and Compliance (UNIC), a new initiative for businesses that seeks to work transparently.

The purpose of creating the Network is to promote the idea of ethical and responsible business. The companies participating in the network agreed to maintain a good business reputation and constantly improve their own standards of integrity in accordance with the best international practices.¹⁰⁹

Separately, it should be noted that the draft Anti-Corruption Strategy for 2021-2025¹¹⁰ provides for a number of measures that will help reduce the level of corruption toleration in the private business environment (implementation of new anti-corruption standards in the private sector, identification of new corruption measures, development and implementation of effective anti-corruption programmes, development and improvement of integrity codes based on leading corporate governance practices, etc.).

166. Does legislation on free access to information exist? Is there a Commissioner for Free Access to Information or a body in charge to supervise implementation of legislation? What is the role and remit of the Commissioner for Free Access to Information?

The Law of Ukraine “[On Access to Public Information](#)” is the main legal document that determines the procedure for ensuring the right of everyone the access to information held by state authorities, other managers of public information and information of public interest. Article 17 of the Law provides for three types of control over access to public information: parliamentary, public and

¹⁰⁷The status and powers of the Business Ombudsman Council are determined by the Resolution of the Cabinet of Ministers of Ukraine, dated November 26, 2014, No. 691, “On the Establishment of the Business Ombudsman Council.”

¹⁰⁸You can get acquainted with the content of the draft law at the link: <https://cutt.ly/dFnfAuD>

¹⁰⁹More details about the Network can be found at the link: <https://cutt.ly/GFngT49>

¹¹⁰The draft Law of Ukraine "On the Principles of State Anti-Corruption Policy for 2020-2024" was registered in the Verkhovna Rada of Ukraine on 21.09.2020 under No. 4135, adopted on November 5, 2020, in the first reading as a basis and prepared for the second reading.

state.

Currently, there is no separate controlling body on issues of free access to information in the system of Ukrainian authorities. At the same time, the idea of creating such a body, which would be endowed with investigative functions in the field of access to information and would bring managers to justice for violating the law, is supported. At the same time, the Verkhovna Rada of Ukraine is drafting Law No. 6177 of 18 October 2021 “On the National Commission for Personal Data Protection and Access to Public Information”, which provides for the establishment of a separate executive body with special status to implement international standards at the national level in the field of protection of the right to access information and the right to protection of personal data, ie the creation of a body of state control over ensuring access to public information.

In terms of open data, [Ukraine has become one of the best performers in terms of the annual European Open Data Maturity ranking.](#)

167. Public procurement, privatisation, large budgetary expenditure, construction, and land-use planning: How are these areas monitored? Is the monitoring done efficiently and by an independent body? Is there sufficient follow-up to irregularities? Is there parliamentary oversight? How is financial control regulated? Is there a functioning auditing authority?

Concerning the legal basis of financial control in the public procurement field – it is outlined by The Law of Ukraine “On the basic principles of public financial control in Ukraine” of January 26, 1993 № 2939-XII.

According to article 1 of this Law implementation of state financial control is provided by the central executive body authorized by the Cabinet of Ministers of Ukraine to implement state policy in the field of state financial control.

According to article 5 of this Law control over compliance with the legislation in the field of procurement is carried out by monitoring procurement in the manner prescribed by the Law of Ukraine "On Public Procurement", conducting inspections of procurement, as well as during public financial audit and inspection.

According to article 8 of The Law of Ukraine “On public procurement” monitoring of procurement procedure is carried out by the central executive body, which implements the state policy in the field of state financial control, and its inter-territorial bodies (hereinafter - the bodies of state financial control; currently the State audit service). Procurement monitoring is carried out during the procurement procedure, conclusion of the procurement contract and its execution.

The decision to initiate procurement monitoring shall be taken by the head of the state financial control body or his deputy (or other officer authorised by the head) if one or more of the following grounds are present:

- 1) data of automatic indicators of risks;
- 2) information received from the bodies of state power, members of the Parliament of Ukraine, bodies of local self-government regarding the presence of signs of violation (violations) of legislation in the field of public procurement;

3) information of mass media containing a sign of violation (violations) of legislation in the field of public procurement;

4) signs of violation (violations) of legislation in the field of public procurement detected by the body of state financial control in the information published in the electronic procurement system;

5) information received from civil society organisation about the presence of signs of violations (violations) of legislation in the field of public procurement revealed by the results of civil society control in accordance with article 7 of The Law of Ukraine “On public procurement”.

For the analysis of data indicating the signs of violation (violations) of legislation in the field of public procurement, there can be used:

- information published in the electronic procurement system;
- information contained in unified state registers;
- information in databases open for access to the central executive authority, which implements the state policy in the field of state financial control.

