



Part



Volume



Chapters **XVI–XXI**

**UKRAINE'S ANSWERS**  
to the EU Questionnaire  
on the Application  
for Membership

MAY 2022

# RESPONSES



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

Part II  
Volume IV  
Chapters XVI–XXI

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# CHAPTER 16. TAXATION

## A. General

### **1. Please indicate which institutions are competent on the issue.**

Ministry of Finance – formulates and implements tax policy;

State Tax Service of Ukraine – collects indirect taxes on goods in the customs territory of Ukraine;

State Customs Service of Ukraine – collects indirect taxes on goods imported into the customs territory of Ukraine

### **2. Please specify the elements of the VAT and excise legislation which might result in:**

**a) A higher level of taxation on imported products than that imposed on similar domestic products (Article 110 TFUE);**

**b) The repayment of tax on exported products which exceeds the internal tax imposed on them (Article 111 TFUE);**

**c) Differing treatment, reduced rates or exemptions from VAT or excise duty of certain goods.**

#### Concerning excise tax

The unified rules on excise taxation are established in Ukraine for goods produced in Ukraine and imported into the customs territory of Ukraine.

When exporting goods, excise tax is not collected.

#### Concerning Value-added Tax

**a)** As a member of the World Trade Organization, Ukraine complies with its requirements, which provide for the same conditions of taxation for goods imported into the customs territory of Ukraine and produced in Ukraine.

Imported goods, as well as domestic goods, are taxed at the basic VAT rate of 20% in accordance with subparagraph "a" of paragraph 193.1 of Article 193 of the Tax Code of Ukraine, which corresponds to the provisions of Article 93 of Directive 2006/112/EC.

**b)** Exports of goods are taxed at a VAT rate of 0% (subparagraph "a" of paragraph 195.1 of Article 195 of the Tax Code of Ukraine, which corresponds to the provisions of paragraphs (a) (c) (d) (e) of Article 146 (1) of Directive 2006/112/EC (the procedure of the tax exemption in Ukraine is implemented by applying a rate of 0%, which is also used by the EU Member States).

If the difference between the amount of tax liability of the reporting (tax) period and the amount of tax credit of such reporting (tax) period is negative, such amount is subject to budgetary refund upon the taxpayer's request in the amount of tax actually paid by the recipient of goods and services during the previous and current reporting (tax) periods to suppliers of such goods / services or the State Budget of Ukraine (subparagraph "b" of Article 200.4 of Article 200 of the Tax Code of Ukraine, which corresponds to the provisions of Article 183 of Directive 2006/112/EC).

c) The procedure of the VAT taxation of the supply of goods / services on the territory of Ukraine and import transactions that the Tax Code of Ukraine establishes provides for taxation at a VAT rate of 20%, reduced VAT rates of 7% and 14% for certain goods / services and 0% for export transactions. (Article 193 of the Tax Code, which corresponds to the provisions of Articles 96, 97, 99 of Directive 2006/112/EC).

Articles 196, 197 and Subsection 2 of Section XX of the Tax Code of Ukraine provide for a VAT exemption regime for certain transactions for the supply of goods / services in Ukraine and imports. (Provisions of Ukrainian legislation generally correspond to the provisions of Articles 96, 97, 99 of Directive 2006/112/EC).

The Tax Code of Ukraine provides for special tax regimes for tour operators and travel agents and activities related to works of art, collectables, and antiques (Articles 207 and 210 of the Tax Code).

## **B. Value Added Tax**

### **3. Please give a description of the VAT regime in force, particularly in the following areas:**

#### **a) Definition of taxable persons,**

i. The response should include the VAT treatment of government bodies and public institutions; non-resident taxable persons, liberal professions, non-profit organisations, closely connected businesses, etc.;

#### **ii. How many VAT taxable persons are there in Ukraine?**

b) Scope of taxable transactions (supplies of goods and services, VAT on immovable property, rules on self-supply, private use);

#### **c) Territorial scope of the tax;**

d) Importation (taxation, suspension regimes, exemptions, etc.). How are goods that have been placed under a suspension regime treated in respect of VAT?

e) Exportation and other exempt supplies granting a right to deduct input VAT (zero rates)

#### **f) Exemptions not granting the right to deduct input VAT;**

#### **g) Rules on the place of supply of goods and services;**

#### **h) Chargeable event and chargeability of the tax; cases where the reverse charge applies;**

i) Rules on VAT rates. Please describe the exact scope of any reduced rates, included zero rates (other than those described in the letter e) above)

j) Describe the scope and procedures in respect of the right of deduction and refund of VAT.

In particular, where input VAT exceeds output VAT, can all taxable persons opt for a refund? How long on average does it take to refund VAT to taxable persons? Do more favourable arrangements apply to some taxable persons e.g. big exporters? Describe any restrictions on the right of deduction i.e. is VAT on certain types of expenditures not deductible?



**k) Special schemes (e.g. small businesses, second-hand goods, works of art, collectors' items and antiques, flat-rate scheme for farmers, travel agents, investment gold, others);**

**l) Rules governing registration of taxable persons, tax returns, record keeping, invoicing and payment;**

**m) Administration and appeals (assessment and collection, penalties, appeal procedure, international mutual assistance and recovery of VAT claims);**

**n) Taxable persons not established within Ukraine. Describe any special rules concerning the obligation to name a tax representative, right to deduct VAT or receive a VAT refund, etc.;**

**o) Control procedures:**

**i. Is VAT control incorporated with the control of other taxes or is it separate?**

**ii. How many tax officials are involved in VAT control, excluding Customs?**

**iii. What is the experience of Ukraine in the exchange of information for tax purposes?**

As a result of long-term work on the approximation of Ukrainian tax legislation to Directive 2006/112/EC Ukraine, the Minister of Finance of Ukraine obtained an opinion from the Directorate General for Taxation and Customs Union of the European Commission on the implementation of Directive 112 (letter dated 25 January 2021 № Ares (2021) 592349) with confirmation that the Ukrainian tax legislation on VAT generally corresponds to the EU legislation (copy of the letter dated 25 January 2021 № Ares (2021) 592349 is attached as Annex Q5 to this Questionnaire). For each of the answers to the following sub-questions on this question, detailed information and explanations could be provided, which were provided for the purposes of the aforementioned conclusion.

**a) Definition of taxable persons**

**i.** The list of taxable persons (legal entities and individuals, non-residents) for VAT purposes is established by Article 180 of the Tax Code of Ukraine.

For identifying the rules and conditions for registration of VAT payers, the governmental authorities (budgetary institutions) and non-profit organisations are guided by the general regulations of the Tax Code of Ukraine, which apply to all business entities.

The Tax Code of Ukraine provides for the requirements for mandatory and voluntary registration as a VAT payer (Articles 181 and 182 of the Tax Code of Ukraine). Article 183 of the Tax Code of Ukraine establishes the procedure for mandatory registration as a VAT payer.

The provisions of Ukrainian law generally correspond to the provisions of Art. 9 (1) of Art. 213 (1) of Council Directive 2006/112/EC of 28.11.2006 on the common system of value-added tax.

**ii.** In total, there are 262.6 thousand VAT payers in Ukraine.

**b)** the subject to VAT is the supply of goods / services within the customs territory of Ukraine, import and export (Article 185 of the Tax Code of Ukraine), which corresponds to the provisions of paragraph "a" of Art. 2 (1), paragraph (b) of Art. 2 (2) and Art. 2 (3) Directive 2006/112/EC

**c)** the taxable person's transactions of supply of goods /services, the place of supply of which is located on the customs territory of Ukraine, are subject to VAT.

**d)** Article 193 of the Tax Code of Ukraine envisages that imports are subject to VAT at the rate of 20%, 7% and 14%, depending on the type of goods, except for the import of goods exempt from

taxation in accordance with Article 197 and Subsection 2 of Section XX of the Tax Code of Ukraine and also in accordance with international treaties ratified by the Verkhovna Rada of Ukraine.

There are also instalments (in equal parts) of VAT for up to 36 calendar months for the import of:

- woodworking machines classified under the product category code 8465 according to the UKT FEA (Ukrainian classification of goods of foreign economic activity);

- wood dryers are classified under the product subcategory code 8419 32 00 00 according to UKT FEA;

- presses for the production of chipboard or fiberboard, classified under product sub-item code 8479 30 according to UKT FEA, which are imported to be used in the woodworking industry (paragraph 58 of Subsection 2 of section XX "Transitional Provisions" of the Tax Code of Ukraine);

- equipment (parts thereof) classified under the product subcategory codes 8421 39 15 20, 8421 39 25 00, 8422 30 00 99, 8422 90 90 00, 8428 20 20 00, 8428 20 80 00, 8477 10 00 00, 8477 20 00 00, 8477 30 00 00, 8477 40 00 00, 8477 59 10 90, 8477 90 80 00, 8480 71 00 90 according to UKT FEA for the production of medical devices only (paragraph 59 of subsection 2 of section XX "Transitional Provisions" of the Tax Code of Ukraine).

There is no suspension regime (in the meaning how it is applied in the EU) for VAT purposes in Ukraine.

e) Exports of products and supplies of goods for fueling or maintenance of ships and aircraft and international transportation are taxed at the VAT rate of 0% (Article 195 of the Tax Code of Ukraine, which corresponds to the provisions of Article 146 of Directive 2006/112/EC).

f) VAT exemptions that do not entitle to the deduction of input VAT are defined in Article 197 (for example, health benefits, social security benefits, etc.) and Article 196 (for example, benefits for the transfer of property from storage to storage, provision of compulsory state social insurance services, payments of wages and pensions) of the Tax Code of Ukraine. The provisions of Ukrainian legislation generally correspond to the provisions of Art. 132 (1) and Art. 19 of the Directive 2006/112/EC. There are also temporary provisions provided by Subsection 2 of Chapter XX of the "Transitional Provisions" (for example, these are benefits to support certain strategic sectors of the economy (aircraft, space, film industries)).

Additional information on VAT exemptions that do not entitle to the deduction of input VAT is provided in Annex Q3 to this Questionnaire.

g) Article 186 of Section V of the Tax Code of Ukraine defines the place of supply of goods and services; in particular, paragraph 186.1 of this article defines the rule of determining the place of supply of goods, paragraphs 186.2, 186.3 and 186.4 defines the rule of determining the place of supply of services (the provisions of Ukrainian law comply with the provisions of Articles 31, 32, 37, 47 of Directive 2006/112/EC (except those that are irrelevant to Ukraine (does not apply to Ukraine) or require a decision based on the economic assessment of the appropriateness of amending the Article 186 of the Tax Code of Ukraine)).

h) VAT is charged and levied in accordance with Article 200 of the Tax Code of Ukraine, which corresponds to Article 179 of Directive 2006/112/EC. The amount of tax payable is defined as the difference between the total amount of VAT payable for a certain tax period and the total amount of

VAT in respect of which the right to deduct a tax liability (VAT input) arose during the same tax period.

If the calculated difference is positive, such amount is subject to payment (transfer) to the budget within the deadlines established by this Section.

Reverse charge VAT is provided by Article 208 of the Tax Code of Ukraine, according to which the resident recipient (taxpayer, legal entity or individual person – private entrepreneur) is determined as the person responsible for charging and paying VAT to the budget in case of the supply of services by non-residents (persons that has no permanent residence in Ukraine), which corresponds to Article 194 of Directive 2006/112/EC.

i) VAT rates are provided by Article 193 of the Tax Code of Ukraine.

Besides the standard rate of 20%, the Code envisages the reduced VAT rates:

7% (for transactions of the supply and import of medicines and medical devices; for the supply of services in the creative industry, hotel services; tickets for sporting events at the national and international levels); 14% (for the transactions of supply and import of certain types of agricultural products (wheat, barley, corn, sunflower seeds, rapeseed and rape, soybeans). These provisions of Ukrainian legislation comply with the provisions of Articles 96, 97, and 99 of Directive 2006/112/EC.

j) The provisions of the Ukrainian legislation on the right of a VAT payer to deduct the VAT liability that it is obliged to pay correspond to the provisions of paragraph (a) (b – regarding provisions of Article 18 (a)) (e) of Art. 143 of Directive № 112. The provisions paragraph (b – regarding provisions of Article 27)) (c) (d) of Art. 168 of Directive № 112 are irrelevant to Ukraine because Ukraine is not currently a member of the EU, (does not apply to Ukraine because it relates to intra-EU purchase transactions – Article 2 (1) (b) (i) and 21, 22 Article 27 is optional).

At the same time, Article 198 of the Tax Code of Ukraine provides for a VAT tax credit, which can be used for VAT refund from the budget. The tax credit clearly identifies the components that reduce tax liabilities, namely the transactions on purchase of goods and services in the customs territory of Ukraine, the import of goods. Without these components of the tax credit, budget VAT refunds are not possible.

The procedure for the assessment of the VAT amount that is subject to a refund from the State Budget of Ukraine (budget refund) and the terms of settlements are regulated by Article 200 of the Tax Code of Ukraine. Budget VAT refund is a state compensation of the amount of VAT paid in the value of purchased goods, works and services.

The taxable person that has made a decision on the recovery of the budget refund shall submit the tax return with annexes (the calculation of the budget refund and the application for the return of the budget refund). The VAT refund process in Ukraine is automatized. Taxpayer's Applications for the return of the amount of budget refund are automatically entered into the Register of applications for the return of the budget refund amount (hereinafter – the Register) chronologically of their receipt. Return of the settlement amounts of budget refund is carried out in chronological order of their entry into the Register by the body that performs treasury servicing of budget funds within five operational days after the approval of the amount of budget refund.

The settlement of budget refund amounts is carried out by the State Tax Service within 30 calendar days after submitting the tax return by the taxable parson and, if necessary, a documentary inspection – within 60 calendar days after the submission of the tax return by the taxpayer. The VAT

taxpayers (legal entities and individuals) shall be eligible for the budget refund if the amount of the VAT input in the tax return exceeds the tax liability. The Code does not provide for restrictions on VAT deductibles. The provisions of the Ukrainian legislation on the procedure of VAT refund from the State Budget declared by VAT payers correspond to the provisions of Art. 179, 183, 206 of the Directive 2006/112/EC.

k) Special schemes provided by Articles 207 "Procedure for taxation of tour operators and travel agencies activities", 189 (used goods), 210 "Special regime of taxation of activities on works of art, collectables or antiques", 197.26 (investment gold) of the Tax Code of Ukraine, corresponding to Articles 255, 306, 311, 333, 344, Directive 2006/112/EC.

l) Registration of persons as VAT taxable persons may be mandatory or voluntary and is regulated by Articles 181 (mandatory registration) and 182 (voluntary registration) of the Tax Code of Ukraine.

Mandatory registration: the total amount from the supply of taxable goods / services in the course of the last 12 calendar months, in total, exceeds UAH 1,000,000 (excluding VAT). Procedure: the application shall be submitted to the State Tax Service at the latest on the 10th day of the calendar month after the end of the month when for the first time, achieved the amount of taxable transactions defined by Article 181 of the Tax Code.

The provisions of Article 181 of the Tax Code of Ukraine correspond to Article 213 of Directive 2006/112/EC.

Voluntary registration: registration is carried out upon the request of the taxable person and submitted no later than 10 calendar days prior to the beginning of the tax period, starting from which such persons will be deemed as VAT payers.

Persons not registered as VAT taxable persons who import goods in taxable amounts shall pay tax during customs clearance of goods without registration as VAT payers.

Tax accounting by VAT taxable persons is provided by Article 201 of the Tax Code of Ukraine. On the date of tax liability, the VAT payer is obliged to issue the tax invoice in electronic form in compliance with the procedure of its registration provided by law, sign it by the qualified electronic signature of the person authorized by the taxable person and register it in the Unified Register of Tax Invoices within the deadlines established by the Tax Code, that for the buyer of such goods /services will be further the basis for calculating tax amounts relating to tax credits.

VAT payers are required to keep separate records of taxable transactions and transactions exempt from taxation.

The tax return is submitted to the tax authority for the reporting period equal to a calendar month within 20 calendar days following the last calendar day of the reporting month (Articles 49 and 203 of the Tax Code of Ukraine), which complies with Article 252 of Directive 2006/112/EC.

According to the paragraph 203.2 of Article 203 of the Tax Code of Ukraine, the amount of VAT according to the VAT return submitted by the VAT payer is paid by them within 10 calendar days following the last day of the deadline for filing the tax return (by the 20th day of the month following the reporting month).

m) The right of a VAT payer to appeal against decisions of tax authorities is provided by Article 56 of the Tax Code of Ukraine (if the VAT payer believes that the tax authority has incorrectly

determined the sum of monetary liability or made any other decision contrary to legislation or beyond its competence as set forth in the Tax Code of Ukraine or other Ukrainian laws, such a taxable person may file their complaint with a higher control agency and request that such decision be revised, which is the procedure of administrative appeal).

The administrative appeal procedure is considered a pre-trial procedure for resolving a dispute.

If the taxable person refers to a court with a claim for recognizing a decision of the control agency invalid / or to cancel a decision of the control agency, then tax obligation shall be deemed unsettled until the court decision comes into legal effect.

The scope of international mutual assistance on VAT is regulated by the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (refer to question 37).

**n) Taxable persons not registered in Ukraine**

1. A permanent establishment of non-residents: upon registration as a VAT payer, all rights and obligations (accrual and refund of VAT) provided by the Tax Code of Ukraine apply to them;

2. Supply of services by non-residents within the customs territory of Ukraine (persons that are not registered as a taxpayer in Ukraine): VAT reverse charge is applied (the person responsible for charging and paying VAT to the budget in case of the supply of such services by non-residents (persons that has no permanent establishment in Ukraine) is the recipient-resident) (Article 208 of the Tax Code of Ukraine, corresponding to Article 194 of Directive 2006/112/EC);

3. Provision of electronic services by non-residents within the customs territory of Ukraine: non-residents shall be registered as VAT payers under the simplified procedure, as well as to submit VAT tax returns in a separate simplified form (without tax credit) (Article 208-1 of the Tax Code of Ukraine).

4. VAT refund to non-residents who are not registered as VAT payers on the territory of Ukraine is not provided by Ukrainian legislation.

The rules on VAT refunds for taxpayers who do not have a permanent place of business in the EU are laid down in the Thirteenth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes (86/560/EEC of 17 November 1986). Due to the fact that Ukraine is not a member of the EU, the provisions of the Thirteenth Directive have not been implemented in Ukrainian law.

**o) Control procedures:**

i. Section II "Administration of taxes, fees" of the Tax Code of Ukraine provides for general control over all taxes (procedure and deadlines for compilation and submission of tax returns, tax control (inspections), keeping records of taxable persons).

ii. 1742 officials of State Tax Service from the tax audit divisions are involved in carrying out the VAT control.

Information received by the State Tax Service within the framework of bilateral conventions between the Government of Ukraine and the Government of a foreign country on the double taxation avoidance, the Convention of the Council of Europe and OECD member states on mutual administrative assistance in tax matters is constantly used for tax control purposes.

**4. Does Ukraine operate free zones? If yes, please provide the text of the relevant act. Which regime is applied in the free zones for VAT and excise purposes? Are the free zones excluded from the territorial application of VAT and / or excise duties? Is VAT applied on construction material to build or renovate the free zones facilities?**

Ukraine has a legislative framework for creating special (free) economic zones (hereinafter - SEZ). At the same time, in accordance with the Law of Ukraine "On Amendments to the Law of Ukraine «On the State Budget of Ukraine for 2005" and some other legislative acts of Ukraine» dated 25 March 2005 № 2505-IV tax benefits in the SEZ were cancelled since 31 March 2005. The Tax Code of Ukraine does not provide any benefits for entities that operate inside the SEZs. Thus, it can be noted that SEZs do not operate in Ukraine.

Additionally, we would like to inform you about SEZs created in accordance with the legislation:

1. SEZ «Donetsk» (in the south of the city of Donetsk with an area of 466 hectares according to the map of the territory, the term of creation is 60 years, legal basis – the Law of Ukraine dated 24 December 1998 № 356-XIV);

2. SEZ «Azov» (in the south of the city of Mariupol with an area of 314.8 hectares according to the map of the territory, the term of creation is 60 years, legal basis – the Law of Ukraine dated 24 December 1998 № 356-XIV);

3. SEZ «Yavoriv» (administrative-territorial borders of the Yavorivsky district of the Lviv region, except for the territories of the military training and military units facilities, established for the period that ends on 1 January 2020, legal basis – the Law of Ukraine dated 15 January 1999 № 402-XIV);

4. SEZ «Slavutych» (administrative-territorial borders of the Slavutych city, established for the period that ends on 1 January 2020, legal basis – the Law of Ukraine dated 3 June 1999 № 721-XIV);

5. SEZ «Kurortopolis Truskavets» (administrative-territorial borders of the Truskavets city, established on 1 January 2000, for a period of 20 years, legal basis – the Law of Ukraine dated 18 March 1999 № 514-XIV);

6. SEZ «Interport Kovel» (part of the Kovel'sky district and the Kovel city with an area of 56.77 hectares according to the map of the territory, established on 1 January 2000, for a period of 20 years, Presidential Order dated 22 June 1999 № 702/99).

7. SEZ «Porto-Franko» (on the territory of the Odesa Sea Port with an area of 32.5 hectares according to the map, the term of creation is 25 years, legal basis – the Law of Ukraine dated 23 March 2000 № 1607-III);

8. SEZ «Reni» (within the land plot allotted to the Sea Port of Reni with an area of 94.36 hectares according to the map, the term of creation is 30 years, legal basis – the Law of Ukraine dated 23 March 2000 № 1605-III);

9. SEZ «Mykolaiv» (within the lands plot allotted to the shipbuilding enterprises according to the map, the term of creation is 30 years, legal basis – the Law of Ukraine dated 13 July 2000 № 1909-III);

10. SEZ «Zakarpattia» (737.9 hectares in the area of the cities of Chop and Mukachevo according to the map of the territory, the term of creation is 30 years, legal basis – the Law of Ukraine dated 22 March 2001 № 2322-III);

Thus, the term of existence of such SEZs as «Yavoriv», «Kurortopolis Truskavets», «Slavutych», and «Interport Kovel» ended on 1 January 2020.

Also, the Law «On the General Principles for the Creation and Functioning of Special (Free) Economic Zones» dated 13 October 1992 № 2673-XII is effective in the territory of Ukraine.

Activities on opening and operation of free customs zones are regulated by the Chapters 58, 62 of the Customs Code of Ukraine, as well as by Order of the Ministry of Finance of Ukraine "On some issues of opening and operating free customs zones of commercial or service type" dated 30 May 2012 № 633. The said order established:

- 1) the procedure for opening and operating a free customs zone of commercial or service type;
- 2) rules for conducting activities on opening and operating a free customs zone of commercial or service type.

The free customs zone should be a properly equipped territory or a warehouse intended to store goods under the customs supervision, their processing and / or manufacturing of new goods. Placement of goods under the customs procedure of the free customs zone implies that foreign goods are brought into the territory of the free customs zone and are taken out of this territory outside the customs territory of Ukraine with exemption from customs taxes (customs duty, excise tax and VAT) as well as exempt from non-tariff measures; whilst Ukrainian goods are brought into the territory of the free customs zone, being subject to customs duties and application of non-tariff measures.

Foreign and Ukrainian goods can be brought into the territory of the free customs zone both from outside of the customs territory of Ukraine as well as from the customs territory of Ukraine.

The sale and / or consumption of foreign goods in the free customs zone is prohibited.

Placing Ukrainian goods under the customs procedure of a free customs zone qualifies as export of goods from a tax perspective.

Foreign goods brought into the territory of the free customs zone are admitted to this territory with conditional full exemption from customs taxes. Exemption from customs duty, excise tax and VAT is granted, subject to compliance with requirements and restrictions provided by the customs procedure (Chapter 21 of the Customs Code of Ukraine).

Depending on the types of transactions allowed with the goods, free customs zones are divided into the following types: commercial, service and industrial.

The free customs zones of commercial type allow free storage of goods for an unlimited period of time.

The free customs zones of service type are established for the purpose of carrying out business activities on repair, modernization, construction of air, sea and river vessels, other watercraft and parts thereof.

The free customs zones of industrial type are created for the purposes of processing (manufacture) of goods in the territories of the relevant types of special (free) economic zones.

Finished products, which were manufactured from the goods placed under the customs

procedure of the free customs zone, are released into free circulation subject to payment of relevant customs taxes, as well as interest (payable due to deferral / payment by instalments of customs taxes under Article 100 of the Tax Code of Ukraine).

The free customs zones may be created at checkpoints across the state border of Ukraine, at sea and river ports, airports, railway stations and business premises, as well as in other places where it is possible to maintain the free customs zone regime in accordance with Ukrainian legislation.

Currently, there is one free customs zone of commercial type in Ukraine.

## **5. What are the targets of Ukraine for future developments of the country's VAT legislation (short / long term)?**

As a result of long-term work on the approximation of Ukrainian tax legislation to Directive 2006/112/EC Ukraine, the Minister of Finance of Ukraine obtained an opinion from the Directorate General for Taxation and Customs Union of the European Commission on the implementation of Directive 112 (letter dated 25 January 2021 № Ares (2021) 592349) with confirmation that the Ukrainian tax legislation on VAT generally corresponds to the EU legislation (copy of the letter dated 25 January 2021 № Ares (2021) 592349 is attached as Annex Q5 to this Questionnaire).

However, according to the European Commission's Opinion on the implementation of EU Directive 2006/112/EC, VAT legislation and the Ukrainian business environment are constantly developing, several articles of the Tax Code of Ukraine need attention or future actions on possible harmonization with EU legislation.

Therefore, further work on the implementation of tax legislation to the EU Directive 2006/112/EC is an important goal for the future development of VAT legislation.

These actions are not urgent but should be implemented in the future, particularly in cases with a risk of double taxation or non-taxation.

## **C. Excise duties**

**6. Please give a detailed description of the excise legislation in force, particularly in the following areas:**

**a) Taxable scope (product categories liable to excise duty). The following are of particular interest:**

**i) Alcohol and alcoholic beverages;**

**ii) Cigarettes and other manufactured tobacco;**

**iii) Mineral oils (petrol, diesel heating oil, etc.), other energy products (natural gas, coal, biofuels, electricity); any product used as motor fuel (e.g. ethanol), addition or extender to motor fuel and hydrocarbons used as heating fuel;**

**iv) Motor vehicles (excise duties, registration taxes, circulation taxes);**

**v) Other product categories constituting a substantial part of excise income.**

**b) How is the taxable amount defined for each excise good (e.g. by volume, mass, ad valorem, etc.)?**



**c) Excise duty exemptions or reductions.**

**d) What is the rate of duty applied for each product concerned? Is the rate level the same for similar imported products? If not, explain why.**

**e) Chargeable event and chargeability of the duty.**

**f) Rules concerning the importation and exportation of excise goods, including travel allowances.**

**g) Registered/non-registered traders.**

**a) *Taxable scope (product categories liable to excise duty)***

This question is covered by paragraph 215.1 of Article 215 of the Tax Code of Ukraine.

Excisable goods include:

- ethyl alcohol and other alcoholic distillates, alcoholic beverages, beer;
- tobacco products, tobacco and industrial tobacco substitutes;
- liquids that are used in electronic cigarettes;
- fuel, including goods (products) that are used as fuel for refuelling vehicles, equipment or devices with compression-ignition internal combustion engines, spark-ignition internal combustion engines, crankshaft internal combustion engines;
- electric energy;
- cars, their bodies, trailers and semi-trailers, motorcycles, vehicles designed to carry 10 people and more, vehicles for goods transportation.

**b) *How is the taxable amount defined for each excise good (e.g. by volume, mass, ad valorem, etc.)***

This question is covered by Article 214 of the Tax Code of Ukraine.

In Ukraine, the amount of excise tax is calculated judging from the tax base using:

- 1) specific rates. In this case, the tax base is the value of the rate, determined in units of weight, volume, quantity of goods (products), cylinder capacity of the car engine or other physical indicators;
- 2) ad valorem rates. In this case, the tax base is:
  - the value of sold goods (products) produced in the customs territory of Ukraine, at the maximum retail prices set by the manufacturer, taking into account value-added tax and excise tax;
  - the value of goods (products) imported into the customs territory of Ukraine, at the maximum retail prices set by the importer for goods (products) that they imports, including VAT and excise tax;
  - the value of electricity sold by the producer, calculated on the basis of prices prevailing in the electricity market in the reporting (tax) period, excluding VAT and excise tax.

While calculating the tax, using both ad valorem and specific rates, the tax base is the value of goods produced in the customs territory of Ukraine, their value, determined in units of weight, volume, a quantity of goods, in volume of car engine cylinders or using other natural indicators.

Currently, both ad valorem and specific rates apply to cigarettes and cigarillos.

The calculation of amounts of excise tax for each object of taxation (considering the relevant specific, prescribed by the Tax Code), is carried out in the Tax return of excise tax, which was approved by the order of the Ministry of Finance of Ukraine dated January 23, 2015 №14 (respective form is provided for reference as Annex Q6-1 to this part of the Questionnaire).

**c) *Excise duty exemptions or reductions***

This question is covered by the following provisions.

Article 213 of the Tax Code of Ukraine provides for:

*Transactions with excisable goods that are not subject to taxation:*

- export of excisable goods (products) by the taxpayer outside the customs territory of Ukraine;
- import of previously exported excisable goods (products) to the customs territory of Ukraine, which has been identified with deficiencies that prevent the sale of these goods on the customs territory of the importing country for their return to the exporter;
- sales of electricity generated by qualified cogeneration units and / or from renewable energy sources;
- transmission of electric power, generated at this enterprise for own consumption within one enterprise.

*Transactions with excisable goods that are exempt from taxation:*

- sales of cars for people with disabilities, including children, the cost of which is paid from state or local budgets, funds of compulsory state insurance, as well as special-purpose cars (ambulance and for the needs of central executive authorities that implement state policy in the areas of civil protection, rescue, fire and man-made safety), the cost of which is paid from the state and local budgets;
- import of excisable goods (products) into the customs territory of Ukraine for official use of diplomatic missions of foreign states, consulates of foreign states and for personal use by members of diplomatic missions of foreign states, consulates of foreign states that are based on the principle of reciprocity;
- import of excisable goods (products) into the customs territory of Ukraine, if in accordance with the law, the value-added tax is not collected regarding the placement of goods (products) in customs regimes: re-import, transit, temporary import, customs warehouse, free customs zone, duty-free trade, processing in the customs territory, destruction or refusal in favour of the state. In case of violation of the customs regimes conditions, which provide for full or partial exemption from taxation, the person responsible for compliance with the regime is obliged to calculate and pay the amount of tax liability. If, in specified cases, the customs legislation of Ukraine requires the implementation of guarantee measures, such requirement is also determined for the purposes of the excise tax. The tax is levied if, in future, there are obligations to pay VAT in respect of such goods (products);
- free transfer for the destruction of excisable goods (products) confiscated by a court decision and those that have become the property of the state as a result of the owner's refusal if they are not subject to sale in the manner prescribed by law;

- free transfer of confiscated excisable goods, vehicles recognized as ownerless; vehicles for which the owner did not apply before the end of the storage period; vehicles that have become the property of the state by inheritance or on other legal grounds to possession and usage by the Armed Forces of Ukraine and other military formations, established in accordance with the Ukrainian laws, bodies of the Security Service of Ukraine, National Police of Ukraine, State Border Guard Service of Ukraine, State Emergency Service of Ukraine, National Guard of Ukraine;

- selling and / or transfer of excisable goods (products) produced on the customs territory of Ukraine within one enterprise that is used as raw materials for the production of excisable goods (products). This norm does not apply to operations on sale and / or transfer within one enterprise of oil products (except for goods (products) under codes 2707 10 00 00, 2707 50 00 90, 2710 12 90 00 and 2711 19 00 00 according to UKT FEA – Ukrainian classification of goods of foreign economic activity);

- import of excisable goods (products) used as raw materials for the production of excisable goods (products, including raw materials) on the customs territory of Ukraine, under the condition of further production of raw materials from other excisable goods (products, including raw materials) that are sold on customs territory of Ukraine or are prepared for export or shipment the unused raw materials outside the customs territory of Ukraine; presenting the license, that enables to produce alcoholic beverages or tobacco products to the supervisory authority. This rule does not apply to fuel import operations;

- import of excisable goods (products) by individuals into the customs territory of Ukraine in amounts that do not exceed the norms of duty-free import established by the Customs Code of Ukraine;

- selling the alcoholic beverages and tobacco products in duty-free shops directly by the domestic producers;

- import of excisable goods (products) (apart from alcoholic beverages and tobacco products) into the customs territory of Ukraine as international technical assistance provided in accordance with international agreements of Ukraine approved by the Verkhovna Rada of Ukraine, or as humanitarian aid provided as specified by the norms of the Law of Ukraine "On Humanitarian Aid";

- import by accredited state testing laboratories and / or economic entities licensed for the production of tobacco products, standard (monitoring) or test samples of tobacco products (not intended for retail sale) for research or testing (calibration of laboratory equipment, degustation, study of physical and chemical parameters, design);

- selling of liquefied gas at specialized auctions for the needs of the population in the manner prescribed by the Cabinet of Ministers of Ukraine;

- selling of tobacco raw materials waste, under conditions of documentary evidence of their formation and subsequent destruction or disposal;

- import of unfermented (unprocessed) tobacco raw materials by tobacco fermentation plants to the customs territory of Ukraine under the condition of further production of fermented (processed) tobacco raw materials from such raw materials and its sale to tobacco producers or its export; sale of tobacco raw materials to tobacco fermentation plants, that produce tobacco raw materials on the customs territory of Ukraine; sale of fermented (processed) tobacco raw materials by tobacco fermentation plants to tobacco producers;

– import and sale the bodies for cars into the customs territory of Ukraine, on condition of further manufacture of cars specified in trade item 8703 in accordance with the UKT FEA.

*Zero taxation (for manufactured goods) or without payment of excise tax on excisable goods.*

Article 229 of the Tax Code of Ukraine on Taxation of excisable goods that are used as raw materials for the production of non-excisable goods and which are taxed at a zero rate in the following order:

– before obtaining from the manufacturer or importation into the customs territory of Ukraine, a tax bill is issued in the amount of tax accrued on the amount of excisable raw materials obtained or imported;

– at the enterprises that use excisable raw materials for the production of other products, tax posts are established that exercise control over the targeted use of excisable raw materials;

– lists of enterprises that receive or ship excisable goods as raw materials, are determined, and the quotas are determined;

– the tax bill is considered repaid in case of documentary confirmation of the fact of the intended use of excisable products by submitting a certificate of intended usage, which is agreed by the representative of the tax post that is established at the enterprise and confirms its usage;

– enterprises are responsible for the misuse of excisable products.

The following excisable goods are taxed at zero rate:

– petroleum products that are used as raw materials for the petrochemical industry;

– light distillates (code 2710 12 11 10, 2710 12 11 20, 2710 12 11 90 according to UKT FEA) and heavy distillates (codes 2710 19 31 01, 2710 19 31 10, 2710 19 31 20, 2710 19 31 30 according to UKT FEA), as well as liquefied gas (codes 2711 12 11 00, 2711 12 19 00, 2711 12 91 00, 2711 12 93 00, 2711 12 94 00, 2711 12 97 00, 2711 13 10 00, 2711 13 30 00, 2711 13 91 00, 2711 13 97 00, 2711 14 00 00, 2711 19 00 00 according to UKT FEA) and butane, isobutane (code 2901 10 00 10 according to UKT FEA) – in capacity of as raw materials for ethylene production;

– petroleum products (codes 2710 12 11 10, 2710 12 11 20, 2710 12 11 90; 2710 12 15 10, 2710 12 15 20, 2710 12 15 90; 2710 12 21 10, 2710 12 21 90; 2710 19 11 10, 2710 19 11 20, 2710 19 11 90; 2710 19 15 10, 2710 19 15 20, 2710 19 15 90, 2710 19 25 00, 2710 19 29 00 according to UKT FEA) – for production in the chemical industry;

– substances used as components of motor fuels (codes 2707 10 00 00, 2707 20 00 90, 2707 30 00 90, 2707 50 00 90, 2905 11 00 00, 2909 19 10 00, 2909 19 90 10, 2909 19 90 20, 2909 19 90 90 according to UKT FEA) – as a raw material for production in the chemical industry.

*Special tax conditions for alcohol made for the production of other products*

At the same time, there are special tax conditions for alcohol made for the production of other products (Article 229 of the Tax Code), namely, the excise tax is levied at a rate of 0 hryvnia per 1 litre of 100 per cent alcohol from:

a) ethyl alcohol used by primary and mixed wine enterprises for the production of grape, fruit and berry materials, other wine materials, and vermouth;

**b)** ethyl alcohol used for the manufacture of medicinal products (including blood components and some items derived from there), other than medicinal products in the form of balms and elixirs;

**c)** denatured ethyl alcohol (technical alcohol) that is sold to economic operators for use as raw material for the production of organic synthesis products, which do not contain more than 0.1 per cent of residual ethanol;

**d)** bioethanol used by enterprises for producing motor gasolines containing bioethanol, ethyl tert-butyl ether (ETBE), other additives based on bioethanol;

**e)** bioethanol used for biofuel production;

**f)** denatured ethyl alcohol used for the production of chemical and technical products included in the list approved by the Cabinet of Ministers of Ukraine;

**g)** undenatured ethyl alcohol used for the production of vinegar from food raw materials;

**h)** denatured ethyl alcohol used for the manufacture of perfumes and cosmetics;

**i)** raw ethyl alcohol used within a single operator for the production of bioethanol.

Lists of producers of denatured ethyl alcohol (technical alcohol) for the needs of enterprises producing organic synthesis products shall be approved by the Cabinet of Ministers of Ukraine.

Shipment of denatured ethyl alcohol (technical alcohol) for the needs of enterprises producing organic synthesis products is carried out within the quotas established by the Cabinet of Ministers of Ukraine.

Shipment of ethyl alcohol for the production of medicines is carried out within the quotas established by the Cabinet of Ministers of Ukraine.

The list of medicines for the production of ethyl alcohol is approved by the Cabinet of Ministers of Ukraine.

At the enterprises where alcohol is used at zero rates, tax posts are established, the procedure of which is determined by the central body of executive power, which ensures the formation and implementation of public financial policy.

Tax posts at enterprises that use ethyl alcohol for the production of products specified in subparagraphs "f" - "i" are not established.

The mechanism of targeted use of excisable goods as raw materials and taxed at a zero rate, namely:

- before receiving from the manufacturer, a tax bill is issued for the amount of tax accrued on the amount of excisable raw materials received;

- at the enterprises that use excisable raw materials for the production of other products, tax posts are established, which exercise control over the targeted use of excisable raw materials;

- lists of enterprises that receive or ship excisable goods as raw materials are determined, and quotas are determined;

- the tax bill is considered repaid in case of documentary confirmation of the fact of the intended use of excisable products by submitting a certificate of intended use, which is agreed by the representative of the tax post established at the enterprise and confirms its use;

- liability for misuse.

*Special features of taxation of aviation gasoline and jet fuel.*

The Tax Code provides for a reduction in the excise tax rate for the taxation of aviation gasoline and fuel for jet engines used to refuel aircraft, as described below.

Importation into the customs territory of Ukraine or selling the aviation gasoline produced in Ukraine (code 2710 12 31 00 according to UKT FEA) and fuel for jet engines (code 2710 12 70 00, 2710 19 21 00 according to UKT FEA) can be carried out with payment of excise tax at the rates established by the Tax Code of Ukraine, with or without the application of the increase factor 10.

Increase factor 10 is not applied in the case of documented transactions with:

- refuelling of aircraft with aviation gasoline or jet fuel compiled by economic entities engaged in aviation fuel supply in accordance with the current certificate of compliance with the requirements of the aviation rules of Ukraine for ground handling issued by the authorized body for civil aviation or economic entities, that have a certificate of admission to a permanent runway operation, issued by the authorized body for civil aviation in accordance with the requirements of the aviation rules of Ukraine;
- selling the aviation gasoline or jet fuel to aircraft manufacturers, which are subject to the provisions of Article 2 of the Law of Ukraine "On the development of the aircraft industry", drawn up by the taxpayer who carries out such sales;
- selling the aviation gasoline or jet fuel to customers who have made purchases to meet the needs of the state or local community in accordance with the Law of Ukraine "On Public Procurement", drawn up by the taxpayer who carries out such sales;
- selling the aviation gasoline or jet fuel to the central executive body that implements the state policy in the field of state material reserve, drawn up by the taxpayer who carries out such sales.

**d) *What is the rate of duty applied for each product concerned? Is the rate level the same for similar imported products? If not, explain why.***

The list of excise tax rates is enclosed in the Annex Q6-2 to this Questionnaire.

The Tax Code of Ukraine sets the same rates of excise tax on excisable goods produced within the customs territory of Ukraine and imported excisable goods.

**e) *Chargeable event and chargeability of the duty (occurrence of tax liabilities and terms of payment).***

This question is covered by Article 216 of the Tax Code of Ukraine.

The date of occurrence of tax liabilities for excisable goods (products) produced on the customs territory of Ukraine is the date of their sale by the person who produces them, regardless of the purposes and directions of further usage of such goods (products), except for cases where special taxation features are determined.

The date of occurrences of tax liabilities in case of excisable goods (products) importation into the customs territory of Ukraine is the date of submission of the customs declaration for customs clearance to the supervisory authority or the date of accrual of such tax liability by the supervisory authority in cases specified by the law.

While transferring excisable goods (products) made from toll raw materials, the date of occurrence of tax liabilities is the date of their shipment by the manufacturer to the customer or on their behalf to another person.

While using excisable goods (products) for own production needs, the date of occurrence of tax liabilities is the date of their transfer for such usage, except for usage for the production of excisable goods (products).

The date of occurrence of tax liabilities for the electricity supply is the date of signing the act of acceptance and transfer of electricity.

***f) Rules concerning the importation and exportation of excise goods, including travel allowances***

The procedure for applying customs duties is regulated by the Customs Code of Ukraine, which applies to excise tax, which is a part of the customs structure, the level of rates for imported goods and similar goods but produced on the customs territory of Ukraine is the same and has no exceptions.

While importing excisable goods into the customs territory of Ukraine, the excise tax is levied.

Producers of excisable goods who export excisable goods outside the customs territory of Ukraine are exempt from excise tax. In this case, the tax is paid in the country of destination.

***g) Registered/non-registered traders***

This question is covered by Article 212 of the Tax Code of Ukraine.

The payers of excise tax are:

- a person or a permanent establishment that produces excisable goods (products) within the customs territory of Ukraine, including from toll raw materials.

- a person, a business entity or a permanent establishment that imports excisable goods (products) into the customs territory of Ukraine.

- a natural person who is a resident or non-resident importing excisable goods (products) into the customs territory of Ukraine in the amounts that are subject to taxation in accordance with customs legislation.

- a person who sells confiscated excisable goods (products) or excisable goods (products) that are recognized as ownerless, excisable goods (products) for which the owner did not apply before the end of the storage period and excisable goods (products) that were inherited or become the property of the state on other legal grounds if these goods (products) are subject to sale in the manner, prescribed by the law.

- a person who sells or gives excisable goods (products) into possession, usage or disposal, which are imported into the customs territory of Ukraine with taxation exemption before the expiration of the period specified by law in accordance with paragraph 213.3 of Article 213 of this Code.

- a person responsible for compliance with the requirements of customs regimes, which provide for exemption from taxation, in case of violation of such requirements.

– a person who is responsible for fulfilling the conditions for the intended use of excisable goods (products), for which the tax rate is placed in the amount of 0 hryvnias per 1 litre of 100% alcohol, 0 euros per 1000 kg of petroleum products in case of violation of such conditions.

– a person who, while carrying out operations with excisable goods (products) that are not subject to taxation or are exempt from taxation, is responsible for fulfilling the conditions for the intended use of excisable goods (products) in case of violation of such conditions.

– a person is a retail business entity that sells excisable goods.

– electricity producers who have a license to conduct business in electricity production and sell it on the electricity market.

– a person is the owner of a freight vehicle imported into the customs territory of Ukraine, which is rebuilt into a car, which is subject to excise tax.

– a person (including a legal entity that keeps records of the results of activities under a joint venture agreement without establishing a legal entity), a permanent establishment that sells fuel or ethyl alcohol.

– a business entity or permanent establishment that uses goods (products), according to UKT FEA, the codes of which are not specified in subparagraph 215.3.4 of paragraph 215.3 of Article 215 of this Code (except for natural gas in a gaseous state under code 2711 21 00 00 according to UKT FEA), as fuel for refuelling vehicles, equipment or devices with internal combustion engines with compression ignition, with internal combustion engines with spark ignition, with internal combustion engines with a crank mechanism.

**7. Does Ukraine have a tax warehousing system for some / all product categories subject to excise? If not, what system does Ukraine apply:**

**a) To domestic products?**

**b) To imports?**

The issue is regulated by Articles 14 and 230 of the Tax Code of Ukraine.

In Ukraine, the term «excise warehouse»\* means:

**a)** specially equipped premises in a limited territory located within the customs territory of Ukraine, where the excise warehouse manager conducts its economic activity by producing, processing, mixing, bottling, packaging, packing, storage, receiving, as well as selling the ethyl alcohol, vodka and alcoholic beverages under the control of permanent representatives of the controlling body;

**b)** premises or territory on the customs territory of Ukraine, where the manager of the excise warehouse conducts his economic activity by producing, processing, mixing, bottling, loading and unloading, storage, and sale of fuel.

Representatives of the controlling body at the excise warehouse (except for fuel) constantly operate at excise warehouses.

Excise warehouses on the territory where the ethyl alcohol is produced must be equipped at each place where ethyl alcohol is received and released, located in the excise warehouse, flow meters-



counters of ethyl alcohol, designed for continuous measurement, storage, recording and electronic display of data on the production volume or release of ethyl alcohol in decalitres of 100% alcohol that are reduced to 20° C, and the content of denaturing additives (hereinafter – flow meter of ethyl alcohol), registered in the Unified State Register of flow meters of produced ethyl alcohol.

Managers of excise warehouses are obliged to form data on actual daily volumes of received and sold ethyl alcohol (hereinafter in this section – the volume of ethyl alcohol circulation) in each excise warehouse on a daily basis (except for days when the excise warehouse does not work) in terms of commodity subcategory codes according to with UKT FEA in decalitres of 100% alcohol, that are lowered to a temperature of 20°C.

Excise warehouses, where producing, processing, mixing, bottling, loading and unloading, storage, sale of fuel are performed, must be equipped with flow meters at each point of fuel sale in bulk from the excise warehouse located in the excise warehouse and level gauges-meters for the level of such goods (products) in the tank, and for liquefied gas (propane or a mixture of propane and butane), other gases, butane, isobutane. Devices for measuring the level or percentage of fuel in the tank (hereinafter – the level meter) may also be equipped on each commissioned stationary tank located in the excise warehouse.

Taxpayers, who are also the managers of excise warehouses, are obliged to register:

- a)** all tanks located in excise warehouses that are put into operation, flowmeters and level meters in terms of excise warehouses – in the Unified State Register of flowmeters and level meters of fuel level in the tank;
- b)** all excise warehouses – in the electronic administration system of sales of fuel and ethyl alcohol.

The managers of excise warehouses are obliged to form data on actual fuel balances at the beginning and the end of the reporting day and on daily actual volumes of received and sold fuel (hereinafter - the volume of fuel turnover) in terms of product subcategory codes according to UKT FEA in litres, lowered to a temperature of 15°C.

In addition, there are mobile excise warehouses on the territory of Ukraine.

mobile excise warehouse – a vehicle (road, rail, sea, river, air, main pipeline) which moves and / or stores fuel or ethyl alcohol on the customs territory of Ukraine.

The vehicle acquires the status of excise rolling stock during the period of its use for:

- a)** movement in the customs territory of Ukraine of fuel or ethyl alcohol sold, except for fuel or ethyl alcohol moving through the customs territory of Ukraine in transit or internal transit;
- b)** storage of fuel or ethyl alcohol on the customs territory of Ukraine;
- c)** importation of fuel or ethyl alcohol into the customs territory of Ukraine.

Vehicles that have acquired the status of mobile excise warehouses, as well as vehicles used by an economic entity that is not an excise warehouse manager to move its own fuel or ethyl alcohol for the needs of own consumption or industrial processing in the customs territory of Ukraine must be accounted for in the list of vehicles carrying fuel or ethyl alcohol, creation and maintenance of which is provided by the central body of executive power, which implements the state tax policy, in accordance with the procedure approved by the central body of executive power, which ensures the formation and implementation of the state financial policy. The list of vehicles carrying fuel or ethyl

alcohol is posted on the official website of the central executive body that implements the state tax policy.

Accounting data on the volume of fuel or ethyl alcohol are kept in the electronic administration system of fuel and ethyl alcohol and are carried out by the central executive body, which implements the state tax policy based on excise invoices.

*\* In the EU and in Ukraine, the concept of "excise warehouse" has different meanings:*

*- in the EU, excise warehouses are used for the movement of excisable goods between member states in the mode of suspension of taxation, with subsequent taxation at rates applicable in the country of consumption;*

*in Ukraine does not have a regime for suspending the taxation of excisable goods. The unified rates for a particular object of taxation apply throughout the territory. Excisable goods are taxed upon import, or at sale by the manufacturer. Areas where alcohol, vodka and fuel are produced are considered as excise warehouses. Excise warehouses are also places where significant amounts of fuel are stored, from which the tax has already been paid to customs or the manufacturer.*

**8. How far down the distribution chain does each warehousing system generally reach? Do general warehouses exist to which any importer may consign his products? How is duty financially secured (e.g. guarantee)? What physical security is required? How are movements between warehouses and between the frontier and warehouses handled?**

The opening and operation of customs warehouses is regulated by Chapters 58, 61 of the Customs Code of Ukraine, the Order of the Ministry of Finance of Ukraine "On Approval of the Procedure for Granting Warehouses the Status of "Customs Warehouse" and Deprivation of Such Status" dated 16 July 2012 № 835.

The customs warehouse can be of private or public type.

A private customs warehouse can be used solely for storage under customs supervision of goods moved across the customs border of Ukraine under the foreign economic agreements (contracts) concluded by the operator of this warehouse or by the members of the association of enterprises to which such warehouse operator is a member.

A public customs warehouse is intended for storage under customs supervision of goods moved across the customs border of Ukraine in accordance with foreign economic agreements (contracts) concluded either by the operators of this warehouse or by any third parties.

The following categories of goods may be stored in the customs warehouse:

1) goods placed under the customs procedure of the customs warehouse (including consolidated cargos);

2) goods placed under the customs procedures of transit, temporary admission, inward processing, export, temporary export, outward processing (without change of these customs procedures to the customs procedure of customs warehouse);

3) goods intended for temporary storage under customs supervision (under the conditions established by the Customs Code of Ukraine for temporary storage warehouses).

Goods placed under different customs procedures must be stored separately in the same customs warehouse.

Goods may be placed in a customs warehouse without unloading them from vehicles with the consent of the holder of such warehouse and subject to the consent of the owner of the goods (or their authorized person) with the person responsible for the vehicle.

Dangerous goods, goods that may harm other goods or goods that require special storage conditions may not be placed in customs warehouses where appropriate conditions for storing such goods are absent.

Customs warehouse operation must provide round-the-clock security and / or alarms (except for the operation of such alarms at sites), fire extinguishers, and is obliged to exclude any unauthorized access of third parties to customs warehouses, as well as the removal of goods being under customs control from the warehouse.

The register of customs warehouses located within the customs territory of Ukraine can be found on the website <https://cabinet.customs.gov.ua/> ("the Unified state information web portal "Single Window for International Trade").

The movement of goods brought into the customs territory of Ukraine from the customs office of departure at the border to the customs office of destination, where the goods are stored in the customs warehouse underway, is performed based on carriage contracts.

A preliminary customs declaration is used to control the movement of goods brought into Ukraine from the customs office of departure at the border to the customs office located where the relevant customs warehouse is established.

Control over the movement of goods from the customs office located where the relevant customs warehouse is established to the customs office of destination for the final consignee is carried out based on the new customs declarations (or documents substituting them) for internal transit of goods.

**9. Does Ukraine operate other suspension schemes, i.e. tax arrangements applied to the production, processing, holding and movement of products where excise duties are being suspended? Is there a special tax regime with any non-EU countries requiring no excise duty payment or tax stamping?**

*a) There is no suspension regime (in the meaning how it is applied in the EU) for excise tax purposes in Ukraine. Existing mechanisms of taxation envisage features depending on the usage of excisable goods, which:*

**1. are exempt from taxation on transactions (Article 213 of the Tax Code of Ukraine):**

– sale and / or transfer within one enterprise of excisable goods (products), produced on the customs territory of Ukraine, used as raw materials for the production of excisable goods (products) and benzene (code 2902 20 00 00 according to UKT FEA). This norm does not apply to operations on sale and / or transfer within one enterprise of oil products (except for goods (products) under codes 2707 10 00 00, 2707 50 00 90, 2710 12 90 00 and 2711 19 00 00 according to UKT FEA);

– import of excisable goods (products) into the customs territory of Ukraine that are used as raw materials for the production of excisable goods (products, including raw materials) that are

subject to further production of such raw materials from other excisable goods (products, including raw materials) that are sold within the customs territory of Ukraine or for export; also for export of unused raw materials outside the customs territory of Ukraine and presentation a license for the right to produce alcoholic beverages or tobacco products to the supervisory authority. This rule does not apply to fuel import operations;

- import of unfermented (unprocessed) tobacco raw materials by tobacco fermentation plants into the customs territory of Ukraine under the condition of further production of fermented (processed) tobacco raw materials and its sale to tobacco producers or its export; sale of tobacco raw materials to tobacco fermentation plants to people who produce tobacco raw materials on the customs territory of Ukraine; sale of fermented (processed) tobacco raw materials by tobacco fermentation plants to tobacco producers.

- import and sale of the bodies for cars into the customs territory of Ukraine that are subject to further car manufacturing, specified in heading 8703 in accordance with the UKT FEA.

- import of excisable goods (products) from outside the customs territory of Ukraine into the customs territory of Ukraine, if in accordance with the law, the value-added tax is not paid in connection with the placement of goods (products) in customs regimes: re-import, transit, temporary import, customs warehouse, free customs zone, duty-free trade, processing in the customs territory, destruction, refusal in favour of the state. In case of violation of the customs regimes conditions, which provide for full or partial exemption from taxation, the person responsible for compliance with the regime is obliged to calculate and pay the amount of tax liability. If, in the specified cases, the customs legislation of Ukraine provides the requirement for the implementation of guarantee measures, such requirement is also established for the purposes of the excise tax. The tax is levied if, in the future, there are obligations to pay value-added tax regarding such goods (products);

## **2. are taxed at a zero rate (for manufactured excisable goods or those without payment of excise tax (imported)).**

*Article 229 of the Tax Code of Ukraine.*

The mechanism of targeted use of excisable goods as raw materials and taxed at a zero rate, namely:

- receiving from the manufacturer or import into the customs territory of Ukraine; a tax bill is issued in the amount of tax accrued on the amount of excisable raw materials that are received or imported;

- at the enterprises that use excisable raw materials for the production of other products, tax posts are established, which exercise control over the targeted use of excisable raw materials;

- lists of enterprises that receive or ship excisable goods as raw materials are determined, and quotas are determined.

- the tax bill is considered repaid in case of documentary confirmation of the fact of the intended use of excisable products by submitting a certificate of intended use, which is confirmed by the representative of the tax post, established at the enterprise and confirms its use;

- liability for misuse.

### **2.1. Petroleum products used as raw materials for the petrochemical industry.**

*Article 229 of the Tax Code of Ukraine.*

Light distillates (code 2710 12 11 10, 2710 12 11 20, 2710 12 11 90 according to UKT FEA) and heavy distillates (codes 2710 19 31 01, 2710 19 31 10, 2710 19 31 20, 2710 19 31 30 according to UKT FEA), as well as liquefied gas (codes 2711 12 11 00, 2711 12 19 00, 2711 12 91 00, 2711 12 93 00, 2711 12 94 00, 2711 12 97 00, 2711 13 10 00, 2711 13 30 00, 2711 13 91 00, 2711 13 97 00, 2711 14 00 00, 2711 19 00 00 according to UKT FEA) and butane, isobutane (code 2901 10 00 10 according to UKT FEA) as raw materials for ethylene production without paying excise tax.

The Cabinet of Ministers of Ukraine approves the list of enterprises that receive light and heavy distillates for use as raw materials for ethylene production and the list of enterprises that import light and heavy distillates, as well as liquefied gas and butane, isobutane for use as raw materials for ethylene production.

Shipment of light and heavy distillates, their import, as well as liquefied gas and butane, isobutane, used as raw materials for ethylene production, are carried out within the quotas established by the Cabinet of Ministers of Ukraine.

Tax posts are set up at enterprises that use light and heavy distillates, as well as liquefied gas, butane, and isobutane as raw materials in ethylene production. At the tax post, representatives of the controlling body at its location exercise constant direct control over the intended use of petroleum products as raw materials for ethylene production.

**2.2. Petroleum products (codes 2710 12 11 10, 2710 12 11 20, 2710 12 11 90; 2710 12 15 10, 2710 12 15 20, 2710 12 15 90; 2710 12 21 10, 2710 12 21 90; 2710 19 11 10, 2710 19 11 20, 2710 19 11 90; 2710 19 15 10, 2710 19 15 20, 2710 19 15 90, 2710 19 25 00, 2710 19 29 00 according to UKT FEA) - for production in the chemical industry.**

*Article 229 of the Tax Code of Ukraine.*

The list of enterprises that receive and / or import petroleum products for usage as raw materials for production in the chemical industry is approved by the Cabinet of Ministers of Ukraine.

Shipment and import of petroleum products used as raw materials for production in the chemical industry are carried out within the quotas established by the Cabinet of Ministers of Ukraine.

At the enterprises that use oil products as raw materials for production in the chemical industry, tax posts are established. At the tax post, representatives of the controlling body at its location exercise constant direct control over the intended usage of petroleum products as raw materials for the chemical industry.

To repay the tax bill, the bill holder is provided with a certificate from the bill issuer on the intended use of petroleum products as raw materials for production in the chemical industry, agreed by the representative of the tax post established at the enterprise.

**2.3. Substances used as components of motor fuels (codes 2707 10 00 00, 2707 20 00 90, 2707 30 00 90, 2707 50 00 90, 2905 11 00 00, 2909 19 10 00, 2909 19 90 10, 2909 19 90 20, 2909 19 90 90 according to UKT FEA) as a raw material for production in the chemical industry.**

Shipment and import of substances used as components of motor fuels, which are obtained as raw materials for production in the chemical industry, are carried out within the quotas established by the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine shall approve the list of enterprises receiving substances used as components of motor fuels for use as raw materials for production in the chemical industry, as well as the list of enterprises importing such substances.

At the enterprises that use excisable raw materials for the production of other products, tax posts are established, which exercise control over the intended use;

To repay the tax bill, the bill holder is provided with a certificate from the issuer on the intended use of substances as raw materials for production in the chemical industry, agreed by the representative of the tax post established at the enterprise.

***b) Is there a special tax regime with any non-EU countries requiring no excise duty payment or tax stamping?***

No. The tax legislation of Ukraine does not envisage such regime.

**10. Does Ukraine apply special regimes for certain producers, such as farmers, small producers, small breweries, fishermen, etc.?**

There are no special regimes for excise tax, depending on the type of economic activity.

**11. Does Ukraine allow Direct Delivery as specified in article 17(2) of Directive 2008/118/EC?**

Excise duty is levied during the import of goods into the customs territory of Ukraine.

Direct delivery, as referred to in Article 17 (2) of Directive 2008/118/EC, is not foreseen.

**12. Rules governing administration and records, including authorisations (for the production, import and storage of excise goods), guarantees, registration, invoices.**

Entities engaged in the production, storage or trade of goods (products) subject to excise duty must be registered with the tax authorities as taxpayers of excise duty.

The production of goods (products) which are subject to excise duty, their storage or trade is subject to licensing.

Retail businesses that sell goods subject to excise duty are subject to mandatory registration as taxpayers of excise duty by the tax authorities located in the district of the point of sale.

#### **Excise invoices**

The mechanism of “excise invoices”, which is introduced in Ukraine is applied for the purposes of tax control over the movements of excisable goods, and not for the purposes of tax payment.

When importing fuel or ethanol into the customs territory of Ukraine, the taxpayer is obliged to prepare an excise invoice in electronic form for each commodity subcategory code in accordance with the UKT ZED (Ukrainian classification of foreign economics goods) of sold fuel or ethanol and register it in the Unified Register of Excise Invoices subject to the condition of registration in the manner defined by law.

The taxpayer is obliged to prepare an excise invoice for the amount of fuel or ethanol used for personal consumption; sold and / or used for the production of non-excisable products; lost within and / or above the established norms of losses; spoiled, destroyed, including as a result of an accident, fire, flood, other force majeure or other reason related to the natural result, as well as due to evaporation in the process of production, processing, storage or transportation of such fuel or ethanol, as well as in transactions that are not subject to taxation or are exempt from taxation.

### **Electronic administration of fuel and ethanol sales**

The State Tax Service of Ukraine records the volume of fuel or ethanol in the electronic administration system of the sale of fuel and ethanol.

The system of electronic administration of sales of fuel and ethanol keeps separate records of volumes of fuel or ethanol in terms of taxpayers and in terms of excise warehouses / mobile excise warehouses for each code of the commodity subcategory according to UKT ZED, which:

- are subject to excise duty;
- are taxed under certain conditions established by the Tax Code of Ukraine
- not subject to taxation;
- exempt from taxation.

### **Guarantees**

In Ukraine, there are no financial guarantees necessary for the movement of excisable goods in the mode of suspension of taxation.

In addition, Ukraine uses a tax bill (a “promisory note” for tax purposes) approved by banks, provided by a manufacturer that uses excisable goods (alcohol and fuel) in the chemical, pharmaceutical industries, vinegar production and perfume industry. Alcohol and fuel in this case are taxed at a rate of 0. The bill is issued for the full amount of excise tax. This case is described in answer to question 6c of this Questionnaire.

## **13. Assessment and appeals (assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of excise claims).**

Accuracy of calculation and payment of excise duty is verified during the documentary and in-house audits in the general order.

A refund of excise tax is not provided, except in cases of refund of taxes as a result of an appealing procedures or refund of overpaid taxes.

The general approach is applied to:

- transfer back of overpaid tax amounts - at the request of the taxpayer and after the conclusion by the tax authority;
- appeal by the taxpayer of the tax charged - according to the procedures of administrative appeal or in court.

The penalties can be applied for the following actions:

- failure to submit (late submission) the excise duty declaration (hereinafter – the Declaration);
- violation of the procedure for registration of excise invoices and adjustments to such excise invoices in the Unified Register of Excise Invoices;
- non-compliance with the rules of payment (transfer) of excise duty;
- identification of errors (violations) in the Declaration;
- sale of fuel or ethanol by entities without registration of such entities as an excise duty payers;
- violation of the terms of storage of documents on the calculation and payment of taxes and duties, as well as documents related to the compliance with the requirements of other legislation, which is controlled by the tax authority;
- in case of determination by the tax authority of the amount of the tax liability and / or other liability;
- violation of the rules of accounting, production and circulation of fuel or ethanol in excise warehouses.

**14. Control procedures (in particular, what use is made of tax stamps and other fiscal markings, including fiscal markings for mineral oils).**

In the case of production in the customs territory of Ukraine of alcoholic beverages, tobacco products and liquids used in electronic cigarettes, or import of such goods into the customs territory of Ukraine, taxpayers are obliged to ensure their marking with stamps of the established pattern in such a way which guarantee its breaking during the opening (uncorking) the goods.

The presence of a duly affixed excise duty stamp of the established pattern on a bottle (package) of alcoholic beverage, pack (package) of the tobacco product, or container (package) with the liquid used in electronic cigarettes is one of the conditions for import into the customs territory of Ukraine and sale such goods to consumers, as well as proof of payment of tax and legality of import of goods.

All alcoholic beverages with ethanol of more than 8.5 per cent are subject to marking, except for the following exceptions:

- alcoholic beverages and tobacco products, which are supplied for sale to duty-free shops directly by domestic producers of such products under direct agreements concluded between domestic producers of alcoholic beverages and tobacco products and owners of duty-free shops. At the same time, the movement of alcoholic beverages and tobacco products sent by manufacturers to duty-free shops is carried out under customs control with the application of measures to guarantee delivery;
- alcoholic beverages and tobacco products imported into Ukraine and placed in the customs regime of a duty-free shop;
- reference (monitoring) or test samples of tobacco products that are not intended for retail sale and are imported into the customs territory of Ukraine by accredited state testing laboratories and / or entities licensed to manufacture relevant products for research or testing (calibration) laboratory equipment, tastings, a study of physical and chemical parameters, design);
- test samples of alcoholic beverages that are not intended for retail sale and are imported into the customs territory of Ukraine by economic entities that have licenses for the right to wholesale



relevant products for research or testing (calibration of laboratory equipment, tastings, study of physicochemical parameters, design), but not more than 3 litres of each product;

–ordinary (non-sparkling) wines and fermented beverages, which are classified into the following categories according to the UKT ZED: 2204 (except 2204 10, 2204 21 06 00, 2204 21 07 00, 2204 21 08 00, 2204 21 09 00, 2204 22 10 00, 2204 29 10 00) and in subcategories 2205 10 10 00, 2205 90 10 00, 2206 00 59 00, 2206 00 89 00, where the actual amount of ethanol exceeds 1.2 per cent but not more than 15 per cent, provided that the ethanol contained in the finished product has a completely enzymatic (endogenous) origin.

In case of detection of facts of importation into the customs territory of Ukraine, storage, transportation and sale in the customs territory of Ukraine of alcoholic beverages, tobacco products, liquids used in electronic cigarettes, without the presence of excise duty stamps, the tax authorities shall withdraw such goods from free circulation and submit the relevant materials to the court for their confiscation in favour of the state revenue.

### **15. What are specific measures taken to tackle illicit international trade in excisable goods (e.g. cigarettes)?**

Ukraine is constantly improving control over the circulation of goods subject to excise duty.

For example, the draft Law of Ukraine “On amendments to the Tax Code of Ukraine and the Law of Ukraine “On state regulation of production and circulation of ethanol, cognac and fruit alcohol, alcoholic beverages, tobacco products, liquids used in electronic cigarettes, and fuel” to improve the administration of excise duty on tobacco products and strengthen control over their circulation” was submitted to the Verkhovna Rada of Ukraine.

This draft law provides the introduction of an automated system of control over the circulation of tobacco products from their production (import) in the customs territory of Ukraine until their sale to entities engaged in the retail trade of tobacco products.

The main provisions of this draft law are based on the provisions of Article 15 of the Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the monitoring and control of the circulation of tobacco products.

According to the Criminal Code of Ukraine, criminal liability is established for moving across the customs border of Ukraine out of customs control or with concealment from customs control of the following goods:

–cultural property, poisonous, potent substances, explosives, radioactive materials, weapons or ammunition (except smooth-bore hunting weapons or ammunition), parts of firearms, as well as special technical means of secret information (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 envisages administrative liability in the form of fines and confiscations, in particular, for movement / actions aimed at moving goods, commercial vehicles across the customs border of Ukraine outside of the customs control, i.e. outside the location of the

customs office or outside its working hours and without the completion of customs formalities, or with illegal exemption from customs control due to abuse of the customs officials.

Currently there are 3 draft laws on the subject matter being considered by the Verkhovna Rada of Ukraine. Their provisions are aimed at establishing criminal liability for the smuggling of goods:

1) Draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning Criminalization of Illegal Movement of Excisable Goods” (dated 29 December 2020 № 4556), submitted by members of the Parliament Getmantsev D.O., Kovalchuk OV, Sova O.G., Ustenkom O.O. Provisions of draft law № 4556 suggests the introduction of criminal liability for smuggling of excisable goods, i.e. actions aimed at moving across the customs border of Ukraine outside customs control or with concealment from customs control of excisable goods.

2) The draft Law of Ukraine “On Amendments to the Criminal Code of Ukraine on Criminalization of Movement and Actions Aimed at Movement of Goods Across the Customs Border of Ukraine with Concealment from Customs Control and Out of Customs Control” (dated 18 January 2021 № 4556-1), submitted by the Member of the Parliament Kholodov A.I. Draft law № 4556-1 provides for the establishment of criminal liability for illegal movement and actions aimed at moving goods across the customs border of Ukraine with concealment from customs control and out of customs control, not only excisable goods but also any other goods if such acts are committed in large sizes.

3) 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, as well as Inaccurate Declaration of Goods” (dated 23 April 2021 № 5420), submitted by the President of Ukraine Zelenskiy V.O. Draft Law № 5420 provides for criminal liability for smuggling of goods and excisable goods. It is also 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 № 5420 was adopted as a basis and prepared by the relevant Verkhovna Rada Committee for consideration in the second reading.

## **16. Does the legislation of Ukraine provide for transitional and temporary excise duty measures?**

Subsection 5 of Section XX of the Tax Code of Ukraine provides the following temporary rules, in particular:

1) until the termination or abolition of martial law, a state of emergency on the territory of Ukraine, a zero rate of excise duty is set – for fuel:

*Gasoline:*

- gasoline with a lead content of 0.013 g / l or less:
- with a content of not less than 5 wt. % bioethanol or at least 5 wt. % ethyl tertiary butyl ether or mixtures thereof
- other gasoline
- other petroleum products
- heavy distillates (gas oil)

- liquefied gas (propane or a mixture of propane and butane) and other gases
- butane, isobutane

until 31 December 2024 inclusive – a transitional period of gradual increase of excise duty rates is provided for tobacco products. In particular, the rates of excise duty and the minimum excise duty liability are increasing annually by 20%. The purpose of such an increase is to achieve the level of taxation of tobacco products adopted in the EU.

**17. What specific measures are applied to control and tax home-produced / for own consumption alcoholic beverages?**

The home production of alcoholic beverages / production for own consumption is prohibited in Ukraine.

**18. Does the country fully accord national treatment to EU goods in accordance with Article III of GATT as foreseen in article 31 of the DCFTA?**

In Ukraine, it is applied the same rates and rules of excise duty both for domestic goods as well as goods from the EU.

**19. What are the targets for future developments in the country's excise legislation (short / long term)?**

To date, there are following developments in excise tax legislation of Ukraine:

1. Short-term:

–Further increase in rates for the tobacco products (by 20% annually till 2025) until the minimum level of taxation established in the EU is reached (90 euro for 1,000 cigarettes), as it is envisaged by the Tax Code.

–Introduction of electronic control system over the turnover of tobacco products.

–Improvement of the electronic control system over the turnover of alcohol products.

Long-term: according to annex XXVIII to the Ukraine – EU Association agreement, Ukraine assumes the obligation to gradually harmonize its legislation in the area of excise taxes with the respective legislation of the EU. The reference is made to the Council Directive 2003/96/EC dated 27 October 2003, restructuring the Community framework for the taxation of energy products and electricity, which should be implemented gradually considering the future needs of Ukraine

## **I.DIRECT TAXATION**

**20. Does the legislation allow for a deferral of the taxation of capital gains until their actual realisation (i.e. until disposal of the assets to which they relate) in cases of mergers, divisions, transfers of assets and exchange of shares involving companies established in the country?**

The Tax Code of Ukraine does not provide for the deferral of taxation of capital gains in the cases of mergers, divisions, transfers of assets and exchange of shares involving companies established in Ukraine. General rules apply.

Under the general rule, taxable income for corporate profit tax is determined based on the financial results (profit or loss) before tax as per the company's financial statements adjusted according to the rules of the Tax Code.

According to paragraph 140.4.1 of paragraph 140.4 of Article 140 of the Tax Code, the financial result before tax of the corporate profit taxpayer is reduced by the amount of accrued income from the equity of other corporate profit tax payers, payers of single tax.

According to subparagraph 140.5.3 of paragraph 140.5 of Article 140 of the Tax Code, the financial result before tax for the corporate profit tax taxpayer is increased by the amount of losses from investments in associates, subsidiaries and joint ventures, calculated according to equity or proportional consolidation methods.

According to paragraphs 140.4.1 and 140.5.3 of article 140 of the Tax Code, if a company uses the equity method for the accounting of investments in domestic companies, profit / loss from the investment is not taxable / not deductible for the income tax purposes until the investor company receives the income from the investment.

**21. What are the essential features of Ukraine's regime for the taxation of the disposal of fixed (long-term) assets of corporations?**

**a) What kind of exceptions/exemptions does Ukraine apply to the taxation of capital gains of corporations?**

**b) Do the same rules apply within a trade or business of an individual? If not, what are the rules for individuals?**

**c) What are the applicable rules for individuals in the framework of their portfolio management?**

Article 138 of the Tax Code of Ukraine sets out the special rules for depreciation of fixed assets and intangible assets for corporate profit tax purposes. According to paragraph 138.1 of article 138 of the Tax Code, financial result before tax is increased by:

- the amount of book value of a separate object of fixed assets and / or of [an object] of intangible assets determined according to UA GAAP or IFRS, in case of the asset write-off or disposal;

- the amount of book value of a separate object of non-production\* fixed assets and / or of [an object] of non-production intangible assets determined according to UA GAAP or IFRS, in case of the asset write-off or disposal.

According to paragraph 138.2 of article 138 of the Tax Code, financial result before tax is decreased by:

- the amount of residual value of a separate object fixed assets and / or of [an object] of intangible assets determined according to the rules of Article 138 of the Tax Code, in case of the asset write-off or disposal;

– the amount of initial book value of acquisition or production of a separate object of intangible fixed assets and / or of [an object] of non-production intangible assets, and the cost of repair, reconstruction, modernization, or other improvements, including costs recognized according to UA GAAP or IFRS, in case of sale of such object of non-production fixed assets or noncurrent assets, up to the amount of income (revenue) received from such sale.

*\*Non-production asset is a fixed or intangible asset, which was acquired, produced/ created for the purposes not related to the company's business.*

**a) What kind of exceptions / exemptions does Ukraine apply to the taxation of capital gains of corporations?**

For corporate profit tax purposes, accounting gains/ losses realized by the investor from the relevant investment asset are disregarded. Capital gains (losses) are taxable according to the rules of the Tax Code.

According to the subparagraph 140.4.1 of paragraph 140.4 of Article 140 of the Tax Code, the financial result before tax of the corporate profit tax payer is reduced by the amount of accrued income from the equity of other corporate profit tax payers, taxpayers of a single tax. Subparagraph 140.5.3 of paragraph 140.5 of Article 140 of the Tax Code of Ukraine provides the financial result before tax for the corporate profit tax payer is increased by the amount of losses from investments in associates, subsidiaries and joint ventures, calculated according to equity or proportional consolidation methods.

According to paragraphs 140.4.1 and 140.5.3 of article 140 of the Tax Code, if a company uses the equity method for the accounting of investments in domestic companies, profit / loss from the investment is not taxable / not deductible for the income tax purposes until the investor company receives the income from the investment.

According to the subparagraph 140.4.3 of paragraph 140.4 of Article 140 of the Tax Code, the financial result before tax of the corporate profit tax payer is reduced by the amount of accrued income from participation in the capital of nonresidents (including controlled foreign companies), provided that the share in the capital of nonresidents is at least 10 per cent during the calendar year and such nonresident is not included on the list\* of states (territories) determined in accordance with subparagraph 39.2.1.2 of subparagraph 39.2.1 of paragraph 39.2 of Article 39 of the Tax Code of Ukraine (except for states (territories) with which Ukraine has international agreements on avoidance of double income taxation) for transfer pricing purposes.

*\*The reference is made to the list of low-tax jurisdictions approved and updated by the Government.*

**b) Do the same rules apply within a trade or business of an individual? If not, what are the rules for individuals?**

According to the Law of Ukraine "On Accounting and Financial Reporting in Ukraine" dated 16 July 1999 № 996-XIV, individuals – private entrepreneurs (IPE) and persons engaged in an independent professional activity are not required to maintain accounts. Taxation of their activities is regulated by the rules in Articles 177, 178 and 296 of the Tax Code. IPEs do not use a double-entry (accounting entries), and do not prepare financial statements (balance sheet, statement of financial results and other forms of the financial statements).

IPEs, who are subject to the general system of taxation, are entitled (can elect to) to deduct the business costs associated with their trade or business, depreciation costs, with the appropriate

maintenance of separate accounting of such costs. If the appropriate election is made, the list of deductible costs will be subject to limitations established by paragraph 177.4.6 of the Tax Code.

Depreciation of fixed assets and intangible assets is calculated under the straight-line method of depreciation (paragraph 177.4.7 of the Tax Code). Depreciation is maintained for each item (paragraph 177.4.8 of the Tax Code).

Depreciation is accrued during the term of useful life (operation) of an object of fixed assets and intangible assets, as determined by the IPE, but this term cannot be shorter than the minimum allowable useful life of fixed assets and intangible assets (paragraph 177.4.9 of the Tax Code).

Private entrepreneurs who are payers of a single tax and who do not pay VAT maintain accounts in a free form to record their income on a monthly basis.

***c) What are the applicable rules for individuals in the framework of their portfolio management?***

Dividends received by private entrepreneurs are taxable with personal income tax under general rules, and dividends are not considered as income from trade or business of a IPE. If dividends received from a company are reinvested into the registered capital of that company, these dividends are relieved from taxation for the individual investor (paragraph 165.1.18 of the Tax Code).

**22. What are the rules in case of cross-border transfer of assets within the same company? Does the legislation provide for the taxation of deemed capital gains on the assets transferred within the same company? What are the rules in case a company transfers its tax residence to another country? Does the legislation provide for the taxation of deemed capital gains on the assets of that company?**

***a) What are the rules in case of cross-border transfer of assets within the same company?***

Cross-border transfer of assets within the same company can be taxed with corporate profit tax under the rules for taxation of permanent establishments (PE). If a non-resident company has a taxable PE in Ukraine, then the dealings between the company and its PE (including cross-border transfers of assets) are taxed for the PE at an 18% rate. Profit of the PE from the transaction must be at an arms'-length level. If a Ukrainian company has a PE in a foreign jurisdiction, cross-border transfer of assets between them will be taxed with corporate profit tax at 18%. Taxable profit is determined based on the adjusted financial results before tax determined under the accounting standards. Ukraine does not have exit taxation rules like those introduced by article 5 of the Council Directive (EU) 2016/1164 of 12 July 2016, laying down rules against tax avoidance practices that directly affect the functioning of the internal market (ATAD I).

***b) Does the legislation provide for the taxation of deemed capital gains on the assets transferred within the same company?***

No, the legislation does not provide for the taxation of deemed capital gains on the assets transferred within the same company.

***c) What are the rules in case a company transfers its tax residence to another country?***

A company incorporated in Ukraine cannot transfer its tax residence to another country. Ukraine does not have relevant rules. A foreign-incorporated company with the place of management and control in Ukraine can exit from the tax residence of Ukraine by filing the application to the tax

administration. A decision to exit from tax residence of Ukraine is deemed as liquidation of the company, and the relevant tax rules apply. Exit from tax residence per se is not a taxable event. The tax administration must launch a pre-liquidation tax review before the company is deregistered from the tax registry.

**d) Does the legislation provide for the taxation of deemed capital gains on the assets of that company?**

No, the legislation does not provide for the taxation of deemed capital gains on the assets of that company.

### **23. Does Ukraine apply a special tax regime for business reorganisations?**

**a) What are the reorganisations covered?**

**b) How does this special tax regime work?**

**c) Does this tax regime apply in cross-border situation? If yes, under which conditions?**

No. The Tax Code of Ukraine does not set out any specific rules for corporate profit tax on business reorganizations. Therefore, the transactions will be taxed based on the result (profit or loss) determined in accordance with the relevant accounting rules.

According to Paragraph 140.4.5 of Article 140 of the Tax Code, the financial result before tax of the successor taxpayer [transferee company] is reduced by the amount of the negative value of the object of taxation [tax loss] of the taxpayer under reorganization [transferor company].

**a) What are the reorganisations covered?**

In the case of consolidation, merger, transformation – tax loss is transferred in the period of approval of the transfer deed; in the case of corporate division – tax loss is transferred in the period of approval of the distribution balance sheet and in the amount proportional to the share of property received by the transferee company in accordance with the distribution balance-sheet.

**b) How does this special tax regime work?**

During the reorganization, the tax loss of the transferor company being liquidated is transferred to the transferee company in the amount that does not exceed the amount of the equity of the transferor company at the end of the previous tax (reporting) year, provided that the transferee company and the transferor company were related parties for more than eighteen consecutive months before the date of completion of the consolidation (merger).

**c) Does this tax regime apply in cross-border situation? If yes, under which conditions?**

The tax-loss transfer rules cited above do not apply to cross-border transactions.

### **24. Please provide information on the taxation of the raising of capital by companies.**

Direct investments raised by the company do not affect financial results before tax and, therefore, are neutral for corporate profit tax.

**25. Does the legislation contain a definition of tax residence for individuals and companies? Please explain and provide an overview of relevant legislative provisions.**

According to Paragraph 14.1.213 of Article 14 of the Tax Code, residents are, in particular:

- a)** legal entities and their subdivisions, which are incorporated and conduct their activities in accordance with the legislation of Ukraine and located in or outside the territory of Ukraine;
- b)** diplomatic missions, consular posts and other official missions of Ukraine abroad, which have diplomatic privileges and immunities;
- c)** an individual having a place of residence in Ukraine.

If an individual also resides in a foreign state, he (she) is considered a resident of Ukraine if such a person has a permanent residence in Ukraine; if a person has a permanent residence also in a foreign country, he (she) is considered a resident of Ukraine if he (she) has closer personal or economic ties to Ukraine (centre of vital interests in Ukraine). If the state in which the individual has a centre of vital interests cannot be determined, or if the individual does not have a permanent residence in any of the states, he (she) is considered a resident of Ukraine if he (she) stay in Ukraine for at least 183 days (including the day of arrival and departure) during a period or periods of the tax year.

The place of permanent residence of family members or the place of registration of business is a sufficient (but not exclusive) condition for determining the location of the centre of vital interests of an individual.

If it is impossible to determine the residence status of an individual using the criteria mentioned above, the individual shall be considered a resident of Ukraine if he (she) is a citizen of Ukraine.

If contrary to the law, a citizen of Ukraine also possesses the citizenship of another country, for the purpose of taxation, such individual is considered a citizen of Ukraine, and he (she) is not entitled to offset foreign taxes against Ukrainian tax liability according to the domestic law or the international agreements of Ukraine.

If an individual is a stateless person and neither of the abovementioned criteria does not apply, his (her) residence status shall be determined in accordance with international law.

Self-determination of a person's main place of residence on the territory of Ukraine or his (her) registration as a self-employed person in Ukraine shall be sufficient ground for determining such person as a resident of Ukraine.

Paragraph 133.1 of Article 133 of the Tax Code of Ukraine stipulates that for corporate profit tax purposes, resident taxpayers cover legal entities established in accordance with the legislation of other countries (foreign companies) that have a place of effective management in Ukraine.

The place of effective management is considered to be in Ukraine if a foreign company meets at least one of the following conditions:

- a)** meetings of the executive body of the foreign company are held in Ukraine more regularly than in any other country;
- b)** management decisions are made, and other current (operational) activities are carried out by the company's officials predominantly in Ukraine;



c) the actual management of the activities of the foreign company is mainly carried out by the persons in Ukraine, regardless of formal (legal) powers for such management with those persons.

If a foreign company cannot be recognized as having a place of effective management in Ukraine or another country, the place of management of such foreign company is considered to be in Ukraine if at least one of the following conditions is met:

- bank accounts of the foreign company are managed in Ukraine;
- accounting or management accounting of the foreign company is carried out in Ukraine;
- personnel management of the foreign company is carried out in Ukraine.

A foreign company is entitled to declare itself as a tax resident of Ukraine by submitting an application to the central tax administration.

A foreign company is entitled to exit from tax residence in Ukraine on the basis of the application to the central tax administration and after the tax review launched by the tax administration. Exit from tax residence by the foreign company is treated as a liquidation of a legal entity. Income paid in connection with exit from tax residence by a foreign company is taxed out at the level of shareholders or other persons entitled to receive such income.

A foreign company that has received the status of a resident taxpayer is not recognized as a controlled foreign company.

A legal entity recognized as a non-resident of Ukraine in accordance with the international agreement of Ukraine on the avoidance of double taxation is automatically recognized as a non-resident taxpayer.

**26. Please explain the taxation of non-residents on source income from Ukraine, stressing any differences with the taxation of residents, for what concerns:**

- a) Taxable base**
- b) Deduction of expenses**
- c) Exemptions**
- d) Tax rate**
- e) Tax incentives**
- f) Specific regime for permanent establishments, if any.**

A permanent establishment shall mean a permanent place of business through which the economic activity of a non-resident in Ukraine is carried out in whole or in part, in particular: a place of management; branch; office; factory; workshop; installation or construction for exploration of natural resources; mine, oil / gas well, quarry or any other place of extraction of natural resources; warehouse or premises used for delivery of goods, server. Taxation of income of non-residents operating in Ukraine through a permanent establishment is carried out in the manner prescribed by subparagraph 141.4.7 of paragraph 141.4 of Article 141 of the Tax Code.

- a) *Taxable base***

The profit of non-residents who operate in Ukraine through permanent establishments is taxed in the general order. For tax purposes, the permanent establishment is treated as a taxpayer who conducts its activities independently of such a non-resident.

The taxable income of the permanent establishment is determined in accordance with the provisions of Article 39 of the Tax Code, i.e. in accordance with the transfer pricing rules.

According to paragraph 134.1.1 of Article 134 of the Tax Code, the object of corporate profit tax is worldwide income, calculated by adjusting (increasing or decreasing) pre-tax financial result (profit or loss) as per the company's financial statements prepared in accordance with Ukrainian GAAP or IFRS, by tax differences established by the relevant provisions of the Tax Code.

***b) Deduction of expenses***

Accounting expenses are deducted for tax purposes, considering the limitations defined in Section III of the Tax Code.

***c) Exemptions***

None.

***d) Tax rate***

A regular corporate profit tax rate of 18% applies.