On the basis of the decision to start monitoring by the state financial control body, an announcement about the commencement of procurement monitoring shall be made public in the electronic procurement system within two business days from the date of such decision is made, indicating the unique number of the Announcement of a competitive procurement procedure, assigned by the electronic procurement system and / or unique number of the announcement about the intention to conclude an contract in case of negotiated procedure, as well as a description of the grounds for procurement monitoring.

The notification of the commencement of procurement monitoring does not stop the procurement procedures specified by The Law of Ukraine “On public procurement”.

The period of procurement monitoring cannot exceed 15 business days from the date of publication of the decision to commence monitoring in the electronic procurement system.

During the period of procurement monitoring an authorised officer of the state financial control body has the right, through the electronic procurement system, to ask the contracting authority for explanations of decision-making and / or commission of actions or inactivity that are the subject of research within procurement monitoring. All such requests for explanation are automatically made public by the electronic procurement system. The contracting authority must provide relevant explanations through the electronic procurement system within three business days from the date of publication of the request for explanation of decision-making and / or commission of actions and inactions that are the subject of research within monitoring.

Within the time period for monitoring, the contracting authority has the right, on his own initiative, to provide an explanation of the decision making and / or the commission of actions or inactivity that are the subject of research within monitoring.

On the basis of the monitoring results, an officer of the state financial control body shall draw up and sign a conclusion on the results of the monitoring (hereinafter - the conclusion), which shall be approved by the head of the state financial control body or his deputy. Such conclusion shall be

made public in the electronic procurement system within three business days from the date of its preparation.

The conclusion must include:

- 1) the name and location of the contracting authority, which was monitored, its identification code of the legal entity in the USREOU;
- 2) the name and CPV code (also in regard to each lot in case of allotment) of procurement item and its expected value;
- 3) the unique number of the announcement of the competitive procurement procedure, assigned by the electronic procurement system, and / or the unique number of the notice of intention to conclude the contract through negotiation procedure in the e-procurement system
- 4) a description of the violation (violations) of the legislation in the field of public procurement identified by the results of monitoring;
- 5) obligations to eliminate violation (violations) of legislation in the field of public procurement.

The conclusion may also include additional information determined by the state financial control body necessary.

If according to the results of monitoring violations of the legislation in the field of public procurement have not been revealed, the conclusion indicates the absence of violations (violations) of legislation in the field of public procurement.

If by the results of monitoring revealed signs of violation of the legislation, the adoption of which measures do not fall within the competence of the state financial control body, the relevant state authorities shall be notified in writing.

The contracting authority has the right within a period of three business days from the date of publication of the conclusion to apply to the state financial control body for clarifying the contents of the conclusion and its obligations specified in the conclusion.

Within five business days from the day from the date of publication of the conclusion of the financial control body, the contracting authority shall publish through the electronic system of procurement an information and / or documents evidencing removal of the violation (violations) of the legislation in the field of public procurement, set forth in the conclusion, or substantiated objections to the conclusion, or information on the causes of the impossibility of eliminating identified violations.

In case of confirmation by the state financial control body of the fact that contracting authority has eliminated (violations) of the legislation in the field of public procurement, set forth in the conclusion, which this body shall indicate in the electronic procurement system within five business days from the day the contracting authority published the relevant information in the electronic system, an official and/or an authorized person of the contracting authority is not brought to administrative liability for violations of the legislation in the field of procurement removed by the contracting authority in accordance with the conclusion.

In case of discrepancy of the contracting authority with the information set forth in the conclusion, it has the right to appeal the conclusion to the court within 10 business days from the day of publication of conclusion, that is to be indicated in the electronic procurement system during the next business day from the day of submission of appeal of the conclusion to the court. Contracting authority publishes information in the electronic procurement system about opening of proceeding in a court during 1 business day from the date of receiving such information and the number of the proceeding in a court.

If the contracting authority has not eliminated the violation that led to its failure to comply with the requirements of this Law, as defined in the conclusion, as well as the conclusion is not appealed to the court, the state financial control body, after finishing time limit for appealing to court set in part 10 of article 8 of The Law of Ukraine “On public procurement”, undertakes measures to bring to administrative liability for violation of public procurement legislation. Number of protocol (on administrative liability) is published in the electronic procurement system during 1 business day from date of such protocol is prepared as well as date and number of proceedings in a court are published during 1 business day from the date of receiving information about launching of proceedings in a court.

If the Review Body has accepted the complaint for review from a complainant in accordance with the procedure established by The Law of Ukraine “On public procurement”, the state financial control body does not make a decision on the commencement of monitoring concerning those violations, circumstances, grounds which were or are subject to consideration by the Review Body irrespective of the Review Body’s decision on such violations, circumstances, grounds.

If the Review Body has accepted of a complaint for review from a complainant in accordance with the procedure established by The Law of Ukraine “On public procurement” after the decision to start the monitoring or after the publication of the conclusion, during the next business day from the day the complaint was lodged by a complainant in the electronic procurement system, the head the body of state financial control or its deputy stops the decision of the state financial control until the publication of the decision of the Review Body, and the contracting authority, until decision of the Review Body is published, stops performance of obligations to remove the violation (s) of public procurement legislation set out in the conclusion on those violations, circumstances, reasons which were the subject of the review by the Review Body with a respective notification in the electronic procurement system.

After publication of the decision of the Review Body the contracting authority in accordance with the procedure established by this article, fulfils obligations to eliminate the violation (violation) of the legislation in the field of public procurement specified in the conclusion, in the part that was not subject to review by the Review Entity.

In the case of appealing in a court in regard to a decision of the Review Body, the decision to commence monitoring shall not be made regarding those violations, circumstances, or grounds which were or are the subject of judicial review.

If there are grounds established by part 2 of this article containing signs of violations and which were not subject to consideration by the Review Body and / or appeal in court, the decision to start monitoring of procurement on other signs of violation shall be made after the publication of the

decision of the Review Body in the e-procurement system in the manner prescribed by article 18 of The Law of Ukraine “On public procurement”, or after the court decision has been enacted legally.

The exchange of information between the state financial control body and the contracting authority, established by this article, is carried out electronically through the electronic procurement system.

The form of the conclusion and the procedure for its completion shall be determined by the central executive body which implements the state policy in the field of state financial control.

The methodology for the determination of automatic risk indicators, their list and procedure of application shall be approved by the central executive body which implements the state policy in the field of state financial control under approval of the Authorized Body.

Concerning the parliamentary oversight in the public procurement sector – it is performed by the Accounting Chamber of Ukraine that is on behalf of the Verkhovna Rada of Ukraine (Ukrainian parliament) monitors the receipt of funds in the State Budget of Ukraine and their use. One of the tasks of the Accounting Chamber of Ukraine according to The Law of Ukraine “On the Accounting Chamber” is carrying out preliminary analysis, before consideration at the sessions of the Verkhovna Rada of Ukraine and plenary sessions of the Verkhovna Rada of Ukraine, of the annual report containing the analysis of the public procurement system and generalized information on the results of procurement control within three months from its publication.

168. How do you assess the extent of corruption in the field of public procurement? What measures are in place to ensure transparency and accountability in procurement processes? What percentage of public procurement procedures involve awards without public tender?

The matters of fighting corruption and ensuring transparency and accountability in public procurement are highlighted in The Law of Ukraine “On public procurement”. According to Article 5 of the Law of Ukraine “On public procurement” the procurement procedures shall be implemented in accordance with principles below, to ensure:

- 1) fair competition among tenderers;
- 2) maximum cost saving, efficiency and proportionality;
- 3) openness and transparency at all stages of the procurement process;
- 4) non-discrimination of tenderers and equal treatment to them;
- 5) objective and impartial evaluation of tenders/offers and award;
- 6) prevention of corrupt practices and abuse.

The main goal of public procurement reform in Ukraine was to create a modern and effective public procurement system aimed at efficient spending of taxpayers' money and meeting the needs of the state and local communities, increasing transparency, competitiveness and professionalism of procurement, and gradually bringing Ukraine's public procurement system in line with the European Union standards in accordance with the timetables set by the Association Agreement with the EU,

the Strategy for Public Procurement Reform ("road map") and the action plan for its implementation, approved by the resolution of Cabinet of Ministers of Ukraine from 24 February 2016 No. 175-r.

Since 1 April 2016, public procurement through the ProZorro e-procurement system has been used by contracting authorities represented by central governmental bodies and companies operating in certain sectors of the economy (so-called "natural monopolies"), and Since 1 August 2016, the use of e-procurement has become mandatory for all contracting authorities.

This system allows any potential supplier, both resident and non-resident, to view procurement information disclosed by the contracting authorities and submit their offers electronically.

Today, the electronic public procurement system of Ukraine is an information and telecommunication system that provides procurement procedures, creation, placement, publication and exchange of information and documents in electronic form, which includes a web portal of the authorised body, authorised electronic platforms, including automatic exchange of information and documents.

All the information about any tenders conducted in the electronic system is stored in the central database and is available on the website <http://prozorro.gov.ua/>, so anyone can go and analyse any procurement and find out if there was a violation.

The e-procurement system has a complaint module that is integrated into the system. This module allows bidders to submit a complaint in the form of an electronic document through the e-procurement system to the Antimonopoly Committee of Ukraine (that is a Complaint Review Body according to The Law of Ukraine "On public procurement") and then see the published results of the complaint.