Therefore, the income of non-residents received through their permanent establishments in Ukraine is taxed at a rate of 18%. The income and expenses of such permanent establishment are taken into account when determining the pre-tax financial result in accordance with accounting rules and taking into account certain differences (limitations) defined by the provisions of the Tax Code.

The permanent establishment determines the amount of taxable income received during the reporting (tax) period, in accordance with the arms'-length principle. The taxable income of a permanent establishment must correspond to the profits of an independent enterprise carrying on the same or similar activities under the same or similar conditions and acting independently from the non-resident of which it is a permanent establishment.

Ukrainian source income of a non-resident company is any income received by the non-resident, including income from any activities carried out in Ukraine, its continental shelf, and the exclusive (maritime) economic zone. The list of income types considered to have a source in Ukraine is defined by paragraph 14.1.54 of Article 14 of the Tax Code. If the activities of the non-resident company do not rise to the level of taxable permanent establishment, the income from Ukrainian source is taxable according to the rules of paragraph 141.4.2 of Article 141 of the Tax Code of Ukraine unless the income is relieved from taxation under the provisions of the international income tax treaty.

Source income of non-residents from the territory of Ukraine is taxed with withholding tax at the rate of 15% (a basic rate).

Income from interest-free (discount) bonds or treasury bonds is taxed at 18%; freight income is taxed at 6% rate.

Insurance payments under insurance or reinsurance contracts, including life insurance for the benefit of non-residents, are taxed at the following rates:

- 0% – for payments under the mandatory insurance type contracts, if insurance payments (insurance compensations) are made in favour of non-resident individuals, and payments within the

system of international agreements "Green Card", as well as under contracts of insurance of passenger transportation of civil aviation. Tax is deducted from income at source.

- 4% (paid at the expense of the insurer) – for payments under contracts for the insurance of risks outside Ukraine, if insurance payments (insurance compensations) are made in favour of nonresidents, except for the risks to which a 0% rate applies.

- 0% – for payments under the (re)insurance contracts concluded directly with non-resident insurers or reinsurers with the financial stability ranking corresponding to the requirements established by the financial services market regulator; payments under reinsurance contracts for the mandatory insurance of civil responsibility of a nuclear installation operator for damage that may be caused as a result of a nuclear incident. Tax is deducted from income at source.

- 12% – for payments under (re)insurance contracts, if conditions for applying 4%/0% tax are not met. Tax is paid at the expense of the income payer.

***e) Tax incentives***

None.

***f) Specific regime for permanent establishments if any.***

None.

**27. Does the legislation allow for levying withholding taxes on payments (dividend, interest, royalties or rent etc.) to other legal entities (natural persons or corporations) residing in and / or outside Ukraine?**

**a) What are the main features of the taxation regime on income from capital (personal and corporate)?**

**b) Are there withholding taxes on income from capital (interest on bank deposits, debt instruments)? Please indicate tax base, tax rates, exemptions, fiscal treatment of residents (on domestic and foreign income) and non-residents, automatic reporting etc.**

**c) Are turnover taxes or stamp duties applied to securities, credit contracts, insurance contracts, etc.?**

**d) What treatment applies to dividends distributed by foreign companies to companies that are resident in Ukraine? What mechanisms apply to avoid double taxation on dividends?**

Payments (dividends, interest, royalties or rent etc.) between domestic companies are not subject to any withholding taxation. Payments made by the domestic companies to the non-resident entities attract withholding tax at a 15% rate. Lower rates apply to certain income types, as explained below. WHT is deducted at source at payment (with few exceptions).

Payments made by domestic companies to natural persons residing in/outside Ukraine are subject to 18% personal income tax, which is deducted from the amount of gross income at source by the Ukrainian tax agent (a company that accrues / pays the income). 5% / 9% personal income tax rate applies to certain income types as explained below.

***a) What are the main features of the taxation regime on income from capital (personal and corporate)?***

***Legal entities***

According to paragraph 134.1.1 of Article 134 of the Tax Code, the object of corporate profit tax is worldwide income, calculated by adjusting (increasing or decreasing) financial results before tax (profit or loss) as per the company's financial statements prepared in accordance with Ukrainian GAAP or IFRS, by tax differences established by the relevant provisions of the Tax Code.

Therefore, the income of taxpayers – residents of Ukraine, including dividends, interest, royalties, rental income, and other income types, are included in pre-tax financial results in accordance with accounting rules.

According to paragraph 140.4.1 of Article 140 of the Tax Code, the pre-tax financial result for the corporate profit tax payer is reduced by the amount of accrued income in the form of dividends and income from equity in other companies – payers of corporate profit tax, and payers of single tax. According to subparagraph 140.5.3 of paragraph 140.5 of Article 140 of the Tax Code, the financial result before tax for the corporate profit tax payer is increased by the amount of losses from investments in associates, subsidiaries and joint ventures, calculated according to equity or proportional consolidation methods.

According to paragraph 140.4.3 of paragraph 140.4 of Article 140 of the Tax Code, the financial result before tax for the corporate profit tax payer is reduced by the amount of accrued income from participation in the capital of nonresidents (including controlled foreign companies), provided that the share in the capital of nonresidents is at least 10 per cent during the calendar year and such nonresident is not included on the list\* of states (territories) determined in accordance with subparagraph 39.2.1.2 of subparagraph 39.2.1 of paragraph 39.2 of Article 39 of the Tax Code of Ukraine (except for states (territories) with which Ukraine has international agreements on avoidance of double income taxation) for transfer pricing purposes.

Therefore, dividends are not taxable for a payer of corporate profit tax.

Ukraine does not impose withholding taxation on payments made between domestic companies.

Domestic companies paying dividends are required to pay advance corporate profit tax on payment of dividends (ATD) at the standard corporate profit tax rate unless the dividends are paid to individuals or out of received dividends from its subsidiaries, i.e. pass-through dividends (with some other exceptions). ATD applies only to the portion of dividends that exceeds taxable profits of the respective dividend year for which corporate profit tax is already paid.

If the amount of the paid ATD exceeds the amount of the accrued corporate profit tax of the taxpayer-issuer of corporate rights, the excess amount will be applied to reduce the taxpayer's corporate profit tax payment due in the following periods. If the taxpayer is in a loss-making position, the said amount will be carried forward to the following periods until it is fully utilised. Collective investment vehicles and taxpayers under the simplified tax regime are released from ATD.

*\*The reference is made to the list of low-tax jurisdictions which is approved and updated by the Government.*

***Individuals***

According to paragraph 167.5.1 of the Tax Code, 18% personal income tax rate applies to passive income, except for dividends, to which 5% or 9% rate applies. Personal income tax is withheld from income by the company that accrues or pays the income (a tax agent).

Dividends paid by companies – payers of corporate profit tax (except for dividends paid by the collective investment institutions) are taxed at 5% (paragraph 167.5.2 of the Tax Code).

Dividends paid by collective investment institutions, non-resident companies and domestic companies that are not regular payers of corporate profit tax are taxed at 9% (paragraph 167.5.4 of the Tax Code).

Dividends accrued on preference shares or shares with fixed income are taxed as salary income at 18% rate (paragraph 167.5.1 of the Tax Code).

Dividends accrued by companies that are residents of Diia City (a preferential tax regime) are not taxable with personal income tax if the dividend-paying company did not distribute dividends during two consecutive calendar years (paragraph 170.5.5 of the Tax Code).

***b) Are there withholding taxes on income from capital (interest on bank deposits, debt instruments)? Please indicate tax base, tax rates, exemptions, fiscal treatment of residents (on domestic and foreign income) and non-residents, automatic reporting etc.***

#### ***Legal entities***

Interest on bank deposits and debt instruments accrued / paid by the resident company to another resident company does not attract any withholding tax. Interest received by taxpayers is included in their taxable income on a general basis according to financial accounting rules.

Interest on bank deposits or debt instruments paid to the non-resident corporation attracts 15% withholding tax.

A special 5% WHT rate on qualifying Eurobond yield applies (interest on loans financed through Eurobonds or other debt securities issued on a recognised stock exchange (excluding payment of interest to residents of low-tax jurisdictions). The list of recognized stock exchanges is approved by the Government (paragraph 141.4.11 of the Tax Code).

Withholding tax is paid and reported by the Ukrainian withholding agent (a person that pays the income). There is no special automatic reporting for WHT purposes. The withholding agent files the WHT report as part of its regular corporate profit tax return.

#### ***Individuals***

##### ***Taxation of bank interest***

Personal income tax at 18% is deducted at source by the person that accrues the interest income on bank deposits or current accounts, savings (deposit) certificates, deposits of members of the credit union in the credit union (tax agent).

The tax agent pays (transfers) the amount of tax (deducted from the gross amount of interest) to the budget monthly and files the relevant reports. Tax is deducted and paid at accrual (paragraph 170.4.1 of the Tax Code).

##### ***Taxation of interest on debt instruments***

According to paragraph 165.1.2 of the Tax Code, the total monthly (annual) tax income of the taxpayer does not include the amount of income received by:

a taxpayer in the form of interest accrued on state securities issued by the Ministry of Finance and / or by the State Debt Management Agency of Ukraine and on debt obligations of the National Bank of Ukraine;

non-residents in the form of interest accrued on state securities or bonds of local loans or debt securities, guaranteed by state or municipal guarantors, if such securities are purchased by non-residents outside the territory of Ukraine through authorized agents – non-residents, or interest on loans to the government or municipality (loans or external borrowings), which are reflected in the State Budget of Ukraine or local budgets or are allocated to the expenses of the National Bank of Ukraine, or interest accrued on loans granted to businesses but secured by the state or municipal guarantors.

***c) Are turnover taxes or stamp duties applied to securities, credit contracts, insurance contracts, etc.?***

There are no turnover taxes or stamp duties in Ukraine, but stamp duty is imposed on certain actions, such as notarizing contracts (transfer of real property etc.). Notarizing contracts for the transfer of securities, credit contracts and insurance contracts are not mandatory, but a party can request it for the transaction.

***d) What treatment applies to dividends distributed by foreign companies to companies that are resident in Ukraine? What mechanisms apply to avoid double taxation on dividends?***

Dividends received by a Ukrainian entity from a non-resident are exempt from corporate profit tax only if:

- The Ukrainian entity owns at least a 10% share in the equity of such non-resident during the calendar year.
- Such non-resident is not registered in a low-tax jurisdiction, or even if such non-resident is registered in a low tax jurisdiction; however, Ukraine has an income tax treaty with the respective jurisdiction.

Ukrainian resident companies can claim foreign taxes as a credit on income received abroad against corporate profit tax due on such income in Ukraine if such tax credit is allowed under an applicable income treaty. However, the amount of this credit is generally limited by the amount of corporate profit tax paid on the foreign income (i.e., the ordinary credit method). Foreign tax can be credited only if the resident company can provide documentary evidence of the amount of tax paid in the respective foreign jurisdiction.

Foreign capital (gain) taxes, stamp taxes, turnover and other indirect taxes cannot be credited against Ukrainian CIT.

**28. How is foreign income, received by resident taxpayers, treated? What kind of system does Ukraine apply to prevent double taxation?**

***Legal entities***

The object of taxation of corporate profit tax is a profit with a source of origin from Ukraine and abroad, which is calculated by adjusting (increasing or decreasing) the financial result before taxation (profit or loss taking from the entity's financial statements prepared in accordance with national accounting standards or international financial reporting standards) on the differences prescribed by the relevant provisions of the Tax Code of Ukraine (subparagraph 134.1.1 of paragraph 134.1 of Article 134 of the Tax Code).

Therefore, foreign income received by taxpayers - residents of Ukraine for corporate profit tax is included in financial results before taxation calculated in accordance with accounting rules.

The amount of income tax paid abroad from foreign sources income is credited against the tax liabilities in Ukraine (subparagraph 141.4.9 of paragraph 141.4 of Article 141 of the Tax Code).

The amount of credited tax paid abroad from foreign sources during the tax (reporting) period can not exceed the amount of tax payable in Ukraine by such taxpayers during the said period.

The following taxes paid abroad can not be credited against tax liabilities in Ukraine:

- capital / property tax and capital gains;
- postal taxes;
- sales taxes;
- other indirect taxes, regardless of whether they are treated as income taxes or subject to other taxes in accordance with the laws of foreign countries.

Crediting of tax paid abroad is possible only in case of written confirmation of such payment of tax by the tax authority of another country and only in case of the existence of a valid double tax treaty.

When determining the object and / or base of taxation, expenses incurred by a resident of Ukraine (except for natural persons) in relation to receiving income from sources outside Ukraine are taken into account in the manner and amount established by the Tax Code of Ukraine.

### ***Individuals***

Foreign-sourced income is included in the total annual taxable income of the taxpayer recipient, who is obliged to file an annual tax return with an application of 18 % personal income tax (paragraph 170.11 of the Tax Code).

If a double tax treaty allows to foreign credit tax paid abroad against local tax liabilities, the taxpayer may reduce the amount of annual tax liability by such amount of taxes paid abroad. A taxpayer should reflect such credit in the annual tax return.

If the taxpayer does not have supporting documents that confirm payment of taxes abroad issued in accordance with Article 13 of the Tax Code, such taxpayer may submit a claim to the tax authority with a request to postpone the deadline for submission of tax return till December 31 of the year following the reporting year.

A credit of tax amounts paid outside the customs border of Ukraine is subject to written confirmation of the supervisory authority of another state on the fact of payment of such tax and subject to the existence of an acting DTA.

That is, in Ukraine, the Credit method is used to prevent double taxation.

In case of failure to submit a tax return within the postponed period, the taxpayer is penalized according to the Tax Code of Ukraine and other laws.

The following taxes paid abroad can not be credited against the taxpayer's annual tax liability in Ukraine:

- capital / property tax and capital gains;
- postal taxes;
- sales taxes;
- other indirect taxes, regardless of whether they are treated as income taxes or subject to other taxes in accordance with the laws of foreign countries.

The amount of credited tax paid abroad from foreign sources can not exceed the amount of tax liability of such taxpayer calculated from the annual income according to the Ukraine legislation.

**29. Which is the general policy on transfer pricing? Does the legislation contain any specific rules in transfer pricing? Please explain and provide an overview of relevant legislative provisions.**

Transfer pricing rules are presented in Article 39 of the Tax Code

According to the provisions of Article 39 of the Tax Code of Ukraine, the taxpayer that participates in a controlled transaction must determine the amount of his taxable profit in accordance with the arm's length principle.

The amount of taxable profit received by a taxpayer that participates in one or more controlled transactions is considered to be in accordance with the arm's length principle if the terms of those transactions do not differ from those applied between unrelated parties in comparable uncontrolled transactions.

If the conditions in one or more controlled transactions do not comply with the arm's length principle, the profit that would be accrued to the taxpayer in a controlled transaction that complies with this principle is included in the taxable income of the taxpayer.

Determining whether the conditions of the controlled transaction comply with the arm's length principle shall be performed according to the methods specified in sub-clause 39.3 of Article 39 to verify the correctness, completeness of accrual and payment of corporate profit tax.

The following transfer pricing methods are used for analysis:

- comparable uncontrolled price method (CUP);
- resale price method (RPM);
- cost plus method (CPM);
- transactional net margin method (TNMM);
- profit split method (PSM).

There is also an opportunity to use valuation methodology based on discounted cash flow for controlled transactions with intangibles, other intellectual property and business restructuring



transactions in case of a lack of comparable uncontrolled transactions within the application of transfer pricing methods.

The compliance of the controlled transactions with the arm's length principle is confirmed by applying the most appropriate transfer pricing method within the abovementioned hierarchy of methods due to the facts and circumstances of the case unless the Tax Code of Ukraine determines the requirements for the application of specific transfer pricing method for a certain type of controlled transactions (e.g., application of the comparable uncontrolled price (CUP) method for commodity transactions).

The Tax Code of Ukraine mandates the use of the comparable uncontrolled price (CUP) method for commodity transactions.

The concept of commodity transactions covers controlled transactions with commodities included in the list, which is settled by the Resolution of the Cabinet of Ministers of Ukraine (Resolution of the Cabinet of Ministers of Ukraine «On approval of the List of Commodities» dated 9 December 2020 № 1221).

The taxpayers may use the recommended (non-exhaustive) list of sources of information for obtaining commodity quoted prices to analyze the compliance of the commodity transactions with the arm's length principle. The List of sources of information is published on the official website of the State Tax Service of Ukraine.

According to the provisions of the Tax Code of Ukraine, taxpayers, that carried out controlled transactions in the reporting year, are required to file a Report on controlled transactions and a Notification on participation in the international group of companies by October 1 of the year following the reporting year.

Furthermore, a three-tiered approach to transfer pricing documentation (Local file, Master file, Country-by-Country Report) is implemented in the Tax Code of Ukraine.

The large taxpayer has an opportunity to apply for Advanced Pricing Agreement (hereinafter – APA) procedure. Unilateral, Bilateral and Multilateral APAs can be concluded.

The general provisions of the APA procedure are presented in clause 39.6 of Article 39 of the Tax Code of Ukraine.

The specific provisions and peculiarities of the APA procedure are prescribed by the Resolution of the Cabinet of Ministers of Ukraine «On approval of the Advanced Pricing Agreement procedure in controlled transactions, as a result of which agreements of unilateral, bilateral and multilateral nature are concluded for the purposes of transfer pricing» dated 28 October 2021 № 1114.

The taxpayer has an opportunity to apply for Mutual Agreement Procedure (MAP) if the actions of one or both of the authorities led, or are likely to lead, to taxation that is inconsistent with the relevant Double Tax Treaties of Ukraine.

Application for MAP should be submitted by the taxpayer to the competent authority of Ukraine due to the provisions of the relevant Double Tax Treaties of Ukraine.

The requirements for MAP Application are defined by the Order of the Ministry of Finance of Ukraine «On approval of the application procedure for MAP and the requirements for such application» dated 30 December 2020 № 820.

*The detailed information on transfer pricing rules in Ukraine can be found in the Transfer Pricing Country Profile of Ukraine published on the OECD's official website [<https://www.oecd.org/tax/transfer-pricing/transfer-pricing-country-profile-ukraine.pdf>]*

**30. Does the legislation contain any specific rules in thin capitalisation and Controlled Foreign Corporations? Please explain.**

***Thin capitalization rules***

Paragraph 140.2 of Article 140 of the Tax Code of Ukraine establishes the thin capitalisation rules. It applies to a taxpayer whose amount of debt from non-residents exceeds the amount of equity more than 3.5 times. The financial result before taxation of such taxpayers is increased by the amount of excess interests accrued on loans, borrowings and other debt obligations (except for the interests subject to capitalization into fixed assets value in accordance with national accounting standards or international financial reporting standards before commissioning of such fixed asset) from non-residents, over more than 30 % of the calculated amount of the object for taxation of the reporting (tax) period in which such interest is accrued, increased by the amount of financial expenses according to the financial statement and the amount of depreciation according to the tax return of the same reporting (tax) period.

***CFC rules***

Any foreign legal entity under the control of a Ukraine tax resident, either individual or legal entity, is recognized as a controlled foreign company for income tax purposes in accordance with the rules established by the Tax Code. The procedure for taxation of income tax of controlled foreign companies is established by Article 39-2 of the Tax Code.

The CFC rules in Ukraine came into force on 1 January 2022. The first reporting period is 2022. The first report is allowed to be submitted in 2024 for the first two reporting periods.

Broadly, under the CFC regime, a Ukraine resident company or individual may be taxed on a proportion of the profits of certain entities that are owned or controlled by a Ukrainian tax resident. The profits of a CFC are included into the taxable income of the controlling person and are taxed at standard income tax rate and rules. Please note there are a few specific tax rates for individuals.

***Definition of a CFC***

An entity is deemed to be a CFC if it is:

- not considered to be a Ukrainian resident for tax purposes or permanent establishment, but
- controlled by a Ukrainian tax resident (either a natural person or a legal entity). Control is determined based on ownership share and other criteria.

Foreign establishments without the status of a legal entity (e.g. partnerships, trusts, funds, foundations) are also equated to an entity for CFC purposes.

A controlling person of a foreign company is defined as:

- a person who holds a share in a foreign company of more than 50%
- a person who owns more than 10% (25% for years of 2022 and 2023) of a foreign company, provided several Ukrainian residents hold 50% and more of shares in such a foreign company, or

- a person who exercises actual control over a foreign company.

Control may be established directly or through a chain of indirect ownership.

#### *Available CFC exemptions*

The Tax Code provides that profits are exempt from CFC taxation in Ukraine under the following conditions:

- There is a DTT or a treaty for exchange of tax information between Ukraine and the state of registration (location) of the CFC and the CFC pays income tax at the effective rate of not less than 13% or the share of passive income of the CFC is not more than 50% of its total income (and specific substance criteria are met).

- The total aggregated income from all CFCs owned by one controlling person does not exceed the equivalent of EUR 2 million at the end of the reporting period.

- The CFC is a public company, the shares of which are traded on a recognised stock exchange.

- The CFC is a non-profit organisation that does not distribute profits.

#### *Determining taxable profits*

A CFC's taxable profits are calculated as net profits before tax as per its unconsolidated financial statements for a relevant calendar year, prepared under domestic GAAP or IFRS adjusted per specific list of tax adjustments. The Tax Code does not provide for a mandatory audit of financial statements; however, the tax authorities may request an audit report if they have doubts.

Losses incurred by a CFC may be carried forward and decrease taxable profits of this CFC in the future. Loss from revaluation of securities is non-deductible; only loss from trading operations can be deducted.

Foreign taxes paid on the profits of a CFC, either under Ukrainian law or the laws of a foreign jurisdiction, may be offset against the Ukrainian PIT liabilities charged on the CFC's profits (i.e. only for individuals).

#### *Implications for affected entities*

If none of the available exemptions may be applied, the CFC's chargeable profits must be apportioned among the relevant Ukrainian controlling persons in proportion to their interest(s) in the CFC as at the final day of the reporting period. Such persons should be taxed on their portion(s) at the applicable rate of income tax.

#### ***Place of effective management***

Foreign companies with a place of effective management in Ukraine are treated as taxpayers of corporate profit tax in Ukraine.

It is considered a place of effective management located in Ukraine if one or more of the following conditions regarding a foreign company or its activity are met:

- a)** meetings of the executive body of a foreign company are held more regularly in Ukraine than in any other country;

- b)** management decisions and other current (operational) activities of a foreign company by its officials are mainly taken in Ukraine;

c) the actual management of a foreign company is mainly carried out in Ukraine, regardless of whether persons who carry out such management have formal (legal) authority for such management.

A foreign company can recognise itself as a tax resident of Ukraine from January 1 of the calendar year in which the relevant application is submitted to the tax authority in the form approved by the Ministry of Finance.

### **31. Does the legislation contain a general anti-abuse rule?**

No. Ukraine has not introduced rules similar to those provided in Article 6 of the ATAD I Directive.

The Tax Code of Ukraine provides specific anti-abuse rules for transfer pricing purposes and introduced the main objective test according to Article 7 of the MLI.

Ukraine has introduced anti-abuse rules in all 73 DTAs by joining to the MLI (for the purposes of applying provisions of the Article 6 "Purpose of a Covered Tax Agreement" and the Article 7 "Prevention of Treaty Abuse" Ukraine has covered all its DTAs).

All Protocols amending the acting DTAs that concluded after joining Ukraine to the MLI include the same provisions (Netherlands, UK, Switzerland, Turkey).

### **32. Does the legislation contain any specific rules on mismatches between Ukraine and another state?**

No, the legislation does not contain any specific rules on mismatches between Ukraine and another state.

### **33. Please describe the procedures for payment of personal income tax and the calculation methods used. How is control carried out?**

*Concerning the payment of personal income tax by a tax agent – a legal entity, a private entrepreneur (including taxpayer on simplified tax system) and a person engaged in independent professional activity – from the income paid to employees*

The person responsible for accrual, withholding and payment (transfer) of tax to the budget from wages is the employer who pays such income in favour of the employee (paragraph 171.1 of the Tax Code).

According to paragraph 171.2 of the Tax Code, the person responsible for accrual, withholding and payment (transfer) of tax to the budget from other types of income is:

- a) tax agent – for taxable income from the source of their origin in Ukraine;
- b) taxpayer – for foreign income and income payable by persons exempted from the obligation to accrue, withhold or pay (transfer) tax to the budget.

The tax withheld from the income of residents has to be transferred to the relevant budgets in accordance with the Budget Code of Ukraine (subparagraph 168.4.1 of the Tax Code).

Personal income tax paid by a tax agent - a legal entity (its branch, office, other separate subdivision) or a representative office of a non-resident - is transferred to the relevant local budget where such tax agent is registered in the amount of tax, accrued on income paid to an individual (Article 64 of the Budget Code of Ukraine).

The amounts of income tax accrued by a separate subdivision in favour of individuals are transferred to the relevant budget where such a separate subdivision is registered (subparagraph 168.4.3 of the Tax Code).

If a separate subdivision is not authorized to accrue (pay) personal income tax, all duties of a tax agent are executed by a legal entity. Income tax accrued on an income of employees from a separate subdivision is transferred to the local budget where such a separate subdivision is registered.

An individual acting as a tax agent (single entrepreneur or person engaged in independent professional activity) and responsible for accrual and withholding of tax (according to Section IV of the Tax Code) shall pay (transfer) it to the relevant budget where such individual is registered, except the specific cases when tax is paid to the budget where the land plot is located (subparagraph "a" of subparagraph 168.4.5 of the Tax Code).

The legal entity or its separate subdivision that accrues (pays) taxable income is responsible for the timely and complete transfer of tax to the relevant budget (subparagraph 168.4.7 of the Tax Code).

***Concerning the payment of personal income tax by an individual from income received from a person who is not a tax agent***

A taxpayer who receives income from a person who is not a tax agent and foreign income is required to include the amount of such income in total annual taxable income and submit a tax return for the reporting tax year, and pay tax from such income (paragraph 168.2 of the Tax Code).

The following persons are not treated as tax agents: non-resident or individual who is not registered as a private entrepreneur or person engaged in independent professional activity.

An individual responsible for the calculation and withholding of tax has to pay (transfer) it to the appropriate budget according to its tax address, except in the specific cases when tax is paid to the budget where the land plot is located (subparagraph "c" of subparagraph 168.4.5 of the Tax Code).

The tax address of a taxpayer – natural person is his (her) place of residence, where he (she) is registered as a taxpayer in the tax authority. The taxpayer – natural person cannot have more than one tax address at the same time (paragraph 45.1 of the Tax Code).

In the cases specified in Section IV of the Tax Code, the responsibility for the timely and complete transfer of tax to the relevant budget is borne by the individual (subparagraph 168.4.8 of the Tax Code).

***Concerning rules of calculation of tax and military duty***

Based on paragraph 164.6 of the Tax Code, 19.5 % are withheld from the employee's remuneration:

18% – personal income tax (PIT) and 1.5% – military duty.

The tax is withheld not only from salary but also from other similar payments (sick leave and dividends on preferred shares) at a rate of 18%.

The amount of tax is calculated by the formula:

$$\text{PIT} = \text{Wage} \times 18\%$$

However, if an employee, based on Article 169 of the Tax Code, is entitled to social tax benefits (STB), the formula changes slightly.

In this case, a lower amount of personal income tax is deducted from the salary:

$$\text{PIT} = (\text{Wage} - \text{STB}) \times 18\%,$$

STB – is the amount that decreases PIT tax base from salary paid. STB is set at the level of 50% of the subsistence level for able-bodied persons (per month), established by law on January 1 of the reporting tax year.

Therefore, the STB in 2022 is equal to UAH 1,240.50 [UAH 2,481  $\times$  0.5]. An increase in the subsistence level during the year does not affect the STB. An employee is entitled to STB when his monthly salary does not exceed the amount of the monthly subsistence level for able-bodied persons on January 1 of the reporting tax year, multiplied by 1.4 and rounded to the nearest UAH 10. In 2022, this maximum level of income is 3470 UAH [2481 UAH  $\times$  1.4 = 3473 UAH  $\approx$  3470 UAH].

This STB can be called «basic».

| «Basic» STB 2022 (with one child) |  |
|-----------------------------------|--|
| «Basic» STB                       | The maximum level of income that allows applying STB |
| 1240,50 UAH                       | 3470 UAH   |

In addition to the «Basic» STB, Article 169 of the Tax Code of Ukraine also provides increased STB:

- «Social» – 150% of STB, 200% of STB;
- «For children» – STB  $\times$  number of children under 18 years.

If the person has children, the STB and the maximum income level shall be multiplied by the number of children.

| STB «For children» 2022 (with two children) |  |
|---|--|
| STB   | The maximum level of income that allows applying STB |
| 2481 UAH [1240,50 UAH $\times$ 2]           | 6940 UAH [3470 UAH $\times$ 2]                       |

According to the paragraph 16-1 of subsection 10 of section XX of the Tax Code, the military tax (MT) is deducted from salary at a rate of 1.5%:

$$\text{MT} = \text{Salary} \times 1.5\%$$

MT is calculated based on the accrued amount of salary without deducting PIT or STB from the base. MT is deducted both from the salary and other similar payments.

### ***Concerning the tax control***

Tax control over the correctness of accrual, completeness and timeliness of payment of personal income tax and military duty is executed by the tax authorities.

**34. Does Ukraine apply any preferential tax schemes? If so, please provide a detailed description of these schemes (the main purpose of the scheme, the minimum requirements, the tax benefits, if it is time-limited, the kind of beneficiaries, etc.).**

The Tax Code of Ukraine provides for a number of benefits (preferences) regarding the corporate profit tax for certain sectors of the economy in the form of temporary exemption from taxation (subject to the usage of exempt profits for certain purposes: increase production, investment activities, etc.).

***The main purpose of the schemes:*** stimulating the development of specific sectors of the economy and activities (e.g. aircraft manufacturing, IT technologies, poultry breeding).

***Minimum requirements:*** belonging to a certain type of activity, the amount of the minimum wage for employees, the number of employees, the minimum amount of investment.

The benefits are usually limited to 5-10 years.

***The main beneficiaries:*** the state, taxpayers.

**Examples:**

1. According to paragraph 57 of subsection 4 of section XX of the Tax Code, temporarily, until January 1, 2027, it is an exemption from taxation is applied for the profits of agricultural producers engaged exclusively in the following activities according to NACE-2010: class 01.47 (breeding and rearing of poultry, except breeding hens, production of hen eggs and activities of hatchery hatcheries); Class 01.49 (for breeding and rearing of quails and ostriches) and Class 10.12 (manufacture of poultry meat, excluding manufacture of poultry meat, smelting of hen fat, slaughter, processing and packaging of chickens), as well as activities from the sale of actually produced (grown) such products (except for chicken meat).

The released funds (amounts of tax that are not paid to the budget and remain at the disposal of the taxpayer) are used to create or re-equip the material and technical base, increase production and introduce the latest technologies. The use of such funds should be related to the activities of the taxpayer, the income from which is exempt from taxation. The procedure for control over the use of released funds shall be established by the Cabinet of Ministers of Ukraine.

2. In accordance with paragraph 56 of subsection 4 of section XX of the Tax Code of Ukraine temporarily, until 31 December 2035 (inclusive), the exemptions from taxation are applied for the following:

1) profits of economic entities (manufacture of electric motors class 27.11 group 27.1 section 27 of NACE 009:2010), engaged exclusively in the production of electric motors intended for vehicles equipped solely with electric motors (one or more), classified in commodity positions 8603, 8701 20, 8702-8705 according to UKT FEA;

2) profits of economic entities (production of lithium batteries class 27.20 group 27.2 section 27 of NACE 009:2010), engaged exclusively in the production of lithium-ion (lithium-polymer) batteries designed for vehicles equipped exclusively with electric motors one or more), classified in headings 8603, 8701 20, 8702-8705 in accordance with the UKT FEA;

3) profits of economic entities (manufacture of chargers for solid batteries class 27.90 group 27.2 section 27 of the NACE 009:2010), engaged exclusively in the production of chargers for lithium-ion

(lithium-polymer) batteries intended for transport devices equipped exclusively with electric motors (one or more), classified in headings 8603, 8701 20, 8702-8705 in accordance with the UKT FEA;

4) profits of economic entities (manufacture of motor vehicles class 29.10 group 29.1 section 29 NACE 009:2010), engaged exclusively in the production of vehicles equipped exclusively with electric motors (one or more), classified in heading 8701 20, 8702-8705 according to UKT FEA;

5) profits of economic entities (manufacture of railway locomotives and rolling stock class 30.20 group 30.2 section 30 of the NACE 009:2010), engaged exclusively in the production of electric vehicles, classified in heading 8603 (only self-propelled tram cars and cars metro) and / or in commodity subcategory 8605 00 00 00 (only non-self-propelled tram cars and metro cars) according to UKT FEA;

6) profits of economic entities (manufacture of motor vehicles class 29.10 group 29.1 section 29 NACE 009:2010), engaged exclusively in the production of vehicles equipped with internal combustion engines with spark ignition, running exclusively on compressed natural gas methane, liquefied natural gas, methane or biogas, falling within subheading 8701 20, heading 8702-8705 of the UKT FEA.

The released funds (amounts of tax that are not paid to the budget and remain at the disposal of the taxpayer) are used for research and development work in the field of electric transport, creation or re-equipment of material and technical basics, increasing production, the introduction of new technologies. The use of such funds must be related to the activities of the taxpayer, the income from which is exempt from taxation. The procedure for control over the use of released funds shall be established by the Cabinet of Ministers of Ukraine.

Amounts released are recognized as received target funding in accordance with national accounting standards or international financial reporting standards.

In case of violation of the directions of targeted use, the order of use of released funds, the taxpayer is obliged to accrue tax liability from corporate profit tax on the amount of misused funds, penalties and late payment interest in accordance with the Tax Code.

## **II. ADMINISTRATIVE COOPERATION AND MUTUAL ASSISTANCE**

### **35. Please indicate how Ukraine cooperates with other countries in the field of administrative cooperation and mutual assistance in tax matters.**

Ukraine cooperates with other countries in this area according to the Convention on Mutual Administrative Assistance in Tax Matters, as well as pursuant to articles on the exchange of information and administrative assistance of acting DTA.

Ukraine is a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the Protocol dated May 27, 2010 (ratified by the Verkhovna Rada of Ukraine with the reservations (regarding the scope of the Convention and definition of the Competent authorities) with the Laws of Ukraine № 677-VI dated 17 December 2008 and № 21-VII dated 11 January 2013). It is effective from of 1 July 2009 (with amendments effective from 1 September 2013).



**36. With which countries does Ukraine have Double Tax agreements or Exchange of Information agreements for taxation of capital and income? What kinds of income and capital sources are covered by such agreements? Are there any restrictions on the availability or use of such information? Please provide a version of an article on exchange of information for tax purposes which Ukraine is negotiating with the country's contracting partners in relation to Double Tax agreements or Exchange of Information agreements.**

Ukraine has acting DTA with 75 countries, namely the United Kingdom, Poland, Belarus, Hungary, Moldova, Sweden, Canada, Germany, Slovakia, Latvia, Denmark, Norway, Estonia, Armenia, Kazakhstan, Netherlands, Romania, Lithuania, Uzbekistan, Finland, China, Turkey, Macedonia, Indonesia, Belgium, Croatia, Kyrgyzstan, Czech Republic, Georgia, Austria, Turkmenistan, Russia, France, USA, Azerbaijan, Vietnam, Iran, Vietnam, Iran, Switzerland, Egypt, Republic of Korea, Italy, Portugal, Tajikistan, Lebanon, Greece, Syria, Algeria, UAE, Thailand, South Africa, Kuwait, Israel, Brazil, Slovenia, Iceland, Jordan, Morocco, Singapore, Singapore, Mongolia, Saudi Arabia, Cyprus, Ireland, Luxembourg, Malta, Qatar, Spain, Malaysia, and Japan.

Ukraine does not have bilateral agreements on the exchange of information with any country.

In Ukraine, DTA shall apply to corporate profit tax and personal income tax.

The obtained information is used taking into account the restrictions set out in the article on the exchange of information of the relevant DTA.

In negotiations, Ukraine uses the latest version of the article on the exchange of information of the OECD Model Convention. At the same time, some acting DTAs concluded by Ukraine contain a previous version of this article. Ukraine plans to make changes to these agreements.

**37. Does Ukraine have agreements with other countries for the exchange of information in the field of VAT and are such exchanges regularly carried out?**

Ukraine does not have special agreements with other countries on the exchange of specialised information for the purposes of VAT.

Ukraine is a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the Protocol dated May 27, 2010 (ratified by the Verkhovna Rada of Ukraine with the reservations (regarding the scope of the Convention and definition of the Competent authorities) with the Laws of Ukraine № 677-VI dated 17 December 2008 and № 21-VII dated 11 January 2013). It is effective from of 1 July 2009 (with amendments effective from 1 September 2013). This Convention governs exchange of information on taxes (including VAT), but within the measures, for the purposes and according to the procedures, prescribed therein.

**38. Does Ukraine have agreements with other countries for the recovery of taxes, and/or the serving of official tax notices?**

Ukraine does not have separate bilateral agreements on these issues.

Tax collection is administered according to the Convention on Mutual Administrative Assistance in Tax Matters. In addition, some acting DTA concluded by Ukraine contain an article on administrative assistance in tax collection.

**39. Is there any type of restrictions on to exchanging bank information for tax purposes with foreign tax authorities? What is the policy of Ukraine as regards access to beneficial ownership information?**

***a) Is there any type of restrictions on to exchanging bank information for tax purposes with foreign tax authorities?***

According to Article 62 of the Law of Ukraine «On Banks and Banking Activities» and subparagraphs 73.3 and 73.4 of Article 73 of the Tax Code of Ukraine, the tax administration is entitled to send a written notice to a bank or other financial institution requesting the provision of information or documents that are necessary, when the tax authority is responding to an information request in accordance with an international agreement containing provisions on the exchange of information for tax purposes.

Article 73 of the Tax Code of Ukraine requires that the notice to a bank contains the following information: the grounds for requesting the information; references to the relevant provisions of the legislation; and the tax authority stamp. This procedure of an access to the bank information was introduced in the end of 2019. The STS has not yet needed to use this procedure.

As part of the implementation of the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS), in February 2022, the Ministry of Finance of Ukraine developed the draft law that inter alia enhances the tax administration's rights in accessing the bank information for the purposes of exchanging it with the treaty partners. The draft law is pending internal approval procedures with the Ministry of Finance of Ukraine.

***b) What is the policy of Ukraine as regards access to beneficial ownership information?***

***Concerning the reasons and deadlines for submission of beneficial ownership information***

The Law of Ukraine "On prevention and counteraction to legalization (laundering) of proceeds from crime, financing of terrorism and financing of the spread of weapons of mass destruction" dated 6 December 2019 № 361-IX (hereinafter – the Framework Law), entered into force on 28 April 2020. The Law improved a mechanism of verification of the ultimate beneficial owners (hereinafter – UBO) of legal entities in the unified state register.

The Framework Law was designed to implement relevant international standards, in particular FATF standards and standards equivalent to those adopted by the European Union, in particular, Directive (EU) 2015/849 of the European Parliament and the Council dated 20 May 2015. which, in particular, provides that countries are required to disclose information on UBO.

Information on the UBO is contained in the unified state register, which is open and publicly available (except for taxpayers' tax ID numbers and passport data) in accordance with the Law of Ukraine "On state registration of legal entities, individual entrepreneurs and public formations" dated 15 May 2003 № 755-IV (hereinafter – the Law on Registration of LE, IE and PF).

The Framework Law provides the following reasons and deadlines for Ukrainian companies to submit information on their UBO to the state registrar:

***1) submission information about the UBO due to the adoption of the Framework Law***

Information on UBO should be disclosed not only by companies established after the adoption of the Framework Law but also by companies that were registered before the adoption of the

Framework Law;

*2) at the time of registration*

At the time of performing certain registration actions: state registration of a legal entity or amendment of information about a legal entity, including information on the amount of statutory fund, ownership structure, as well as other registration actions according to Articles 17 and 22 of the Law on Registration of LE, IE and PF.

If there are no changes in the ownership structure and information on the UBO, legal entities are obliged to notify the state registrar of the absence of such changes during the state registration of any changes to the information on the legal entity contained in the unified state register;

*3) as an annual confirmation of UBO information*

Information on the UBO and ownership structure for all legal entities is confirmed annually within 14 calendar days, starting from the following year from the date of state registration of the legal entity (Article 171 of the Law on Registration of LE, IE and PF).

Such a procedure should be performed even when the information on UBO has not changed;

*4) for the purpose of keeping information up to date*

Information on the UBO and the ownership structure must be kept up to date by legal entities. Legal entities must update it and notify the state registrar of changes within 30 working days from the date of their occurrence and submit to the state registrar documents confirming these changes (paragraph 21 of Article 17 of the Law on Registration of LE, IE and PF).

If there are no changes in the ownership structure and information on the UBO of the legal entity, legal entities are obliged to notify the state registrar of the absence of such changes during the state registration of any changes to the information on the legal entity contained in the unified state register;

*5) in case of identification of incompleteness or inaccuracies*

In case of identification of incompleteness or inaccuracies or errors in the information on UBO and ownership structure previously provided to the state registrar, the legal entity must submit to the state registrar adjusted information on UBO no later than three working days from the date of their identification in accordance with the Law on Registration of LE, IE and PF).

The legal entity individually identifies the presence / absence of UBO based on the results of its ownership structure verification.

***Concerning the form and content of ownership structure***

The form and content of ownership structure are adopted by the Regulation of the Ministry of Finance of Ukraine "On approval of the regulations on the form and content of ownership structure," dated 19 March 2021 № 163.

Regulation № 163 stipulates that the ownership structure is an official document that schematically represents the ownership structure of a legal entity and lists all persons who directly or indirectly own this legal entity independently or jointly with other persons or have a significant influence on the management or activities of the legal entity, as well as the share of each owner, a description of the impact on the management or activities of the legal entity and a description of the influence by UBO on the legal entity.

The website of the Ministry of Finance of Ukraine contains examples of a schematic representation of the ownership structure, which can be used by legal entities in preparing their ownership structure.

At the same time, the the Framework Lawsignificantly expands the definition of the UBO and its substantial features concerning:

- trusts and similar establishments;

- exercising of indirect significant influence (such as execution of the right to control, own, use or dispose of all assets; right on receipt of income from the activities of a legal entity through trusts or other similar establishments, the actions that allow determining the main conditions of economic activity).

The Framework Law stipulates that direct ownership by an individual of at least 25 per cent of the share capital or voting rights in a legal entity is not a mandatory condition that allows determining the individual as the UBO.

An individual who does not own 25 per cent of the share capital of the company but who has the ability, in particular, to exercise significant influence on management or business activities in the manner prescribed by the Framework Law can be determined as the UBO.

#### ***Concerning the responsibility for failure to provide information on UBO***

The legislation of Ukraine provides responsibility for failure to provide information on UBO.

The Law on Registration of LE, IE and PF stipulates that the head of a legal entity is fully responsible for maintaining up-to-date information on the UBO and the ownership structure of the legal entity. The head of the legal entity (or a person authorized to act on behalf of the legal entity) is subject to administrative liability for failure to submit or late submission to the state registrar of information on UBO (or the reasons for its absence).

Failure to submit or late submission to the state registrar of information on UBO or its absence, or documents to confirm the information on UBO - imposing a fine on the head of a legal entity or a person authorized to act on behalf of a legal entity amounted from one thousand to three thousand non-taxable minimum incomes (Paragraph 6 Article 166-11 of the Code of Administrative Offenses of Ukraine).

Intentional submission of documents for state registration with false information provides criminal liability (Article 205-1 of the Criminal Code of Ukraine).

#### ***Concerning the purposes of the implementation of abovementioned rules***

Strengthening the transparency of information on UBO of legal entities is determined as one of the key areas of state policy in the field of preventing and counteraction to money laundering, terrorist financing and the spread of weapons of mass destruction by the Order of the Government of Ukraine "On approval of the main directions of development of the system of prevention and counteraction to money laundering, terrorist financing and spread of weapons of mass destruction in Ukraine until 2023 and the action plan for their implementation" dated 12 May 2021 № 435-r.

The purposes of the implementation of these main directions are, in particular:

- introduction of new mechanisms for verifying basic information on the ownership structure of legal entities and UBO during state registration;

–increase of existence, quality and availability level to complete, accurate and up-to-date information concerning UBO and the nature and extent of beneficial ownership (benefits, interests, influences).

Banks and financial institutions, as subjects of financial monitoring, are obliged to inform the State Financial Monitoring Service (the body authorized by Ukraine to perform the functions of the Financial Intelligence Unit) about discrepancies between information about the client's UBO in the unified state register and information about UBO received in course Know-your-client procedures. Banks and financial institutions are generally reluctant to provide services to customers who do not disclose UBO under the requirements of the law. Therefore, keeping up-to-date information regarding UBO in the unified state register has become a mandatory condition for Ukrainian companies in business relations with banks and financial institutions.

### ***Concerning the collecting information on beneficial ownership for tax purposes***

The State Tax Service (STS) collects some beneficial ownership information of companies through its AML/CFT framework, but the main mechanism is through the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations (hereinafter – Unified State Register of LE, IE and PF) Information from the Unified State Register of LE, IE and PF, including UBO information, is exchanged with the tax administration automatically on a daily basis. In order to comply with obligations under the state registration and company laws, domestic companies must keep beneficial ownership information and submit any changes to this information to the state registrar. The tax law does not provide for the regular reporting of beneficial ownership information to the tax administration.

As part of the implementation of the OECD CRS Standard, in February 2022, the Ministry of Finance of Ukraine developed the draft law suggesting the following changes:

- 1) Information on the UBO of foreign companies with a place of effective management and control in Ukraine or foreign companies or foreign partnerships that have permanent establishments in Ukraine will be reported to the STS.
- 2) Ukrainian residents that act as administrators or trustees of foreign trusts would be required to collect and keep UBO information on trusts on the territory of Ukraine and provide it to the STS upon request.

Currently, the information referred to in items (1) and (2) above is not available to the STS.

## **III. TAX POLICY AND ADMINISTRATION. OPERATIONAL CAPACITY AND COMPUTERISATION.**

### **D. Tax Policy**

#### **40. Please describe the current tax policy of Ukraine.**

#### ***Concerning the structure of the tax system of Ukraine***

Relations arising in the field of collection of taxes and fees, in particular, the determination of an exhaustive list of taxes and fees paid in Ukraine, and the procedure for their administration, list of taxpayers, their rights and responsibilities, the competence of controlling authorities, powers and responsibilities of tax officials during the administration of taxes and fees, as well as liability for

violations of tax legislation are regulated by the Tax Code of Ukraine (dated 2 December 2010 № 2755-VI).

The tax legislation of Ukraine consists of the:

- Constitution of Ukraine;
- The Tax Code;
- The Customs Code of Ukraine, and other laws on customs matters in terms of legal relations arising in connection with customs duties on the movement of goods across the customs border of Ukraine;
- current international agreements, the binding nature of which has been approved by the Verkhovna Rada of Ukraine and which regulate taxation issues;
- regulations adopted based on and in pursuance of the Tax Code of Ukraine and laws on customs matters;
- decisions of the Verkhovna Rada of the Autonomous Republic of Crimea and local authorities on local taxes and fees, adopted in accordance with the rules established by the Tax Code.

If an international treaty, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, establishes rules other than those provided by the Tax Code, the rules of the international treaty shall apply.

There are national and local taxes and fees in Ukraine.

National taxes and fees are established by the Tax Code of Ukraine and are mandatory for payment throughout Ukraine, except in the cases provided by the Tax Code.

Local taxes and fees are established in accordance with the list and within the limits of rates set by the Tax Code, decisions of local councils and councils of united territorial communities, established in accordance with the law and long-term plan for the formation of community territories within the limits of their powers, and are obligatory for payment on the territory of the respective territorial communities.

*National taxes and fees include:*

- 1) Corporate profit Tax;
- 2) Personal income Tax;
- 3) Value-added Tax;
- 4) Excise Tax;
- 5) Environmental Tax;
- 6) Rent payment, which consists of:
  - rent for the use of subsoil for the extraction of minerals;
  - rent for the use of subsoil for purposes not related to the extraction of minerals;
  - rent for the use of radio frequency resources of Ukraine;
  - rent for special use of water;
  - rent for special use of forest resources;

–rent for transportation of oil and oil products by main oil pipelines and oil product pipelines, transit transportation by ammonia pipelines through the territory of Ukraine.

7) State duty.

*Local taxes and fees include:*

- 1) property tax, consisting of tax on immovable property, different from land, transport tax and pay for land;
- 2) a single tax;
- 3) parking fee for vehicles;
- 4) tourist tax.

The main budget-generating taxes are:

- Corporate profit tax
- Personal income tax
- Value-added tax

Tax payments do not include a single contribution to the obligatory state social insurance. This is a consolidated insurance premium, which is collected to the system of compulsory state social insurance on a mandatory and regular basis to ensure protection, in cases provided by legislation, of the rights of insured persons to receive insurance benefits (services) under current types of compulsory state social insurance. Its collection is regulated by the Law of Ukraine “On the Collection and Accounting of the Single Contribution to the Mandatory State Social Insurance” dated 8 July 2010 № 2464-VI. At the same time, the State Tax Service of Ukraine monitors the payment of this contribution by insurers and administers the receipt of payments.

***Concerning the institutions in the field of tax policy***

The functions and rights of the institution in the field of tax policy are determined by the Tax Code of Ukraine.

***The Ministry of Finance of Ukraine*** is the central authority of executive power that ensures the formation and implementation of public financial policy.

The Ministry of Finance ensures the formation and implementation of a unified state tax and customs policy, state policy on the administration of a single contribution to compulsory state social insurance, state policy in the field of combating offences in the application of tax and customs legislation, state policy in the field of transfer pricing control, etc.

***The State Tax Service of Ukraine*** is the central authority of executive power that implements the state tax policy. The main tasks of the State Tax Service are to control the receipt of taxes, fees, payments, control the production and circulation of alcohol, alcoholic beverages, tobacco products, liquids used in electronic cigarettes, fuel, state policy on the administration of a single contribution to budgets and state trust funds, control over the timeliness of settlements in foreign currency within the period prescribed by law, compliance with the procedure for cash settlements for goods (services), settlement operations, as well as the availability of licenses for economic activities, which are subject to licensing in accordance with the law.

## **E. General Tax Administration**

### **41. Please provide information on the organisational structure of the administration responsible for taxation, including excise duties. If available, please provide an organigram.**

According to the paragraph 1 of the Regulation on the State Tax Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 6 March 2019 № 227 (as amended), the State Tax Service of Ukraine is the central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance of Ukraine, and which implements the state tax policy, the state policy on the administration of a single contribution to the compulsory state social insurance.

Currently, the State Tax Service is functioning as a Single Legal Entity, consisting of the central office (central apparatus) and territorial bodies formed as its separate subdivisions (without the status of legal entities).

The structure of the central office consists of 24 independent structural subdivisions:

- Department of organization of work of the Service
- Department of departmental [agency-level] control ensuring
- Department of internal audit
- Department of taxation of legal persons
- Department of legal provisioning
- Department of appealing decisions of controlling authorities
- Department of tax audit
- Department for the prevention of financial transactions related to the legalization of proceeds obtained by criminal means
- Department for control of excisable goods
- Department of financial support and accounting
- Department of personnel
- Department of tax services
- Department of work with tax dept
- Department of prevention and detection of corruption
- Department of state secrets protection, technical and cryptographic protection of information
- Department of international cooperation
- Department of infrastructure and service support
- Department of risk management
- Department of economic analysis
- Department of international technologies
- Department of methodology
- Department of information and reference



- Department of transfer pricing
- Department of taxation of natural persons

Territorial bodies are: 25 main directorates of the State Tax Service in the regions and the city of Kyiv; 5 interregional directorates for work with large taxpayers.

**42. Describe the laws governing the tax administration and taxpayers' rights and obligations.**

Regulation on the State Tax Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 6 March 2019 № 227 (as amended) is attached as Annex Q43 to this Questionnaire.

The main document that defines the rights and obligations of taxpayers is the Tax Code of Ukraine.

**43. Please provide a copy of Ukraine's legislation on Tax Administration.**

Regulation on the State Tax Service of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 6 March 2019 № 227 (as amended), is attached as Annex Q43 to this Questionnaire.

**44. Please provide a copy of tax returns for personal income tax, corporate income tax and VAT.**

***Personal Income tax***

The form of the tax declaration on property status and income is approved by the Order of the Ministry of Finance of Ukraine dated 2 October 2015 № 859, registered by the Ministry of Justice of Ukraine on 26 October 2015 at № 1298/27743, as amended (is attached as Annex Q44-3 to this Questionnaire).

***Corporate Profit Tax***

1. The form of the tax declaration on corporate profit tax is approved by the Order of the Ministry of Finance of Ukraine dated 20 October 2015 № 897, registered by the Ministry of Justice of Ukraine on 11 October 2015 at № 1415/27860, as amended, and is unified for all categories of corporate profit tax payers, defined by Article 133 of Section III "Corporate Profit Tax" of the Tax Code of Ukraine for declaring objects of taxation and liabilities for corporate profit tax (is attached as Annex Q44-1 to this Questionnaire).

2. In order to ensure the ability to compile and submit reports of investors (operators) on corporate profit tax on the results of activities under the production sharing agreement and ensure compliance with Article 336 of Section XVIII, "Features of taxation of taxpayers under the terms of the production sharing agreement" and Section III "Corporate Profit Tax" of the Tax Code, the form of the Tax return on corporate profit tax under the production sharing agreement is approved by the Order of the Ministry of Finance of Ukraine "On approval of the form of the Tax Return on corporate profit tax under the production sharing agreement" dated 9 June 2021 № 332, registered by the

Ministry of Justice of Ukraine on 6 August 2021 at № 1038/36660 (is attached as Annex Q44-2 to this Questionnaire).

### ***Value-added Tax***

1. The form of tax return on value-added tax (is attached as Annex Q44-4 to this Questionnaire), the form of clarifying calculation of tax liabilities for value-added tax in connection with the correction of self-identified errors (is attached as Annex Q44-7 to this Questionnaire) and the form of calculation of tax liabilities accrued by the recipient of services, which is not registered as a payer of value-added tax, supplied by non-residents, including their permanent establishments, which are not registered as taxpayers, on the customs territory of Ukraine are approved by the Order of the Ministry of Finance of Ukraine "On approval of forms and procedure for filling and submitting tax returns on value-added tax" dated 28 January 2016 № 21.

The form of simplified value-added tax return (is attached as Annex Q44-6 to this Questionnaire) and the form of the specifying calculation of tax liabilities from the value-added tax to the simplified tax return in connection with the correction of self-identified errors (is attached as Annex Q44-8 to this Questionnaire) for payers of value-added tax are approved by the Order of the Ministry of Finance of Ukraine «On approval of forms and procedure for filling and submitting simplified value-added tax reporting» dated 21 October 2021 № 555.

### **45. Please provide a copy of the application form for being registered as a (VAT) taxable person.**

The following forms of the application for being registered as a VAT payer are approved by the Order of the Ministry of Finance of Ukraine "On approval of the Regulation on registration of payers of value-added tax" dated 14 November 2014 № 1130:

1. Registration application of the payer of value-added tax (is attached as Annex Q45-1 to this Questionnaire).

Application for registration of a non-resident as a payer of value-added tax (is attached as Annex Q45-1 to this Questionnaire).

### **46. Please provide information about internal control and audit procedures.**

#### ***Concerning the internal control procedures***

Part 3 of Article 26 of the Budget Code of Ukraine stipulates that budget managers in the person of their principals organize, in particular, internal control and ensure its implementation in their institutions and enterprises, institutions and organizations, which belong to the sphere of management of such budget managers.

Internal control is a set of measures applied by the principal to ensure compliance with the law and efficiency of use of budget funds, to achieve results in accordance with the established goals, objectives, plans and requirements for the budget manager and enterprises, institutions and organizations, which belong to the sphere of management of such budget managers.

The basic principles of internal control are determined by the Cabinet of Ministers of Ukraine. Organizational and methodological principles of internal control are determined by the Ministry of

Finance of Ukraine, which ensures the formation and implementation of public policy in the field of public internal financial control, including the assessment of the functioning of the internal control system.

In pursuance of this provision of the Budget Code of Ukraine, the Cabinet of Ministers of Ukraine approved the Basic Principles of Internal Control for Budget Managers (hereinafter – the Basic Principles) by the Resolution dated 12 December 2018 № 1062. Such principles provide common approaches to internal control in state bodies, in particular managerial responsibility and accountability, determination of the main components of the internal control system, reporting to the Ministry of Finance on the state of the organization and implementation of internal control.

Thus, paragraph 4 of the Basic Principles obliges the head of the institution to organize and ensure internal control in accordance with these Basic Principles and legislation, which regulate the planning of the institution, budget process, management of budget funds and state property and others resources, organization and maintenance of accounting, preparation and submission of reports, provision of administrative services, implementation of control and supervision functions, procurement of goods, works and services, legal work, work with staff, activities to prevent and detect corruption, secrecy and information security, protection of information in IT systems, organization of document circulation, including electronic document circulation and management of information flows, interaction with mass media and the public, other questions<sup>6</sup> relating to the functioning of the institution.

The organization and implementation of internal control in the institution are ensured by:

- development and approval of internal documents by the head of the institution aimed at ensuring the functioning of the elements of internal control, taking into account the requirements established by the Basic Principles;

- introduction of clear systems (procedures) of activity planning, control over their implementation and reporting on the implementation of plans, tasks and functions, evaluation of the achieved results and, if necessary, timely adjustment of the activity plans of the institution;

- implementation of plans, tasks and functions defined by law by the management and employees of the institution and internal documents approved by the head of the institution, informing the management of the institution about the risks arising during the tasks and functions, taking control measures, monitoring, information exchange.

In this case, the internal administrative documents of the institution may establish other issues of internal control, requirements for its organization and implementation, taking into account the peculiarities of the institution (paragraph 9 of the Basic Principles).

In order to meet the requirements set out in the Basic Principles, the Procedure for organizing and exercising internal control in the State Tax Service of Ukraine was developed and approved by the Order of the State Tax Service of Ukraine dated 18 December 2019 № 220. The procedure is developed by taking into account internationally recognized standards and methodologies on internal control in government agencies (in particular, COSO, INTOSAI).

Internal control is introduced in the State Tax Service as a management tool that allows the State Tax Service management to check the status of its tasks and functions and achieve the goals (mission), strategic and other goals, plans and requirements for its activities.

The subjects of internal control in the State Tax Service are: Chairman of the State Tax Service, Deputy Chairmen of the State Tax Service, heads (deputy heads) of structural units of the State Tax Service, organizational and administrative unit, internal audit unit, employees of structural units of the State Tax Service.

The system of internal control in the State Tax Service consists of the following interrelated elements that apply to all structural units, actions and processes in the State Tax Service: internal environment, risk management, control measures, systematic assessment of the level of executive discipline in structural units of the State Tax Service, systematic assessment of the level of executive discipline in structural subdivisions of the State Tax Service based on the results of consideration of citizens' appeals and requests for public information, monitoring of the organization of structural subdivisions of the State Tax Service and its territorial bodies, information and communication (information and communication exchange), monitoring.

The plan for the implementation of measures to control and monitor the implementation of results in the State Tax Service for year 2021 is approved by the Order of the State Tax Service of Ukraine dated 25 February 2021 № 247.

In order to improve the functioning of the internal control system during the year 2021, the State Tax Service issued an Order of the State Tax Service "Some issues of internal control of the State Tax Service" dated 19 August 2021 № 755 (hereinafter – the Order of the State Tax Service № 755), which amended the Procedure in the State Tax Service of Ukraine, approved by the Order of the State Tax Service dated 18 December 2019 № 220, and approved the Procedure for managing functions in the State Tax Service of Ukraine. Amendments made by the Order of the State Tax Service № 755 introduced the maintenance of a functional matrix in the State Tax Service of the tasks, functions and procedures assigned to the State Tax Service and assigned to the structural units of the State Tax Service by relevant Orders of the State Tax Service.

### ***Concerning the internal audit procedures***

Action Plan for the Implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand (hereinafter referred to as the Action Plan for the Implementation of the Association Agreement), approved by the Resolution of the Cabinet of Ministers of Ukraine dated 25 October 2017 № 1106. The Ministry of Finance of Ukraine is responsible for the implementation of clause 1463, "Improvement of the system of public internal financial control", of the Action Plan for the implementation of the Association Agreement.

Within the Implementation Plan of the Association Agreement, in particular, the requirements of regulations on internal audit have been improved, taking into account the conceptual documents and principles of the European Commission in the field of public internal financial control, materials of the International Institute of Internal Auditors and best practices of the EU.

Internal audit activities in the State Tax Service are carried out exclusively in accordance with the requirements of the Procedure for Internal Audit and Establishment of Internal Audit Units, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 28 September 2011 № 1001, and in accordance with Internal Audit Standards approved by the Order of the Ministry of Finance of Ukraine dated 4 October 2011 № 1247, registered by the Ministry of Justice of Ukraine on 20 October 2011 at № 1219/19957 (as amended by the Order of the Ministry of Finance of Ukraine dated 14 August 2019 № 344).

The algorithm for implementing internal audit activities in the State Tax Service is defined by the Procedure for Internal Audit in the State Tax Service of Ukraine, approved by the Order of the State Tax Service dated 17 June 2020 № 285 (as amended), taking into account the requirements of these regulations, which is regularly reviewed in order to improve its provisions.

Thus, the internal audit unit of the State Tax Service performs the following basic procedures:

- planning of internal audit activities, including compiling and maintaining a database, organizing, conducting and documenting the identification and risk assessment for planning internal audit activities, determination of the selection factors for scheduled internal audits and the frequency of its implementation for each internal audit object;

- organization and conduct of internal audit (planning and implementation of the audit task), documenting its course and results, control over the implementation of audit tasks;

- preparation of working and official documents, formation and storage of internal audit cases;

- preparation and signing of the audit report, consideration of comments to the audit reports, providing a written opinion on the validity of such comments;

- implementation of the results of internal audits, monitoring the consideration of audit recommendations and the results of their implementation;

- keeping records and accumulating reporting data on the results of internal audits in the appropriate forms, templates, reporting on the results of internal audit activities;

- conducting internal assessments of the quality of internal audits, drawing up a program to ensure and improve the quality of internal audits, monitoring the status of implementation of measures provided by the program;

- consideration of complaints against the actions of employees of the internal audit department, taking into account the requirements of the law;

- interaction, exchange of information between the internal audit department and other structural units of the institution, other bodies;

- organization of professional development of internal audit staff.

### ***Concerning the organization and implementation of internal control in the State Tax Service of Ukraine***

According to the reporting data of STS (letter dated 28 January 2022 № 216/4 / 99-00-01-01-05-04), as of 31 December 2021, internal control in STS is organized and carried out in accordance with the requirements of the Basic Principles of Internal Control by Budget Managers approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12 December 2018 № 1062.

STS has ensured the formalization of the elements of the internal control system in proper interconnection and balance and ensured their integration into practical activities during the performance of tasks and functions of STS.

Reporting information of STS confirms the formalization of the internal environment (in particular, identified processes, operations, regulations, structures; established methods / ways of implementing tasks, functions and requirements for activities; ensured the division of powers, responsibilities, accountability of management and employees; established rules and principles of human resources management; measures organized for preventing corruption and fraud; compliance

with the rules of ethical conduct). The processes of planning, control and reporting in STS are organized in accordance with the defined mission and strategic goals of the Service.

In accordance with the approved Procedure for the organization and implementation of internal control, a risk management system, which includes identification and assessment of risks, determination of approaches to respond to the risks, development of control measures for identified and assessed risks, review of such risks to identify new and affected changes, implementation of control measures to prevent possible violations and shortcomings, is adopted.

In particular, in the year 2021, the risks related to ensuring the functioning of IT systems, administration of central level IT databases, implementation of measures to build comprehensive information security systems for IT systems, cooperation with foreign donors and implementing organizations, etc., were identified.

Control measures aimed at ensuring efficient, effective and targeted use of budget funds, achieving the goals, objectives and performance indicators of budget programs, management of state property and other material resources on the balance of STS, as well as protection of information, telecommunications and IT systems, were adopted.

STS has established processes of communication exchange of information within the institution and with external stakeholders to ensure the quality of providing / receiving timely, relevant, accurate, complete, accessible, secure, verified and stored information on the institution, in particular, the state of strategic goals, the performance of indicators of budget programs and implementation of key tasks.

Detection and assessment of deviations in the functioning of the internal control system and / or its individual elements (monitoring process) are carried out in STS during internal audits. The management of STS was informed about the identified deviations / shortcomings in the internal control system in order to make appropriate management decisions.

### ***Concerning the implementation of internal audit in the State Tax Service of Ukraine***

According to the reporting data of STS (letter dated 31 January 2022 № 235/4 / 99-00-03-03-01-04), as of 31 December 2021, there is a Department of Internal Audit (hereinafter - the Department) with 37 specialists (actually – 33 specialists).

STS complies with the requirements of the legislation on organizational independence of the internal audit unit (the Department reports directly to the Head of STS) and functional independence of the internal audit unit (there are no revealed facts regarding the performance of non-inherent and / or incompatible functions, in particular, employees of the Department did not participate in control measures, which were not related to internal audit and employees were not involved in such activities).

During the year 2021, the Department planned and conducted 5 internal audits to assess the effectiveness of the most risky areas of STS (management of state property; administration of taxes, fees, payments; material and technical development of STS and its territorial bodies; selection of personnel for the central office of STS, organization of work to improve the professional competence of employees of STS and its territorial bodies; organization and implementation of internal control in territorial bodies of STS).

According to the results of these internal audits, the Head of STS was provided with 221 recommendations aimed at improving management and internal control systems, including risk management processes, preventing inefficient use of budget funds and other assets, shortcomings in

STS and its territorial bodies. The level of implementation of the audit recommendations adopted by the Head of STS is ensured at the level of 85 per cent.

As a result of the implementation of the recommendations, a number of changes were made to the Orders of STS (in particular, on internal control, preparation of draft consolidated budget indicators for budget request, budget program passport, report on its implementation and proposals to STS Budget Declaration).

**47. What are Ukraine's plans regarding preparations toward full interconnectivity of the country's IT systems with the European Union IT taxation systems (VIES, VAT Refund, EMCS, etc.)?**

STS is ready to join the EU IT systems; however, this issue requires a more detailed study of the technical characteristics of such systems.

At the same time, the State Tax Service is working on the development and implementation of an IT system for the international automatic exchange of information under the CbC / CRS standards through the OECD Common Transmission System (CTS). The development of the Automatic Exchange of information IT solution is supported by the EU-funded EU4PFM Project

**48. Please provide information and statistics for 2019/2021 on measures against tax evasion.**

*Volumes of additional taxes accrued by the State Tax Service, the share of additional tax collected:*

|  | 2021     | 2020     | 2019     |
|--|----------|----------|----------|
| Additionally accrued monetary obligations (million of hryvnias)        | 63 455,7 | 17 778,4 | 49 621,9 |
| Agreed additionally accrued monetary obligations (million of hryvnias) | 11 728,4 | 8 041,1  | 18 607,1 |
| Level of additionally accrued monetary obligations agreement, %        | 18,5     | 45,2     | 37,5     |
| Paid (repaid) of additionally accrued amounts (million of hryvnias)    | 4 905,0  | 2 190,3  | 3 742,2  |

*How many tax crimes have been investigated by the police, how many of them were invoked to responsibility and how many sentences have they resulted in?*

|   | 2021      | 2020   | 2019 |
|---|-----------|--|------|
| Number of cases transferred to law enforcement agencies | 426       | The State Tax Service is currently unable to |      |
| for the amount of (thousands of hryvnias)               | 4 798 608 |  |      |

|   |           |  |
|---|-----------|--|
| Number of initiated criminal proceedings by law enforcement agencies  | 32        | provide information for previous periods |
| for the amount of (thousands of hryvnias)   | 369 469,6 |  |
| Number of materials of inspections involved by law enforcement agencies in criminal proceedings in the reporting period | 12        |  |
| for the amount of (thousands of hryvnias)   | 155 057,4 |  |
| Number of cases returned by law enforcement agencies for revision   | 15        |  |
| for the amount of (thousands of hryvnias)   | 943 324,3 |  |
| The number of cases in which law enforcement agencies refused to initiate criminal proceedings                          | 136       |  |
| for the amount of (thousands of hryvnias)   | 303 574,2 |  |

The Department of tax audit of the central office of the STS constantly monitors the revenues to the budget of additionally accrued amounts of monetary liabilities.

In addition, on a monthly basis, according to the reporting indicators of territorial divisions of the tax audit, it is carried out the calculation / monitoring of part of the budget revenues of the amounts of agreed additionally accrued monetary liabilities as a result of tax control (*level of payment, %*).

| Period | Amount of agreed additionally accrued monetary obligations (million of hryvnias) | Paid (repaid) of additionally accrued amounts of monetary obligations (million of hryvnias) | Level of payment, % |
|--------|--|---|---------------------|
| 2019   | 18 607,1   | 3 742,2   | 20,1                |
| 2020   | 8 041,1  | 2 190,3   | 27,2                |
| 2021   | 11 728,4   | 4 905,0   | 41,8                |

**49. Please explain the objections and administrative appeal system in case a taxpayer does not agree with a decision taken by the tax authorities.**

Appeals against decisions of controlling authorities in Ukraine are regulated by the Tax Code of Ukraine. According to the general rule, defined by Article 56 of the Code, a taxpayer may appeal against any decision of a tax authority that contradicts the law or is beyond the powers of the tax authority in administrative proceedings.



For this purpose, the taxpayer has the right to address the higher level of the controlling authority (within State Tax service) with a complaint about reviewing this decision within 10 working days following the day when the taxpayer receives the appealed decision of the controlling body.

The taxpayer also has the right to submit a complaint within six months from the end date of the 10-day period, together with a request to renew the missed deadline for submitting an administrative complaint and copies of supporting documents of his omission reasonable excuse in administrative proceedings. If the highest level supervisory body, considering such a request, recognizes the reasons for its omission to be valid, it may renew the missed deadline for submitting an administrative complaint.

During the administrative appeal procedure, it is the duty to prove that any accrual made by the controlling body is lawful, relying on the controlling authority.

The controlling authority considering the taxpayer's complaint, is obliged to take a motivated decision and send it within 20 calendar days, following the day the complaint was received, to the taxpayer's address by post with notification of delivery or to submit it to the receipt.

At the same time, the supervisor of the controlling authority may decide to extend the term for consideration of the taxpayer's complaint within a time limit of not more than 60 calendar days and to inform the taxpayer within the 20-day time limit.

If the motivated decision on the complaint of the taxpayer is not sent to the taxpayer within the aforementioned time limits, such a complaint is fully satisfied in favour of the taxpayer from the day following the last day of the specified terms.

The decision of the central executive authority that implements the state tax and customs policy adopted in consideration of the taxpayer's complaint is final and not subject to a further administrative appeal but may be appealed against in court.

## **50. Please explain how the tax control is organised and resourced and how it functions.**

The STS exercises control over compliance with tax legislation, the legislation on the administration of the single contribution and the legislation on other issues, control over compliance with which is entrusted to the STS.

Tax audit divisions of the STS, in accordance with their functional powers, carry out tax control of taxpayers by conducting scheduled, unscheduled, factual inspections and cross-checks.

In 2020-2021, due to the situation with the spread of the SARS-COV-2 virus and the COVID-19 pandemic in Ukraine from March 18, 2020, the statutory moratorium on documentary and factual inspections continued, except for factual inspections of excisable goods, documentary inspections on VAT declaration, termination (liquidation) of business entities and at the request of the private enterprises.

Tax control is built on a two-tier principle. The main executor of the function of organizing documentary and factual inspections is the Department of tax audit of the STS, and the function of conducting documentary and factual inspections are the divisions of tax audit of territorial bodies of the STS.

The result of the function is a pre-audit analysis using a risk-oriented approach, identifying violations of tax legislation in the activities of taxpayers, preparation of an act (certificate) based on

the results of the inspection, adoption of the tax notification-decision, flow of the amount of the monetary obligation and sanctions additionally accrued on the results of inspections to the budget of Ukraine.

According to the Strategic Plan of the STS of Ukraine for 2022-2024, approved by the Order of the STS dated 22 November 2021 № 965, it is defined the strategic Goal 4 «Combating tax evasion by introducing of international standards and improving analytical tools».

## **F. Revenue statistics**

**51. Please provide a detailed description and relevant statistics of the overall revenue structure (taxes and social contributions) and of its main components (according to OECD revenue classification).**

Information on the amounts of revenues given in the table (is attached as Annex Q51 to this Questionnaire) is provided according to the report of the State Treasury of Ukraine on the execution of the Consolidated Budget of Ukraine in 2021 and includes information on revenues of both state and local budgets.

The distribution of income between the groups is carried out in accordance with Revenue Statistics Interpretative guide OECD <https://www.oecd.org/tax/tax-policy/oecd-classification-taxes-interpretative-guide.pdf>.

### ***Description of the table***

Line «1000. Taxes on income, profits and capital gains» (513,6 billion of hryvnias) is the sum of lines 1100 and 1200.

Line «1100. Individuals» (349,8 billion of hryvnias) includes revenues from personal income tax and military duty, which have the same tax base and principles of collection. The relevant revenues are divided into two components: income tax (line 1110; 342,5 billion) and capital gains (line 1120; 7,3 billion), which include income from investment income, dividends, interest and royalties.

The line «1200. Corporations» (163,8 billion of hryvnias) - income tax revenues, excluding income tax paid by entities engaged in the production and conduct of lotteries (0,05 billion), which according to the OECD classification, included in another income category. There is no information for the distribution of revenues by categories «Profit and Income» and «Capital Gains» as far as the deadline for filing a declaration of this tax for 2021, from which you could select the necessary data, has not yet come on the day of the questionnaire.

The line «2000. Social security contributions» (349, 0 billion) is the sum of lines 2200 and 2300. According to Ukrainian legislation, such contributions are not taxes.

The line «2200. Employers» (332,6 billion) is the single social contribution paid by employers for employees.

The line «2300. Self-employed, non-employed» (16,4 billion) is the single social contribution paid by entrepreneurs and others.

The line «4000. Taxes on property» (43,2 billion) is the sum of lines 4100 and 4600.

The line «4100. Recurrent taxes on immovable property» (43,1 billion of hryvnias)) - receipts for land fees and real estate tax, other than land plot (residential and non-residential real estate). Relevant revenues are divided into two components: taxes paid by households (line 4110; 6,5 billion), which include individuals, and other payers (line 4120; 36,6 billion), which include legal entities.

The line «4600. Other recurrent taxes on property» (0,1 billion) - fee for parking spaces for vehicles. The object of taxation is a land plot that the local authorities have transferred for temporary use to a natural or legal person for the organization of car parking spaces. The fee is paid quarterly.

The line «5000. Taxes on goods and services» (871,51 billion) is the sum of lines 5100 (5111, 5121, 5123, 5124, 5126, 5128), 5200 (5211, 5212, 5220) and 5300.

The line «5111. Value-added taxes» (536,5 billion) - value-added tax.

The line «5121. Excises» (180,3 billion) - excise tax.

The line «5123. Customs and other import duties» (37,2 billion) - includes import duties, including special and anti-dumping (36,8 billion), the single fee levied at checkpoints across the state border of Ukraine (0,4 billion).

The line «5124. On exports» (1,3 billion) - export duty.

The line «5126. On specific services» (0,07 billion) - the amount of income tax paid by entities engaged in the production and conduct of lotteries (0,05 billion) (according to Ukrainian law is a component of corporate profit tax), and tourist duty (0,2 billion) (charged for temporary accommodation in hotels and other similar facilities based on the number of relevant days).

The line «5128. Other taxes on specific goods and services» (101,7 billion) - includes duties for mandatory state pension insurance for certain types of business transactions (when buying a car, real estate, using mobile communications or receiving services for branding jewellery; the fee is not a tax according to Ukrainian law and, regardless of the name, is credited to the State Budget and not to the Pension Fund (12,4 billion), as well as rent, the collection of which does not depend on the income of the payer and is collected based on amount or the cost of used natural resources (extracted minerals, used water, forest resources, radio frequencies, services for the transportation of certain goods by pipeline).

The line «5211. Motor vehicle taxes households» (0,06 billion) - transport tax paid by individuals (paid annually for each car whose cost exceeds a certain limit).

The line «5212. Motor vehicles taxes other» (0,1 billion) - transport tax paid by legal entities (paid quarterly for each car whose value exceeds a certain limit).

The line «5220. Non-recurrent taxes on permission to use goods or perform activities» (6,0 billion) - according to the OECD classification, this includes the environmental tax.

The line «5300. Unallocable as between 5100 and 5200» (8,1 billion) - a fee charged for the issuance by the state of various licenses, certificates, permits, the performing of certain actions; is both one-time and periodic, but the information collected by the Treasury of Ukraine does not have a sufficient level of detail for the distribution of fee revenues between the relevant categories of revenues - regular (5213) or irregular taxes (5220). According to Ukrainian law, such a fee is not a tax.

The line «6000. Other taxes» (46,32 billion) is the sum of lines 6100 and 6200.

The line «6100. Payable solely by business » (46,3 billion) is the single tax paid by natural entities-entrepreneurs and legal entities using the simplified taxation system (the tax is levied regularly or in a fixed amount depending on certain characteristics of the payer or as a percentage of income)

The line «6200. Payable by other than business, or unidentifiable» (0,02 billion) is a duty for a one-time (special) voluntary declaration, which is paid by individuals once during the tax amnesty, which began in September 2021 and will continue for one year.

You can find annexes to this chapter under the link: <https://bit.ly/3PexNDF>

# CHAPTER 17. ECONOMIC AND MONETARY POLICY

## I. ECONOMIC POLICY

### A. Capacity for economic policy coordination

**2. Please provide comprehensive information about the coordination and cooperation between stakeholders (e.g. line ministries, the Ministry of Finance and/or the Central Bank) to define the economic policy. Economic policy includes fiscal and monetary policy, but also the formulation and implementation of structural reforms to strengthen competitiveness and growth.**

I. According to the legislation the key documents of the economic policy are forecasting, strategic and programme documents on economic and social development of Ukraine, the Budget Declaration, the State Budget of Ukraine, the Main Provisions of the Monetary Policy of Ukraine in the Medium Term.

Requirements to the abovementioned documents, including coordination and cooperation between different authorities during their development, are regulated by separate Laws of Ukraine and acts of the Cabinet of Ministers of Ukraine, namely:

1. the Law of Ukraine of 23.03.2000 No 1602-III “On State Forecasting and Development of Programmes on Economic and Social Development of Ukraine”, the main aim of which is determination of agreed system of forecasting and programme documents on economic and social development;

2. the provisions of the Budget Code of Ukraine of 08.07.2010 No 2456-VI (issues related to completing and execution of the Budget Declaration in the medium term (3 years) and the State Budget of Ukraine on the annual basis, working plans of the key spending units and forecasting economic and social development of Ukraine in the medium term);

3. the Law of Ukraine of 18.03.2004 No 1621-IV “On the State Target Programmes” (issues related to development, execution, accountment and control over execution of state target programmes);

4. the Resolution of the Cabinet of Ministers of Ukraine of 26.04.2003 No 621, which in particular approved the Order of development of draft forecasting and programme documents on economic and social development, the Budget Declaration and the State Budget of Ukraine;

5. the Resolution of the Cabinet of Ministers of Ukraine of 31.01.2007 No 107, which approved the Order of development and execution of the State Target Programmes;

6. the Resolution of the Cabinet of Ministers of Ukraine of 18.07.2007 No 950, which approved the Regulation of the Cabinet of Ministers of Ukraine that sets up requirements for development of documents on planning of the Government activities and programme documents of the Government such as: the Programme of Activities of the Cabinet of Ministers, Strategies on Development of the Appropriate Areas; State Target Programmes; other programme documents, the requirements for

development and execution of which are stipulated by the Laws of Ukraine and Ukraine's Presidential Decrees of.

II. The Law of Ukraine On State Forecasting and Development of Programmes on Economic and Social Development of Ukraine, which was approved in 2000 (No.1602-III), regulates the elaboration of some strategic planning documents in Ukraine, namely longer-term and short term forecasts at the national and sub-national levels.

The strategic documents can be approved by the President, the Government, the Verkhovna Rada and line ministries at the national level as well as by local government entities at the sub-national level.

Development of the key strategic, programme, forecasting documents, as well as the Budget Declaration and the State Budget is done in close cooperation between the central executive authorities, other state bodies and other entities (scientific, expert, and civil society organisations). The Regulation of the Cabinet of Ministers (Reglament) defines the procedures of the preparation of strategic documents by the government. Currently, the key strategic document is a Program of the Cabinet of Ministers, which is to be developed for 'the exercising the power' by the Cabinet of Ministers (CMU). The duration of the Program is not clearly defined (often this was a short-term document), but if approved by the Parliament it grants the Cabinet of Ministers one-year immunity. The Government then approves the Action Plan for the Program implementation (typically also one year).

The Resolution of the Cabinet of Ministers of Ukraine (No 621 from 26.04.2003) and the Budget Code of Ukraine define clear procedures for the elaboration of draft Forecast of Economic and Social Development of Ukraine on the following three years, (hereinafter - draft Forecast), draft Budget Declaration and State Budget Law. They should be drafted in close cooperation of different state entities, including the Ministry of Economy of Ukraine, the Ministry of Finance of Ukraine and other line ministries as well as the National Bank of Ukraine, is defined in. The draft Forecast passes five iterations of comments and suggestions made by 15 different state entities.

III. Responsibilities for coordination monetary and economic policies (in particular, fiscal policy) are defined in the Memorandum between the Cabinet of Ministers of Ukraine (hereinafter – the CMU) and the National Bank of Ukraine (hereinafter – the NBU) on Cooperation to Achieve Sustainable Economic Growth and Price Stability (of 03/10/2019). This document aims to ensure the sound economic policy of the CMU and the monetary policy of the NBU, which is aimed at achieving low and stable inflation, to ensure a reduction in interest rates in the medium term, and a revival of business lending, thus driving economic growth in Ukraine.

Also, the NBU, the National Commission on Securities and Stock Market, the Ministry of Finance of Ukraine, and the Deposit Guarantee Fund are jointly implementing the Strategy for Ukrainian Financial Sector Development until 2025, which sets priorities and development objectives of financial sector until 2025. The Strategy is drafted to ensure reforming and development of the Ukrainian financial sector in line with international best practices and meeting the EU-Ukraine Association Agreement and other international commitments of Ukraine. The revised Strategy was approved by the NBU Board Decision No.97 as of 18 March, 2021.

IV. The Financial Stability Council (inter authority body) was established to increase the efficiency of the state economic policy, coordinate monetary and fiscal policies (by the Ukraine's Presidential Decree of 24.03.2015 No 170/2015).

The Council is comprised of the Head of the NBU (upon agreement), the Minister of Finance of Ukraine, the Chairman of the National Commission on Securities and Stock Market, the Managing Director of the Deposit Guarantee Fund, two Deputy Heads of the National Bank of Ukraine, determined by the Head, the Deputy Minister of Finance of Ukraine, determined by the Minister, the Deputy Head of the Office of the President of Ukraine responsible for economic policy. The members of the Council act on a voluntary basis.

The key objectives of the Financial Stability Council include:

- 1) data exchange and timely identification of current and potential future external and internal threats and systemic risks for financial stability and minimisation of their negative impact on the financial system of the country;
- 2) agreement on precautionary activities and rapid reaction response activities (rapid reaction response is crisis management) in case of indications for financial insolvency in the banking system, as well as circumstances which threaten stability of the bank and/or financial system of the country.
- 3) also, the Financial Stability Council is responsible for:
  - 4) identification, analysis, assessment, and monitoring of the current and potential external and internal threats and system risks for financial system of the state in order to identify features of financial insolvency of the bank system, as well as circumstances which threaten stability of the state bank and/or financial system;
  - 5) development of recommendations for minimisation of risks, which threaten the stability of the state bank and/or financial system;
  - 6) confirmation of signs of financial insolvency for the bank system, as well as circumstances which threaten stability of the state banks and/or financial system, that allows the NBU to apply temporary measures on regulation and supervision over commercial banks' activities or other entities subject to audit by the NBU;
  - 7) development of effective mechanisms of cooperation and coordination for ensuring the financial stability, including improvement of legislative regulations in this area;
  - 8) cooperation with international organisations, in particular with the European System Risk Board, the Bank for International Settlements, the International Monetary Fund, the World Bank, the European Central Bank, the International Association of Deposit Insurers, the European Forum of Deposit Insurers and other foreign state authorities if applicable;
- 9) approval of the Council's activity regulation.

According to Article 52 of the Law of Ukraine "On the National Bank of Ukraine" the NBU and the CMU can hold mutual discussions on monetary policy and state economic policy issues, in particular, on forecasting major macroeconomic indicators, including monetary and currency exchange policy indicators.

Upon the request from the CMU the NBU provides the following information:

- 1) on monetary processes and money market;
- 2) on non-cash emission in the requested period, such as:
  - bank refinancing;

- FX currency interventions in the interbank market;
- operations at the stock market.

The NBU submits the information mentioned in the point 2 above to the President of Ukraine and the Committee of the Verkhovna Rada of Ukraine responsible for banking activity on the quarterly basis.

The CMU, ministries and other central executive entities provide the NBU upon its request with information, which impacts the balance of payments, monetary processes, monetary market, including monthly information on indicators of incomes, expenses and deficit of the state and consolidated budget, state debt, and its payment schedule.

The NBU has the right to submit to CMU suggestions on legislation related to the NBU functions and operations.

According to the Chapter 13 of the CMU Regulation:

- 1) the NBU Head or one of his/her Deputies have the right to participate in the CMU meetings as an advisor;
- 2) members of the CMU are allowed to participate in the sessions of the Board of the NBU as advisors.

Budget process also envisages the provision of the data by the NBU. According to Article 33 of the Budget Code of Ukraine and Article 52 of the NBU Law, the NBU annually till 1 March submits to the CMU information necessary for completion of the Budget Declaration in particular, the indicative forecast of the NBU profit to be transferred to the state budget.

Also, the Ministry of Finance shall annually (till 6 February) submit to the Ministry of Economy and the NBU information on the State Budget execution as well as preliminary forecasted indicators of the state debt, state debt servicing and repayments for current and three following years (made according to the Order of development of draft forecasting and programme documents on economic and social development, the Budget Declaration and the State Budget of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine of 26.04.2003 No 621) .