In accordance with the requirements of The Law of Ukraine "On public procurement", procurement of goods, works and services to meet the needs of the state and the local community must be carried out in the most efficient and transparent way, which in turn means informing the market about announced and completed procurements, disclosing all the necessary conditions and requirements and contractors, timely and complete reporting on the procedures and implementation of concluded contracts. Transparency in the field of public procurement also implies the availability of open access and regulatory framework, recommendations, general explanations, methods and standards, relevant decisions on procurement procedures.

According to gathered and analysed statistical data on public procurement for 2021 the total amount of procurement contracts was UAH 897.03 billion. The percentage of public procurement procedures involving awards without public tender (negotiated procedures and negotiated procedures for urgent need) was 15.04% of total amount of contracts or UAH 134.97 billion.

Corruption in public procurement

NABU has been detecting and disclosing corruption in public procurement. In particular, in the areas of sea and railway transport, energy and other areas.

While investigating the crimes NABU takes measures not only to prosecute the perpetrators and compensate the state, but also to ensure fair economic competition, thereby seeking to subject violators to financial sanctions.

Since 2015, NABU has identified a number of schemes causing damage to state interests in

public procurement procedures.

Examples of these cases:

<https://nabu.gov.ua/novyny/zavdannya-51-mln-grn-shkody-derzhavnym-shahtam-materialy-vidkryto> - (inflicting losses to the amount of UAH 51.17 million to state due to unjustified procurement of equipment at inflated prices
https://nabu.gov.ua/sites/default/files/reports/report_ii_2020_eng_0.pdf)

<https://nabu.gov.ua/novyny/eksposadovcya-dsa-pidozryuyut-u-zavolodinni-ponad-50-mln-grn> (embezzlement of UAH 51 million at State Judicial Administration
https://nabu.gov.ua/sites/default/files/reports/angl_zvit_nabu_ii_2021_sayt.pdf (Page 19))

<https://nabu.gov.ua/zavolodinnya-247-mln-grn-dp-administraciya-morskyh-portiv-ukrayiny> (The suspects had been granted with materials of the investigation of the case of 247 million UAH misappropriation of the SE “Ukrainian Sea Ports Authority”
https://nabu.gov.ua/sites/default/files/reports/zvit_eng_sayt_0.pdf)

<https://nabu.gov.ua/novyny/kerivnykiv-portu-yuzhnyy-vykryly-na-zlovzhyvannyah-u-475-mln-grn>

(In English <https://nabu.gov.ua/en/novyny/nabu-exposed-corrupt-scheme-causing-uah-475-million-damages-yuzhny-port>)

<https://nabu.gov.ua/novyny/sprava-ampu>

<https://nabu.gov.ua/novyny/posadovciv-morskoyi-poshukovo-ryatuvalnoyi-sluzhby-vykryly-na-korupciyi> (In English <https://nabu.gov.ua/en/novyny/governor-was-given-notice-suspicion>)

<https://nabu.gov.ua/pryvlasnennya-derzhavnyh-koshtiv-dp-ukrзалiznytsya-sprava-stosovno-vo-nachalnyka-dp-upravlinnya> (The NABU detained an official of Management of Industrial Enterprises of the State Administration of Railway Transport of Ukraine State Enterprise (branch of Ukrзалiznytsia) due to suspicion in misappropriation of the public funds in the amount of 13.65 million UAH. (https://nabu.gov.ua/sites/default/files/reports/report_eng.pdf)

Additionally, NABU detected schemes of concerted behaviour of participating companies in the auction, driven by their criminal intent, and resorting to abuse of office and / or embezzlement.

As the result of the review of materials collected during pre-trial investigation by NABU, a special authorised body in the field of protection of economic competition - the Antimonopoly Committee of Ukraine - imposed fines on participants in public procurement.

Examples of these cases:

<https://amcu.gov.ua/news/amku-ta-nabu-vikrili-zmovu-na-zakupivlyah-programnogo-zabezpechennya-na-majzhe-500-mln-grn>

<https://amcu.gov.ua/news/zmova-pid-chas-zakupivel-dp-krasnoarmijskvugillya>

<https://amcu.gov.ua/storage/app/uploads/public/5e4/d48/b3b/5e4d48b3b23eb112487754.pdf>

<https://amcu.gov.ua/news/verhovnij-sud-pidtvverdiv-zakonnist-rishennya-amku-shchodo-zmovi-na-torgah-ogoloshenih-derzhavnoyu-sudovoyu-administraciyeu>

In addition, NABU has appealed to commercial courts to declare agreements concluded as a result of public procurement invalid.