In additional, there is a separate mechanism of intergovernmental coordination for the development of macroeconomic forecast and programmes on economic and social development.

According to Article 17 of the Law of Ukraine “On the State Target Programmes” the Ministry of Economy of Ukraine is defined as a responsible entity for forecasting of economic and social development.

The coordination of government entities in the preparation of the forecast is defined in the CMU Resolution from 26.04.2003 No.621 “On Development of Forecasting and Programme Documents on Economic and Social Development and Completing Draft projects of the Budget Declaration and the State Budget”.

In particular, annually government entities agree on the assumptions for several scenarios of economic forecast for three-year period (the first iteration - till 6 February, and revised scenarios till 23 March). The Ministry of Economy prepares the preliminary forecast on the basis of the agreed assumptions and sends to stakeholders no later than March 1. The revised forecast of macroeconomic parameters for next three years is made by the MinEc by April 15. Then the Forecast of economic and social development is drafted by the Ministry of Economy and sent for comments to other



stakeholders no later than May 2. The ministries and other central executive entities approve the Forecast by May 8.

The coordination between the Government and the NBU does not take form of only information exchange. In particular, there are quarterly meetings of the NBU with the participation of experts from the MinEc and MinFin for the discussion of the draft NBU macroeconomic-forecast. The NBU and the MinFin participate also in the discussions on the economic development of Ukraine during quarterly Consensus-forecast and within the preparation of the Draft program document on Economic and Social Development in Ukraine, which are organized by the Ministry of Economy. Key principles for coordination and cooperation between stakeholders (e.g. Ministry of Finance, line ministries, and the NBU) during the budget process are defined in the Budget Code.

The Ministry of Finance is a central executive authority responsible for the formation and implementation of the budget policy, provides organisational and methodological support and coordination of the key spending units at each stage of the budgeting process. In particular, the Ministry of Finance sends the instruction and methodological guidelines to spending units.

In particular, the elaboration of the medium-term Budget Declaration starts with the instruction letter of the Ministry of Finance to key spending units, who should accordingly prepare the information on the changes in structure of budget programmes for next three years. This information, macroeconomic forecast provided by the Ministry of Economy as well as other information from different stakeholders become a base for the calculation of expenditure ceiling by the Ministry of Finance. These ceilings are then reported to key spending units for their suggestions for the Budget Declaration.

The key spending units define the state policy goals and performance indicators for programs in the area of their responsibility on the basis of objectives and priorities, determined by the state strategy documents, taking into account expenditure ceilings defined by the MinFin. This information is then used by the MinFin for drafting Budget Declaration, which is then submitted to the Government and the Parliament.

The budget requests for the next fiscal year are prepared by key spending units in accordance with instructions approved by the MinFin. The State Budget Law should be then prepared by the MinFin on the basis of these budget request. The approved by the CMU State Budget Law should be submitted to the Parliament no later than September 15.

One of the instruments to increase efficiency and effectiveness of public spending is spending reviews (Article 20 of the Budget Code), which are conducted by working groups comprised of different stakeholders (including the representatives of line ministries, the MinFin as well as experts). Budget programs subject to spending reviews are defined by the Cabinet of Ministers of Ukraine. Organisational and methodological support for such reviews are provided by the Ministry of Finance of Ukraine. Based on the results of such reviews, the Government takes decisions that might include the amendments of the procedure of spending financing and allocation.

**3. Which are the consultative bodies involved in the economic policy decision-making process? To what extent are social partners involved? If relevant, what is the time given to social partners and other consultative bodies to provide their input?**

I. In accordance with §4 of Section 2 of the Regulation the Cabinet of Ministers (CMU Resolution from 18.07.2007 №950 “On Approval of the Rules of Procedure of the Cabinet of Ministers of Ukraine”), the Cabinet of Ministers creates government committees as well as advisory and other subsidiary entities acting in accordance with the provisions approved by the Cabinet of Ministers on the basis of the Model Regulations approved by the resolution of the Cabinet of Ministers of Ukraine dated 17.06.2009 №599 “Issues of advisory, consultative and other subsidiary bodies established by the Cabinet of Ministers of Ukraine”.

II. In accordance with §3 of Section 1 of the CMU Regulation the Cabinet of Ministers informs the public about its activities, and involves citizens in the decision-making process on issues of public importance. The Cabinet of Ministers involves all-Ukrainian trade unions, their associations and all-Ukrainian associations of employers' organizations in decision-making on issues related to the formation and implementation of state social and economic policy, regulation of labor, social, economic relations.

In particular, within the framework of drafting the Forecast, Budget Declaration and State Budget, cooperation with the trade union regularly takes place in the process of discussing provisions and commitments made in the General Agreement on Regulation of Basic Principles and Norms of Socio-Economic Policy and Labor Relations in Ukraine by presenting key indicators of the forecast of economic and social development of Ukraine for the next year and following two years, discussion of the draft Budget Declaration and the State Budget of Ukraine. The topics for discussion include the levels of state minimum standards laid down in the draft documents, as well as during the discussion on macroeconomic forecasting (consensus seminar held several times a year by the Ministry of Economy) between government and non-governmental organizations, in particular, ministries, the National Bank, research and analytical organizations, business representatives, all-Ukrainian trade unions and the All-Ukrainian Association of Employers' Organizations, etc.

III. In accordance with §42 of Chapter 3 of Section 4 of the CMU Regulations, the drafter of acts (ministry or state agency) conducts public consultations with representatives of stakeholders on drafts of legislation and sub-legislation. Draft CMU regulations are published together with the explanations and appendices on CMU official website for public consultations, unless otherwise provided by law.

IV. Legal principles of organization and procedure of social dialogue in Ukraine to develop and implement state social and economic policy, regulation of labor, social, economic relations and improving the standard and quality of life, social stability in society is determined by the Law of Ukraine “On Social Dialogue in Ukraine”.

According to this Law, social dialogue is carried out at the national, sectoral, territorial, and micro (enterprise, institution, organization) levels on a tripartite or bilateral basis.

The sides of the social dialogue at the national level include the all-Ukrainian trade unions; all Ukrainian associations of employers; the Cabinet of Ministers of Ukraine.

Social dialogue can take following forms:

- exchange of information;
- consultations;
- conciliation procedures;
- collective bargaining for collective agreements and contracts.

Collective bargaining is conducted with the purpose of concluding collective agreements and contracts. As a result of collective bargaining, collective agreements and contracts are concluded. In particular, at the national level, this is a General agreement.

V. Clause 2.18 of the General Agreement on Regulation of Basic Principles and Norms of Implementation of Socio-Economic Policy and Labor Relations in Ukraine for 2019-2021 and the Action Plan for Implementation of the General Agreement, approved by the resolution of the Cabinet of Ministers of Ukraine dated 21/08/2019 № 691-r, envisage that social partners conduct meetings and consultations in the framework of tripartite working group in II-III quarters during the preparation of the draft law on the State Budget of Ukraine.

In order to maintain the social dialogue, the Ministry of Finance annually processes proposals from trade unions and employers organizations made to the draft State Budget of Ukraine for next year and makes conclusion on the possibility to take them into account in this draft. The Ministry of Finance also established a permanent tripartite working group to hold consultations at all stages of the budget process, which included representatives of trade unions and employers, as well as officials of the Ministry of Finance. Within this group, the Ministry of Finance holds annual meetings with social partners to discuss their proposals for the draft State Budget of Ukraine for next year.

According to the Budget Code, the Ministry of Finance together with other key spending units of state budget funds prepares the Budget Declaration - a medium-term budget planning document that defines the principles of budget policy and state budget indicators for the medium term and is the basis for drafting the State Budget of Ukraine and local budget forecasts.

The Ministry of Finance also consults with independent experts (through meetings, round tables, conferences, etc.) in the process of preparing the Budget Declaration, defining priorities of fiscal policy.

Another form of involvement of different stakeholders into decision making is the work of public councils at the central executive entities. A public council is a temporary consultative and advisory body under ministries or executive authorities, which allows citizens to participate and influence the formation of national affairs. In particular, it draws up a plan for conducting public consultations; submits proposals, conclusions, as well as analytical materials on resolving issues in the relevant field, preparing draft regulatory legal acts, and improving the work of the body; performs public supervision and monitoring to ensure transparency and openness of its activities, as well as compliance with the law.

#### **4. How is the economic policy coordination governed by the legislation?**

Procedures of economic policy coordination are defined in the Constitution of Ukraine and the Laws of Ukraine adopted in its development, the main of which are: № 794-VII “On the Cabinet of Ministers of Ukraine” dated 27.02.2014, № 679-XIV “On the National Bank of Ukraine” dated 20.05.1999, № 1602-III “On state forecasting and development of programs of economic and social development of Ukraine” dated 23.03.2000, Budget Code of Ukraine, Tax Code of Ukraine, Customs Code of Ukraine, Decree of the President of Ukraine dated 24.03.2015 № 170/2015 “On the establishment of the Council on financial stability”.

The Budget Code and the resolution of the Cabinet of Ministers of Ukraine dated 26.04.2003 №621 clearly define the deadlines for information exchange between the Ministry of Finance,

Ministry of Economy and NBU, the volume of information exchange by institutions and the frequency of such exchange in the process of preparation of the draft Forecast, Budget Declaration and State Budget, in order to harmonize the fiscal policy indicators with the priorities of economic and social development, as well as monetary policy objectives of the NBU.

The Law of Ukraine “On the National Bank of Ukraine”, among the main functions of the NBU, states that the National Bank also promotes sustainable economic growth and supports the economic policy of the Cabinet of Ministers of Ukraine, provided that it does not hinder the goals of price stability and financial stability, including banking system stability.

Also, the Law of Ukraine "On the National Bank of Ukraine" stipulates that the development of the Basic Principles of Monetary Policy uses macroeconomic indicators calculated by the Cabinet of Ministers of Ukraine and the National Bank of Ukraine, as well as other necessary information. Considering that the Ministry of Economy is responsible for calculating forecast macroeconomic indicators in the Government, this norm is implemented through the regular tripartite consultations at the level of the NBU, the Ministry of Economy, and the Ministry of Finance, which is enshrined in the resolution of the Cabinet of Ministers of Ukraine of April 26, 2003 №621.

To increase the effectiveness of state economic policy, and ensure coordination between monetary and fiscal policy, the Decree of the President of Ukraine of 24.03.2015 № 170/2015 established the Financial Stability Council (interdepartmental body).

Also, Section 13 of the Regulations of the Cabinet of Ministers of Ukraine regulates the procedure for interaction between the Cabinet of Ministers of Ukraine and the National Bank.

In terms of budget policy, the key framework document that regulates coordination during the formation of budget policy is the Budget Code of Ukraine.

## **B. Acquis**

### **Directive 2011/85 on requirements for budgetary frameworks**

**5. Does Ukraine have numerical fiscal rules? Are they generally complied with? What is legally foreseen in case of non-compliance? Are legal actions against non-compliance always put in place?**

Fiscal rules are defined in Articles 14 and 18 of the Budget Code of Ukraine and provide in particular:

- the state budget deficit indicator determined by the Budget Declaration may not exceed 3 percent of the projected nominal GDP for the respective year. The maximum amount of the state budget deficit, determined by law, may not exceed the indicator for the relevant budget period, determined by the Budget Declaration (Article 14);

- the marginal total amount of state debt and state-guaranteed debt at the end of the budget period is defined at 60 percent of the annual nominal GDP (Article 18);

- the state guarantees provided during fiscal year cannot exceed 3% of planned fiscal revenues due to general fund of state budget.

These fiscal rules were partially lifted in 2020-2022 due to Covid-19 impact.

Deficit rule

The fiscal rule on the marginal deficit was introduced in December 2018. Thus, the actual rule came into force in 2019 and was taken into account during the development of the Budget Declaration for 2020-2022 and the draft law on the state budget for 2020.

Due to the negative impact of Covid-19, the planned fiscal deficit in the State Budget Law 2020 was revised upwards 2.1% of GDP to 7.5% of GDP. In particular, while revenues declined the Government had to finance measures counteracting the spread of coronavirus infection COVID-19 and support economic activity in the country. The new deficit indicator was in line with the agreements reached with representatives of the International Monetary Fund under the SBA. In fact, in 2020 the state budget was executed with a deficit of UAH 217.6 billion, which corresponds to 5.2% of GDP.

Due to fiscal consolidation measures, the State Budget Law for 2021 envisaged central government fiscal deficit at 5.5% of GDP. In fact, the state budget for 2021 was executed with a deficit of UAH 198.8 billion, or 3.6% of GDP.

The Budget Declaration for 2022 - 2024 envisages the state budget deficit indicator to be reduced to 3.5% of GDP in 2022, up to 3% in 2023 of GDP, up to 2.7% of GDP in 2024.

The approved State Budget Law for 2022 envisaged the planned deficit at 3.5% of GDP in line with the Budget Declaration for 2022-2024. However, Russia's full scale invasion and active hostilities on the territory of Ukraine forced the Government to significantly reorient the budget. In particular, the amendments to the State Budget Law, adopted by the Verkhovna Rada of Ukraine on March 15, 2022, increased the state budget deficit to 4.8% of GDP.

The Budget Code does not set liability for failure to comply with fiscal rules, and lawsuits are not applied. However, there is a legal possibility to exceed marginal indicators defined by fiscal rules. In particular, it may be done in the text of the State Budget Law, as it was already in practice in 2020-2022 when the Government and MPs took the decision on termination of the fiscal rules to be able to support economy during Covid-19. The Government and the Ministry of Finance are constantly taking steps to bring the deficit up to the level set by the Budget Code of Ukraine.

## **6. Does Ukraine have an independent fiscal institution (IFI) tasked with providing independent assessments of fiscal policy making? Does the IFI assess or produce the macroeconomic forecast?**

I. There is currently no independent fiscal institution in Ukraine that should provide independent assessments of fiscal policy-making, assess or make macroeconomic forecasts.

In order to introduce an independent external evaluation of the macroeconomic forecast, state budget forecast and policy initiatives, as well as improve the quality, soundness, transparency and improve public perception of public policy in forecasting and strategic planning of economic and social development, the Public Finance Management Strategy 2022 –2025 and the Action Plan for its implementation (PFM strategy was approved by the Order of the Cabinet of Ministers of Ukraine of 29.12.2021 №1805-r) provides for the establishment of the Council of Independent Experts (paragraph 54 of the Plan of Measures).

The establishment of the Council of Independent Experts is aimed at depoliticizing the processes of macroeconomic and budgetary forecasting and strategic planning.

The implementation of this task is planned within a year from the date of entry into force of the new law on the development of the system of state forecasting and strategic planning of economic and social development. The law is to ensure the integrity, coherence and hierarchy of strategic planning documents, as well as to depoliticize the processes of their development and increase the level of responsibility for the results of their implementation. It will also regulate the development, implementation, monitoring and evaluation of the implementation of strategic planning documents.

II. At the same time, there are still elements of the independent assessment of fiscal policy and evaluation of a macroeconomic forecast

According to the current legislation, the Budget Code of Ukraine, the Law of Ukraine "On State Forecasting and Development of Programs of Economic and Social Development of Ukraine" (№ 1602-III of 23.03.2000), the resolution of the Cabinet of Ministers of Ukraine and drafting of the Budget Declaration and the State Budget "(№621 of 26.04.2003) the Ministry of Economy of Ukraine is responsible for the elaboration of the economic and social development forecast.

At the same time, the Ministry of Finance is responsible for the drafting of the Budget Declaration and the State Budget Law. In this, it bases fiscal parameters on the macroeconomic forecast elaborated by the Ministry of Economy. This might be considered as verification of the forecast as well as ensures lack of impact of the MinFin on the forecasting figures.

The NBU is also involved in the elaboration of macroeconomic forecast in the format of ongoing consultations on preliminary macroeconomic indicators, which are included in the budget. This contributes to the development of better-coordinated solutions.

In addition, there is a cooperation with the IMF, which is also involved in the process of assessing the quality and reliability of the forecast of macro indicators and fiscal indicators. IMF expert missions are discussing these parameters within the budget process with the Ministry of Economy, the Ministry of Finance and the NBU.

During all these consultations a convergence of positions and independent evaluation (examination) of previously provided forecast macroeconomic indicators and budget indicators takes place.

Lastly, Ukraine uses an alternative tool to an independent fiscal institution - a discussion of macroeconomic forecast with different stakeholders, which is organized regularly by the Ministry of Economy. It invites representatives of academia, think tanks, the MinFin, the NBU, etc. for the discussion. These stakeholders also submit their independent forecasts, which then comprise a consensus-forecast, that represents the average value of all forecasts provided by experts in the field of macroanalysis and forecasting. In general, the consensus-forecast is conducted three times a year, mainly before the submission of the official government forecast. In Ukraine, the development of consensus-forecasts at the macro level was initiated by specialists from the Ministry of Economy and has been carried out for over 20 years. Thanks to the implementation of such mechanism, the Ministry of Economy has adopted the world experience and approaches to improving the quality of government forecasts, their depoliticization and, consequently, increasing confidence in them, improving communication in society.

The budget execution is regularly assessed by the Accounting Chamber of Ukraine, which is an external auditor operating on behalf of the Parliament. It regularly issues reports on audits of spending on different budget programs.

**7. Does Ukraine have a medium-term budgetary framework? If yes, how many years does the medium-term horizon cover?**

YES. The budget declaration specifies the medium-term budgetary framework. The medium-term horizon is three years (the planned year and subsequent two years).

The amendments to the Budget Code (from December 2018) introduced the medium-term budget framework in Ukraine to change the situation when no strategic priorities can be effectively put into budget. The three-year Budget Declaration was defined as a document of medium-term budget planning, which defines grounds for budget policy as well as sets fiscal indicators for next three years. It is in fact key document aimed to align strategic goals with the fiscal financing. It should take into account goals and priorities, defined in annual Address of the President to the Parliament, the Government program, social and economic forecast and programs. The medium-term Budget declaration is a base for the preparation of one-year State budget law and forecasts of local budgets.

The three-year Budget Declaration should contain information on key macroeconomic indicators, total fiscal revenues, expenditures, provision of credits, deficit and financing, sizes of subsistence minimum, minimum wage, etc. It also describes the priorities for financing different areas of state policies as well as defines spending ceilings by key spending units. Fiscal risks description is also an integral part of the Budget Declaration.

The preparation of three-year Budget Declaration is an iterative procedure of communication of the Ministry of Finance with all key spending units. Critical dates for this are defined in the Budget Code, while some are set in the letter of instructions sent by the MinFin to the key spending units about mid-January. By about mid-March the Ministry of Finance forecasts fiscal revenues for next three years as well as defines financing needs and estimates the fiscal balance. On the basis of this information it prepares expenditures ceilings, which are then submitted to key spending units by approximately the end of the first week of April.

The MinFin submits the Budget Declaration to the Cabinet of Ministers by May 15 (simultaneously, the MinEc submits the macroeconomic forecast for three years for the approval) after iterations of fiscal spending parameters with key spending units. Then the CMU should approve the Budget Declaration by June 1 and submits it to the Verkhovna Rada within three days. The Parliament of Ukraine can either consider the Budget declaration backed by the Government or approve its recommendations to the document.

Therefore, the preparation of the three-year Budget Declaration is a comprehensive task with key role played by the Ministry of Finance.

In May 2021, the Government of Ukraine approved the Budget Declaration for 2022-2024 (Decree of the Cabinet of Ministers of Ukraine dated 31.05.2021 №548) for the first time and submitted it to the Parliament of Ukraine (taken note of by the Parliament by Resolution of the Parliament of Ukraine dated 15.07.2021 №1652-IX).

**8. Does the framework contain objectives for the general government deficit, debt and projections for major expenditure and revenue items?**

Yes, according to Article 33 of the Budget Code of Ukraine, the Budget Declaration contains, among others, information on:

- the state budget revenues and financing general indicators, expenditure ceilings, credits provided from the budget (general and special funds of the budget);
- the shares of fiscal revenues in relation to the projected annual GDP,
- priorities for the tax policy, key taxes and their rates, and the breakdown of budget revenues by key sources (general and special funds),
- deficit (surplus) of the state budget, financing sources of the state deficit (general and special funds of the budget), public debt, debt guaranteed by the state, and the state guarantees provision,
- expenditure ceilings and loans from the state budget to the key spending units (general and special funds), and the public policy objectives for the relevant areas and their achievement indicators.

Furthermore, when calculating the budget indicators for the medium term, the Ministry of Finance considers structural benchmarks (limits) of the general government deficit indicator, as defined in the Memorandum of Economic and Financial Policies (MEFP) with the International Monetary Fund. The state budget deficit parameters in the Budget Declaration should be in line with benchmark values provided by the Memorandum with the IMF.

**9. Does the framework include a debt sensitivity analysis, showing how much debt would increase in the future also subject to specific shocks?**

According to Article 33 of the Budget Code of Ukraine, the Budget Declaration contains provisions on the general assessment of fiscal risks, i.e., factors (including contingent liabilities and quasi-fiscal operations) that may lead to a decrease in budget revenues and / or require additional budget expenditures, and accordingly may lead to an increase in the budget deficit and public (state and local) debt compared to the planned budget indicators.

The Budget Declaration for 2022-2024 (approved by the Resolution of the Cabinet of Ministers of Ukraine dated May 31, 2021, № 548) contains provisions on the overall assessment of fiscal risks that Ukraine may face and their impact on state budget indicators, including those related to state debt, as well as key risks of the state budget related to state debt.

Besides the Government approves the State Debt Management Strategy for the medium term. It takes into account parameters defined in the Budget Declaration and the State Budget Law. The Strategy is developed by the Ministry of Finance of Ukraine and approved by the Cabinet of Ministers of Ukraine annually, no later than June 1 of the year preceding the planned one.

The State Debt Management Strategy for 2021 - 2024, approved by the Cabinet of Ministers of Ukraine on December 09, 2021 № 1291, outlines the current debt situation, as well as goals, objectives and measures in the medium term to optimize state debt structure in terms of the ratio of service costs and risks while maintaining an acceptable level of debt burden. The Strategy envisages four main objectives of the state debt management:

- increase in the share of state debt denominated in the national currency;
- an extension of the average maturity and ensuring a uniform repayment schedule of state debt;
- attracting long-term concessional financing;



- development of strong relationships with investors and further improvement of state debt management policy.

*Transparency of general government finances and comprehensive scope of budgetary frameworks*

**10. Does the statistical office and /or the Ministry of Finance have/receive data for all sub-sectors of general government?**

The State Statistics Service compiles national accounts by institutional sectors of the economy in accordance with the methodology of Regulation (EU) No 549/2013 21 May 2013. The European System of Regional and National Accounts. – Eurostat. 2010.

Accounts of the general government sector are compiled for institutional subsectors: central government bodies, regional and local government bodies, social insurance funds.

The national calculation methodology is given in the Methodological Regulations on the Organization of the State Statistical Survey "Annual National Accounts", posted on the website of the State Statistics Service ([http://ukrstat.gov.ua/norm\\_doc/2020/204/204.pdf](http://ukrstat.gov.ua/norm_doc/2020/204/204.pdf)).

Statistical information on the accounts by institutional subsectors of the general government sector for 2020 is provided in the Statistical Collection "National Accounts of Ukraine" on the website of the State Statistics Service at the link ([http://ukrstat.gov.ua/druk/publicat/kat\\_u/2022/zb/02/NRU\\_2020.pdf](http://ukrstat.gov.ua/druk/publicat/kat_u/2022/zb/02/NRU_2020.pdf)).

Given the above, the Ministry of Finance receives all the necessary data from all subsectors of public administration to ensure an effective and efficient budget process.

The Ministry of Finance of Ukraine calculates budget parameters, assesses fiscal risks and general government deficit (the latter in cooperation with the IMF) on the basis of information and data received from various levels and structures of public administration, including central and local executive bodies, funds of compulsory state social insurance and Pension fund, financial institutions, economic entities of the public sector.

In accordance with the provisions of Articles 58-61 of the Budget Code, the Ministry of Finance receives monthly, quarterly and annual reports from the Treasury on the implementation of state, local and consolidated budgets. Its composition and procedure for submission are determined by the above-mentioned articles of the Code, and reporting forms and the procedure for filling them out are regulated by the Ministry of Finance.

Reporting on the implementation of the State Budget of Ukraine includes financial and budgetary reporting and is posted on the web portal of the State Treasury Service.

**11. Does Ukraine intend to align with the ESA 2010 methodology for the purpose of statistical reporting to the EU? Are accounting rules and procedures consistently applied across all subsectors of general government?**

Yes, Ukraine joined the ESA 2010 methodology in 2014. Currently, accounting rules and procedures in all subsectors of public administration are applied consistently.

Regarding accounting

In accordance with the Law of Ukraine № 996-XIV "On Accounting and Financial Reporting in Ukraine" dated 16.07.1999 bookkeeping is a mandatory type of accounting at the enterprise. Financial, tax, statistical and other types of reporting that use monetary measurement are based on accounting data.

Principles and methods of accounting and financial reporting for all public sector entities are defined by National Public Sector Accounting Regulations (Standards) (hereinafter – NPSAR(S)), developed on the basis of International Public Sector Accounting Standards (IPSAS).

According to the norms of NPSAR(S), public sector entities are key spending units, the State Treasury Service of Ukraine, the funds of compulsory state social insurance, and the Pension fund.

Information on the activities of public sector entities is summarized in bookkeeping on accounts and sub-accounts of the public sector plan of accounts, approved by the order of the Ministry of Finance of Ukraine dated 31.12.2013 № 1203. It provides codes (numbers) and names of synthetic accounts and sub-accounts according to the decimal system. The first digit of the balance account determines the class of accounts, the second is the number of the synthetic account, the third is the identifier of the public sector entity (1 - key spending units; 2 - state trust funds; 3 - state budget; 4 - local budgets, 5 - Treasury accounts), the fourth digit - the number of the sub-account (except for accounts of class 9 and class 0).

According to the NPSAR(S) 101 "Submission of Financial Statements", approved by the order of the Ministry of Finance of Ukraine dated 28.12.2009 № 1541, the accounting policy is determined on the basis of NPSAR(S) (set of principles, methods and procedures used by the public sector entity for accounting, preparation and submission of financial statements). The accounting policy of the public sector entity is defined in the administrative document, which should establish the methods of valuation, accounting, types of segments and their priority and procedures to be applied by the public sector entity and in respect of which accounting regulations provide more than one option.

The public sector entity should consistently apply accounting policy so that the financial statements meet all the requirements of the NPSAR(S).

If the NPSAR(S) provides for the use of several assessment methods, the public sector entity must select and consistently apply one of them.

The financial statements are prepared in compliance with, in particular, the principle of consistency, which provides for constant (from year to year) application of the chosen accounting policy by the public sector entity. A change in accounting policy is possible only in the cases provided for in the NPSAR(S), and must be justified and disclosed in the financial statements.

## **12. Which reforms may be needed in order to comply with the relevant Treaty provisions and a possible timetable for adoption?**

We understand that to comply with the provisions of the Treaty and the possible timetable for Ukraine's accession to the EU, all parties must have an understanding of the Roadmap for full implementation of EU rules and regulations.

Full integration of Ukraine into the European Union will require full implementation of the rules and provisions of relevant EU legislation.

In this context, it should be borne in mind that due to the fulfillment of obligations under the Association Agreement with the EU, Ukraine has already implemented a significant part of the AQ in the economic and financial spheres:

#### I. AS OF TODAY:

##### 1) In the area of customs policy:

- the Authorized Economic Operator (AEO) program and the system of relevant simplifications have been introduced;

- the provisions of the Convention on a common transit procedure have been introduced and the NCTS is used at the national level;

- the provisions of the EU Customs Code on the protection of intellectual property rights have been introduced;

- the form of the customs declaration used in Ukraine complies with the Convention on the simplification of formalities in trade in goods;

- the general declaration of arrival applies.

##### 2) In the area of tax policy:

- the provisions of Council Directive 92/83/EEC of 19 October 1992 on the harmonization of structures for excise taxes on alcohol and alcoholic beverages was implemented in the legislation of Ukraine. Ukraine also prepared comparative table on the implementation of Directive to national legislation, which was sent to the EU (conclusions on the comparative table with the EU are currently pending);

- provisions of separate articles (provided by the Association Agreement) of the Council Directive №2011/64/EU of 21.06.2011 on the structure and rates of excise taxes on tobacco products, were implemented in national legislation. Also, a schedule of increase in excise tax rates on tobacco products until 2025 has been approved to increase them to the minimum rates set in the EU (including those on cigarettes – 90 euros per 1,000 pieces).

#### II. GAINED EXPERIENCE

##### 1) On the customs legislation

On the way to accession to the EU and the EU single customs area, public authorities, businesses and financial institutions in Ukraine must be ready to use the rules and regulations of EU customs legislation.

Experience with the implementation of the AEO and NCTS programs has shown that the businesses involved in the international trade are not sufficiently ready to strengthen the security function of customs authorities, and financial institutions are not ready to reduce the cost of their services to ensure the payment of customs duties and insurance of other customs risks (given that the market for such guarantees should grow significantly).

The experience of implementing the AEO and NCTS programs, provisions for the protection of intellectual property rights has shown that the IT systems of Ukrainian customs need significant funding, upgrades, and support. In the context of the planned vector of accession to the EU, such IT systems must be compatible and meet the certain requirements of the IT systems of the EU customs authorities.

At the same time, this experience makes it easier to plan and implement the customs reforms needed for Ukraine's accession to the EU's single customs area.

2) On the tax legislation in terms of excise tax

- from March 1, 2019, the classification of wine products is brought to the requirements of the Council Directive № 92/83/EEC of 19 October 1992 on the harmonization of structures of excise duties on alcohol and alcoholic beverages;

- from January 1, 2022, the current rate of excise tax on beer for 1 liter of finished products changed to the rate depending on the actual strength of finished products – for 1 liter of 100% alcohol;

- From January 1, 2019, the System of electronic administration of the sale of fuel and ethyl alcohol was introduced, which reflects the actual movement of fuel in terms of storage locations and the movement of ethyl alcohol from producer to first consumer;

- a schedule for raising excise tax rates on tobacco products until 2025 has been introduced in order to increase them to the level of minimum rates set in the EU (including those for cigarettes – 90 euros per 1,000 pieces).

### III. FURTHER APPROXIMATION OF THE REGULATORY LEGAL FRAMEWORK OF UKRAINE TO THE AQ REQUIREMENTS:

1) in the customs sphere

- development of a detailed Roadmap for the implementation of rules and provisions of EU customs legislation,

- highlighting the steps of the Roadmap that need to be implemented before Ukraine's accession to the EU and those that can be implemented within a certain time after such accession.

2) in the tax sphere

2.1) ensuring compliance of tax rates with inflationary processes in the economy during 2022 – 2024. In particular, if necessary (annually) there will be a review of excise tax rates, environmental tax, and rent payments, defined in absolute terms, taking into account the consumer price index and industrial producers price index.

2.2) approximation of Ukrainian tax legislation to EU legislation in accordance with the commitments made under the Association Agreement between Ukraine and the EU:

- improvement of the tools of excise tax administration;

- gradual approximation of excise tax rates on tobacco products to the level envisaged in the EU directive by increasing the specific rates of excise tax and the minimum excise tax liability on tobacco products;

- introduction of E-excise tax for alcoholic beverages and tobacco products;

- approximation of the provisions of Ukraine's legislation on Value Added Tax to the provisions of the European legislation.

2.3) implementation of measures to reduce tax impediments to foreign investment and prevent tax evasion on income and capital by:

- introduction of BEPS standards, joining the procedure of the automatic exchange of tax information according to the international standards;

- conclusion of Double Taxation Agreements.

**13. As regards Articles 212 the TFEU, what does the legislation state in the field of international treaties regulating the receipt of foreign assistance? Under which conditions is financial assistance from abroad allowed?**

I. The Government of Ukraine is actively cooperating with international partners on a bilateral and multilateral basis to stabilize the Ukrainian financial system, promote structural reforms, finance social and infrastructural projects, thus creating a basis for sustainable economic growth.

Within the framework of such cooperation, the Government works on attracting the financial and technical support, exchange of best international experience and bringing Ukrainian standards in line with best world practices.

Within the legal framework of cooperation with the international donor community and international financial institutions, the following legal acts binding in the field of international treaties regulating the receipt of a financial assistance from abroad are applied:

1. Law of Ukraine of 29.06.2014 №1906-IV “On International Agreements of Ukraine”;
2. Law of Ukraine of 03.06.1992 № 2402-XII “On Ukraine's Accession to the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association and the Multilateral Investment Guarantee Agency”;
3. Law of Ukraine of 07.02.2006 № 3392-IV “On Ratification of the Framework Agreement between Ukraine and the European Investment Bank”;
4. Decree of the President of Ukraine of 14.07.1992 № 379/92 “On Ukraine's membership in the European Bank for Reconstruction and Development”;
5. Law of Ukraine of 16.09.2014 № 1678-VII “On Ratification of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand”;
6. Law of Ukraine of 03.09.2008 № 360-VI “On Ratification of the Framework Agreement between the Government of Ukraine and the Commission of the European Commonwealth”;
7. Law of Ukraine of 24.01.1997 № 32/97-VR “On Ratification of the Framework Agreement between the Government of Ukraine and the Government of the Federal Republic of Germany on Consulting and Technical Cooperation”;
8. Law of Ukraine of 07.03.1999 № 498-XIV “On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of the Netherlands concerning Technical and Financial Cooperation”;
9. Law of Ukraine of 01.07.2004 № 1969-IV “On Ratification of the Agreement between the Government of Ukraine and the Government of Japan on Technical Cooperation and Grant Assistance”;
10. Law of Ukraine of 26.06.2006 № 36-V “On Ratification of the Agreement between the Government of Ukraine and the Government of the Republic of Korea on Grant

Assistance and Technical Cooperation”;

11. Law of Ukraine of 14.01.2020 № 451-IX “On Ratification of the Agreement on Cooperation in the Development Sphere between the Government of Ukraine and the Government of the Republic of Turkey”;

12. Law of Ukraine of 14.05.1999 № 665-XIV “On Ratification of the Agreement between the Government of Ukraine and the Government of the Swiss Confederation on Technical and Financial Cooperation”;

13. Law of Ukraine of 18.04.2007 № 948-V “On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Denmark on Technical and Financial Cooperation”;

14. Law of Ukraine of 04.06.2008 № 320-VI “On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Sweden on General Terms and Conditions for Technical and Financial Cooperation”;

15. Law of Ukraine of 22.03.2017 № 1969-VIII “On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Norway on Technical and Financial Cooperation”;

16. Law of Ukraine of 25.11.2003 № 1335-IV “On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Italian Republic on Technical Cooperation”;

17. Law of Ukraine of 21.09.2010 №2533-IV “On Ratification of the Framework Agreement between the Government of Ukraine and the Nordic Environment Finance Corporation”;

18. Law of Ukraine of 16.06.2020 № 707-IX “On the ratification of the Framework Agreement between the Government of Ukraine and the Government of the Kingdom of Denmark regarding the general conditions and procedures, organizational arrangements and financial terms of the implementation of the Danida Business Finance Programme in Ukraine”;

19. Law of Ukraine of 01.07.2014 1555-VII “On state aid to undertakings”;

20. Resolution of the Cabinet of Ministers of Ukraine of 27.01.2016 № 70 “On the procedure for preparation, implementation, monitoring and completion of projects of economic and social development of Ukraine supported by international financial institutions”;

21. Resolution of the Cabinet of Ministers of Ukraine of 15.02.2002 № 153 “On establishment of the Unified System of attracting, use and monitoring of international technical assistance”;

22. Resolution of the Cabinet of Ministers of Ukraine of 09.12.2021 №1291 “On approval of the Medium-Term Strategy of Public Debt Management for 2021-2024”;

23. Resolution of the Cabinet of Ministers of Ukraine of 13.04.2011 № 460 “On approval of the Procedure for determining the need, size and type of property security for loans attracted by the state or under state guarantees”;

24. Resolution of the Cabinet of Ministers of Ukraine of 02.03.2011 № 174 “Debt accounting issues, including overdue, to the state on loans attracted by the state or under state guarantees”;

25. Resolution of the Cabinet of Ministers of Ukraine of 16.02.2011 № 110 “On approval of the Procedure for local borrowing”;

26. Resolution of the Cabinet of Ministers of Ukraine of 14.05.2012 № 541 “On approval of the Procedure for providing local guarantees”;

27. Order of the Ministry of Finance of 24.06.2020 № 322 “On approval of the Procedure for examination of project proposals for initiating investment projects of economic and social development of Ukraine, supported by international financial institutions”;

28. Order of the Ministry of Finance of 14.07.2016 № 616 “On Approval of the Financial Condition of a Potential Beneficiary of an investment project Evaluation Procedure, the realization of which is envisaged on the terms of financial self-sufficiency, as well as determining the type of security for servicing and repayment of a loan provided at the expense of international financial institutions, whose servicing will be carried out at the expense of the beneficiary”.

Provision on exemption of international assistance provided to Ukraine from taxes, customs duties or other charges of similar nature is an important part of international agreements between Ukraine or the Government of Ukraine and international partners regarding the implementation of financial and/or technical cooperation.

Implementation of the above-mentioned provisions requires ratification of the international agreements as explained by the provisions of Article 3 of the Tax Code of Ukraine which establishes that if an international agreement, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, establishes rules other than those provided for by the Tax Code, the rules of the international agreement shall apply.

II. Procedure for preparation, implementation, monitoring, and completion of economic and social development projects of Ukraine supported by international financial institutions, is approved by the Resolution of the Cabinet of Ministers of Ukraine dated 27.01.2016 № 70. It regulates the procedure of attracting financial resources of international financial institutions such as the International Bank for Reconstruction and Development, The European Bank for Reconstruction and Development, the European Investment Bank, the European Atomic Energy Community, the Nordic Environmental Finance Corporation and the Credit Institute for Reconstruction of the Government of Germany.

The above-mentioned procedure establishes conditions and procedures of attracting financing in a form of state loan or under state guarantees to implement the following projects:

- Systematic project is a project aims to support reforms in Ukraine, in which a loan is received in a single tranche or as a result of achieving the relevant indicators defined by the agreement of Ukraine and IFIs,

- Investment project is a project, the implementation of which is envisaged on a financial self-sufficient basis and in which the repayment and servicing of the loan is carried out at the expense of the beneficiary or the implementing agency; or institutional capacity development project of a state body and/or within using mechanism of loan obtaining funds based on the result of achieving the relevant indicators defined by the agreement of Ukraine and IFIs, which are aimed to finance state budget, development of state and/or local infrastructure project, development of public services and institutional capacity of regional state administrations project, council administrations of Kyiv and Sevastopol cities, district state administrations and local governments projects when loan servicing and repayment of the loan are made at the expense of the state or local budget or at the expense of the beneficiary.

Furthermore, international technical assistance such as grants, funds for enterprises, institutions, organizations, and state and local budgets may be involved in the investment project preparation and implementation process.

III. Resolution of the Cabinet of Ministers of 15.02.2002 №153 “On establishment of the Unified System of attracting, use and monitoring of international technical assistance” defines the procedure for attracting, use and monitoring of international technical assistance, including state registration, monitoring of projects (programs), accreditation of performers (non-resident legal entities) and registration of a donor institution representative in Ukraine.

The procedure approved by the above-mentioned Resolution defines international technical assistance as financial and other resources and services, which according to international agreements of Ukraine are provided by development partners on a gratuitous and non-refundable basis with an aim of supporting Ukraine.

## **II. MONETARY POLICY**

### **A. Acquis**

#### **Central bank functional, institutional, personal and financial independence**

**14. What is the degree of functional independence of the central bank? Does the central bank have at its disposal all instruments and competencies necessary to conduct an efficient monetary policy and is it authorised to decide autonomously how and when to use them?**

Operational (functional) independence means that a central bank can perform its tasks, operate and use its instruments without any external interference, in particular of politicians, government and other authorities. According to Article 53 of the Law of Ukraine On the National Bank of Ukraine, any interference of the public authorities, other public institutions or their officials, any legal entities or individuals in the exercise of functions and powers of the NBU, NBU Council, NBU Board, or NBU employees shall be prohibited. All matters related to the NBU functions may only be defined and altered by this Law. Any provision of this Law may only be changed by amending the Law directly.

Under Article 100 of the Constitution of Ukraine and Article 9 of the Law of Ukraine On the National Bank of Ukraine, the NBU Council develops the Monetary Policy Guidelines and control their implementation. According to Article 14 of the Law of Ukraine On the National Bank of Ukraine, the NBU Board ensures the implementation of the monetary policy in accordance with the Monetary Policy Guidelines by means of appropriate instruments. The NBU Council may not interfere in the operating activities of the NBU Board when exercising its functions and powers, as defined by Law, as well as in the activities of the NBU Governor and Deputy Governors when fulfilling their duties and powers.

According to Article 15 of the Law of Ukraine On the National Bank of Ukraine, the NBU Board has powers to use at its own discretion all the spectrum of monetary instruments available to the modern central bank.

The NBU is a financially independent institution. Its financing is regulated by an Administrative Spending Budget, approved by the NBU Council. In 2021, the NBU's administrative expenditure equaled UAH 3.2 billion (79 % of which, or UAH 2.5 billion, is personnel upkeep expenditure, with



around 3,500 employed at the end of 2021). In the same year, the NBU's investment totaled UAH 600 million, most of which went on its facilities construction, development of a national payment system, together with the NBU's own information systems, and money printing equipment.

**15. What is the degree of institutional independence of the central bank from public authorities (President, Government, especially Ministry of Finance, Parliament etc.)? What is the specific role of those actors vis-à-vis the central bank? Describe the situation both in legal terms (information based on the central bank law) and in practice.**

According to Article 53 of the NBU Law, any interference of the public authorities, other public institutions or their officials, any legal entities or individuals in the exercise of functions and powers of the NBU, NBU Council, NBU Board, or NBU employees shall be prohibited, except for within the limits stipulated by the Constitution of Ukraine and the NBU Law.

The NBU shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional authority. The accountability shall mean the following:

- the NBU Governor is nominated by the President of Ukraine and appointed and dismissed by Verkhovna Rada of Ukraine
- a half of the NBU Council members is appointed and dismissed by the President of Ukraine
- a half of the NBU Council members is appointed and dismissed by the Verkhovna Rada of Ukraine
- every year before 1 May, the NBU Governor presents to the Verkhovna Rada of Ukraine a report about the NBU's activities
- an annual report on the monetary policy implementation for the previous year is submitted to the President of Ukraine and the Verkhovna Rada of Ukraine.

The NBU shall on a quarterly basis provide to the President of Ukraine and the relevant Committee of the Verkhovna Rada of Ukraine, the competence of which includes the issues related to banking, information on noncash money creation in the relevant period, namely:

- for the bank refinancing purposes
- for the interventions in the inter-bank foreign exchange market
- for the stock market operations.

The NBU shall have the right to submit to the President of Ukraine, legislative proposals regarding the exercise of its functions of the NBU. By 1 March of each year, the NBU shall provide to the President of Ukraine and the Verkhovna Rada of Ukraine indicative forecast of the NBU profits due to be transferred to the state budget as necessary to prepare Budget Declaration (Article 52 part 3 of the Law) o).

According to Article 6 of the Law of Ukraine On the National Bank of Ukraine, the NBU shall support the economic policy of the Cabinet of Ministers of Ukraine provided that it does not prevent the NBU from achieving its objectives of ensuring the price and financial stability. According to Article 52 of the Law of Ukraine On the National Bank of Ukraine, the NBU and the Cabinet of Ministers of Ukraine may hold consultations on monetary policy and state economic policy, in

particular on the forecast of key macroeconomic indicators, including monetary indicators and exchange rate policy indicators.

Upon the request of the NBU, the Cabinet of Ministers of Ukraine, ministries and other central government authorities shall furnish it with the information affecting the balance of payments, monetary processes, and money market, including the monthly information about the indicators of revenues, expenses and deficit of the State and Consolidated Budgets, status of the state debt and schedule of payments thereunder.

The NBU Governor or, by their order, one of the Deputy Governors may take part in sessions of the Cabinet of Ministers of Ukraine with the right of advisory vote. The NBU may submit to the Cabinet of Ministers of Ukraine in accordance with the procedure established by law proposals on legislative settlement of the issues aimed at the exercise of functions of the NBU.

According to Article 54 of the Law of Ukraine On the National Bank of Ukraine (the provisions of this article are suspended the duration of martial law introduced by Presidential Decree No. 64/2022 On Introducing Martial Law in Ukraine dated 24 February 2022 and Law of Ukraine No. 2102-IX On Approval of the Presidential Decree On Introducing Martial Law in Ukraine dated 24 February 2022), the NBU shall not have the right to grant loans in domestic or foreign currency, both directly and indirectly, through a state institution or other legal entity whose property is state-owned, with the purpose of financing the State Budget of Ukraine. The NBU shall not have the right to purchase in the primary market any securities issued by the Cabinet of Ministers of Ukraine, a state institution or other legal entity whose property is state-owned.

**16. Does the central bank have any ex ante reporting obligations towards other authorities regarding its monetary policies?**

No. The NBU has no ex ante reporting obligations towards other authorities regarding its monetary policies.

**17. How is the management of the central bank organised (composition and responsibilities of the governing bodies, in particular the managing board)?**

The governing bodies of the National Bank are the Council of the National Bank of Ukraine (supervisory functions) and the Board of the National Bank of Ukraine (executive functions). Composition, powers, responsibilities and other issues related to the NBU Council are regulated primarily by Articles 8–13-1 of the Law of Ukraine On the National Bank of Ukraine.

**NBU Council**

Under the Constitution of Ukraine, the main tasks of the NBU Council include developing Monetary Policy Guidelines and overseeing the conduct of monetary policy. The NBU Council also oversees the NBU's internal audit system. The main responsibilities of the NBU Council also include approval of the NBU's Administrative Expense Budget for next year, contemplating the external auditor's report on the NBU's annual statements, approval by 30 April of the year following the reporting one of the NBU's financial statements, the annual management report, and the report on Administrative Expense Budget of the NBU and allocation of distributable profit for the reporting year.

The NBU Council consists of 9 members. The Verkhovna Rada of Ukraine and the President of Ukraine appoint 4 members each. The Chairperson of the NBU Council is elected by the NBU Council for a period of three years. The NBU Governor may not be elected the Chairperson of the NBU Council. The Chairperson of the NBU Council has a deputy elected by the NBU Council from among its members for a three-year period.

Most decisions of the NBU Council shall be taken on a collegial basis by a simple majority of votes of the NBU Council members attending the meeting as long as quorum of 6 members is present. Decisions on Monetary policy Guidelines, Rules of Procedure of the NBU Council, appointments and dismissals of the NBU deputy governors, determining that grounds exist for dismissal of NBU council member and informing appointing authority, (ie issues specified in paragraphs 1, 3-1, 7 and 18 of part 1 of Article 9 of the Law of Ukraine On the National Bank of Ukraine) shall be taken by a qualifying majority of at least 2/3 of the votes of the NBU Council members attending the meeting. Each member of the NBU Council has one vote.

The NBU Governor is an ex officio member of the NBU Council.

#### NBU Board

Composition, powers, responsibilities and other issues related to the NBU Board activities are regulated primarily by Articles 14–20 of the Law of Ukraine On the National Bank of Ukraine. Under the Monetary Policy Guidelines, the NBU Board ensures the implementation of monetary policy by means of appropriate monetary instruments, performs other functions in accordance with Articles 6 and 7 of the Law of Ukraine On the National Bank of Ukraine, and manages the activities of the NBU. The NBU Board is collectively responsible for the activities of the NBU within the purview of the members of the Board. The NBU Governor reports to the President of Ukraine and the Verkhovna Rada of Ukraine with regard to NBU activities (Article 51 of the Law of Ukraine On the National Bank of Ukraine).

The NBU Board is a collegial body consisting of seven members: the NBU Governor, the first deputy governor, and five deputy governors. The NBU Governor shall chair the NBU Board. The NBU Governor is appointed by the Verkhovna Rada of Ukraine at the recommendation of the President of Ukraine, and has a tenure of seven years. The NBU Governor has six deputy governors, including one first deputy governor. All NBU deputy governors are appointed and dismissed by the NBU Council at the recommendation of the NBU Governor.

NBU Board decisions are taken by a simple majority vote. Each member of the NBU Board has one vote. The NBU Governor has a casting vote in case of tied vote of the NBU Board.

#### **18. Which provisions from the law ensure democratic accountability and transparency of the central bank?**

Under Article 51 of the Law of Ukraine On the National Bank of Ukraine, the NBU shall be accountable to the President of Ukraine and the Verkhovna Rada of Ukraine within their constitutional authority. The accountability means the following:

- the NBU Governor is nominated by the President of Ukraine and appointed and dismissed by the Verkhovna Rada of Ukraine
- a half of the NBU Council members is appointed and dismissed by the President of Ukraine

- a half of the NBU Council members is appointed and dismissed by the Verkhovna Rada of Ukraine

- Every year before 1 May, the NBU Governor presents to the Verkhovna Rada of Ukraine a report about the NBU's activities.

- An annual report on the monetary policy implementation for the previous year is submitted to the President of Ukraine and the Verkhovna Rada of Ukraine.

The NBU's accountability and transparency is ensured through the annual approval of the NBU's Administrative Expense Budget for next year by the NBU Council, auditing of the NBU's annual statements by an external auditor, consideration by the NBU Council of the external auditor's report on the NBU's annual statements, and approval by 30 April of the year following the reporting one of the NBU's financial statements, the annual management report, and the report on Administrative Expense Budget of the NBU and allocation of distributable profit for the reporting year.

The NBU on a quarterly basis provides information to the President of Ukraine and the Committee of the Verkhovna Rada of Ukraine with jurisdiction over banking issues, on noncash money issue in the relevant period, namely:

- for the bank refinancing purposes
- for the interventions in the inter-bank foreign exchange market
- for the stock market operations.

- The NBU has the right to submit to the President of Ukraine, in accordance with the procedure established by law, proposals with regard to legislative regulation of the issues aimed at the exercise of its functions of the NBU.

Also on the annual basis, by 1 March of the current year, the NBU shall submit to the President of Ukraine and the Verkhovna Rada of Ukraine the information specified in Article 52 part 3 of the Law (indicative forecast of the NBU profit distributable to the state budget) of Ukraine On the National Bank of Ukraine.

The NBU's communications are developed in line with the inflation targeting regime. They are aimed at increasing understanding and confidence in the monetary policy, anchoring inflation expectations and creating a predictable economic environment for all participants in economic relations.

Monetary communications are based on the principles of effective transparency, proactivity, regularity, equal access, targeting, accessibility of perception (layering), and responsibility. The NBU timely, transparently and in accessible manner discloses information on the mission, objectives, principles of monetary policy, the nature and logic of the monetary measures implemented, realized and expected results and potential intentions of the NBU in the monetary policy area.

For instance, the NBU publishes press releases and comments on monetary policy decisions, the Inflation report, the Summary of Key Policy Rate Discussion by the Monetary Policy Committee, conducts press briefing of the Governor, Deputy Governors, etc. After each interest rate decision, the NBU provides the public with a forward-looking guidance on its further monetary policy. The NBU also quarterly publishes a key interest rate forecast as part of its macroeconomic forecast.

**19. On personal independence, what are the appointment and removal conditions and procedures for the central bank governor and the other members of the decision-making bodies of the central bank?**

Procedures and conditions for appointment and dismissal of members of the NBU Council are defined in Article 10 of the Law of Ukraine On the National Bank of Ukraine.

**Appointment**

The NBU Council consists of the NBU Board members that are appointed by the Verkhovna Rada of Ukraine and the President of Ukraine. The Verkhovna Rada of Ukraine appoints four NBU Council members through the approval of respective resolution. The President of Ukraine appoints four NBU Council members by presidential decree. The NBU Governor is an ex officio member of the NBU Council.

Procedures and conditions for appointment and dismissal of members of the NBU Board are defined in Articles 10, 18, and 20 of the Law of Ukraine On the National Bank of Ukraine. Candidates for the positions of the Governor and Deputy Governors are subject to a number of qualifications, including professional level, integrity, absence of conflict of interest, and opportunities for political influence. The NBU Governor is appointed by the Verkhovna Rada of Ukraine at the recommendation of the President of Ukraine for a seven-year term. The same person may not be the NBU Governor for more than two consecutive terms. The NBU Governor has six deputy governors, including one first deputy governor. All NBU deputy governors are appointed and dismissed by the NBU Council at the recommendation of the NBU Governor for seven-year terms in office.

The term of office of the NBU Governor and Deputy Governors (7 years) is longer than the election cycle for the President of Ukraine and the Verkhovna Rada of Ukraine, which is 5 years. This is one of the mechanisms for ensuring the NBU's political independence.

NBU governor must be a citizen of Ukraine permanently residing in Ukraine, have full higher education in economics or finance, or academic degree in these fields as well as experience of work of not less than 10 years in the legislative bodies or on managerial positions in other state authorities and the state agencies ensuring the implementation of the state financial, economic or legal policies, or on managerial positions in international financial organizations, or on managerial positions in a bank, or scientific research experience in the field of finance, economics or laws, who is able to hold this position due to his / her business, moral qualities and state of health. A person included in the Unified State Register of Persons Who Have Committed Corruption or Corruption-Related Offenses is disqualified from the office of the NBU governor.

A person cannot be appointed as the NBU Governor, if they are an elected official or representative, or a (former) head of a public authority, other government body, or a member of the NBU Council (other than NBU Governor), if they left office less than a year ago; or they are a public servant, or a leader of a political party or a member of the governing body of a political party, or are an employee of a legal entity, including its head or a member of the governing body of the legal entity (except for the NBU and other legal entities where the participation of NBU representative in governing bodies is required by the law or some shares (stakes) are owned by the NBU), or own directly or indirectly shares (stakes) of a legal entity subject to the NBU's regulation and supervision. During their tenure the NBU Governor shall suspend membership in any political party.

The following persons cannot be members of the NBU Council: elected officials and representatives, members of the Cabinet of Ministers of Ukraine, (former) heads or deputy heads of

public authorities and other government bodies, (if they left office less than a year ago); or public servants; or those authorized to perform the state's functions or local authorities' functions; heads (deputy heads) or employees of state-owned enterprises, institutions or organizations, except for higher education establishments (scientific institution); leaders of political parties or members of governing bodies of political parties; members of supervisory or management boards, employees or other persons performing work or services on paid or unpaid basis to the legal entities subject to the NBU's regulation and supervision as well as direct or indirect shareholders (owners of equity interest) in a legal entity subject to the NBU's regulation and supervision.

There are additional disqualifications from the membership in the NBU council: participation in management of failed financial institutions, bankruptcy proceedings or unpaid taxes and dues in collection by court decree, outstanding criminal record, disqualification from professional bodies (in legal professions, audit and accountancy) or withdrawal of professional qualifications due to misconduct

A person cannot be appointed the NBU Deputy Governor, if they have a representation mandate or are a (former) head of a public authority, other government body, Chairperson or a member of the NBU Council (other than NBU Governor), if they left office less than a year ago; or are a public servant, or a leader of a political party or a member of the governing body of a political party, or are an employee of a legal entity, including its head or a member of the governing body of the legal entity (except for the NBU and other legal entities where the participation of NBU representative in governing bodies is required by the law or some shares (stakes) are owned by the NBU), or own directly or indirectly shares (stakes) of a legal entity subject to the NBU's regulation and supervision. During their tenure the NBU Deputy Governor shall suspend membership in any political party.

#### Termination

The President of Ukraine may dismiss the members of the NBU Council appointed by them by a Decree indicating causes of the dismissal. The Verkhovna Rada of Ukraine may dismiss the members of the NBU Council appointed by the Verkhovna Rada of Ukraine by a Resolution on the recommendation of the relevant Committee of the Verkhovna Rada of Ukraine indicating causes of the dismissal. Dismissal of the Chairperson of the NBU Council or their deputy during their term of office shall be carried out:

- if their term of their office has expired
- at their own request, provided it is in written form
- if they consistently fail, during four months, to discharge their duties because of a health condition.

In the event that the Chairperson of the NBU Council or their deputy are dismissed, elections to this position shall be held in accordance with the Law of Ukraine On the National Bank of Ukraine.

An NBU Council Member shall be dismissed if:

- they request such dismissal, stating their reasons
- their Ukrainian citizenship has been terminated, or they are foreign citizens or acquired foreign citizenship and this fact has been confirmed, or if they have left Ukraine to take up permanent residence abroad
- they failed to attend two consecutive meetings of the NBU Council without a valid reason

- they failed to perform the duties of a member of the NBU Council (including due to poor health) for more than four consecutive months
- they provided inaccurate information for appointment as the NBU Council member and this fact has been confirmed
- member became disqualified under requirements established by Article 10 part 4 or 5 of the NBU Law (as listed above).

The NBU Governor shall be dismissed by the Verkhovna Rada of Ukraine upon request of the President of Ukraine in the following cases:

- end of their term in office
- resignation letter stating the reasons for the decision was approved by the President of Ukraine
- their Ukrainian citizenship has been terminated, or they are foreign citizens or acquired foreign citizenship and this fact has been confirmed, or if they have left Ukraine to take up permanent residence abroad
- it has emerged that they committed a misrepresentation when being appointed NBU Governor
- failure to discharge duties, including due to poor health, for four consecutive months or longer
- they became disqualified from their office under requirements of article 18 part 4 or Article 10 part 5 of the NBU Law.

An NBU Deputy Governor shall be dismissed in the following cases:

- end of their term in office
- a resignation letter has been submitted stating the reasons for the decision
- it has emerged that they committed a misrepresentation when being appointed NBU Deputy Governor
- failure to discharge duties, including due to poor health, for four consecutive months or longer
- they became disqualified from their office under requirements of Article 20 part 5 and Article 10 part 5 of the Law of Ukraine On the National Bank of Ukraine
- their Ukrainian citizenship has been terminated, the fact of them being a citizen of a foreign country, acquiring a citizenship of a foreign country has been established, or if they have left Ukraine to take up permanent residence abroad.

**20. As for financial independence, is the central bank in a position to avail itself of the appropriate means to ensure that its tasks can be properly fulfilled? Does a consultation on and/or right exist for a third party to amend, approve or control by any means the central bank's draft budget and annual accounts? If yes, where is it regulated?**

Yes. According to Article 4 of the Law of Ukraine On the National Bank of Ukraine, the NBU is an economically independent body that carries out expenditures at the expense of its own revenues, and in the cases specified by this Law – also at the expense of the funds of the State Budget of Ukraine. The NBU is a legal entity with separate property that is the public property devolved to full economic control of the NBU. The NBU is not be liable for and does not assume the commitments of

government bodies; the government bodies are not liable for the NBU's commitments, unless they voluntarily assume such a commitment. Also according to Articles 5 and 5-1 of the Law of Ukraine On the National Bank of Ukraine, the NBU:

- on an annual basis, compiles an administrative expenses budget that includes expenses and investments to ensure the activities of the National Bank, investments in the creation and development of material and technical base of the NBU, as well as NBU Council members' remuneration.

- creates general reserves to cover its losses, and revaluation reserves to cover unrealized losses.

- if funds in the general reserves are not sufficient, the excess of the NBU expenses over its income shall be compensated from the State Budget of Ukraine for the year following the reporting one.

Expenses related to monetary policy operations are not covered by the administrative cost estimate.

The legislation does not provide for consultations on and/or the existence of a third party's right to amend, approve, or control by any means the draft budget of administrative expenses and annual reports of the NBU.

However, the administrative expenses budget and annual reports is approved by the NBU council (composed of members appointed by the President and the Verkhovna Rada for seven-year terms that can be removed only for cause).

## **21. What are the provisions governing the distribution of the central bank's profits?**

This issue is governed by Article 5-1 of the Law of Ukraine On the National Bank of Ukraine. After validation by an external auditor and approval by the NBU Council of the NBU's annual financial statements, the NBU shall use distributable profit to maintain general reserves at the level of 10 percent of the NBU's average annual monetary liabilities according to the procedure established by the NBU.

The NBU Council may also decide to use the distributable profit to increase NBU capital. The rest of distributable profit shall be transferred to the State Budget of Ukraine. The NBU shall not transfer to the State Budget of Ukraine the distributable profits in excess of those determined due to the state budget in the audited financial statements approved by the NBU Council.

## **22. Does the ex post review of the central bank's accounts reflect adequate safeguards to prevent it from infringing on the bank's independence?**

In order to ensure financial independence according to Articles 5 and 5-1 of the Law of Ukraine On the National Bank of Ukraine, the NBU:

- on an annual basis, compiles an administrative expenses estimate that includes expenses and investments to ensure the activities of the National Bank, investments in the creation and development of material and technical base of the NBU, as well as NBU Council members' remuneration.

- creates general reserves to cover its losses, and revaluation reserves to cover unrealized losses. The general reserves must equal 10 % of the average annual volume of the NBU's monetary liabilities.



- if funds in the general reserves are not sufficient, the excess of the NBU expenses over its income shall be compensated from the State Budget of Ukraine for the year following the reporting one.

The legislation does not provide for consultations on and/or the existence of a third party's right to amend, approve, or control by any means the draft estimate of administrative expenses and annual reports of the NBU.

The NBU Council reviews the auditor's report drafted by one of the four leading international auditors and, before 30 April in the year after the reporting year, approves the NBU's annual financial statements, the annual management report, the report on administrative expense budget of the NBU, and allocation of distributable profit for the reporting year.

Procedures for forming reserves and distributing profits by the NBU Council are clear and do not provide for the possibility of changing parameters manually, which could lead to risks to the financial independence of the NBU. The NBU must not distribute to the state budget of Ukraine a part of distributable profit that exceeds the part declared in the audited financial statements approved by the NBU Council.

In line with Article 68 of the Law of Ukraine On the National Bank of Ukraine, the NBU publishes on its official website:

- by April 30 of the year following the reporting year - the annual financial statements of the NBU and the annual management report of the NBU, approved by the NBU Council

- by the 30th day of the second month following the reporting period - financial statements of the NBU for the first quarter, first half of the year, nine month.

At the same time, laws of Ukraine do not prescribe submission to government authorities, respective review, and any related measures regarding the NBU's financial statements.

Pursuant to Article 54 of the Law of Ukraine On the National Bank of Ukraine, the NBU must not grant loans in domestic or foreign currency, both directly and indirectly, through a state institution or other legal entity whose property is state-owned, with the purpose of financing the State Budget of Ukraine. The NBU shall not have the right to purchase in the primary market any securities issued by the Cabinet of Ministers of Ukraine, a state institution or other legal entity whose property is state-owned.

Article 54 of the Law of Ukraine On the National Bank of Ukraine is temporarily waived for the duration of martial law introduced by Presidential Decree No. 64/2022 On Introducing Martial Law in Ukraine dated 24 February 2022 and Law of Ukraine No. 2102-IX On Approval of the Presidential Decree On Introducing Martial Law in Ukraine dated 24 February 2022.

### **Prohibition of monetary financing of the public sector and privileged access of the public sector to financial institutions**

**23. What are the principles regulating the emergency liquidity assistance? To whom can the central bank provide the emergency liquidity assistance? Where is it regulated in the law?**

In accordance with Article 7 of the Law of Ukraine On the National Bank of Ukraine, the NBU acts as a creditor of last resort for banks and sets up a refinancing system.

The conditions for the NBU to provide emergency liquidity support to banks are determined by the Regulation On Emergency Liquidity Assistance (ELA) by the NBU to Support Bank Liquidity, approved by NBU Board Resolution No. 411 dated 14 December 2016 (hereinafter Regulation No. 411).

The NBU provides emergency liquidity assistance to solvent banks which it considers to have an influence on the financial system stability, to have a temporary need for liquidity support in order to fulfill their obligations towards depositors and other creditors (except the bank's related parties), and to have depleted their other sources of liquidity, including the sources on the interbank lending market and the standard NBU refinancing facility.

The emergency liquidity assistance is a tool to provide a short-term coverage of a temporary liquidity shortage, which shall not be used to replace increase in the bank's capital or as a solution to its structural problems. The NBU assesses the bank's influence on the financial system stability, taking into account its quantitative and qualitative parameters as well as the condition of the banking and financial systems, the macroeconomic environment, and existence of systemic risks. A bank may receive the emergency liquidity assistance if the NBU considers the bank's ownership structure as transparent.

When taking a decision on ELA to a bank, the NBU assesses the bank's actual and forecasted solvency, compliance/noncompliance with the capital increase plan (if it is in place), and takes into account the results of the analysis of the bank's business model (if any), carried out in line with the NBU administrative acts on the assessment of banks during the off-site banking supervision.

The NBU shall provide the emergency liquidity assistance to a bank as loan to the bank subject to the conditions set forth in the Regulation No 411. Banks receive loans under the emergency liquidity assistance for liquidity support and to help them fulfill their obligations towards depositors and other creditors (except their related parties).

The emergency liquidity assistance loans shall be issued to banks for the term of up to 90 days. The NBU may decide to extend the term of the loan provided under the emergency liquidity assistance for a period of up to 90 days. The total term of a loan issued to a bank under the emergency liquidity assistance shall not exceed one year taking into account any extensions of the loan term. The emergency liquidity assistance loans shall be issued to banks in one or several tranches.

The NBU has the right to accept as collateral against commitments under loan agreements property and guarantees for which the list and accounting procedure are specified in Annex 1 "List of property/guarantees that is (are) eligible to ensure the fulfillment of loan commitments for emergency liquidity support and the procedure for its accounting" to Regulation No. 411.

#### **24. Can the central bank provide solvency assistance to financial institutions?**

In accordance with Article 7 of the Law of Ukraine On the National Bank of Ukraine, the NBU acts as a creditor of last resort for banks and sets up a refinancing system. The NBU may grant credits for refinancing of a bank, unless this is associated with risks to the banking system (Article 25 of the Law of Ukraine On the National Bank of Ukraine).

Thus, the NBU law provides wide discretion to the NBU on supporting banks as long as this does not impose severe losses on the NBU or present system wide risks. However, NBU regulations in force do not provide for refinancing of the insolvent banks that do not have a capital increase plan in place.

The NBU has recently implemented mechanisms to provide refinancing loans to banks in accordance with the Regulation *On the Application by the National Bank of Ukraine of Standard Instruments for Regulating the Liquidity of the Banking System*, approved by NBU Board Resolution No. 615 dated 17 September 2015, and in accordance with the Regulation *On Emergency Liquidity Assistance (ELA) by the NBU to Support Bank Liquidity*, approved by NBU Board Resolution No. 411 dated 14 December 2016. In addition, in accordance with Article 42 of the Law of Ukraine *On the National Bank of Ukraine*, the NBU provides loans to the Deposit Guarantee Fund on the terms specified by NBU regulations to ensure the performance of its functions.

According to the procedure, before a bank is designated as insolvent, it is provided with relief through refinancing mechanisms already in place, keeping in mind the bank's needs and problems. After this bank has been designated as insolvent, the NBU, in accordance with Article 76 of the Law of Ukraine *On Banks and Banking*, stops supervision over it and this bank is transferred under the management of the Deposit Insurance Fund, which starts looking for an investor to recapitalize the bank in question. After its appearing back on the market, the NBU resumes supervision over the bank. In this scheme the NBU provides with refinancing only banks and the Deposit Insurance Fund to pay back to its depositors. Other financial institutions do not have access to the NBU's refinancing.

## **25. Are there laws and regulations in force governing the access of government to financial institutions (asset allocation of banks, insurance companies, social funds, etc.)?**

According to the current Ukrainian legislation, the Government of Ukraine does not have any preferences in access to financial institutions. There are no regulations that would provide such preferences. The Government of Ukraine in the process of obtaining the services of financial institutions is guided by general legislation.

Article 19 of the Constitution of Ukraine stipulates that state authorities and local governments and their officials are obliged to act only on the basis, within the powers and in the manner provided by the Constitution and laws of Ukraine.

Article 5 of the Law of Ukraine "On Banks and Banking" guarantees the economic independence of banks.

Thus, banks have the right to independently own, use and dispose of property owned by them.

The state is not liable for the obligations of banks, and banks are not liable for the obligations of the state, unless otherwise provided by law or contract.

The National Bank of Ukraine is not liable for the obligations of banks, and banks are not liable for the obligations of the National Bank of Ukraine, unless otherwise provided by law or contract.

State authorities and local governments are prohibited from influencing the management or employees of banks in any way in the performance of their official duties or from interfering in the activities of the bank, except in cases provided by law.

Damage caused to the bank as a result of such interference is subject to compensation in the manner prescribed by law.

According to Article 4 of the Law of Ukraine “On the National Bank of Ukraine”, the National Bank of Ukraine is not liable for the obligations of financial institutions, and financial institutions are not liable for the obligations of the National Bank of Ukraine, except when they voluntarily make such commitments.

Banks, insurance companies, pension funds and other financial institutions are not required by law or the NBU regulations to keep certain part of their assets in government bonds or other public sector securities. Low liquidity of capital markets, competitive yields offered by the Ministry of Finance, recapitalization of state-owned banks using government bonds means that in practice substantial part of financial sector assets are invested in government bonds.

Also, according to Article 54 of the Law of Ukraine “On the National Bank of Ukraine” there is a ban on lending to the state. Thus, the National Bank of Ukraine has no right to provide loans in national and foreign currency, both directly and indirectly through a state institution, another legal entity whose property is in state ownership, to finance the State Budget of Ukraine. In addition, the National Bank of Ukraine has no right to buy on the primary market securities issued by the Cabinet of Ministers of Ukraine, a state institution, another legal entity whose property is in state ownership.

**26. Please indicate the respective provisions in these documents, as well as any other elements, which might constitute privileged access of the government to financial institutions. In particular, are there legal provisions requiring or encouraging (through tax or other advantages) banks, insurance companies, pension funds, social security funds, investor compensation fund or other financial institutions to invest (e.g. a certain portion of their assets) in domestic government securities or other government liabilities?**

According to the current Ukrainian legislation, the Government of Ukraine does not have privileged access to financial institutions.

Regarding the placement of government securities

The provisions of paragraph 14 of Article 2 of the Law of Ukraine “On Capital Markets and Organized Commodity Markets” dated February 23, 2006 № 3480-IV government securities include government bonds of Ukraine, treasury obligations of Ukraine, financial treasury bills, government derivatives.

In this case, the placement of securities involves the making a transaction by the issuer of securities, the result of which is the acquisition by the first owner of ownership of such securities.

In accordance with Articles 1, 2, 3 of the Civil Code of Ukraine transactions are made by the parties under civil law, i.e., under the law governing personal relations based on legal equality, free will, property independence of their participants. Pursuant to Article 202 of the Civil Code of Ukraine, a bilateral transaction is an agreed action of both parties.

Therefore, when making a transaction, including a transaction when placing government securities, the state of Ukraine as an issuer of government securities can not force the other party to make a transaction and purchase government securities.

## **Monetary and exchange rate policy**

### **27. What are the main tasks and objectives of the central bank? Who formulates the monetary policy?**

According to Article 99 of the Constitution of Ukraine, the NBU's primary goal is to ensure the stability of the Ukrainian currency. According to Article 6 of the Law of Ukraine On the National Bank of Ukraine, in pursuing its primary objective, the NBU shall prioritize achieving and maintaining price stability in the country. Article 1 of the Law of Ukraine On the National Bank of Ukraine defines price stability as the retention of the purchasing power of the national currency by maintaining, in the middle-term (from 3 to 5 years), a low and stable inflation rate, which is calculated on the basis of the consumer price index.

Also, the NBU, acting within the scope of its authority, promotes financial stability, including the stability of the banking system, without compromising its objective of price stability. The NBU facilitates sustainable economic growth and supports the economic policies pursued by the Cabinet of Ministers of Ukraine, provided they do not contradict the regulator's objectives of price and financial stability.

Monetary policy objectives are formulated by the NBU Council. Under Article 100 of the Constitution of Ukraine, the NBU Council shall develop the monetary policy guidelines and control their implementation. According to the Law of Ukraine On the National Bank of Ukraine, the NBU Council develops the Monetary Policy Guidelines on the basis of proposals submitted by the NBU Board, approves and officially publishes the document, and submits it for information to the Verkhovna Rada of Ukraine annually before 15 September.

### **28. Is the maintenance of price stability the primary objective of the central bank? Without prejudice to that objective, does the central bank support the general economic policy objectives of the government?**

Yes. Article 6 of the Law of Ukraine On the National Bank of Ukraine specifies that the main function of the NBU is to ensure stability of the Ukrainian currency. In performing its main function, the NBU must be guided by the priority of achieving and maintaining price stability in the country. The NBU, acting within the scope of its authority, promotes financial stability, including the stability of the banking system, without compromising its objective of price stability. The NBU facilitates sustainable economic growth and supports the economic policies pursued by the Cabinet of Ministers of Ukraine, provided they do not contradict the regulator's objectives of price and financial stability.

### **29. Is the central bank act in accordance with the principle of an open market economy with free competition, and acting in compliance with the principles set out in Article 119 of the Treaty?**

Yes.

In compliance with the guiding principles of Article 119(3), the NBU carefully considers effects of its policy making on free competition and market economy. Price stability is the primary goal of the NBU monetary policy. The NBU aims to remove capital controls as soon as feasible without

endangering financial stability to achieve free movement of capital. The NBU supports efforts to achieve sound public finances i.e. during consultations with government on economic policy.

In line with Articles 55 and 55-1 of the Law of Ukraine On the National Bank of Ukraine, the objective of bank regulation and supervision and the state regulation of nonbank financial services markets is safety and financial stability of the banking system, protection of interests of depositors, creditors, and other consumers of nonbank financial services, and prevention of crisis developments.

Pursuant to Article 61 of the Law of Ukraine On the National Bank of Ukraine, the NBU shall exercise the regulation of banks' activities in the forms specified in the Law of Ukraine On Banks and Banking both directly and through a banking supervision authority established by it. The exhaustive list of the forms of regulating banking activities is given in Article 66 of the Law of Ukraine On Banks and Banking.

In addition, when adopting bylaws, including the NBU's regulations related to performing the function of conducting state regulation and supervision on individual and consolidated basis in the nonbank financial services markets over activities of nonbank financial institutions and other entities other than financial institutions but entitled to provide certain financial services within the limits set by the Law of Ukraine On Financial Services and State Regulation of Financial Services Markets and other laws of Ukraine, the NBU complies with the principles and procedures set for adopting of such regulations in the Law of Ukraine On the Fundamentals of State Regulatory Policy in the Area of Economic Activity. Thus, in line with Article 4 of the Law of Ukraine On the Fundamentals of State Regulatory Policy in the Area of Economic Activity, the principles of the state regulatory policy are, in particular:

- proportionality – adequacy of the forms and level of state regulation of economic relations to the need to solve the existing problem and market requirements, taking into account all acceptable alternatives

- efficiency – ensuring the achievement of the maximum possible positive results due to the regulation with the minimum necessary expenditure of resources of economic entities, the public, and the state

- balance – ensuring the balance of interests of economic entities, the public, and the state in regulatory activities.

Ensuring the implementation of the state regulatory policy includes the following preparation stages:

- drafting the review of the regulatory impact, where the NBU shall prove that achieving the set goals with the proposed regulation is possible at the minimum cost for economic entities, the public, and the state

- monitoring the efficiency of the regulations (basic, follow-up, and regular monitoring of the efficiency)

- preventing the adoption of the regulations that are inconsistent or have discrepancies or duplicate existing regulations.

**30. Which is the official currency unit used for conducting monetary policy? Where is it referred to in the law?**

Under Article 99 of the Constitution of Ukraine, the currency of Ukraine is the hryvnia. Article 32 of the Law of Ukraine On the National Bank of Ukraine prohibits the issue and circulation of other monetary units and the use of money substitutes as payment instruments on the territory of Ukraine.

**31. How is monetary policy carried out (what are the specific reserve requirements, refinancing facilities, open market operations, major central bank interest rates, other monetary instruments)? What have been the main recent developments in the use of monetary instruments? To what extent have direct instruments of monetary control (such as credit ceilings, interest rate controls etc.) been replaced by indirect, market-based instruments (such as open market operations, financing facilities etc.)? Is the framework for monetary policy sufficient to allow policy makers to conduct successful stabilisation policies?**

In July 2018, NBU Council approved the NBU's Monetary Policy Strategy, which is currently effective. The specifics of pursuing monetary policy are set in Monetary Policy Guidelines drafted by the NBU Council in line with Article 100 of the Constitution of Ukraine and Articles 8, 9, and 24 of the Law of Ukraine On the National Bank of Ukraine. The above documents state that in order to achieve and maintain price stability, the NBU shall use the monetary regime of inflation targeting and a floating exchange rate regime. The monetary policy goal is a medium-term target for the level of inflation at  $5\% \pm 1$  pp. The inflation target may be revised only downwards, and only if the hryvnia exchange rate volatility and relative price volatility go down and the (inflationary) effects of Ukraine's economy convergence on the level of Ukraine's main trading partners weaken.

The key policy rate (discount rate) is the main monetary policy instrument of the NBU. Thus, in response to the increase in inflationary pressures, the NBU started raising its key policy rate since March 2021. In 2021, the NBU raised the key policy rate by 300 bp, to 9.0 % per annum. In January 2022, the cycle of tightening the monetary policy continued with the NBU Board decision to raise the key policy rate to 10 % per annum. The influence of the key policy rate on the financial market and the economy is ensured owing to the NBU's achieving the operational target of monetary policy, which is to maintain hryvnia interbank rates close to the key policy rate, within the interest rate corridor for standing facilities. Interest rates on standing facilities (with no limits on the transaction volumes) determine the corridor of the NBU's interest rates: the key policy rate plus 1 pp for overnight refinancing loans; and the key policy rate minus 1 pp for overnight certificates of deposit.

If necessary, the central bank may use other monetary policy instruments provided by Article 25 of the Law of Ukraine On the National Bank of Ukraine, in particular:

- FX interventions
- changes in reserve requirements for banks
- open market securities transactions (including repo)
- transactions with derivative financial instruments.

In the context of Russia's large-scale military aggression and the imposition of martial law in Ukraine, ensuring the reliable and stable operation of the banking and financial system, as well as maximizing Ukraine's defense needs, uninterrupted functioning of public finances and critical infrastructures are of paramount importance.

To fulfill the above tasks, the NBU has promptly activated the crisis plan drafted in advance. In accordance with the current laws of Ukraine (Articles 7 and 71 of the Law of Ukraine On the National Bank of Ukraine), the NBU has the right to determine the specifics of money market regulation, currency regulation and supervision, and, if necessary, introduce safeguard measures specified in Articles 12 and 16 of the Law of Ukraine On Currency and Currency Operations.

Thus, to prevent destabilization in the FX market, the NBU fixed the official hryvnia to U.S. dollar exchange rate as of 24 February 2022 and introduced a number of temporary administrative restrictions on FX transactions and cross-border capital flows. Also, the NBU has adapted the operational design of its monetary policy and taken the anti-crisis measures to mitigate risks to financial stability. Specifically, the following decisions have been taken:

- Long term refinancing Tenders started including, in unsecured lending, with maturity of up to one year and an option of prolongation for one more year. Refinancing volumes are limited to 30 % of household deposits held at the bank as of 23 February 2022 (in peacetime, bank refinancing operations are carried out against appropriate collateral).

- Tenders on placement of 14-day certificates of deposit have been suspended.

This allowed to offset the initial adverse effects of hostilities on banks' performance indicators, protect interests of bank customers, primarily depositors, and maintain uninterrupted payments in the country. Banking system has remained liquid.

The NBU has temporarily postponed the decision making on the key policy rate due to the lower effectiveness of market monetary instruments, including the key policy rate, in terms of their impact on the money and foreign exchange markets. The key policy rate will be kept unchanged at 10 % until monetary transmission channels are effective again.

In line with the amended legislation, the NBU for the period of martial law was allowed to purchase government debt securities to ensure proper response to Russia's large-scale military aggression. In particular, the NBU has purchased government bonds in the primary market for UAH 70 billion as of April 29. However, in accordance with the Monetary Policy Guidelines under Martial Law, approved by the NBU Council on 15 April 2022, the NBU will finance only critical government expenditures in limited amounts, only through purchasing government securities in the primary market in a transparent way. This approach will allow the regulator to minimize the risk of inflation expectations getting out of control, the risk of inflation becoming high, and the risk of macrofinancial stability being disrupted. In addition, this approach will facilitate a quick return of the economy and financial markets to their market mode of operation after Ukraine wins the war. At the same time, this approach will not put at risk Ukraine's European integration, nor will it interfere with the efforts by international financial donors to help Ukraine.

That said, the NBU remains committed to pursuing its inflation-targeting regime with a floating exchange rate and a renewed ban for the NBU to finance the state budget in peacetime. As the Ukrainian economy and financial system go back to normal, the NBU will resume, as soon as possible, the principles and instruments of the monetary policy set by the Monetary Policy Strategy.

Specifically, the NBU will use the key policy rate as the main tool of monetary policy to control inflation expectations and pursue the inflation target as soon as monetary transmission channels go back into operation and it becomes possible to forecast, with reasonable probability, the effects of monetary decisions over the policy horizon. The business-as-usual functioning of the FX market will



be restored as soon as possible, and the FX restrictions will be canceled to pre-war levels. However, this process might be gradual.

The NBU will seek to completely abandon the financing of the state budget deficit, considering the need to ensure an optimal balance between keeping inflation developments and expectations under control, on the one hand, and supporting the combat capability of the Armed Forces of Ukraine, uninterrupted operation of the public finance system and critical infrastructure facilities.

**32. Which factors hinder the conduct of monetary policy (e.g. elasticity of loans and domestic expenditure to interest rates, competition in the banking sector, changes in the structure of financial markets)?**

Currently, the use of market monetary instruments is hampered by high uncertainty and administrative restrictions in response to the economic shock caused by Russia's large-scale military aggression.

Overall, the banking sector of Ukraine is moderately concentrated, the share of the five largest banks in terms of net assets was 53.9 % at the end of February 2022. The surge in the net assets of a number of medium-sized private and foreign banks reduces the sector's concentration rate.

The prevalence of state-owned banks in the structure of the banking sector has some impact on the price competition. Deposit rates offered by state-owned banks, which were seen as more stable after the crises as they were supported by the government, serve as a guide to the minimum level of deposit rates in the market, in particular for household deposits. The rest of the banks have to compete with them offering higher yields. Therefore, in the rate hike cycles, primarily for deposits, the state-owned banks have a higher pricing power.

**33. Describe the major characteristics and objectives of the exchange rate regime and policy: anchor, choice of the central rates, width of the fluctuation bands, etc.**

The NBU has adhered to the floating exchange rate regime since 2014. However, the NBU may conduct FX interventions. The purpose, principles, forms, and specifics of FX interventions are specified in the NBU's Foreign Exchange Intervention Strategy approved by NBU Board Decision No. 769 dated 29 December 2020. Foreign exchange interventions are not aimed at achieving a certain level or range of the exchange rate, and only affect the rate of its change. Accordingly, when conducting foreign exchange interventions, the NBU, as a rule, does not act against the fundamental trends on the FX market, and does not strengthen them, but rather smooths their effects. This enables the NBU to prevent the accumulation of external and financial imbalances when performing foreign exchange interventions.

The tasks pursued by the NBU when intervening in the interbank FX market are smoothing out excessive volatility in the FX market, accumulating international reserves and maintaining them at a level that meets generally accepted adequacy criteria, and facilitating the key policy rate transmission as the main monetary policy instrument.

However, while under martial law, the NBU has temporarily introduced a number of administrative restrictions in the FX market. In particular, the NBU fixed the official hryvnia exchange rate against U.S. dollar as of 24 February 2022 and limited the purchases and sales of cash

and cashless foreign currency by authorized institutions from customers at the exchange rate that may deviate not more than 1 % from the NBU's official exchange rate.

The NBU remains committed to its floating exchange rate regime and will gradually remove administrative restrictions on FX transactions, following the improvement of the Balance of Payments of Ukraine. Consequently, with restrictions being lifted and the FX market reviving, the NBU will turn back to FX interventions, taking into account the tasks and principles stated in the NBU's Foreign Exchange Intervention Strategy.

**34. How is the exchange rate policy implemented? What are its instruments (interventions, monetary policy, fiscal policy, capital control)? What is the intervention policy - if any - (currencies used, financing, and sterilisation)?**

The purpose, principles, forms, and specifics of FX interventions are specified in the NBU's Foreign Exchange Intervention Strategy approved by NBU Board Decision No. 769 dated 29 December 2020.

In accordance with the NBU's Monetary Policy Strategy, approved by NBU Council Decision No. 37 dated 13 July 2018, and the NBU's Foreign Exchange Intervention Strategy approved by NBU Board Decision No. 769 dated 29 December 2020, the Monetary Policy Guidelines for 2022 and the medium term approved by NBU Council Decision No. 31 dated 16 August 2018, the NBU adheres to the floating exchange rate and the monetary and FX policies are not aimed at achieving a certain figure or range of the exchange rate. The Foreign Exchange Intervention Strategy sets a goal of foreign exchange interventions, which is to influence the exchange rate of the national currency against foreign currencies and the demand and supply of currency in general in Ukraine. This goal is subordinate to the goals of the NBU, the priority of which is to achieve and maintain price stability.

Foreign exchange interventions play a supporting role in relation to the key policy rate, which is the main tool for conducting monetary policy. At that, the tasks for the NBU when conducting foreign exchange interventions are as follows:

- smooth out fluctuations on the FX market
- accumulate international reserves and maintain them at the level generally perceived as sufficient
- support the transmission of the key policy rate as the main monetary policy instrument.

The types of foreign exchange interventions are as follows:

- FX auctions
- flat-rate interventions
- best-rate interventions
- targeted interventions.

Foreign exchange interventions can be carried out on tod, tom and spot terms, as well as through transactions with derivative financial instruments. Derivative financial instruments are used as foreign exchange intervention tools only if their use does not lead to imbalances on the derivatives market.

The operational aspects of, and procedures for, conducting foreign exchange interventions are set forth in the NBU's regulations and orders. Furthermore, in accordance with the current laws of Ukraine (in particular Articles 7 and 71 of the Law of Ukraine On the National Bank of Ukraine), the NBU has the right to determine the specifics of money market regulation, currency regulation and supervision, and, if necessary, introduce safeguard measures specified in Articles 12 and 16 of the Law of Ukraine On Currency and Currency Operations (including administrative restrictions on foreign exchange transactions and cross-border capital flows).

**35. Are any reforms of the exchange rate policy envisaged? If yes, why? What part does the prospect of EU accession play in this respect?**

No. The NBU remains committed to its floating exchange rate regime. Following the improvement of the Balance of Payments of Ukraine, the NBU will gradually remove administrative restrictions on FX transactions, if it does not put under threat the stable operation of the banking and/or financial system of the country. With restrictions being lifted and the FX market reviving, the NBU will turn back to FX interventions, taking into account the tasks and principles stated in the NBU's Foreign Exchange Intervention Strategy.

**B. Acquis alignment**

**36. What are the necessary reforms in legislation (central bank law, laws on banking sector, insurance companies, pension funds, social security funds, compensation funds, interest rates, exchange rate law etc.) with a view to EU membership requirements? Which reforms are already underway?**

The National Bank of Ukraine, the National Securities and Stock Market Commission, the Ministry of Finance of Ukraine and the Individual Deposit Guarantee Fund are implementing the Strategy for the Development of the Financial Sector of Ukraine until 2025.

The Strategy sets general and common priorities and goals for the development of the financial sector until 2025. The purpose of the Strategy is to ensure further reform and development of the financial sector of Ukraine in accordance with leading international practices and implementation of measures provided by the Association Agreement between Ukraine and the EU and other international obligations of Ukraine.

In addition, work is currently underway on the following legislative changes:

- Drafting changes to the legislation necessary to implement the provisions of the Bank Recovery and Resolution Directive (BRRD, Directive 2014/59/EU)

- Draft law On Credit Unions (registered under No. 5125) is now in the Verkhovna Rada of Ukraine and was recommended by the Parliamentary Committee on Finance, Tax, and Customs Policy to be adopted in the second reading and as a whole; draft law aiming to update existing legal and regulatory framework in the area of credit cooperation in Ukraine was developed taking into account global best practices in regulation of credit unions, requirements of the European directives and provisions of the Model Law for Credit Unions of the World Council of Credit Unions (WOCCU)

- Drafting changes to the legislation necessary to introduce the deposit guarantee system for credit union members and premiums for life insurance agreements. Draft law takes into account

provisions of Directive 2014/49/EU, Directive 2014/59/EU, and the European Commission's White Paper On Insurance Guarantee Schemes

- We continue to work on the draft law On Compulsory Third Party Insurance Against Civil Liability in Respect of Use of Land Motor Vehicles (based on compliance and implementation of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (codified version)

- The changes to the laws of Ukraine were reviewed in order to streamline the procedure of implementation of the provisions of Directive 2006/112/EC of 28 November 2006, in particular with regard to comprehensive regulation of the definition of investment gold in Ukrainian laws. The Tax Code of Ukraine was amended with regard to investment gold taxation

- A roadmap for introducing Core Insurance Principles of the International Association of Insurance Supervision (IAIS) is being developed

- draft law aiming to strengthen the investor rights in the primary market (registered under No. 5091) has been prepared and submitted to the Parliamentary Committee on Organization of State Power, Local Self-Government, Regional Development, and Urban Development

- We are also started to work on amendments to the Law of Ukraine On Banks and Banking aiming to introduce an option to hold onsite inspections of the banks remotely.

Moreover, currently Ukrainian legislation does not contain provisions on an investors compensation mechanism in securities defined by Directive 97/9/EC of 3 March 1997 on investor-compensation schemes. The legal framework for non-state pension funds, in particular represented by the Law of Ukraine On Non-State Pension Provision, needs to be comprehensively improved and brought into line with EU acquis, including provisions of Directive (EU) 2016/2341 of 14 December 2016 on activities and supervision of institutions for occupational retirement provision (IORPs), in terms of improving the regulation, accountability and reliability of non-state pension funds.

Reforms to implement into Ukrainian legislation provisions of Directive No. 97/9/EC of 3 March 1997 and ensure the full alignment of Ukrainian legislation on non-state pensions with requirements of Directive (EU) 2016/2341 of 14 December 2016 IORP are scheduled to start this year and will have been completed within the next 3 years.

## CHAPTER 18. STATISTICS

**1. Statistics might be collected by other institutional actors than the National Statistical Institute. In order to provide an overall picture of the system of official statistics, please give a description of the institutional arrangements concerning data collection, production and dissemination of official statistics in Ukraine. This should include a listing of the specific responsibilities of the various actors. How is the coordination of the main producers of statistical data (Statistical office, Central Bank, Ministry of Finance, other national authorities (ONAs) carried out?**

The Law of Ukraine “On State Statistics” applies in Ukraine. The Law governs the legal relations concerning the state statistics and sets out the rights and functions of state statistics bodies and the organisational principles of carrying out state statistical activities for the purpose of obtaining comprehensive and objective statistical information on the economic, social, demographic and environmental situation in Ukraine and its regions and providing it to the state and society.

According to the current Law, statistical information also comprises data on banking, financial and customs statistics, balance of payments statistics, etc., which are compiled on the basis of administrative data obtained by the National Bank of Ukraine and public bodies with specific competencies (except for the state statistics bodies) acting within their scope of competence. The relevant powers of these bodies and the principles of collection, processing, analysis, dissemination, storage, protection and use of such statistical information are set forth in separate laws (Article 6).

### **National Statistical System of Ukraine**

In accordance with the current Law of Ukraine “On State Statistics” (Article 6), in addition to State Statistics Service, the system of state statistics bodies also include the Ministry of Finance (MoF) and the National Bank (NBU).

The State Statistics Service carries out its activities in accordance with the Principles governing the activities of the state statistics bodies of Ukraine, which are harmonised with the European Statistics Code of Practice. Employees of the NBU and the Ministry of Finance are well acquainted with the basic principles of the European Statistics Code of Practice. Coordination of activities and cooperation with the NBU and the Ministry of Finance is carried out in the following areas:

- Annual state statistical observation plan and the 2023 Long-Term Programme for the Development of State Statistics include activities whose executors, in addition to the State Statistics Service, are NBU and MoF.
- Information resource exchange agreements have been signed;
- State Statistics Service agrees methodology and reporting of the state statistics staff;
- State Statistics Service coordinates the NBU’s and MoF’s activities related to the International Monetary Fund’s Special Data Dissemination Standard (IMF SDDS);
- Employees of the NBU and the MoF are invited to participate in the annual inventory of state statistical surveys in order to improve them and approximate to EU regulations.

**Problems:** On the basis of the “Generic Law on Official Statistics”, the State Statistics Service developed the draft Law “On Official Statistics”, which provides for strengthening the coordinating

role of the State Statistics Service and establishing the Statistics Council. Draft Law has been submitted to the Verkhovna Rada of Ukraine for consideration, but draft laws associated with martial law imposed in Ukraine are currently subject to priority consideration.

To provide the state and society with statistical information, the central executive authority that ensures the formation of public policy on statistics, jointly with other public authorities, the National Bank of Ukraine and enterprises, institutions and organisations concerned, annually develops a plan of state statistical research activities to be approved by the Cabinet of Ministers of Ukraine (Article 15).

The relations of state statistics bodies with public authorities, local self-governing bodies and other legal entities engaged in activities related to the collection and use of administrative data are based on the principles of ensuring the reliability, objectivity and confidentiality of statistical information, optimising the cost of compiling it and transparency of statistical methodology, which in particular implies that state statistics methodologies and reports regarding the collection and use of administrative data, as well as methodologies for compiling banking, financial and customs statistics, balance of payments statistics, etc. must be approved by the state statistics bodies; free provision, upon request of the state statistics bodies, of administrative data obtained by the bodies engaged in activities related to their collection and use, as well as data on banking, financial and customs statistics, balance of payments statistics, etc.

### ***Data collection***

In accordance with Articles 12 and 16 of the Law of Ukraine “On State Statistics”, the State Statistics Service is the only central executive body that coordinates the actions of public authorities, local self-governments and other legal entities in organising activities associated with the collection and use of administrative data. In accordance with the procedure for approval by the state statistics bodies of methodologies and reporting documentation relating to the collection and use of administrative data as approved by the order of the State Statistics Service of 30.01.2009 No. 33, the State Statistics Service is the only central executive body that develops and approves methodologies and reporting documentation relating to the collection and use of administrative data of other public authorities and local self-governments, other legal entities engaged in activities related to the collection and use of administrative data.

Currently, the State Statistics Service has a centralised system of electronic data collection from both respondents and administrators of administrative data and data from registers.

Cooperation on information exchange with central executive authorities and local executive bodies has been established, 86 agreements on information exchange have been concluded.

Work is underway to automate the collection of administrative data and the introduction of alternative sources of data collection, including data from open sources, into statistical practice.

### ***Dissemination of statistical information***

Statistical information produced in accordance with the state statistical observation plan is posted on the official website of the State Statistics Service and its territorial bodies, and on the Single Open Data Portal in accordance with the IMF Special Data Dissemination Standard.

Moreover, information containing results of state statistical observation is also made available:

- 1) at the requests of users of statistical information in the manner and under the conditions specified by applicable law;
- 2) under mutual information exchange agreements of between the State Statistics Service and other public authorities, institutions and organisations;
- 3) to international organisations, and also, to statistics agencies of other countries, at their requests.

The Ukrainian state statistics bodies disseminate information subject to the provisions of the applicable legislation, namely:

Law of Ukraine No. 2614-XII “On State Statistics” of 17.09.1992;

Law of Ukraine No. 2657-XII “On Information” of 02.10.1992;

Law of Ukraine No. 2939-VI “On Access to Public Information” of 13.01.2011;

Resolution No. 481 of the Cabinet of Ministers of Ukraine «On Approving the Regulation on the State Statistics Service of Ukraine» of 23.09.2014 (as amended);

Resolution No. 835 of the Cabinet of Ministers of Ukraine “On Approving the Regulation on Datasets to Be Published in the Form of Open Data” of 21.10.2015 (as amended);

Order No. 339 of the State Statistics Service of Ukraine “On Approving the Policy on Dissemination of Statistical Information by the State Statistics Bodies” of 24.11.2015.

According to the above legal acts:

1. Statistical information is disseminated subject to the confidentiality requirements provided by the applicable legislation (the thirteenth indent of Article 14? Articles 21–22, the fourth indent of the third paragraph of Article 24 of the Law of Ukraine “On State Statistics”, Articles 10 and 10<sup>1</sup> of the Law of Ukraine “On Access to Public Information”)

2. All users have equal and simultaneous access to statistical information (the sixth paragraph of Article 14, the sixth indent of Article 16, Article 19 of the Law of Ukraine “On State Statistics”)

3. Modern information and communication technologies are used to disseminate statistical information. The websites of the State Statistics Service and its territorial bodies are the main tool for publishing statistical data for the first time. At the same time, print publications may also be produced for the convenience of users (Article 5 of the Law of Ukraine “On Access to Public Information”, Articles 3, 6 of the Law of Ukraine “On Information”)

4. Statistical information produced under the state statistical observation plan is open to the general public (Article 16, the second paragraph of Article 19, the second paragraph of Article 24 of the Law of Ukraine “On State Statistics”, Article 5 of the Law of Ukraine “On Access to Public Information”, Article 18 of the Law of Ukraine “On Information”) It is published on the websites of the State Statistics Service and its territorial bodies and is made available to users free of charge, except as provided by applicable law (Resolution of CMU of 08.11.2000 “On approval of the Regulation on carrying out statistical observations and provision of paid services by the state statistics bodies” (as amended), Article 9(6), Article 24(5) of the Law of Ukraine “On Civil Service”, Articles 5, 10<sup>1</sup> of the Law of Ukraine “On Access to Public Information”).

5. Statistical information is released in accordance with approved and publicly available plans (calendars) containing the date and/or time of its release. Any deviation from the plan (calendar) is

notified to users in advance with an appropriate explanation of the delay and announcement of a new data release date and/or time (the tenth indent of Article 12 of the Law of Ukraine “On State Statistics”, Article 10<sup>1</sup> of the Law of Ukraine “On Access to Public Information”, Resolution of CMU of 21.10.2015 No. 835 “On approval of the Regulation on the data sets published as open data” (as amended)).

6. Errors found in the published statistical information are corrected as soon as possible. Users are informed of the corrections (Resolution of 23.09.2014 No. 481 of CMU “Regulation on the State Statistics Service of Ukraine”).

7. Metadata on statistical indicators, methods and their production procedures, including the use of administrative data and the quality of statistical information, as well as the statistical methodology are available to the public. Important changes in methodology are reported in advance (the second paragraph of Article 8, the tenth indent of Article 12 of the Law of Ukraine “On State Statistics”).

8. In order to continuously improve the system of statistical production and services and the dissemination of statistics, the quality and availability of statistical information is systematically monitored through public opinion surveys (Article 16 of the Law of Ukraine “On Civil Service”, Article 6 of the Law of Ukraine “On Information”).

9. Statistical information that is not covered by the state statistical observation plan is produced for a fee (the sixth paragraph of Article 9, the ninth and tenth paragraphs of Article 13 of the Law of Ukraine “On State Statistics”, Resolution of CMU of 08.11.2000 “On approval of the Regulation on carrying out statistics surveys and provision of paid services by the state statistics bodies” (as amended)).

10. Microdata sets may be made available for research purposes, subject to specific requirements, procedures and regulations, and without the risk of breaching the high level of protection that confidential information requires (draft Law No. 5886 “On Official Statistics”, Article 34).

11. Statistical publications are produced following established procedures and standards that set a uniform design. The logo of a state statistics body that issues a publication should be recognisable (the sixth indent of Article 14 of the Law of Ukraine “On State Statistics”).

12. Statistical publications do not contain assessments of the general policy and/or government policies being implemented (Article 5 of the Law of Ukraine “On State Statistics”).

13. If state statistics are used, a reference to the source is mandatory (the third paragraph of Article 19 of the Law of Ukraine “On State Statistics”).

14. State statistics bodies have the right to comment on the incorrect use or interpretation of statistical information. To prevent the misuse of statistical data, state statistics bodies may take measures to increase the statistical literacy of users (the eleventh paragraph of Article 13 of the Law of Ukraine “On State Statistics”).

Article 355 of the EU-Ukraine Association Agreement provides that Ukraine has the obligation to establish a professionally independent national statistical system and that the national statistical system should respect the UN Fundamental Principles of Official Statistics, taking into account the EU acquis, namely the European Statistics Code of Practice, in order to harmonise the national statistical system with the European regulations and standards. To implement these obligations, the



State Statistics Service has prepared and submitted to the Parliament a draft of the new Law of Ukraine “On Official Statistics”. This draft Law is based on the requirements of Regulation (EC) No. 223/2009 of 11.03.2009 and takes into account the provisions of the Generic Law on Official Statistics, which is developed within the framework of the United Nations Development Accounts project and recommended for the countries of Eastern Europe, the Caucasus and Central Asia (EECCA). The State Statistics Service of Ukraine has received positive feedback on the draft Law from Eurostat and the UNECE Statistical Division.

Article 1 of the said draft Law provides that ‘producers of official statistics’ are state statistics bodies and other public bodies authorised by specific laws to produce and disseminate official state statistics in accordance with the basic principles of official statistics, which constitute part of the national statistical system.

Article 13 of the draft Law of Ukraine “On Official Statistics” contains the provisions on the national statistical system setting out as follows:

1. The national statistical system consists of such peer producers of official statistics:

1) The central executive statistics authority and the enterprises, institutions and organisations under its control;

2) National Bank of Ukraine;

3) Ministry of Finance of Ukraine.

2. All producers of official statistics that make up the national statistical system must produce and disseminate official state statistics within their scope of competence, in accordance with the basic principles of official statistics.

The coordination of activities of the main statistics producers is covered in Article 22 of the draft Law, according to which:

1. All producers of official statistics must use uniform terms, definitions, statistical classifications and methods that are consistent with common principles of international and European statistical practices.

2. The central executive statistics authority promotes applying uniform practices within the national statistical system and develops relevant legal and normative acts that are binding on all producers of official statistics, which constitute the national statistical system of Ukraine, during the production and dissemination of official state statistics.

3. Public authorities, except for producers of official statistics that conduct statistical observations, develop the methods for conducting statistical observations within the scope of their activity and agree it with the central executive statistics authority.

4. *Administrative data owners, except for producers of official statistics, use the terms, definitions and statistical classifications as laid down by the central statistics authority.”*

#### Ministry of Finance

The Ministry of Finance of Ukraine (MoF) is a producer of the state statistics information and is responsible for Government Finance Statistics compiling.

The MoF's statistical activity based on the Budget Code of Ukraine, the Law on State Statistics and other regulations, such as the National Statistical Observations Plan for current year and the Program to develop the state statistics till 2023, approved by the Cabinet of Ministers of Ukraine.

The Ministry of Finance of Ukraine compiles statistics according to the Government Finance Statistics Manual 2014 (IMF), which is harmonized with the National System of Accounts 2008 (SNA 2008), and the European System of National and Regional Accounts 2010 (ESA 2010), using budget reporting (cash accounting) and financial reporting (accrual accounting).

The periodicity and timing of data dissemination, breaking down and source of data for Government Finance Statistics compiling are meet the requirements of statistical rules of EU in this area, except for accounting method which is cash.

The source of the data for Government Finance Statistics is administrative data of the State Treasury Service of Ukraine, the Pension Fund of Ukraine, the Social Security Fund of Ukraine and the Unemployment Social Insurance Fund of Ukraine.

For the purpose of the Government Finance Statistics compiling there is the Ukrainian Institutional Economic Sectors Classification (Order of the State Statistics Service of 03.12.2014 № 378, as amended) used, which is harmonized with the National System of Accounts 2008 (SNA 2008), and the European System of National and Regional Accounts 2010 (ESA 2010).

The National Government Finance Statistics does not cover Excessive Deficit Procedure statistics (Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community) at the moment. In the meantime, the Budget Code of Ukraine sets budget rules for state budget deficit and state debt levels which are:

- deficit of the State Budget, specified in the Budget Declaration for each year of the medium term, can't exceed 3% of the forecasted nominal GDP for reference year. The threshold level of state budget deficit, identified in the Law on State Budget, shouldn't exceed the indicator for current year, which is set out in the Budget Declaration (article 14 of the Budget Code of Ukraine).

- the State Debt and Guaranteed by the State Debt at the end of the budget year can't exceed 60% of the annual nominal GDP (article 18 of the Budget Code of Ukraine).

Government Finance Statistics is disseminated through the official websites of the Ministry of Finance of Ukraine ([www.mof.gov.ua](http://www.mof.gov.ua)), the State Statistics Service of Ukraine ([www.ukrstat.gov.ua](http://www.ukrstat.gov.ua)) and the IMF Data Portal (<https://data.imf.org/>):

- in annual statistical publication "Budget of Ukraine" ([www.mof.gov.ua/uk/statistichnij-zbirnik](http://www.mof.gov.ua/uk/statistichnij-zbirnik));

- in annual Government Finance Statistics Questionnaire (IMF) in format of the GFSM2014 (<https://data.imf.org/?sk=A0867067-D23C-4EBC-AD23-D3B015045405>);

- to meet requirements of the Special Data Dissemination Standard IMF there is a data dissemination on General Government Operations, Central Government Operations and State Debt ([www.mof.gov.ua/uk/specialnij-standart-poshirennja-danih-mvf-sspd-mvf-statistika-za-gfsm](http://www.mof.gov.ua/uk/specialnij-standart-poshirennja-danih-mvf-sspd-mvf-statistika-za-gfsm); [www.ukrstat.gov.ua](http://www.ukrstat.gov.ua));

- in the Statistical Yearbook of Ukraine ([www.ukrstat.gov.ua](http://www.ukrstat.gov.ua)).

*National Bank of Ukraine*

The National Bank of Ukraine (hereinafter – the NBU) is one of the main producers of statistical data.

According to the Law of Ukraine *On the National Bank of Ukraine* No. 679-XIV dated May 20, 1999 (as amended) the NBU shall be responsible for arranging the establishment and methodological support of the system of monetary and financial statistics, external sector statistics, and statistical information of financial institutions subject to the state regulation and supervision exercised by the NBU.

The NBU performs statistical data exchange in accordance with agreements with the State Statistics Service of Ukraine and other public authorities.

### ***Monetary and Financial Statistics***

The NBU is responsible for the production and dissemination of monetary and financial statistics (financial sector statistics) in accordance with the international standards.

Monetary and financial statistics of Ukraine cover 100 percent of banks established and operating in the territory of Ukraine (except for banks under liquidation), as well as insurance corporations, pension funds, collective investment schemes (investment funds), credit unions, financial companies, legal entities engaged in financial leasing, pawnshops, and financial auxiliaries.

The main forms of representing monetary and financial statistics' data are sectoral balance sheets and surveys of the financial corporations' sector and its subsectors.

Monetary and financial statistics also comprise statistics of interest rates, securities statistics, and Financial Soundness Indicators statistics.

Monetary and financial statistics are compiled in accordance with the international standards set out in the IMF compilation guide and in line with guidelines and recommendations on statistics of the European Central Bank by the following international principles and concepts of SNA 2008 and ESA 2010 as classification of institutional units by sectors of economy and types of economic activities, classification of financial assets, accounting principles (determination of stocks and flows, accounting on the accrual basis, valuation of financial assets, displaying of data in national and foreign currencies, classification by maturity, aggregation and consolidation of data).

Indicators of monetary and financial statistics are disseminated on the official website of the NBU, in API datasets on the Unified Government Web Portal of open data, and pursuant to the Special Data Dissemination Standard of the IMF.

### ***External Sector Statistics***

According to the Law of Ukraine *On the National Bank of Ukraine* No. 679-XIV dated May 20, 1999 (as amended) the NBU is responsible for external sector statistics compilation in Ukraine.

The NBU ensures the compilation and publication of the external sector statistics in accordance with the sixth edition of the Balance of Payments and International Investment Position Manual (BPM6, IMF, 2009).

External sector statistics compilation based on data from the International Transactions Reporting System (ITRS), banks' balance sheets and other data collected by the NBU, merchandise trade statistics, and survey's results, provided by the State Statistic Service of Ukraine. Data from other government institutions and expert estimates are also used.

Monthly and quarterly Balance of payments data, quarterly data on International Investment Position, External Debt, and Foreign Direct Investment Statistics (flows, stocks, and income data by instruments with breakdown by regions, type of economic activity, and country) are published on the official website of the NBU. Periodicity and timeliness of external sector statistics compilation correspond to the requirements of the Special Data Dissemination Standards.

Provisions of the draft Law of Ukraine “On Official Statistics” will strengthen the State statistical system.

## **2. Please describe the organisational structure and staffing levels of the National Statistical Institute.**

Staff allocation of state statistics bodies:

As of January 1, 2022, the staff lists of the State Statistics Service and its territorial bodies (excluding the Main Department of Statistics in the Autonomous Republic of Crimea and the Department of Statistics in Sevastopol) provide for 6,455 positions, and actually employed are 5,608 people. 4,055 people (72.3%) are civil servants.

With regard to the academic qualifications of the staff, 3,877 people, or 95.6% of the total number of civil servants, have a master’s (specialist) degree. 175 civil servants, or 4.3%, have a junior bachelor’s and bachelor’s degree. The share of civil servants with a higher education degree that meets the requirements of the job description is 93.7%. The share of statisticians is 15.6% of the total number of civil servants who have a university degree. At the same time, 1,043 civil servants (25.7% of the total number) have two or more university degrees, another 31 civil servants are pursuing their second university degree, 17 civil servants have a doctor of philosophy degree, and one civil servant has a second doctoral degree.

Regarding the distribution of civil servants by length of service in the system, 9.6% have worked in state statistics bodies for up to 5 years, 12.2% for 5 to 10 years and 78.2% for more than 10 years. In addition, 55% of managers and 34% of specialists have worked in state statistics bodies for more than 20 years.

In terms of the age structure of civil servants, the largest age group is civil servants aged between 36 and 45 years — 31.6%, 30.4% of civil servants are between 46 and 55 years old, and 13.3% are under 35 years old.

The vast majority of employees of state statistics bodies are civil servants who are appointed to positions based on the results of an open competition. A large number of vacancies emerged during 2020–2021 as a result of the ban on competitions for civil service positions due to the imposition of quarantine caused by the spread of coronavirus infection COVID-19. In 2021, after the quarantine measures were relaxed, competitions resumed, but were suspended again in 2022 following declaration of martial law.

But that is not a hazard that can affect the quality of statistical information. Vacancies will be gradually filled in the only possible way — through open competitions — after their resumption.

In addition, in December 2021, the Concept of Digital Transformation of the State Statistics Service of Ukraine (hereinafter — the Concept) was developed, its objective being shaping the image and describe the desired state of the national statistics system in the coming years, and drawing up a

plan for its transformation. Lack of human resources required by the Concept can be addressed through implementation of structural changes. The measures provided for by the Concept were to be implemented over the period of 2022–2024, but their implementation was suspended with the imposition of martial law in Ukraine.

The organisational structure is provided in Annex 1 to this question of this Chapter.

**3. Regulation (EC) No 223/2009 on European Statistics strengthened the provisions on the professional independence, coordinating role of the statistical institutes in the statistical system and access to administrative data among other things. In this context, please describe how the governance of the statistical system is ensured, in particular how the professional independence and the coordinating role of the head of the National Statistical Institute are provided for.**

#### **National statistics system of Ukraine**

In accordance with the current Law of Ukraine “On State Statistics”, in addition to State Statistics Service, the system of state statistics bodies also include the Ministry of Finance (MoF) and the National Bank (NBU).

The State Statistics Service carries out its activities in accordance with the Principles governing the activities of the state statistics bodies of Ukraine, which are harmonised with the European Statistics Code of Practice. Employees of the NBU and the Ministry of Finance are well acquainted with the basic principles of the European Statistics Code of Practice. Coordination of activities and cooperation with the NBU and the Ministry of Finance is carried out in the following areas:

- Annual state statistical observation plan and the 2023 Long-Term Programme for the Development of State Statistics include activities whose executors, in addition to the State Statistics Service, are NBU and MoF.
- Information resource exchange agreements have been signed;
- State Statistics Service agrees methodology and reporting of the state statistics staff;
- State Statistics Service coordinates the NBU’s and MoF’s activities related to the International Monetary Fund’s Special Data Dissemination Standard (IMF SDDS);
- Employees of the NBU and the MoF are invited to participate in the annual inventory of state statistical surveys in order to improve them and approximate to EU regulations.

**Problems:** On the basis of the “Generic Law on Official Statistics”, the State Statistics Service developed the draft Law “On Official Statistics”, which provides for strengthening the coordinating role of the State Statistics Service and establishing the Statistics Council. Draft Law has been submitted to the Verkhovna Rada of Ukraine for consideration, but draft laws associated with martial law imposed in Ukraine are currently subject to priority consideration.

Article 5 of the Law of Ukraine “On State Statistics” stipulates that “... state statistical activities are carried out by state statistics bodies in accordance with this Law and in accordance with the tasks within their scope of competence, based on the principles of professional independence and autonomy. Interference of any public authorities and local self-government bodies, other legal entities, associations of individuals, officials and other persons in state statistical activities, in particular with respect to the content of statistical information, choice of its sources, statistical

methodology, forms and period of collection and dissemination of statistical observation data, etc., is prohibited.”

Further, pursuant to Article 16 of the draft Law “On Official Statistics”, which is based on Regulation (EC) No. 223/2009 and takes into account the provisions of the Generic Law on Official Statistics, which is developed within the framework of the United Nations Development Accounts project and recommended for the countries of Eastern Europe, the Caucasus and Central Asia (EECCA):

“1. The head of the central executive statistics authority is an official who is professionally independent in decision-making on state statistical activities.

2. The head of the central executive statistics authority:

...

13) coordinates state statistical activities of other producers of official statistics in terms of production and dissemination of official state statistical information.”

**4. Please describe the compliance of the statistical system of Ukraine with the requirements as stated in the latest version of the Compendium, also taking into account the European Statistics Code of Practice, especially as concerns:**

- The current situation;
- Major obstacles to be solved before being fully compliant.

This description should be provided for the following main areas and questions:

**a) Statistical infrastructure, including the legislation on official statistics (incorporating ongoing activities to improve alignment with EU law)**

The activity of the State Statistics Committee is governed by the Law of Ukraine “On State Statistics” and the Regulation on the State Statistics Service of Ukraine. According to the Law, the producers of state statistical information, in addition to the State Statistics Service, also include the Ministry of Finance and the National Bank of Ukraine. The state statistical activity is carried out in accordance with the state statistical observation plan and the 2023 Program of Development of State Statistics. The annual plan and long-term program are approved by the Cabinet of Ministers of Ukraine. The principles of operation of Ukrainian state statistics bodies are harmonised with the European Statistics Code of Practice approved by the European Statistical System Committee on 16.11.2017 and are based on the Fundamental Principles of Official Statistics adopted by the UN General Assembly in 2014.

According to Article 3 of the Law of Ukraine “On State Statistics”, the public policy on statistics is aimed at creating a unified recording and statistics system throughout Ukraine and harmonising it with the international standards and methodology.

#### Legislation on statistics

*Current situation:* The legal framework for the state statistical activity is Law of Ukraine No. 2614-XII “On State Statistics” of 17.09.1992, which came into force on the date of its adoption, in accordance with Resolution No. 2615-XII of the Verkhovna Rada of Ukraine of 17.09.1992. In accordance with Law of Ukraine No. 1922-III “On Amending the Law of Ukraine “On State

Statistics” of 13.07.2000, a restated version of the above-mentioned Law of Ukraine “On State Statistics” was adopted, which has been in force since 2000. Some changes to the legislation on state statistics were made in 2009, 2010, 2011, 2012, 2014 and 2021. At the same time, the existing Law of Ukraine “On State Statistics” requires significant improvements in order to harmonise state statistics with the EU statistical system and create conditions for the operation of the national system of state statistics bodies in accordance with the generally accepted principles of global and European statistical practices.

*Measures taken to achieve compliance:* On 02.09.2021, Draft Law No. 5886 “On Official Statistics” was introduced in the Verkhovna Rada of Ukraine; it is based on Regulation (EC) No. 223/2009 and takes into account the provisions of the Generic Law on Official Statistics, which is developed within the framework of the United Nations Development Accounts project and recommended for the countries of Eastern Europe, the Caucasus and Central Asia (EECCA). According to Resolution No. 2035-IX of the Verkhovna Rada of Ukraine “On the Agenda of the Seventh Session of the Verkhovna Rada of Ukraine of the Ninth Convocation” of 15.02.2022, it was included in the agenda for the seventh session of the Verkhovna Rada of Ukraine of the ninth convocation.

*Major hindrances:* Draft Law No. 5886 was not considered by the Verkhovna Rada of Ukraine due to the armed aggression of the Russian Federation and the introduction of martial law in Ukraine, which required the Verkhovna Rada to prioritise the adoption of laws aimed at repelling the armed aggression and ensuring the functioning of the economy under martial law.

Provisions of the draft Law of Ukraine “On Official Statistics” will strengthen the State statistical system.

#### *Implementation of the GSBPM and GAMS0 in the statistical activity*

*Current situation:* The territorial bodies of the State Statistics Service are organised in accordance with the Generic Statistical Business Process Model (GSBPM), with a clear division of structural units by processes: collection, processing, analysis and dissemination of data. Work is underway to bring the structure of the central Secretariat of the State Statistics Service in line with the GSBPM.

A process-based approach has been introduced in the planning and monitoring of statistical activities by forming a uniform classifier of tasks for the technological program of state statistical observations and for the automated time recording system, which has been developed using the Generic Activity Model for Statistical Organisations (GAMS0).

The process-based approach is also used to develop and improve the State Statistics Service’s quality management system. In 2019 and 2021, the State Statistics Service’s Secretariat’s quality management system was examined on the basis of the common assessment framework (CAF). The documentation for GSBPM statistical production processes was prepared in accordance with DST ISO 9001:2015 “Quality management systems. Requirements.”

*Measures taken to achieve compliance:* Work is underway to develop the documentation of the quality management system in line with DST ISO 9001:2015 “Quality management systems. Requirements”; more specifically, the Guidelines on the State Statistics Service’s quality management system and the documentation for the GAMS0 processes are being prepared to ensure the further certification of the State Statistics Service’s quality management system.

*Major hindrances:* Lack of human and technical resources.

Statistical standard for metadata

*Current situation:* The State Statistics Service is implementing the European standard, Single Integrated Metadata Structure (SIMS), which includes Euro-SDMX (ESMS) and ESQRS in compliance with the Commission Recommendation of 23.09.2009 on reference metadata for the European Statistical System (2009/498/EC).

At the first implementation phase, one third of the reports on the quality of state statistical observations will fully comply with the SIMS.

*Measures taken to achieve compliance:* Work has begun on creating a SIMS automated quality reporting subsystem.

*Major hindrances:* Lack of financial and technical resources.

**b) Classifications and registers**

Statistical classifiers

*Current situation:* Development and maintenance of national classifiers in Ukraine is carried out by both the State Statistics Service and other agencies. The State Statistics Service develops national statistical classifiers using international and European classifiers without altering them. The Classification of Economic Activities (CEA) and the Basic Nomenclature of Products (BNP) as developed and introduced by the State Statistics Service are fully identical to NACE Rev. 2 and CPA 2.1. The national Classification of Occupations (CO), which is based on ISCO-88, is maintained by another agency, the Ministry of Economy.

*Measures taken to achieve compliance:* By reason of a review of NACE and CPA, the State Statistics Service has initiated preparations to review CEA and BNP. The Ministry of Economy designated an entity that started to develop a new version of the CO based on ISCO-08.

Register of Statistical Units and statistical units

*Current situation:* The degree of compliance of the Register of Statistical Units (RSU) is almost 80%. The RSU is based on administrative and statistical data.

The Register of Statistical Units is maintained in accordance with the developed methodology, which takes into account the provisions of Council Regulation (EEC) of 15 March 1993 № 696/93 "On statistical units for observation and analysis of the production system of the European Community", Regulation (EU) 2019/2152 Of the European Parliament and of the Council of 27 November 2019 on European Enterprise Statistics, Regulation (EU) № 223/2009 of the European Parliament and of the Council of 11 March 2009 on European Statistics.

The main purpose of maintaining the Register of Statistical Units is to ensure the necessary completeness of coverage of statistical units to be observed and the formation of statistical information on the dynamics and demography of enterprises.

*Measures taken to achieve compliance:* A methodology for RSU quality assessment has been developed, and the assessment is planned to be carried out. It is intended to complete the formation of statistical units in the RSU, in particular the identification of enterprise groups.

**c) Demographic and social statistics, including plans to conduct a population and housing census**



### Demographics, migration and forecasts

*Current situation:* The degree of compliance of the population indicators and of its components, such as live births, deaths, emigration and immigration, is 90%.

Data on demographic events involving natural population movement are formed with reference to the month in which an event was registered. Moreover, there is no information in the administrative data on the birth order rate. Information is collected on paper.

Frequency, monitoring period and data sources are in conformity with the EU statistics rules in that area (Regulation (EU) No. 1260/2013 of 20.11.2013, Commission Regulation (EU) No. 205/2014 of 04.03.2014, Regulation (EC) No. 862/2007 of 11.07.2007, Commission Regulation (EU) No. 351/2010 of 23.04.2010). There is no cross-section formed as regards birth order rate due to lack of information in administrative data; data on events involving natural population movement are formed not with reference to the month in which an event occurred, but rather with reference to the month in which an event was registered.

Data on deaths, according to causes of death, are processed in accordance with the International Statistical Classification of Diseases and Related Health Problems (ICD-10).

The current information system of demographic statistics of the State Statistics Service is currently very outdated and consists of non-standard and disparate subsystems providing only partial automation of statistical data processing. Imperfections in the technology and technical base at the time the electronic information processing systems were created (1995) are increasingly becoming an obstacle to solving new challenges facing demographic statistics.

The State Statistics Service ESA 2010 does not make long-term forecasts as this is the responsibility of the Ministry of Economy of Ukraine.

*Measures taken to achieve compliance:* Organisational and methodological measures are being taken to create the Demography automated system, which will quickly obtain the necessary statistical data on demographic characteristics of the population, in particular using national information systems (registers); the relevant technical documentation has been developed and approved.

*Major hindrances:* Lack of financial and technical resources.

### Population census and statistics on asylum and managed migration

*Current situation:* The degree of compliance of the census indicators is 100%.

The All-Ukrainian Population Census programme is in line with the List of Attributes for the 2020 Round of Population and Housing Censuses in CES countries and as stipulated in Commission Implementing Regulation (EU) 2017/543 of 22 March 2017.

The last census of the Ukrainian population was conducted back in 2001. The periodicity of the census was disrupted. Lack of a population register in Ukraine.

The production and publication of statistics on asylum and managed migration is the responsibility of the State Migration Service of Ukraine. Degree of compliance — 80% (State Migration Service does not form a cross-section as regards distribution of the numbers of asylum seekers and persons who have been granted a refugee status by sex and age).

*Measures taken to achieve compliance:* The Draft Law of Ukraine “On Amending Certain Laws of Ukraine on State Statistical Activity” proposes amendments to the Law of Ukraine “On the All-

Ukrainian Population Census”, in particular concerning the possibility of obtaining census data by modern methods, namely: completion of the census documentation by the respondents using specialised software in the public information system, internet, and use of national information resources (systems) in compliance with the Ukrainian legislation on information protection. It is further established that a mandatory census must be performed every 10 years. This draft Law of Ukraine was included in the agenda of the seventh session of the Verkhovna Rada of Ukraine of the ninth convocation. However, due to the introduction of martial law in Ukraine, the Verkhovna Rada of Ukraine must give priority to draft laws related to ensuring the country’s defence capabilities.

*Major hindrances:* Lack of financial and technical resources.

#### Labour and labour costs

#### Employment and unemployment

*Current situation:* The degree of compliance of employment and unemployment statistics is about 70%. Information on employment and unemployment is obtained quarterly through a labour force survey. The information is collected in paper form.

Measures taken to achieve compliance: An analysis was carried out to assess whether the list of indicators of the national labour force survey complies with the list of indicators specified by Commission Implementing Regulation (EU) 2019/2240 of 16 December 2019 specifying the technical items of the data set, establishing the technical formats for transmission of information and specifying the detailed arrangements and content of the quality reports on the organisation of a sample survey in the labour force domain in accordance with Regulation (EU) 2019/1700 of the European Parliament and of the Council, in accordance with Regulation (EU) 2019/1700 of the European Parliament and of the Council of 10 October 2019 establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples, amending Regulations (EC) No 808/2004, (EC) No 452/2008 and (EC) No 1338/2008 of the European Parliament and of the Council, and repealing Regulation (EC) No 1177/2003 of the European Parliament and of the Council and Council Regulation (EC) No 577/98. An action plan has been developed to improve the labour force survey program and introduce separate modules in accordance with the provisions of the EU legislation.

Major hindrances: Lack of financial resources to use modern data collection technologies (CAPI, CAWI, etc.) during a labour force survey and develop software for processing the survey results.

#### Salary and cost of labour

#### Labour cost survey.

#### Salary structure survey

#### Labour cost index

*Current situation:* The degree of compliance of the indicators is 80% (Council Regulation (EC) No 530/1999 of 9 March 1999, concerning structural statistics on earnings and on labour costs).

There is full compliance for the salary structure survey (Commission Regulation (EC) No 1916/2000 of 8 September 2000, on implementing Council Regulation (EC) 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings; Commission Regulation (EC) No 1738/2005 of 21 October

2005, amending Regulation (EC) No 1916/2000 as regards the definition and transmission of information on the structure of earnings).

Individual indicators stipulated by the regulations for the labour cost survey are not observed (Commission Regulation (EC) No 1726/1999 of 27 July 1999, implementing Council Regulation (EC) 530/1999 concerning structural statistics on earnings and labour costs as regards the definition and transmission of information on labour costs; Commission Regulation (EC) No 1737/2005 of 21 October 2005, amending Regulation (EC) No 1726/1999 as regards the definition and transmission of information on labour costs).

There is also a need to revise the base year for the labour cost index (Regulation (EC) No 450/2003 of the European Parliament and of the Council of 27 February 2003, concerning the labour cost index; Commission Regulation (EC) No 1216/2003 of 7 July 2003, implementing Regulation (EC) No 450/2003 of the European Parliament and of the Council concerning the labour cost index).

*Measures taken to achieve compliance:* A revision of the labour cost survey tools and measures to recalculate the labour cost index is under way.

*Major hindrances:* Lack of access to personalised administrative data. Such access would allow to significantly reduce the burden on respondents, expand the information base of surveys and generally use an approach to surveys that is similar to the European one.

### Education and training

#### Formal education

*Current situation:* The degree of compliance of the indicators is 75% (Regulation No 452/2008/EC of the European Parliament and of the Council of 23 April 2008 concerning the production and development of statistics on education and lifelong learning in part of statistics on education).

Annual education statistics are compiled on the basis of administrative data of the Ministry of Education and Science of Ukraine.

There is no compliance for the indicators regarding the academic mobility of students.

*Measures taken to achieve compliance:* Work has started in cooperation with the Ministry of Education and Science of Ukraine on entering additional information into the Unified State Electronic Database on Education (USEDE) regarding students and the possibility of obtaining student academic mobility data from it.

*Major hindrances:* Additional financial resources are necessary to improve the USEDE software accordingly.

#### Lifelong learning

##### Ongoing training, on-the-job training

*Current situation:* No CVT/ IVT statistics are produced and published.

*Measures taken to achieve compliance:* Work has begun to develop a toolkit and methodology for an on-the-job training survey.

*Major hindrances:* Lack of financial and human resources, in particular for the introduction of the new population survey, and lack of practical experience of the staff.

## Health

### Health care

*Current situation:* The degree of compliance of the indicators is 100%.

Health care statistics are compiled on the basis of administrative data of the Ministry of Health of Ukraine.

### Health care costs

*Current situation:* The degree of compliance of the indicators is 100% (Commission Regulation (EU) 2015/359 of 4 March 2015 implementing Regulation (EC) No 1338/2008 of the European Parliament and of the Council as regards statistics on healthcare expenditure and financing ).

The indicators are produced in compliance with the requirements.

### Workplace accidents

*Current situation:* The degree of compliance of the indicators is 60% (Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work).

Work injury statistics are compiled on the basis of administrative data from the Social Insurance Fund of Ukraine and submitted to the State Statistics Service in a consolidated, anonymised form that does not include all the necessary breakdowns. However, the State Statistics Service does not have access to the primary data, the transmission of which to Eurostat is provided by the relevant regulation.

*Measures taken to achieve compliance:* Work has begun in cooperation with the Social Insurance Fund of Ukraine on the possibility of obtaining microdata on occupational accidents.

*Major hindrances:* Lack of access to personalised administrative data.

### Income and consumption

#### Household budget survey

*Current situation:* The degree of compliance of the household budget survey indicators is about 95%. The information is collected in paper form.

The methodology and periods of dissemination of information are in full conformity, the frequency is not in conformity — in the EU Member States surveys are conducted once every five years, in Ukraine — annually. Some indicators are absent (certain questions regarding employment, certain questions regarding housing, input rent indicator).

The equivalence scale used to calculate the equivalent household size in Ukraine (1–0.7–0.7) differs from the EU equivalence scale.

*Measures taken to achieve compliance:* The list of indicators in the national household living conditions survey was analysed for consistency with the list of indicators defined in the Gentlemen's Agreement on the Description and Communication of Household Budget Survey Data in 2015. An action plan has been developed to improve the survey because a sample survey European Union Statistics on Income and Living Conditions (EU-SILC) will be introduced in 2024.

*Major hindrances:* Lack of financial resources to implement surveys using modern data collection technologies (CAPI, CAWI, etc.) and develop software.

### Harmonised European Time Use Survey

*Current situation:* The survey is not conducted.

*Measures taken to achieve compliance:* Studying the Eurostat's guidelines on the European Time Use Survey developed in 2018 and getting to know the experience of European countries in the course of specific workshops and training visits.

*Major hindrances:* Lack of human resources, the need to provide organisational and methodological support for the survey in accordance with the European methodology and lack of financial resources to use modern data collection technologies for the survey (CAPI, CAWI, etc.) and develop software for processing survey results.

### Income, social integration and living conditions

#### Income and living conditions

*Current situation:* The degree of compliance of statistics on income, social integration and living conditions is about 50%. The information is collected in paper form.

Methodology and periods of dissemination are in full conformity. A number of indicators are absent (citizenship, employment indicators, etc.), there is no collection and calculation of longitudinal indicators in place.

*Measures taken to achieve compliance:* Organisational and methodological measures are being taken to conduct an EU-SILC pilot sample survey in accordance with Regulation (EU) 2019/1700 of the European Parliament and of the Council of 10 October 2019 establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples, amending Regulations (EC) No 808/2004, (EC) No 452/2008 and (EC) No 1338/2008 of the European Parliament and of the Council, and repealing Regulation (EC) No 1177/2003 of the European Parliament and of the Council and Council Regulation (EC) No 577/98 and calculate the poverty and social exclusion indicators in accordance with the European standards.

*Major hindrances:* Lack of financial resources to conduct an EU-SILC pilot sample survey using modern data collection technologies (CAPI, CAWI, etc.) and develop software for processing survey results. Lack of access to personalised data from administrative registers: Demographic Register and the registers of the State Tax Service and the Pension Fund of Ukraine.

### ***Quality of life***

Current situation. The formation of separate information is not carried out, as it is a set of indicators that are obtained based on the results of various household surveys and relate to different spheres of life (education, health, living conditions, etc.).

Measures taken to achieve compliance. Acquaintance with methodological documents and the list of indicators, and publications of European countries on this topic.

### Social security

*Current situation:* The degree of compliance of the indicators is 100% (Regulation (EC) No 458/2007 of the European Parliament and of the Council of 25 April 2007, on the European system of integrated social protection statistics (ESSPROS)). The indicators are generated in accordance with the ESSPROS.

**d) Macroeconomic statistics, including compliance and plans for increasing compliance with the ESA2010 regulation in all relevant areas, and introduction of institutional sector codes compliant with ESA2010**

European System of Accounts (ESA 2010)

Annual and quarterly sector accounts, balance sheets for non-financial assets and financial assets and liabilities

*Current situation:* The degree of compliance of the national sector account indicators is 95%.

*Legal basis: Regulation (EU) № 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union Text with EEA relevance, OJ L 174, 26.06.2013.*

Annual and quarterly sector accounts are compiled using the Classification of Institutional Sectors (CIS).

*Measures taken to achieve compliance:* Work is underway to disaggregate the indicators of accounts, expand the list and details of financial and non-financial assets and introduce a quarterly financial account.

*Major hindrances:* Lack of detailed information on financial instruments and lack of human resources.

Quarterly and annual national accounts: main aggregates

*Current situation:* The degree of compliance of the gross domestic product (GDP) and its components is 100%.

*Legal basis: Regulation (EU) № 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union Text with EEA relevance, OJ L 174, 26.06.2013.*

Annual and quarterly indicators of the GDP and its components are developed using the production approach, by income category and by end-use category. Annual GDP is broken down by 19/42 activities, in accordance with NACE Rev. 2, at actual and constant prices. Quarterly GDP is broken down by 19 economic activities. The annual and quarterly end-use categories are broken down by COICOP HBS, objectives of non-profit organisations serving households, functions of general government, and types of gross fixed capital formation (GFCF) assets.

Supply and use tables and input-output tables

*Current situation:* The degree of compliance of the input-output table indicators is 80%.

*Legal basis: Regulation (EU) № 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union Text with EEA relevance, OJ L 174, 26.06.2013.*

The input-output table is calculated annually at 42\*42 at consumer prices and basic prices, including tax matrices, trade and transport margins and the use of imported products. The table needs to be extended to 64\*64. The supply and use table is not calculated.

*Measures taken to achieve compliance:* The calculation of the input-output table of the required size has begun. The arrangements for calculating the supply and use table are being made.

*Major hindrances:* Lack of financial and technical resources to calculate the supply and use table.

#### Regional accounts

*Current situation:* The degree of compliance of the regional account indicators is 85%.

*Legal basis:* Regulation (EU) № 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union Text with EEA relevance, OJ L 174, 26.06.2013.

Production accounts are compiled for 19 economic activities, and disposable income for the household sector is calculated at NUTS2 level at actual and constant prices. It is necessary to provide regional breakdowns to NUTS3 level and introduce the GFCF calculation by region.

*Measures taken to achieve compliance:* GFCF calculation by region has been initiated.

*Major hindrances:* There is no NUTS3 labour force survey data by region.

#### Prices

##### Harmonised consumer price index

*Current situation:* The degree of compliance of the national consumer price index is 95% (as required by the EU Treaty and Council Regulation (EU) 2016/792 of the European Parliament and of the Council of 11 May 2016 on harmonised indices of consumer prices and the house price index, and repealing Council Regulation (EC) No 2494/95).

*Measures taken to achieve compliance:* Improvements to the consumer price index calculation methods have been initiated with regard to the removal of owner-occupied housing information.

##### Housing price index

*Current situation:* The degree of compliance of the indicator is 100% (the basic act providing for the compilation of the HPI and OOHPI is the European Parliament and Council Regulation (EU) 2016/792, of 11 May 2016. The basic act is implemented by Commission Regulation (EU) 2020/1148 of 31 July 2020.

Commission Implementing Regulation (EU) 2020/1148 of 31 July 2020 laying down the methodological and technical specifications in accordance with Regulation (EU) 2016/792 of the European Parliament and of the Council as regards harmonised indices of consumer prices and the house price index. OJ L 252, 4.8.2020, p. 12).

##### Average annual national prices

*Current situation:* The degree of compliance of the indicators is 100% (legal acts: Regulation (EC) No 144/2007 of the European Parliament and of the Council of 11 December 2007 establishing common rules for the provision of basic information on Purchasing Power Parities and for their calculation and dissemination, OJ L 336, 20.12.2007, p. 1; Commission Regulation (EU) No 193/2011 of 28 February 2011 implementing Regulation (EC) No 1445/2007 of the European Parliament and of the Council as regards the system of quality control used for Purchasing Power Parities, OJ L 56, 1.3.2011, p. 1–2; Commission Regulation (EU) 2015/1163 of 15 July 2015 implementing Regulation (EC) No 1445/2007 of the European Parliament and of the Council as regards the list of basic headings user for Purchasing Power Parities. (1) OJ L 188, 16.7.2015, P.6–27).

### PEEI

*Current situation:* The degree of compliance of the business expectations indicators set out in the Joint Harmonised EU Programme of Business and Consumer Surveys (the “Harmonised EU Programme”) is 90%. There is a lack of compliance for some indicators in terms of the frequency with which they are collected and made public (quarterly frequency instead of monthly).

Reference time, indicator details, data sources are in 100% compliance with the Harmonized EU Programme, frequency and list of indicators partially comply; the Employment Expectations Indicator will be introduced in 2023, and its calculation will require accumulation of the data composing that indicator for a longer period of time than that currently in place).

Business expectations indicators are collected by conducting surveys of business activity of enterprises, using a sample method of survey; information on consumer expectations is obtained by using data from external (private) sources.

*Measures taken to achieve compliance:* Implementation of a revised indicator methodology has started in line with the requirements of the updated Harmonised EU Programme.

*Major hindrances:* Lack of human resources.

### Balance of payments

*Current situation:* The degree of compliance of the balance of payments and international investment position indicators is 90%.

The NBU compiles the balance of payments on a monthly and quarterly basis and the international investment position, account of other changes, gross external debt and short-term debt at residual value on a quarterly basis.

Some indicators (secondary income, portfolio investments) need to be disaggregated; information on geographical distribution is available only for certain components.

*Measures taken to achieve compliance:* improvements are planned in the methodology for compiling the Travel item and generating data on the geographical structure of service exports and imports.

### Statistics on enterprises under foreign control

*Current situation:* No FATS statistics are produced and published.

*Measures taken to achieve compliance:* Work has begun to identify enterprise groups in the Register of Statistical Units.

### Direct investment statistics

*Current situation:* The degree of compliance of the foreign direct investment indicators is 90%.

The State Statistics Service collects and processes information exclusively from enterprises and transmits it to the NBU for it to compile the country’s balance of payments and international investment position. The NBU ensures the compilation and dissemination of indicators on foreign direct investment statistics on a quarterly basis — flows, stocks and revenues by activity (NACE Section A-S, Rev. 2), country and Ukrainian region.

*Measures taken to achieve compliance:* It is planned to carry out work to identify enterprises that meet the SPE criteria in the Register of Statistical Units.



## **Statistics of international trade in services**

*Current situation:* The degree of compliance of the international trade in services statistics is 85%.

*Measures taken to achieve compliance:* Based on the advice received in a number of international cooperation projects, the methodology for statistics of international trade in services has been improved and updated in line with the Manual on Statistics of International Trade in Services (UN, 2010) and the Balance of Payments and International Investment Position Manual (IMF, 2009): regarding the calculation of the cost of financial intermediation services, calculated indirectly, the treatment of travel-related services and the construction service indicators. The Methodology for Calculating Travel-Related Service Indicators in the Statistics of International Trade in Services has been approved. Experimental calculations of financial intermediation services calculated indirectly based on NBU administrative data have been performed. Reporting and statistical documentation on construction service export/import indicators has been piloted and validated.

*Major hindrances:* Lack of necessary data for calculating travel-related service indicators.

### Statistics of International trade in goods

*Current situation:* The degree of compliance of the statistics of international trade in goods outside of the EU — with Regulation (EC) No. 471/2009 of 06.05.2009 — is 95%.

Regulation (EC) No 638/2004 of 31.03.2004 relating to the trading of goods between Member States does not apply.

*Measures taken to achieve compliance:* As part of a number of international cooperation projects, consultations have been launched on ensuring the confidentiality of statistics of international trade in goods to improve the statistical methodology.

### Classifications in the statistics of international trade in goods

*Current situation:*

For the classification and coding of goods in Ukraine's international trade statistics, the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA) is used, which is based on the Harmonised Commodity Description and Coding System of the World Customs Organisation (HS) and the Combined Nomenclature of the European Union (CN) and introduced in Ukraine as a commodity nomenclature of the Customs Tariff of Ukraine by the Law of Ukraine "On the Customs Tariff of Ukraine". UCGFEA is maintained by the State Customs Service, which ensures the harmonisation of UCGFEA with HS-2017 and CN and the commodity code breakdown at the national level in Ukraine and uses it for customs clearance of goods and items moved across the Ukrainian customs border.

For the classification and coding of partner countries, a list of country codes is used that is consistent with ISO 3166-1 — Codes for the representation of names of countries and their subdivisions — Part 1: Country code, and with Standard Country or Area Codes for Statistical Use as adopted by the United Nations Statistics Division.

## **e) Business statistics**

### Production of structural statistics

*Current situation:* The degree of compliance of the indicators is almost 60%.

Frequency, reference time, data sources are in 100% compliance with the requirements of the EU regulations concerning structural statistics (in particular, Regulation (EC) No. 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics).

List of indicators and their details are partially in conformity because of lacking details as regards product turnover in accordance with the CPA, and certain business demography indicators.

Structural statistics indicators are collected annually by conducting structural surveys of enterprises that are legal entities by using a sample method of surveying the activities of small enterprises, as well as through the use of administrative data of the State Tax Service on the activities of individual entrepreneurs.

*Measures taken to achieve compliance:* Improvement of the existing methodology on structural statistics (including business demography) has been initiated in accordance with the requirements of Regulation (EU) 2019/2152 on European business statistics in relation to the formation and publication of indicators for detailing product turnover in accordance with the CPA (starting from the reporting for 2023) and calculation of missing indicators on business demography based on the Register of Statistical Units.

#### Prodcom statistics

*Current situation:* The degree of compliance of the indicators is 95%. The information is generated in accordance with the Nomenclature of Industrial Products (NIP), which is harmonised with CPA, 2.1 and based on PRODSOM, 2021 (also taking into account energy products).

*Measures taken to achieve compliance:* Work on obtaining indicators in full compliance with the requirements of Regulation (EU) 2019/2152 on European business statistics in relation to Prodcom statistics is nearing completion.

#### Short-term business statistics

*Current situation:* The degree of compliance of the indicators is 80%.

*Measures taken to achieve compliance:* The implementation of Regulation (EU) 2019/2152 of the European Parliament and of the Council of 27 November 2019 on European business statistics, repealing 10 legal acts in the field of business statistics, has started in order to obtain new indicators and improve the methods of generating the existing indicators: introduction of business demography indicators and calculation of the production index for services; generation of indicators of the number of employees, hours worked by employees, wages and salaries and net turnover (value) indicators for trade and services in the form of indices; improved calculation of the service provider price index and volume of sales indices for wholesale and retail trade; and introduction/extension of seasonal adjustments in trade, services and construction (permit statistics).

*Major hindrances:* Lack of technical and human resources. Risk that advice will not be provided.

### **f) Statistics on agriculture, forestry and fisheries, including plans to conduct an agriculture census;**

#### Agricultural statistics

#### Integrated statistics on agricultural enterprises

#### Organic agricultural production

### Agri-environmental indicators

#### Land use and coverage statistics

*Current situation:* The degree of compliance of the indicators is over 60% (over 80% if the agricultural census indicators are not taken into account).

The following EU legislation specified in the Compendium of Statistical Requirements was used to assess the degree of compliance of indicators:

#### a) Crop statistics

Regulation (EC) No 543/2009 of the European Parliament and of the Council of 18 June 2009 concerning crop statistics and repealing Council Regulations (EEC) No 837/90 and (EEC) No 959/93;

Commission Delegated Regulation (EU) 2015/1557 of 13 July 2015 amending Regulation (EC) No 543/2009 of the European Parliament and of the Council of concerning crop statistics;

Regulation (EU) No 1337/2011 of the European Parliament and of the Council of 13 December 2011 concerning European statistics on permanent crops;

#### b) Livestock, meat and egg statistics

Regulation (EC) No 1165/2008 of the European Parliament and of the Council of 19 November 2008 concerning livestock and meat statistics;

Commission Regulation (EC) No 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) No 1237/2007 as regarding marketing standards for eggs for hatching and farmyard poultry chicks;

CPSA agreement on monthly estimates of slaughtering carried out other than in slaughterhouses, renewed on an annual basis;

ESS agreement on statistics on eggs for consumption.

#### c) Milk and milk products statistics

Council Directive No 96/16/EC of 19 March 1996, statistical surveys of milk and milk products;

Commission Decision No 97/80/EC of 18 December 1996, implementation of Council Directive No 96/16 on statistical surveys of milk and milk products;

European Parliament and Council Directive No 2003/107/EC of 5 December 2003, amending Council Directive 96/16/EC on statistical surveys of milk and milk products;

Commission Decision No 2005/288/EC of 18 March 2005, amending Decision 97/80/EC on provisions for the implementation of Council Directive 96/16/EC on statistical surveys of milk and milk products;

Commission Decision No 2011/142/EU of 3 March 2011, amending Decision 97/80/EC laying down provisions for the implementation of Council Directive 96/16/EC on statistical surveys of milk and milk products;

#### d) Integrated farm statistics

Regulation (EU) 2018/1091 of the European Parliament and of the Council of 18 July 2018 on integrated farm statistics;

Commission Implementing Regulation (EU) 2015/220 of 3 February 2015 laying down rules for the application of Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European;

e) Agricultural Accounts and Prices

European Parliament and Council Regulation (EC) No 138/2004 of 05 December 2003, on the economic accounts for agriculture in the Community;

3.1.4. Organic production and farming

Council Regulation (EC) No 834/2007 of 28 June 2007, on organic production and labelling of organic products.

3.1.5. Agro-environmental indicators

Regulation (EC) No 1185/2009 of the European Parliament and of the Council of 25 November 2009 concerning statistics on pesticides.

Information is collected and compiled on areas, gross harvest of crops, including reclaimed land (monthly, annually), use of fertilizers and pesticides (annually), livestock production, number of farm animals (monthly, annually), grape inputs for processing into wine products (annually), supply of farm animals, milk (quarterly), cereals and oilseeds (monthly) to processing companies, stocks of cereals and oilseeds, volumes of and average selling prices for agricultural products set by their manufacturers (monthly), prices for products used in agricultural production (annually), availability of agricultural machinery (every five years), costs and efficiency of agricultural production (annually), agricultural output at constant prices (monthly, annually), agricultural economic accounts and balances of main crop and livestock products (annually). The indicators cover both agricultural enterprises and households.

The indicators regarding the quantitative recording of land are provided by the State Agency for Geodesy, Cartography and Cadastre.

The Nomenclature of Agricultural Products is used, which makes it possible to compare with CPA categories, ver. 2.1 (2015) and takes into account the agricultural product lists as set out in Regulations (EC) No. 543/2009 (as amended), No. 1337/2011, No. 1165/2008, No. 2018/1091 and No. 96/16/EC and the FAO World Programme for the Census of Agriculture.

No surveys on the structure of agricultural enterprises, in particular the agricultural census, so there's no information on the number and structure of agricultural holdings. No data are collected on the organic agricultural production, and on the incubation of eggs by species, types of poultry, on the cultivation of grapes by varieties, either. Also, Land Use and Coverage Area frame Survey (LUCAS) are not conducted.

*Measures taken to achieve compliance:* Pursuant to the Law of Ukraine "On Agricultural Census", a pilot agricultural census was conducted in 2012, but no funding was allocated for the 2014 general agricultural census. The proposals of the State Statistics Service to include the agricultural census issues in the programme of the pilot population census, which was conducted in 2019, were not supported by other ministries. The Programme for the Development of State Statistics until 2023 provides measures to prepare and conduct the agricultural census considering the population census time frame. The date of the agricultural census has not been determined yet.

With a view to full implementation of Commission Regulation (EC) No. 617/2008, a draft form and explanations have been prepared; those take into account the indicators on the number of hatching eggs and hatched chickens (by poultry species, categories (parent and grandparent flock), types (egg-laying, meat, and meat and egg-laying)), as well as the structure of hatch stations (by poultry species). It is planned to receive this information starting from the report for 2024.

The Ministry of Agrarian Policy and Food has begun work on creating a Unified Register of Vineyards and Vinicultural Plantations as a separate part of the State Agrarian Register.

*Major hindrances:* Lack of financial and technical resources.

#### Forestry statistics and accounts

*Current situation:* The degree of compliance of the forestry statistics is about 85%.

The following EU legislation specified in the Compendium of Statistical Requirements was used to assess the degree of compliance of indicators:

Agreement of the Inter-Secretariat Working Group (IWG) of 1990 on Forestry statistics;

The European framework for integrated environmental and economic accounting for forests IEEAF;

Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community;

Decision 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities.

Wood production and sales and measures for the conservation, protection, use and regeneration of forests are surveyed.

No forestry accounts are maintained.

*Measures taken to achieve compliance:* The methodology for conducting statistical surveys on forest use has been improved; in particular, the use of administrative data of the State Agency for Forest Resources regarding logging and sale of forest products and of the State Emergency Service regarding forest fires and their consequences has been introduced.

Main barriers: Insufficient human resources, insufficient available administrative data needed to compile forestry accounts and their low quality.

#### Fishery statistics

*Current situation:* The degree of compliance of the indicators is 100%.

The following EU legislation specified in the Compendium of Statistical Requirements was used to assess the degree of compliance of indicators:

Regulation (EC) No 1921/2006 of the European Parliament and of the Council of 18 December 2006, on the submission of statistical data on landings of fishery products in Member States;

Regulation (EC) No 762/2008 of the European Parliament and of the Council of 9 July 2008, on the submission by Member States of statistics on aquaculture and repealing Council Regulation (EC) No 788/96;

Regulation (EC) No 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic;

Regulation (EC) No 217/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of catch and activity statistics by Member States fishing in the north-west Atlantic;

Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic.

Volumes, average prices and means of obtaining aquatic bioresources are surveyed.

Aquaculture indicators are produced by the State Fishery Agency.

The Nomenclature of Fishery and Aquaculture Products is used, which makes it possible to compare with CPA categories, ver. 2.1 (2015) and takes into account the aquatic bioresources lists as set out in Regulations (EC) No. 1921/2006, No. 216/2009, No. 217/2009, No. 218/2009 and No. 762/2008 and the International Standard Statistical Classification for Aquatic Animals and Plants (ISSCAAP).

#### **g) Multi-domain statistics, including environment and energy statistics.**

##### Transport statistics

##### Road freight transport

*Current situation:* The degree of compliance of the indicators is about 50%. Intra-year statistics do not include the operations of enterprises engaged in transport for their own use. However, annual statistics include such transport.

The statistics are produced in accordance with the Cargo Classification (CC, NST 2007), by mode of transport and by region; no statistics are available by dangerous goods, by country and NUTS3.

*Measures taken to achieve compliance:* The implementation of the Eurostat's methodology (Road freight transport methodology — 2016 edition (Revised in August 2017); basic documents: Regulation (EU) № 70/2012 and Commission Regulation (EC) № 6/2003) is planned. A pilot survey Road Freight Transport of Goods was carried out using the administrative data of the Ministry of Internal Affairs (from the Register of Vehicles) and the State Road Agency (from the Weigh-in-Motion automatic dimensioning and weight control units).

*Major hindrances:* Lack of technical and human resources.

##### Rail transport

*Current situation:* The degree of compliance of the intra-year statistics is 100%. The degree of compliance of the annual statistics is about 30%. The statistics by cargo types are produced in accordance with the cargo list (CC, NST 2007 is not applicable).

*Measures taken to achieve compliance:* Measures are being taken in cooperation with the Ministry of Infrastructure to bring the methodology in line with the EU legislation (Reference Manual on Rail Transport Statistics; basic documents: Regulation (EU) 2018/643 and Commission Regulation (EC) № 1304/2007) and obtain administrative data (Ukrzaliznytsia JSC) on: cargo distribution (CC, NST 2007), by type of dangerous goods, by transport type (international (inbound and outbound) and national), by loading method, by country (ISO-3166-alpha2) and by region

(NUTS2); generation of indicators on the number of multimodal transport units, train-kilometres and number of trains by network segment (AGC) and TEN (Trans-European Network) railway line.

*Major hindrances:* Lack of financial, technical and human resources.

#### Maritime transport

*Current situation:* The degree of compliance of the indicators is about 40%. The survey unit does not meet the requirements. The statistics by cargo types are produced in accordance with the cargo list (CC, NST 2007 is not applicable).

*Measures taken to achieve compliance:* Measures are being taken in cooperation with the Ministry of Infrastructure to bring the methodology in line with the EU legislation (Reference Manual on Maritime Transport Statistics – 2019 edition; basic documents: Directive 2009/42/EC and Commission Regulation (EC) № 1304/2007) and obtain administrative data (AMPU SE) on: cargo distribution (CC, NST 2007), by main ports, flag of ships and number of cruise passengers; generation of indicators on the number of ships by their type (based on the Eurostat classification (ICST-COM), which is harmonised with the UNCTAD International Classification of Ship Types) and size (measured in gross tonnage and deadweight), as well as the number of containers and Ro-Ro units.

*Major hindrances:* Lack of technical and human resources.

#### Inland water transport

*Current situation:* The degree of compliance of the indicators is about 60%. The survey unit does not meet the requirements. The statistics by cargo types are produced in accordance with the cargo list (CC, NST 2007 is not applicable).

*Measures taken to achieve compliance:* Measures are being taken in cooperation with the Ministry of Infrastructure to bring the methodology in line with the EU legislation (Reference Manual on Inland Waterways Transport Statistics – version 9.2; basic documents: Regulation (EU) 2018/974 and Commission Regulation (EC) № 1304/2007) and obtain administrative data (River Information System) on: cargo distribution (CC, NST 2007), by type of dangerous goods, by type of ships and their flag, by size and number of containers transported; generation of indicators on the number of ships.

*Major hindrances:* Lack of technical and human resources.

#### Air transport

*Current situation:* The degree of compliance of the indicators is about 75%.

*Measures taken to achieve compliance:* Measures are being taken in cooperation with the Ministry of Infrastructure to bring the methodology in line with the EU legislation (Reference Manual on Air Transport Statistics; basic document Regulation (EC) № 437/2003) and obtain administrative data (State Aviation Service of Ukraine) on: distribution of indicators by airport, airline (ICAO (Doc 8595)) and aircraft type (ICAO (Doc 8643)); generation of indicators for the number of departures and arrivals of aircraft, number of flights of aircraft, available passenger seats and number of transfer passengers.

*Major hindrances:* Lack of technical and human resources.

#### Tourism

##### Domestic tourism (accommodation facilities and occupancy)

*Current situation:* The degree of compliance of the indicators is 100% (Regulation (EU) No 692/2011 of the European Parliament and of the Council of 6 July 2011 concerning European statistics on tourism and repealing Council Directive 95/57/EC in part of accommodation facilities and occupancy), but there are differences in the frequency with which data is obtained. Currently, the survey is conducted annually, while some indicators should be obtained monthly.

*Measures taken to achieve compliance:* The methodology and reporting and statistical documentation on the operation of collective accommodation facilities have been improved.

*Major hindrances:* The production and publication of indicators for collective accommodation facilities at monthly intervals requires an increased respondent burden. The lack of a register of tourism businesses complicates the compilation of the survey population.

#### National tourism (participation in tourism and tourist trips)

*Current situation:* The degree of compliance of the indicators — no relevant survey is conducted.

*Measures taken to achieve compliance:* The methodology and the reporting and statistical documentation for the household travel survey (for domestic and outbound tourism) have been developed.

*Major hindrances:* The implementation of the household travel survey is scheduled for 2023 and requires additional financial and human resources.

#### Statistics on science and technology

*Current situation:* The degree of compliance of science statistics is over 60%.

Frequency, reference time, data sources are in 100% compliance with the requirements of Commission Implementing Regulation (EU) No 995/2012 of 26 October 2012 laying down detailed rules for the implementation of Decision No 1608/2003/EC of the European Parliament and of the Council concerning the production and development of Community statistics on science and technology, Frascati Manual 2015.

The list of indicators and their details comply partially. The indicators for government budget allocations for R&D (GBARD) are not provided or published, and no data is collected for entities classified under CEA Sections S, T and U.

Indicators of science statistics are collected annually by conducting a survey of enterprises that are legal entities on a non-continuous basis (by selecting units of observation).

*Measures taken to achieve compliance:* A request for advice to the Eurostat has been prepared concerning the organisation and methodology of the science statistics survey within the framework of the TAIEX instrument.

*Major hindrances:* Risk that no advice will be provided; the staff lacks necessary theoretical knowledge and practical experience.

#### Innovation statistics

*Current situation:* The degree of compliance of the innovation statistics is 100%.

Frequency, reference time, list of indicators and their details, data sources are in full compliance with the requirements of Commission Implementing Regulation (EU) No 995/2012 of 26 October



2012 laying down detailed rules for the implementation of Decision No 1608/2003/EC of the European Parliament and of the Council concerning the production and development of Community statistics on science and technology, Oslo Manual 2018, Harmonised Data Collection for the relevant year.

#### Information and communication technology statistics

*Current situation:* The degree of compliance of the indicators is 65%.

Full compliance of the statistics on the use of ICT by enterprises is ensured.

Frequency, reference time, list of indicators and their details, data sources are in full compliance with the requirements of annual regulations (and specifically, with Commission implementing Regulation (EU) 2020/1030 of 15 July 2020 laying down the technical specifications of data requirements for the topic 'ICT usage and ecommerce' for the reference year 2021, pursuant to Regulation (EU) 2019/2152 of the European Parliament and of the Council), Community survey on ICT usage and e-commerce in enterprises for the relevant year.

Most indicators regarding the household access to ICT as provided by Commission Implementing Regulation (EU) 2020/1013 of 20 July 2020 specify the technical items of the data set, establishing the technical formats for transmission of information and specifying the detailed arrangements and content of the quality reports on the organisation of a sample survey in the use of information and communication technologies domain for reference year 2021 pursuant to Regulation (EU) 2019/1700 of the European Parliament and of the Council of 10 October 2019 establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples, amending Regulations (EC) No 808/2004, (EC) No 452/2008 and (EC) No 1338/2008 of the European Parliament and of the Council, and repealing Regulation (EC) No 1177/2003 of the European Parliament and of the Council and Council Regulation (EC) No 577/98, are not collected.

Household surveys on their use of ICT are conducted annually as part of a multi-purpose survey of household living conditions in paper form.

A limited number of indicators is collected. The methodology of the indicators being developed, the periods of dissemination and the frequency of collection are in full compliance.

*Measures taken to achieve compliance:* Work has begun to improve the modular survey programme on household access to ICT in accordance with the requirements of Commission Implementing Regulation (EU) 2020/1013 of 20 July 2020.

*Major hindrances:* Lack of financial resources to conduct the modular survey on household access to ICT using modern data collection technologies (CAPI, CAWI, etc.) and develop software for processing the survey results.

#### Environment statistics

##### Environmental accounts

##### Waste statistics

*Current situation:* The degree of compliance of the indicators is 65%.

The following EU legislation specified in the Compendium of Statistical Requirements was used to assess the degree of compliance of indicators:

4.1.1-4.1.2. Monetary and physical environmental accounts: Regulation (EU) No 691/2011 on European environmental economic accounts, as amended by Regulation (EU) No 538/2014 of the European Parliament and of the Council of 16 April 2014;

#### 4.1.3. Statistics on waste

Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002, on waste statistics;

Commission Regulation (EC) No 782/2005 of 24 May 2005, setting out the format for the transmission of results on waste statistics;

Commission Regulation (EU) No 849/2010 of 27 September 2010 amending Regulation (EC) No 2150/2002 of the European Parliament and of the Council on waste statistics.

Annual statistical surveys are conducted on emissions of pollutants and greenhouse gases into the atmosphere from stationary and mobile sources of pollution, waste generation and management, environmental protection costs, as well as environmental accounts for air emissions and environmental costs.

At the same time, four of the six environmental accounts provided in Regulation (EU) 691/2011 are not produced, and in particular, accounts of: environmental taxes by sector; environmental goods and services; material flows; flows of physical energy.

The domestic waste statistics does not use the European List of Wastes (LoW) as approved by Commission Decision 2000/532/EC of 03.05.2000, and there is no normatively defined concept of municipal waste.

*Measures taken to achieve compliance:* The methodology for compiling environmental accounts for air emissions and environmental costs has been improved. The calculation of greenhouse gas emissions from the air emissions account has been introduced on the basis of the administrative data from the National Greenhouse Gas Inventory submitted by the country to the UN Framework Convention on Climate Change, and relevant retrospective calculations have been made since 2016.

Development of approaches to compiling accounts material flows as part of agriculture has begun.

A list of wastes based on material harmonised with the relevant European Waste Classification for Statistics (EWC-STAT) has been introduced into statistical practices.

The Ministry of Environmental Protection and Natural Resources has prepared a national analogue of the European List of Wastes (LoW), as well as draft legal and normative acts necessary for its implementation.

Administrative data from the Ministry of Communities and Territories Development, which are collected from oblast state administrations, are used as analogues of municipal waste indicators.

*Major hindrances:* Lack of human resources. Domestic waste legislation has not been brought in line with European standards. Insufficient information and low quality of available administrative data needed for compiling indicators of environmental accounts.

#### Water resource statistics

*Current situation:* The degree of compliance of the indicators is about 40%.

The following EU legislation specified in the Compendium of Statistical Requirements was used to assess the degree of compliance of indicators:

Joint OECD/Eurostat Questionnaire on the Environment, Section Inland Waters; Regional Water Questionnaire.

There are no indicators on renewable freshwater resources, wastewater treatment by urban treatment plants, fresh water supply by water supply companies, population coverage by water supply systems, wastewater collection and treatment, water exploitation index.

The indicators are produced by the State Agency for Water Resources. Information on the use and protection of water resources is collected on an annual basis. Data are generated on the basis of summaries of annual reports on the use of water according to Form “2-ТП (водгосп)-річна” (2-TP (water management)-annual). For the purpose of preparing those reports, the State Agency for Water Resources collects data from water users that are subject to state water use accounting. Reports are submitted electronically and published on the e-Service Portal of the State Agency for Water Resources. The data include the key indicators of the use of water resources, such as volumes of water withdrawal, use, water discharge, water losses, sewage discharge with the breakdown by categories of economic activities, volumes of pollutant emissions.

The State Agency for Water Resources publishes information on the water use with the breakdown by hydrographic and water management areas, administrative and territorial units and economic activities. (see <https://www.davr.gov.ua/derzhavnij-oblik-vodokoristuvannya>).

The State Statistics Service of Ukraine publishes the above-mentioned administrative data with the breakdown by regions and economic activities.

([http://www.ukrstat.gov.ua/druk/publicat/kat\\_u/2021/zb/11/Dovk\\_20.pdf](http://www.ukrstat.gov.ua/druk/publicat/kat_u/2021/zb/11/Dovk_20.pdf)).

With the purpose to ensure collection, processing, storage, generalisation and analysis of information about the state of water bodies, forecast its changes and develop evidence-based recommendations for taking decisions in the areas of water use and protection and recovery of water resources, the State Statistics Service of Ukraine conducts state water monitoring.

The State Agency for Water Resources provides information on the progress in achieving the indicators of the Sustainable Development Goals, namely Goal 6 “Ensuring accessibility and sustainable management of water resources and sanitation”, in particular targets 6.3, 6.4 and 6.5.

Measures taken to achieve compliance. In 2019, Ukraine has introduced European approaches to water monitoring in line with the Water Framework Directive.

Since 2021, reports on water use according to Form “2-ТП (водгосп)-річна” (2-TP (water management)-annual) are submitted electronically via the e-Service Portal of the State Agency for Water Resources.

Main hindrances: Insufficiency and low quality of available administrative data. Responsibility for non-submission of reports by water users is declarative.

### Biodiversity

*Current situation:* The indicators are produced by the Ministry of Environmental Protection and Natural Resources. In particular, for the purpose of implementation of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild

fauna and flora, The EU Biodiversity Strategy to 2020 there is a register of the nature reserve territories (fund) which are protected and supported by the state. Accounting of biodiversity in Ukraine is ensured through keeping state cadastres of fauna and flora, the Red Book and the Green Book of Ukraine.

Particularly, Ukraine's biodiversity is represented by over 12 thousand flora species (of which: 5,100 species of vascular plants, 5,000 species of algae, 1,200 species of lichens, 800 species of mosses), over 45 thousand fauna species (of which: 35,000 species of insects, around 9,000 species of other invertebrates, 200 species of fish and cyclostomi, 17 species of amphibians, 21 species of reptilians, around 400 species of birds, 108 species of mammals), around 15 thousand species of fungal and mycetoza.

The Red Book of Ukraine specifies 687 fauna species (Order of the Ministry of Ecology and Natural Resources No. 29 of 19.01.2021) and 857 flora and fungal species (Order of the Ministry of Ecology and Natural Resources No. 11 of 15.02.2021).

The Green Book of Ukraine specifies 159 rare and endangered, and typical natural plant communities subject to protection (Order of the Ministry of Ecology and Natural Resources No. 368 of 17.12.2020).

#### Energy statistics

*Current situation:* The degree of compliance of the energy statistics is 100%.

Assessment of compliance of national energy statistics with the provisions of EU legislation was carried out on the basis of the Statistical Requirements Compendium 2021.

At the same time, it should be noted that in the framework of fulfilling the obligations under the Energy Community Agreement, the SSSU, with the advisory support of Eurostat, has taken appropriate measures to implement, starting in 2023, the amendments made by Energy Statistics Regulation (Regulation (EC) 1099/2008 of 22.10.2008 on Energy statistics as last amended by Commission Regulation (EC) 2022/132 of 28 January 2022.

Pursuant to the action plans for the implementation of the EU-Ukraine Association Agreement and the obligations under the Energy Community Treaty, taking into account the advice received in a number of international cooperation projects, the State Statistics Service has ensured the implementation of the provisions of Regulation (EC) No. 1099/2008 of 22.10.2008 on energy statistics, Regulation (EU) No. 2016/1952 of 26.10.2016 on European statistics on natural gas and electricity prices for end consumers and Commission Regulation (EU) No. 431/2014 of 24.04.2014 on obtaining data on energy consumption in households and ensures the publication of statistical information on energy and energy efficiency indicators and the provision of data to Eurostat and other international organisations on an ongoing basis in the appropriate format.

The compliance of Ukraine's energy statistics with EU requirements was confirmed during the 2021 In-depth Peer Review of the Energy Policy of Ukraine as part of the EU4Energy project.

#### *Regional statistics. NUTS classification management*

*Current situation:* A draft statistical classifier of territorial units of Ukraine (NUTS-UA) has been developed; it is in line with the European Nomenclature of Territorial Units for Statistics (NUTS). NUTS-UA classifies territorial units formed in accordance with the criteria set forth in

Regulation (EC) No. 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (as amended).

*Measures taken to achieve compliance:* Currently, measures are being taken to approve the NUTS-UA project as a national classifier.

#### *Justice and crime*

#### *Safety and Crime*

Information on criminal offenses is part of the administrative data maintained by the authorities that register the relevant crimes, as in other EU countries. No socio-demographic survey samplings as regards the criminogenic situation are conducted in Ukraine, nor the International Classification of Crime for Statistical Purposes is applied.

#### *Culture*

#### *Culture and sport*

In EU there are no harmonised data collections or surveys at EU level dedicated only to culture or sport.

Both culture and sport statistics are derived from data collections in different statistical domains (not only social statistics): employment (EU-LFS), business (SBS, Business Demography and Prodcom), international trade (Comext), private expenditure (HBS), government expenditure (by COFOG) and participation (EU-SILC and EHIS). Different statistical domains in Ukraine will consider as further development.

You can find annexes to this chapter under the link: <https://bit.ly/3PexNDF>

## CHAPTER 19. SOCIAL POLICY AND EMPLOYMENT

*On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy. The acquis in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).*

*The European Social Fund+ (ESF+) is the main financial instrument supporting investments in people and systems in the policy areas of employment, education and social inclusion, thereby supporting economic, territorial and social cohesion. It supports Member States in implementing the principles of the European Pillar of Social Rights, and contributing to the green and digital transition, in particular by investing in people (Implementation rules are covered under Chapter 22 "Regional policy and coordination of structural instruments" which deals with all structural instruments).*

*The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate in social dialogue at the European level.*

*In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at acting to enhance the inclusion and participation of people with disabilities on equal basis with others and to provide access to their rights. International agreements related to employment, labour and social issues, such as the relevant ILO Conventions, need to be taken into consideration. The UN Convention on the Rights of Persons with Disabilities must be ratified.*

*In relation to chapter 23 "Judiciary and Fundamental Rights", it should be noted that trade unions rights are covered by chapter 19 only. As regards anti-discrimination and equal opportunities, these issues are essentially covered by chapter 19 with a specific focus on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.*

### **Abbreviations**

ASC – Administrative Social Centre

CAPU - Code of Administrative Procedure of Ukraine

CCU – Civic Code of Ukraine

CMU – Cabinet of Ministers of Ukraine

CrCU – Criminal Code of Ukraine

CU – Constitution of Ukraine

CUAO – Code of Ukraine on Administrative Offences

ECU – Economic Code of Ukraine

HGP – Health Guarantee Program

LCU – Labour Code of Ukraine

MoE – Ministry of Economy of Ukraine

MoH – Ministry of Health of Ukraine

MSPU – Ministry of Social Policy of Ukraine

NHSU - National Health Service of Ukraine

NMRS - National Mediation and Conciliation Service

SESU – State Employment Service of Ukraine

SLSU – State Labour Service of Ukraine

VRU – Verkhovna Rada of Ukraine (the Parliament)

## ***LABOUR LAW***

### **A. Legal framework**

#### **1. How is the distribution of competences defined and which authorities are responsible for labour legislation in Ukraine?**

The Verkhovna Rada of Ukraine (the parliament, hereinafter VRU), is the single legislative body in Ukraine (Article 75 of Constitution of Ukraine, hereinafter CU). The right of the legislative initiative at the VRU is conferred on the President Ukraine, the Members of VRU and the Cabinet of Ministers of Ukraine (Article 93 of CU).

Pursuant to Article 192 of the Law of Ukraine “On the Rules of Procedure of VRU”, VRU expresses its consent to the binding power of international treaties of Ukraine through adoption of a law (on ratification, approval, adoption, accession) and denounces international treaties of Ukraine in accordance with CU, the Law of Ukraine “On International Treaties of Ukraine”, the Vienna Convention on the Law of Treaties of 23 May 1969 and these Rules of Procedure.

According to Article 20 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine”, the Cabinet of Ministers of Ukraine (hereinafter CMU) shall, in the area of economy, finance, labour relations, employment, labour migration, pay and labour protection, in particular:

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;

According to the Regulation on MoE approved by CMU Resolution of 20 August 2014 No. 459 “On competence of the Ministry of Economy”, the Ministry of Economy (hereinafter MoE) is the principal body within the system of central executive authorities, which ensures:

-formation and implementation of state policy in the area of labour, employment, labour

migration, labour relations and social dialogue;

-formation and implementation of state policy in the area of industrial safety, occupational health and safety, handling of explosives, state mining supervision, and state supervision and control over compliance with labour and employment laws.

According to the Regulation on the State Labour Service of Ukraine approved by CMU Resolution of 11 February 2015 No.96, the State Labour Service of Ukraine (hereinafter SLSU) is the central executive authority whose activities are guided and coordinated by CMU through the First Vice Prime Minister of Ukraine — Minister of Economy, and which implements state policy in the areas of industrial safety, occupational health and safety, handling of industrial explosives, state mining supervision, state supervision and control over compliance with labour and employment laws, compulsory state social insurance against occupational accidents and occupational diseases that have caused disability, temporary disability and unemployment (hereinafter referred to as compulsory state social insurance) as it pertains to admission to, accrual and payment of subsidies, compensations, social services and other types of financial assistance to ensure that the rights and guarantees of the insured persons are observed.

## **2. Does the labour legislation of Ukraine contain a definition of:**

### **a) Employed worker (employee)?**

According to Article 14(14.1)(14.1.195) of the Tax Code of Ukraine, an employee is an individual who performs a labour function directly with his/her labour under a labour agreement (contract) concluded with the employer in accordance with law. The same definition is provided in Article 1 of the Law of Ukraine “On Labour Protection”.