Please follow the link:

<https://nabu.gov.ua/novyny/ugodu-shcho-sprychynyla-roztratu-92-mln-grn-na-pat-ukrzhaliznycya-vyznano-nediysnoyu>

<https://nabu.gov.ua/novyny/sud-vyznav-nediysnoyu-ugodu-za-yakoyu-ukrzhaliznycya-zaznala-26-mln-grn-zbytkiv>

<https://nabu.gov.ua/novyny/sprava-dp-ampu-sud-vyznav-nediysnym-dogovir-na-712-mln-grn-pro-nadannya-poslug-iz>

<https://nabu.gov.ua/novyny/sprava-dp-ampu-dogovir-na-290-mln-grn-vyznano-nediysnym>

The scope of corruption in public procurement

Procurement of goods, works, and services to meet the needs of territorial communities or the state are classified as spheres with a high level of corruption risks. Thus, until 2016, the sphere of public procurement in Ukraine was closed and contained numerous conditions to realine corruption practices. Information about the tenders was printed by a separate state-owned enterprise in the newspaper “Public Procurement Bulletin,” which allowed the interested parties to buy the newspaper circulation, and proposals for bidding could be submitted only in paper form.

Since 2016, thanks to the procurement reform, procurement procedures are conducted electronically at the expense of the national and local budgets in Ukraine through the ProZorro system, which is designed to minimise corruption schemes and is recognised as one of the best practices in the world ratings of public procurement transparency.¹¹¹ The use of the Prozorro electronic system is mandatory for all state procuring entities.

Some dishonest procuring entities may find an opportunity to find gaps in this system, but in general, there is a tendency to reduce the level of corruption risks in this sphere.

The Law of Ukraine “On Public Procurement” exhaustively regulates the procedure for the actions of the procuring entity's officials when conducting procurement. At the same time, a number of discretionary powers (the ability to act at their own discretion, that is, to choose from several legally feasible solutions what they consider to be the best in current circumstances), in particular, when planning procurement, forming tender documentation, considering tender proposals, can create conditions for the prevalence of corruption practices. The discretion of powers in this case comes from the essence of the procurement function, since it is the procuring entity that can reliably determine the need for certain goods/works/services necessary to ensure their activities, detail the technical, qualitative, and quantitative characteristics of the procurement item, determine the requirements for suppliers, as well as for the terms of the contract.

Among *the most typical corruption risks* identified by the NACP in the field of public procurement are:

¹¹¹ <https://uacrisis.org/en/50453-prozorro-5>

The Ukrainian public e-procurement system ProZorro won the first prize at the third annual Open Government Awards 2016 ceremony in Paris

- 1) overestimation of the expected value of the procurement item;
- 2) overestimation of the procurement volume in the absence of objective need (procurement of unnecessary goods);
- 3) artificial restriction of competition by establishing discriminatory requirements in the tender documentation;
- 4) unreasonable application of non-competitive procedures;
- 5) manipulation of the terms of delivery and payment of goods, works, and services in order to create competitive advantages for the selected supplier;
- 6) unreasonable increase in price after signing the contract.

Measures to ensure transparency and accountability in procurement processes

The legal standards of the [Law “On Public Procurement”](#) in combination with the use of the ProZorro electronic procurement system can significantly increase the efficiency of spending funds, ensure transparency of procedures, create a competitive environment and conditions for the development of fair competition, as well as prevent manifestations of corruption.

The principles of the Ukrainian Prozorro system, which allow minimising corruption risks, are:

- *absolute transparency and publicity* — all information about procurement is published in the system in real time;
- *competition* — the more participants in bidding there are, the greater the competition is and, consequently, the greater the savings of taxpayers' money are;
- *partnership* – uniting the interests of the state (procuring entities), business (suppliers), and civil society.

In addition to legislative provisions and a modern electronic platform on which procurement conducted, there is an active system of public control over the implementation of procurement and the process of spending funds in Ukraine. The legal grounds for this are directly provided in Article 7 [of the Law of Ukraine “On Public Procurement,”](#) which stipulates that public control is provided through free access to all information on public procurement, which is subject to disclosure in accordance with this Law, in particular by analysing and monitoring information posted in the electronic procurement system and by informing the bodies authorised to exercise control about the revealed signs of violation (violations) of the legislation in the field of public procurement through the electronic procurement system or in writing.

Dozorro must be marked as one of the most influential public initiatives — an online platform (portal) through which anyone can provide feedback to the state procuring entity or supplier, society, or law enforcement agencies on the procurement procedure, discuss and evaluate the terms of a particular procurement transaction, analyse procurement transactions of individual procuring entity. The main functionality of the portal is to provide structured feedback that can be analysed by a computer. In our questionnaire, we ask fairly simple questions, which mostly involve a “yes” or “no” answer. You can add a descriptive part to each answer. In addition, this portal is designed to help protect the interests of a participant by informing about possible ways to appeal and prepare appeals to law enforcement and supervisory bodies.