A similar definition is found in Article 1 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”, stating that an employee is an individual who works under a labour contract at an undertaking, institution, organisation or for an individual who uses hired labour.

The Labour Code of Ukraine (hereinafter – LCU) does not contain a direct definition of the “employee”, although it is the task of the LCU to regulate labour relations of all employees. Attributes of the concept “employee” are defined in Article 2 “Basic Labour Rights of Employees” of the LCU: “Employees exercise the right to labour by concluding a contract of employment at an undertaking, institution, organisation or with an individual. Employees have the right to rest in accordance with laws on limitations of working day and working week and laws on paid annual leaves, the right to healthy and safe working conditions, to associate in trade unions and settle collective labour conflicts (disputes) in the manner prescribed by law, to participate in the management of the undertaking, institution, organisation, to material support as social insurance in old age and in case of illness or rehabilitation, total or partial disability, material assistance in case of unemployment, right to take legal action to settle labour disputes regardless of the nature of work performed or position held, except in cases envisaged by law, and other rights laid down by law.

### **b) Self-employed worker (self-employed person)?**

According to Article 14(14.1)(14.1.226) of the Tax Code of Ukraine, a self-employed person is a taxpayer who is an individual entrepreneur or exercises independent professional activities, provided that such person is not an employee of such business or independent professional activities.



Independent professional activities are the participation of an individual in scientific, literary, actor, artistic, educational or teaching activities; the activities of doctors, private notaries, private enforcers, lawyers, arbitration managers (asset managers, administrators, official receivers), auditors, accountants, appraisers, engineers or architects, of an individual involved in religious (missionary) activities and other similar activities, provided that such person is not an employee or individual entrepreneur (except in case as provided for in Article 65(65.9) of this Code), and uses the hired labour of no more than four individuals;

Civil servant/official?

According to Article 1(2) of the Law of Ukraine “On Civil Service”, a civil servant is a Ukrainian citizen who holds a civil service position in a public authority, other public body, its apparatus (secretariat) (hereinafter referred to as the public authority), receives salary from the state budget and exercises the powers established for this position that are directly related to the performance of tasks and functions of such public authority, as well as adheres to the civil service principles.

c) Labour contract or employment relationship?

In accordance with Article 21 (1) of LCU, a labour contract is an agreement between an employee and an owner of an undertaking, institution, organisation or an authorised representative body or individual whereby the employee commits to perform work defined by such agreement, and the owner of the undertaking, establishment, organisation or the authorised representative body or individual commits to pay salary to the employee and ensure working conditions necessary for the performance of work as envisaged by labour legislation, collective agreement and agreement of the parties.

e) Employer?

The term “employer” is used in many laws of Ukraine, in particular the Laws “On Employers’ Organisations, Their Associations, Rights and Guarantees of Their Operation”, “On the Procedure for Settlement of Collective Labour Disputes (Conflicts)”, “On Labour Protection”, “On the Protection of Rights to Topographies of Semiconductor Products”, “Fundamentals of Ukrainian Legislation on Compulsory State Social Insurance”, “On Non-Governmental Pension Coverage”, “On Trade Unions, Their Rights and Guarantees of Their Operation” and others.

According to Article 1 of Law of Ukraine “On Employers’ Organisations, Their Associations, Rights and Guarantees of Their Operation”, an employer is a legal entity (undertaking, institution, organisation) or an individual entrepreneur that uses the labour of individuals within labour relations.

According to Article 1 of Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”, an employer is an owner of an undertaking, institution, organisation, regardless of their ownership form, activities, industry, or their authorised body (head) or an individual who uses hired labour in accordance with law.

According to Article 1 of Law of Ukraine “On the Procedure for Settlement of Collective Labour Disputes (Conflicts)”, an employer is a legal entity (undertaking, institution, organisation) or an individual that uses the labour of individuals within labour relations.

The LCU and the Economic Code of Ukraine (hereinafter ECU) do not contain a definition of the term “employer”. Instead, the wording “owner of an undertaking, institution, organisation or an authorised body or individual” is used.

Three terms are actually used in parallel in laws of Ukraine: “employer”, “owner of an undertaking, institution, organisation or an authorised body or individual” and “owner, management bodies of an undertaking”, which are equivalent.

f) Establishment, undertaking and group of undertakings?

In accordance with Article 62 of ECU, an enterprise is an independent economic entity established by a competent public authority, local self-government body or other entities to satisfy public and personal needs through systematic production, research, trade or other economic activities in the manner prescribed by this Code and other laws.

Article 63 of ECU determines the types and organisational forms of enterprises.

1. Depending on their ownership forms provided for by law, the following types of enterprises may operate in Ukraine:

- a private enterprise acting on the basis of private ownership of citizens or an economic entity (legal person);
- an enterprise acting on the basis of collective ownership (collective ownership enterprise);
- a communal enterprise acting on the basis of communal ownership of the territorial community;
- a state-owned enterprise acting on the basis of state ownership;
- an enterprise based on the mixed ownership form (on the basis of joint property of different forms of ownership);
- a joint communal enterprise acting on a contractual basis of joint funding (management) by respective territorial communities — cooperation parties.

Other types of enterprises envisaged by law may also operate in Ukraine.

2. If the share of foreign investment in the authorised capital of an enterprise is not less than ten percent, the enterprise is recognised as a foreign-invested company. An enterprise with one hundred percent of foreign investment in the authorised capital is regarded as a foreign enterprise.

3. Depending on the way of creation (establishment) and formation of the authorised capital, enterprises operating in Ukraine can be unitary and corporate.

4. A unitary enterprise is established by one founder who allocates the necessary property, forms authorised capital undivided into shares in accordance with law, approves the charter, distributes income, directly or through the head appointed (selected) by the founder (the supervisory board of such enterprise, if any), manages the enterprise and forms its workforce through recruitment, solves questions of reorganisation and liquidation of the enterprise. Unitary enterprises are state-owned enterprises, communal enterprises, enterprises founded on the basis of the ownership of citizens' association, religious organisation or private ownership of the founder.

5. A corporate enterprise is typically established by two or more founders by their joint decision (agreement), operates on the basis of consolidation of property and/or business or labour activities of the founders (participants), their joint management of affairs, on the basis of corporate rights, including through the bodies established by them, participation of the founders (participants) in distribution of profits and risks of the enterprise. Corporate enterprises are cooperative enterprises,

enterprises founded as a business company, and other enterprises, including those based on private ownership of two or more persons.

6. Should there be dependence on other enterprise pursuant to Article 126 of ECU, the enterprise is regarded as a subsidiary.

7. Articles 118–127 of ECU define a legal framework for association of enterprises.

An association of enterprises is an economic organisation made up of two or more enterprises for coordination of their production, scientific and other activities to achieve common economic and social objectives. An association of enterprises is a legal entity.

Depending on their founding procedure, associations of enterprises may be set up as economic associations or as state-owned or communal economic associations.

An economic association is an association of enterprises set up at the initiative of the enterprises, regardless of their type, that consolidated their economic activities on a voluntarily basis. Economic associations are set up as associations, corporations, consortia, concerns, other associations of enterprises envisaged by law.

**3. Does the labour legislation apply to other categories of workers, apart from persons in paid employment? Which categories of workers are not covered by the labour legislation? Please indicate in particular whether part-time, fixed-term or temporary agency works are covered or not.**

In accordance with Article 3 of LCU, labour legislation regulates labour relations of employees of all undertakings, institutions, organisations, regardless of their ownership form, activities and industry, as well as individuals who work under a labour contract with individuals.

Specificities of labour of members of cooperatives and their associations, collective agricultural enterprises, farms, employees of foreign-invested enterprises are determined by law and their charters. At the same time, guarantees for employment, labour protection, labour of women, youth, persons with disabilities are provided in the manner prescribed by labour legislation.

In accordance with Article 8 of the LCU, the labour relations of Ukrainian citizens working abroad, as well as the labour relations of foreign citizens working at undertakings, institutions, organisations of Ukraine are governed according to the Law of Ukraine “On International Private Law”.

LCU and labour legislation do not apply to the relations between gig specialists and Diia.City residents determined by the Law of Ukraine “On Stimulating the Development of the Digital Economy in Ukraine”, although this Law provides for social guarantees for such workers, including limits on the duration of the working day/week (8 and 40 hours accordingly) and provision of the paid annual leave of at least 17 days (Article 21). Article 22 of the Law extends social security guarantees provided by the Law “On Compulsory Social Insurance” to gig specialists, including social payments in case of a temporary loss of working capacity, paid maternity leave, prohibition of dismissal during maternity or temporary loss of working capacity, etc.

According to Article 62(4) of Law of Ukraine “On Joint Stock Companies”, officials of a joint stock company are remunerated only under conditions envisaged by civil law or labour agreements (contracts) concluded with them. According to Article 2(1)(15) of the Law of Ukraine “On Joint Stock

Companies”, officials of a joint stock company are individuals — chairperson and members of the supervisory board, executive body, and audit commission, an inspector of a joint stock company, as well as a chairperson and members of any other body whose establishment is envisaged by the company’s charter.

The charter of a joint stock company determines whether supervisory board members will provide services under a civil law contract or be employed by this company under a labour contract, the specificities of conclusion and execution of which are defined by either the CCU or LCU. If a civil law contract is concluded, this means that such relations are not covered by the labour law of Ukraine.

In accordance with Article 51(3) “The establishment of a supervisory board of a joint stock company” of the Law of Ukraine “On Joint Stock Companies”, the operational procedure and remuneration of supervisory board members are determined by this Law, the company’s charter, regulation on the supervisory board, and a civil law or labour agreement (contract) concluded with a supervisory board member. Such agreement or contract on behalf of the company is signed by the chairperson of the executive body or other individual authorised by the general meeting under conditions set out by the decision of the general meeting. If a civil law contract is concluded with supervisory board members, such contract may be paid or non-paid.

A special type of labour agreement — contract — is concluded with members of the executive body of the company. According to Article 58(5) of the Law of Ukraine “On Joint Stock Companies”, the rights and obligations of members of the executive body of a joint stock company are determined by this Law, other legislative acts, the company’s charter and/or regulations on the executive body of the company, as well as the contract concluded with each member of the executive body. The contract is signed on behalf of the company by the chairperson of the supervisory board or the person so authorised by the supervisory board.

Professional activities of civil servants are a special type of labour activities. According to parts 2 and 3 of Article 5 “Legal regulation of civil service” of the Law of Ukraine “On Civil Service” No. 889-VIII of 10 December 2015, relations arising in connection with the entry into civil service, serving in civil service and termination of civil service office shall be regulated by this Law, unless the law provides otherwise. Provisions of labour legislation apply to civil servants in cases not regulated by the Law of Ukraine “On Civil Service”. The Law Ukraine “On Civil Service” envisages that such law applies to the civil servants of the following: the Secretariat of CMU, ministries and other central executive authorities, local state administrations, prosecution bodies, military authorities, diplomatic service bodies, other public authorities.

Article 3(3) of the Law of Ukraine “On Civil Service” provides for categories of persons not covered by this Law when the activities of bodies and institutions are governed by special laws: the President of Ukraine, members of CMU, First Deputy Ministers and Deputy Ministers; Chairperson and members of the National Council of Television and Radio Broadcasting of Ukraine, Chairperson and members of the Antimonopoly Committee of Ukraine, Chairperson and members of the Accounting Chamber, Chairperson and members of the Central Election Commission, chairpersons and members of other public collegiate bodies, Secretary of the National Security and Defence Council and Deputy Secretaries, judges, prosecutors, military personnel of the Armed Forces of Ukraine and other military forces, and other categories of persons performing the functions set out by special laws.

According to Article 9 of CCU, its provisions apply to regulating labour relations unless they are regulated by other legislative acts.

An individual may do the following for other individuals or legal entities, even without obtaining the status of an individual entrepreneur:

- perform works in accordance with Article 837 of CCU under a contractor agreement at own risk and on the instructions of another party, particularly for production, treatment, processing, repair or to perform other work with transfer of its result to the contractor;
- provide services in accordance with Article 901 of CCU under a service contract on the instruction of another party, which are consumed in the process of performing a certain action or carrying out a certain activity.

Laws of Ukraine do not contain an exhaustive list of features of labour relations. Subject to Article 13(6) of Law of Ukraine “On the Judiciary and the Status of Judges”, the opinions on the application of legal provisions outlined in resolutions of the Supreme Court are taken into account by other courts while applying these legal provisions. Also, in accordance with Article 17 of Law of Ukraine “On the Execution of Judgements and Application of the Case Law of the European Court of Human Rights”, when considering cases courts in Ukraine apply the Convention for the Protection of Human Rights and Fundamental Freedoms as a source of law. Therefore, when a dispute arises on recognising civil law relations as actual labour relations or justifying the nature of existing labour relations, the claimant may use the indicated instruments to confirm his/her legal position.

According to Article 5(2.18) “Powers of the Cabinet of Ministers of Ukraine in the sphere of management of state property assets” of Law of Ukraine “On Management of State Property Assets”, contracts, being a special form of a labour agreement, are concluded with heads of economic operators in the public sector.

In accordance with Article 56 of LCU, by agreement between an employee and an owner or their authorised body, a part-time working day or part-time working week may be established upon or after employment. At the request of a pregnant woman, a woman who has a child under the age of fourteen or a child with disability, including one under her care, or a woman who cares for a sick family member in accordance with a medical report, the owner or the authorised body is obliged to establish her a part-time working day or part-time working week.

Remuneration in such cases is paid pro rata to the time worked or according to performance.

Part-time work does not entail any restrictions to employees’ labour rights.

According to Article 23 of LCU, a fixed-term labour contract is one of the types of labour contracts. A fixed-term labour contract is concluded in cases when labour relations cannot be established for an unspecified period with regard to the nature of the work or conditions of its performance, or interests of the employee, and in other cases envisaged by legislative acts. Employees who work under fixed-term labour contracts have the same social, labour rights and guarantees as other employees who work under an open-ended labour contract.

According to Article 39 of Law of Ukraine “On Employment of the Population”, employing economic operators that hire employees who further perform work in Ukraine for another employer must do so based on a labour contract. Therefore, this category of employees is covered by labour legislation.

**4. Does the system provide for collective labour agreements which have an erga omnes effect or does it only provide for agreements which may be extended to all workers in the sector and territory concerned (e.g. at regional or national level)? At what levels are collective agreements generally concluded (national, industry-wide, group, company, and establishment)? Is there a hierarchy between the collective agreements concluded at different levels?**

In accordance with Article 9 of the Law of Ukraine “On Collective Agreements”, provisions of a collective agreement apply to all employees of undertakings regardless of whether they are members of a trade union, and are binding on both the employer and the employees of the undertaking. Provisions of the general, sectoral (cross-sectoral), territorial agreements are directly applicable and binding on all entities within the scope of the signatories.

In accordance with Article 2 of this Law, a collective agreement is concluded at undertakings, institutions, organisations (hereinafter referred to as undertakings), regardless of ownership and management forms, which use hired labour and have the right of a legal entity.

A collective agreement may be concluded in structural subdivisions of an undertaking within the limits of their competence.

The following agreements are concluded at the national, sectoral, territorial levels on a bilateral or trilateral basis:

- a general agreement at the national level;
- sectoral (cross-sectoral) agreements at the sectoral level;
- territorial agreements at the territorial level.

Article 8 of this Law stipulates that a nationwide agreement regulates the key principles and rules of implementation of the social and economic policy and labour relations, in particular with regard to:

- labour guarantees and ensuring productive employment;
- minimum social guarantees of remuneration and income for all groups and segments of population that would ensure an adequate standard of living;
- minimum subsistence wage, minimum requirements;
- social insurance;
- labour relations, mode of work and rest;
- conditions for labour and environmental protection;
- meeting the spiritual needs of the population;
- conditions for increasing payroll and establishing cross-sectoral ratios for remuneration;
- ensuring equal rights and opportunities for women and men;
- prohibition of discrimination.

A sectoral agreement regulates sectoral rules, in particular with regard to:

- labour rationing and remuneration, establishing sector (sub-sector) minimum guarantees of salary according to qualification based on a single tariff grid on the minimum limit as well as

minimum allowances and increments with regard to the specificities, working conditions of certain professional groups and categories of employees in the sector (sub-sector);

- establishing minimum social guarantees, compensations, benefits in the sphere of labour and employment;

- labour relations;

- working conditions and labour protection;

- housing, medical care, cultural services, arranging health improvement and recreation;

- conditions for increasing payroll;

- establishing inter-qualification (inter-positional) ratios for remuneration;

- ensuring equal rights and opportunities for women and men;

- prohibition of discrimination.

A sectoral (cross-sectoral) agreement may not worsen the position of employees as compared to the general agreement.

Agreements at the territorial level regulate the standards of social protection of employees of undertakings, include higher social guarantees, compensations, benefits compared to the general agreement.

Article 7 of this Law envisages that the content of a collective agreement (i.e., agreement at the undertaking level) is determined by the parties within the limits of their competence.

A collective agreement sets forth mutual obligations of the parties regulating industrial, labour, social and economic relations, in particular:

- changes in the production and labour organisation;

- ensuring productive employment;

- labour rationing and remuneration, establishing a form, system, size of wages and other employee benefits (allowances, increments, bonuses etc.);

- establishment of guarantees, compensations, benefits;

- participation of workforce in formation, distribution and use of the profit of an undertaking (if the charter so provides);

- work schedule, working hours and rest time;

- working conditions and labour protection;

- ensuring housing, cultural, medical care services, arranging health improvement and recreation of employees;

- guarantees of operation of a trade union organisation or other representative organisations of employees;

- conditions for regulating payroll and establishing inter-qualification (inter-positional) ratios for remuneration;

- ensuring equal rights and opportunities for women and men;

- prohibition of discrimination.

A collective agreement may envisage additional guarantees, social and welfare benefits, in particular regarding children's health improvement and purchase of New Year's gifts for employees' children etc. compared to those provided by the existing legislation and agreements.

**5. Does the labour legislation contain provisions on the protection of workers' personal data / personal data at the workplace?**

In accordance with Article 24 of LCU, when concluding a labour contract, a citizen is obliged to submit a passport or other identity document, employment record book (if any) or information on labour activity from the register of insured persons of the State Register of Compulsory State Social Insurance, and in some cases envisaged by legislation — also a certificate of education (specialty, qualification), health certificate, relevant military registration certificate and other documents.

In accordance with Article 25 of LCU, when concluding a labour contract, it is forbidden to require from job applicants any information about their party membership and nationality, origin, registered residence or stay address and any documents whose submission is not prescribed by law.

In this regard, personal data of an employee contained in a passport or identity document, employment record book or information from the register of insured persons, certificate of education (specialty, qualification), health certificate and other documents submitted during the conclusion of a labour contract are processed by the owner of a personal data base pursuant to Article 24 of the LCU exclusively for the exercise of powers of the owner of a personal data base in the sphere of legal relations arising between such owner and the employee under the labour agreement (contract).

According to Article 10(3) of the Law of Ukraine “On Personal Data Protection”, the use of personal data by employees of subjects of personal data relations must be exercised only in accordance with their professional, official or employment duties. These employees are obliged not to disclose in any way personal data entrusted or made known to them through the exercise of professional, official or employment duties, except in cases envisaged by law. Such obligation remains in effect after the termination of their activities related to personal data, except in cases established by law.

A model procedure for personal data processing according to the general requirements for personal data processing set out in Article 6 of the Law of Ukraine “On Personal Data Protection” is established by the Order of the VRU Commissioner for Human Rights “On approval of documents in the sphere of personal data protection” No.1/02-14 of 8 January 2014.

**B. The Institutional Framework**

**6. Please present an overview of administrative capacity in this field. Which Ministry or organisation is responsible? Which other administrative bodies are involved?**

CMU Resolution “On Competence of the Ministry of Economic Development, Trade and Agriculture” No. 838 of 11 September 2019 provides that the Ministry of Economy of Ukraine (MoE) is the main authority in the system of central executive bodies responsible, inter alia, for:

formation and implementation of the national policy in the area of economic and social development and trade, national industrial policy, national military and industrial policy, national investment policy, national foreign economic policy, national policy in the area of technical



regulation, standardisation, metrology and metrological activity, state property management, business development, public-private partnership, intellectual property, innovations in the real economy, tourism and health resorts (except for state supervision (control) in the area of tourism and health resorts), public and government procurement, including the state order for the training of specialists, scientific, scientific and teaching, and working staff, advanced training and retraining;

formation and implementation of the national policy in the area of labour, employment, labour migration, labour relationship, and social dialogue;

formation and implementation of the national policy in the area of industrial safety, occupational health and safety, handling of explosives, state mining supervision, and state supervision and control over compliance with labour and employment laws.

The State Labour Service of Ukraine (SLSU) is the central executive authority implementing the national policy in the areas of industrial safety, occupational health and safety, handling of industrial explosives, state mining supervision, state supervision and control over compliance with labour and employment laws, compulsory state social insurance against occupational accidents and occupational diseases that have caused disability, temporary disability and unemployment as it pertains to admission to, accrual and payment of subsidies, compensations, social services and other types of financial assistance to ensure that the rights and guarantees of the insured persons are observed.

Inspectors of the State Tax Service and officers of the National Police of Ukraine (if appropriate) may also be involved in certain inspections.

The system of bodies, authorities, and institutions coordinated and controlled by MoE also includes the State Employment Service (hereinafter SESU) implementing the national policy in the area of employment, labour migration, and social protection against unemployment.

The Law “On Local State Administrations” places responsibility for managing the issues of employment and remuneration on the local level on **local state administrations**. This includes ensuring state employment guarantees such as the right to timely payment for work, development of territorial employment programs and unemployment protection measures, providing paid public work for unemployed, social protection of those who work in harmful conditions, participation in collective negotiations and solutions of collective labour disputes, etc.

## **7. Which court or courts are competent to deal with individual and collective labour disputes? Are there systems in place guaranteeing effective, impartial and timely remedy to those disputes?**

### **General principles**

Article 17 of Law “On the Judiciary and the Status of Judges” stipulates that the judicial system is organised subject to the principles of territoriality, specialisation and instance structure. The justice system includes local courts, courts of appeal, and the Supreme Court. Courts specialise in civil, criminal, commercial, administrative, and administrative offence cases.

According to Article 19 of the Civil Procedure Code of Ukraine (hereinafter CPCU), courts shall consider, in civil proceedings, cases arising from civil, employment, and other legal relations,

apart from cases to be considered in other proceedings. Civil proceedings are conducted according to the CPCU as

- injunctive proceedings;
- adversary proceedings (general or simplified); or
- separate proceedings.

Disputes arising from employment relations are dealt with in the course of simplified adversary proceedings. General adversary proceedings are meant to deal with cases that may not be dealt with in the course of simplified adversary proceedings due to their complexity or other circumstances.

In addition, Article 221 of LCU provides that any labour disputes are dealt with by 1) labour dispute commissions; 2) raion, city district, city or city raion courts.

Moreover, Article 19 of the Code of Administrative Procedure of Ukraine (CAPU) provides that administrative courts may deal with public law disputes, in particular those related to admission of individuals to civil service, the record of civil service, dismissal from civil service, and servicing.

The rules for resolving individual labour disputes are set out in Chapter XV of LCU.

*Individual labour disputes are dealt with by*

- 1) labour dispute commissions;
- 2) raion, city district, city or city raion courts that specialise in handling civil cases in the system of the courts of general jurisdiction (local courts, courts of appeal, and the Judicial Chamber on Civil Cases of the Supreme Court of Ukraine).

Article 232 of LCU specifies certain categories of cases to be directly dealt with by raion, city district, city or city raion courts exclusively.

Raion, city district, city or city raion courts directly handle labour disputes based on requests filed by

- 1) employees of enterprises, institutions, and organisations, where labour dispute commissions are not elected;
- 2) employees seeking to be reinstated in office irrespective of the reasons for termination of the employment agreement, change the date and wording of the reason for dismissal, receive payment for any forced absence from work or performance of lower-paid work, save for any disputes of employees referred to in Article 221(3) and Article 222 of this Code;
- 3) CEO of any enterprise, institution, organisation (branch, representative office, business division and other business unit), their deputies, chief accountant of any such enterprise, institution, or organisation, their deputies, including officials of tax and customs authorities with special ranks, and officials of the central executive authorities implementing the national policy in the area of state financial and price control; executives that are elected, approved or appointed by public authorities, local self-government bodies, public organisations, and other associations of individuals relating to dismissal, change of the date and wording of the reason for dismissal, transfer to another job, payment for any forced absence from work and imposition of disciplinary sanctions, save for any disputes of employees referred to in Article 221(3) and Article 222 of this Code;

4) the owner or their authorised body seeking to recover from employees any financial damage caused to the enterprise, institution, or organisation;

5) employees pertaining to the matter of the application of the labour laws, which has been previously decided on according to applicable laws by the owner or their authorised body and the elected body of the original trade union (trade union official) of the enterprise, institution, or organisation (business unit) within their official powers;

6) employees regarding the registration of employment relations if they perform any work without an employment agreement in place and if a certain time period for any such work is fixed (save where any such work is performed or services are provided under a gig contract as prescribed by the Law of Ukraine “On Stimulating the Development of the Digital Economy in Ukraine”).

Furthermore, raion, city district, city or city raion courts specifically handle disputes over refusal to hire

1) employees transferred from any other enterprise, institution, or organisation;

2) young specialists that have graduated from an institution of higher education and have been properly sent to work at that particular enterprise, institution, or organisation;

3) pregnant women, women with children under the age of three or a disabled child, and single mothers (parents) if they have a child under the age of fourteen;

4) elected employees when their term of office expires;

5) employees that are entitled to return to work;

6) other individuals that are required to be hired under employment agreement by the owner or their authorised body according to applicable laws.

In addition, Article 3 of Law of Ukraine “On Mediation” No. 1875-IX of 16 November 2021, defining the legal basis and procedure for conducting mediation as an out-of-court procedure for conflict (dispute) resolution, the principles of mediation, the status of a mediator, the requirements for their preparation, and other matters related to this procedure, provides that the Law applies to public relationship pertaining to mediation to prevent any future conflicts (disputes) or resolve any conflicts (disputes), in particular any civil, family, labour, commercial, or administrative disputes, including those arising in administrative offence cases and criminal proceedings to ensure reconciliation of the victim with the suspect (accused).

Legislation may provide for the mediation procedure specific to certain types of conflicts (disputes).

Mediation may be conducted before going to court, arbitration tribunal, international commercial arbitration, or during any pre-trial investigation, or any judicial or arbitration proceedings, or when a decision/award of any court, arbitration tribunal, or international commercial arbitration is executed. Mediation has no effect on limitation periods.

Mediation may not be conducted to resolve any conflicts (disputes) that affect or may affect the rights and legitimate interests of third parties that are not involved in the mediation process.

According to Article 4 of the Law of Ukraine “On Mediation”, mediation is conducted by mutual consent of the parties to mediation.

The Law of Ukraine “On Mediation” amended the LCU with Article 222-1 “Resolving Labour Disputes through Mediation” being added thereto. In particular, a mediation contract and an agreement following mediation in labour disputes are entered into in writing. In the event of failure to perform or improper performance of any such agreement following mediation, the parties to mediation may refer their labour dispute to the bodies and authorities listed in Article 221 of the LCU. Participation in mediation may be treated as a good reason within the meaning of Article 225 “Time Limits Allowed to Interested Parties for Appealing to the Labour Dispute Commission and Employee Application Procedure” and Article 234 “Extending Time Limits by Court Missed for Goods Reasons” of the Code.

Furthermore, VRU has registered a draft Law of Ukraine “On Amendments to the LCU to Perfect the Individual Labour Dispute Resolution Procedure” (No. 5555 of 24 May 2021) proposing, inter alia, to introduce a new method to resolve individual labour disputes, by mediation, while keeping existing options of resolving individual labour disputes, in particular, through the labour dispute commission and the judicial procedure.

#### *Regarding collective labour disputes*

Legal and organisational principles of the collective labour dispute (conflict) resolution system are laid down in Law of Ukraine “On the Collective Labour Dispute (Conflict) Resolution Procedure”.

Article 25 of this Law prescribes that, where provided for in Article 24 (that is, where any strike is prohibited) and where the recommendations of the National Mediation and Conciliation Service (hereinafter NMRS) regarding the resolution of a collective labour dispute (conflict) are not taken into account by the parties, NMRS files a request on the resolution of a collective labour dispute (conflict) with the Supreme Court of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city courts accordingly.

Any such collective labour dispute (conflict) is handled by the conciliation commission or through labour arbitration in view of the matters disputed by the parties to the labour relations.

Any matters related to new socioeconomic conditions of work and life or any change in the existing conditions or execution of the collective bargaining agreement or any amendments thereto are handled by the conciliation commission (meanwhile, if it fails to resolve the dispute within the time limits allowed by the Law, the dispute will be handled through labour arbitration) while matters related to the performance of the collective bargaining agreement or any particular provisions thereof or failure to comply with labour laws are directly handled through labour arbitration.

According to Article 8 of the Law, a conciliation commission is a body that is dedicated to render a decision, which can satisfy parties to a collective labour dispute (conflict), and consists of the parties’ representatives). Such conciliation commission is set up at the initiative of any party within three days (production level), five days (sectoral or territorial levels) or ten days (national level) of the date of the collective labour dispute (conflict) and will include the same number of the parties’ representatives.

The procedure for the appointment of the parties’ representatives to serve as members of the conciliation commission is established by each of the parties to the collective labour dispute (conflict) independently.

Members of the conciliation commission are given time off for the period when they negotiate and prepare the decision of the conciliation commission.

If appropriate, the conciliation commission

- engages an independent mediator;
- consults with the parties to a collective labour dispute (conflict), central and local executive bodies and authorities, local self-government bodies and other interested bodies.

Organisational and logistical support of the conciliation commission is provided as agreed by the parties or equally shared (if the parties fail to agree).

According to Article 11 of the Law, a labour arbitration is a body that consists of the specialists, experts, and other persons engaged by the parties and makes the decision on the merits of a labour dispute (conflict).

Such labour arbitration is set up at the initiative of any party or an independent mediator within three days.

The members of the labour arbitration and their number are determined with the agreement of the parties. The chairman of the labour arbitration is elected from among its members.

The labour arbitration may also include MPs of Ukraine, public officials, officials of the local self-government bodies and other persons.

Organisational and logistical support of the labour arbitration is provided as agreed by the parties or equally shared (if the parties fail to agree).

The Law sets out the procedure for resolution of a collective labour dispute (conflict) by the conciliation commission and labour arbitration.

To facilitate the improvement of labour relations and prevent the commencement of collective labour disputes (conflicts), their prediction and facilitation of their timely resolution, mediate the settlement of such disputes (conflicts), the President of Ukraine established the National Mediation and Reconciliation Service.

The National Mediation and Reconciliation Service consists of highly qualified specialists and experts in the field of collective labour dispute settlement (conflicts) and shall have its offices in the Autonomous Republic of Crimea and regions.

The decisions of the National Mediation and Reconciliation Service have advisory nature and must be taken into consideration by the parties to the collective labour dispute (conflict) and the relevant central or local executive authorities, local self-government bodies.

The National Mediation and Reconciliation Service is financed at the expense of the costs of the State Budget of Ukraine.

The following functions are within the competence of the National Mediation and Reconciliation Service:

- registration of employees' claims and collective labour disputes (conflicts);
- analysis of the requirements, identification and generalization of the causes of collective labour disputes (conflicts), making proposals for elimination thereof;
- training of mediators and arbitrators specializing in the resolution of collective labour disputes (conflicts);
- development of lists of arbitrators and mediators;

- review, if necessary, of the powers of representatives of the parties to a collective labour dispute (conflict);
- mediation for the resolution of a collective labour dispute (conflict);
- engagement of the Members of Parliament of Ukraine, representatives of the state authority, local self-government bodies into the conciliation procedures.

Trade unions and their associations may represent the employees in the bodies dealing with individual labour disputes.

Trade unions and their associations may represent the employees when resolving collective labour disputes (conflicts) in the manner provided by the law. Representatives of trade unions take part in the activities of the conciliation commissions, labour arbitrations and other bodies dealing with the collective labour dispute (conflict).

**8. Do workers benefit from protection from any adverse treatment by the employer and from any adverse consequences resulting from a complaint lodged with the employer (cf. i.a. enforcement provisions of Directive 2019/1152)?**

Article 1(2) of Directive 2019/1152 provides that the Directive lays down minimum rights that apply to every worker in the Union who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State with consideration to the case-law of the Court of Justice. Article 4 of Directive 2019/1152 sets out a minimum list of details which are required to be provided by the employer to the worker in writing.

Ukraine has previously begun making efforts to bring the laws of Ukraine in line with Directive 91/533/EEC as detailed in the Annex to the Association Agreement. The legislation of Ukraine meets the requirements of Directive 2019/1152 that partially replaces Directive 91/533/EEC.

There is no direct declarative prohibition for the employer regarding adverse treatment or application of adverse consequences to the employee resulting from a complaint lodged with the employer. In the event of filing a lawsuit with the court, in particular, for the actions or inaction of the employer regarding the complaint lodged, the adversarial principle applies, where each party must prove the circumstances which are relevant to the case and to which it refers as a basis for its claims and objections. Anti-discrimination issues are an exception.

Ukraine has ratified ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (on 4 August 1961); Article 2 of the Convention provides that Ukraine undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof. However, Article 1 of this Convention provides that any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

The legislation of Ukraine provides for the protection of workers' rights to ensure equal labour rights of Ukrainian citizens. The Law of Ukraine "On Measures to Prevent and Combat Discrimination in Ukraine" applies, inter alia, to labour relations, including the application of the principle of reasonable accommodation by employers, and prohibits all forms of discrimination, i.e.

direct or indirect discrimination, incitement to discrimination, aiding and abetting discrimination, and harassment.

Article 6 of the Law provides that the actions are not deemed discrimination where they do not restrict the rights and freedoms of other individuals and do not impede the exercise of the same, and do not provide unreasonable benefits to any persons and/or groups of persons based on their certain attributes that are subject to positive actions, in particular, special protection by the government to certain categories of individuals needing such protection.

The said Law prohibits applying any adverse consequences to individuals complaining of discrimination. In particular, according to Article 14 of the Law, any persons believing that they have been discriminated against may file a complaint with public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or with the court following the procedure established by law. Exercising this right may not constitute a basis for prejudicial attitude and may not cause a person who has exercised the right and other persons any adverse consequences. This rule may apply by analogy with the law if a complaint is lodged against the actions or inaction of the employer in the employment relationship.

Please note that according to Article 81(2) of the CPCU, the plaintiff in a discrimination case is obliged to provide factual data confirming that the discrimination event took place. Where any such data are provided, the burden to prove their absence rests with the defendant. That is, if the employee challenges the employer's actions regarding discriminatory treatment, the employer must prove that there was no such treatment on their part.

The legislation of Ukraine fails to provide for a special procedure for the lawful collection and determination of the admissibility of evidence in discrimination disputes.

In accordance with Article 55 of CU, human and citizen rights and freedoms are protected by court. 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 may appeal for the protection of their rights to the Ukrainian Parliament Commissioner for Human Rights.

Everyone is guaranteed the right to file a constitutional complaint with the Constitutional Court of Ukraine on the grounds established by this Constitution and in the manner provided by law.

After exhausting all domestic legal instruments, everyone has the right to appeal for the protection of their rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant.

Everyone has the right to protect their rights and freedoms from violations and illegal encroachments by any means other than those prohibited by law.

According to Article 2 of LCU, employees may go to court to resolve labour disputes, regardless of the nature of the work performed or position held.

Article 2(1) of LCU prohibits any discrimination in the field of labour, including any violation of the principle of equality of rights and opportunities, direct or indirect restriction of workers' rights depending on the resort or intention of the resort to a court or other authorities for protecting their rights or supporting other workers in protecting their rights.

In case of violation of the rights provided for by labour laws, the employee may apply to the SLSU, which exercises official supervision and control in accordance with Article 259 of the LCU over compliance with labour laws by legal entities of any form of ownership or line of business, and individuals using hired labour.

Moreover, pursuant to Article 222 (1) of LCU, a labour dispute between an employee and the owner or their authorised body may, regardless of the form of the employment agreement, be resolved through mediation in accordance with the Law of Ukraine “On Mediation” in view of the specifics provided by this Code.

**9. Is there a labour inspectorate responsible for the monitoring of working conditions and the application of labour law?**

In Ukraine, the SLSU (hereinafter SLSU) is responsible for the monitoring of working conditions and the relevant inspections.

The SLSU is the central executive authority implementing the national policy in the areas of industrial safety, occupational health and safety, handling of industrial explosives, state mining supervision, state supervision and control over compliance with labour and employment laws, compulsory state social insurance against occupational accidents and occupational diseases that have caused disability, temporary disability and unemployment as it pertains to admission to, accrual and payment of subsidies, compensations, social services and other types of financial assistance to ensure that the rights and guarantees of the insured persons are observed.

The structure of the SLSU includes the central office and territorial bodies. The total number of officials of the SLSU and its territorial bodies is 3,267.

**10. What is the institutional and procedural set-up to ensure alignment with the following directives:**

*Directive 2009/50/EC on Conditions of entry and residence of non-EU nationals for the purposes of highly qualified employment;*

*Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers;*

*Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer;*

In order to align the legislation of Ukraine with the above EU Directives, it is required that amendments be made to ECU, the Laws of Ukraine “On Employment of the Population”, “On the Legal Status of Foreigners and Stateless Persons”, “On Joint-Stock Companies”, “On Limited Liability Companies”, “On Management of the State Property Objects”, “On Stimulating the Development of the Digital Economy in Ukraine”, “On Scientific and Scientific-Technological Activities”, “On Farming”, “On Immigration”, including the subordinate legislation governing the procedure for obtaining a work permit and a temporary residence permit.



It is also necessary to consider the prospect of entering into international agreements between Ukraine and the particular EU Member States on mutual employment of the citizens falling within special categories as listed, including their social security.

The existing standard procedure for the employment of foreigners and stateless persons is as follows.

Foreigners and stateless persons are employed based on a work permit for foreigners and stateless persons in accordance with the Law of Ukraine “On Employment of the Population”. There are no exceptions for family members of migrant workers.

In accordance with Article 42 of the Law, employers have the right to employ foreigners and stateless persons in the territory of Ukraine under a permit issued by territorial bodies of the central executive authority implementing state policy in the area of employment of the population and labour migration (*by regional employment centres*). The following categories are employed without a permit provided for in this Article:

- foreigners and stateless persons permanently residing in Ukraine;
- foreigners and stateless persons who have obtained the refugee status in accordance with the legislation of Ukraine or have received an immigration permit;
- foreigners and stateless persons who have been recognised as persons seeking subsidiary protection or who have been granted temporary protection in Ukraine;
- representatives of foreign maritime (river) fleet and of airlines, serving those companies in the territory of Ukraine;
- persons who have been recognised as stateless persons by the central executive authority implementing state policy in the area of migration (immigration and emigration), including illegal (illicit) migration counteraction, citizenship, registration of individuals, refugees and other categories of migrants set out in the legislation;
- employees of the foreign media accredited to work in Ukraine;
- persons recognised as professional athletes as well as performers and art professionals for the purpose of employment in their specialty in Ukraine;
- emergency response personnel for the purpose of performance of emergency works;
- employees of foreign representative offices registered in the territory of Ukraine under the procedure established by the legislation;
- foreign clergymen temporarily staying in Ukraine on invitation of religious organisations for the purpose of carrying out canonical activities only within those organisations by official agreement of the body that registered the articles of association (regulation) of the relevant religious organisation;
- foreigners and stateless persons who have arrived in Ukraine to participate in the implementation of international technical assistance projects;
- foreigners and stateless persons who have arrived in Ukraine to carry out teaching and/or research activities in professional pre-higher and higher educational institutions on their invitation;
- other foreigners and stateless persons in cases provided for by laws and international treaties of Ukraine consented by VRU.

Work permits for foreigners and stateless persons differ depending on their validity period.

According to Article 42(3) of the Law of Ukraine “On Employment of the Population”, such permit may be issued for a period equal to the duration of

1) an employment agreement (contract) or gig contract, but not more than for three years, to special categories of foreigners and stateless persons (*according to Article 42<sup>1</sup>(2) of the Law, a special category of foreigners and stateless persons includes foreign highly paid professionals, founders and/or members and/or beneficiaries (controllers) of a legal entity organised in Ukraine, graduates of universities ranked among the top 100 in the world university rankings according to the list determined by CMU, foreign creative professionals, foreign IT professionals, and gig specialists*);

2) an agreement (contract) entered into by and between Ukrainian and foreign economic operators, but not more than for three years, to foreign workers travelling on business;

3) a decision of a foreign economic operator to transfer a foreigner or a stateless person to work in Ukraine and a contract entered into by and between a foreigner or a stateless person and a foreign economic operator regarding their transfer to work in Ukraine, to intra-corporate assignees;

4) an employment agreement (contract), but not more than for one year, to any other hired foreign workers.

If there are good reasons in place, any such permit may be extended indefinitely.

The employer may specify in the application for a permit a shorter period than that established by this Law.

No such permit may be issued for a period shorter than that specified in the relevant application and provided by the time limits established by this Law.

According to Article 42<sup>2</sup> of the Law, in order to obtain a permit, the employer submits the following documents to the regional employment centre:

1) an application in the form approved by CMU, in which the employer confirms that the position to be held by a foreigner or a stateless person or the work (services) to be performed (provided) by a gig specialist is/are not related to having the Ukrainian citizenship and does not/do not require access to state secrets according to the laws of Ukraine;

2) copies of foreigner or stateless person passport document pages containing personal data accompanied with Ukrainian translation attested under the established procedure;

3) a colour photograph of a foreigner or a stateless person measuring 3.5 x 4.5 cm;

4) a copy of the draft employment agreement (contract) or gig contract with a foreigner or a stateless person certified by the employer.

In order to employ particular categories of foreigners and stateless persons, the employer additionally submits the following documents regarding

1) graduates of universities ranked among the top 100 in the world university rankings: a copy of the diploma of higher education issued by the relevant university duly recognised in Ukraine;

2) foreign creative professionals: notarised copies of documents identifying the object of copyright and/or related rights of the author and certifying authorship (copyright);

3) foreign workers travelling on business: a copy of the agreement (contract) entered into by and between Ukrainian and foreign economic operators providing for the employment of foreigners and stateless persons sent by a foreign employer to Ukraine to perform a certain amount of work (provide services);

4) intra-corporate assignees: a decision of a foreign economic operator to transfer a foreigner or a stateless person to work in Ukraine and a copy of a contract entered into by and between a foreigner or a stateless person and a foreign economic operator regarding their transfer to work in Ukraine specifying the working period in Ukraine;

5) persons in respect of whom a decision has been made to issue documents to formalise their recognition as a refugee or a person seeking subsidiary protection: copies of the decision to issue documents to formalise their recognition as a refugee or a person seeking subsidiary protection and a certificate to evidence their appeal for protection in Ukraine;

6) persons who have filed an application for recognition as a stateless person and persons who appeal against the decision on refusal in recognition as a stateless person: a copy of the certificate evidencing their appeal to be recognised as a stateless person.

For employment of founders and/or members and/or beneficiaries (controllers) of a legal entity, the regional employment centre independently receives details regarding the company's authorised capital being fully formed at the time of application for a permit.

In order to employ foreign IT professionals, the regional employment centre independently receives details evidencing that computer programming is among the employer's registered activities.

The regional employment centre independently receives details evidencing that the employer is a Diiia.City resident.

To extend the permit, the employer submits the following documents:

- 1) an application in the form determined by CMU;
- 2) a photograph of a foreigner or a stateless person measuring 3.5 x 4.5 cm;
- 3) documents according to the list required for obtaining a permit if there is any change to them.

The regional employment centre independently receives details electronically from the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations regarding the status of employers, whether they are legal entities or individual entrepreneurs.

The documents referred to in this Article that have been issued abroad must be duly legalised unless otherwise laid down in international treaties of Ukraine consented by VRU.

Officials of the regional employment centre may not require the employers to provide documents other than those established by this Law.

According to Article 42<sup>4</sup>, the fee to be paid for the issue or extension of the permit is as follows:

1) for permits issued for a period of one to three years or extended for any such period: six subsistence minimums for able-bodied persons established by law as of 1 January (*UAH 14,886 or EUR 481 as of 01.01.2022 calculated at the official rate of the National Bank of Ukraine*);

2) for permits issued for a period of six months to one year inclusive or extended for any such period: four subsistence minimums for able-bodied persons established by law as of 1 January of the

calendar year in which documents are submitted by the employer (*UAH 9,924 or EUR 321 as of 01.01.2022 calculated at the official rate of the National Bank of Ukraine*);

3) for permits issued for a period under six months or extended for any such period: two subsistence minimums for able-bodied persons established by law as of 1 January of the calendar year in which documents are submitted by the employer (*UAH 4,962 or EUR 161 as of 01.01.2022 calculated at the official rate of the National Bank of Ukraine*).

Article 42<sup>6</sup> of the Law specifies the following time limits to handle applications for the issue or extension of work permits for foreigners and stateless persons. The regional employment centre takes a decision within the following time limits from the day of receipt of the relevant application:

- 1) seven business days — on issuance of a permit;
- 2) three business days — on renewal of a permit or amending it.

*Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.*

In accordance with Article 42 of the Law of Ukraine “On Employment of the Population”, employers have the right to employ foreigners and stateless persons in the territory of Ukraine under a permit issued by territorial bodies of the central executive authority implementing state policy in the area of employment of the population and labour migration.

Within their remit, the SLSU and the SESU exercise state control of compliance with employment legislation.

Administrative liability for the use of labour of foreigners and stateless persons is provided for in Article 41(3), (4) of the Code of Ukraine on Administrative Offenses (hereinafter CUAO).

Pursuant to Article 41(3) of CUAO, a foreigner or a stateless person and persons in respect of whom a decision was made to draw up documents to resolve the issue of refugee status under an employment agreement (contract) without a permit for employment of foreigners and stateless persons entails a fine of UAH 8,500 to 17,000 (EUR 266–531).

Pursuant to Article 41(4) of CUAO, a repeated violation if committed by a person on whom an administrative fine for the same offences was imposed within a year entails a fine of UAH 17,000 to 34,000 (EUR 531–1,062).

Pursuant to Article 53 of the Law of Ukraine “On Employment of the Population”, if an employer uses labour of foreigners or stateless persons in respect of whom a decision was made to draw up documents to resolve the issue of refugee status:

- under an employment or other agreement without a permit for employment of foreigners and stateless persons, a fine is imposed for each person equal to twenty times the minimum wage in force at the moment the breach was found (UAH 130,000 or EUR 4,064 as of now);
- on terms other than envisaged by the above-mentioned permit or by some other employer, a fine is imposed for each person equal to ten times (UAH 65,000 or EUR 2,032 as of now).

## **C. Employment and Employment Protection**

### **11. Are there specific anti-discrimination provisions (racial ethnic origin, religion or belief, disability, age or sexual orientation)?**

#### *General principles*

In order to prevent any form of discrimination, Ukraine ratified a range of international treaties, particularly the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities in Ukraine.

The principle of equality and non-discrimination is set at the highest — constitutional — level. According to Articles 21 and 24 of the CU, all people are free and equal in their rights and dignity. Citizens have equal constitutional rights and freedoms and are equal before the law.

In accordance with Article 26 of CU, foreigners and stateless persons staying in Ukraine on legal grounds enjoy the same rights and freedoms and bear the same obligations as Ukrainian citizens, subject to exceptions laid down in the Constitution, laws or international treaties of Ukraine.

To define organisational and legal principles of preventing and combating discrimination in order to ensure equal opportunities for the realisation of human and civil rights and freedoms, the Law of Ukraine No. 5207-VI “On Principles of Preventing and Combating Discrimination in Ukraine” of 06.09.2012 was adopted in 2012 and amended in 2014.

The law stipulates that Ukrainian legislation rests on the principle of non-discrimination which provides for, notwithstanding certain characteristics: 1) ensuring equality of rights and freedoms for persons and/or groups of persons; 2) ensuring equality of persons and/or groups of persons before the law; 3) respecting dignity of every person; 4) ensuring equal opportunities for persons and/or groups of persons (Article 6).

Violation of citizens’ equality on the grounds of their race, nationality, religious affiliation, religious beliefs, disability and other characteristics entails criminal liability (Article 161 of the Criminal Code of Ukraine, hereinafter CrCU).

In addition, the commission of a criminal offence on the grounds of racial, national, religious enmity or hostility or on the grounds of sex is one of circumstances aggravating punishment as determined by Article 67 of CrCU.

In order to prevent sex discrimination, the Law of Ukraine No. 2866-IV “On Ensuring Equal Rights and Opportunities for Women and Men” of 08.09.2005 was adopted in 2005.

In Ukraine, the Law of Ukraine No. 2494-XII “On National Minorities in Ukraine” of 25.06.1992, Article 1 of which stipulates that Ukraine guarantees citizens of the Republic, notwithstanding their national origin, equal political, social, economic and cultural rights and freedoms, supports the development of national self-consciousness and self-expression, is in effect. Every Ukrainian citizen enjoys the state protection on equal grounds.

In order to prevent any manifestations of discrimination against Jews, the Law of Ukraine No. 1770-IX “On Preventing and Combating Antisemitism in Ukraine” was adopted on 22 September 2021.

According to Article 35 of CU, everyone has the right to freedom of thought and religion. This right includes the freedom to profess or not to profess any religion, perform alone or collectively and unimpededly religious rites and ceremonial rituals, and conduct religious activity.

In order to guarantee Ukrainian citizens the right to freedom of conscience and to exercise this right, to ensure social justice, equality, protection of citizens' rights and legal interests, notwithstanding attitudes towards religion, according to CU, Declaration of State Sovereignty of Ukraine and standards of international law recognised by Ukraine, the Law of Ukraine No. 987-XII "On Freedom of Conscience and Religious Organizations" of 23.04.1991 (as amended) was adopted.

According to Article 4 of that Law, Ukrainian citizens are equal before the law and have equal rights in all fields of economic, political, social and cultural life, notwithstanding their attitudes towards religion. Citizen's attitude towards religion is not mentioned in official documents.

Any direct or indirect restriction of rights, any provision of direct or indirect privileges for citizens based on their attitudes towards religion as well as incitement to hostility and hatred in relation thereto or hurt of citizens' feelings result in liability defined by the law.

Ukraine makes efforts to fulfil obligations on ensuring the principle of non-discrimination in all fields of public relations and demonstrates its determination in moving forward on its European integration path by implementing European values in national legislation.

Currently, VRU considers draft laws aiming to enhance national legislation on preventing and combating discrimination.

This includes the draft Law of Ukraine "On Amending the Code of Ukraine on Administrative Offences and the Criminal Code of Ukraine to Combat the Manifestations of Discrimination" (registration No. 5488 of 13.05.2021) aiming to align the conceptual apparatus of the CrCU, the CUAO and the Law of Ukraine "On the Principles of Preventing and Combating Discrimination in Ukraine" as regards the qualification of different forms and manifestations of intolerance.

#### *Discrimination in employment and occupation*

CU prohibits any direct or indirect restriction of rights and any provision of direct or indirect privileges when signing, amending or terminating an employment contract on the grounds of origin, social and property status, race and nationality, sex, language, political views, religious beliefs, membership in a trade union or other association of citizens, type and nature of occupation or places of residence.

Article 26 of CU and Article 3 of the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" stipulate that foreigners and stateless persons staying in Ukraine on legal grounds enjoy the same rights and freedoms and bear the same obligations as Ukrainian citizens, subject to exceptions laid down in the Constitution, laws or international treaties of Ukraine.

Article 2(1) of LCU prohibits any discrimination in the field of labour, including any violation of the principle of equality of rights and opportunities, direct or indirect restriction of workers' rights on the grounds of race, colour, political, religious and other beliefs, sex, gender identity, sexual orientation, age, health, disability, suspicion or presence of HIV/AIDS, marital and property status, family duties, place of residence, membership in a trade union or other association of citizens, participation in strikes, resort or intention of resort to a court or other authorities for protecting rights or supporting other workers in protecting their rights, notices of potential facts of corruption or corruption-related offences and other offences of the Law of Ukraine "On Prevention of Corruption"

as well as assistance in notifying thereof, language or other characteristics which are not related to the nature of work or terms and conditions of work.

Article 22 of LCU, therewith, prohibits refusing to hire unreasonably.

Article 24(1) of the Law of Ukraine “On Advertisement” prohibits specifying candidate’s age, offering job to women or men only — except for specific work that could be done by persons of a particular sex only, — setting any requirements which give preference to males or females, representatives of a certain race or skin colour (save for the cases defined by law and the cases of specific work that could be done by persons of a particular sex only), setting any requirements on political, religious and other beliefs, membership in a trade union or other association of citizens, ethnic or social origin, property status, place of residence, language or other characteristics in job advertisements (announcements of vacancies).

Taking into account the requirements of the Law of Ukraine “On Advertisement”, the experts at employment centres analyse vacancies appearing in the nation-wide vacancy base of the SESU in order to detect discriminatory characteristics, including vacancies from other sources. The SESU established cooperation in exchange of information on the violation of legislation on population employment with territorial authorities and bodies of the SLSU. Common measures are taken aiming to eliminate imbalance of opportunities for women and men to exercise their rights. There are no cases when employers fail to comply with non-discrimination requirements of employment legislation. Cooperation with the structural subdivisions of local public administrations responsible for the implementation of the public gender policy and local expert and technical centres of the SLSU is established, common action plans aiming to eliminate imbalance of opportunities for women are made.

If the requirements of that Article are violated, the advertiser will pay a penalty equalling to 10 minimum salaries prescribed by the laws upon the violation date to the State Budget of Ukraine as provided by the Government (UAH 65,000 or EUR 2,102 as of 01.01.2022 at the official exchange rate of the National Bank of Ukraine).

According to Article 14 of the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”, a person who believes that he/she has been discriminated against has the right to file a complaint to public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or to the court as defined by the laws.

Exercising this right may not constitute a basis for prejudicial attitude and may not cause a person who has exercised the right and other persons any negative effects.

#### *Information on people with disabilities*

In order to pursue the consistent policy on ensuring the exercise of the rights of and the satisfaction of the needs of persons with disabilities, CMU, by its Order No. 285-r of 07.04.2021, approved the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities until 2025 (hereinafter National Action Plan), and measures and tasks defined therein aim, inter alia, at enhancing the everyday life of people with disabilities and children with disabilities. The National Action Plan contains, inter alia, tasks and measures in the following fields: equality and non-discrimination, accessibility.

In addition, CMU, by its ordinance No. 366-r of 14.04.2021, approved the National Strategy for Barrier-Free Environment in Ukraine until 2030 (hereinafter the National Strategy) aiming to establish barrier-free environment for all groups of the population, to ensure equal opportunities for every person to exercise his/her rights, receive services on the equal basis with other persons by integrating physical, informational, digital, social and civil, economic and educational barrier-free environment into every area of the public policy.

CMU, by its Order No. 883-r of 04.08.2021, also approved the 2021 and 2022 action plan for the implementation of the National Strategy for Barrier-Free Environment in Ukraine until 2030.

**12. What legal forms are there governing employment relations (e.g. open-ended contracts; fixed-term contracts; temporary work; part-time work; other forms)? Are these various relations subject to formal conditions (e.g. written contracts with certain compulsory clauses)?**

A worker has the right to realise his/her productive and artistic skills by signing an employment contract with one or several employers simultaneously.

According to Article 23 of the LCU, an employment contract may have a form of:

- 1) an open-ended contract signed for an undefined period of time;
- 2) a fixed-term contract with the term agreed by the parties thereto;
- 3) a contract made for certain works to be performed.

Work pattern standards provide for opportunities to get a part-time job (a part-time day, a part-time week or a part-time week with part-time days) and a flexible schedule. The law provides for an opportunity to get a home-based job (working at the place of residence or at other place defined by a worker) and a remote job (working out of employer's working premises or territories at any place selected by a worker by using information and communications technologies).

A part-time job, remote job, home-based job and job under fixed-term contracts do not entail any restrictions to workers' labour rights.

According to Article 24 of the LCU, an employment contract is usually made in a written form.

A written form is a must:

- 1) in cases of organised recruitment;
- 2) when making an employment contract in regions with special natural geographic and geological conditions and higher risks for health;
- 3) when making a special temporary work contract;
- 4) when a worker requires that an employment contract be made in a written form;
- 5) when an employment contract is made with a minor (Article 187 of the Code);
- 6) when an employment contract is made with a natural person;
- 6<sup>1</sup>) when an employment contract is made for a remote job or home-based job;
- 7) in other cases provided for by Ukrainian legislation.

Terms and conditions of employment contracts worsening workers' positions, as compared to Ukrainian labour legislation, are not valid (Article 9 of the LCU).



Undertakings, institutions, organisations may, within their powers and at their own expense, set fringe benefits for workers in addition to those provided for by legislation.

VRU registered a Governmental draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Regulation of Non-Standard Forms of Employment” (No. 5161 of 25.02.2021, adopted on 21 September 2021) proposing to legislate the possibility of entering into an employment contract with flexible working hours (similar to zero-hour contracts within the meaning of the Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union), to be used when it is impossible to determine in advance the types, volume and period of performance of certain work, in particular freelancing.

**13. Are employers required to provide their workers with information on their conditions of work? What kind of information has to be supplied and when? Is there a requirement to provide it in writing? Does this also cover workers who are required to work in another country?**

According to Article 29 of the LCU, before a worker starts to work under the employment contract signed (save for a remote employment contract), an owner or his/her/its authorised body is obliged:

- 1) to explain to the worker his/her rights and responsibilities and to notify against receipt of working conditions, hazardous and harmful production factors in his/her workplace that have not yet been eliminated and the possible consequences of their impact on health, his/her right to benefits and compensation for work in such conditions in accordance with the law and the collective agreement;
- 2) make the worker aware of the internal labour regulations and collective agreement;
- 3) to determine the worker’s workplace, to provide him/her with necessary means for work;
- 4) to instruct the worker on labour protection, industrial sanitation, occupational health and fire protection.

When making a remote employment contract, an owner or his/her/its authorised body must ensure that paragraph 1(2) of the said Article be implemented, and provide the worker with recommendations on equipment and means provided by the owner or authorised body for the worker to perform a certain scope of work. A worker may be made aware of by providing remote instructions or trainings on the safe methods of work with a specific technical means. An employment contract may, upon parties’ consent, stipulate for additional occupational safety conditions.

Workers may be made aware of orders (ordinances), notices and other documents of an owner or his/her/its authorised body as regards their rights and obligations by using means of electronic communication defined by the employment contract. In this case, the fact that the owner or his/her/its authorised body and the worker have exchanged the respective electronic documents is deemed to be the proof of making aware.

*Information on services on employment abroad*

According to Article 36(4)(1) of the Law of Ukraine “On Employment of Population”, economic operators which render intermediation services in employment and economic operators which hire workers for them to further perform works in Ukraine for other employers are obliged to

provide citizens with complete and reliable information on employer's workforce demand (vacancies), qualification requirements, experience requirements, employment conditions, nature of work and remuneration.

According to Article 38(1) of the Law of Ukraine "On Employment of Population", intermediation services in employment abroad are rendered on the basis of available working position (vacancy) offers of foreign employers (their counterpart) and only within international business contracts on intermediation services in employment made by foreign economic operators in order to foster signing employment contracts (recruitment contracts). A draft employment contract certified by a foreign employer is a mandatory annex to an international business contract on intermediation services in employment abroad.

Activities of economic operators which render intermediation services in employment abroad are subject to licensing.

An economic operator which renders intermediation services in employment abroad bears responsibility for worse terms and conditions of an employment contract made between a person and a foreign employer (with the copy of the contract to be kept by the economic operator for three years) as defined by legislation.

According to the first indent of Article 39(1) of the Law of Ukraine "On Employment of Population", employing economic operators hire workers for them to further perform works in Ukraine for other employers by signing employment contracts with them.

*Information on workers who are required to work in another country*

According to Article 16 of the Law of Ukraine "On External Labour Migration", the employment of a migrant worker may be arranged in other country:

- 1) by executive authorities according to international treaties ratified by VRU;
- 2) by economic operators which render intermediation services in employment abroad based on a licence issued pursuant to the laws;
- 3) by a migrant worker.

If employed by executive authorities according to international treaties ratified by VRU or economic operators which render intermediation services in employment abroad based on a licence issued pursuant to the laws, a party fostering the employment provides a migrant worker with a draft employment contract certified by a foreign employer before the migrant worker leaves for a host country.

A draft employment contract must be made in the Ukrainian language and one or more languages used in the host country, and contain obligations taken by a foreign employer, including on:

- 1) working conditions (including the provision of safe and harmless working conditions), salaries (including the amount of guaranteed salaries), payroll deduction;
- 2) duration of working hours and breaks, the duration and the termination conditions of the employment contract;
- 3) social aid and medical care, social insurance;
- 4) compensation for damage caused to health due to an accident at work or temporary disability;

5) repatriation of a migrant worker.

**14. Is there a maximum length for probation periods provided for in the legal framework (cf. Directive 2019/1152)?**

Requirements of Ukrainian legislation complies with Article 8 of Directive 2019/1152 on maximum duration of any probation period equalling to six months. According to Article 27 of the LCU, a probation period, when employed, may not, unless otherwise is provided for by Ukrainian legislation, exceed three months or, in certain cases, six months when agreed by the respective electoral body of a primary trade union organisation.

Days when a worker did not actually work, notwithstanding the reason, are deducted from the probation period.

No probation period is set when employing: persons under eighteen years old, young workers after they graduate from vocational schools, young specialists after they graduate from education institutions, persons released from active military or alternative (non-military) duty, people with disabilities recommended for work based on a socio-medical assessment, elected persons, winners of vacancy competitions, persons who completed a full-time training when employed, pregnant women, single mothers with a child under 14 or a child with disabilities, persons signing a fixed-term contract for up to 12 months, persons employed to perform temporary and seasonal works, internally displaced people. No probation period is set when employing people to work in other locations and when transferring people to other undertaking, institution and organisation as well as in other cases provided for by legislation.

**D. Employment protection**

**15. What legal provisions apply to the suspension of a labour contract for maternity and parental leave?**

According to Article 2 of the Law of Ukraine “On Vacations”, the right to a leave is guaranteed, in particular, by granting a leave of a defined period with retention of the workplace (position) and salary (benefits) in the cases stipulated by the Law.

In accordance with Article 17 of the said Law, a female is granted a paid maternity leave related to pregnancy and childbirth on the ground of a medical certificate:

70 calendar days before childbirth,

56 calendar days after childbirth (70 calendar days — where two or more children are born or in the event of birth complications), starting with the childbirth date.

Article 18 of the Law provides that after the end of maternity leave, at request of a mother or a father of a child, one parent may be granted a leave to care for a child until he/she reaches the age of three. The said leave can also be used in whole or in parts by a grandmother, a grandfather or other relatives who actually care for the child, or by a person who adopted or took care of the child, one of the adoptive parents or foster parents. A mother, a father of a child or the aforementioned persons, while on childcare leave, are allowed to work on a part-time basis or from home, if they wish.

In accordance with Article 40 of LCU, dismissal of an employee is not allowed at the initiative of an owner or his/her/its authorized body during employee's temporary disability, as well as while employee is on a leave.

Besides that, Article 184 (3) of LCU forbids dismissal of pregnant women and women with children under three years old (under six years old — Article 179 (6)), single mothers with children under fourteen years old or disabled children on the initiative of the owner or its authorized body, save for the cases of complete liquidation of an undertaking, institution, organization, in this case a dismissal is allowed subject to mandatory outplacement employment. Where females of this category are dismissed after expiry of a fixed-term employment contract, they are also subject to mandatory outplacement employment. For the period of outplacement, a female's average salary is retained, but no longer than for three months from the end date of a fixed-term employment contract.

**16. Does the legal system make provision for a system of compensation where a labour contract is suspended for economic reasons (e.g. supply difficulties)?**

Yes. In accordance with Article 44 of LCU, upon expiry of the employment contract on the grounds specified in Article 36(6) and Article 40(1),(2) and (6) of this Code, an employee is entitled to severance pay in the amount not less than his/her average monthly salary.

An expected dismissal must be notified to employees in person minimum two months in advance.

For information:

Article 36(6) – employee's refusal to move to work in another location together with an enterprise, institution, organization, as well as refusal to continue employment due to the changed essential working conditions;

Article 40(1) — changes in production and labour management, including liquidation, restructuring, bankruptcy or re-profiling of an enterprise, institution, organization, staff or payroll reduction;

Article 40(2) — employee's inconsistency with his position or job due to insufficient qualifications or state of health has been revealed preventing him/her from continuing doing the said job; refused access to state secrets or withheld access to state secrets where performance of his/her job responsibilities requires access to state secrets;

Article 40(6) – an ex-employee, who had been doing this job in the past, has been reinstated in a job.

**17. Does the legal system include certain rights (material or procedural in terms of information and consultation) with regard to collective redundancies? Does the legal system include rights in respect of individual redundancy/dismissal?**

Indicators for collective redundancies, measures to prevent them and minimize negative consequences are established by collective agreements and agreements at the national, sectoral and regional levels that may be signed.

Relevant executive authorities and local self-government bodies, with engaging the social dialogue stakeholders, are in charge of developing the measures to ensure that reduced employees get outplacement employment (Article 48 of the Law of Ukraine “On Employment of the Population”).

The categories of employees, that enjoy preferential right to retain jobs in the event of redundancies related with restructuring of production and labour processes, are listed in Article 42 of LCU.

#### *17.1 Protection in the event of collective redundancies.*

According to Article 49<sup>4</sup> of the LCU, any liquidation, reorganisation of undertakings, change of its form of ownership or partial production interruption which result in personnel or payroll cuts and worser work conditions may take place only after trade unions are provided with the respective information, including information on causes for further dismissals, the amount and categories of workers concerned and dismissal periods, in advance. An owner or his/her/its authorised body consults, within three months upon the decision date, with trade unions on measures to prevent or minimise dismissals or to mitigate unfavourable effects of any dismissal.

Trade unions have the right to propose the respective bodies to postpone dismissals, to suspend or cancel measures related to dismissals of workers.

According to Article 49<sup>2</sup> of the LCU, along with the notice of dismissal due to changes in production and labour organisation processes, an owner or his/her/its authorised body offers a worker other position at the same undertaking, institution or organisation, unless the said Code provides otherwise. Where no position is available for the respective profession or specialisation or the worker refuses to be transferred to any other position at the same undertaking, institution or organisation, the worker, at his/her sole discretion, applies to the SESU or finds a job by him-/herself. If mass redundancies take place according to Article 48 of the Law of Ukraine “On Employment of Population”, an owner or his/her/its authorised representative body makes the SESU aware of the planned dismissal of workers.

#### *17.2 Protection in the event of individual dismissal is ensured as minimum by the following provisions:*

a) an exhaustive list of lawful grounds for termination of a labour contract:

Article 36 of LCU sets forth an exhaustive list of lawful grounds for termination of a labour contract:

1) by agreement of the parties;

2) expiration of the contract period (Article 23(2) and (3)), except the cases where employment relationship actually continues and neither party has demanded their termination;

3) an employee or an owner-individual has joined military service by conscription or voluntarily, sent to an alternative (non-military) service, except the cases where an employee retains his/her job, position under part three of Article 119 of this Code;

4) termination of a labour contract initiated by an employee (Articles 38, 39), initiated by an owner or his/her/its authorized body (Articles 40, 41) or at the request of a trade union or other body authorized to represent the labour collective (Article 45);

5) in case of individual's transfer, upon his/her consent, to another enterprise, institution, organisation or transfer to an elected position;

6) employee's refusal to be transferred to work in another location together with an enterprise, institution, organization, as well as his/her refusal to continue employment due to the changed essential working conditions;

7) entry into force of the court verdict sentencing an employee (save for the cases of release from a sentence under a period of probation) to imprisonment or to another punishment, which prevents him/her from continuing this job;

7<sup>1</sup>) conclusion of an employment contract contrary to the Law of Ukraine "On Prevention of Corruption" setting the requirements for individuals who have resigned or otherwise ceased activities related to civil service or local self-government functions, within a year from the date of its termination;

7<sup>2</sup>) on the grounds set by the Law of Ukraine "On the Purge of Power".

7<sup>3</sup>) entry into force of a court decision declaring the assets unjustifiable and ruling to collect them to state revenues with regard to an individual authorized to perform the functions of the state or local self-government in the cases provided for by Article 290 of the CPCU of Ukraine;

8) on the grounds stipulated by contract;

9) on the grounds stipulated by other laws.

6) A ban on dismissal of an employee at the initiative of an owner during employee's temporary disability, as well as while an employee is on a leave. This rule does not apply to the case of complete liquidation of an enterprise, institution, organization.

б) Reasonable terms of notice about expected dismissal at the employer's initiative are 2 months.

г) An employer must pay severance pay in certain cases, including redundancies or employee's refusal to work after essential working conditions have been changed.

д) Oversight by employee representatives (consultations and consent to the dismissal of a member of the trade union in case of reduction).

е) Preferential categories of individuals who enjoy a privileged right to retain job in case of redundancies.

е) Direct ban on redundancies (save for cases of liquidation) of certain categories of employees (pregnant women, women who have children under 3 years old, etc.).

**18. Do the public authorities have a role to play in the collective redundancy procedure (e.g. is there a requirement to give notice of planned redundancies to the public authorities to give them a certain time to seek solutions to the problems likely to be caused by such redundancy measures)?**

According to Article 49<sup>2</sup> of LCU, along with the notice of dismissal due to changes in production and labour organisation processes, an owner or his/her/its authorised body must offer a worker other position at the same undertaking, institution or organisation, unless the said Code provides otherwise. Where no position is available for the respective profession or specialisation or the worker refuses to be transferred to the other position at the same undertaking, institution or organisation, the worker, at his/her sole discretion, applies to the SESU or finds a job by him-/herself.

If mass redundancies are planned as per Article 48 of the Law of Ukraine “On Employment of the Population”, an owner or his/her/its authorised body makes the SESU aware of the planned dismissal of workers.

In accordance with Article 48 of the said Law, collective redundancy at the employer’s initiative (save for liquidation of a legal entity) means one-time or within:

1) one month:

redundancy of 10 or more employees at an undertaking, institution or organisation employing 20-100 employees;

redundancy of 10 or more percent of employees at an undertaking, institution or organisation employing 101-300 employees;

2) three months — redundancy of 20 or more percent of employees at an undertaking, institution or organisation regardless of the number of employees;

Indicators for collective redundancies, measures to prevent them and minimize negative consequences are established by collective agreements and agreements at the national, sectoral and regional levels that may be signed.

Relevant executive authorities and local self-government bodies, with engaging social dialogue stakeholders, develop the measures to ensure that employees, whose redundancy is on the plans, get outplacement employment.

In the case where the mass redundancies have caused a sharp increase in unemployment in the region or in the relevant area by three or more percentage points during the reporting period, the situation in the labour market is declared critical.

In order to take measures to prevent a sharp rise in unemployment during the mass redundancy of workers, special commissions may be established in accordance with the procedure approved by the Cabinet of Ministers of Ukraine.

#### **19. Does the legal framework guarantee that labour contracts continue to apply where an economic entity is transferred to a new employer?**

In accordance with Article 36(4) of LCU, in the event of change of control, as well as in the event of undertaking reorganization (merger, consolidation, unbundling, spin-off, transformation) or liquidation, employee's labour contract continues to be effective.

In accordance with Article 104 of CCU, a legal entity is terminated upon its reorganization (merger, consolidation, unbundling, transformation) or liquidation. In case of reorganisation of a legal entity, the latter’s rights and obligations are transferred to its legal successors.

Draft Law of Ukraine No. 5054 of 2021 is registered at the Parliament; it stipulates for, inter alia, approximating the provisions of the national labour legislation to Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

Draft Law No. 5054 was listed in the 2022 List of draft Laws on European and Euro-Atlantic integration identified by the Government as a priority following the meeting of the Commission for Coordination of the Implementation of the Association Agreement.

**20. Does the legal system provide for unemployment benefit? Is such provision made in the labour law or in the social security law?**

The right to financial unemployment benefits and social services is granted to insured persons. This issue is regulated by the Laws of Ukraine “On Compulsory State Social Unemployment Insurance”, “On Employment of the Population”.

Payment of unemployment benefits is set forth by the Article 7 of the Law of Ukraine “On Compulsory State Social Unemployment Insurance”. Article 22 of this Law sets conditions for and periods of unemployment benefit payments.

**E. Conditions of Work and Pay**

**21. Does the legal framework provide protection to workers whose work pattern is decided by the employer and is entirely or mostly unpredictable? Do workers performing on-demand work benefit from measures aiming at preventing abuses (e.g. limitations to the use of such contracts or to their flexibility with regard to minimum working hours)? (cf. Directive 2019/1152)**

To date, legislation of Ukraine does not establish a special category of employment contracts providing for the performance of on-demand work and/or unforeseen volume of assignments and functions.

Concurrently, VRU registered a Governmental draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Regulation of Non-Standard Forms of Employment” (No. 5161 of 25 February 2021, adopted on 21 September 2021), where it is proposed to legislate the possibility of conclusion of employment contract with flexible working hours (similar to zero-hour contracts within the meaning of the Directive (EU) 2019/1152), to be used when it is not possible to determine the types, volume and period for the performance of a specific work, in particular freelancing, in advance.

In compliance with the Directive (EU) 2019/1152, it is stipulated in the draft Law No. 5161 that the employment contract with flexible working hours has a range of features unique to it: the way and minimum term for notification of a worker about the commencement of work; the way and maximum term for notification from a worker about readiness to start working or refuse it; intervals when a worker is required to work (basic hours and days); worker’s right to refuse to work if an employer requires to work outside of basic days and hours or if he/she has been informed about the work violating the minimum period specified by the employment contract with flexible working hours; minimum number of guaranteed billable hours irrespective of involvement of such a worker in the work.

The worker is not limited in other employment rights, in particular, the right to perform work under other employment contracts.



**22. What is the minimum age for employment? From what age and under what conditions may young people of minor age perform jobs? Are there specific provisions concerning the number of hours that people of less than 18 years may work, notably the number of hours that they are authorised to work? Please provide information on the measures in place to fight child labour.**

Ukraine is a signatory of the ILO Minimum Age Convention, 1973 (No. 138) (ratification 03 May 1979), specifying 16 as the minimum age for employment.

Chapter XIII of the LCU “Youth labour” governs the issues of minors’ labour.

In employment relationships, minors, i.e. persons under 18, have equal rights with adults, but in the field of labour protection, working time, holidays and some other working conditions they enjoy the privileges provided for by the legislation of Ukraine.

In accordance with Article 188 of LCU, persons under 16 cannot be employed.

With the agreement of one of the parents or a substitute, persons aged 15 can be employed as an exception.

In order to prepare the youth for productive work, pupils from general education schools, vocational training and specialised secondary educational institutions can be employed for easy work, which does no harm to their health and does not interrupt their studies, in their free time when they aged 14 and with the agreement of one of the parents or a substitute.

Each undertaking, institution, organisation must keep a special record of workers under 18 years of age specifying their date of birth (Article 189 of the LCU).

The following is laid down on the working conditions of the minors.

Articles 190, 192 of LCU prohibit using persons under 18 for heavy work and working in harmful or dangerous working conditions, for underground work as well as for night, overtime work and weekends. It is also prohibited to use persons under 18 for lifting and moving of objects which weight exceeds the set limits.

The list of heavy work and work in harmful or dangerous working conditions as well as limits on lifting and moving of heavy objects by persons under 18 are approved by the central executive authority, that ensures development of the public policy on health care, in agreement with the central executive authority ensuring development of the public policy on labour protection.

Workplace conditions are included in the list of heavy work and work in harmful and dangerous working conditions on the basis of hygienic classification of working conditions according to level of hazards and risks in the industrial environment, difficulty and intensity of the working process, approved by the Order of MoH (hereinafter MoH) of 8 April 2014 No. 248 in accordance with the results of assessment of workplace conditions, the procedure for which is regulated by the CMU Resolution of 1 August 1992 No. 442.

Limits on lifting and moving of heavy objects by minors are approved by the Order of MoH No. 59 of 22 March 1996 “On Approval of Limits on Lifting and Moving of Heavy Objects by Minors” (hereinafter referred to as the Limits) registered with the Ministry of Justice of Ukraine on 16 April 1996 under No. 183/1208.

Limits are valid throughout Ukraine and apply to all undertakings, institutions, organisations, educational institutions as well as legal entities and natural persons using labour of minors aged 14 to

18 (point 1 of the Limits). In accordance with the Limits, it is prohibited to use minors for work related exclusively to lifting, holding or moving of heavy objects.

Minors who do not have medical contraindications, as certified by an appropriate medical certificate, may be involved in the work requiring lifting and moving of heavy objects. Minors under 15 cannot be involved in long-term work requiring lifting and moving of heavy objects.

The employer must ensure that preliminary and follow up regular health assessments are carried out for the minors employed by him/her.

Minors' work with loads must not exceed 1/3 of working hours.

Weight of a separate load and the total weight of load to be lifted and moved by the minors must not exceed the limits. The following maximum load is established for boys aged:

- 14 years - 5 kg for short-term work, long-term work is not envisaged (not allowed to be involved);
- 15 years - 12 kg for short-term work, 8.4 kg for long-term work;
- 16 years - 14 kg for short-term work, 11.2 kg for long-term work;
- 17 years is 16 kg for short-term work, 12.6 kg for long-term work.
- Appropriate limits for girls of the same age are half of that of boys.

Maximum total weight of load lifted (moved) by minors per 1 working hour for:

- 14-year-old boys is 10 kg from the smooth work surface, 7 kg from the floor;
- 15-year-old boys is 48 kg from the smooth work surface, 24 kg from the floor;
- 16-year-old boys is 160 kg from the smooth work surface, 80 kg from the floor;
- 17-year-old boys is 272 kg from the smooth work surface, 130 kg from the floor;
- 14-year-old girls is 5 kg from the smooth work surface, 3.5 kg from the floor
- 15-year-old girls is 12 kg from the smooth work surface, 6 kg from the floor;
- 16-year-old girls is 40 kg from the smooth work surface, 20 kg from the floor;
- 17-year-old girls is 72 kg from the smooth work surface, 32 kg from the floor.

Convention 182 on Worst Forms of Child Labour was ratified by Ukraine on 14 December 2000.

In the national legislation, Article 51 of the LCU establishes the reduced number of working hours for the minor workers: 36 hours per week for the workers aged 16 to 18; and 24 hours per week for the persons aged 15 to 16 (pupils aged 14 to 15 who work during holidays).

Working hours of the pupils, who work during the academic year in their free time, cannot exceed a half of the maximum number of working hours determined for the persons of appropriate age.

In accordance with Article 198 of the LCU, workers under 18 may be dismissed at the initiative of the owner or authorised body, observing the overall dismissal procedure, only with the agreement of District (City) Children Affairs Service.

The SLSU exercises control of compliance with the labour legislation in this area. In 2021, the SLSU conducted 2,874 inspection visits monitoring, in particular, the compliance with the rules of labour legislation on minors. It was established that 74 employers used child labour. Among all inspected undertakings, there are 44 service enterprises, 7 industrial enterprises, 11 agricultural enterprises and 12 enterprises with other types of activities.

The inspected employers had 361 minor workers, they include: 3 persons under 14; 14 children aged 14 to 15 years; 14 children aged 15 to 16 years; 330 children aged 16 to 18 years.

In general, 72 employers (97% of the total number of undertakings using child labour) violated the labour rights of 125 minors (34%), namely:

- 119 children were employed by 63 employers without properly executed work contract in writing in accordance with the requirements of Article 24 of the LCU;
- 9 employers paid wage to 12 minors without paying mandatory taxes and social contributions;
- infringement of the legislation on mandatory health assessments upon employment were established in respect of 2 minors.

It was established during monitoring that workplace was firstly given to 227 minors.

Inspection visits show that in most cases minors has worked as a warehouse assistant, a waiter/waitress, a barista, an operator, a goods acceptor, a maintenance worker, an apprentice, an administrator of watercraft rental service, a seller, a cashier, a car washer, a kitchen assistant and a handyman.

The results of the inspection visits were as follows:

- 13 decisions on financial sanctions in the amount of UAH 3,240.00 for infringement of labour legislation were made;
- 18 protocols on institution of administrative proceedings against the employers were prepared and filed with the court;
- materials of 6 inspections were referred to law enforcement authorities for appropriate response;
- 66 orders to eliminate infringements of labour legislation were issued, 11 undertakings eliminated the infringements;
- 48 warnings about liability for infringement of labour legislation on minors were drawn up;
- 1 resolution under Article 188-6 of CUAO in the amount of UAH 1,360 was made;
- 3 decisions to institute a criminal case were made;
- 4,085 preventive measures were taken.

In 2021, labour inspectors made 36,020 visits to the employers with the aim to inform them and their workers about the most efficient ways to comply with the legislation when establishing employment relationships with the minors.

**23. Are there general regulations concerning working time? Please provide information on the following points:**

**- The definition of working time;**

In accordance with LCU, working time is time established by law or an agreement between the parties on its basis, during which the workers must perform their obligations under the employment contract in accordance with the internal work arrangement regulations.

Regular duration of working time of the workers cannot exceed 40 hours per week.

Concurrently, undertakings and organisations can set the duration of working time less than 40 hours per week.

**- The maximum weekly working time;**

In accordance with Article 50 of LCU, regular duration of working time of the workers cannot exceed 40 hours per week.

Concurrently, in accordance with Article 6 of the Law of Ukraine “On Organization of Labour Relations under Martial Law”, regular duration of working time of the workers under martial law cannot exceed 60 hours per week.

**- The maximum overtime work during the week and per calendar year;**

Overtime work for a worker must not exceed four hours in two consecutive days and 120 hours per year.

(Concurrently, in accordance with Article 6 of the Law of Ukraine “On Organization of Labour Relations under Martial Law”, overtime work is not limited during martial law).

**- Whether there compulsory rest periods and whether they are different for certain types of workers.**

Article 59 of the LCU envisages that break from work between the shifts must be at least twice the duration of work of the previous shift (including lunch break). It is prohibited to assign a worker for two consecutive shifts.

In accordance with Article 66 of the LCU, workers are given a break for rest and meal not exceeding two hours. This break is not included in the working time. The break for rest and meal must be given, as a rule, four hours after the beginning of work.

Internal work arrangement regulations establish time when the break starts and ends. Workers can use break time at their own discretion. They can leave the place of work during this time.

In case of works where it is not possible to provide for the break because of industrial conditions, the worker must be given the opportunity to eat during working hours. List of such works, procedures and place allocated for meals are established by the owner or authorised body with the agreement of the electoral body of a primary trade union organisation (trade union representative) of the undertaking, institution, organisation.

Duration of weekly uninterrupted rest must be at least 42 hours (Article 70 of the LCU).

In accordance with labour legislation, workers have the right to annual basic leave of at least 24 calendar days (persons aged 18 are entitled to annual basic leave of 31 calendar days, disabled people of groups I and II are entitled to a leave of 30 calendar days and disabled people of group III are entitled to a leave of 26 calendar days), annual additional leaves for the work in harmful and hard working conditions and for the special nature of work, specific duration of which is established by a

collective agreement or employment contract depending on the results of assessment of workplace conditions and time of work in such conditions.

Workers also have the right to other types of leaves, such as study leave, social leave, sabbatical, leave to prepare for and participate in competitions and unpaid leave. It should be noted that other types of leaves can be established by legislation, collective agreement, contract and employment contract.

**- The different ways of organising working time (e.g. annualisation; flexitime; overtime, etc.).**

On 4 February 2021, VRU adopted the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine to Improve Legal Regulation of Remote, Home-Based Work and Flexible Working Mode” No. 1213-IX.

Due to the adoption of the above law, distinction between remote and home-based work was made, and the mechanism for regulation of work of workers with flexible working hours was improved.

In accordance with Article 60 of the LCU, with a written agreement between the worker and the owner of the undertaking, institution, organisation, irrespective of the form of property, or authorised body, flexible working mode can be established for the worker, which entails that the worker can independently regulate time when the work starts and ends, as well as number of working hours during a business day, for a specified term or indefinitely, upon employment or later.

Flexible working mode is a form of labour management allowing the establishment of a work schedule different from the one determined by the internal work arrangement regulations, subject to compliance with the established daily, weekly or other norm of working hours for a certain reference period (week, month, quarter, year, etc.).

Home-based work is a form of labour management allowing a worker to perform work at the place of his/her residence or in any other premises specified by him/her, which have a fixed area, technical means (basic production and non-production assets, instruments, devices, equipment) or they all collectively, which are necessary for production of goods, provision of services, performance of work or functions stipulated by the constituent documents, but outside industrial or work premises of the owner of undertaking, institution, organisation or authorised body. In case of home-based work, worker's workplace is fixed and cannot be changed at his/her initiative without agreement with the owner or authorised body in a way laid down in the employment contract on home-based work. When performing work under the employment contract on home-based work, workers are subject to general working regime of the undertaking, institution, organisation, unless otherwise provided for by the employment contract. Home-based work does not entail changes in work norms and remuneration and does not impact the scope of workers' rights (Article 60-1 of the LCU).

Remote work is a form of labour management allowing a worker to perform work outside the work premises or territory of the owner or authorised body, wherever the worker wishes, and with the use of information and communication technologies. It is prohibited to conclude the employment contract on remote work if there are any harmful and dangerous production (technological) factors. In case of remote work, a worker determines his/her workplace independently and is liable for ensuring safe and harmless working conditions at the workplace. In case of remote work, a worker manages time at his/her discretion, and he/she is not subject to internal work arrangement regulations, unless otherwise provided for by the employment contract. With agreement between the worker and

the owner of the undertaking, institution, organisation or authorised body, remote work can be combined with work at the workplace in premises or territory of the owner of the undertaking, institution, organisation or authorised body. Worker, who works remotely, is guaranteed a rest period (period of disconnection), when the worker can interrupt telecommunication with the owner or authorised body, and it is not considered a breach of terms of the employment contract or labour discipline (Article 60-2 of the LCU).