The positive experience of Ukraine in the field of procurement and the advantages of both systems — the state ProZorro and the public Dozorro, were mentioned by the United States in the global Strategy on Countering Corruption, first published in 2022.

*The government develop an electronic procurement system (PROZORRO, or “transparency” in Ukrainian), while also creating a community of civic actors and public buyers (DOZORRO, or “watchdog” in Ukrainian) to analyse state data, flag high-risk tenders and irregularities, and submit grievances to public authorities. Since October 2017, PROZORRO has helped save Ukraine nearly \$6 billion in public funds, including by cancelling illegal tenders.]*¹¹²

It is also worth noting Ukraine's achievements in sector-specific procurement.

Thus, in 2020, the Verkhovna Rada adopted the Law “On Defence Procurement,” which completely transforms the defence procurement system, minimises numerous corruption risks, and divides all defence procurement transactions into open and closed parts, which will prevent manipulation with non-transparent selection and pricing. The Law also provides for the application of the “life cycle cost” criterion of defence products, which meets the best standards of NATO member states and the European Union. In addition, there is a gradual transition to national quality assurance based on the approaches used in relevant NATO standards.

The adoption of this law is an important step in reforming defence procurement, bringing it closer to NATO and EU standards. Procedures need to be more competitive, transparent, and the use of budget funds needs to be more efficient. The law was drafted openly, with the engagement of the public and the expert community.¹¹³

169. Is there a legal basis for cooperation between police and prosecution as well as with other relevant bodies in the fight against corruption? Any internal independent investigation authority established? If yes please provide detail about task, authority, staffing, resources etc.

The activities of police, investigators, prosecutors, judges, and civil servants are regulated by relevant special laws, as well as procedural codes.

Pursuant to Article 25(2) of the Law of Ukraine "On the Prosecutor's Office" the Prosecutor General, heads of relevant prosecutor's offices and their deputies, in accordance with the division of responsibilities, coordinate the activities of law enforcement agencies at the appropriate level in the fight against crime.

In order to ensure a better coordination between law enforcement and prosecutors, the Prosecutor General issued Order No. 28 of 8 February 2021 approved the Procedure for coordination of law enforcement agencies in the fight against crime, which defines the main tasks, principles and forms of coordination, preparation and coordination of joint meetings, groups, monitoring the implementation of jointly agreed measures.

¹¹² <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>

United States Strategy on Countering Corruption

¹¹³ <https://armyinform.com.ua/2020/08/05/zakon-pro-oboronni-zakupivli-uhvaleno-yaki-pidsumky-ta-shho-z-jogo-implementacziyeyu/>

Olena Tregub, Secretary General of the Independent Defence Anti-Corruption Committee in an interview for ArmyInform

During 2021 and 2022 the Prosecutor General and her deputies held 14 coordination meetings with law enforcement agencies, state authorities. Judges were also invited to some of these meetings, taking proper account of their special status and the independence of the judiciary.

Currently, there are 13 interagency working groups operating directly under the auspices of the Office of the Prosecutor General, aimed at combating specific types of criminal offences and solving certain tasks of criminal proceedings. In particular, on the investigation of crimes committed in armed conflict, combating criminal and other offences in the defence sector, analysis of the pre-trial investigation, procedural guidance and trial of criminal proceedings against journalists.

With regard to improving coordination in the anti-corruption field, the Prosecutor General issued Order No. 304 as of 27 September 2021 on the establishment of an interagency working group to coordinate measures to prevent and combat corruption and corruption-related offences, as well as develop proposals for improvement of legislation in this area. The interagency working group includes representatives of the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the National Agency on Corruption Prevention, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, the State Bureau of Investigation, and the Security Service of Ukraine.

To ensure effective and timely finding, tracing, seizure of criminally acquired assets and their transfer for management to ARMA a joint order of PGO and ARMA, No. 383, was adopted on 30 September 2021.

On 1 July 2020 a Memorandum of Understanding was signed between the Office of the Prosecutor General and the Ombudsman for Human Rights of Ukraine. The aim is to establish cooperation in order to prevent, detect or terminate human rights violations or violations of freedoms by law enforcement authorities. An appropriate Action Plan for its implementation has also been developed.

On 17 August 2021 the Prosecutor General signed a Memorandum of Understanding with the United Nations Children's Fund (UNICEF) in Ukraine, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Social Policy of Ukraine, the Ministry of Health of Ukraine, Ombudsman, Free Legal Aid Coordination Centre and the Supreme Court. It regulates the establishment of a cross-sectoral protection centre for children who have suffered and witnessed the violence of a criminal offence (Barnahus model).