Article 61 of the LCU stipulates that with the agreement of the electoral body of a primary trade union organisation (trade union representative) of the undertaking, institution, organisation, it is allowed to establish summarised recording of working hours at the undertakings, institutions, organisations requiring continuous work as well as separate manufactures, shops, sites, departments and for certain types of work, where it is not possible to comply with daily or weekly working hours, established for such category of workers, because of production (working) conditions, so that the number of working hours for the reference period does not exceed regular number of working hours (Articles 50 and 51).

In accordance with Articles 62, 64, 65 of the LCU, overtime work, as a rule, is prohibited. Overtime work is work exceeding the established number of working hours.

Overtime work can be performed only in agreement with the electoral body of a primary trade union organisation (trade union representative) of the undertaking, institution, organisation.

Overtime work for a worker must not exceed four hours in two consecutive days and 120 hours per year.

The owner or authorised body must record the overtime work of each worker.

**- Whether social partners have a role to play, e.g. through the conclusion of collective agreements, in implementing the various forms of organising working time.**

In accordance with Article 142 of the LCU, work arrangements of undertakings, institutions and organisations are defined by internal work arrangement regulations which are approved by personnel at the instance of the owner or authorised body and the electoral body of a primary trade union organisation (trade union representative) on the basis of model rules.

Article 13 of the LCU also stipulates that work schedule, number of working hours and rest period are established by the collective agreement concluded by the owner or authorised body (person), of the one part, and a primary trade union organisation, who act on the basis of their charters, and, in their absence, by the representatives freely elected at the General Meeting of the workers or authorised bodies, of the other part.

In accordance with Article 38 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Activity”, the electoral body of a primary trade union organisation at the undertaking, institution or organisation together with the owner decides on working hours and rest period, approves shift and leave schedules and establishment of summarised recording of working hours, permits overtime work and work on holidays, etc.

In accordance with the Law of Ukraine “On Collective Agreements and Contracts”, the collective agreement sets forth mutual obligations of the parties regulating industrial, labour, social and economic relations, including work schedule, working hours and rest period at the undertakings, institutions and organisations.

#### **24. What are the main characteristics of the system of paid annual leave?**

Workers are given annual basic leave at least of 24 calendar days for the year worked, which starts upon conclusion of the employment contract.

Legislation of Ukraine may establish different annual basic leave for certain categories of workers. Along with that, duration of their leave must be at least 24 calendar days.

Therefore, persons under 18 are entitled to annual basic leave of 31 calendar days, disabled people of groups I and II are entitled to a leave of 30 calendar days and disabled people of group III are entitled to a leave of 26 calendar days.

Annual additional leaves are given to the workers:

- 1) for the work involving harmful and hard working conditions;
- 2) for the special nature of work;
- 3) in other cases provided for by legislation.

Workers also enjoy the right to paid study leaves, social leaves (in connection with pregnancy and childbirth, adoption of a child, for the workers having children or a minor child with a disability from childhood of subgroup A of group I, when a child is born), sabbatical, leave to prepare for and participate in competitions, leaves for certain categories of people and affected participants of the Revolution of Dignity, etc..

Legislation establishes duration, conditions and procedure for granting of each leave separately.

Other types of leaves can be established by the legislation, collective agreement, contract and employment contract.

Right to a leave is guaranteed by granting a leave of a defined period with retention of the workplace (position) and wage (assistance) for this period and prohibition to substitute a leave for financial compensation, except for the cases stipulated by the Law, in particular, in case of termination of the employment contract.

#### **25. What protection is there for night workers, notably with regard to working time?**

Period between 10.00 p.m. and 6.00 a.m. is considered to be night time.

The established number of working hours (shift) is reduced by one hour for night work. This rule does not apply to workers who already have the reduced number of working hours.

Duration of night work equals to day work when it is required by working conditions, in particular, in continuous production, as well as shift work in case of a six-working day week with one day off.

Night work is prohibited for:

- 1) pregnant women and women having children under the age of 3;
- 2) persons under the age of 18;
- 3) other categories of workers stipulated by the legislation.

Night work is paid at a higher rate established by general, industrial (regional) agreements and collective agreement, but not lower than 20% of wage rate (salary) for each hour of night work.

MoE has developed a draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Regulation of Night Work of Workers, which stipulates that organisation of night work must be regulated considering the requirements of occupational safety of the workers, prevention of harmful effect of the night work on their health, as well as bringing national labour legislation into line with international law, in particular, the Night Work Convention No. 171 of the International Labour Organisation.

It should be noted that during martial law night work is allowed for pregnant women and women having a child under one year of age, disabled people, who has medical contraindications to such work, with their assent. (Article 8 of the Law of Ukraine “On Organization of Labour Relations under Martial Law”)

**26. Does the legal framework provide protection to workers in part-time work or under fixed-term work contracts? Does this protection rely on a general principle of non-discrimination vis a vis the working conditions of comparable workers subject to permanent and/or full-time work relationships?**

Part-time workers have the same social and labour rights and guarantees as full-time workers.

In accordance with Article 56 of the LCU, part-time work does not entail any restrictions to workers’ labour rights. In these cases, labour remuneration is proportional to the time worked or according to performance.

Employment contract may be both open-ended and concluded for a definite period established with the agreement of the parties, or concluded for the period necessary for the certain work to be performed (Article 23 of the LCU).

Fixed-term work contract is concluded when employment relationships cannot be established for an unspecified period considering the nature of the work or conditions of its performance, or workers’ interests, and in other cases stipulated by legislative acts.

Work under the fixed-term work contract does not entail restrictions to the scope of labour rights and guarantees of the workers and provides for remuneration for the time worked (worked performed), the right to all types of leaves and other guarantees stipulated by the legislation.

**27. Does the system provide protection to workers employed by temporary-work agencies and working in user undertakings? Are temporary agency workers entitled to the same working and employment conditions, including pay, as permanent workers of the user undertaking to which they are assigned? Do workers on temporary work or fixed-term work relationships benefit from the same protection of their health and safety at work as enjoyed by other workers? (cf. directive 91/383/EEC)**

In accordance with Article 39 of the Law of Ukraine “On Employment of Population”, employing undertakings, which hire workers for them to further perform works in Ukraine for other employers, can send workers provided it is envisaged by the collective agreement of such employer, and with the agreement of a primary trade union organisation, and they are obliged to:



- 1) enter into a contract on the use of worker's labour with the employer;
- 2) pay wage to the worker in amount not less than the minimum wage established by law, and wage received by the worker from the employer for the same work;
- 3) provide the worker with working hours and rest period under conditions established for the employer's workers, which is envisaged by the collective agreement and internal work arrangements regulations;
- 4) assess and pay a single contribution to the obligatory state social insurance in worker's favour;
- 5) not to prevent conclusion of the employment contract between the worker and the employer who has employed the worker.

Undertaking may hire workers to further perform works in Ukraine for natural persons on the basis of the service contract concluded between the undertaking and the natural person.

Undertaking is prohibited to send workers to the employer who:

- 1) has reduced the number (staff) of workers during a year;
- 2) has not complied with the limit of the number of workers in principal occupations involved in technological processes of the main production;
- 3) involves the workers for the work in harmful, dangerous and hard working conditions as well as work in principal occupations of the technological process of the main production.

Part-time workers have the same social and labour rights and guarantees as full-time workers.

In accordance with Article 56 of the LCU, part-time work does not entail any restrictions to workers' labour rights. In these cases, labour remuneration is proportional to the time worked or according to performance.

Employment contract may be both open-ended and concluded for a definite period established with the agreement of the parties, or concluded for the period necessary for the certain work to be performed (Article 23 of the LCU).

Fixed-term work contract is concluded when employment relationships cannot be established for an unspecified period considering the nature of the work or conditions of its performance, or workers' interests, and in other cases stipulated by legislative acts.

Work under the fixed-term work contract also does not entail restrictions to the scope of labour rights and guarantees of the workers and provides for remuneration for the time worked (worked performed), a leave duration of which is proportional to the time worked, etc.

In accordance with Article 29 of the LCU, when concluding a fixed-term work contract, the employer must comply with the procedure for familiarisation with local rules and procedures, namely those relating to protection of life and health of the workers, conditions of occupational safety, corporate and occupational health and fire safety, which are the same for the workers concluding the employment contract for an unspecified period.

In general, legislation of Ukraine complies with the requirements of the Council Directive 91/383/EEC of 25 June 1991 on complementing measures to encourage the improvement of safe and healthy working conditions of the workers in fixed-term work relationships or on temporary work.

## **28. What protection is there in the event of major change in working conditions?**

The worker must be notified at least two months before changes in the essential working conditions such as systems and amounts of remuneration, benefits, work schedule, establishment or cancellation of part-time work, combination of occupations, changes in grades and titles of positions, etc.

If the essential working conditions cannot be maintained, and the worker refuses to continue working in the new conditions, then the employment contract is terminated according to point 6 of Article 36 of the LCU.

When dismissed, such a worker must be paid a severance payment in the amount of the average monthly earnings.

During martial law the employer has the right to transfer the worker to another work not specified by the employment contract without his/her assent (except for the transfer to work on a different location, where active hostilities take place) if such work is not contraindicated to worker's health, only to prevent or eliminate the consequences of hostilities, as well as other circumstances that threaten or may threaten the life or normal living conditions of people, with remuneration for the work performed in the amount not lower than the average wage on previous work.

During martial law, Article 32 (3) of LCU on notification of the worker about changes in the essential working conditions is not applied (Article 3 of the Law of Ukraine "On Organization of Labour Relations under Martial Law").

## **29. Is there a guaranteed minimum level of pay? Is this a statutory minimum or is it subject to collective agreement? How is pay determined? What are the relevant criteria?**

In accordance with Article 3 of the Law of Ukraine "On Remuneration of Labour" 108/95-BP of 24 March 1995, the minimum wage is a statutory minimum level of pay for the monthly (hourly) labour rate performed by the worker, which is concurrently established in monthly and hourly amounts and is the state social guarantee being mandatory throughout the territory of Ukraine for the undertakings of all forms of property and economic management and natural persons, who use the labour of workers, according to any pay system.

Article 3-1 of the Law of Ukraine "On Remuneration of Labour" stipulates the guarantees of the minimum wage. In particular, worker's minimum wage for the fully performed monthly (hourly) labour rate cannot be not lower than the amount of the minimum wage.

In order to provide the minimum wage, when calculating the amount of worker's wage, additional pays for work in unfavourable conditions and with increased risk to health, night and overtime work, work requiring travel, holiday and anniversary bonuses are not counted.

If the accrued wage of the worker, who has fulfilled the monthly labour rate, is lower than a statutory minimum, the employer must provide additional pay to the minimum wage, which is paid monthly along with the wage.

If the amount of wage is lower than the amount of the minimum wage due to the frequency of payment of its components, additional pay to the minimum wage must be given.

If the part-time work contract is concluded, and the worker fails to fulfil the monthly (hourly) labour rate, the minimum wage is paid in proportion to the labour rate fulfilled.

The minimum hourly wage is applied by the undertakings, institutions, organisations irrespective of the form of property and by natural persons who use wage labour if hourly wage is applied.

Article 9 of the Law of Ukraine “On Remuneration of Labour” stipulates that the minimum wage is established on the basis of the needs of workers and their families, the amount sufficient to ensure the normal functioning of an able-bodied person and maintain their health, food basket, the minimum set of non-food products and services necessary to meet the basic social and cultural needs of the individual, and general average wage, labour performance and employment rate.

The minimum wage cannot be lower than a subsistence minimum for able-bodied persons.

In accordance with Article 10 of the Law of Ukraine “On Remuneration of Labour”, the minimum wage is set by VRU at the request of CMU at least once a year in the Law on the State Budget of Ukraine taking into account the proposals made through negotiations of the joint representative body of trade unions and the joint representative body of associations of employers' organizations at the national level.

In accordance with Article 8 of the Law of Ukraine “On the State Budget of Ukraine for 2022”, the minimum wage is set as follows:

- since 1 January 2022 the monthly amount is UAH 6,500; since 1 October 2022 the monthly amount is UAH 6,700;
- since 1 January 2022 the hourly amount is UAH 39.26; since 1 October 2022 the hourly amount is UAH 40.46.

Article 8 of the Law of Ukraine “On Remuneration of Labour” stipulates that the state regulates remuneration of labour of workers in the undertakings of all forms of property by establishing the minimum wage, other state standards and guarantees and establishing the conditions and amount of wages of the heads in the undertakings based on the state and communal property, workers of the undertakings, institutions and organisations financed or subsidised from the budget, and by taxation of workers' income.

CMU establishes the conditions of remuneration for workers of institutions and organisations financed from the budget.

In accordance with Article 13 of the Law of Ukraine “On Remuneration of Labour”, workers of institutions and organisations financed from the budget are remunerated on the basis of the acts of CMU within the budget allocations.

Labour costs for workers of institutions and organisations financed from the budget are approved along with the budget.

CMU determines the conditions of remuneration for workers of budgetary institutions and enterprises of the public sector, as well as the financial support of servicemen (privates and officers) and police officers (Article 20 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine").

In accordance with Article 96 of the LCU and Article 6 of the Law of Ukraine “On Remuneration of Labour”, payment scheme (wage rates) of workers of the undertakings, institutions and organisations financed from the budget is formed on the basis of the following:

minimum salary (wage rate) set by CMU;

inter-job (inter-qualification) ratios of salaries (wage rates) and wage coefficients.

The minimum salary (wage rate) must be not lower than the subsistence minimum established for able-bodied persons as of 1 January of a calendar year.

CMU Resolution of 20 January 2021 No. 29 “Certain issues of remuneration of workers of institutions, establishments and organisations of certain branches of the budget sphere” determines the following amounts of salary (wage rate) for the first grade worker:

UAH 2,670 since 1 January 2021,

UAH 2,893 since 1 December 2021,

exceeding the subsistence minimum established for able-bodied persons as of 1 January of the appropriate year (subsistence minimum of UAH 2,270 for able-bodied persons as of 1 January 2021 and UAH 2,481 as of 1 January 2022).

In addition to the state regulation of remuneration of labour, the national legislation also provides for contractual regulation.

In accordance with Article 15 of the Law of Ukraine “On Remuneration of Labour”, pay systems and forms, labour rate, costs, wage scale, rates, payment schemes, conditions for introduction and amount of allowances, additional pays, bonuses, remuneration and other incentive, compensation and guarantee payments are established by the undertakings, institutions, organisations on their own in the collective agreement complying with norms and guarantees provided for by legislation, general and industrial (regional) agreements. If collective agreement is not concluded at the undertaking, institution, organisation, the owner or authorised body must reconcile these issues with the electoral body of a primary trade union organisation (trade union representative) representing the interests of the majority of workers or, in the absence of such a body, with another collective body authorised to represent these interests.

### **30. In what way is the payment of wages and salaries guaranteed? Do workers enjoy a general privilege over the employers' goods and assets for payment of wages and salaries?**

Articles 21-34 of the Law of Ukraine “On Remuneration of Labour” stipulates the worker’s rights to remuneration and their protection. Worker has the right to remuneration of his/her labour in accordance with legislative acts and collective agreement on the basis of the employment contract.

The amount of wage may be lower than established by the employment contract or a minimum wage in the event of non-compliance with performance standards, manufacture of defective products or for other reasons, as provided for in applicable legislation, due to the fault of a worker.

Any reduction in the amount of remuneration for labour on the grounds of origin, social and property status, race and nationality, sex, language, political views, religious beliefs, membership in a trade union or other association of citizens, type and nature of occupation or places of residence is forbidden.

In addition, entities organising remuneration have no right to unilaterally make decisions on remuneration, which may worsen the conditions established by legislation, by contracts and collective agreements.

Wage of workers of the undertakings in Ukraine is paid in banknotes in legal circulation in the territory of Ukraine. It is prohibited to pay wage in the form of debt obligations and promissory notes or in any other form.

Wage may be paid with a bank cheque in a manner stipulated by CMU in the agreement with the National Bank of Ukraine.

Collective agreement, as an exception, may stipulate a part of the wage to be paid in kind (at prices not exceeding the prime cost) in the amount not exceeding 30% of accrued monthly wage in industries or occupations, where such payment being equivalent to remuneration in cash is usual for or desirable by the workers, except for the goods listed by CMU.

Wages are paid to the workers regularly during business days on dates stipulated by the collective agreement or normative act of the owner agreed upon with the electoral body of a primary trade union organisation or another collective body authorised to represent the interests (in the absence of such bodies, agreed with representatives elected and authorised by the personnel), but at least twice a month at intervals not exceeding sixteen calendar days and not later than seven days after the end of the period for which payment is made.

If a payday falls on a weekend, holiday or day off, wages must be paid in advance.

Payment of wages is made at the place of work. It is prohibited to pay wages at the retail stores, drinking and entertainment establishments, except for the cases when wages are paid to the workers of these establishments.

With a written consent of the worker, wage may be paid via banks and post to a specified account (address), and the employer must pay for such services.

Timeliness and amount of workers' wages cannot depend on other payments and their sequence.

If a part of the wage is lost due to the breach of payment period, compensation for this loss must be paid to the workers according to the consumer price index and costs of services.

It is prohibited to restrict the worker from using his/her wage freely, except for the cases stipulated by legislation.

Any payroll deductions aimed at direct or indirect payment to the employer or any other intermediary by the worker for obtaining or maintaining of employment are prohibited.

In accordance with the legislation, guilty persons are subject to disciplinary, material, administrative and criminal prosecution for infringement of the legislation on remuneration.

The following authorities are responsible for monitoring the compliance with the legislation on remuneration:

central executive authority implementing the public policy on supervision and control over compliance with labour legislation;

tax authorities.

Trade unions and their associations are responsible for public monitoring of the compliance with the legislation on remuneration.

**31. Are there additional guarantees where the employer is insolvent? More particularly,**

**does the system provide for the creation of special guarantee institutions to protect the claims of workers owed money because of the employers' insolvency? How do such institutions work and how are they managed? Is this system applicable to all workers irrespective of the duration of the contract of employment or the nature of their employment relationship?**

Considering the provisions of paragraph II of the ILO Convention No. 173 concerning the Protection of Workers' Claims in the event of Insolvency of their Employer ratified by Ukraine, the national legislation provides guarantees for wage protection through the privileges.

Article 64 of the Code of Ukraine on Bankruptcy Procedures stipulates that claims for payment of wage arrears to the existing and dismissed workers of the insolvent employer must be satisfied in the first place.

Mechanism for protection of workers' claims in the event of the employer's insolvency is not currently provided for by the national legislation. Concurrently, in order to enhance the protection of workers' claims for payment of wage arrears in the event of the employer's insolvency and to ratify the ILO Convention No. 173 in full, MoE has prepared a number of draft Laws stipulating, in particular, the creation of a guarantee institution to satisfy workers' claims in the event of the employer's insolvency. Now these draft Laws are processed with the social partners with the aim to find a consensus on the most nationally acceptable ways to implement the provisions of paragraph III of the ILO Convention No. 173.

In addition, Verkhovna Rada of Ukraine has registered a draft Law of Ukraine "On Amendments to the Law of Ukraine "On Ratification of the Convention of the International Labour Organisation No. 173 concerning the Protection of Workers' Claims in the event of Insolvency of their Employer, 1992".

## **F. Posting of workers**

**32. Are there any rules and administrative structures applicable in the case of posting of workers as established by the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services as amended by Directive 2018/957? If so, are there any specific rules on the enforcement of these rules as envisaged in Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services?**

According to Article 121 of the LCU, workers enjoy guarantees and compensations for postings, which apply to postings within the country and abroad.

Ukrainian legislation must be brought into conformity with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services. It is particularly necessary to continue implementing Article 101 of the EU — Ukraine Association Agreement regulating the activities of contractual services suppliers in Ukraine and the EU Member States respectively.

Concerning postings of contractual services suppliers who are citizens of the EU Member States to Ukraine, Article 42 of the Law of Ukraine "On Employment of Population" stipulates that an

employer is obliged to receive a permit to employ foreigners and stateless persons as regards a posted foreign worker unless otherwise is defined by international treaties of Ukraine ratified by VRU.

Issues on posting of workers, including periods of posting, work conditions and payments, permits, returns after postings, are governed by bilateral international treaties.

According to Article 19 of the Law of Ukraine “On International Treaties of Ukraine”, effective international treaties ratified by VRU constitute a part of national legislation and apply as determined by national legislation.

If an international treaty of Ukraine which has entered into force as established by legislation lays down rules other than rules provided by the respective legislative act of Ukraine, the rules of the international treaty apply.

According to Article 52 of the Law of Ukraine “On International Private Law”, law of a country where the work is performed applies to employment relationship unless the law or an international treaty of Ukraine provides otherwise.

Employment relationship of Ukrainian citizens who work abroad are governed by the Ukrainian laws if:

- 1) Ukrainian citizens work at foreign diplomatic institution of Ukraine;
- 2) Ukrainian citizens have made employment contracts on performing works abroad with employers who are natural persons or legal entities, including their affiliates, if it does not contradict legislation of a country where the work is performed;
- 3) it is provided by legislation or an international treaty of Ukraine (Article 53 of the Law of Ukraine “On International Private Law”).

Employment relationship of foreigners and stateless persons who work in Ukraine are governed by the Ukrainian laws if:

- 1) foreigners and stateless persons work at diplomatic representatives of foreign states or representatives of international organisations in Ukraine unless an international treaty of Ukraine provides otherwise;
- 2) foreigners and stateless persons outside Ukraine have made employment contracts on performing works in Ukraine with foreign employers who are natural persons or legal entities unless the law or an international treaty of Ukraine provides otherwise (Article 53 of the Law of Ukraine “On International Private Law”).

### **33. How are workers represented at plant, undertaking and group levels? In which way are the workers’ representatives designated?**

Article 243 of the LCU mentions that according to CU and the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Activity” Ukrainian citizens have the right to establish, join and resign from trade unions on the basis of free will, without any permission, on terms and conditions and in a manner prescribed by their charters, as well as participate in the activities of such trade unions.

According to Article 4 of the Law of Ukraine “On Social Dialogue in Ukraine”, at the local level of a social dialogue (an undertaking, institution, organisation), parties to a social dialogue include a workers’ party including primary trade union organisations or, where no primary trade union

is established, representative(s) of workers freely elected to hold negotiations, and an employer's party including an employer and/or his/her/its authorised representatives.

According to Article 13 of the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Activity", the state recognises trade unions to be plenipotentiary representatives of workers and defenders of their labour, social and economic rights and interests, cooperates with trade unions to exercise these rights, supports trade unions in establishing business partner relationship with employers and associations thereof.

According to Article 19 of the said law, trade unions and associations thereof represent and protect labour, socio-economic rights and interests of trade union members before public authorities and local self-government bodies, within relations with employers as well as other associations of citizens.

Concerning collective interests of workers, trade unions and associations thereof represent and protect interests of workers notwithstanding their trade union membership.

Trade unions represent and protect individual rights and interests of their members as defined by legislation and their charters.

Interests of trade union members within relationship with employers, public authorities and local self-government bodies are represented based on the system of collective agreements and in accordance with legislation.

According to Article 37 of the said law, primary trade union organisations exercise their powers through electoral bodies established under the charter (regulations) or, in organisations with no electoral bodies established, through trade union representatives who are authorised to represent interests of trade union members under the charter and act within rights provided by the said law and the charter of the trade union.

If an undertaking, institution or organisation has several primary trade union organisations, collective interests of workers of the undertaking, institution or organisation as regards signing a collective agreement are represented by a joint representative body established by these primary trade union organisations on the initiative of any of them. In such a case, every trade union organisation should determine its specific obligations under the collective agreement and responsibility for the failure to fulfil them. A representative body is established based on the principles of proportional representation. A primary trade union organisation which refuses to participate in the representative body is deprived of the right to represent the interests of the workers when signing the collective agreement.

Article 12 of the said law sets that trade unions and associations thereof do not depend on, are not accountable to and are not controlled by public authorities, local self-government bodies, employers, other civil organisations and political parties within their activities.

Trade unions organise their activities, hold meetings, conferences, congresses, meetings of bodies established thereby, other measures which do not contradict legislation, by themselves.

It is prohibited for public authorities, local self-government bodies, their officials, employers and associations thereof to interfere with the statutory activities of trade unions, organisations and associations thereof.



In order to protect the rights of trade union members to public guarantees in the field of occupational safety and additional work conditions pursuant to collective agreements, trade unions represented by their electoral bodies and representatives publicly control whether undertakings, institutions and organisations comply with labour legislation, establish, in association with employers, occupational safety commissions, participate in investigating causes of accidents and occupational diseases at work.

**34. Are there any rules concerning information and consultation of workers at undertaking or establishment level? Are there any rules concerning information and consultation of workers at transnational level (e.g. where a multinational company has a European / global works council)?**

Legislation provides for a range of standards which set certain rules for interaction between employers and workers and their representatives at undertakings. These rules are included in, inter alia, LCU, the Laws of Ukraine “On Trade Unions, Their Rights and Guaranties of Activity”, “On Social Dialogue in Ukraine” and “On Collective Agreements and Contracts”.

Depending on issues which these procedures concern, the rules differ insofar as they concern periods of information provision, periods of information consideration and an interaction procedure for taking decisions by parties to a social dialogue.

Special rules concerning consultation of workers at the transnational level are not set.

Thus it worth taking into account that according to Article 19 of the Law of Ukraine “On International Treaties of Ukraine”, effective international treaties ratified by VRU constitute a part of national legislation and apply as determined by national legislation. If an international treaty of Ukraine which has entered into force as established by legislation lays down rules other than rules provided by the respective legislative act of Ukraine, the rules of the international treaty apply.

Concerning the international level of the mentioned issue, LCU governs employment relationship of all workers (Article 1).

Labour legislation governs employment relationship of workers of any undertaking, institution, organisation, regardless of their ownership form, business type and industry, as well as individuals who work under an employment contract with natural persons (Article 3).

According to Article 52 of the Law of Ukraine “On International Private Law”, law of a country where the work is performed applies to employment relationship unless the law or an international treaty of Ukraine provides otherwise.

Article 9 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Activity” stipulates that pursuant to the aims and tasks defined by their charters, trade unions and associations thereof have the right to join international trade unions and other international organisations and associations which represent interests of workers, and participate in their activities, cooperate with trade unions in other countries, carry out other activities which do not contradict Ukrainian legislation.

Notwithstanding the fact that undertakings or institutions are a part of transnational corporations, they carry out their activities in Ukraine according to Ukrainian legislation through separate legal entities. And these national legal entities are entrusted with a duty to adapt corporate

rules approved by a parent company so that they do not violate Ukrainian labour legislation, which is in conformity with Article 69 of ECU.

According to Article 49(4) of LCU, any liquidation, reorganisation of undertakings, change of its form of ownership or partial production interruption which result in personnel cuts and worse work conditions may take place only after trade unions are provided with the respective information, including information on causes for further dismissals, the amount and categories of workers concerned and dismissal periods, in advance. An owner or his/her/its authorised body consults, within three months upon the decision date, with trade unions on measures to prevent or minimise dismissals or to mitigate unfavourable effects of any dismissal.

Trade unions have the right to propose the respective bodies to postpone dismissals, to suspend or cancel measures related to dismissals of workers.

Article 43 of LCU sets a procedure for receiving a prior consent of the electoral body of a primary trade union organisation (trade union representative) when terminating an employment contract on the initiative of an employer. Thus, the termination of an employment contract based on Article 40(1) (safe for the liquidation of an undertaking, institution or organisation), (2–5) and (7) and Article 41(2) and (3) of the Code may take place only upon the prior consent of the electoral body (trade union representative) of the primary trade union organisation where the worker is a member.

If the electoral body of the primary trade union organisation is not established, a trade union representative authorised to represent the interests of the trade union members according to its charter grants consent for the employment contract to be terminated.

Article 43(1) of the LCU provides for case when an employment contract may be terminated on the initiative of an employer without consent of the electoral body of the primary trade union organisation (trade union representative).

According to Article 27 of LCU, a probation period of three to six months, when employing, must be agreed by the respective electoral body of the primary trade union organisation.

A work schedule, the accounting of total hours worked, overtime works, works on days off, leave schedules, payroll schedules must be agreed by the respective electoral body of the primary trade union organisation (trade union representative) of an undertaking, institution or organisation.

According to Article 142 of LCU, labour regulations of undertakings, institutions and organisations are defined by internal labour regulations which are approved by personnel at the instance of the owner or his/her/its authorised body and the electoral body of a primary trade union organisation (trade union representative) on the basis of model rules.

Powers of the electoral body of the primary trade union organisation at an undertaking, institution or organisation are defined by Article 247 of LCU.

In order to implement the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, draft Law of Ukraine No. 5054 “On Amendments to the Labour Code of Ukraine to Define the Concept of Labour Relations and Indications of Their Existence” of 09.02.2021 was registered at VRU.

Draft Law No. 5054 was listed in the 2022 list of draft laws on European and Euro-Atlantic integration defined by the Government as priority draft laws at the meeting of the Commission on

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

The mentioned draft law, *inter alia*, provides that an employer must, one week prior to legal succession in writing or in an electronic form, inform workers and the electoral body of a primary trade union organisation (trade union representative) or, where no primary trade union is established, freely-elected and authorised representative(s) of workers of: 1) the date (approximate date) of and reasons for legal succession; 2) economic, technological and structural consequences of legal succession or similar consequences which will impact the rights of workers. A legal successor must, in writing or in an electronic form, provide workers and the electoral body of the primary trade union organisation (trade union representative) or, where no primary trade union is established, freely-elected and authorised representative(s) of workers with information stipulated by Article 36(4) prior to actions which will impact the labour rights and interests of workers.

### **35. Are there any rules on board level participation of employee representatives?**

According to Article 65 of ECU, an undertaking is managed pursuant to its constitutional documents based on the combination of the rights of the owner to economically use its property and the rights of the personnel to participate in management.

At every undertaking hiring workers, a collective agreement which governs production, employment and social relationship between the personnel and the administrative body must be signed by and between the owner or his/her/its authorised body and the personnel or its authorised body. Requirements on the content of and procedures for signing collective agreements are set by legislation on collective agreements.

The personnel of an undertaking consists of citizens who participate in its activities by performing the work on the basis of an employment contract or other forms governing employment relationship between the workers and the undertaking. Powers of the personnel to participate in the management of the undertaking are defined by articles of association or other constitutional documents according to ECU, legislation on certain types of undertakings, laws on personnel.

Decisions on socio-economic issues related to the activities of the undertaking are made by its management bodies with the participation of the personnel and its authorised bodies.

According to Article 34(1) of the Law of Ukraine “On Joint-Stock Companies”, persons listed as shareholders with the right to participate in general meetings of shareholders may participate in such meetings. The representatives of the independent auditor of a company and officials of a company, notwithstanding whether they hold shares in the company, the representative of a body which represents the rights and interests of the personnel under the articles of association, may also be present at general meetings at the invitation of a person convening the general meeting.

According to Articles 55 and 59 of the Law of Ukraine “On Joint-Stock Companies”, the representatives of a trade union body or other personnel-authorised body which has signed a collective agreement on behalf of the personnel may participate in the meeting of the supervisory board of a joint-stock company with the right of advisory vote at the invitation of the supervisory board.

The members of the supervisory board as well as the representatives of a trade union body or other personnel-authorised body which has signed a collective agreement on behalf of the personnel may be present at the meetings of the collective executive body of a joint-stock company. The articles

of association may entrust other persons with the right to be present at the meeting of the collective executive body.

According to the provisions of the Law of the USSR “On Personnel and Increasing Their Role in Management of Undertakings, Institutions or Organisations” of 1983 which is effective to the extent not conflicting with CU, the personnel: participates in drafting collective agreements; discusses collective agreements and takes decisions on collective agreements; authorises the trade union committees of undertakings and organisations to sign these agreements; takes measures to ensure that collective agreements be implemented; hears reports of the administrative body of undertakings, organisations and trade union committees on the implementation of collective agreements; asks questions on bringing persons who do not fulfil their obligations under collective agreements to responsibility, whenever necessary.

According to Article 3 of the Law of Ukraine “On Collective Agreements and Contracts”, a collective agreement is made between an employer, of the one part, and one or several trade union bodies or, where no trade union body is established, the representatives of workers, elected and authorised by the personnel, of the other side.

According to Article 245 of the LCU, workers have the right to participate in the management of undertakings, institutions and organisations through general meetings (conferences), personnel councils, trade unions which act within the personnel, other bodies authorised by the personnel to represent, make proposals on improving the operation of the undertaking, institution or organisation as well as on socio-cultural and household services.

The owner or his/her/its authorised representative must create conditions which would ensure the participation of the personnel in the management of undertakings, institutions and organisations. The officials of undertakings, institutions and organisations must, within the time limit set, consider critical remarks and proposals of the personnel and inform it of the measures taken.

According to Article 25 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Activity”, trade unions represent the rights and interests of workers within their relationship with employers in the management of undertakings, institutions and organisations as well as in the process of privatising state-owned or community-owned undertakings, participate in the activities of privatisation commissions, represent the interests of the workers of a corporate debtor before a creditors’ committee within the bankruptcy procedure.

Employers must participate in measures prepared by trade unions to protect labour and socio-economic rights at the invitation.

Article 247 of the LCU provides for powers of the electoral body of a primary trade union organisation at an undertaking, institution or organisation.

In particular, the electoral body of a primary trade union organisation at an undertaking, institution or organisation, together with the owner or his/her/its authorised body, decides on the establishment, review and change of work standards; issues on remuneration to workers, remuneration forms and systems, estimates, rate scales, official salary schemes and amounts of bonuses, premiums, benefits and other incentive and compensation payments; working hours and rest time; approves shift and leave schedules and the accounting of total hours worked; permits overtime work and work on days off, etc.; decides on the social development of the undertaking; participates in resolving socio-economic issues, defining and approving the list of and the procedure for granting social benefits to

workers; participates in developing internal labour regulations of the undertaking, institution or organisation.

## **G. Industrial Disputes**

### **36. Is there a special court to deal with disputes under collective agreements?**

There is no special court to deal with disputes regarding collective agreements. Article 221 of CUAO stipulates that judges of the district, city district, city or township-district courts consider cases on the administrative offences as per Articles 41<sup>1</sup>–41<sup>3</sup> of the given Code.

The mentioned articles are applied to the evasion of participation in bargaining regarding the conclusion and making amendments or supplements to collective agreements or contracts, non-provision of information for collective bargaining or control over the implementation of collective agreements or contracts.

The Law of Ukraine “On the Procedure for Settlement of Collective Labour Disputes (Conflicts)” regulates settlement of the collective labour disputes and stipulates establishment of a conciliation commission (a body that is dedicated to develop a solution, which can satisfy parties to a collective labour dispute (conflict), and consists of the parties’ representatives) or a labour arbitration (a body that consists of the specialists, experts, and other persons engaged by the parties and makes the decision on a labour dispute (conflict) on the merits).

The labour arbitrage’s decision on settlement of a collective labour dispute (conflict) is binding given that the parties have tentatively agreed on it.

To facilitate improvement of the labour relations and prevent development of the collective labour disputes (conflicts), as well as to forecast them, facilitate their timely settlement, and mediate settlement of such disputes (conflicts), the President of Ukraine establishes the National Mediation and Reconciliation Service, which decisions on the collective labour disputes are advisory in their nature.

At present, the NMRS functions under the Decree of the President of Ukraine No.1258/98 of 17 November 1998 as subsequently amended.

### **37. How is the right to strike regulated and what restrictions are there on the right to strike in the private and public sectors?**

Section III of the Law of Ukraine “On the Procedure for Settlement of Collective Labour Disputes (Conflicts)” (hereinafter — the Law) regulates the procedure of holding a strike, as well as identifies events of the ban on holding a strike for some categories of employees.

According to article 17 of this Law, a strike is a collective temporary voluntary suspension of work by employees (absence from work, failure to perform employment duties) of an enterprise, institution or organisation (structural unit) with a view to settling a collective labour dispute (conflict).

A strike is used as a last resort (when all other options are exhausted) to settle a collective labour dispute (conflict) due to the denial of an employer or its authorised person, employers’ organisation or amalgamated union of employers’ organisations to satisfy demands of persons employed or their delegated body, trade union, amalgamated union of trade unions or its (their) delegated body.

According to Article 18 of the Law, a strike may start if conciliation procedures do not lead to settlement of a collective labour dispute (conflict), or an employer or its authorised person, employers' organisation, amalgamated union of employers' organisations either weasels out of conciliation procedures or fails to implement an agreement reached in the process of settlement of a collective labour dispute (conflict).

Article 19 of the Law defines that upon a submission from an elected body of the primary trade union organization (the trade union representative) or another employees' organisation authorised according to Article 3 of the given Law to represent the interests of employees, a strike notice decision is made at the general meeting (conference) of persons employed by voting and is considered adopted if the majority of employees or two thirds of the conference delegates vote for it. A strike notice decision is documented in the form of the minutes.

No one can be compelled to be or not to be on a strike.

According to Article 24 of the Law of Ukraine "On the Procedure for Settlement of Collective Labour Disputes (Conflicts)", strikes are prohibited if the cessation of work by workers creates a threat to life and health of people, the environment or hinders the prevention of natural disasters, accidents, catastrophes, epidemics and epizootics, or elimination of consequences thereof.

Employees (except for technical and auxiliary personnel) of the prosecution bodies, court, Armed Forces of Ukraine, public authorities, as well as security and law enforcement authorities are prohibited to hold a strike.

In case of declaration of the state of emergency, VRU or the President of Ukraine may prohibit the strikes for no longer than one month. Further prohibition must be approved by a joint act issued by VRU and the President of Ukraine. In the event of declaration of the martial law, strikes are automatically prohibited until martial law is repealed.

According to the legislation, restrictions on the right to strike apply to civil servants (civil service in a public authority or another state body, its secretariat (clerk's office); local self-government officials; servicepersons and reservists (while performing their duties in the military reserve), employees of the Armed Forces of Ukraine; citizens sent to carry out alternative service; servicepersons and employees of the State Border Guard Service of Ukraine; police officers; low-ranking, high-ranking and employees of the criminal executive service; judges; prosecutors; employees of the National Anti-Corruption Bureau; personnel of nuclear facilities and facilities designated for radioactive waste management; employees of emergency rescue services (formations); low-ranking and high-ranking of the Civil Protection Service; personnel of an operator or telecommunication provider given that such actions lead to the termination of telecommunication networks functioning or provision of telecommunication services, and it creates obstacles to ensure national security, health, human rights, and freedoms.

The strikes are prohibited at enterprises of the electrical power industry if they can result in a disruption of sustainability of the United Energy System of Ukraine; at heat supply facilities if they can result in a disruption of stability of heat supply to consumers during a heating period; at transport enterprises in cases related to the carriage of passengers, maintenance of the continuously operating production facilities, as well as when a strike poses a threat to human life and health.

Police trade unions and their members, as well as trade unions of the Judicial Security Service and their members are prohibited to organise strikes or be on them. It is prohibited to hold strikes or be on a hunger-strike in the underground mines.

### **38. Are lockouts allowed and how are they regulated?**

UA legislation does not contain a “lockout” term.

On the other hand, there is such notion as a “downtime”: it is an operation shutdown caused by lack of organisational or technical conditions needed to perform the work, by unavoidable casualty or any other circumstances.

Article 113 of this Code stipulates that idle hours through no fault of an employee, including during the quarantine period enforced by CMU, are paid at a rate of not less than two-thirds of the employee’s wage category (salary).

An employee must notify the owner or its authorized body or the headman, foreman or persons in charge about a downtime start, except for a downtime of the structural unit or the entire enterprise.

An employee retains their average pay for the period of a downtime, when through no fault of them an operating situation arises that is dangerous to life or health of the employee or their surrounding persons, as well as to the environment.

The idle hours through the fault of an employee are not paid.

### **39. Are there special methods for dealing with industrial disputes, e.g. conciliation, mediation and arbitration?**

Legal and organisational principles of functioning of the collective labour dispute (conflict) settlement system are laid down in the Law of Ukraine “On the Procedure for Settlement of Collective Labour Disputes (Conflicts)”.

Any such collective labour dispute (conflict) is handled by the conciliation commission or through labour arbitration in view of the matters disputed by the parties to the social and labour relations.

Any matters related to new socioeconomic conditions of work and work routine or any change in the existing conditions or conclusion of the collective bargaining agreement or contract or any amendments thereto are handled by the conciliation commission (meanwhile, if it fails to settle a dispute within the time limits provided by the Law, the dispute will be handled through the labour arbitration); while matters related to the performance of the collective bargaining agreement or any particular provisions thereof or failure to comply with labour legislation are directly handled through the labour arbitration.

According to Article 8 of the Law, a conciliation commission is a body dedicated to render a decision, which can satisfy the parties to a collective labour dispute (conflict); it consists of the parties’ representatives.

A conciliation commission is set up at the initiative of any party within three days (production level), five days (sectoral or territorial levels) or ten days (national level) from the date of the collective labour dispute (conflict), and consists of the same number of the parties’ representatives.

The procedure for appointment of the parties’ representatives to serve as members of the conciliation commission is established by each of the parties to the collective labour dispute (conflict) independently.

Members of the conciliation commission are given time off for the duration of negotiations and decision preparation by the conciliation commission.

If appropriate, the conciliation commission:

- engages an independent mediator;
- consults with the parties to a collective labour dispute (conflict), national and local executive bodies and authorities, local self-government bodies and other interested bodies.

Organisational and logistical support to the conciliation commission is provided as agreed by the parties or equally shared (if the parties fail to agree).

According to Article 11 of the Law, a labour arbitration is a body that consists of the specialists, experts, and other persons engaged by the parties and makes the decision on the merits of a labour dispute (conflict).

The labour arbitration is set up at the initiative of any party or an independent mediator within three days.

The members of the labour arbitration and their number are determined as agreed by the parties. A chairperson of the labour arbitration is elected from among its members.

The labour arbitration may also include Members of Parliament of Ukraine, representatives of the state authorities and local self-government bodies, as well as other persons.

Organisational and logistical support to the labour arbitration is provided as agreed by the parties or equally shared (if the parties fail to agree).

The Law sets out the procedure on settlement of a collective labour dispute (conflict) by a conciliation commission and labour arbitration.

The labour arbitrage's decision on settlement of a collective labour dispute (conflict) is binding given that the parties have tentatively agreed on it.

To facilitate improvement of the labour relations and prevent development of the collective labour disputes (conflicts), as well as to forecast them, facilitate their timely settlement, and mediate settlement of such disputes (conflicts), the President of Ukraine establishes NMRS, whose decisions are advisory in their nature.

The NMRS is funded from the State Budget of Ukraine.

The following functions are within the competence of NMRS:

- registration of employees' claims and collective labour disputes (conflicts);
- analysis of the requirements, identification and colligation of the causes of collective labour disputes (conflicts), and formulation of the proposals for resolution thereof;
- trainings for mediators and arbitrators specializing in resolution of the collective labour disputes (conflicts);
- compilation of lists of arbitrators and mediators;
- if needed, review, of powers of the parties' representatives to a collective labour dispute (conflict);
- mediation in resolution of a collective labour dispute (conflict);



- engagement of Members of Parliament of Ukraine, as well as representatives of the state authority and local self-government bodies, into the conciliation procedures.

The legislation also stipulates a mediation option for the labour disputes. According to Article 3 of the Law of Ukraine “On Mediation”, the Law applies to social interactions related to mediation to prevent any future conflicts (disputes) or to settle any conflicts (disputes), in particular any civil, family, labour, commercial, or administrative conflicts (disputes), including those arising of administrative offence cases and criminal proceedings to ensure conciliation of the victim with the suspect (accused).

Legislation may provide for the mediation procedures specific to certain categories of conflicts (disputes).

The mediation may be conducted before having recourse to the court, arbitration tribunal, international commercial arbitration, or during any pre-trial investigation or any judicial or arbitration proceedings, or during the execution of a decision/award of any court, arbitration tribunal, or international commercial arbitration.

Mediation has no effect on limitation periods.

Mediation is not conducted to resolve any conflicts (disputes) that affect or may affect the rights and legitimate interests of third parties, which are not participants of this mediation process.

Moreover, VRU has registered the draft Law of Ukraine “On Amendments to the LCU to Improve the Individual Labour Dispute Settlement Procedure” (No.5555 of 24 May 2021) that proposes, inter alia, to introduce a new method to settle individual labour disputes, through mediation, while keeping existing options of settlement of individual labour disputes, in particular, involving a labour dispute commission or through the judicial procedure.

## **I. Undeclared work**

### **40. What are the estimations of the extent of undeclared work and its underlying causes?**

The survey of economic activity of the population of Ukraine, in particular monitoring informal employment, regularly conducted by the State Statistics Service, and data from the national accounts system, used by MoE to assess the volume of the shadow economy, are regular and methodologically consistent sources of information on individual forms of undeclared work.

The informally employed population aged 15 and over in 2021 amounted to 3,061.6 thousand people, which accounts for 19.5% of the total employed population aged 15 and over.

Among the population employed informally, the share of men is 1834.6 thousand people (59.9%), the share of women is 1227.0 (40.1%).

The urban population is 1,309.0 thousand people (42.7%), the rural population is 1,752.6 thousand people (57.3%) of the informally employed population.

Among the population employed informally, the largest share make up people aged 40–49 (24.9%), and the smallest share are young people aged 15–24 (8.2%) and people aged 60–70 (5.9%).

Distribution of informally employed population by type of economic activity:

- agriculture, forestry and fisheries — 46.3%;

- industry — 5.7%;
- construction — 17.1%;
- wholesale and retail trade; repair of motor vehicles and motorcycles — 15.2%;
- transport, warehousing, postal and courier activities — 4.3%;
- temporary accommodation and catering — 2.2%;
- other forms — 9.2%.

Undeclared work in Ukraine most often appears in the following forms:

- economic activity without state registration;
- hired labour without registration of labour relations;
- under-reporting to state bodies of the amount of time worked and wages;
- disguised employment under the appearance of other forms of activity (civil relations, fictitious self-employment, etc.).

Since 2014 (with the exception of 2015), there has been a downward trend in informal employment, both in absolute and relative terms.

Thus, an informal employment amounted to:

in 2014 — 4,540.9 thousand people (25.1% of the total employed population),

in 2015 — 4,303.3 thousand people (26.2 %),

in 2016 — 3,961.2 thousand people (24.3 %),

in 2017 — 3,695.6 thousand people (22.9 %),

in 2018 — 3,541.3 thousand people (21.6 %),

in 2019 — 3,460.4 thousand people (20.9 %),

in 2020 — 3,237.8 thousand people (20.1 %),

in 2021 — 3,061.6 thousand people (19.5 %),

Employment in the informal sector of the economy is declining in absolute terms, but is growing as a percentage in relation to the total number of informally employed population. Thus, the percentage of employment in the informal sector of the economy to the total number of informally employed population was:

in 2014 — 53.1% (the year since the statistical observations began),

in 2015 — 51.78%,

in 2016 — 53.8%,

in 2017 — 57.07%,

in 2018 — 59.15%,

in 2019 — 60.5%,

in 2020 — 62.7%,

The key reasons for informal employment are:

- unwillingness of both employees and employers to pay taxes and contributions to special-purpose extra-budgetary funds;
- concealment of the real production outputs in order to evade paying corporate tax;
- attractiveness of informal employment for employees (entitlement to receive unemployment benefits, subsidies for utilities, etc.);
- high bureaucratic "entry threshold" to official employment, especially for small and medium-sized enterprises (high bureaucratic burden on business);
- labour legislation that does not meet the requirements of the time (not sufficiently flexible labour legislation).

**41. What is the legal and administrative framework of addressing the issue of undeclared work? Are specific measures taken in monitoring, preventing, deterring, transforming undeclared work into regular employment and combating it as provided for in the Council resolution on transforming undeclared work into regular Employment (2003/C 260/01)?**

Ukraine ratified ILO Labour Inspection Conventions No. 81 regarding labour inspection in industry and commerce and No. 129 on labour inspection in agriculture as part of the development of an effective labour inspection system, with a major focus on overcoming the issue of undeclared work.

The SLSU is the central executive authority implementing the national policy in the areas of industrial safety, occupational health and safety, handling of industrial explosives, state mining supervision, state supervision and control over compliance with labour and employment laws, compulsory state social insurance against occupational accidents and occupational diseases that have caused disability, temporary disability and unemployment as it pertains to administration of allowances, benefits and compensations, provision of social services and other types of financial assistance to ensure that the rights and guarantees of the insured persons are observed.

The structure of SLSU includes the central office and territorial bodies. The total number of civil servants of SLSU and its territorial bodies is 3,267 persons. Funding of the State Labor Service in 2022 is provided in the amount of UAH 621.7 million (management and administration in the area of occupational safety, health and hygiene, supervision of compliance with labour legislation).

MoE has developed a draft Law proposing to establish explanatory and inspection activities to identify undeclared work as main areas of intervention of SLSU in order to strengthen its institutional capacity to overcome undeclared work. Currently, this draft Law is being discussed with the concerned authorities and social partners in order to find mutually agreed solutions.

During 2021, in order to prevent offenses, labour inspectors made 103,759 visits to enterprises to inform employers and their employees about the benefits of official employment.

SLSU also actively undertakes inspection activities to identify undeclared work. Inspectors of the State Tax Service and officers of the National Police of Ukraine (if appropriate) may be engaged in certain inspections.

In 2021, labour inspectors conducted 7,564 inspection visits to identify unregistered labour relations, which found 19,160 employees to be admitted to work without proper registration of employment, in particular: 15,187 employees were admitted to work without an employment contract; 1,465 employees performed work on the basis of other types of contracts instead of employment

contracts; 2,508 employees were admitted to work without notification of the State Tax Service of Ukraine.

Article 265 of the LCU provides for a liability for violation of labour legislation and sets forth a warning and penalties in the amount of one to thirty minimum monthly salaries.

Article 41 (3, 4) of the CUAO stipulate that the actual admission of an employee to work without an employment agreement (contract); admission of aliens or stateless persons and individuals, concerning whom a decision was made to prepare documents for granting/requesting refugee status, to work under an employment agreement (contract) which aliens or stateless persons don't have a work permit for, shall incur a fine of five hundred to one thousand non-taxable minimum incomes on officials of enterprises, institutions and organisations, regardless of ownership, and sole traders who use hired labour. The same violations, if committed again within one year, entail fine of one thousand to two thousand non-taxable minimum incomes.

Article 172 of CrCU provides for liability for gross violation of labour legislation, which is punishable by a fine of two thousand non-taxable minimum incomes to an arrest for up to six months.

Article 173 of CrCU provides for liability for gross breach of employment agreement by an official of an enterprise, institution, organisation, regardless of ownership, as well as an individual citizen or their authorised person, by deception or abuse of trust, or coercion to perform work, not stipulated by the agreement, which is punishable by a fine of up to fifty non-taxable minimum incomes to restriction of freedom for up to three years.

During 2021, labour inspectors prepared and brought before courts 1,146 protocols on administrative offenses under paragraph 3 and 4 of Article 41 of CUAO. 946 resolutions were issued on the imposition of penalties in accordance with Article 265 of the LCU (hereinafter referred to as the LCU) in the amount of UAH 267 million 182 thousand. Materials of 714 visits were sent to law enforcement agencies in connection with the evidence of crimes under Articles 172 and 173 of CrCU.

In compliance with the instructions, 2,674 business entities eliminated the identified violations. Based on the inspection visits, employment contracts were concluded (formalised) with 23 thousand 308 employees and following visits to employers to raise their awareness and of their employees on the most effective ways to comply with labour legislation — with 231 thousand 34 employees.

Council Resolution on transforming undeclared work into regular Employment (2003/C260/01) contains recommendations to be taken into account when developing a national employment program, including:

- creating a legal and administrative environment conducive to the declaration of economic activity and employment, by simplifying procedures and reducing costs and burdens that limit the creation and development of business, including start-ups and small businesses;

- strengthening incentives and removing barriers to job advertisements with regard to the demand and supply of work;

- developing an appropriate employment policy for recipients of social protection that will help them participate in the regulated labour market;

- reducing the risk of falling into unemployment and poverty by eliminating undesirable relationships between the tax system and system of benefits.

CMU, in accordance with paragraph 17 of the Law of Ukraine “On Employment of Population”, in order to implement public employment policy, develops and approves the framework for government medium-term employment policy, which identifies ways and means of addressing employment issues and provides measures to consolidate efforts of all parties to the social dialogue aimed at regulating processes at the labour market to increase employment.

The CMU Order No. 1396-r of 24 December 2019 approved the Key areas of implementation of the public employment policy and incentives to create new jobs up to 2022.

In order to reduce the risks of growth in undeclared work and unemployment during martial law as a result of the military aggression of the Russian Federation against Ukraine, a number of laws of Ukraine have been adopted, including the Law of Ukraine “On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine on the administration of certain taxes during martial law, state of emergency” №2173-IX of 1 April 2022, Law of Ukraine “On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine on improving the legislation for the period of martial law” №2142-IX of 24 March 2022, Law of Ukraine “On the organization of labour relations in martial law” №2136-IX of 15 March 2022.

On 28 January 2022, the Resolution of the Board of the Compulsory State Social Unemployment Insurance Fund of Ukraine No. 39 approved the Development Strategy of the SESU for 2022-2024.

In order to address the problem of undeclared labour, VRU registered a draft Law “On Amendments to LCU regarding the definition of the concept of labour relations and their grounds” No. 5054 of 9 February 2021, which establishes clear criteria for differentiating labour relations from other forms of employment, which will significantly reduce the level of informal employment and strengthen the protection of workers, including those working without official registration of labour relations, although, by all indications, performing work that should be carried out within the framework of a concluded employment contract. The draft Law No. 5054 is aimed to ensure the approximation of national legislation to the norms of Directive No. 2001/23/EC of 12 March 2001 and International Labour Organization’s Employment Relationship Recommendation No. 198 of 31 May 2006.

Draft Law No. 5054 was listed in the 2022 List of draft Laws on European and Euro-Atlantic integration, identified by the Government as a priority following the meeting of the Commission for Coordination of the Implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand.

## **HEALTH AND SAFETY AT WORK**

### **A. General**

**42. Please explain the distribution of competences regarding health and safety at work in Ukraine and provide a general overview of the legal framework and of the policies and strategies in the field of health and safety at work, including their implementation.**

Article 43 of CU guarantees the right to proper, safe, and healthy working conditions to every citizen and worker, as well as prohibits use of women’s and minors’ labour that is hazardous to their health.

The Law of Ukraine “*On Labour Protection*” stipulates the key provisions for implementation of the constitutional right of workers to protection of their lives and health at the workplace, appropriate, safe, and healthy working conditions, regulates relations between the employer and employee involving the relevant public authorities in the aspects of occupational safety and health and working environment, and establishes a single procedure to organize labour protection in Ukraine.

Labour protection legislation primarily comprises the Law of Ukraine “*On Labour Protection*”, LCU (Chapter XI), the Law of Ukraine “*On Compulsory State Social Insurance*”, and regulations adopted in accordance with them.

If an international treaty the binding nature of which was approved by VRU establishes standards other than those stipulated in the Ukrainian labour protection legislation, provisions of the international treaty apply.

The Law of Ukraine “*On Labour Protection*” also regulates the following issues:

- the public labour protection policy;
- guarantees of workers’ rights to labour protection;
- labour protection organizations, labour protection management, and the employer’s duties;
- labour protection incentives;
- labour protection regulatory and legal framework;
- state governance of labour protection (mandates of central, local executive authorities and local self-government bodies);
- state supervision and public control over labour protection;
- liability for violations of labour protection legislation.

The key requirements for fire safety, relevant management and supervision bodies in this domain are specified in Article 38 of the Law of Ukraine “*On Labour Protection*”, the Civil Protection Code, and in the regulations adopted in accordance with it.

The key requirements for occupational health are stipulated in Articles 7, 15, 19, 22, 23 of the Law of Ukraine “*On Sanitary and Epidemic Welfare of Population*” and in regulations adopted in accordance with them.

Sanitary rules and standards are approved by the central executive authority developing public policy in the field of health care.

Regulations on social insurance against accidents at work in compliance with the Law of Ukraine “*On Compulsory State Social Insurance*” are adopted by the Board of the Social Insurance Fund of Ukraine, whose activities are regulated by the Charter of the Social Insurance Fund of Ukraine, Rules of Procedures of the Board of the Social Insurance Fund of Ukraine, And Regulations on the Executive Directorate of the Social Insurance Fund of Ukraine.

Regulations on the service of insurance experts on labour protection for prevention of accidents at work and occupational diseases who are full-time employees of the Executive Directorate of the Social Insurance Fund of Ukraine and its regional offices.

The Board of the Social Insurance Fund of Ukraine also adopts relevant regulations governing provision of social services and payment of insurance benefits by the Fund, as well as activities to prevent accidents at work and occupational diseases.

#### *General overview of the public labour protection policy*

The public labour protection policy is determined in compliance with CU by VRU and is aimed at creating appropriate, safe, and healthy working conditions, prevention of accidents and occupational diseases.

The public labour protection policy is based on the principles enshrined in the Law of Ukraine “*On Labour Protection*”, namely:

priority of life and health of employees, full responsibility of the employer to create appropriate, safe, and healthy working conditions;

enhancement of the labour protection level by ensuring continuous technical control over the state of production, technology and products, as well as assisting enterprises in creating safe and harmless working conditions;

comprehensive solution of labour protection issues based on the relevant national, sectoral, regional programs and in view of other areas of the economic and social policy, achievements in science and technology, as well as environmental protection;

social protection of workers, full damage compensation to individuals affected by accidents at work and occupational diseases;

establishing single labour protection requirements for all enterprises and business entities, regardless of ownership;

adaptation of labour processes to the worker’s capacities, in view of his/her health and psychological status;

using economic methods of labour protection management, the state’s participation in financing of labour protection activities, involving voluntary contributions and other receipts for these purposes that do not contradict the legislation;

raising awareness of population, conducting training, vocational training, and retraining of labour protection workers;

ensuring coordination of activities of public authorities, institutions, organizations, citizens’ associations that address health, hygiene and safety issues, as well as cooperation and consultation between employers and employees (their representatives), among all social groups when making decisions on labour protection at the local and national levels;

application of international experience when organizing work to improve working conditions and increase occupational safety based on international cooperation.

#### *Distribution of labour protection competencies*

In accordance with Article 31 of the Law of Ukraine “*On Labour Protection*”, state labour protection management is performed by:

- CMU;

the central executive authority that implements the state policy in the field of labour protection;

ministries and other central executive authorities;

the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, and local self-government bodies.

Pursuant to Article 32 of the above Law, CMU:

ensures implementation of the public labour protection policy;

submits for approval by VRU the national program to improve occupational safety, health, and the working environment;

guides and coordinates activities of ministries and other central executive authorities in creating safe and healthy working conditions and labour protection supervision;

establishes unified state labour protection statistical reporting.

In accordance with Article 33 of the Law, ministries and other central executive authorities:

pursue a single research and technical policy in the field of labour protection;

develop and implement sectoral programs to improve occupational safety, health, and working environment involving trade unions;

perform methodical management of labour protection activities of sectoral enterprises;

enter into agreements with the relevant sectoral trade unions on improving working conditions and occupational safety;

participate in development and revision of labour protection regulations;

organize labour protection training and knowledge testing;

if necessary, set up emergency rescue services, manage their activities, ensure compliance with other legislative provisions governing relations in the field of rescue activities;

perform departmental control over the state of labour protection at sectoral enterprises.

To coordinate, improve, and control labour protection activities, ministries and other central executive authorities establish — within the maximum number of staff — structural units for labour protection or delegate labour protection powers to one of existing structural units or individual officials of the relevant bodies.

The central executive authority that implements the public policy to supervise and control compliance with labour legislation (SLSU) ensures holding of state examination of working conditions involving the central executive authority that implements the public policy in the field of sanitary and epidemiological welfare of population (MoH), monitors the quality of job certification based on working conditions.

The procedures for controlling the quality of job certification based on working conditions are determined by the central executive authority developing the public policy in the field of labour protection — MoE.

The central executive authority that implements the public policy in the field of labour protection — SLSU:

performs comprehensive labour protection management at the national level, implements the public policy in this area and monitors implementation of public labour protection management



functions by ministries, other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, and local self-government bodies;

involving ministries, other central executive authorities, the Social Insurance Fund of Ukraine, national associations of employers, and trade unions, develops the national program to improve occupational safety, health and the working environment, and monitors its implementation;

performs law-drafting activities, develops rules, standards, regulations, instructions, and other regulatory legal acts on labour protection or amendments to them and makes respective proposals for consideration by the central executive authority developing the public policy in this area;

coordinates activities of ministries, other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, local self-government bodies, enterprises, other business entities in the field of occupational safety, health, and the working environment;

receives free of charge from ministries, other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, statistical services, enterprises, other business entities data and information required to perform the tasks assigned to it;

issues permits for start of high-risk works and start of operation (application) of high-risk machines, mechanisms, and equipment;

participates in international cooperation and in organization of implementation of international treaties on occupational health, safety, and the working environment approved as binding by VRU, explores, summarizes, and disseminates international experience on these issues, develops and submits in the prescribed manner proposals for improvement and gradual approximation of the current labour protection legislation to the relevant international and European standards.

Decisions made by the central executive authority implementing the public policy in the field of labour protection, within its competence, are binding on all ministries, other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, local self-government bodies, legal entities and individuals who, in compliance with the law, use hired labour.

The Council of Ministers of the Autonomous Republic of Crimea, local state administrations within the relevant territories, in accordance with Article 34 of the Law:

ensure compliance with laws and implementation of the public policy in the field of labour protection;

with participation of representatives of trade unions, the Social Insurance Fund of Ukraine develop and support implementation of targeted regional programs to improve occupational safety, health, and the working environment, as well as labour protection activities as part of programs of socio-economic and cultural development of regions;

provide for social protection for employees, in particular those engaged in work with harmful and dangerous working conditions, take measures to certify jobs in accordance with labour protection regulations;

make proposals for establishment of regional (municipal) emergency rescue services to service the respective territories and municipal facilities;

exercise control over observance by business entities of the labour protection regulation.

To perform these functions, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations set up structural labour protection units operating in compliance with the model regulations approved by CMU, or delegate implementation of these powers to one of the existing structural units or individual officials of the respective bodies

According to Article 35 of the Law, local self-government bodies within their competence:

approve targeted regional programs to improve occupational safety, labour conditions, and the working environment, as well as labour protection activities as part of programs of socio-economic and cultural development of regions;

make decisions on establishment of municipal emergency rescue services to service the respective territories and municipal facilities.

Executive authorities of village, settlement, city councils provide for proper maintenance, efficient and safe operation of the housing and utility facilities, livelihood, trade services, transport and communications being municipal property of the respective territorial communities, compliance with the requirements for labour protection of workers employed at these facilities.

To perform the functions specified in the second paragraph of this Article, the village, settlement, city council establish a respective unit within its executive authority or appoint a labour protection specialist.

Bodies executing state supervision over labour protection are defined in Article 35:

the central executive authority that implements the public policy in the field of labour protection — SLSU;

the central executive authority that implements the state policy in the field of nuclear and radiation safety is the State Nuclear Regulatory Inspectorate of Ukraine, whose activities are guided and coordinated by CMU and which provides for development and implementation of the nuclear energy policy;

the central executive authority that implements the public policy for supervision and control over compliance with legislation in the field of fire and man-made disaster safety is SESU, whose activities are guided and coordinated by CMU through the Minister of Internal Affairs of Ukraine, in particular in the field of fire and man-made disaster safety;

the central executive authority that implements the public policy in the field of sanitary and epidemiological welfare of population is MoH and the Chief Sanitary Doctor of Ukraine.

Labour protection state supervision authorities do not depend on any economic agencies, business entities, associations of citizens, political formations, local state administrations, or local self-government bodies, they are not accountable to or controlled by them.

Activities of labour protection state supervision authorities are regulated by the Law of Ukraine “*On Labour Protection*”, Laws of Ukraine “*On Use of Nuclear Energy and Radiation Safety*”, “*On Ensuring Sanitary and Epidemic Welfare of the Population*”, the Civil Protection Code, other regulations and provisions on these authorities.

Civic control over compliance with the labour protection legislation is exercised by trade unions, their associations represented by their elected bodies and representatives in accordance with Article 41 of the Law of Ukraine “*On Labour Protection*”. In the absence of a trade union at an enterprise,

civic control over compliance with labour protection legislation is exercised by an individual authorized by employees in accordance with Article 42.

#### Overview of occupational safety strategies, including their implementation

Currently, the Concept Paper on Reforming the Labour Protection Management System in Ukraine is in force and being implemented, which was approved with CMU Resolution of 12.12.2018 No.989. The Action Plan for implementation of this Concept Paper, in particular, determines the need to update the legislation defining the principles, key areas and objectives for developing the occupational safety and health system in Ukraine, in order to move towards the risk-based approach and implement European Union standards, in particular the EU Framework Directive No. 89/391/EEC.

Currently, MoE with the direct support of the EU-ILO Project “Towards safe, healthy and declared work in Ukraine” has prepared a comprehensive draft Law of Ukraine “*On Safety and Health of Workers at Work*” in order to approximate the Ukrainian legislation to provisions of the Council Framework Directive 89/391/EEC with involvement of social partners. Currently, social dialogue procedures are underway to discover mutually acceptable solutions to regulate certain worker safety issues taking into account positions of employers and trade unions, as well as to harmonize certain provisions of the draft to the national legislation, ratified ILO Conventions in this area, the EU Council Framework Directive 89/391/EEC, as well as certain provisions of the European Social Charter (revised).

No strategies in the field of labour protection and the National Social Program to improve occupational safety, health, and the working environment have been adopted to date.

The latest National Social Program to improve occupational safety, health, and the working environment for the period of 2014-2018 was approved with Law of Ukraine of 04.04.2013 No. 178-VII. Activities within it were implemented in part due to limited funding from the state budget and the Social Insurance Fund.

#### At the enterprise level

The employer ensures functioning of the labour protection management system in order to fulfil the obligations to create working conditions in each structural unit in compliance with regulations, as well as to ensure compliance with legislation on workers’ rights in the field of labour protection, namely:

- sets up respective services and appoints officials to address specific labour protection issues, approves guidelines on their duties, rights, and responsibilities for performance of the functions delegated to them, as well as monitors compliance with them;

- with participation of parties to the collective agreement, develops and implements comprehensive activities to achieve the established standards and improve the existing labour protection level;

- ensures implementation of the required preventive activities in accordance with changing circumstances;

- introduces advanced technologies, achievements of science and technology, mechanization and production automation means, ergonomics requirements, best labour protection practices, etc.;

ensures proper maintenance of buildings and structures, production equipment and facilities, monitoring of their technical status;

ensures elimination of the causes that lead to accidents, occupational diseases, and implementation of preventive measures prescribed by the commissions based on results of investigation of these causes;

organizes labour protection audits, laboratory tests of working conditions, assessment of the technical status of production equipment and facilities, certification of workplaces for compliance with labour protection regulations in the manner and in terms prescribed by law, and based on their results takes measures to eliminate production factors that are hazardous and harmful to health;

develops and approves labour protection regulations, guidelines, other acts operating within the enterprise (hereinafter — acts of the enterprise), and establishes rules for execution of work and conduct of employees in the territory of the enterprise, production facilities, construction sites, workplaces in accordance with labour protection regulations, provides employees free of charge with labour protection regulations and acts of the enterprise;

monitors employees' compliance with technological processes, rules of handling machines, mechanisms, equipment, and other production means, use of collective and personal protection equipment, performance of work in compliance with labour protection requirements;

organizes promotion of safe working methods and cooperation with workers in the field of labour protection;

takes urgent measures to help affected individuals, if necessary, involves professional rescue teams in case of accidents and incidents at the enterprise.

The employer is directly liable if violating these requirements (Article 13 of the Law of Ukraine “*On Labour Protection*”) and other requirements of labour protection legislation.

Under conditions of remote work, the employer is responsible for safety and proper technical status of the equipment and production means handed over to employees for their remote work and is obliged to systematically hold instructions (trainings) on labour protection and fire safety aspects of using such equipment and means recommended or provided by the employer.

## **B. Framework Directive (89/391/EEC)**

**43. Does Ukraine have similar legislation in the field covered by the Framework Directive? If there is a national framework law on health and safety at work, please list the sectors and activities which are excluded from the scope of this law, and indicate which is the legislation applicable to excluded sectors and activities. If several legislative acts exist in this area, please describe how they are coordinated and how they supplement each other.**

The Law of Ukraine “On Labour Protection” defines the basic provisions for the implementation of the constitutional right of workers to protection of life and health at the workplace, appropriate, safe and healthy working conditions, regulates, with the participation of relevant public authorities, relations between the employer and the worker as regards safety, hygiene and health at work and the working environment, and establishes a uniform procedure in Ukraine for the organisation of protection afforded to workers with regard to safety and health.

The Law applies to all legal entities and natural persons who use hired labour pursuant to law, and to all workers (Article 2 of the Law).

The legislation on labour protection consists of the Law of Ukraine “On Labour Protection”, the LCU, the Law of Ukraine “On Compulsory State Social Insurance”, and relevant legal acts adopted on their basis (Article 3 of the Law).

At the same time, with a view of approximating Ukraine’s legislation to Council Framework Directive 89/391/EEC, MoE has drafted, with the direct support of the EU-funded ILO project “Towards safe, healthy and declared work in Ukraine” and with the participation of social partners, a comprehensive Law of Ukraine “On the Safety and Health of Workers at Work”. The opinion of the Government Office for Coordination on European and Euro-Atlantic Integration of the Secretariat of CMU confirms compliance of the draft Law with the goals of the EU-Ukraine Association Agreement. Social dialogue procedures are under way to find mutually acceptable solutions for governing particular issues of safety of workers based on the views of employers and trade unions.

**44. How has the law taken up the principle of the employer's objective responsibility (Article 5)? Specifically, is it expressly stated that the workers' obligations do not affect the employer's responsibility? Are cases of force majeure provided for?**

Pursuant to Article 13 of the Law of Ukraine “On Labour Protection”, the employer undertakes to create working conditions at the workplace in each structural subdivision in accordance with regulations, and to ensure compliance with the requirements of the legislation on workers’ rights in the field of labour protection.

To this end, the employer ensures the operation of the labour protection management system, in particular:

- creates relevant services and appoints officials responsible for solving particular issues of labour protection, approves regulations on their duties, rights and responsibilities, and monitors their compliance;
- develops, with the participation of parties to the collective agreement, and implements comprehensive measures to achieve the established standards and assure an improvement in the level of protection afforded to workers with regard to safety and health;
- ensures the implementation of the necessary preventive measures in accordance with changing circumstances;
- introduces up-to-date technologies, advances in science and technology, means of mechanisation and automation of production, ergonomics requirements, positive labour protection experience, etc.;
- ensures proper maintenance of buildings and structures, production equipment and facilities, monitoring of their technical condition;
- ensures the elimination of factors related to accidents and occupational diseases, and the implementation of preventive measures determined by commissions following investigation into these factors;
- organises audits of labour protection, laboratory testing of working conditions, assessment of the technical condition of production equipment and facilities, certification of workplaces for

compliance with regulations on labour protection in the manner and within time frames prescribed by law, and, on the basis thereof, takes measures to eliminate production factors that are dangerous and harmful to health;

- develops and approves regulations, guides, other acts on labour protection applicable at the undertaking (hereinafter referred to as the “acts of the undertaking”), and sets rules of work and conduct of workers on the territory of the undertaking, at production facilities, construction sites, workplaces in accordance with regulations on labour protection, provides workers with regulations and acts of the undertaking on labour protection free of charge;

- monitors the worker’s compliance with technological processes, rules for handling machinery, devices, equipment and other means of production, the use of collective and individual protective gear, performance of works in accordance with the labour protection requirements;

- advocate safe working methods and cooperation with workers in the field of labour protection;

- takes urgent measures to help victims, involves, if necessary, professional rescue teams in the event of work-related accidents and incidents at the undertaking.

The employer is directly responsible for violations of these requirements.

According to the provisions of Articles 43, 44 of Section VIII “Liability for violation of the labour protection legislation”, the executive authorities supervising labour protection impose, in the manner prescribed by law, a fine on legal entities and natural persons who use hired labour pursuant to law for violation of labour protection legislation and non-compliance with determinations (instructions) of officials of the executive authorities concerned. The payment of a fine does not exempt a legal entity or natural person who uses hired labour pursuant to law from elimination of the revealed violations within the specified time frames.

Officials and workers are prosecuted for violations of laws and other regulations on labour protection in accordance with CUAO.

Persons guilty of violations of laws and other regulations on labour protection, impediments to the work of officials of public authorities supervising labour protection, representatives of trade unions, their organisations and associations are held disciplinary, administratively, financially, and criminally liability in the manner prescribed by law.

The employer and his/her officials are prosecuted based on the assessment of facts of violation of the legislative rules and requirements, regardless of the prosecution of the worker for breach of his/her duties.

**45. Are the obligations of employers laid down in the Framework Directive provided for in the law? As regards workers, does the law address workers' responsibility for occupational health and safety issues and if so, which are their obligations?**

the employer undertakes to create working conditions at the workplace in each structural subdivision in accordance with regulations, to ensure compliance with the requirements of the legislation on workers’ rights in the field of labour protection, and to ensure the operation of the labour protection management system.

The employer is directly responsible for violating these requirements (Article 13 of the Law of Ukraine “On Labour Protection”).

The worker undertakes to:

take care of personal safety and health, as well as of the safety and health of other people while performing any work or while staying on the territory of the undertaking;

be aware of and comply with the requirements of regulations on labour protection, rules for handling machinery, devices, equipment and other means of production, the use of collective and individual protective gear;

undergo preliminary and regular medical examinations in the manner prescribed by law.

The worker is directly responsible for violations of these requirements (Article 14 of the Law).

**46. How does the law provide for taking into account the general principles of prevention that employers must apply when taking measures to protect the health and safety of workers (Article 6)?**

In accordance with the Law of Ukraine “On Labour Protection” (Article 1), labour protection is a system of legal, socio-economic, organisational and technical, sanitary and hygienic, therapeutic and preventive measures and means aimed at preserving the life, health and working capacity of workers at work.

Article 4 of the Law defines that the public labour protection policy is determined in compliance with CU by VRU and is aimed at creating appropriate, safe, and healthy working conditions, prevention of accidents and occupational diseases.

The public labour protection policy is based on the following principles:

- priority of life and health of employees, full responsibility of the employer to create appropriate, safe, and healthy working conditions;
- enhancement of the industrial labour protection level by ensuring continuous technical control over the state of production, technology and products, as well as assisting enterprises in creating safe and harmless working conditions;
- comprehensive solution of labour protection issues based on the relevant national, sectoral, regional programs and in view of other areas of the economic and social policy, achievements in science and technology, as well as environmental protection;
- social protection of workers, full damage compensation to individuals affected by accidents at work and occupational diseases;
- establishing single labour protection requirements for all enterprises and business entities, regardless of ownership and types of activities;
- adaptation of labour processes to the worker’s capacities, in view of his/her health and psychological status;
- using economic methods of labour protection management, the state’s participation in financing of labour protection activities, involving voluntary contributions and other receipts for these purposes that do not contradict the legislation;
- raising awareness of population, conducting training, vocational training, and retraining of labour protection workers;

- ensuring coordination of activities of public authorities, institutions, organizations, citizens' associations that address health, hygiene and safety issues, as well as cooperation and consultation between employers and employees (their representatives), among all social groups when making decisions on labour protection at the local and national levels;

- application of international experience when organizing work to improve working conditions and increase occupational safety based on international cooperation.

Workers and/or their representatives are provided with access to information and documents on preventive measures scheduled by the employer (Article 23 of the Law of Ukraine "On Labour Protection"). In order to approximate Ukraine's legislation to the provisions of Article 6 of the Framework Directive, MoE has drafted the Law of Ukraine "On the Safety and Health of Workers at Work" whose Article 14, in particular, provides for the introduction of the relevant workers' safety and health management system.

In accordance with Article 14 of the draft Law of Ukraine "On the Safety and Health of Workers at Work" provides that the employer organizes and ensures the functioning of the workers' safety and health management system based on the following hierarchical and consistent principles of prevention:

- 1) avoidance of dangerous and harmful occupational factors and occupational risks;
- 2) assessment of dangerous and harmful occupational factors and occupational risks that cannot be avoided;
- 3) elimination of the sources dangerous and harmful occupational factors and occupational risks;
- 4) adaptation of working conditions to the employee, in particular during the arrangement of the workplace/area, choice of working methods and work equipment, in order to facilitate monotonous work and work in the rhythm set by the equipment, and prevent or reduce the impact of dangerous and harmful occupational factors and occupational risks on the employee, including taking into account the gender-sensitive issues;
- 5) adaptation of working conditions to technical progress;
- 6) replacement of hazardous work equipment, work processes, hazardous and harmful factors of the working environment of physical, chemical, biological and other nature with safe or less hazardous ones;
- 7) development of a policy for the prevention of occupational risks, covering technology, organisation of work process, working conditions, social relations and the impact of factors related to the working environment;
- 8) prioritizing measures of collective protection over measures of individual protection of employees;
- 9) providing information on working conditions to employees, trainings and briefings on safety and health of employees."

Therefore, the general prevention principles that employers must adhere to when taking measures to protect the health and safety of workers (Article 6 of the Framework Directive) are provided in the draft Law of Ukraine "On the Safety and Health of Workers at Work".



**47. How is the principle set out in Article 6(5) (no involvement of the workers in financial cost) included?**

The Law of Ukraine “On Labour Protection” (Article 19) sets the general obligation of the employer to pay all the costs for labour protection measures.

Certain articles of the Law also detail the financial liabilities of the employer, in particular:

pay at his/her own expense all the costs for the acquisition, procurement, delivery and maintenance of personal protective gear in accordance with the labour protection regulations and the collective agreement. In case of premature wear and tear of this gear through no fault of the worker, the employer undertakes to replace it at his/her own expense (Article 8);

pay at his/her own expense all the costs for organising medical examinations of workers (Article 17);

pay at his/her own expense all the costs for instructing workers and their representatives, training them on occupational safety and first aid to victims of work-related accidents, as well as for instructing them in advance how to behave in case of a work-related accident (Articles 18, 42).

**48. Does the law address the measures that employers must take concerning fire-fighting, first aid and the evacuation of workers according to Article 8 of the Directive? How is the part of the Directive concerning serious, imminent and unavoidable danger addressed (Article 8 (3, 4, 5))?**

The employer undertakes to take urgent measures to help victims, to involve, if necessary, professional rescue teams in case of work-related accidents and incidents at the undertaking (Article 13 of the Law of Ukraine “On Labour Protection”).

In order to approximate Ukraine’s legislation to the provisions of Article 8 of the Framework Directive, MoE has drafted the Law of Ukraine “On the Safety and Health of Workers at Work” whose Article 22 on pre-medical care, firefighting, emergency response and evacuation of workers, in particular, provides for the relevant procedures and responsibilities of the employer. The following rules are provided:

“1. Taking into account, among other things, the nature of their activities, the specific hazards, the needs of persons with disabilities (including visual, hearing, muscle and skeletal, mental and intellectual disabilities and various combinations of disorders), the number of employees and the size of work areas, possible presence of outsiders who may be in danger, the employer shall ensure that the appropriate measures are in place for the following:

- 1) evacuation of workers and persons at risk;
- 2) providing pre-medical care;
- 3) putting out fires and eliminating the consequences of accidents;

4) informing and cooperating with external services, in particular emergency medical care, emergency rescue services of the central executive body which is responsible for the development and implementation of state civil protection policy.

2. In order to implement measures specified in paragraph one of this Article, the employer shall appoint responsible employees and organize the relevant training, preparation and advanced training in accordance with the procedure established by law.

3. The number of responsible employees, equipment to perform the tasks specified in paragraph one of this Article, which is at their disposal, is determined by the employer taking into account the scale of relevant work areas of the enterprise (production) and/or existing specific hazards.

4. In the event of emergencies that threaten the lives and health of employees, the employer must:

1) inform employees who are threatened or may be threatened by danger about the actions that must be taken to protect them as soon as possible;

2) ensure the evacuation of workers and persons in danger;

3) provide pre-medical care;

4) give employees the opportunity to stop working, leave the workplace/area and move to a safe place;

5) ensure that fires are put out and the consequences of accidents eliminated;

6) involve external services, in particular, emergency medical care systems, emergency rescue services of the central executive body responsible for civil protection state policy, if necessary;

7) ensure the implementation of measures provided for in emergency response plans of the facility or instructions on personnel actions in case of threat or emergencies, or plans for localization and elimination of the consequences of the accident.

5. The employer is prohibited from instructing employees to resume work if there is a dangerous that may affect employees or others, except in duly justified situations involving the prevention of the accident or danger and saving the lives of workers and/or third parties.

6. Workers who have left unsafe workplaces/areas in the event of a serious, direct and imminent danger are not responsible for such actions. Subsequently, the existence of such a danger is confirmed, if necessary, by a commission set up by the employer with the obligatory involvement of employee representatives and the Commissioner for Occupational Safety and Health. A representative of the central executive body responsible for implementing the employees' safety and health policy is also invited to participate in the work of the commission.

7. Employers must ensure that in the event of a serious threat to their safety and/or the safety of others, and in the event of the impossibility of establishing immediate contact with the immediate supervisor responsible for taking appropriate action all workers could take appropriate steps taking into account their knowledge and the technical means at their disposal in order to avoid the consequences of such a threat.

Employees are not be liable for such acts unless they have acted recklessly or have been negligent", therefore measures to be taken by employers to put out fires, provide first aid and evacuate workers in accordance with Article 8 of the Directive and the provisions of the part of the Directive relating to serious, direct and imminent danger (Article 8 (3, 4, 5)) are fully taken into account in the draft Law of Ukraine "On the Safety and Health of Workers at Work".

**49. How is it ensured that employers provide workers and/or their representatives with all the necessary information concerning the health and safety risks and protective and preventive measures and activities (Article 10 of the Directive)?**

Pursuant to the Law of Ukraine “On Labour Protection” (Article 23), the employer undertakes to inform workers or persons authorised to exercise public control of compliance with labour protection regulations and the Social Insurance Fund of Ukraine on the situation of labour protection, factors related to accidents and occupational diseases, and the measures taken to eliminate them and to ensure the working conditions and safety at the undertaking adequate to the regulatory requirements.

Workers and/or their representatives are provided with access to information and documents containing the results of the workplace attestation, preventive measures scheduled by the employer, the results of investigation, recording and analysis of work-related accidents and occupational diseases and reports thereon, as well as to messages, submissions and determinations of public authorities supervising labour protection.

When concluding an employment agreement (except for an employment agreement for remote work, work from home), the employer undertakes to inform the worker against receipt of the working conditions and hazardous and harmful production factors in his/her workplace that have not yet been eliminated, their potential impact on the worker’s health, as well as of the worker’s rights to privileges and benefits for work in such conditions in accordance with law and the collective agreement (Article 5 of the said Law).

When concluding an employment agreement for remote work, work from home, the employer undertakes to regularly instruct (train) the worker on labour protection and fire-fighting if this worker uses equipment, devices and gear recommended or provided by the employer.

**50. How is the consultation and participation of workers and workers' representatives provided for in Article 11 regulated?**

State policy in the field of labour protection is based on the principle of concerted activities of public authorities, institutions, organisations, associations of citizens to address health, hygiene and occupational safety issues, as well as cooperation and consultation among employers and workers (their representatives), among all social groups when making decisions on labour protection at the local and national levels (Article 4 of the Law of Ukraine “On Labour Protection”).

According to Article 41 of the Law,

trade unions exercise public control of compliance with the labour protection legislation, the creation of safe and harmless working conditions, the adequate production and sanitary conditions, the provision of workers with overalls, footwear and other personal and collective protective means. In case of a threat to the life or health of workers, trade unions have the right to demand that the employer immediately stop the work at workplaces, production sites, shops and other structural subdivisions or at undertakings or production sites of natural persons who use hired labour pursuant to law for a time frame needed to eliminate this threat to the life or health of workers.

Trade unions also have the right to independently check the working conditions, as well as industrial facilities designed, constructed or operated, for their compliance with labour protection regulations, participate in the investigation into factors related to accidents and occupational diseases

at work and provide their opinions thereon, make submissions on health and safety to employers, public administration and supervisory authorities and receive reasoned responses from them.

Pursuant to Article 42 of the Law, workers' representatives with specific responsibility for the safety and health of workers have the right to freely check compliance with the labour protection requirements at undertakings and make proposals mandating the employer to remedy the breaches of regulations on occupational safety and health.

They also have the right to participate in and make relevant proposals during inspections by the authorities concerned of undertakings or production sites of natural persons who use hired labour pursuant to law.

### **51. How is the right to appeal to the competent authorities set out in Article 11(6) granted to workers and their representatives?**

In accordance with Article 42 of the Law of Ukraine "On Labour Protection", workers' representatives with specific responsibility for the safety and health of workers have the right to freely check compliance with the labour protection requirements at undertakings and make proposals mandating the employer to remedy the breaches of regulations on occupational safety and health.

Where workers' representatives with specific responsibility for the safety and health of workers consider that the preventive measures taken by the employer are insufficient, they may ask help from the public authority supervising labour protection.

According to Article 41, trade unions exercise public control of compliance with the labour protection legislation, the creation of safe and harmless working conditions, the adequate production and sanitary conditions, the provision of workers with overalls, footwear and other personal and collective protective means.

Trade unions also have the right to independently check the working conditions, as well as industrial facilities designed, constructed or operated, for their compliance with labour protection regulations, participate in the investigation into factors related to accidents and occupational diseases at work and provide their opinions thereon, make submissions on health and safety to employers, public administration and supervisory authorities and receive reasoned responses from them.

### **52. Article 7. How does the legislation set out that all undertakings must:**

**a) Designate one or more workers to carry out activities related to protection and prevention; or**

**b) If no competent personnel can be found within the undertaking, enlist competent external services or persons?**

The Law of Ukraine "On Labour Protection" (Article 15) governs that at the undertaking with 50 or more workers, the employer sets up a labour protection service in accordance with the model regulations approved by the central executive authority that formulates state policy in the field of labour protection.

At the undertaking with less than 50 workers, the functions of the labour protection service may be performed on a part-time basis by persons who received appropriate training.

At the undertaking with less than 20 workers, the functions of the labour protection service may be performed on a contractual basis by third-party specialists who received appropriate training.

The labour protection service reports directly to the employer.

The labour protection service is dissolved only in case of dissolution of the undertaking or termination of the use of hired labour by a natural person.

The applicable legislation does not contain any direct provisions on the possibility of enlisting competent external services or persons. At the same time, the relevant provisions are provided for by the Law of Ukraine “On the Safety and Health of Workers at Work” drafted by MoE with the support of the EU-funded ILO Project “Towards safe, healthy and declared work in Ukraine”.

### **53. Are there legislative provisions for the surveillance of workers' health (Article 14)?**

Mandatory medical examinations of workers are provided for by the Law of Ukraine “On Labour Protection” (Article 17) and the LCU (Article 169).

The employer undertakes to pay at his/her own expense all the costs and organise preliminary (during recruitment) and regular (during employment) medical examinations of workers employed for heavy physical labour or in harmful or hazardous working conditions or where there is a need for professional recruitment, as well as annual mandatory medical examinations of persons under 21 years of age. Following the results of regular medical examinations, if necessary, the employer undertakes to ensure the implementation of appropriate health measures. Medical examinations are carried out by relevant health care facilities whose workers are responsible, in accordance with law, for compliance of the medical opinion with the worker’s actual state of health. The procedure for conducting medical examinations is set by the central executive authority that formulates state policy in the field of health care.

The employer has the right to hold, in the manner prescribed by law, the worker who evades the mandatory medical examination disciplinary liable and undertakes to suspend his/her employment without pay.

The employer undertakes to pay at his/her own expense all the costs for extraordinary medical examinations of workers:

- upon the worker’s application, if the worker believes that a deterioration in his/her health is caused by the working conditions;

- on his/her own initiative, if the worker’s state of health prevents the worker from performing his/her employment duties.

During medical examination, workers retain their workplaces (positions) and the average pay.

The worker may not be offered a job that is harmful to his/her health based on the medical examination opinion (Article 5 of the Law of Ukraine “On Labour Protection”).

Where the worker needs an easier job due to health-related contraindications based on the medical examination opinion, the employer undertakes to transfer the worker concerned to such job for the time frame specified in the medical opinion and, if necessary, introduce a reduced working day and organise the worker’s training in another job in accordance with law (Article 5).

Minors are employed only after a preliminary medical examination (Article 11).

#### **54. Law enforcement (Article 4)**

According to Article 38 of the Law of Ukraine “On Labour Protection” state supervision of compliance with laws and other regulations on labour protection is exercised by:

- central executive authority implementing state policy in the field of labour protection;
- central executive authority implementing state policy in the field of nuclear and radiation safety;
- central executive authority implementing state policy in the field of supervision and control of compliance with the legislation on fire and technogenic safety;
- central executive authority implementing state policy in the field of sanitary and epidemic welfare of the population.

Public authorities supervising labour protection are independent of any economic bodies, business entities, associations of citizens, political formations, local state administrations and local self-government bodies, neither accountable to nor controlled by them.

The activities of public authorities supervising labour protection is governed by the Law of Ukraine “On Labour Protection”, the Laws of Ukraine “On the Use of Nuclear Energy and Radiation Safety”, “On Fire Safety”, “On Ensuring Sanitary and Epidemic Welfare of the Population”, other legal acts and regulations on these authorities approved by the President of Ukraine.

Trade unions and their associations exercise public (non-state) control of compliance with the labour legislation in accordance with Article 259 of the LCU and Article 21 of the Law of Ukraine “On Trade Unions, their Rights and Guarantees for Activities”.

#### **55. What is the system of monitoring and control of health and safety at work matters? Is there a single body responsible for the inspection of labour, or are various bodies responsible for different areas?**

*a) As regards the powers of labour inspectors to take measures to ensure the correct application of the law:*

The Law of Ukraine “On Labour Protection” (Section VII) sets the provisions on state supervision and control of labour protection.

State supervision of compliance with laws and other regulations on labour protection is exercised by:

- central executive authority implementing state policy in the field of labour protection;
- central executive authority implementing state policy in the field of nuclear and radiation safety;
- central executive authority implementing state policy in the field of supervision and control of compliance with the legislation on fire and technogenic safety;
- central executive authority implementing state policy in the field of sanitary and epidemic welfare of the population.

The SLSU is responsible for the inspection of labour. It consists of the central office and 23 territorial bodies (in the oblasts).

*b) Can they apply legal penalties? If so, what kind (monetary and/or criminal and/or administrative)? Do they have discretionary power? How many injunctions are issued?*

Officials of the executive authorities supervising labour protection impose, in the manner prescribed by law, a fine on legal entities and natural persons who use hired labour pursuant to law for violation of the labour protection legislation and non-compliance with determinations (instructions) of officials of the executive authorities concerned. The payment of a fine does not exempt a legal entity or natural person who uses hired labour pursuant to law from elimination of the revealed violations within the specified time frames.

The maximum amount of a fine may not exceed five percent of the average monthly wage fund for the previous year of a legal entity or natural person who uses hired labour pursuant to law.

A legal entity or natural person who uses hired labour pursuant to law pays a fine of 25 percent of the difference between the estimated minimum amount of labour protection costs in the reporting period and the actual amount of these costs in the said period for violation of the requirements of Article 19(3), (4) of this Law.

Non-payment or incomplete payment of a fine by legal entities or natural persons who use hired labour pursuant to law is punishable by a penalty on the unpaid amount of a fine (part thereof) of 120 percent of the annual discount rate of the National Bank of Ukraine for each day of delay.

Proceeds from fines imposed on legal entities or natural persons who use hired labour pursuant to law, officials and workers specified in this Article are credited to the State Budget of Ukraine.

Officials and workers are prosecuted for violations of laws and other regulations on labour protection in accordance with CUAO (Article 43 of the Law of Ukraine “On Labour Protection”).

Persons guilty of violations of laws and other regulations on labour protection, impediments to the work of officials of public authorities supervising labour protection, representatives of trade unions, their organisations and associations are held disciplinary, administratively, financially, and criminally liability in the manner prescribed by law (Article 44 of the Law of Ukraine “On Labour Protection”).

Local general courts of Ukraine examine administrative offence cases related to labour protection. In the last three years (2019-2021), 12,989 administrative offence cases under Articles of CUAO were pending in Ukrainian courts, in particular:

Under Art. 41 “Violation of the requirements of the legislation on labour and labour protection”, there were 4,920 cases in 2019, 3,734 cases in 2020 and 4,280 cases in 2021;

Under Art. 41-1 “Avoidance of negotiations on concluding, amending or supplementing a collective agreement, contract”, there were 1 case in 2019, 5 cases in 2020 and 5 cases in 2021;

Under Art. 41-2 “Violations of or non-compliance with a collective agreement, contract”, there were 14 cases in 2019, 10 cases in 2020 and 9 cases in 2021.

Under Art. 41-3 “Failure to provide information for collective negotiations and control of the implementation of collective agreements, contracts”, there were 2 cases in 2019, 5 cases in 2020 and 4 cases in 2021, of which:

1,003 cases were returned, including 869 for proper formalisation; while 10,611 cases (almost 82%) were examined:

Art. 41 — 10,570 cases (2019 — 3,909, 2020 — 3,086, 2021 — 3,575);

Art. 41-1 — 10 cases (2020 — 5, 2021 — 5);

Art. 41-2 — 27 cases (2019 — 10, 2020 — 9, 2021 — 8);

Art. 41-3 — 4 cases (2019 — 1, 2020 — 1, 2021 — 2);

In the last 3 years, almost 49% or 5,172 persons were involved in administrative penalty cases, including:

Art. 41 — 5,156 (2019 — 2,050, 2020 — 1,423, 2021 — 1,683);

Art. 41-1 — 4 (2020 — 1, 2021 — 3);

Art. 41-2 — 11 (2019 — 4, 2020 — 4, 2021 — 3);

Art. 41-3 — 1 (2019),

of whom 5,170 persons were fined in the amount of UAH 8,856,360, of which UAH 3,391,479 were voluntarily paid.

In the last three years, cases were closed against almost 5,439 persons (51%) with the following outcomes:

exemption from administrative liability for minor offences — against 1,588 persons (almost 29%), including 489 in 2019, 508 in 2020, and 591 in 2021

lack of evidence of crime — against 1,565 persons (almost 29%), including 488 in 2019, 533 in 2020, and 544 in 2021)

expiry of administrative penalty period — against 2,108 persons (almost 39%), including 833 in 2019, 583 in 2020, and 692 in 2021).

Pursuant to Article 231 of CUAO, the central executive authority implementing state policy in the field of labour protection examines cases on: violations of laws and regulations on labour protection, safe performance of works, storage, use and accounting of explosives in industries and facilities controlled by the central executive authority implementing state policy in the area of labour protection, violation of the subsoil legislation, as well as non-compliance of officials of the central executive authority implementing state policy in the area of labour protection with the legal requirements (Article 41(5, except for violations of the sanitary and hygienic, sanitary and epidemiological rules and regulations), (6), Articles 47, 57, 58, 93, 94, 188-4).

On behalf of the bodies of the central executive authority implementing state policy in the field of labour protection, the following persons have the right to examine administrative offence cases and impose administrative penalties:

1) in respect of administrative offences specified in Article 41(5, except for violations of the sanitary and hygienic, sanitary and epidemiological rules and regulations), (6), Article 93:

state inspectors — a fine of up to twenty-five tax-exempt minimum incomes;



chief state inspectors, heads of inspections of the central executive authority implementing state policy in the field of labour protection, and their deputies — a fine of up to thirty tax-exempt minimum incomes;

heads and deputy heads of offices and divisions of the central executive authority implementing state policy in the field of labour protection — a fine of up to forty tax-exempt minimum incomes;

the head and deputy heads of the central executive authority implementing state policy in the field of labour protection — a fine of up to fifty tax-exempt minimum incomes;

2) in respect of administrative offences specified in Articles 47, 58, 94 and 188-4:

state inspectors — a fine of up to thirty-five tax-exempt minimum incomes;

chief state inspectors, heads of inspections of the central executive authority implementing state policy in the field of labour protection, and their deputies — a fine of up to fifty-five tax-exempt minimum incomes;

heads and deputy heads of offices and divisions of the central executive authority implementing state policy in the field of labour protection — a fine of up to sixty-five tax-exempt minimum incomes;

the head and deputy heads of the central executive authority implementing state policy in the field of labour protection — a fine of up to one hundred tax-exempt minimum incomes;

3) in respect of administrative offences specified in Article 57:

state inspectors — a fine of up to two hundred and fifty tax-exempt minimum incomes;

chief state inspectors, heads of inspections of the central executive authority implementing state policy in the field of labour protection, and their deputies — a fine of up to three hundred tax-exempt minimum incomes;

heads and deputy heads of offices and divisions of the central executive authority implementing state policy in the field of labour protection — a fine of up to three hundred and fifty tax-exempt minimum incomes;

the head and deputy heads of the central executive authority implementing state policy in the field of labour protection — a fine of up to six hundred tax-exempt minimum incomes;

Pursuant to Article 255 of CUAO, administrative offence protocols are drawn up by authorised officials of bodies that examine administrative offence cases as specified in Articles 222–244<sup>21</sup> of this Code.

In accordance with Articles 276 and 277 of CUAO, the administrative offence case is examined in the place where the offence was committed.

The administrative offence case is examined within fifteen days from the date of receipt of the administrative offence protocol and other case files the body (official) authorised to examine the case.

In accordance with Article 283 of CUAO, having examined the administrative offence case, the body (official) renders a judgement in the case.

In view of the above, officials of the SLSU have discretionary powers in terms of choosing the type of administrative penalty following the state supervision (control) of compliance with the legislation in the field of labour protection.

The Law of Ukraine “On the Fundamental Principles of State Supervision (Control) in the Area of Economic Activity” governs that production (manufacture) or sale of products, performance of works, provision of services by economic operators may be suspended in whole or in part exclusively by court decision.

In the last three years (2019–2021), the performance of works/operation of equipment was suspended by court decision in the following quantities: 1,695 in 2019, 901 in 2020, and 1,073 in 2021.

*c) How is it ensured that the labour inspectors are independent of the undertakings and organisations they inspect? Are the inspectors assigned to the same workplaces (i.e. must they inspect the same undertaking each year)?*

Public authorities supervising labour protection are independent of any economic bodies, business entities, associations of citizens, political formations, local state administrations and local self-government bodies, neither accountable to nor controlled by them (Article 38 of the Law of Ukraine “On Labour Protection”).

Article 4 of the Law of Ukraine “On the Fundamental Principles of State Supervision (Control) in the Area of Economic Activity” prohibits an official of a public supervisory (control) authority from exercising state supervision (control) of economic operators with whom (or with whose officials) the official concerned is in a family relationship, or in case the official concerned has a conflict of interest in accordance with the anti-corruption legislation.

*d) What rules govern the composition of the inspection team (are there one, two or more inspectors)?*

The legal and organisational principles, fundamentals and procedure for state supervision (control) in the area of economic activity, the powers of public supervisory (control) authorities and their officials, the rights, duties and responsibilities of economic operators in the exercise of state supervision (control) are currently enshrined by the Law of Ukraine “On the Fundamental Principles of State Supervision (Control) in the Area of Economic Activity”. This Law does not impose restrictions on the numerical strength of the inspection team. In other words, the inspection can be carried out either individually by one inspector or by a commission composed of several inspectors.

*e) As regards work-related accidents: How are they declared to the Labour Inspectorate? Is the information centralised? How do you assess non-declaration? How does the system of insurance for work-related accidents function?*

The procedure for investigation and recording of work-related accidents and occupational diseases is set by the CMU Resolution No. 337 of 17 April 2019 (hereinafter referred to as the “Procedure”). Pursuant to point 6 of the Procedure, a health care facility undertakes to immediately transmit by means of communication (fax, telephone, e-mail) and transmit during a day on paper an emergency message about the victim’s appeal with reference to the work-related accident and/or acute occupational disease (poisoning) (with an opinion on the severity of injuries, if possible) to the undertaking (institution, organisation) where the victim works or performed works; to the territorial body of SLSU in the place where the accident and/or acute occupational disease (poisoning) occurred; to the working body of the Executive Directorate of the Social Insurance Fund (hereinafter referred to as the “working body of the Fund”) in the place where the accident occurred.

Pursuant to point 8 of the Procedure, the employer undertakes to notify, within two hours by means of communication and no later than the next working day on paper, the territorial body of SLSU; the working body of the Fund; the head of the undertaking (institution, organisation) where the work-related accident and/or acute occupational disease (poisoning) occurred if the victim is a worker of another undertaking (institution, organisation); the head of the primary trade union organisation, regardless of the victim's membership in the trade union (the head of the trade union in which the victim is a member where there are several trade unions at the undertaking (institution, organisation), and the workers' representative with specific responsibility for the safety and health of workers in the absence of a trade union; the authorised body or supervisory board of the undertaking (if any); the body of the State Emergency Service of Ukraine in case of an accident due to fire.

In case of the work-related accident and/or acute occupational disease (poisoning) with serious consequences, group accident, or fatal accident, the work-related accident report is additionally sent to the local state administration or local self-government authorities (where the authorised body or supervisory board is absent); to the body of the high-level sectoral trade union and to the territorial trade union where the sectoral trade union is absent; to the police body (in case of the work-related accident and/or acute occupational disease (poisoning), which led to severe (including possible disability of the victim) or fatal consequences, or death of the worker when performing his/her employment (official) duties).

The functioning of the system of insurance for work-related accidents is defined by the Law of Ukraine "On Compulsory State Social Insurance" which establishes the legal, financial and organisational framework for Compulsory State Social insurance, social security guarantees of working citizens due to temporary disability, work-related accidents and occupational diseases, protection of life and health.

*f) What are the most serious problems in the field of inspection (e.g. lack of resources, lack of money for missions, weak penalties)?*

Notwithstanding the ILO Conventions Nos. 81 and 129 ratified by Ukraine, according to the assessments of international experts provided, in particular, in the framework of the EU-funded ILO Project "Towards safe, healthy and declared work in Ukraine", one of the most serious problems in the work of the labour inspection is non-compliance of the regulatory framework governing the work of labour inspectors with the provisions of these Conventions. Specifically, this applies to unimpeded visits of inspectors to the controlled entities during inspections, as well as the discretionary powers in their decision-making on the imposition of sanctions or the provision of explanations and advice.

Other serious problems also include lack of human resources (significant staff turnover), moral and technical obsolescence of the information system, insufficient funding for inspections in areas remote from the oblast centre (no possibility to travel on own, business or public transport).

### **C. Specific legislation**

**56. Does Ukraine have legislation in the following fields covered by the EU acquis? If so, please describe the main relevant provisions and how their prevention, implementation and enforcement is ensured, both in law and practice, including by means of labour inspections:**

- *Workplaces (Directive 89/654/EEC)*

The minimum requirements to health and safety at the workplace are established in the Order of the Ministry of Emergency of 25.1.2012 No. 67 “On Approval of the General Requirements to Labour Protection of Employees to be Ensured by Their Employers”, registered with the Ministry of Justice on 14.2.2012 under No. 226/20539.

In the framework of preliminary compliance assessment of Ukrainian legislation with the EU acquis as regards minimum health and safety requirements at workplaces covered by the EU law, a comparative legal analysis of Ukrainian legislation compliance with the EU acquis, such as the Council Directive 89/654/EEC of 30.11.1989 concerning the minimum safety and health requirements for the workplace, (in Ukrainian) was sent to the Government Office for Coordination on European and Euro-Atlantic Integration of the Secretariat of CMU.

At the same time, for the purpose of better implementation of Directive 89/654/EEC, MoE has prepared a draft Order “On Approval of the Minimum Safety and Health Requirements for the Workplace”. Adoption of this legal instrument is envisaged as a part of implementation of the Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work by approving the appropriate draft Law “On Safety and Health of Employees”.

- *Work equipment (Directive 2009/104/EC)*

For the purpose of implementing Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), MSPU has issued the Order of 28.12.2017 No. 2072 “On Approval of the Safety and Health Requirements for the Use of Work Equipment by Workers”, registered with the Ministry of Justice on 23.1.2018 under No. 97/31549 (hereinafter — the Requirements), setting out safety and health requirements for the use of work equipment by workers during work activity.

These Requirements, in particular, establish that an employer should monitor, assess technical condition of such work equipment as machines, mechanical devices, installations presenting high risk (primary, periodical, extraordinary inspections, examination by experts) and oversee the safe handling of such equipment.

Ukrainian legislation specifies a unified List of machines, mechanical devices, installations presenting high risk, approved by the CMU Resolution No. 77 of 3.2.2021.

Monitoring and assessment of technical condition is conducted in accordance with the Procedure for inspection, testing and expert examination (technical diagnosis) of machines, mechanical devices, installations presenting high risk, approved by the CMU Resolution No. 687 of 26.5.2004.

For the purpose of further improvement of this regulatory framework towards approximation to the EU law, appropriate draft amendments are being prepared at the moment, together with social partners and international experts, taking into account the recommendations and proposals, presented, in particular, by the EU-funded ILO Project Towards safe, healthy and declared work in Ukraine.

- *Personal Protective Equipment (Directive 89/656/EEC)*

The Law of Ukraine “On Labour Protection” (hereinafter — the Law) requires the employers to pay at their own expense all the costs for the acquisition, procurement, delivery and maintenance

of personal protective gear in accordance with the labour protection regulations and the collective agreement.

At works with harmful and dangerous working conditions as well as at works that involve pollution or adverse weather conditions, the employees are supplied free of charge with protective clothes, protective footwear and other personal protective equipment as well as cleansing and neutralizing agents.

These requirements of the Law are implemented by applying legal and normative acts on labour protection in various areas of economic activity regulating personal protective equipment supply.

At the same time, based on the provisions of Council Directive 89/656/EEC of 30.11.1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (hereinafter — Directive 89/656/EEC), the Minimum Health and Safety Requirements for the Use by Workers of Personal Protective Equipment at the Workplace were adopted (Order of the MSPU of 29.11.2018 No. 1804, registered with the Ministry of Justice on 27.12.2018 under No. 1494/32946). This legal act provides for partial implementation of Directive 89/656/EEC.

For the purpose of further improvement of this regulatory framework towards approximation to the EU law, appropriate draft amendments are being prepared at the moment, together with social partners and international experts, taking into account the recommendations and proposals, presented, in particular, by the EU-funded ILO Project Towards safe, healthy and declared work in Ukraine.

- *Display screen equipment (Directive 90/270/EEC)*

Based on Directive 90/270/EEC of 29.5.1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), the Requirements for Safety and Health of Workers during Work with Display Screen Equipment were adopted (Order of the MSPU of 14.2.2018 No. 207 registered with the Ministry of Justice on 25 April 2018 under No. 508/31960).

These Requirements apply to all economic operators regardless of their ownership, legal structure and activities, and set out minimum health and safety requirements for work related to the use of display screen equipment, regardless of their type and model.

These Requirements do not restrict the employer's right to impose more stringent and/or special requirements for health and safety of the workers during work with display screen equipment, unless they contradict the legislation in force.

- *Manual handling of loads (Directive 90/269/EEC)*

The Law of Ukraine “On Labour Protection” (hereinafter — the Law) determines protection of women and minors as regards lifting and moving loads, heavy objects.

The Law (Articles 10, 11) prohibits women from and does not allow engaging minors in lifting and moving objects of the mass exceeding the set limits according to the list of heavy work and work involving harmful or dangerous working conditions as well as limits on lifting and moving of heavy objects, approved by the central executive authority that ensures development of the state policy on health care.

Limits on lifting and moving of heavy objects by minors are approved by the Order of MoH No. 59 of 22.3.1996, registered with the Ministry of Justice of Ukraine on 16.4.1996 under

No. 183/1208, are valid throughout Ukraine and apply to all undertakings, institutions, organizations, educational institutions as well as legal entities and natural persons using labour of minors aged 14 to 18 (see Table 1).

**Table 1. Limits on lifting and moving of heavy objects by minors**

| Calendar age, years | Load limits (kg) |             |                |             |
|---------------------|------------------|-------------|----------------|-------------|
|                     | Short-term work  |             | Long-term work |             |
|                     | young men        | young women | young men      | young women |
| 14                  | 5                | 2.5         | -              | -           |
| 15                  | 12               | 6           | 8.4            | 4.2         |
| 16                  | 14               | 7           | 11.2           | 5.6         |
| 17                  | 16               | 8           | 12.6           | 6.3         |

Limits on lifting and moving of heavy objects by women are approved by the Order of MoH No. 241 of 10.12.1993, registered with the Ministry of Justice on 22.12.1993 under No. 194 (see Table 2).

**Table 2. Limits on lifting and moving of heavy objects by women**

| Nature of works  | Load limits (kg) |
|--|------------------|
| Lifting and moving loads in alternation with other work (up to 2 times per hour)           | 10               |
| Continuous lifting and moving loads during a working shift                                 | 7                |
| Total weight of the load to be moved within each hour of a working shift shall not exceed: |                  |
| from the worktop   | –350 kg          |
| from the floor   | –175 kg          |

- *Temporary or mobile constructions sites (Directive 92/57/EEC)*

For the purpose of implementing Council Directive 92/57/EEC of 24.6.1992 on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), the

Order of the MSPU of 23.6.2017 No. 1050, registered with the Ministry of Justice on 8.9.2017 under No. 1111/30979, sets out Minimum Labour Protection Requirements at Temporary or Mobile Constructions Sites (hereinafter — Minimum Requirements), establishing general requirements to labour protection and workplace arrangements at temporary or mobile constructions sites for carrying out construction works according to the list of construction works covered by the Minimum Labour Protection Requirements at Temporary or Mobile Constructions Sites as regards the following activities:

- underground works, except works related to underground mining of ore and non-ore mineral resources, as well as construction and operation of underground mines erected during exploitation of natural resources deposits by open cast mining,

- earthwork, including arrangement of man-made earthwork facilities,
- construction of external engineering networks,
- building of artificial bases and foundations,
- stone works,
- installation works,
- concrete works,
- reinforcing works,
- insulation works,
- roofing works,
- finishing works, including installation of heat insulation facade systems,
- electrical installation,
- installation and testing of internal engineering equipment and networks,
- underwater works,
- new constructions,
- reconstructions,
- technical re-equipment,
- major repairs,
- restoration,
- disassembly,
- demolitions,
- ongoing repairs and maintenance,
- building management and maintenance, as long as they involve to any of the above-mentioned work types.

Safety requirements at temporary or mobile constructions sites are also provided in the State Construction Standards A.3.2-2-2009 “The System of Labour Safety Standards. Labour Protection and Industrial Safety in Construction. Basic Provisions.”

Engagement and liability of various parties, i.e. procuring entity, project manager, safety and labour protection coordinators, at all stages of preparation and implementation of a project, are provided for by the Minimum Labour Protection Requirements at Temporary or Mobile Constructions Sites.

If any construction works at a constructions site are carried out or are to be carried out by two or more contractors (including the general contractor), or by a contractor and a natural person(s), or by multiple natural persons, the construction manager appoints one or more labour protection coordinators at the construction design stage and labour protection coordinators at the construction stage. A labour protection coordinator at the design stage is appointed prior to the start of drafting construction design documents, a labour protection coordinators at the construction stage is appointed prior to the start of construction works. Combining the functions of labour protection coordinator at the construction design stage and of labour protection coordinator at the construction stage is permitted.

Prior to the start of construction works at the site, the procuring entity or the construction manager ensures designing of a labour protection plan at the constructions site, subject to the requirements of the State Construction Standards A.3.2-2-2009 “The System of Labour Safety Standards. Labour Protection and Industrial Safety in Construction.”

The minimum requirements apply to procuring entities, construction managers, general contractors, contractors, subcontractors, self-employed natural persons.

Construction manager or procuring entity acting as construction manager, designer at various stages of preparation and implementation of design documents are required to account for the requirements of General labour protection provisions laid down in Chapter VI of the Minimum Requirements, especially in the following cases:

during architectural, technical and/or organizational planning to distribute various works or work stages and to define the works that can be performed simultaneously or sequentially, one after another, during assessment of scheduled duration of works or work stages.

Construction manager or procuring entity acting as construction manager, designer at various stages of preparation, implementation, adjustment of design documents are also required to account for the requirements of the labour protection plan at the constructions site, a document compiled in accordance with Chapter IV(1)(3) of the Minimum Requirements, taking into account the requirements of Chapter IV(2)(3) of the Minimum Requirements.

Procuring entity or construction manager is required, no later than within 30 calendar days before the start of construction, to submit to the territorial office of SLSU (hereinafter — SLSU territorial office) preliminary information on execution of construction works in the format contained in Annex 2 to the Minimum Requirements (hereinafter — preliminary information) in either of the following cases:

if the envisaged duration of construction works exceeds 30 business days and over 20 workers and natural persons will be engaged in the construction works at the same time,

if the scheduled amount of construction works to be carried out exceeds 500 man-days.

One copy of the Preliminary information should be placed by procuring entity or construction manager at a place visible to all the people involved in construction within the constructions site.



The copy of Preliminary information, placed at the constructions site, should be promptly replaced on case of any amendments.

For the purpose of further improvement of this regulatory framework towards approximation to the EU law, appropriate draft amendments are being prepared at the moment, together with social partners and international experts, taking into account the recommendations and proposals, presented, in particular, by the EU-funded ILO Project Towards safe, healthy and declared work in Ukraine.

- *Safety and health signs at work (Directive 92/58/EEC)*

Requirements to safety and health signs at work are specified in the Technical Regulation for Safety and Health Signs for Workers, approved by the CMU Resolution No. 1262 of 25.11.2009 (hereinafter referred to as the Technical Regulation).

At the same time, it should be noted that the Technical Regulation in its substance is a labour protection legal act, rather than a technical regulation.

The Technical Regulation covers safety and health signs that, by means of graphic symbols, light or sound signals, verbal or gesture signs, prohibit certain dangerous actions or actions that can pose hazard, or instruct to take certain safety and/or health protection measures, or warn about certain risk or hazard, or require to perform certain actions to ensure safety and health of workers at the workplace.

Some safety signs conveyed by hand gestures and used when moving loads with lifting cranes and when operating mobile lifters are set out in the Labour protection Rules for operation of load-lifting cranes, lifting machines and associated equipment, approved by the Order of MSPU of 19.1.2018, registered with the Ministry of Justice on 27.2.2018 under No. 244/31696.

For the purpose of further improvement of this regulatory framework towards approximation to the EU law, appropriate draft amendments are being prepared at the moment, together with social partners and international experts, taking into account the recommendations and proposals, presented, in particular, by the EU-funded ILO Project Towards safe, healthy and declared work in Ukraine.

- *Extractive industries: mineral-extracting industries through drilling (Directive 92/91/EEC) and surface and underground mineral-extracting industries (Directive 92/104/EEC)*

The minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries, laid down in Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), are generally taken into account in relevant provisions of the national legislation of Ukraine, namely in the Requirements for safety and health of workers of surface and underground mineral-extracting enterprises, approved by the Order of the MSPU of 2 July 2018 No. 943, registered with the Ministry of Justice on 27 July 2018 under No. 872/32324.

These Requirements apply to economic operators, regardless of their ownership and legal structure, whose activity is related to underground or surface mineral extraction, prospecting (exploration) with a view to such extraction, and preparation of extracted mineral materials for sale.

It should also be noted that labour protection in the extracting industry of Ukraine is distributed by types of economic activity and accounts for over 80 legal and normative acts on labour protection, more specifically:

- coal and peat mining,
- hydrocarbon production,
- mining of metal ores,
- non-ore mineral extraction,
- coal mining,
- oil and gas extraction,
- mineral water extraction.

Besides, for the purpose of implementing Directive 92/91/EEC, a draft order was designed at MoE “On Approval of the Safety Regulations in Oil and Gas Industry,” providing for a separate section “Requirements for the safety and health protection of workers in the mineral-extracting industries through drilling.”

The said draft order stipulates that the Safety Regulations shall apply to economic operators, regardless of their ownership and legal structure, whose activity is related to design, construction, operation, repair and reconstruction of oil and gas industry facilities, carrying out geophysical, research and development, design and construction, building installation, start-up and adjustment, and diagnostics operations as well as elimination of accidents at oil and gas enterprises.

- *Fishing vessels (Directive 93/103/EC)*

The area is regulated by the following legal and normative acts:

1) Labour protection Rules for work aboard fishing vessels, approved by the Order of the State Committee of Ukraine for Industrial Safety, Labour Protection and Mining Supervision of 27.12.2006 No. 26, registered with the Ministry of Justice of Ukraine on 29.1.2007 under No 74/13341, setting out the requirements for ensuring the required level of labour protection of the workers when working aboard fishing vessels.

These Rules apply to all fishing vessels more than 15 m long, flying the national flag of Ukraine, and to the economic operators that manage and maintain these vessels. They are binding on all legal entities and natural persons operating the vessels, and on enterprises, organizations and associations related to vessel operation and repair, regardless of their ownership,

2) Safety Rules for workers of fishery port and auxiliary fleet vessels, approved by the Order of the State Committee of Ukraine for Industrial Safety, Labour Protection and Mining Supervision of 24.1.2007 No. 13, registered with the Ministry of Justice of Ukraine on 6.2.2007 under No 101/13368, apply to all fishery operators, regardless of their legal structure and ownership, operating port and auxiliary fleet vessels.

- *Medical treatment on board of fishing vessels (Directive 92/29/EEC)*

Requirements for medical equipment of vessels are established in the Requirements for the equipment, intended for medical training of commanding officers and crews of vessels, approved by

the Order of the Ministry of Infrastructure of Ukraine of 7.10.2014 No. 491, registered with the Ministry of Justice on 24 October 2014 under No. 1327/26104.

Besides, MoH is working on this issue as a part of the Action Plan on 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.

- *Chemical agents (Directive 98/24/EC as amended by Directives 2000/39/EC and 2006/15/EC)*

The Law of Ukraine “On Labour Protection” prohibits use of hazardous substances in production in case there is no hygienic regulation and state registration for them.

At the same time, legal, economic, social and organizational framework of activities related to high risk facilities, aimed at protection of human life and health and environment protection from harmful effects of accidents at such facilities through their prevention, limitation (containing) of their spread, and elimination of their effects is set out by the Law of Ukraine “On High Risk Facilities.”

Requirements for economic operators as regards protection of workers from risks to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents are laid down in the Requirements for employers as regards workers protection from harmful effects of chemical agents, approved by the Order of the Ministry of Emergency of Ukraine of 22.3.2012 No. 627, registered with the Ministry of Justice on 10.4.2012 under No. 521/20834.

The said Requirements also establish special requirements for protection of workers from harmful effects of heavy metals as well as of benzene and its derivatives.

Procedure of hazard analysis and risk assessment for high risk facilities that establishes methodological principles, definitions and notions of risk analysis, defines acceptable risk criteria and their levels, is defined by the Methodology of identifying risks and their acceptable levels for safety declaration of high-risk facilities, approved by the Order of the Ministry of Labour and Social Policy of Ukraine of 4.12.2002 No. 637.

- *Indicative occupational exposure limit values for chemical agents at work (Directives adopted in implementation of Council Directive 98/24/EC - Commission Directives 91/322/EEC, 2000/39/EC, 2006/15/EC, 2009/161/EU, 2017/164 and 2019/1831)*

The Law of Ukraine “On Labour Protection” prohibits use of hazardous substances in production in case there is no hygienic regulation and state registration for them.

Requirements for economic operators as regards protection of workers from risks to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents are laid down in the Requirements for employers as regards workers protection from harmful effects of chemical agents, approved by the Order of the Ministry of Emergency of Ukraine of 22.03.2012 No. 627, registered with the Ministry of Justice on 10.04.2012 under No. 521/20834.

The number of substances in the “List of chemical agents with prevalence of metallic properties and their compounds, harmfulness of which is proven by scientific research” (Annex 1 to the Requirements) is 44.

The number of substances, listed in the “Specifics of harmful effect of heavy metals and their compounds” (Annex 2 to the Requirements) is 220.

The number of substances, listed in the “Specifics of harmful effect of benzene and its derivatives” (Annex 3 to the Requirements) is 31.

The number of substances, listed in the “Skin contamination limits” (Annex 4 to the Requirements) is 5.

These Requirements apply to all economic operators, regardless of their ownership, whose activity is related to handling chemical agents.

The Order of MoH of 14.7.2020 No. 1596 “On Approval of the Hygienic Regulations for Permissible Contents of Chemical and Biological Agents in the Air of Working Area”, registered with the Ministry of Justice of Ukraine on 3.8.2020 under No. 741/35024, approves the Hygienic regulations for chemical agents in the air of working area and the Approximately safe exposure levels to chemical agents in the air of working area.

The number of chemicals, for which hygienic norms are defined, is 1839.

The number of chemicals, for which approximately safe exposure levels are defined, is 46

The following information is indicated in the Hygienic regulation for chemical agents in the air of working area:

- commercial name of a chemical agent,
- hazard class of a chemical agent (extremely hazardous substances, very hazardous substances, moderately hazardous substances, low-hazard substances),
- maximum permissible concentration (MPC),
- prevalent physical state (aerosol, vapour and/or gas, aerosol/vapour mixture),
- effects on human body (allergen, narrow directional effect, carcinogen, irritating effect, fibrogenic effect).

#### *Explosive atmospheres (Directive 1999/92/EC)*

For the purpose of implementing Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), the Ministry of Energy and Coal Industry has issued the Order of 5.6.2013 No. 317 “On Approval of the Requirements for Employers as regards Ensuring Safe Working Conditions in Potentially Explosive Atmospheres”, registered with the Ministry of Justice on 26.6.2013 under No. 1071/23603.

Basic requirements to safe arrangement of fire-related works at fire-hazardous and explosion-hazardous facilities (production bays, workshops, installations, shelters, divisions, storages, assemblies, containers) are established by the Instruction on safe arrangement of fire-related works at fire-hazardous and explosion-hazardous facilities, approved by the Order of the Ministry of Labour and Social Policy of 5.6.2001 No. 255, registered with the Ministry of Justice of Ukraine on 23.6.2001 under No. 541/5732.

Another Order of the Ministry of Labour and Social Policy of Ukraine of 21.6.2001 No. 272 has approved the Rules for the Construction of Electrical Installations. Electrical Equipment of Special Installations, which applies to electrical equipment of electrical installations to be operated in explosive or flammable environments.

The legislation defines employer's obligation to take technical and organizational measures for explosion prevention with the following priority:

- prevention of occurrence of explosive environment,
- prevention of occurrence of ignition sources,
- prevention of reaching and exceeding of the lower flame spreading limit,

- use of explosion-proof equipment of the explosion protection group corresponding the category of likely explosive mixture by its maximum experimental safe gap value, and the temperature class corresponding the group of likely explosive mixture by its autoignition temperature, according to the classification of explosive vapour-air or gas-air mixtures and corresponding explosion-proof equipment.

- Biological agents at work (Directive 2000/54/EC)

Relations between executive authorities, manufacturers, vendors (suppliers), developers, researchers, scientists and consumers of genetically modified organisms and products based on technologies involving their design, creation, testing, transporting, import, export, marketing, release into the environment and usage in Ukraine (hereinafter — GMO handling) while ensuring biological and genetic safety are regulated by the Law of Ukraine “On the State Biosafety System in Creation, Testing, Transporting and Use of Genetically Modified Organisms.”

The State Sanitary Norms and Regulations “Organizing laboratory operations when researching materials containing biological pathogenic agents of pathogenicity groups I-IV using molecular genetic methods”, approved by the Order of MoH of 24.1.2008 No. 26, registered with the Ministry of Justice on 7.2.2008 under No. 88/14779, are in place in Ukraine.

To facilitate development of new efficient methods of biological pathogenic agent indication and identifying, participation in their testing and introduction of a biological pathogenic agent indication system into the practice of healthcare facilities by the Academy of Medical Sciences of Ukraine, MoH has issued the Order No. 127/27 of 21.3.2003 “On Improving Functioning of the System of Biological Pathogenic Agent Indication” (hereinafter — Order No. 127/27).

The State Standard of Ukraine (DSTU) 7748:2015 “Labour Safety. Biological Safety. General Requirements” is approved by the Order of the State Science Control Institution for Biotechnology and Microorganism Strains of 22.6.2015 No. 61 “On enactment of regulatory documents of Ukraine, harmonized with international and European regulations, national standards of Ukraine, repeal of regulatory documents of Ukraine and international standards in Ukraine.”

The Order No. 127/27 imposes the tasks of biological pathogenic agent indication on main institutions (laboratories) for biological pathogenic agent indication (MI BPAI), to be established at the AR of Crimea, regional, Kyiv city and Sevastopol sanitary and epidemiology stations.

The Order of MoH of 14.07.2020 No. 1596 “On Approval of the Hygienic Regulations for Permissible Contents of Chemical and Biological Agents in the Air of Working Area”, registered with the Ministry of Justice of Ukraine on 3.8.2020 under No. 741/35024, approves the Hygienic

regulations for biological agents in the air of working area. The number of biological agents covered by the hygienic norms is 49.

Obligation to report casualties is provided for by the Procedure of investigation and record of casualties, occupational diseases and accidents at work, approved by the CMU Resolution of 17.4.2019 No. 337.

- *Vibrations (Directive 2002/44/EC)*

The State Sanitary Regulations for general and local vibrations at work SSR 3.3.6.039-99, approved by the Resolution of the Chief Public Sanitary Officer of Ukraine dated 1.12.1999 No. 39.

SSR 3.3.6.039-99 apply to general and local vibrations affecting a person at work, excluding railway, inland waterway, and air transport.

The Sanitary Regulations set out:

- classification of occupational vibrations,
  - methods of hygienic assessment of occupational vibrations,
  - regulated parameters and their limit values,
  - measurement requirements at workplace,
  - basic preventive actions.
- *Asbestos (Directive 2009/148/EC)*

According to Article 8 of the Law of Ukraine “On Labour Protection”, at works with harmful and dangerous working conditions as well as at works that involve pollution or adverse weather conditions, the employees are supplied free of charge with protective clothes, protective footwear and other personal protective equipment as well as cleansing and neutralizing agents.

The Allowances for free supply of special clothes, special footwear and other personal protective equipment to the workers in chrysotile asbestos-based material production are approved by the Order of the Ministry of Energy and Coal Industry of Ukraine of 28.8.2013 No. 601, registered with the Ministry of Justice of Ukraine on 13.9.2013 under No. 1585/24117, which applies to economic operators, regardless of their ownership and legal structure, whose activities are aimed at production of chrysotile asbestos-based materials and products.

Points 1348 to 1350 of the Action Plan on 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 envisage drafting and submitting to CMU a draft law on increased sanctions for violations of labour protection regulations as regards the risks related to exposure to asbestos, drafting and enacting a legal and normative act on recording asbestosis and mesothelioma cases caused by exposure to asbestos at work, and on the instrument of risk assessment related to exposure to the dust from asbestos or materials containing asbestos. MoH is assigned as the responsible authority for implementation of these actions.

- *Noise (Directive 2003/10/EC)*

The Laws of Ukraine “On Labour Protection,” “On Technical Regulations and Conformity Assessment”; the CMU Resolution of 21 August 2019 No. 771 “On Approval of the Technical Regulation for Personal Protective Equipment”; the Order of MSPU of 29.11.2018 No. 1804 “On the

Approval of the Minimum Health and Safety Requirements for the Use by Workers of Personal Protective Equipment at the Workplace”; the State Sanitary Regulations for general and local vibrations at work SSR 3.3.6.039-99, approved by the Resolution of the Chief Public Sanitary Officer of Ukraine dated 1.12.1999 No. 39; the Instruction on ensuring safe work in coal mines as regards noise and vibration, approved by the Order of the State Committee of Ukraine on Supervision of Labour Protection of 26.10.2004 No. 236.

In accordance with the order of MoH of 8.4.2014 No. 248 “On approval of the State Sanitary Regulation “Hygienic classification of working conditions according to level of hazards and risks in the industrial environment, difficulty and intensity of the working process”, registered with the Ministry of Justice on 6 May 2014 under No. 472/25249, the hygienic norm is specified for the level of adverse industrial factors that should not cause illnesses or health conditions in daily work (except weekends) 8 hours a day (but no more than 40 hours a week throughout the whole career). Observance of technical regulations does not eliminate health conditions with persons having increased sensitivity (reduced resistance).

The Sanitary Regulations for industrial noise, ultrasound and infrasound SSR 3.3.6.037-99 are approved by the Resolution of the Chief Public Sanitary Officer of Ukraine dated 1.12.1999 No. 37.

The Sanitary Regulations cover noise, infra- and ultrasonic waves transmitted through air (gaseous medium), liquid or solid medium, affecting a person during their work.

The Sanitary Regulations set out:

- classification of industrial acoustic fluctuations,
- methods of hygienic assessment of industrial noise, ultrasound and infrasound,
- regulated parameters and their permissible values,
- measurement requirements at workplace.

The Sanitary Regulations are binding on all ministries, agencies, enterprises, institutions, regardless of their affiliation and ownership, citizens that design, manufacture and operate any equipment, machinery and tools generating noise, ultrasound and infrasound; that develop and implement the measures for reduction of harmful effects of acoustic fluctuations on workers; that execute state sanitary supervision over working conditions.

- *Carcinogens (Directive 2004/37/EC)*

Requirements for economic operators as regards protection of workers from risks to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents are laid down in the Requirements for employers as regards workers protection from harmful effects of chemical agents, approved by the Order of the Ministry of Emergency of Ukraine of 22.03.2012 No. 627, registered with the Ministry of Justice on 10.04.2012 under No. 521/20834.

The Order of MoH of 13.1.2006 No. 7, registered with the Ministry of Justice on 6.2.2006 under No. 100/11974 has approved the hygienic standard “List of substances, products, manufacturing processes, household and natural factors that are carcinogenic for human.”

The Order of MoH of 14.7.2020 No. 1596 “On Approval of the Hygienic Regulations for Permissible Contents of Chemical and Biological Agents in the Air of Working Area”, registered with

the Ministry of Justice of Ukraine on 3.8.2020 under No. 741/35024, has approved the Hygienic regulations for chemical agents in the air of working area.

The Hygienic regulations for chemical agents in the air of working area indicates information, in particular, on specific effects of a chemical agent on human body (allergen, narrow directional effect, carcinogen, irritating effect, fibrogenic effect).

- *Artificial optical radiation (Directive 2006/25/EC):*

There is no unified legal and normative act as regards safety and health protection of workers from the risks caused by physical agents (artificial optical radiation) in place at the moment.

The Order of MoH of 8.4.2014 No. 248 “On approval of the State Sanitary Regulation “Hygienic classification of working conditions according to level of hazards and risks in the industrial environment, difficulty and intensity of the working process”, registered with the Ministry of Justice on 6 May 2014 under No. 472/25249, specifies the requirements, in particular, as regards hygienic assessment of working conditions amid exposure to irradiating electromagnetic fields, and classes of working conditions as regards non-ionizing electromagnetic radiation within the optical range (laser and UV).

The sanitary and epidemiological rules and standards set out a procedure of air decontamination and surface disinfection inside healthcare facilities, all legal entities (regardless of their legal structure) and sole proprietors licensed to undertake their economic activities as medical practitioners, social care / social protection institutions/facilities, are approved by the Order of MoH of 6.5.2021 No. 882, registered with the Ministry of Justice of Ukraine on 28.7.2021 under No. 978/36600 and specify safety requirements as regards the use of ultraviolet bactericidal radiation by workers.

- *Classification, Labelling and Packaging of substances and mixtures (Directive 2014/27/EU)*

Implementation of Directive 2014/27/EU amending Directives 92/58/EEC, 92/85/EEC, 94/33/EC and 2004/37/EC is envisaged in the draft CMU Resolution “Certain Issues of Establishing the Minimum Requirements for Health and Safety Labelling at Work,” which is now being processed with the concerned authorities.

- *Accessibility of products and services Directive 2019/882*

Accessibility of products and services Directive 2019/882 is implemented in the Law of Ukraine “On Technical Regulations and Conformity Assessment” that specifies legal and organizational framework for design, adoption and application of technical regulations and conformity assessment procedures provided thereby, as well as carrying out voluntary conformity assessment.

## **SOCIAL DIALOGUE**

**57. What are the social dialogue mechanisms in Ukraine? What is their legal basis? Are social partners being consulted on the design and implementation of economic, employment and social policies according to national practices?**

According to Article 1 of the Law of Ukraine “On the Social Dialogue in Ukraine”, social dialogue is a process of identifying and alignment of positions, achieving mutual agreement and adoption of coordinated decisions by the parties to the social dialogue representing the interests of workers, employers and executive authorities/bodies and local self-government bodies in the context



of design and implementation of the state social and economic policies, regulation of labour, social and economic relations.

According to Article 8 of that Law, social dialogue is conducted by the parties to the social dialogue of a corresponding level in the forms of:

- information exchange;
- consultations;
- conciliation procedures;
- collective bargaining on conclusion of collective agreements.

Information exchange is aimed at finding out positions, achieving agreement, finding a compromise and adoption of joint decisions on economic and social policies.

The information exchange procedure is determined by the parties. Neither party may deny the provision of information, unless such information is restricted information according to law.

Consultations are held upon the proposal of a party to the social dialogue with the purpose to find out and align positions of the parties in the process of making decisions falling within the scope of their competence.

The initiating party sends a written proposal to other parties indicating the subject matter and the deadline of the consultation. The parties that received such proposal must take part in the consultation, negotiate the agenda, the terms and the composition of the consulting team.

Conciliation procedures are aimed at taking into account the positions of the parties, developing middle-ground decisions when drafting legal and normative acts.

The social dialogue bodies of a corresponding level decide on the design of the conciliation procedures, unless otherwise is provided for by the legislation or collective agreements.

The parties' failure to achieve a compromise following the conciliation procedures may not constitute grounds for hindering the work of the social dialogue bodies.

Collective bargaining is aimed at conclusion of collective agreements.

Collective agreements are concluded based on the results of collective bargaining:

- framework agreement at the national level;
- sectoral (cross-sectoral) agreements at the sectoral level;
- territorial agreements at the territorial level;
- collective agreements at the local level.

The procedure for collective bargaining is laid down in the Law of Ukraine "On Collective Agreements".

Article 20 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine" lays down its core provisions. In particular, CMU acts as a party to the social dialogue at the national level, promotes its development, in accordance with law consults with other parties to the social dialogue on draft laws, other legal and normative acts on the design and implementation of state social and economic policies, regulation of labour, social and economic relations.

At the national level, representatives of the parties to the social dialogue work together on the basis of the National Tripartite Social and Economic Council as well as in the framework of the arrangements laid down in the Framework Agreement on Regulation of the Key Principles and Rules of Implementation of the Socioeconomic Policy and Labour Relations in Ukraine for 2019–2021 (remains in force until a new one is concluded).

The Parties to the Framework Agreement, *inter alia*, agreed to:

- conduct the social dialogue on the design and implementation of the state social and economic policies, regulation of labour relations in the forms of information exchange, consultations, collective bargaining, conciliation procedures;

- carry out the conciliation procedures, during the process of drafting legislative and other legal and normative acts, according to the rules laid down in Annex 5 to the Agreement.

Apart from the aforesaid, consultations with social partners are conducted at the sectoral, territorial levels at the initiative of representatives of the parties to the social dialogue, as well as in the framework of socioeconomic councils of a corresponding level in line with the rules of procedure of those bodies.

**58. What are the trade unions and employers' organisations recognised? How are these organisations entitled to recognition as social partners' organisations (e.g. representativeness criteria set out by law, code of labour, etc.)?**

According to Article 11 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”, trade unions, trade union organisations may have the primary, local, oblast, regional, republic-wide, nation-wide status so as to represent and protect the rights and interests of trade union members at the corresponding level of contractual regulation of labour and socioeconomic relations.

Trade unions or trade union organisations which operate at an enterprise, institution, organisation, educational establishment and comprise those trade union members who are self-employed or work at different enterprises, institutions or organisations or for individuals have the primary status.

Trade unions which comprise at least two primary trade union organisations operating at different enterprises, institutions or organisations within the same administrative and territorial unit (city, urban district, raion, village, settlement) have the local status.

Trade unions whose organisations are present in most administrative and territorial units of the same oblast and cities of Kyiv and Sevastopol, or in most administrative and territorial units of the same oblast and cities of Kyiv and Sevastopol, where enterprises, institutions and organisations of a certain sector are located, have the oblast status.

Trade unions whose organisations are present in most administrative and territorial units of two or more oblasts have the regional status.

The status of all-Ukrainian (nation-wide) trade unions is given based on one of the following criteria:

- 1) presence of trade union organisations in most administrative and territorial units of Ukraine as defined in Article 133(2) of CU;

2) presence of trade union organisations in most of those administrative and territorial units of Ukraine where enterprises, institutions and organisations of a certain sector are located.

The republic-wide status of trade unions of the Autonomous Republic of Crimea is given based on the criteria for nation-wide trade unions with respect to the territory of the Autonomous Republic of Crimea.

According to Article 8 of the said Law, for the purpose of performing their statutory functions, trade unions and trade union organisations (if provided for by their charter) have the right to voluntarily set up associations (councils, federations, confederations, etc.) on a sectoral, territorial or other basis, as well as to join associations and freely withdraw from them.

Trade unions wishing to establish an association of trade unions enter into an agreement to that effect and adopt the charter of (regulation on) the association.

The rights of associations of trade unions are determined by the founding trade unions under the Law and are laid down in the charter of (regulations on) such associations.

The status of an association of trade unions depends on the status of its members.

According to Article 131 of the Law, trade unions and their associations recognise employers' organisations and their associations as plenipotentiary representatives of employers protecting their legitimate rights and interests and support their activities.

Trade unions and their associations work together with employers' organisations and their associations based on the principles of the social dialogue.

According to the Law of Ukraine "On Employers' Organisations, Their Associations, Rights and Guarantees of Their Operation", employers' organisations and their associations are established and operate with the purpose to represent and protect the rights and legitimate interests of employers in the economic, social, labour and other areas, *inter alia* in their relations with other parties to the social dialogue (Article 5).

According to Article 8 of the Law, employers' organisations are established and operate on a territorial or sectoral basis and have the status of local, oblast employers' organisations, or republic-wide employers' organisations of the Autonomous Republic of Crimea (hereinafter referred to as "republic-wide").

Local employers' organisations are employers' organisations whose activities cover the territory of a particular administrative and territorial unit (village, settlement, urban district, city/town, raion) and which, at the time of their state registration, comprise at least ten employers of this particular administrative and territorial unit or two or more employers engaged in a certain group (class) of economic activities within such administrative and territorial unit.

Oblast employers' organisations, Kyiv and Sevastopol city employers' organisations are employers' organisations whose activities cover the territory of a particular oblast, the cities of Kyiv and Sevastopol and which, at the time of their state registration, comprise at least ten employers of most raions and/or cities/towns within such particular oblast, districts of the cities of Kyiv and Sevastopol or two or more employers engaged in a certain group (class) of economic activities in such raions and/or cities/towns of such oblast, districts in the cities of Kyiv and Sevastopol where enterprises engaged in such group (class) of economic activities are located.

Oblast employers' organisations, Kyiv and Sevastopol city employers' organisations are employers' organisations whose activities cover the territory of a particular oblast, the cities of Kyiv and Sevastopol and which, at the time of their state registration, comprise at least ten employers of most raions and/or cities/towns within such particular oblast, districts of the cities of Kyiv and Sevastopol or two or more employers engaged in a certain group (class) of economic activities in such raions and/or cities/towns of such oblast, districts in the cities of Kyiv and Sevastopol where enterprises engaged in such group (class) of economic activities are located.

According to Article 9 of the Law, associations of employers' organisation are established and operate on a territorial or sectoral basis and have the status of local, oblast, republic-wide or nation-wide employers' organisations.

Local associations of employers' organisations are associations of employers' organisations which, at the time of their state registration, comprise two or more employers' organisations of a particular administrative and territorial unit (village, settlement, urban district, city/town, raion).

Oblast associations of employers' organisations, Kyiv and Sevastopol city associations of employers' organisations are associations of employers' organisations which, at the time of their state registration, comprise two or more oblast employers' organisations of a particular oblast, the cities of Kyiv and Sevastopol, and are established on a territorial or sectoral basis.

Republic-wide associations of employers' organisations are associations of employers' organisations which, at the time of their state registration, comprise two or more republic-wide employers' organisations of most of the administrative and territorial units of the Autonomous Republic of Crimea.

Nation-wide associations of employers' organisations are associations of employers' organisations which, at the time of their state registration, comprise oblast employers' organisations, established on a territorial basis, of most of the administrative and territorial units defined in Article 133(2) of CU, or most of the oblast employers' organisations established on a sectoral (cross-sectoral) basis comprising employers engaged in a certain or several economic activities.

According to Article 28 of the Law, employers' organisations and their associations recognise trade unions, their organisations and associations as plenipotentiary representatives of workers and defenders of their labour, socioeconomic rights and interests, and support their activities.

Employers' organisations and their associations work together with trade unions and their associations based on the principles of the social dialogue.

According to Article 4 of the Law of Ukraine "On the Social Dialogue in Ukraine", for the purpose of participation in collective bargaining on conclusion of collective agreements, tripartite or bipartite bodies and international events, the composition of the trade union side and the employer side must comply with the representativeness criteria.

The following general representativeness criteria apply to the trade union side and the employer side:

- legalisation (registration) of such organisations (associations) and their status;
- for trade unions, their organisations and associations — the overall number of their members, for employers' organisations and their associations — the overall number of the employees working at the enterprises that are members of the employers' organisations;

- sectoral and territorial branching (Article 5).

At the same time, according to Article 6 of the Law, at the national level, for the purpose of participation in collective bargaining on conclusion of the framework agreement, for delegating representatives to the National Tripartite Socioeconomic Council, management bodies of compulsory state social insurance funds and other tripartite social dialogue bodies, participation in international events, associations of trade unions and associations of employers' organisations are deemed to be representative ones if they:

- are legalised (registered) under law;
- are nation-wide associations of trade unions comprising at least one hundred and fifty thousand members;
- are nation-wide associations of employers' organisations of which the member enterprises employ at least two hundred thousand workers;

comprise trade unions and their organisations, associations of employers' organisations in most of the administrative and territorial units of Ukraine defined in Article 133(2) of CU, and at least three nation-wide trade unions and at least three nation-wide associations of employers' organisations.

At the sectoral level, for the purpose of participation in collective bargaining on conclusion of sectoral (cross-sectoral) agreements and for delegating representatives to social dialogue bodies of the corresponding level, trade unions and their associations, employers' organisations and their associations are deemed to be representative ones if they:

- are legalised (registered) under law;
- are nation-wide trade unions whose members account for at least 3% of the workers engaged in the sector in question;
- are nation-wide associations of employers' organisations established on a sectoral basis, of which the member enterprises employ at least 5% of the workers engaged in the economic activity(-ies) in question.

At the territorial level, for the purpose of participation in collective bargaining on conclusion of territorial agreements and for delegating representatives to social dialogue bodies, trade unions and their associations, employers' organisations and their associations are deemed to be representative ones if they:

- are legalised (registered) under law;
- are oblast, local trade unions, their organisations and associations established on a territorial basis whose members account for at least 2% of the employed population in the administrative and territorial unit in question;
- are employers' organisations, their associations operating in the territory of a particular administrative and territorial unit, of which the member enterprises employ at least 5% of the employed population in the administrative and territorial unit in question.

At the local level, for the purpose of participation in collective bargaining on conclusion of collective agreements under law, the following are representative:

- the workers side, including primary trade union organisations or, where there are none, freely elected representative(s) of workers;

- the employer side, including the employer and/or authorised representatives of the employer.

Trade unions and their associations, employers' organisations and their associations that do not meet the representativeness criteria, upon a decision of their elected bodies may authorise representative organisations and associations of a corresponding level to represent their interests and submit their proposals to be considered by respective social dialogue bodies. Such proposals are to be mandatorily considered by the parties in determining their aligned position and in decision-making.

According to Article 7 of the Law, compliance with the representativeness criteria for trade unions and their associations, employers' organisations and their associations is assessed:

- at the national and sectoral levels by NMRS;
- at the territorial level by corresponding units of the National Mediation and Reconciliation Service.

NMRS or its units respectively verify representativeness of the trade union side and the employer side once every five years. Trade unions, their organisations and associations, employers' organisations and their associations, including the newly established ones, have the right to request NMRS and its corresponding units to assess compliance with the representativeness criteria provided there are factual grounds for that, but in any case no more frequently than once a year.

NMRS and its units keep a register of such organisations (associations) based on the results of assessment of compliance with the representativeness criteria and verification of representativeness.

The procedure for assessing compliance with the representativeness criteria and verification of representativeness of trade unions and employers' organisations is established by NMRS further to the approval the national-level social dialogue by the parties.

According to the information obtained from the official website of NMRS, as of 31.01.2022, 5 all-Ukrainian (nation-wide) associations of trade unions and 3 all-Ukrainian (nation-wide) associations of employers' organisations are representative at the national level of the social dialogue. At the sectoral level of the social dialogue in Ukraine, there are 68 representative all-Ukrainian associations of trade unions and 23 associations of employers' organisations. See the full list of those organisations on the official website of NMRS at: <https://nspp.gov.ua/reprezentativnist-storin-sotsialnogo-dialogu/reestr-storin-sotsialnogo-dialogu>.

**59. How are social partners involved in the EU integration process? Is there any tripartite committee for this purpose? What role do social partners play in different preparatory activities/discussions in the framework of integration?**

Social partners are involved in the EU integration process through the Ukrainian Side of the EU-Ukraine Civil Society Platform which is a part of the EU-Ukraine Civil Society Platform established under the EU-Ukraine Association Agreement.

Particular matters relating to the EU integration are dealt with in the framework of the national-level tripartite social dialogue body, i.e. the National Tripartite Social and Economic Council, within the scope of its competence and mandate.

The key tasks of the National Tripartite Social and Economic Council include:

1) development of a consolidated position of the parties to the social dialogue on the strategy of economic and social development of Ukraine and the ways of resolving the existing problems in this area;

2) preparation and presentation of coordinated recommendations and proposals to the President of Ukraine, VRU and CMU on the design and implementation of the state economic and social policies, regulation of labour, economic and social relations.

#### **60. What does Ukraine do to effectively implement freedom of association and collective bargaining in line with ILO Conventions 87 and 98?**

Workers' and employers' freedom of association, right to organising and conducting collective bargaining, as provided for by the ILO Conventions No. 87, 98 ratified by Ukraine, are guaranteed by CU, LCU, the Laws of Ukraine "On Trade Unions, Their Rights and Guarantees of Their Operation", "On Employers' Organisations, their Associations, Rights and Guarantees of Their Operation", "On Civic Association", "On the Procedure for Resolving Collective Labour Disputes (Conflicts)", "On the Social Dialogue in Ukraine" and other legal and normative acts.

According to Article 36 of CU, citizens have the right to participate in trade unions to protect their labour and socioeconomic rights and interests. Trade union are civil society organisations that unite citizens with common interests arising from their professional activity. Trade unions are established without prior permission on the basis of free choice of their members. All trade unions have equal rights. Restrictions on membership of trade unions are imposed exclusively by the Constitution and laws of Ukraine.

No one may be forced to join any public association or restricted in his/her rights to membership or non-membership in political parties or civil society organisations.

According to the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Their Operation" (hereinafter referred to as "the Trade Union Law"), citizens of Ukraine have the right to create, join and withdraw from trade unions on the basis of free will, without any permission, on the terms and conditions and in the manner prescribed by their charter, as well as participate in the activities of such trade unions (Article 6).

According to Article 7 of the Trade Union Law, citizens of Ukraine may freely choose a trade union to join. No one may be forced to join or not to join a trade union.

According to Article 5 of the Trade Union Law, membership or non-membership in trade unions does not result in any restrictions on labour, socioeconomic, political, personal rights and freedoms of citizens guaranteed by the Constitution of Ukraine and other laws of Ukraine.

It is prohibited to restrict rights or create advantages in the process of conclusion, amendment or termination of a labour agreement in connection with membership or non-membership in trade unions or a particular trade union, accession to or withdrawal from it.

#### *Regarding the armed forces and police*

According to Article 17 of the Law of Ukraine "On the Armed Forces of Ukraine", servicemen cease their membership in trade unions for the period of military service. Trade unions of workers who concluded an employment agreement with the Armed Forces of Ukraine operate pursuant to the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Their Operation".

According to Article 6 of the Law of Ukraine “On the Security Service of Ukraine”, workers who concluded an employment agreement with the Security Service of Ukraine, may be members of trade unions.

According to Article 62 of the Law of Ukraine “On the National Police”, police bodies (establishments, institutions) may establish their own trade unions to protect labour, socioeconomic rights and interests of policemen in line with the requirements of the legislation. Restrictions in rights of trade unions of policemen compared to other trade unions is not acceptable.

According to Article 104 of the Law, to protect their rights and lawful interests, policemen may create professional associations and trade unions pursuant to the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”. Police trade unions exercise their powers taking into consideration the restrictions imposed on policemen by the Law. Police trade unions and their members are prohibited from organising strikes or participating in them.

According to the Law of Ukraine “On the State Criminal Law Enforcement Service of Ukraine”, rank and file and commanding officers as well as employees of a criminal law enforcement service may be members of civil society organisations of which the statutory provisions do not contradict the principles of activity of the State Criminal Law Enforcement Service of Ukraine, and may participate in their activity when off work (Article 15).

#### *Regarding the operation of trade unions*

According to Article 14 of the Trade Union Law, trade unions act in accordance with the legislation and their charter.

The charters of (regulations on) trade unions are adopted at congresses, conferences, founding or general meetings of members of the trade unions of the corresponding level and may not contradict the legislation of Ukraine.

Associations of trade unions act in accordance with the legislation and their statutes (regulations) adopted by their founders.

The charters of (regulations on) associations of trade unions are adopted (approved) at a congress or conference of plenipotentiary representatives of all trade unions that are the association’s founders (members), and must not contradict the legislation of Ukraine.

According to Article 12 of the said Law, in their activities, trade unions and associations thereof do not depend on, are not accountable to and are not controlled by public authorities and local self-government bodies, employers, other civil society organisations, political parties.

Trade unions organise, by themselves, their activities, hold meetings, conferences, congresses, meetings of bodies established thereby, hold other events which do not contradict the legislation.

It is prohibited for public authorities, local self-government bodies, their officials, employers, associations thereof to interfere with the statutory activities of trade unions, organisations and associations thereof.

According to Article 13 of the Trade Union Law, the state ensures that its citizens can exercise their right to association to set up trade unions, as well as ensures respect of the rights and interests of trade unions.

The state recognises trade unions to be plenipotentiary representatives of workers and defenders of their labour, socioeconomic rights and interests, cooperates with trade unions in exercising those



rights, supports trade unions in establishing business partner relations with employers and their associations.

According to Article 18 of the Trade Union Law, trade unions and associations thereof may terminate their activity by way of reorganisation or liquidation (voluntary dissolution or involuntary dissolution).

A resolution on reorganisation or liquidation (voluntary dissolution) is adopted by a congress (conference), general meeting in accordance with the charter of (regulation on) the trade union or association of trade unions. When adopting such resolution, the congress (conference) or the general meeting at the same time adopts a resolution on disposal of the property and funds of the trade unions or associations thereof, that remain after all the required settlements, for statutory or charitable purposes, are completed.

Activities of trade unions or associations thereof that result in the violation of CU and laws of Ukraine, particularly in the event of conviction of their authorised persons of committing a criminal offence against the foundations of the national security of Ukraine, as provided for by Article 111<sup>1</sup> of the CrCU, may be prohibited only by a decision of a local court, while activities of nation-wide or republic-wide trade unions and associations thereof may be prohibited in such case only by a decision of the Supreme Court of Ukraine.

No other bodies may take a decision on involuntary dissolution, liquidation or prohibition of activities of trade unions and associations thereof.

A decision on involuntary dissolution of an association of trade unions does not result in the dissolution of trade unions comprising this association. Involuntary dissolution of a trade union or an association of trade unions results in the revocation of the registration certificate and deregistration from the Register of Public Associations of Ukraine, loss of rights of a legal entity and compulsory notice thereof in the mass media.

According to Article 8 of the Law, for the purpose of performing their statutory functions, trade unions and trade union organisations (if provided for by their charter) have the right to voluntarily set up associations (councils, federations, confederations, etc.) on a sectoral, territorial or other basis, as well as to join associations and freely withdraw from them.

According to Article 9 of the Law, trade unions and associations thereof, in line with their statutory goals and objectives, have the right to join international trade unions and other international organisations and associations which represent interests of workers, and participate in their activities, cooperate with trade unions in other countries, carry out other activities which do not contradict the legislation of Ukraine.

According to Article 16 of the Trade Union Law, trade unions and associations thereof are legalised by way of notifying of their compliance with the declared charter. The legalising body may not deny legalisation of a trade union or an association of trade unions.

A trade union, an association of trade unions acquire rights of a legal entity as soon as its charter (regulation) is adopted. Trade union organisations acting under the charter of the trade union also acquire the status of a legal entity.

Trade unions, organisations and associations thereof exercise their powers, acquire civil law rights and assume duties under the civil law through their elected bodies acting within the scope of their rights conferred to them by law and charter (regulation).

According to Article 41 of the Trade Union Law, dismissal of members of an elective trade union body of an enterprise, institution, organisation (including their structural subdivisions), their heads, trade union representatives (where no elective trade union body is elected), except for the compliance with the general rules of procedure, is acceptable only where there is a prior consent of the elective body of which they are members, and a prior consent of the higher-level elective body of this trade union (association of trade unions).

No employee elected as a member of trade union bodies of an enterprise, institution, organisation, may be dismissed at the initiative of the employer within one year following the expiry of such employee's term of office for which he/she was elected, unless such dismissal results from complete liquidation of the enterprise, institution, organisation, from the employee's having been found to be unfit for the occupied position or performed work due to his/her health condition preventing him/her from further performance of this work, or to have done actions that, according to the legislation, create grounds for dismissal from work or service. Such guarantee is not provided to employees in the event of their early termination of office within these bodies due to their improper performance of their duties or in the event of their resignation on their own accord, unless those events are caused by health condition.

Upon expiry of their office, employees, dismissed in connection with their election as members of elective trade union bodies, return to their previous job (position) or, subject to the employee's consent, other equivalent job (position).

Members of elective trade union bodies who have not been freed from their job duties or official duties, are provided, on conditions provided for by the collective agreement, with non-office hours, payable at average wage rates, for the purpose of participation in consultations and bargaining, fulfilment of other public duties for the benefit of the collective of workers, as well as participation in activities of elective trade union bodies, but in any case at least two hours per week.

Employees, elected as members of elective bodies of a trade union organisation operating at an enterprise, institution or organisation, continue to enjoy the same social benefits and incentives as provided to other employees of the same employer in accordance with the legislation. Those employees may be provided with fringe benefits at the expense of the enterprise, if that is provided for by the collective agreement.

According to Article 7 of the Trade Union Law, employers may not be members of elective bodies of a trade union of any level.

Article 46 of the Trade Union Law establishes officials' responsibility for violation of the legislation on trade unions. Thus, persons that prevent citizens from exercising their right to association with the purpose to set up trade unions, as well as officials and other persons guilty of violation of the legislation on trade unions whose actions or omissions impair legal activities of trade unions and their associations, bear disciplinary, administrative or criminal responsibility under corresponding laws.

#### *Regarding the operation of employers' organisations*

According to Article 2 of the Law of Ukraine "On Employers' Organisations, Their Associations, Rights and Guarantees of Their Operation" (hereinafter referred to as "the Law on Employers' Organisations"), employers have the right to establish associations of employers' organisations, access to and withdraw from such associations, participate in their activities on the conditions and in the manner specified in their charters.

Employers' organisations and their associations have the right to establish associations of employers' organisations, access to and withdraw from such associations, participate in their activities on the conditions and in the manner specified in the charters of associations of employers' organisations.

A member of an employers' organisation or an association of employers' organisations has the right to withdraw from an employers' organisation or an association of employers' organisations at any time through submitting an application to the corresponding statutory bodies.

According to Article 8 of the Law on Employers' Organisations, employers' organisations are established and operate on a territorial or sectoral basis and have the status of local, oblast employers' organisations, or republic-wide employers' organisations of the Autonomous Republic of Crimea.

According to Article 9 of the Law on Employers' Organisations, membership in employers' organisations and associations of employers' organisations is determined by the charter of the employers' organisations and associations of employers' organisations.

According to Article 13 of the Law on Employers' Organisations, employers' organisations and associations of employers' organisations act on the basis of their charters approved by the founding congress (conference).

According to Article 5 of the Law on Employers' Organisations, employers' organisations and their associations are established and operate with the purpose to represent and protect the rights and legitimate interests of employers in the economic, social, labour and other areas, *inter alia* in their relations with other parties to the social dialogue.

According to Article 6 of the Law on Employers' Organisations, employers' organisations and associations of employers' organisations are established and act based on the principles of: legality and the rule of law; freedom of association; independence and equal rights of members; self-governance; social dialogue; political apathy; openness and publicity; responsibility for the fulfilment of the undertaken obligations.

Employers' organisations and associations of employers' organisations take decisions on the matters concerning the operation of such organisations and associations on the basis of their charters.

Employers' organisations and associations of employers' organisations must ensure full and timely informing of their members on the matters concerning the operation of such organisations and associations, give them access, at their request, to all the materials relating to the operation of such organisations and associations.

According to Article 14 of the Law on Employers' Organisations, membership in employers' organisations and associations of employers' organisations is determined by the charter of the employers' organisations and associations of employers' organisations.

According to Article 7 of the Law on Employers' Organisations, the state guarantees the respect of rights and legitimate interests of employers' organisations, associations of employers' organisations, and ensures that those are exercised according to the procedure prescribed by law.

The state recognises the employers' organisations and associations of employers' organisations created under the Law by the plenipotentiary representatives of their members, defenders of their rights and legitimate interests, cooperates with employers' organisations and associations of

employers' organisations in exercising their rights, facilitates establishing business partner relations with them.

Employers' organisations and associations of employers' organisations organise, by themselves, their activities, hold meetings, conferences, congresses, meetings of bodies established thereby, hold other events which do not contradict the legislation.

Public authorities, authorities of the Autonomous Republic of Crimea and local self-government bodies, trade unions, organisations and associations thereof, political parties and other public associations are prohibited from interfering with the statutory activities of employers' organisations.

According to Article 17 of the Law on Employers' Organisations, employers' organisations and associations of employers' organisations may be wound up by way of merger, accession, separation, transformation or liquidation on the basis of a corresponding resolution of the congress (conference) of such organisations or associations adopted according to the procedure prescribed by their charter, or according to an enforcement procedure under a court decision. Other organisations and associations thereof may be spin off employers' organisations and associations of employers' organisations.

When adopting such resolution, the congress (conference) of the organisation or association at the same time adopts a resolution on disposal of the property and funds of the employers' organisations or associations of employers' organisations, that remain after all the required settlements with the creditors.

Involuntary dissolution may be imposed on the employers' organisations and associations thereof that violate the provisions of CU and the legislation of Ukraine only based on a court decision.

No other bodies may take a decision on dissolution of employers' organisations and associations of employers' organisations.

A decision on involuntary dissolution of associations of employers' organisation does not result in the dissolution of employers' organisations or associations of employers' organisations comprising this association.

Dissolution of employers' organisations and associations of employers' organisations is subject to the procedure laid down in the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organisations".

According to Article 36 of the Law on Employers' Organisations, employers' organisations and associations of employers' organisations have the right to carry out international activities under the Law, other legal and normative acts and international treaties of Ukraine ratified by VRU.

International activities of employers' organisations, associations of employers' organisations, according to their charters, are carried out by means of founding or acceding to international employers' organisations or associations thereof, through direct international contracts and networking, relevant agreements, as well as in other forms that do not contradict the legislation of Ukraine, and rules and principles of international law.

Article 35 of the Law on Employers' Organisations establishes responsibility for the violation of the legislation on employers' organisations. Persons that prevent employers from exercising their right to association with the purpose to set up employers' organisations and associations of employers' organisations, as well as officials and other persons guilty of violation of the legislation on employers'

organisations whose actions or omissions impair legal activities of employers' organisations and their associations, bear responsibility under law.

*Regarding collective bargaining*

Encouraging and promoting complete development and use of the collective bargaining procedure on a voluntary basis are secured by the LCU (Articles 10–12, 14), the Law of Ukraine “On Collective Agreements” (Articles 1, 2, 3, 4, 10) regulating the collective bargaining procedure and providing for equal rights of initiative and equal rights to conduct bargaining.

The right to conduct collective bargaining and conclude collective agreements is provided for by the Trade Union Law (Article 20) and the Law on Employers' Organisations (Article 19).

It should be mentioned that the legislation prohibits representative authorities, economic management authorities, political parties, employers from any interference with the process of conclusion and performance of collective agreements that can restrict the legitimate rights of workers and their representatives or prohibit the exercise thereof.

It is not acceptable for organisations or bodies, created or funded by employers, or political parties to conduct bargaining and conclude collective agreements on behalf of workers.

Where a trade union body represents the interests of the collective of workers, the employer's interests may not be represented by persons who are members of the elective body of this trade union (Article 6 of the Law of Ukraine “On Collective Agreements”).

Guilty persons bear disciplinary responsibility and must pay a fine for the evasion from participation in the bargaining, breach and non-performance of the collective agreement, non-provision of the information required for the performance of collective agreement and conducting control.

The procedure and terms for imposing fines provided for in the Law are laid down in CUAO. Cases on such matters are considered by courts upon the claim of either party to the collective agreement or appropriate commissions (Articles 17, 18, 19, 20 of the Law of Ukraine “On Collective Agreements”).

With the purpose to encourage and promote the collective bargaining, the parties to the Framework Agreement on Regulation of the Key Principles and Rules of Implementation of the Socioeconomic Policy and Labour Relations in Ukraine for 2019–2021 (remains in force until a new one is concluded) have agreed to:

provide guidelines to the parties to the social dialogue at all levels on the matters relating to regulation of labour and socioeconomic relations based on collected agreements, conclusion of collective agreements and ensuring their performance (point 4.6);

introduce coordinated proposals on the improvement of the legislation on the social dialogue, regulation through collective agreements, resolution of collective labour disputes subject to the best European practices (point 4.10).

In particular, in the framework of the tripartite working group created by the Presidium of the National Tripartite Socioeconomic Council, a draft Law “On Collective Agreements” was developed proposing a comprehensive solution to the problems in the area of regulation of labour relations under collective agreements, which will, among other things, allow an increase in the number of workers and employers covered by the regulation of labour relations under collective agreements.

Also, the parties to the Framework Agreement have agreed to exchange information on the detected violations of the ILO Conventions, other international agreements to which Ukraine is a party, and the national legislation on securing rights and guarantees of the operation of trade unions, employers' organisations, associations thereof with the purpose to take measures to remedy them.

MoE ensures, on an annual basis, review of the results of the monitoring of violations of rights of trade unions, conducted by the Federation of Trade Unions of Ukraine according to the ILO recommendations, engages central and local executive authorities and bodies in checking of the alleged facts.

Based on the results of checks, where the violations are proved, response measures are taken within the scope of competence, outreach work is performed to explain the application of the legislation on trade unions, their rights and guarantees of their operation.

In the framework of performing of the tasks entrusted to it, the National Tripartite Socioeconomic Council established by the President of Ukraine performed advisory, consulting and conciliation functions by elaborating a common position and providing recommendations and proposals of the parties to the social dialogue, in particular regarding:

- Ukraine's ratification of the conventions of the International Labour Organization, international treaties and the EU acquis on the matters relating to the rights of workers and employers;
- creation of a favourable environment for the development of the social dialogue, efficient performance of economic entities, trade unions, employers' organisations and their cooperation with other civil society institutions;
- introduction of the international and domestic experience in organising and conducting the social dialogue.

One of the priority areas of the Council's activities for 2021–2023 is enhancing the status and role of this body, development and ensuring of efficient social dialogue at all levels.

For reference:

*- 5 sectoral, 24 oblast territorial tripartite socioeconomic councils were established, tripartite socioeconomic councils were also established in raions and cities/towns.*

*The following was concluded and registered:*

- 95 sectoral and 2 cross-sectoral agreements;*
- 25 territorial oblast-level agreements (2 in Sumy oblast);*
- a number of territorial agreements of other levels were also concluded in each oblast.*

*According to the statistics provided by the State Statistics Service of Ukraine, as of 31.12.2021, a total of 43,154 collective agreements were concluded and registered all over Ukraine, covering 5,064.4 thousand persons or 70.2% of the registered number of regular workers.*

## **A. Tripartite social dialogue**

**61. Has a cross-industry tripartite social dialogue been established and if so, how is it functioning? Which are the trade unions and employer organisations that participate in this tripartite process and what are the main criteria for their participation?**

The Law of Ukraine “On the Social Dialogue in Ukraine” specifies the levels and forms of the social dialogue, establishes the procedure for creation of the social dialogue bodies, specifies their functions and powers.

Presently, Ukraine has:

- 4 levels of social dialogue: national, sectoral, territorial, local (the level of enterprise, institution, organisation);

- 4 forms of social dialogue: information exchange, consultations, conciliation procedures, collective bargaining on conclusion of collective agreements.

The social dialogue bodies were established, i.e. bipartite and tripartite socioeconomic councils at the national, sectoral and territorial levels, other tripartite bodies, such as committees and commissions (particularly working commissions on conclusion of collective agreements).

The President of Ukraine established the National Tripartite Socioeconomic Council. It has 60 members who exercise their powers pro bono (20 representatives of trade unions, 20 representatives of employers, and 20 representatives of the Government). Presently, the Council is chaired by a representative of employers.

In 2021, cooperation in the framework of the Council gained momentum — the Council held its meeting, and a series of meetings were held by the Council Presidium and committees, during which the attendees discussed matters relating to the design and implementation of the state economic and social policies, regulation of labour, economic and social relations. The tripartite working groups set up by the Council Presidium analysed draft legislative acts in the area of occupational safety and activities under collective agreements.

Ministries, by their orders, set up 5 sectoral socioeconomic councils (of which tripartite ones were established by the Ministry of Infrastructure and the Ministry for Communities and Territories Development).

A branched system of tripartite socioeconomic councils is operational at the territorial level: 24 oblast territorial tripartite socioeconomic councils, tripartite socioeconomic councils in raions and cities/towns within oblasts.

Article 20 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” lays down its core provisions. In particular, CMU acts as a party to the social dialogue at the national level, promotes its development, in accordance with law consults with other parties to the social dialogue on draft laws, other legal and normative acts on the design and implementation of state social and economic policies, regulation of labour, social and economic relations.

According to Article 7 of the Law of Ukraine “On Central Executive Authorities”, the main tasks of a ministry as a body that ensures the design and implements the state policy in one or several area include ensuring the process of the social dialogue at the sectoral level.

According to Article 37 of the Law of Ukraine “On Local State Administrations”, local state administrations are a party to the social dialogue at the territorial level, promote the social dialogue, hold consultations, in accordance with law, with other parties to the social dialogue.

Participation in the social dialogue, collective bargaining, conclusion of tripartite agreements, exercising control over their performance are delegated powers of executive bodies of village,

settlement, town/city councils in accordance with Article 34 of the Law of Ukraine “On Local Self-Government in Ukraine”.

In view of the aforementioned, according to the legislation:

- draft legal and normative acts on the design and implementation of the state socioeconomic policy and labour relations are presented to all-Ukrainian associations of trade unions and all-Ukrainian associations of employers’ organisations which review such acts and present their position;
- plenipotentiary representatives of social partners participate in meetings of CMU and government committees;
- representatives of employers, trade unions are members of panels, public councils established on the basis of central and local executive authorities and bodies.

**62. Have there been tripartite national agreements concluded over the past few years? Do they represent an important feature of labour and social law in the country?**

Presently, the Framework Agreement on Regulation of the Key Principles and Rules of Implementation of the Socioeconomic Policy and Labour Relations in Ukraine for 2019–2021, i.e. 12th the national level collective agreement signed on 14.05.2019, is in force until a new one is concluded.

That is the second agreement in a tripartite format (in the previous 10 agreements, the owners were represented by the Government and employers together).

The Framework Agreement reflects the achieved understanding and obligations in the areas of economic development and domestic production development, employment, remuneration, occupational safety and working conditions, social protection of workers, as well as humanitarian matters, youth policy, meeting the spiritual needs of the population, social dialogue.

**B. Bipartite social dialogue**

**63. Please describe how the social partners are structured at the sectoral and branch levels of collective bargaining?**

According to Article 4 of the Law of Ukraine “On the Social Dialogue in Ukraine”, for the purpose of participation in collective bargaining on conclusion of collective agreements, tripartite or bipartite bodies and international events, the composition of the trade union side and the employer side must comply with the representativeness criteria.

According to Article 6 of the Law, at the sectoral level, for the purpose of participation in collective bargaining on conclusion of sectoral (cross-sectoral) agreements and for delegating representatives to social dialogue bodies of the corresponding level, trade unions and their associations, employers’ organisations and their associations are deemed to be representative ones if they:

- are legalised (registered) under law;



- are nation-wide trade unions whose members account for at least 3% of the workers engaged in the sector in question;

- are nation-wide associations of employers' organisations established on a sectoral basis, of which the member enterprises employ at least 5% of the workers engaged in the economic activity(-ies) in question.

According to the information obtained from the official website of NMRS, as of 31.01.2022, 68 all-Ukrainian (nation-wide) trade unions and 23 all-Ukrainian (nation-wide) associations of employers' organisations are representative at the sectoral level of the social dialogue. See the full list of those organisations on the official website of NMRS at: <https://nspp.gov.ua/reprezentativnist-storin-sotsialnogo-dialogu/reestr-storin-sotsialnogo-dialogu>.

Trade unions and their associations, employers' organisations and their associations that do not meet the representativeness criteria, upon a decision of their elected bodies may authorise representative organisations and associations of a corresponding level to represent their interests and submit their proposals to be considered by respective social dialogue bodies. Such proposals are to be mandatorily considered by the parties in determining their aligned position and in decision-making.

**64. At what levels are collective agreements signed mostly? Please supply information about the coverage rate by collective agreements.**

The legislation of Ukraine requires conclusion of the following collective agreements:

- framework agreement at the national level;
- sectoral (cross-sectoral) agreements at the sectoral level;
- territorial agreements at the territorial level;
- collective agreements at the local level (at enterprises, institutions, organisations).

Presently, the Framework Agreement on Regulation of the Key Principles and Rules of Implementation of the Socioeconomic Policy and Labour Relations in Ukraine for 2019–2021 is in force at the national level until a new one is concluded.

Also, the following agreements were concluded and registered:

- 95 sectoral and 2 cross-sectoral agreements;
- 25 territorial oblast-level agreements (2 in Sumy oblast);
- a number of territorial agreements of other levels were also concluded in each oblast.

According to the statistics provided by the State Statistics Service of Ukraine, as of 31.12.2021, a total of 43,154 collective agreements were concluded and registered all over Ukraine, covering 5,064.4 thousand persons or 70.2% of the registered number of regular workers.

**65. Does Ukraine support capacity building for social partners to help them improve their functioning and effectiveness? Please describe.**

According to Article 13 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”, the state recognises trade unions to be plenipotentiary representatives of workers

and defenders of their labour, socioeconomic rights and interests, cooperates with trade unions in exercising those rights, supports trade unions in establishing business partner relations with employers and their associations.

The state facilitates training of trade union staff, ensures, together with trade unions, that the staff increases their knowledge about the legal, economic and social protection of workers.

Also, according to Article 7 of the Law of Ukraine “On Employers’ Organisations, Their Associations, Rights and Guarantees of Their Operation”, the state guarantees the respect of rights and legitimate interests of employers’ organisations, associations of employers’ organisations, and ensures that those are exercised according to the procedure prescribed by law.

The state recognises the employers’ organisations and associations of employers’ organisations created under the Law by the plenipotentiary representatives of their members, defenders of their rights and legitimate interests, cooperates with employers’ organisations and associations of employers’ organisations in exercising their rights, facilitates establishing business partner relations with them.

At the national level, there is a discussion about the improvement of the legislation on the social dialogue to increase its efficiency.

The need to increase capacity of social partners has been recognised as one of the important factors of the dialogue development.