The General Inspection reports exclusively to the Prosecutor General. According to the law, the General Inspection is guaranteed independence from influence or interference in its work, and the head of the General Inspection can be dismissed at the initiative of the Prosecutor General only with the consent of the National Agency for Corruption Prevention.

The General Inspection of the Office of the Prosecutor General performs the functions of a specially authorised unit for the prevention and detection of corruption, including:

- participates in conducting inspections of candidates for the positions of prosecutors;
- conducts secret inspections of the integrity of prosecutors in the manner prescribed by the order of the Prosecutor General of Ukraine No. 205 as of 16 June 2016 "On approval of the Procedure for secret inspection of the integrity of prosecutors in the General Prosecutor's Office of Ukraine",

registered with the Ministry of Justice of Ukraine;

- provides advice to prosecutors on the rules of ethical conduct, prevention and settlement of conflicts of interest;

- coordinates the activities of the heads of independent structural units of the Office of the Prosecutor General, heads of regional, district (equivalent to them) prosecutor's offices on internal security, primarily prevention of acts defaming the title of prosecutor, violations of prosecutorial ethics;

- examines the reasons and conditions that contributed to the commission of actions by prosecutors that defame the title of prosecutor, violations of prosecutorial ethics, unlawful interference in official activities and obstruction of their duties and the exercise of their rights;

- ensures the operation of hotlines and e-mail, as well as the further processing of documents obtained through these means of communication;

- periodically examines the state of work on internal security in the prosecutor's office, identifies favourable risks for the commission of corruption offences in the work of prosecutors.

In 2020-2021, with the participation of the General Inspection, materials and reports on 61 prosecutors were sent to the bodies authorised to draw up reports on administrative offences related to corruption. During the same period, disciplinary complaints were also filed against 17 prosecutors who violated the law in the field of prevention of corruption (on financial control and conflict of interest), in 2020 - 2021.

170. Is the domestic legislation aligned with the Financial Task Force (FATF)/MONEYVAL recommendations?

Technical compliance of the national legislation of Ukraine with FATF Recommendations and effectiveness of its implementation are periodically assessed by [the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism \(MONEYVAL\)](#). MONEYVAL at its 55th Plenary Session (5 – 7 December 2017) adopted [Fifth Round Mutual Evaluation Report of Ukraine in the area of anti-money laundering and counter-terrorist financing measures](#) (hereinafter – MER). In general, MER concluded that the national legislation is in compliance with 12 FATF Recommendations, largely in compliance with 20, partially in compliance with 7 and one recommendation is not applicable in Ukraine.

On 6 December 2019 the Verkhovna Rada of Ukraine adopted the Law of Ukraine [“On Prevention and Counteraction to Legalization \(Laundering\) of Proceeds from Crime, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction”](#) under No. 361-IX. The Law implemented into the legislation of Ukraine the requirements of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 “On prevention of the use of the financial system for the purposes of money laundering or terrorist financing” and Regulation (EU) 2015/847 “On information accompanying transfer of funds”, which are mandatory for the implementation by the members of the European Union and countries wishing to join the EU and recommendations specified in MER.

In 2020, MONEYVAL published [the 2nd Enhanced Follow-up Report and Technical Compliance Re-Rating](#) adopted by the MONEYVAL Committee in the course of its 2nd Intersessional consultation (22 May – 10 July 2020).

Thus, MONEYVAL raised its rating with the following FATF Recommendations:

- Recommendation 5 “Terrorist financing offence”, due to changes in the Law in the field of combating terrorism and its financing;
- Recommendation 35 “Sanctions”, due to a significant increase in liability for reporting entities for breaches of AML/CFT requirements.

The MONEYVAL Committee noted Ukraine’s progress in two key areas:

- 1) improvement of criminal legislation related to terrorist financing offence;
- 2) strengthening sanctions against financial institutions and other reporting entities for non-compliance with AML/CFT legislation.

At the same time, in order to implement into national legislation standards equivalent to those adopted by the EU, in particular provisions set out in paragraph 29 of Article 1 of Directive 2018/843 of the European Parliament and of the Council of 30 May 2018 amending the Directive (EU) 2015/849 the following Laws of Ukraine have been adopted:

Law of Ukraine of 14 June 2020 No. 768-IX “About state regulation of activities for the organisation and carrying out gamblings”, which determines the legal basis for state regulation of economic activities in the field of organisation and conduct of gambling in Ukraine, determines the legal, economic, social and organisational conditions gambling;

Law of Ukraine of 17 February 2022 No. 2074-IX “On Virtual Assets”, which regulates legal relations arising in connection with the turnover of virtual assets in Ukraine, defines the rights and obligations of virtual assets market participants, the principles of state policy in the field of virtual assets turnover.

171. Are provisions on immunity, for example covering politicians or magistrates standing in the way of criminal investigations?

The Law of Ukraine No. 27-IX of 03.09.2019 "[On Amendments to Article 80 of the Constitution of Ukraine \(concerning the "immunity" of People's Deputies of Ukraine\)](#)" abolished "immunity" for people's deputies, which provided that "people's deputies of Ukraine may not be prosecuted, detained or arrested without the consent of the Verkhovna Rada".

At the same time, the Article 480 of the CPC of Ukraine provides for a special procedure for criminal proceedings against a certain category of persons, including concerning people's deputies and judges (for people's deputies of Ukraine there is a special procedure for notification of suspicion (the appropriate level of the prosecutor who may do so), requesting a measure of restraint and other actions related to restriction of personal rights and freedoms of judges are provided with specifics.

In 2020 (taking into account the proceedings of previous years) the following persons (subject to the special procedure of criminal proceedings) were prosecuted: 210 people's deputies and 27

judges. In 2021: 79 people's deputies and 32 judges; In January-March 2022 - 30 people's deputies and 10 judges.

In criminal proceedings under investigation by the SBI and NABU, indictments were filed against 16 deputies and 22 judges in 2020, 3 deputies and 32 judges in 2021, 4 people's deputies and 10 judges in three months of 2022.

172. Are there clear procedures for lifting immunities in line with EU standards and are they being used when needed?

The Ukrainian legislation does not provide for the procedure to remove the full immunity as it is, instead it provides the opportunity to receive permission to detain, apply the preventive measure, serve notices or to conduct investigative (search) actions with regards to certain categories of persons (Chapter 37 of the CPC of Ukraine) using a special procedure.

A special order of a criminal proceeding is applied to a people's deputy of Ukraine, a judge, a judge of the Constitutional Court of Ukraine, a judge of the Higher Anti-Corruption Court, as well as a jury member during the term of their office with the court, Head, Deputy Head, member of the Higher Council of Justice, Head, Deputy Head, a member of the Higher Qualification Commission of Judges of Ukraine, candidate for the presidency of Ukraine, Ombudsman of the Verkhovna Rada of Ukraine, Head or other member of the Auditing Chamber, a local council deputy, an attorney, a Prosecutor General, his or her deputy, a prosecutor of the Specialised Anti-corruption Prosecutor's Office, the Director and employees of the National Anti-Corruption Bureau of Ukraine, Head of the National Agency on Corruption Prevention, their deputies.

For instance, Article 482 of the CPC of Ukraine specifies that it is only possible to choose the preventive measure of detention in custody towards a judge with the consent of the Higher Council of Justice, and they can only be detained during or immediately after they commit a serious or particularly serious crime if such detention is necessary to prevent the commission of a crime, to prevent or avert the effects of the crime or to ensure that the evidence of such crime is preserved. Such a judge shall be immediately dismissed if the aim of such detention (preventing the commission of a crime, preventing or averting the effects of the crime or ensuring that the evidence of such crime is preserved) has been achieved.

Under Article 482-2 of the CPC of Ukraine, detention of a people's deputy for the committed corruption criminal offence is possible only after obtaining a sanction from an investigating judge.

173. Are all allegations of corruption systematically investigated, independently of the status of the suspect/accused (no impunity)?

Yes. The Article 214 of the CPC of Ukraine provides for the obligation for an investigator, detective, or prosecutor immediately, but not later than in 24 hours after receiving a notification on a criminal offence or after self-discovery of information that may indicate a criminal offence, enter the relevant information into the Unified Register of Pre-trial Investigations and start an investigation. Investigations are conducted in accordance with the procedure and within the timelines foreseen by the CPC.

NABU detectives conduct systematic investigations on every alleged case of corruption pertaining to top officials with due regards to the rules on the appropriate investigative jurisdiction regardless of the status of the suspected/accused person.

Statistics on the number and categories of persons to whom charge papers have been served by NABU detectives and SAPO prosecutors relating to committed corruption criminal offences are a good illustration of this fact.

For instance, NABU detectives, under SAPO procedural guidance, prosecuted 23 people's deputies of different convocations (current and former), 6 ministers and their deputies, 13 heads of central executive bodies, 68 judges, 113 heads of state-owned enterprises. The total number is over 1000 people¹¹⁴.

¹¹⁴ Information in English pertaining to the crimes committed by these persons can be found at official NABU web-page. Access mode: <https://nabu.gov.ua/en/reports>, <https://bit.ly/37cFWHz>. See also page 16 and 23 of 2021 NABU Annual Report. Access mode: <https://bit.ly/3rs5QxM>.