For that purpose, representatives of the parties work together in the framework of the Inclusive Labour Markets for Job Creation in Ukraine, a project of the International Labour Organization.

National and international experts conducted an analysis of the contemporary social dialogue practice, which helped identify a number of problems.

Three possible scenarios of modernisation of the social dialogue legislation were elaborated. Those scenarios were discussed during the events attended by representatives of trade unions and employers, civil society institutions, scientists, executive authorities, local self-government bodies, MPs of Ukraine.

The further work on the improvement of the social dialogue legislation will be performed by the specialists of the parties in the framework of the Tripartite Socioeconomic Council.

Presently, there is cooperation in reviewing the legislation on the regulation of labour relations under collective agreements, among other things in terms of empowerment of social partners.

**66. What are the rules governing the unionisation in the public sector and for civil servants? Please describe limitations if any.**

The relations arising in connection with the entry into civil service, serving of civil service and termination of civil service, are regulated by the Law of Ukraine “On Civil Service”. That Law defines the legal status of civil servant, which is a citizen of Ukraine who holds a civil service position in a public authority, other public body, its apparatus (secretariat) (hereinafter referred to as the public authority), receives salary from the state budget and exercises the powers established for this position that are directly related to the performance of tasks and functions of such public authority, as well as adheres to the civil service principles (Article 1 of the Law).

According to Article 7 of the Law, a civil servant has the right to membership in trade unions for the purpose of protection of his/her rights and interests. According to the said Law:

the internal service regulations are approved by the general meeting (conference) of civil servants of the public authority on the proposal of the head of civil service or his authorised body and elective body of primary trade union organisation (if applicable) on the basis of standard rules (Article 47);

bonuses for civil servants are established by the head of civil service according to the Regulation on paying bonuses approved by such head of civil service in the respective public authority and agreed on with the elective body of primary trade union organisation (if applicable) (Article 52);

for the purpose of performing urgent or unforeseen tasks, civil servants with no restrictions to their work under the Law, on the basis of the order (ordinance) of the head of civil service to be notified to the elective body of primary trade union organisation (if applicable) show up at work and work over the established working hours as well as during weekends, holidays, non-working days and night hours (Article 56).

The provisions of the labour legislation shall apply to civil servants in cases not regulated by this Law (Article 5).

According to Article 62 of the Law of Ukraine “On the National Police”, police bodies (establishments, institutions) may establish their own trade unions to protect labour, socioeconomic rights and interests of policemen in line with the requirements of the legislation. Restrictions in rights of trade unions of policemen compared to other trade unions is not acceptable.

According to Article 104 of the Law, to protect their rights and lawful interests, policemen may create professional associations and trade unions pursuant to the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”. Police trade unions exercise their powers taking into consideration the restrictions imposed on policemen by the Law. Police trade unions and their members are prohibited from organising strikes or participating in them.

According to the Law of Ukraine “On the State Criminal Law Enforcement Service of Ukraine”, rank and file and commanding officers as well as employees of a criminal law enforcement service may be members of civil society organisations of which the statutory provisions do not contradict the principles of activity of the State Criminal Law Enforcement Service of Ukraine, and may participate in their activity when off work (Article 15).

At the same time, a number of special laws provide for peculiarities of application of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”.

Thus, according to Article 17 of the Law of Ukraine “On the Armed Forces of Ukraine”, servicemen cease their membership in trade unions for the period of military service. Trade unions of workers who concluded an employment agreement with the Armed Forces of Ukraine operate pursuant to the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”.

According to Article 5 of the Law of Ukraine “On Social and Legal Protection of Military Personnel and Members of Their Families”, military men have the right to create their own public association in accordance with the legislation of Ukraine.

According to Article 6 of the Law of Ukraine “On the Security Service of Ukraine”, workers who concluded an employment agreement with the Security Service of Ukraine, may be members of trade unions.

According to Article 127 of CU, Article 54 of the Law of Ukraine “On the Judicial System and the Status of Judges”, a judge may have membership in a trade union. At the same time, to protect their rights and lawful interests, workers of the Judicial Security Service may create professional associations and trade unions pursuant to the Law of Ukraine “On Trade Unions, their Rights and Guarantees of Their Operation”. Trade unions of workers of the Judicial Security Service and members of their families are prohibited from organising strikes or attend them (Article 162<sup>-1</sup> of the Law).

According to Articles 131, 148, a member of the Supreme Council of Justice, a judge of the Constitutional Court of Ukraine may not have membership trade unions.

According to Article 11 of the Law of Ukraine “On the Constitutional Court of Ukraine”, a judge of the Constitutional Court of Ukraine may not belong to political parties or trade unions, or publicly demonstrate any signs of favouritism towards them.

At the same time, according to Article 5 of the Law of Ukraine “On Trade Unions, Their Rights and Guarantees of Their Operation”, membership or non-membership in trade unions does not result in any restrictions on labour, socioeconomic, political, personal rights and freedoms of citizens guaranteed by CU and other laws of Ukraine.

## **EMPLOYMENT POLICY AND ESF**

**67. Please describe the institutional framework for employment policies in Ukraine (main policy documents, main objectives of employment policies/strategies) and the administrative capacity (responsible Ministry and other bodies)**

The Laws of Ukraine "On Employment of Population" and “On the Compulsory State Social Unemployment Insurance” define the legal, economic, and organizational principles of implementation of the state policy in the employment sector, the state guarantees on protection of residents’ rights to work and on exercise of their rights to social protection against unemployment, as well as the financial and organisational principles of the compulsory state social unemployment insurance.

Article 15 of the Law of Ukraine “On Employment of Population” defines the principles and aim, as well as the key areas of state policy in the employment sector.

The state policy in the employment sector aims at:

- 1) ensuring equal opportunities for persons to exercise their right to work;
- 2) facilitating professional development of working-age population in compliance with social needs;
- 3) facilitating employment of population, including in rural areas and on depressed territories;
- 4) ensuring economy with professionals;
- 5) balancing the labour demand (creating the relevant number of jobs) and its supply (creating conditions for professional development and decent working conditions);

6) priority of ensuring full and productive freely chosen employment;

7) ensuring social protection of persons in case of unemployment;

8) strengthening social and legal protection of citizens of Ukraine working abroad, including through mainstreaming of international cooperation and conclusion of international agreements related to protection of migrants' labour rights. The key areas of state policy in the employment sector are the following:

1) to create conditions for economy development and to facilitate jobs creation;

2) to satisfy the demand on highly-skilled manpower in priority sectors of economy;

3) to foster motivation to formal and productive labour;

4) to enhance entrepreneurship initiatives and self-employment of population;

5) to improve system of occupational trainings with due regard for individual interests, needs of the economy, and the labour market;

6) to encourage professional development of employees of any enterprises, institutions, and organisations irrespective of their form of ownership, activity category, or economic management category;

7) to balance the demand and supply on volume and level of manpower skills on the labour market through the systematic forecasting of economic needs;

8) to facilitate employment of citizens;

9) to ensure shaping of equal opportunities for economic operators to implement infrastructure projects and targeted programs funded by state funds;

10) to coordinate and control over activities of economic operators that render intermediary services in employment;

11) to bring the unemployed back to productive labour;

12) international cooperation in the social protection sphere for citizens of Ukraine working abroad;

13) cooperation between executive authorities, local self-government bodies, employers, and trade unions to ensure full and productive freely chosen employment, in particular, through implementation of employment-targeting activities;

14) to ensure effective and targeted use of funds funnelled at implementation of the state policy in the employment sector;

15) to carry out activities that enhance employment of those citizens who are not competitive enough in the labour market;

16) to encourage employers maintaining existing and generating new jobs primarily for those citizens who are not competitive enough in the labour market;

17) to ensure cooperation between the central executive authority implementing the state policy in the sector of employment and labour migration, the economic operators rendering intermediary services in employment, as well as other employment intermediaries, institutions of social, professional, and labour rehabilitation of persons with disability and centres of social services for

youth;

18) to protect the internal labour market through regulation of expatriate employees' engagement.

The main authority in the system of central executive bodies on development and implementation of the state policy in the employment sector is the central executive body which ensures development of the state policy in the employment and labour migration sectors: that is MoE.

The state policy in the employment and labour migration sectors is implemented by the separate central executive body — the State Employment Service.

According to the Regulation on the SESU as approved by the Order of MoE No. 2663 of 16 December 2020 and registered with the Ministry of Justice of Ukraine on 28 December 2020 under No. 1305/35588, the Service is a centralized system of state institutions guided and coordinated by MoE.

The Service consists of the State Employment Centre, interregional and regional employment centres and their branches, the Institute of Personnel Trainings of the SESU of Ukraine, vocational (technical) training institutions of the State Employment Service, other training institutions of the State Employment Service, as well as of enterprises, institutions, and organisations established by the Service.

Functioning of the Service is funded from the Compulsory State Social Unemployment Insurance Trust Fund of Ukraine.

The CMU Order No. 1396-r of 24 December 2019 has approved the Key Areas of implementation of the state employment policy and boosting jobs creation up to 2022.

**68. Please describe the implementation of employment programmes and measures: legislative framework, responsible bodies, ways of financing, monitoring, follow-up etc.**

Local state administrations develop the territorial and local employment programs, which are further approved by the Council of Ministers of the Autonomous Republic of Crimea, regional councils, and the Kyiv and Sevastopol City Councils. These programs are aimed at implementing the key areas of state employment policy in regions and are part of the regional socio-economic development programs. Territorial and local employment programs define the key indicators of the labour market and measures aimed at balancing the labour demand and supply on territorial labour markets, as well as social protection of the unemployed and employment of citizens with additional employment guarantees.

For the purpose of implementation of the state employment policy, CMU draws up and approves key areas in implementation of the employment policy in the medium-term perspective. Targeting increase of the employment rate, these areas specify ways and means of solving employment problems and envisage measures to consolidate efforts of all parties to the social dialogue aimed at regulating processes on the labour market. A prerequisite for implementation of the Key Areas is to ensure the interconnection of employment and economic policies and improvement of cooperation between the parties to the social dialogue, central executive authorities, local executive bodies, and local self-government bodies.

CMU Order No. 1396-r of 24 December 2019 approved the Key Areas of implementation of the state employment policy and boosting jobs creation up to 2022. CMU Order No. 216-r of 3 March

2020 approved the Action Plan on implementation of the Key Areas of implementation of the state employment policy and boosting jobs creation up to 2022.

The Key Areas of implementation of the state employment policy are developed along with defining of their implementation mechanism based on the key forecasting parameters for socio-economic development of Ukraine and on the national, sectoral, and regional programs as regards their impact on the employment sector and development of labour potential.

Central executive authorities, which ensure development and implementation of the state policy in the employment and labour migration sectors, perform coordination and control over execution of the key areas of implementation of the state employment policy.

Ministries and other central executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, regional councils, the Kyiv and Sevastopol City Councils, and local self-government bodies bear responsibility for execution of the key areas of implementation of the state employment policy.

The Decree of the President of Ukraine No. 225 of 2 June 2021 has approved the Human Development Strategy. The Human Development Strategy defines goals and key objectives, which the state faces in the sphere of human development as a streamline to ensure Ukraine's national security, as well as goal achievement criteria; it allows to ensure monitoring, effective planning, and proper evaluation of social investment in the human potential. CMU Order No. 1617-r of 9 December 2021 has approved the Action Plan on implementation of the Human Development Strategy for 2021–2023. One of the strategic human development goals is to improve living standards, boost employment and ensure social support.

CMU Order No. 1364-r of 28 October 2021 has approved the Strategy of Integration of Internally Displaced Persons (IDPs) and Implementation of Long-Term Solutions for Internal Displacement until 2024 and the Operational Plan on the Strategy Implementation for 2021–2023. The Strategy focuses on improvement of the state policy in protection of the IDPs rights and on government implementation of all relevant and available measures to address the negative consequences of internal displacement resulting from the Russian Federation armed aggression against Ukraine. The IDPs Integration Strategy includes, inter alia, goals on the employment and education of internally displaced persons, as well as on the exercising of their right on social protection.

The Law of Ukraine “On Employment of Population” and bylaws adopted for its implementation also envisage the employment programs and activities.

The active employment programs include:

1. Compensation to an employer of the expenditures on the Unified Contribution for Compulsory State Social Insurance for the employment of registered unemployed persons on the newly created jobs.

- 1) The compensation to an employer (a legal entity) who gives employment on newly created jobs to the persons with additional employment guarantees (women on leave to care for a child (children) under 3 years of age, persons who have 10 years or less before retirement, persons released from institutions of confinement, and others) of actual expenditure in the amount of the Unified Contribution for Compulsory State Social Insurance (Article 26 of the Law of Ukraine “On Employment of Population”).

The compensation is paid during one year from the date of employment of such person subject to a 2-year employment retention.

Objective: to stimulate employers to create new job places and to employ the unemployed persons with additional employment guarantees.

2) The compensation to small business entities, which give employment to unemployed persons on newly created jobs in the priority economic sectors for no less than 2 years, of actual expenditure in the amount of the Unified Contribution for Compulsory State Social Insurance (Article 27(2) of the Law of Ukraine “On Employment of Population”).

The compensation is paid during one year from the date of employment of such person subject to a 2-year employment retention.

CMU has identified the list of priority economic sectors and approved it with the CMU Resolution No. 347 of 15 March 2013 (as amended by the CMU Resolution No. 437 of 10 September 2014). For example, cultivation of one-year or two-year crops (the code from the Classifier of Economic Activities (CEA): A 01.1), animal breeding (the CEA code: A 01.4), production of meat (the CEA code: C 10.11), steam, hot water, and air conditioning supply (the CEA code: D 35.3), etc.

Objective: to stimulate small business entities to create new job places in the priority economic sectors and to employ unemployed persons.

2. Compensation to an employer of part of the actual expenditure related to the Unified Contribution for Compulsory State Social Insurance.

The compensation to an employer who for 12 months ensures creation of jobs, employs persons on such created job places, and within this period pays monthly remuneration to such employees in the amount not less than 3 minimum subsistence wages for each person (Article 24(3) of the Law of Ukraine “On Employment of Population”).

The compensation is paid in the amount of 50 per cent of the accrued Unified Contribution for Compulsory State Social Insurance during the next 12 months provided that the wage level is retained.

Objective: to stimulate employers to create new job places with the remuneration not less than 3 minimum subsistence wages.

3. Implementation of measures on facilitation of the employment of internally displaced persons (Article 24<sup>1</sup> of the Law of Ukraine “On Employment of Population”).

1) The labour costs compensation to an employer is paid for the fixed-term employment of registered unemployed persons from among the internally displaced persons (hereinafter — the IDPs)

The compensation is paid during a period of not more than six calendar months (duration) provided that the IDPs job security retains for a period twice exceeding duration of payments.

The labour costs compensation to an employer is paid for every other month of work throughout a year.

2) The compensation of costs for retraining and professional development to an employer who employs the IDP registered unemployed persons.

3) The compensation to an IDP registered unemployed person of actual transportation costs on relocation to another administrative and territorial unit of their employment.



4) The compensation to an IDP registered unemployed person of costs on pre-employment physical examination and drug test under applicable law if required for employment purposes.

Objective: to strengthen social protection of IDPs and enhance employers' interest in such employments.

4. Partial unemployment benefit (Article 47 of the Law of Ukraine "On Employment of Population").

The partial unemployment benefit is a financial assistance to employers in the event of partial loss of remuneration by employees due to the interruption of (reduction in) production without the employment termination.

The assistance is provided on one of the three grounds:

- the interruption of (reduction in) production lasts not less than 3 months and does not exceed 6 months, affects not less than 20% of the number of those employees who have working time reduction on 30% or more;

- the interruption of (reduction in) production is forced, as all possible measures to prevent it have been exhausted, and it is confirmed by the agreed decision of an employer and a trade union body of the enterprise;

- the interruption of (reduction in) production is forced during the quarantine period imposed by CMU with a view to prevent spreading of especially dangerous infectious diseases.

Those employees are entitled to partial unemployment benefits who have an employment relationship with an employer, the Unified Social Contribution has been paid for them in the amount of not less than the minimum premium for the last 6 months, and their working time reduction constitutes 50% per month or more.

Payment of the partial unemployment benefit to employees is made by an enterprise from the first day of their working time reduction out of the funds of the Compulsory State Social Unemployment Insurance Fund of Ukraine within a period of such interruption of (reduction in) production, but no more than for 180 calendar days during a year.

Objective: to enhance employment retention in the event of a risk of the employees' dismissal, as well as to bring an enterprise out of the state of suspension of (reduction in) production and out of the financial support need in times of temporary difficulties.

5. Partial unemployment benefit during the quarantine period and/or emergency situation imposed by CMU (Article 47<sup>1</sup> of the Law of Ukraine "On Employment of Population").

The partial unemployment benefit during the quarantine period and/or emergency situation imposed by CMU is a financial assistance to the employers from among small and medium-sized business entities, including the individual entrepreneurs, to pay benefits to their employees in the event of partial remuneration loss by them, as well as to the individual entrepreneurs being insured persons in the event of their partial loss of income resulting from the forced working time reduction due to the interruption of (reduction in) activities because of measures taken as provided under the quarantine and/or emergency situation.

The assistance is provided to insured persons, in particular to employees having formalized employment relationship with their employer or to those individual entrepreneurs being insured persons and not receiving any benefit as an employee.

The size of assistance is defined and provided for each month from the mentioned period in proportion to the reduced working time of an employee or an individual entrepreneur being an insured person.

The size of assistance may not exceed the subsistence minimum for working-age persons established by the law.

Objective: to enhance employment retention in the event of a risk of the employees' dismissal, as well as to bring an enterprise out of the state of suspension of (reduction in) production and out of the financial support need in times of measures taken as provided under the quarantine and/or emergency situation.

6. Assistance to unemployed persons in starting a business through payment of a lump-sum unemployment benefit to arrange for entrepreneurship activities (Article 27 of the Law of Ukraine "On Employment of Population").

Career guidance for unemployed persons on entrepreneurship and self-employment and measures to engage into entrepreneurship those unemployed persons who are registered with employment centres, and would like to start a business if there is no suitable job for them:

- Provision of information and advisory services on entrepreneurship;
- Arrangement of professional identity tests;
- Vocational trainings in professions and specialties that provide the knowledge needed for doing a small business;
- Payment of a lump-sum unemployment benefit to arrange for entrepreneurship activities;
- Further support for first-time entrepreneurs;

Objective: to support and develop small and medium businesses, to enhance the creation of business initiatives by unemployed persons, and to facilitate the self-employment of population.

7. Partial unemployment benefit (Article 31 of the Law of Ukraine "On Employment of Population").

Public works are aimed at helping citizens with temporary employment and material support in the absence of permanent employment.

Funding of public works is done from the local budgets, employers, and from other legitimate sources.

If the registered unemployed persons are involved in public works, the arrangement of such works is funded from local budgets and/or from the Compulsory State Social Unemployment Insurance Fund.

According to the community-base employment programs and other relevant programs, local authorities make annual decisions on the arrangement of public works, define types of public works and employers to be involved in these works.

The law stipulates that public and other temporary works shall not exceed 180 calendar days. Along with that, a person's involvement in such work does not deprive them of the right to receive unemployment benefits.

Persons involved in public and other temporary works are subject to the state social security protection envisaged, inter alia, by the legislation on labour and employment of population, as well as are subject to the compulsory state social insurance.

The program is aimed at the registered unemployed persons; those persons who are registered as job seekers; the employees who lost part of their remuneration due to the forced reduction of up to 50% of the statutory required duration of labour time due to the interruption of (reduction in) production.

Objective: to boost motivation for work; to provide financial support to the registered unemployed persons and other categories;

8. Providing an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine (the CMU Resolution No. 331 “On Approval of the Procedure for providing an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine” of 20 March 2022).

The mechanism on provision of an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine has been introduced during the continuance of martial law in Ukraine declared by the Decree of the President of Ukraine No. 64/2022 “On Introduction of Martial Law in Ukraine” of 24 February 2022.

The right to receive costs compensation is granted to an employer for each employed person from among internally displaced persons under a fixed-term or open-term employment contract (agreement) or a gig contract, including secondary employment, who ensures employment of such a person with the rate of remuneration for the fully performed monthly (hourly) labour rate not lower than the amount of the minimum wage established by law.

Compensation is made on the monthly basis in the amount of UAH 6,500 for each employed person for whom an employer pays the Unified Contribution for Compulsory State Social Insurance for the duration of martial law and 30 calendar days following its repeal or cancellation.

Total duration of the costs compensation may not exceed two months from the date of employment.

Objective: to stimulate economic operators to employ internally displaced persons because of hostilities during the martial law time in Ukraine.

Strategies and programs are implemented through the development and approval by CMU of plans for their implementation. Contributors to the action plan periodically provide information on implementation of the action plans to the central executive authority designated as a prime contractor with further updates for CMU.

Sources of funding for action plans on the strategies and programs implementation include funds from the state and local budgets, as well as funds from other legitimate sources. SESU participates in the implementation of action plans in terms of promoting employment out of the funds of the Compulsory State Social Unemployment Insurance Fund of Ukraine.

## **69. How do labour market policy delivery systems function? What are the registration rates**

## **of the unemployed? What is the registration share of men and women?**

The Laws of Ukraine “On Employment of Population” and “On the Compulsory State Social Unemployment Insurance” define the legal, economic, and organizational principles of implementation of the state policy in the employment sector, the state guarantees on protection of residents’ rights to work and on exercise of their rights to social protection against unemployment, as well as the financial and organisational principles of the compulsory state social unemployment insurance.

The state policy in the employment sector aims at:

- 1) ensuring equal opportunities for persons to exercise their right to work;
- 2) facilitating professional development of working-age population in compliance with social needs;
- 3) facilitating employment of population, including in rural areas and on depressed territories;
- 4) ensuring economy with professionals;
- 5) balancing the labour demand (creating the relevant number of jobs) and its supply (creating conditions for professional development and decent working conditions);
- 6) priority of ensuring full and productive freely chosen employment;
- 7) ensuring social protection of persons in case of unemployment;
- 8) strengthening social and legal protection of citizens of Ukraine working abroad, including through mainstreaming of international cooperation and conclusion of international agreements related to protection of migrants’ labour rights (Article 15 of the Law of Ukraine “On Employment of Population”).

The main authority in the system of central executive bodies on development and implementation of the state policy in the employment sector is the central executive body which ensures development of the state policy in the employment and labour migration sectors: that is MoE.

The state policy in the employment and labour migration sectors is implemented by the separate central executive body — the State Employment Service.

According to the Regulation on the SESU as approved by the Order of MoE No. 2663 of 16 December 2020 and registered with the Ministry of Justice of Ukraine on 28 December 2020 under No. 1305/35588, the Service is a centralized system of state institutions guided and coordinated by MoE.

The Service consists of the State Employment Centre, interregional and regional employment centres and their branches, the Institute of Personnel Trainings of the SESU, vocational (technical) training institutions of the State Employment Service, other training institutions of the State Employment Service, as well as of enterprises, institutions, and organisations established by the Service.

Functioning of the Service is funded from the Compulsory State Social Unemployment Insurance Trust Fund of Ukraine.

In 2021, the SESU provided services to 1.2 million of the registered unemployed persons. It shows a reduction of 4% as compared to the relevant period of the previous year, in particular

670 thousand women (56%) and 521 thousand men (44%). 1.1 million of persons received had received unemployment benefits. It shows a reduction of 3% as compared to the relevant period of the previous year.

With the assistance of employment centres, 504 thousand people were employed, including 405 thousand registered unemployed persons, of which 204 thousand women (50%) and 201 thousand men (50%).

295 thousand people with the status of unemployed had been provided with services of the SESU as of 1 January 2022, 36% down against the same date a year earlier. 261 thousand people with the status of unemployed had been receiving unemployment benefits, 36% down against 1 January 2021.

Break-down by sex: in the total number of registered unemployed, men accounted for 125 thousand (or 42%), women — for 170 thousand (or 58%).

By age groups: 27% of the registered unemployed were under the age of 35; 29% aged from 35 to 44, 28% aged from 45 to 55, and 16% above 55 years old.

As of 1 January 2022, the number of job vacancies registered in the SESU was 41 thousand.

#### **70. What are the active labour market measures in place? What is the share of unemployed addressed by these measures? How is the active labour market policy funded and what is the expenditure allocated?**

The Law of Ukraine No. 5067 “On Employment of Population” of 5 July 2012 and bylaws adopted for its implementation envisage the employment programs and activities.

The active employment programs include:

1. Compensation to an employer of the expenditures on the Unified Contribution for Compulsory State Social Insurance for the employment of registered unemployed persons on the newly created jobs.

The compensation to an employer (a legal entity) who gives employment on newly created jobs to the persons with additional employment guarantees (women on leave to care for a child (children) under 3 years of age, persons who have 10 years or less before retirement, persons released from institutions of confinement, and others) of actual expenditure in the amount of the Unified Contribution for Compulsory State Social Insurance (Article 26 of the Law of Ukraine “On Employment of Population”).

The compensation is paid during one year from the date of employment of such person subject to a 2-year employment retention.

Aim:

- to stimulate employers to create new job places;
- to employ the unemployed persons with additional employment guarantees.

2. The compensation to small business entities, which give employment to unemployed persons on newly created jobs in the priority economic sectors for no less than 2 years, of actual expenditure

in the amount of the Unified Contribution for Compulsory State Social Insurance (Article 27(2) of the Law of Ukraine “On Employment of Population”).

The compensation is paid during one year from the date of employment of such person subject to a 2-year employment retention.

CMU has identified the list of priority economic sectors and approved it with the CMU Resolution No. 347 of 15 March 2013 (as amended by the CMU Resolution No. 437 of 10 September 2014). For example, cultivation of one-year or two-year crops (the code from the Classifier of Economic Activities (CEA): A 01.1), animal breeding (the CEA code: A 01.4), production of meat (the CEA code: C 10.11), steam, hot water, and air conditioning supply (the CEA code: D 35.3), etc.

Aim:

- to stimulate small business entities to create new job places in the priority economic sectors;
- to employ unemployed persons.

During 2021, 5.8 thousand people (1.3 thousand people who are not competitive enough in the labour market and 4.5 thousand people employed by small businesses in the priority economic sectors) were employed on newly created job places with reimbursement to employers of the expenditure in the amount of the Unified Contribution for Compulsory State Social Insurance.

3. Compensation to an employer of part of the actual expenditure related to the Unified Contribution for Compulsory State Social Insurance.

The compensation to an employer who for 12 months ensures creation of jobs, employs persons on such created job places, and within this period pays monthly remuneration to such employees in the amount not less than 3 minimum subsistence wages for each person (Article 24(3) of the Law of Ukraine “On Employment of Population”).

The compensation is paid in the amount of 50 per cent of the accrued Unified Contribution for Compulsory State Social Insurance during the next 12 months provided that the wage level is retained.

Objective: to stimulate employers to create new job places with the remuneration not less than 3 minimum subsistence wages.

4. Implementation of measures on facilitation of the employment of internally displaced persons (Article 24<sup>1</sup> of the Law of Ukraine “On Employment of Population”).

4.1 The labour costs compensation to an employer is paid for the fixed-term employment of registered unemployed persons from among the internally displaced persons (hereinafter — the IDPs).

The compensation is paid during a period of not more than six calendar months (duration) provided that the IDPs job security retains for a period twice exceeding duration of payments.

The labour costs compensation to an employer is paid for every other month of work throughout a year.

During 2021, 251 IDPs had been employed along with the compensation of labour costs to employers.

4.2 The compensation of costs for retraining and professional development to an employer who employs the IDP registered unemployed persons.

The compensation of costs for retraining and professional development to an employer who employs the IDP registered unemployed persons for no less than 12 months. The amount of compensation is up to the tenfold amount of a minimum subsistence wage for working-age persons (UAH 24,810 for now).

4.3 The compensation to an IDP registered unemployed person of actual transportation costs on relocation to another administrative and territorial unit of their employment.

4.4 The compensation to an IDP registered unemployed person of costs on pre-employment physical examination and drug test under applicable law if required for employment purposes.

Objective: to strengthen social protection of IDPs and enhance employers' interest in such employments.

5. The partial unemployment benefit (Article 47 of the Law of Ukraine "On Employment of Population").

The partial unemployment benefit is a financial assistance to employers in the event of partial loss of remuneration by employees due to the interruption of (reduction in) production without the employment termination.

The assistance is provided on one of the three grounds:

- the interruption of (reduction in) production lasts not less than 3 months and does not exceed 6 months, affects not less than 20% of the number of those employees who have working time reduction on 30% or more;
- the interruption of (reduction in) production is forced, as all possible measures to prevent it have been exhausted, and it is confirmed by the agreed decision of an employer and a trade union body of the enterprise;
- the interruption of (reduction in) production is forced during the quarantine period imposed by CMU with a view to prevent spreading of especially dangerous infectious diseases.

Those employees are entitled to partial unemployment benefits who have an employment relationship with an employer, the Unified Social Contribution has been paid for them in the amount of not less than the minimum premium for the last 6 months, and their working time reduction constitutes 50% per month or more.

Payment of the partial unemployment benefits to employees is made by an enterprise from the first day of their working time reduction out of the funds of the Compulsory State Social Unemployment Insurance Fund of Ukraine within a period of such interruption of (reduction in) production, but no more than for 180 calendar days during a year.

Objective: to enhance employment retention in the event of a risk of the employees' dismissal, as well as to bring an enterprise out of the state of suspension of (reduction in) production and out of the financial support need in times of temporary difficulties.

284 enterprises, which suspended (reduced) production almost in all regions, have accessed to the partial unemployment assistance for 2021.

Almost 20 thousand employees received financial aid in the amount of about UAH 91 million.

In terms of geography segmentation, beneficiaries of the aid are located in all regions of Ukraine. The employers engaged in light and heavy industry, instrument-making industry,

manufacturing of machinery and equipment, clothing, furniture, construction products and plastics, food industry, and so on have accessed this program.

6. The partial unemployment benefit during the quarantine period and/or emergency situation imposed by CMU (Article 47<sup>1</sup> of the Law of Ukraine “On Employment of Population”).

The partial unemployment benefit during the quarantine period and/or emergency situation imposed by CMU is a financial assistance to the employers from among small and medium-sized business entities, including the individual entrepreneurs, to pay benefits to their employees in the event of partial remuneration loss by them, as well as to the individual entrepreneurs being insured persons in the event of their partial loss of income resulting from the forced working time reduction due to the interruption of (reduction in) activities because of measures taken as provided under the quarantine and/or emergency situation.

The assistance is provided to insured persons, in particular to employees having formalized employment relationship with their employer or to those individual entrepreneurs being insured persons and not receiving any benefit as an employee.

The size of assistance is defined and provided for each month from the mentioned period in proportion to the reduced working time of an employee or an individual entrepreneur being an insured person.

The size of assistance may not exceed the subsistence minimum for working-age persons established by the law.

Objective: to enhance employment retention in the event of a risk of the employees’ dismissal, as well as to bring an enterprise out of the state of suspension of (reduction in) production and out of the financial support need in times of measures taken as provided under the quarantine and/or emergency situation.

In 2020, UAH 2,779.9 million were allocated to fund partial unemployment benefits during the quarantine period for more than 369,000 employees.

The employers engaged in urban and suburban passenger services and land transportation services, hotel businesses, manufacturing of light industrial products, furniture, construction products and plastics, and so on have been accessing this program.

According to the CMU Resolution No. 979 of 15 September 2021, funds in the amount of UAH 459.5 million from the state budget were allocated for the SESU to pay partial unemployment benefits for the period of quarantine. It allowed to pay partial unemployment benefits in the amount of UAH 393,332,266.94 to 39,633 persons under 9,984 business entities for the period of quarantine as per decisions made in 2020.

7. Assistance to unemployed persons in starting their business through payment of a lump-sum unemployment benefit to arrange for entrepreneurship activities (Article 27 of the Law of Ukraine "On Employment of Population").

Career guidance for unemployed persons on entrepreneurship and self-employment and measures to engage into entrepreneurship those unemployed persons who are registered with employment centres, and would like to start a business if there is no suitable job for them:

- Provision of information and advisory services on entrepreneurship;
- Arrangement of professional identity tests;



- Vocational trainings in professions and specialties that provide the knowledge needed for doing a small business;
- Payment of a lump-sum unemployment benefit to arrange for entrepreneurship activities;
- Further support for first-time entrepreneurs;

Objective: to support and develop small and medium businesses, to enhance the creation of business initiatives by unemployed persons, and to facilitate the self-employment of population.

During the 12 months of 2021, 293 unemployed persons started their own business by receiving lump-sum unemployment benefits for a business start-up, of which 46.8% (137 persons) women and 39.2% (115 persons) persons with additional employment guarantees.

8. Partial unemployment benefit (Article 31 of the Law of Ukraine “On Employment of Population”).

Public works are aimed at helping citizens with temporary employment and material support in the absence of permanent employment.

Funding of public works is done from the local budgets, employers, and from other legitimate sources.

If the registered unemployed persons are involved in public works, the arrangement of such works is funded from local budgets and/or from the Compulsory State Social Unemployment Insurance Fund.

According to the community-base employment programs and other relevant programs, local authorities make annual decisions on the arrangement of public works, define types of public works and employers to be involved in these works.

The law stipulates that public and other temporary works shall not exceed 180 calendar days. Along with that, a person's involvement in such work does not deprive them of the right to receive unemployment benefits.

Persons being involved in public and other temporary works are entitled to the state social guarantees stipulated, in particular, by legislation on labour, employment of population, and compulsory state social insurance.

This program targets:

- registered unemployed persons;
- persons who are registered as job seekers;
- employees who lost part of their remuneration due to the forced reduction of up to 50% of the statutory required duration of labour time due to the interruption of (reduction in) production.

Objective: to boost motivation for work; to provide financial support to the registered unemployed persons and other categories;

During 2021, 48,443 persons, including 46.7 thousand persons among the registered unemployed, were involved in public and other temporary works.

During 2021, UAH 92.6 million were spent on public works arrangements. Of this amount, local budgets funded UAH 75.0 million, that is 80.1% of the total amount of funds spent on public works

arrangements; the Fund — UAH 17.5 million or 18.9% of all funds used for public works arrangements; enterprises, organisations, and institutions — UAH 11.0 thousand.

Average timeframe (duration) of the public works for unemployed persons is 15 days with the lowest figures in Kyiv — 6 days. The highest figures are in the Sumy region: 25 days.

In 2021, the SESU provided services to 1.2 million of the registered unemployed persons. With the assistance of employment centres, 405 thousand registered unemployed persons were employed, including 5.8 thousand unemployed were employed on newly created job places with reimbursement to employers of the expenditure in the amount of the Unified Contribution for Compulsory State Social Insurance, and 293 unemployed persons started their own business by receiving lump-sum unemployment benefits for a business start-up. Moreover, with the assistance of the State Employment Service, 99 thousand persons without the unemployment status gained employment.

88 thousand unemployed passed vocational trainings in 2021. 64.7 thousand unemployed were engaged in public and other temporary works.

During 2021, the SESU had been providing services to 15.9 thousand internally displaced persons, including 12.3 thousand persons with the unemployment status.

The SESU contributed to employment of 3.9 thousand persons from among the IDPs. In particular, 251 person got employment along with the labour costs compensation to employers.

Activities set up by the dynamic employment policy are funded from the Compulsory State Social Unemployment Insurance Fund, from the state budget while implementing state budget programs, and from other legitimate sources (local budgets, employers' funds).

9. Providing an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine (the CMU Resolution No. 331 “On Approval of the Procedure for providing an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine” of 20 March 2022).

The mechanism on provision of an employer with the labour costs compensation for employment of internally displaced persons as a result of hostilities during the martial law time in Ukraine has been introduced during the continuance of martial law in Ukraine declared by the Decree of the President of Ukraine No. 64/2022 “On Introduction of Martial Law in Ukraine” of 24 February 2022.

The right to receive costs compensation is granted to an employer for each employed person from among internally displaced persons under a fixed-term or open-term employment contract (agreement) or a gig contract, including secondary employment, who ensures employment of such a person with the rate of remuneration for the fully performed monthly (hourly) labour rate not lower than the amount of the minimum wage established by law.

Compensation is made on the monthly basis in the amount of UAH 6,500 for each employed person for whom an employer pays the Unified Contribution for Compulsory State Social Insurance for the duration of martial law and 30 calendar days following its repeal or cancellation.

Total duration of the costs compensation may not exceed two months from the date of employment.

Objective: to stimulate economic operators to employ internally displaced persons because of hostilities during the martial law time in Ukraine.

Strategies and programs are implemented through the development and approval by CMU of plans for their implementation. Contributors to the action plan periodically provide information on implementation of the action plans to the central executive authority designated as a prime contractor with further updates for CMU.

Sources of funding for action plans on the strategies and programs implementation include funds from the state and local budgets, as well as funds from other legitimate sources. The SESU participates in the implementation of action plans in terms of promoting employment out of the funds of the Compulsory State Social Unemployment Insurance Fund of Ukraine.

According to Article 16 of the Law of Ukraine “On Compulsory State Social Unemployment Insurance”, the Fund’s budget funds are used:

- 1) To pay allowances and to provide social services stipulated by Article 7 of the Law, as well as to fund activities stipulated by Article 7<sup>1</sup> of the Law;
- 2) To carry out activities according to the Law of Ukraine “On Employment of Population”;
- 3) To reimburse to the Pension Fund of Ukraine the costs related to early retirement of the persons defined in Article 20(2) of the Law;
- 4) To fund the costs of maintaining and ensuring activities of the central executive authority that implements state policy in the employment and labour migration sectors and local offices, enterprises, institutions, and organizations working under its auspices, as well as the costs of financial security and social and welfare benefits of its employees; to arrange work of the Fund’s Board, to ensure development and functioning of the Unified Information and Analytical System of the central executive authority, which implements the state policy in the employment and labour migration sectors;
- 5) To create funds reserve in the Fund.

#### **71. Is there a Social Fund equivalent or similar to the European Social Fund (ESF)/ European Social Fund+ (ESF+)?**

The Compulsory State Social Unemployment Insurance Fund was established for the purposes of unemployment insurance management, insurance premium accumulation, funds use monitoring, allowance payment, and social services provision.

#### **72. What is the administrative capacity for dealing with such a funding instrument?**

The Fund is a centralized insurance trust fund and a non-profit self-governing organisation. The Fund's funds are not included in the State Budget of Ukraine.

The Fund is managed on a parity basis by the state, representatives of insured persons, and representatives of employers.

The Fund is managed by the Fund's Management Board. The Fund's Management Board consists of 5 representatives from the state, insured persons, and employers who perform their duties pro bono.

The SESU performs the functions of the Executive Directorate of the Fund.

The Fund's budget funds are used to pay allowances and provide social services to the registered unemployed, to carry out activities in accordance with the Law of Ukraine "On Employment of Population" (compensation to employers for the employment of the certain categories of unemployed, vocational training for unemployed, support to start up a business, public works funding, etc.), and to maintain functioning of the Employment Service.

### **73. Ministries, administrations involved;**

According to the Law of Ukraine "On Employment of Population", ministries and other central executive authorities, local state administrations, and local self-government bodies ensure implementation of the state employment policy within their mandates.

According to the Regulation on MoE approved by the CMU Resolution

No. 459 (as amended) of 20 August 2014, to fulfil the assigned tasks, MoE is entitled, in particular: to bring expertise under the established procedures from executive authorities and bodies, enterprises, institutions and organizations (upon agreement with the senior executives), scientists, representatives of civil society institutions (subject to their consent) to consider issues falling within its remit; to convene meetings, establish commissions and working groups, hold academic conferences, workshops, and other public events on topics falling within its remit.

### **74. Inter-ministerial co-ordination;**

According to the Law of Ukraine "On Employment of Population", the main authority in the system of central executive bodies on development and implementation of the state policy in the employment sector is MoE.

CMU Order No. 1396-r of 24 December 2019 has approved the Key Areas of implementation of the state employment policy and boosting jobs creation up to 2022 (hereinafter — the Key Areas), and CMU Order No. 216-r of 3 March 2020 has approved the Action Plan on implementation of these Key Areas.

The Key Areas constitute a comprehensive document that covers the whole range of acute employment problems and formulates strategic vision on directions of the country's social and economic development.

Executives in charge are appointed from among the ministries, other central executive authorities, regional and Kyiv city state administrations, to carry out each task envisaged by the Action Plan on implementation of the Key Areas.

MoE monitors and controls implementation of the Key Areas.

### **75. Vocational education and training systems;**

In order to increase competitiveness of registered unemployed on the labour market and to enhance gaining and improvement of professional knowledge, skills, and abilities, employment centres organise vocational trainings for the registered unemployed persons.

According to Article 35 of the Law of Ukraine “On Employment of Population”, vocational trainings for the registered unemployed persons are funded from the Compulsory State Social Unemployment Insurance Fund.

Employment centres organise vocational trainings for the registered unemployed persons on demand of employers and trainings on self-employment and on doing business taking into account views of the unemployed. Professional (vocational) institutions, including vocational education and training centres under auspices of the State Employment Service, professional higher and higher education facilities, as well as at enterprises, institutions, and organisations irrespective of ownership, type of activity, or management provide vocational trainings for unemployed.

The SESU System of includes 11 vocational education and training centres functioning under auspices of SESU in the Donetsk, Dnipropetrovsk, Ivano-Frankivsk, Luhansk, Lviv, Odesa, Poltava, Rivne, Symu, Kharkiv, and Kherson regions. Centres of professional (vocational) education and training ensure apprenticeships for adult population by 95 licensed vocational professions and 250 professional development areas, including by partial qualification.

According to Article 7(2) of the Law of Ukraine “On Compulsory State Social Unemployment Insurance”, if necessary, a person subject to occupational training, retraining, or advanced training is:

- to be referred to health care facilities for pre-employment physical examination and drug test under applicable law;
- to be provided with accommodation for the period of vocational training, retraining, or advanced training and to be reimbursed with travel expenses to the place of study and back in the manner prescribed by the central executive authority, which ensures development of the state policy on labour, labour relations, and employment, as agreed with the Management Board of the Compulsory State Social Unemployment Insurance Fund of Ukraine.

The Procedure on vocational training, retraining, or advanced training for registered unemployed persons is approved by the Order of the MSPU and Ministry of Education and Science of Ukraine No. 318/655 of 31 May 2013 and registered with the Ministry of Justice of Ukraine under No. 1029/23561 of 19 June 2015.

In order to support labour market competitiveness of certain categories of citizens, the Law of Ukraine “On Employment of Population”(Article 30) sets out voucher education programs by economically prioritised professions.

The following categories are entitled to a one-off voucher:

1) Persons over 45 years of age with a qualifying period of at least 15 years and before reaching the retirement age established by Article 26 of the Law of Ukraine "On Compulsory State Pension Insurance";

2) Persons discharged from military service, internal affairs bodies, the State Service of Special Communication and Information Protection of Ukraine, civil defence bodies and units, tax police, or the Bureau of Economic Security of Ukraine or State Criminal Enforcement Service of Ukraine due to reduction in force or in staff, or on health grounds before they reach the retirement age defined by

Article 26 of the Law of Ukraine “On Compulsory State Pension Insurance” with at least a 10-year length of service, which have not acquired a right to pension according to the Law of Ukraine “On Pensions of Persons Released from Military Service and Certain Other Persons”;

3) Persons discharged from military service after participation in the Anti-terrorist Operation, implementing measures for national security and defence, suppression and deterrence of armed aggression of the Russian Federation in Donetsk and Luhansk regions before they reach the retirement age defined by Article 26 of the Law of Ukraine “On Compulsory State Pension Insurance” and subject to their application within 3 years of the day of their dismissal;

4) internally displaced persons of working age if there is no suitable job for them.

A voucher gives grounds to carry out: retraining by a vocational profession; specialty trainings for a master's degree on the basis of a bachelor's or master's degree obtained in another specialty; trainings at the next levels of education (except tertiary education (research and education/ art and education) and doctoral level of higher education); specialization and advanced training by professions and specialties within priority economic sectors.

A voucher is paid out of the funds of the Compulsory State Social Unemployment Insurance Fund.

The Procedure on vouchers issue to support labour market competitiveness of individuals is approved by the CMU Resolution No. 207 of 20 March 2013.

## **76. Public employment services;**

In accordance with Article 21 of the Law of Ukraine “On Employment of Population”, activities of the central executive authority that implements state policy in the employment and labour migration sectors is guided and coordinated by the Minister — the head of the central executive authority that ensures development of the state policy in the employment and labour migration sectors.

According to the Regulation on SESU approved by the Order of the Ministry for Development of Economy, Trade, and Agriculture of Ukraine No. 2663 of 16 December 2020, the SESU is a centralized system of public institutions, whose activities are guided and coordinated by MoE.

## **77. Participation of other authorities/partners (partnership)?**

The SESU cooperates with international donors and implements the following joint projects:

- “Support Economic Prosperity for Women and Internally Displaced Persons in Ukraine” (SEW Ukraine) is a 5-year (2020-2025) initiative of the Government of Canada aimed at the support of vulnerable and socially unprotected categories of women, and those women in difficult straits, including internally displaced persons (IDPs) through fostering their employment and entrepreneurship development in the light industry sector. The project is implemented by the Co-operative Development Foundation of Canada (CDF Canada) in partnership with the All-Ukrainian Charity Foundation “Gorenie” and with the support of the Government of Canada through the Global Affairs Canada. The project is implemented in the Kharkiv, Dnipropetrovsk, and Kyiv regions.

The SEW Ukraine project supports women with trainings in the basics of business development and engages them in further comprehensive follow-up, which includes law and legal assistance, advising on business planning, development of marketing strategies, etc.

- “Vocational integration of internally displaced persons” Project implemented by “Z Generation”, CO (“Pokolinnia “ZED”) with the support of the German Development Cooperation Agency (GIZ GmbH): regional employment centres arrange vocational trainings for registered unemployed under the “2.0 Farmer School” program. In 2021, 55 educational programs on basics of farm production were developed, and vocational trainings were arranged for 1042 individuals in 33 fields (“Drip irrigation as an innovative method of growing berry crops”, “Growing flowers. Decorative and applied design, floristic technologies and types of floristic works”, “Green rural tourism“, “Farming: a school of successful farmers”, etc.).

- educational programs on partial qualifications in the field of energy efficiency were introduced with the support of the German Development Cooperation Agency (GIZ GmbH) and active engagement of employers in the Lviv, Rivne, Odesa, and Kharkiv Vocational Education Centres of the SESU in 2021.

- Entrepreneurship Training for Youth in Ukraine” ILO Project with financial support of the Government of the Czech Republic. 41 trainers from among the specialists of the SESU were trained, of which 39 people completed their trainings and conducted 21 trainings for 270 young persons under the “Biz-Up: Self-employment skills for young people” training program.

## **SOCIAL INCLUSION**

### **A. Evaluation of current data situation and structures**

**78. What are the main challenges in Ukraine related to poverty and social exclusion? Can you identify vulnerable groups most affected by poverty and social exclusion and present data/estimates about their size (e.g., persons with disabilities, children and young people, women, single-parent households, long-term unemployed, persons in informal sector/subsistence agriculture, the elderly) and describe reasons underlying their vulnerability?**

To oversee the poverty problem-solving process, MSPU constantly monitors this process in accordance with the Methodology on Comprehensive Poverty Assessment (approved by the Order of MSPU, MoE, Ministry of Finance, State Statistics Service and National Academy of Sciences of Ukraine No. 827/403/507/113/232 of 18 May 2017 and registered with the Ministry of Justice under No. 728/30596 of 12 June 2017).

In EU countries, indicators on poverty and social exclusion are formulated based on findings of the EU-SILC (European Union Statistics on Income and Living Conditions) sample survey (hereinafter — EU-SILC survey). The mentioned survey is not conducted in Ukraine. According to the State Statistics Development Program up to 2023 approved by the CMU Resolution No. 222 of 27 February 2019, it is planned to conduct a pilot EU-SILC survey in 2023 aiming to introduce this statistical survey in Ukraine. Preparations are under way for arrangement and implementation of the EU-SILC survey.

Poverty indicators are quarterly monitored based on the data from a Household Statistics Survey conducted by the State Statistics Committee of Ukraine.

According to data for 9 months of 2021 (the latest available data as of April 2022) there was a positive trend in reducing poverty indicators by absolute criteria. In particular, the poverty level by income below the actual cost of living dropped down from 25.4% in 2020 to 22.3% in 2021.

The most vulnerable social and demographic groups of population include persons older than 75 years, retirement-age persons at large, and children up to 17 years old; roughly one third of them fall within the poverty category. By the absolute criterion (in terms of income), the poverty level is 31.6%, 34.0%, and 26.0%, respectively. Women are more vulnerable among persons older than 75 years, and their poverty level reaches 34.8% against 24.3% of men by absolute criteria.

By the absolute criterion (in terms of income), the poverty level is 27.4% among persons aged 16–19 years. Notably, among women this indicator reaches 24.4% against 30.2% among men.

For employed persons, the poverty level is 12.4% with 11.4% among women and 13.3% among men.

In households with children and with at least one unemployed, the poverty level is 57.5%; in single-parent households with children, it is 31.0%; and in households without children and with one unemployed person, it is 47%.

In 2020, deterioration of the economic situation due to the COVID-19 pandemic resulted in increase in the share of those households which were spending on groceries more than 60% of their aggregate expenditures: from 27.7% in 2019 to 29.0% in 2020.

In 2020, the share of people who failed to receive medical care or purchase medicines when needed decreased from 24.4% in 2019 to 19.2% in 2020.

The level increase of the social services coverage for target groups contributed to the reduction of risks of their social exclusion. The share of children out of family care settings among children with the orphaned-child status or deprived of parental care was 15.2% in 2020 against 16.1% in 2019 indicating a generally positive trend. The share of single elderly people who received services in the local social services centres remains high and has a positive trend: 97.2% in 2020 against 96.0% in 2019.

The Law of Ukraine No. 2671 “On Social Services” of 17 January 2019 defines basic organisational and legal principles on the social services provision to the individuals/families in difficult life circumstances aimed at preventing such circumstances and overcoming their negative consequences. Difficult life circumstances are the circumstances that harm individual’s life, state of health, and growth, as well as family functioning, and which a person fails to overcome.

Factors that may cause difficult life circumstances include, in particular, the person’s advanced age, partial or total loss of motion activity or memory, incurable diseases, diseases requiring long-term treatment, mental and behavioural disorders, including those due to the use of psychoactive substances, disability, homelessness, unemployment, and low income.

#### *On long-term unemployed persons*

Tables 3-4 provide recent data on long-term unemployment in Ukraine.



**Table 3. Number of the long-term unemployed persons (thousand persons) in 2020-2021**

| Indicator  | 2020    | 2021    | Value change           |                              |
|--|---------|---------|------------------------|------------------------------|
|  |         |         | %                      | + (-)<br>thousand<br>persons |
| Number of persons with the unemployed status, thousand persons | 1,247.2 | 1,191.0 | 95.5                   | -56.2                        |
| Number of long-term unemployed persons, thousand persons       | 62.4    | 53.9    | 86.4                   | -8.5                         |
| Share of long-term unemployed persons, %                       | 5.0     | 4.5     | - 0.5 percentage point |                              |

*Source: State Employment Centre*

**Table 4. Long-term unemployment rate (based on the IOM methodology)**

| Unemployment of population aged 15–70 (based on the IOM methodology) by gender |      |      |      |
|--|------|------|------|
| Ukraine  | 2019 | 2020 | 2021 |
| Long-term unemployment share (% of the total number of unemployed persons)     | 12.6 | 20.6 | 24.4 |
| Long-term unemployment share of women, %                                       | 12.7 | 21.0 | 24.4 |
| Long-term unemployment share of men, %   | 12.6 | 20.3 | 24.5 |
| Long-term unemployment rate (% of the labour force)                            | 1.0  | 2.0  | 2.4  |
| Long-term unemployment rate of women (% of the labour force)                   | 1.0  | 1.9  | 2.5  |
| Long-term unemployment rate of men (% of the labour force)                     | 1.1  | 2.0  | 2.3  |

*Note: the data are based on labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and temporarily occupied territories in Donetsk and Luhansk oblasts.*

**Table 5. The level of material deprivation among the population living in private households (in percents)**

|  | <b>3 or more signs<br/>(material deprivation)</b> | <b>4 or more signs (deep<br/>material deprivation)</b> |
|--|---|--|
| All persons living in households                 | 28.7  | 17.6   |
| including those who live                         |   |  |
| in urban areas                                   | 24.2  | 13.8   |
| in rural areas                                   | 37.7  | 25.2   |
| Reference:                                       |   |  |
| persons living in households with young families | 25.4  | 16.0   |
| All persons living in households                 | 28.7  | 17.6   |
| including  |   |  |
| children aged                                    |   |  |
| up to 3 years                                    | 29.2  | 17.7   |
| 3–6 years  | 25.8  | 17.1   |
| 7–13 years                                       | 24.5  | 13.0   |
| teenagers  |   |  |
| boys 14–15 years                                 | 28.9  | 16.8   |
| girls 14–15 years                                | 27.2  | 18.0   |
| boys 16–17 years                                 | 29.2  | 20.0   |
| girls 16–17 years                                | 32.5  | 23.3   |
| men aged 18 years and older                      | 27.7  | 17.3   |
| including  |   |  |

|  |      |      |
|--|------|------|
| 18–29 years                            | 30.8 | 20.5 |
| 30–59 years                            | 26.1 | 16.0 |
| 60 years and older                     | 29.6 | 18.3 |
| women aged 18 years and older          | 30.2 | 18.5 |
| including                              |      |      |
| 18–29 years                            | 26.8 | 15.7 |
| 30–59 years                            | 26.3 | 16.0 |
| 60 years and older                     | 37.5 | 23.6 |
| All persons living in urban households | 24.2 | 13.8 |
| including                              |      |      |
| children aged                          |      |      |
| up to 3 years                          | 25.1 | 15.5 |
| 3–6 years                              | 22.5 | 13.7 |
| 7–13 years                             | 21.8 | 9.9  |
| teenagers                              |      |      |
| boys 14–15 years                       | 14.4 | 5.9  |
| girls 14–15 years                      | 15.2 | 8.7  |
| boys 16–17 years                       | 27.8 | 18.4 |
| girls 16–17 years                      | 25.0 | 18.0 |
| men aged 18 years and older            | 22.6 | 13.2 |
| including                              |      |      |
| 18–29 years                            | 25.1 | 16.1 |

|  |      |      |
|--|------|------|
| 30–59 years                            | 20.6 | 11.6 |
| 60 years and older                     | 25.7 | 14.9 |
| women aged 18 years and older          | 26.2 | 15.2 |
| including                              |      |      |
| 18–29 years                            | 22.3 | 12.8 |
| 30–59 years                            | 22.3 | 12.2 |
| 60 years and older                     | 33.8 | 20.7 |
| All persons living in rural households | 37.7 | 25.2 |
| including                              |      |      |
| children aged                          |      |      |
| up to 3 years                          | 38.4 | 23.0 |
| 3–6 years                              | 37.0 | 28.6 |
| 7–13 years                             | 31.2 | 20.8 |
| teenagers                              |      |      |
| boys 14–15 years                       | 51.9 | 34.0 |
| girls 14–15 years                      | 40.4 | 28.3 |
| boys 16–17 years                       | 31.4 | 22.3 |
| girls 16–17 years                      | 47.0 | 33.5 |
| men aged 18 years and older            | 37.6 | 25.2 |
| including                              |      |      |
| 18–29 years                            | 43.7 | 30.7 |
| 30–59 years                            | 36.5 | 24.3 |

|  |      |      |
|--|------|------|
| 60 years and older   | 36.8 | 24.5 |
| women aged 18 years and older  | 38.2 | 25.3 |
| including  |      |      |
| 18–29 years  | 37.9 | 22.8 |
| 30–59 years  | 34.1 | 23.3 |
| 60 years and older   | 44.3 | 28.8 |
| All persons living in households with children                                     | 25.8 | 15.8 |
| including the number of children   |      |      |
| one  | 24.1 | 14.6 |
| two  | 30.4 | 18.5 |
| three or more  | 30.5 | 22.3 |
| All persons living in households with children                                     | 25.8 | 15.8 |
| including the number of adults   |      |      |
| one  | 48.4 | 23.9 |
| two  | 20.9 | 12.4 |
| three or more  | 29.3 | 19.1 |
| All persons living in households with children who do not have one or both parents | 38.4 | 21.9 |
| including the number of children in their composition                              |      |      |
| one  | 37.1 | 19.2 |

|  |      |      |
|--|------|------|
| two  | 45.2 | 39.0 |
| three or more  | 64.0 | 47.9 |
| All persons living in households with children who do not have one or both parents   | 38.4 | 21.9 |
| including the number of adults in their composition  |      |      |
| one  | 48.4 | 25.5 |
| two  | 41.9 | 27.5 |
| three or more  | 31.6 | 16.4 |
| <i>Note: the table is prepared based on the results of a survey of living conditions of households in October 2021 conducted by the State Statistics Service</i> |      |      |

**79. Is there any policy document in place to address poverty and social exclusion in Ukraine, including the above individual vulnerable groups? Could you outline main measures and financial allocations?**

In Ukraine, implementation of systematic measures to address poverty is constantly ensured, and ongoing monitoring of poverty indicators based on surveys of household living conditions has been introduced.

The Poverty Reduction Strategy 2016–2020 was approved by CMU Order No. 161-r of 16 March 2016 to target the poverty problem.

To further implement the tasks aimed at improving the citizens' welfare in 2021, the Human Development Strategy was approved by the Decree of the President of Ukraine No. 225 of 2 June 2021. This strategy defines strategic goals and objectives in the fields of demographic development, health care, education, science, culture and sports, ensuring equality of women and men for their empowerment.

This Strategy also envisages a package of tasks aimed at improving living standards, boosting employment, and ensuring social support, which will further help to reduce poverty indicators. Specifically, the following key objectives are identified: to increase wages, to employ the unemployed, to improve the system of state social standards, to increase pension benefits, as well as to strengthen targeting of social support for citizens, development of the system of social services provided immediately in local communities, and integration of persons with disabilities into society.

CMU Order No. 1617-p of 9 December 2021 has approved the Action Plan on implementation of the Human Development Strategy for 2021–2023 and envisaged monitoring of the Action Plan implementation to be conducted by MSPU on the Unified e-Governance Web Portal.

Implementation of the Human Development Strategy is funded from the state and local budgets, the Pension Fund of Ukraine, the State Social Insurance Funds, through international technical assistance, loans from international financial organisations, and other legitimate sources.

**80. Territorial disparities: Describe poverty and social exclusion in terms of urban/rural and of regional factors. Describe the regional distribution of ethnic/cultural communities.**

According to data for 9 months in 2021 and by the absolute criterion (by income below the actual cost of living), the poverty level reached 28.7% in rural area and 19.1% in urban settlements. Along with that, the poverty level reached 15.7% in large cities and 23.9% in small towns.

By the absolute criterion, the highest poverty level is observed in the Kherson (41.3%), Ternopil (36.5%), and Mykolaiv (36.4%) regions.

The lowest poverty level is as usual observed in the city of Kyiv: 10.2%.

In addition, poverty levels which are significantly lower than the national average figures were recorded in the Ivano-Frankivsk (11.7%) and Sumy (13.4%) regions.

The level of socio-economic development differs substantially between regions of Ukraine. In particular, significant discrepancies exist between regions in terms of the human development index. In accordance with the CMU Resolution No. 1029 of 20 December 2017, the Regional Human Development Index is calculated annually by the Ministry for Communities and Territories Development of Ukraine to measure living standards, literacy, education, and longevity as the key characteristics of human potential in the relevant region. The index calculation helps to conduct a gap analysis of the level of human development in different regions of Ukraine and to focus relevant efforts of the state on the regions with the most pressing needs in such support.

According to 2020 estimates of the Ministry for Communities and Territories Development of Ukraine, the city of Kyiv and 5 more regions had higher figures compared to average figures in Ukraine, and 17 regions had lower integral figures, respectively. The gap between the region with the highest index and the region with the lowest index equalled to 1.4 times. The assessment took into account such parameters as the life expectancy, population growth (reduction) rate, mortality index due to intentional self-harm, local budget expenditures per capita, ratio of the average to minimum wages, level of employment of the registered unemployed, coverage of children aged from 3 to 5 years with preschool facilities, share of graduates of higher educational facilities. It should be noted that this assessment didn't cover the Luhansk and Donetsk regions, as well as the Autonomous Republic of Crimea and the city of Sevastopol in view of the temporal occupation of part of these territories. (More detailed analysis of the Human Development Index Calculation is available at: <https://cutt.ly/FF9Hsql>).

At the regional level, the gross regional product (GRP) serves as the summarizing indicator characterizing level of economic development of a region. Following the 2019 results, the GRP per capita in 13 regions was more than 80% of the average in Ukraine, for the remaining 12 regions this figure was lower, while in several regions the figures were less than 50% of the Ukrainian average.

Intensive development of Kyiv and agglomerations has become one of the key factors of regional inequality over the last decade. Thus, the GRP share of the city of Kyiv is all in all 24%, while the share of some regions constitutes less than 2%.

Therefore, one of the challenges that characterize regional development is a growing gap in the levels of development of regions and territories. It should be noted that a certain gap exists in the level of development between some areas (rural sparsely populated territories, mountain areas, monofunctional cities, etc.) and large cities.

The mentioned trends and challenges are covered by the State Strategy for Regional Development 2021-2027 approved by the CMU Resolution No. 695 of 5 August 2020 (hereinafter — the Strategy). The strategic vision for regional and state development at large envisages creation of sufficient conditions for comfortable living, self-fulfilment and self-development of citizens, and improvement of their quality of life in each region. The state regional policy assists each region and territorial community in the effective use of their potential, advantages, resources, and opportunities for development and improvement of the quality of life.

The strategy will be implemented through different mechanisms, including the programs of regional development that take into account specifics of the territories. The Ministry for Communities and Territories Development of Ukraine is working on development of the regulatory documents that will set out incentives for regional development; in particular, the work is underway on amending the Law of Ukraine "On Boosting Regional Development", which has been in force since 2005.

A detailed description of the Strategy is provided in the answer to another question in the questionnaire (Section III, question No. 10).

Although there are some trends in the geographical distribution of ethnic communities, there are no social or economic discrepancies between them. For example, ethnic Hungarians predominantly live in Transcarpathia, Bulgarians — in the Odesa region, Greeks — in the southern and eastern regions, Crimean Tatars — in the Crimea. However, there is an exceptional situation with the Roma national minority. Therefore, the Cabinet of Ministers adopted the Strategy for Fostering the Exercise of Rights and Opportunities of Persons Belonging to the Roma National Minority in the Ukrainian Society up to 2030.

### **Regarding the regional distribution of ethnic communities**

According to Ukrainian law, public authorities can collect data on citizens' ethnic and linguistic identity only during Census. The last All-Ukrainian Population Census was conducted in 2001. Since then, the situation regarding the ethnic composition of Ukraine's population may have changed considerably due to changes in migration trends and change of generations. The next All-Ukrainian Population Census is scheduled for 2023, according to the order of the Cabinet of Ministers of Ukraine of December 9, 2020 № 1542-p.

According to the 2001 All-Ukrainian Population Census, the most numerous ethnic groups in Ukraine, besides Ukrainians, were:

- Russians (8,334,141 people; 17.3% of the total population of Ukraine);
- Belarusians (275,763 people; 0.6%);
- Moldovans (258,619 people; 0.5%);
- Crimean Tatars (248,193 people; 0.5%);



- Bulgarians (204,574 people; 0.4%);
- Hungarians (156,566 people; 0.3%);
- Romanians (150,989 people; 0.3%);
- Poles (144,130 people; 0.3%).

More details regarding regional distribution of these ethnic groups are provided in Tables 6-13.

**Table 6. Regional distribution of the Russian national minority (Census 2001)**

| <i>Region of Ukraine</i>      | <i>Number of persons</i> | <i>Percent of the population in the region</i> |
|-------------------------------|--------------------------|--|
| Autonomous Republic of Crimea | 1,180,441                | 58.0   |
| Vinnytsia region              | 67,501                   | 3.8  |
| Volyn region                  | 25,100                   | 2.4  |
| Dnipropetrovsk region         | 627,531                  | 17.5   |
| Donetsk region                | 1,844,399                | 38.1   |
| Zhytomyr region               | 68,851                   | 4.9  |
| Transcarpathian region        | 30,993                   | 2.5  |
| Zaporizhzhia region           | 476,748                  | 24.7   |
| Ivano-Frankivsk region        | 24,925                   | 1.7  |
| Kyiv city                     | 337,323                  | 12.9   |
| Sevastopol city               | 269,953                  | 71.1   |
| Kyiv region                   | 109,300                  | 6.0  |
| Kirovohrad region             | 83,929                   | 7.4  |
| Luhansk region                | 991,825                  | 39.0   |
| Lviv region                   | 92,600                   | 3.5  |
| Mykolaiv region               | 177,530                  | 14.0   |
| Odesa region                  | 508,537                  | 20.7   |
| Poltava region                | 117,071                  | 7.2  |
| Rivne region                  | 26,465                   | 2.1  |
| Sumy region                   | 121,655                  | 9.4  |
| Ternopil region               | 14,194                   | 1.2  |
| Kharkiv region                | 742,025                  | 25.6   |
| Kherson region                | 165,211                  | 14.1   |

|                   |        |     |
|-------------------|--------|-----|
| Khmelnysky region | 50,686 | 3.6 |
| Cherkasy region   | 75,577 | 5.4 |
| Chernivtsi region | 37,881 | 0.4 |
| Chernihiv region  | 62,207 | 5.0 |

**Table 7. Regional distribution of the Belarusian national minority (Census 2001)**

| <i>Region of Ukraine</i>      | <i>Number of persons</i> | <i>Percent of the population in the region, %</i> |
|-------------------------------|--------------------------|---|
| Autonomous Republic of Crimea | 29,285                   | 0.0   |
| Vinnytsia region              | 3114                     | 0.0   |
| Volyn region                  | 3200                     | 0.0   |
| Dnipropetrovsk region         | 29,258                   | 0.0   |
| Donetsk region                | 44,525                   | 0.9   |
| Zhytomyr region               | 4924                     | 0.4   |
| Transcarpathian region        | 1540                     | 0.0   |
| Zaporizhzhia region           | 12,655                   | 0.7   |
| Ivano-Frankivsk region        | 1468                     | 0.1   |
| Kyiv city                     | 16,549                   | 0.6   |
| Sevastopol city               | 5872                     | 1.5   |
| Kyiv region                   | 8698                     | 0.5   |
| Kirovohrad region             | 5550                     | 0.5   |
| Luhansk region                | 20,587                   | 0.8   |
| Lviv region                   | 5437                     | 0.2   |
| Mykolaiv region               | 8369                     | 0.7   |
| Odesa region                  | 12,767                   | 0.5   |
| Poltava region                | 6309                     | 0.4   |
| Rivne region                  | 11,827                   | 1.0   |
| Sumy region                   | 4320                     | 0.3   |
| Ternopil region               | 968                      | 0.1   |
| Kharkiv region                | 14,752                   | 0.6   |
| Kherson region                | 8186                     | 0.7   |
| Khmelnysky region             | 2750                     | 0.2   |

|                   |      |     |
|-------------------|------|-----|
| Cherkasy region   | 3961 | 0.3 |
| Chernivtsi region | 1483 | 0.2 |
| Chernihiv region  | 7122 | 0.6 |

**Table 8. Regional distribution of the Moldovan national minority (Census 2001)**

| <i>Region of Ukraine</i>      | <i>Number of persons</i> | <i>Percent of the population in the region, %</i> |
|-------------------------------|--------------------------|---|
| Autonomous Republic of Crimea | 3761                     | 0.0   |
| Vinnitsia region              | 2944                     | 0.0   |
| Volyn region                  | 303                      | 0.0   |
| Dnipropetrovsk region         | 4398                     | 0.0   |
| Donetsk region                | 7171                     | 0.1   |
| Zhytomyr region               | 1425                     | 0.1   |
| Transcarpathian region        | 516                      | 0.0   |
| Zaporizhzhia region           | 2476                     | 0.1   |
| Ivano-Frankivsk region        | 557                      | 0.0   |
| Kyiv city                     | 1927                     | 0.1   |
| Sevastopol city               | 801                      | 0.2   |
| Kyiv region                   | 1515                     | 0.1   |
| Kirovohrad region             | 8274                     | 0.7   |
| Luhansk region                | 3252                     | 0.1   |
| Lviv region                   | 781                      | 0.0   |
| Mykolaiv region               | 13,171                   | 1.0   |
| Odesa region                  | 123,751                  | 5.0   |
| Poltava region                | 2562                     | 0.2   |
| Rivne region                  | 364                      | 0.0   |
| Sumy region                   | 778                      | 0.1   |
| Ternopil region               | 356                      | 0.0   |
| Kharkiv region                | 2462                     | 0.1   |
| Kherson region                | 4179                     | 0.4   |
| Khmelnysky region             | 1353                     | 0.1   |
| Cherkasy region               | 1617                     | 0.1   |

|                   |        |     |
|-------------------|--------|-----|
| Chernivtsi region | 67,225 | 7.3 |
| Chernihiv region  | 700    | 0.1 |

**Table 9. Regional distribution of Crimean Tatars (Census 2001)**

| <i>Region of Ukraine</i>      | <i>Number of persons</i> | <i>Percent of the population in the region, %</i> |
|-------------------------------|--------------------------|---|
| Autonomous Republic of Crimea | 243,433                  | 0.1   |
| Vinnytsia region              | 12                       | 0.0   |
| Volyn region                  | 6                        | 0.0   |
| Dnipropetrovsk region         | 47                       | 0.0   |
| Donetsk region                | 18                       | 0.0   |
| Zhytomyr region               | 1                        | 0.0   |
| Transcarpathian region        | 1                        | 0.0   |
| Zaporizhzhia region           | 570                      | 0.0   |
| Ivano-Frankivsk region        | 1                        | 0.0   |
| Kyiv city                     | 44                       | 0.0   |
| Sevastopol city               | 1858                     | 0.5   |
| Kyiv region                   | 8                        | 0.0   |
| Luhansk region                | 20                       | 0.0   |
| Lviv region                   | 6                        | 0.0   |
| Mykolaiv region               | 2                        | 0.0   |
| Odesa region                  | 42                       | 0.0   |
| Rivne region                  | 1                        | 0.0   |
| Sumy region                   | 6                        | 0.0   |
| Ternopil region               | 2                        | 0.0   |
| Kherson region                | 2072                     | 0.2   |
| Khmelnysky region             | 1                        | 0.0   |
| Cherkasy region               | 9                        | 0.0   |
| Chernivtsi region             | 2                        | 0.0   |
| Chernihiv region              | 6                        | 0.0   |

**Table 10. Regional distribution of the Bulgarian national minority (Census 2001)**

| <i>Region of Ukraine</i>      | <i>Number of persons</i> | <i>Percent of the population in the region</i> |
|-------------------------------|--------------------------|--|
| Autonomous Republic of Crimea | 1877                     | 0.0  |
| Vinnytsia region              | 319                      | 0.0  |
| Volyn region                  | 110                      | 0.0  |
| Dnipropetrovsk region         | 2269                     | 0.0  |
| Donetsk region                | 4833                     | 0.0  |
| Zhytomyr region               | 229                      | 0.0  |
| Transcarpathian region        | 279                      | 0.0  |
| Zaporizhzhia region           | 27,764                   | 1.4  |
| Ivano-Frankivsk region        | 128                      | 0.0  |
| Kyiv city                     | 1514                     | 0.1  |
| Sevastopol city               | 405                      | 0.1  |
| Kyiv region                   | 480                      | 0.0  |
| Kirovohrad region             | 2205                     | 0.2  |
| Luhansk region                | 1625                     | 0.1  |
| Lviv region                   | 318                      | 0.0  |
| Mykolaiv region               | 5614                     | 0.4  |
| Odesa region                  | 150,683                  | 6.1  |
| Poltava region                | 364                      | 0.0  |
| Rivne region                  | 113                      | 0.0  |
| Sumy region                   | 198                      | 0.0  |
| Ternopil region               | 98                       | 0.0  |
| Kharkiv region                | 1071                     | 0.0  |
| Kherson region                | 1040                     | 0.1  |
| Khmelnysky region             | 207                      | 0.0  |
| Cherkasy region               | 384                      | 0.0  |
| Chernivtsi region             | 273                      | 0.0  |
| Chernihiv region              | 177                      | 0.0  |

**Table 11. Regional distribution of the Hungarian national minority (Census 2001)**

| <i>Region of Ukraine</i> | <i>Number of persons</i> | <i>Percent of the population</i> |
|--------------------------|--------------------------|----------------------------------|
|--------------------------|--------------------------|----------------------------------|

|                               |         | <i>in the region, %</i> |
|-------------------------------|---------|-------------------------|
| Autonomous Republic of Crimea | 186     | 0.0                     |
| Vinnytsia region              | 77      | 0.0                     |
| Volyn region                  | 71      | 0.0                     |
| Dnipropetrovsk region         | 593     | 0.0                     |
| Donetsk region                | 421     | 0.0                     |
| Zhytomyr region               | 94      | 0.0                     |
| Transcarpathian region        | 151,516 | 12.0                    |
| Zaporizhzhia region           | 156     | 0.0                     |
| Ivano-Frankivsk region        | 124     | 0.0                     |
| Kyiv city                     | 274     | 0.0                     |
| Sevastopol city               | 24      | 0.0                     |
| Kyiv region                   | 139     | 0.0                     |
| Kirovohrad region             | 265     | 0.0                     |
| Luhansk region                | 246     | 0.0                     |
| Lviv region                   | 384     | 0.0                     |
| Mykolaiv region               | 120     | 0.0                     |
| Odesa region                  | 175     | 0.0                     |
| Poltava region                | 73      | 0.0                     |
| Rivne region                  | 68      | 0.0                     |
| Sumy region                   | 93      | 0.0                     |
| Ternopil region               | 85      | 0.0                     |
| Kharkiv region                | 453     | 0.0                     |
| Kherson region                | 212     | 0.0                     |
| Khmelnysky region             | 91      | 0.0                     |
| Cherkasy region               | 164     | 0.0                     |
| Chernivtsi region             | 80      | 0.0                     |
| Chernihiv region              | 61      | 0.0                     |

**Table 12. Regional distribution of the Romanian national minority (Census 2001)**

| <i>Region of Ukraine</i> | <i>Number of persons</i> | <i>Percent of the population in the region, %</i> |
|--------------------------|--------------------------|---|
|--------------------------|--------------------------|---|

|                               |         |      |
|-------------------------------|---------|------|
| Autonomous Republic of Crimea | 268     | 0.0  |
| Vinnitsia region              | 132     | 0.0  |
| Volyn region                  | 30      | 0.0  |
| Dnipropetrovsk region         | 270     | 0.0  |
| Donetsk region                | 372     | 0.0  |
| Zhytomyr region               | 137     | 0.0  |
| Transcarpathian region        | 32,152  | 2.5  |
| Zaporizhzhia region           | 204     | 0.0  |
| Ivano-Frankivsk region        | 118     | 0.0  |
| Kyiv city                     | 203     | 0.0  |
| Sevastopol city               | 35      | 0.0  |
| Kyiv region                   | 223     | 0.0  |
| Kirovohrad region             | 139     | 0.0  |
| Luhansk region                | 121     | 0.0  |
| Lviv region                   | 148     | 0.0  |
| Mykolaiv region               | 162     | 0.0  |
| Odesa region                  | 724     | 0.0  |
| Poltava region                | 95      | 0.0  |
| Rivne region                  | 66      | 0.0  |
| Sumy region                   | 50      | 0.0  |
| Ternopil region               | 93      | 0.0  |
| Kharkiv region                | 164     | 0.0  |
| Kherson region                | 206     | 0.0  |
| Khmelnitsky region            | 167     | 0.0  |
| Cherkasy region               | 72      | 0.0  |
| Chernivtsi region             | 114,555 | 12.5 |
| Chernihiv region              | 83      | 0.0  |

**Table 13. Regional distribution of the Polish national minority (Census 2001)**

| <i>Region of Ukraine</i> | <i>Number of persons</i> | <i>Percent of the population in the region, %</i> |
|--------------------------|--------------------------|---|
| Autonomous Republic of   | 3879                     | 0.0   |

|                        |        |     |
|------------------------|--------|-----|
| Crimea                 |        |     |
| Vinnitsia region       | 3794   | 0.0 |
| Volyn region           | 788    | 0.0 |
| Dnipropetrovsk region  | 3288   | 0.0 |
| Donetsk region         | 4343   | 0.0 |
| Zhytomyr region        | 49,046 | 3.5 |
| Transcarpathian region | 518    | 0.0 |
| Zaporizhzhia region    | 1774   | 0.1 |
| Ivano-Frankivsk region | 1864   | 0.1 |
| Kyiv city              | 6924   | 0.3 |
| Sevastopol city        | 580    | 0.2 |
| Kyiv region            | 2846   | 0.2 |
| Kirovohrad region      | 556    | 0.0 |
| Luhansk region         | 2107   | 0.1 |
| Lviv region            | 18,948 | 0.7 |
| Mykolaiv region        | 1317   | 0.1 |
| Odesa region           | 3247   | 0.1 |
| Poltava region         | 813    | 0.1 |
| Rivne region           | 2031   | 0.2 |
| Sumy region            | 421    | 0.0 |
| Ternopil region        | 3856   | 0.3 |
| Kharkiv region         | 1936   | 0.1 |
| Kherson region         | 1625   | 0.1 |
| Khmelnysky region      | 23,005 | 1.6 |
| Cherkasy region        | 729    | 0.1 |
| Chernivtsi region      | 3367   | 0.4 |
| Chernihiv region       | 528    | 0.0 |

There are also a number of other unique ethnic communities in Ukraine that live compactly in certain regions. Such communities include:

- Gagauz (83.4% of whom live in Odesa region – 27,617 people according to Census 2001);
- Krymchaks (70,0% of whom live on the territory of the Crimean Peninsula – 280 people according to Census 2001; recognized as the indigenous people of Ukraine);



- Karaites (59.8% of whom live on the territory of the Crimean Peninsula – 715 people according to Census 2001; recognized as the indigenous people of Ukraine);

- Unique Greek subgroups of Urums and Rumeis (in the All-Ukrainian Census of 2001 are included into the general category "Greeks", 84.7% of Greeks lived in the Donetsk region – 77,516 people according to Census 2001; now the situation may be drastically different due to the armed aggression of the Russian Federation in these areas since 2014).

More details regarding ethnic communities in Ukraine by region, gender, age, language identity can be found on the website of the State Statistics Service of Ukraine, dedicated to the All-Ukrainian Population Census of 2001.

Public authorities collect information on the number of NGOs of national minorities and indigenous peoples. As of January 1, 2021, their total number was 1355 organizations. The aggregated data on the number of such NGOs by declared ethnic identity and region can be found in Table 14.

**Table 14. Number of NGOs of national minorities, indigenous peoples in Ukraine (as of 01.01.2021 according to the data from regional state administrations and Kyiv city)**

| <i>Region</i>    | <i>Ethnic identity</i>   | <i>Number of NGOs</i> |
|------------------|--|-----------------------|
| Vinnytsia region | Azerbaijanis   | 2                     |
|                  | Assyrians  | 1                     |
|                  | <i>Umbrella organizations (uniting two or more ethnic communities)</i> | 1                     |
|                  | Belarusians  | 1                     |
|                  | Armenians  | 1                     |
|                  | Georgians  | 1                     |
|                  | Jews   | 13                    |
| Volyn region     | Azerbaijanis   | 1                     |
|                  | Belarusians  | 1                     |
|                  | Armenians  | 2                     |
|                  | Jews   | 1                     |
|                  | Crimean Tatars   | 1                     |
|                  | Germans  | 3                     |
|                  | Poles  | 9                     |
|                  | Romani   | 2                     |
|                  | Russians   | 5                     |
|                  | Czechs   | 1                     |

|                       |   |    |
|-----------------------|---|----|
| Dnipropetrovsk region | Umbrella organizations (uniting two or more ethnic communities) | 4  |
|                       | Belarusians   | 1  |
|                       | Bulgarians  | 2  |
|                       | Armenians   | 8  |
|                       | Greeks  | 6  |
|                       | Georgians   | 5  |
|                       | Jews  | 9  |
|                       | Kazakhs   | 1  |
|                       | Koreans   | 3  |
|                       | Crimean Tatars  | 1  |
|                       | Lithuanians   | 2  |
|                       | Lebanese people   | 1  |
|                       | Moldovans   | 1  |
|                       | Germans   | 4  |
|                       | Ossetians   | 1  |
|                       | Poles   | 15 |
|                       | Romani  | 5  |
|                       | Russians  | 2  |
|                       | Tajiks  | 1  |
|                       | Uzbeks  | 1  |
|                       | Chechens  | 2  |
| Donetsk region        | Belarusians   | 2  |
|                       | Bulgarians  | 2  |
|                       | Brazilians  | 1  |
|                       | Armenians   | 11 |
|                       | Greeks  | 22 |
|                       | Georgians   | 2  |
|                       | Jews  | 4  |
|                       | Chinese   | 2  |
|                       | Germans   | 6  |
|                       | Poles   | 4  |

|                        |   |    |
|------------------------|---|----|
|                        | Romani  | 8  |
|                        | Russians  | 3  |
|                        | Turks   | 3  |
|                        | Meskhethian Turks   | 2  |
|                        | Czechs  | 2  |
| Zhytomyr region        | Umbrella organizations (uniting two or more ethnic communities) | 1  |
|                        | Belarusians   | 2  |
|                        | Armenians   | 1  |
|                        | Greeks  | 1  |
|                        | Jews  | 1  |
|                        | Germans   | 1  |
|                        | Poles   | 23 |
|                        | Romani  | 3  |
|                        | Russians  | 2  |
|                        | Czechs  | 2  |
|                        | Chechens  | 1  |
| Transcarpathian region | Azerbaijanis  | 1  |
|                        | Umbrella organizations (uniting two or more ethnic communities) | 1  |
|                        | Armenians   | 1  |
|                        | Jews  | 2  |
|                        | Germans   | 4  |
|                        | Poles   | 1  |
|                        | Romani  | 26 |
|                        | Russians  | 3  |
|                        | Romanians   | 7  |
|                        | Slovaks   | 5  |
|                        | Hungarians  | 17 |
|                        | Czechs  | 2  |
| Zaporizhia region      | Azerbaijanis  | 2  |
|                        | Albanians   | 3  |

|                        |   |    |
|------------------------|---|----|
|                        | Arabs   | 2  |
|                        | Assyrians   | 1  |
|                        | Umbrella organizations (uniting two or more ethnic communities) | 6  |
|                        | Belarusians   | 5  |
|                        | Bulgarians  | 13 |
|                        | Armenians   | 6  |
|                        | Ghanaians   | 1  |
|                        | Greeks  | 6  |
|                        | Georgians   | 2  |
|                        | Jews  | 3  |
|                        | Yemeni people   | 1  |
|                        | Indians   | 2  |
|                        | Karaites  | 3  |
|                        | Koreans   | 1  |
|                        | Crimean Tatars  | 3  |
|                        | Lithuanians   | 1  |
|                        | Moldovans   | 2  |
|                        | Germans   | 12 |
|                        | Ossetians   | 1  |
|                        | Poles   | 10 |
|                        | Romani  | 3  |
|                        | Russians  | 7  |
|                        | Slovaks   | 1  |
|                        | Tatars  | 2  |
|                        | Turks   | 1  |
|                        | Czechs  | 4  |
|                        | Chechens  | 1  |
| Ivano-Frankivsk region | Azerbaijanis  | 1  |
|                        | Arabs   | 1  |
|                        | Belarusians   | 1  |
|                        | Armenians   | 1  |

|           |   |    |
|-----------|---|----|
|           | Jews  | 3  |
|           | Karaites  | 1  |
|           | Lithuanians   | 1  |
|           | Germans   | 5  |
|           | Poles   | 18 |
|           | Russians  | 1  |
|           | Romanians   | 2  |
|           | Slovaks   | 1  |
|           | Hungarians  | 2  |
| Kyiv city | Azerbaijanis  | 2  |
|           | Assyrians   | 1  |
|           | Umbrella organizations (uniting two or more ethnic communities) | 3  |
|           | Bashkirs  | 1  |
|           | Belarusians   | 1  |
|           | Bulgarians  | 3  |
|           | Buryats   | 1  |
|           | Armenians   | 3  |
|           | Gagauz people   | 1  |
|           | Greeks  | 4  |
|           | Estonians   | 1  |
|           | Jews  | 5  |
|           | Kazakhs   | 1  |
|           | Karaites  | 1  |
|           | Koreans   | 2  |
|           | Kurds   | 2  |
|           | Lithuanians   | 1  |
|           | Moldovans   | 1  |
|           | Germans   | 5  |
|           | Ossetians   | 1  |
|           | Poles   | 4  |
|           | Romani  | 4  |

|                   |   |    |
|-------------------|---|----|
|                   | Russians  | 9  |
|                   | Romanians   | 1  |
|                   | Tatars  | 4  |
|                   | Hungarians  | 1  |
|                   | Uzbeks  | 1  |
|                   | Czechs  | 1  |
| Kyiv region       | Azerbaijanis  | 4  |
|                   | Umbrella organizations (uniting two or more ethnic communities) | 4  |
|                   | Bulgarians  | 1  |
|                   | Jews  | 17 |
|                   | Chinese   | 1  |
|                   | Moldovans   | 1  |
|                   | Germans   | 8  |
|                   | Palestinians  | 1  |
|                   | Poles   | 10 |
|                   | Romani  | 4  |
|                   | Russians  | 5  |
|                   | Uzbeks  | 1  |
| Kirovohrad region | Azerbaijanis  | 1  |
|                   | Umbrella organizations (uniting two or more ethnic communities) | 1  |
|                   | Belarusians   | 1  |
|                   | Bulgarians  | 5  |
|                   | Armenians   | 3  |
|                   | Jews  | 7  |
|                   | Koreans   | 2  |
|                   | Germans   | 5  |
|                   | Poles   | 5  |
|                   | Romani  | 4  |
|                   | Russians  | 6  |
|                   | Serbs   | 1  |
|                   | Slovaks   | 1  |

|                |   |   |
|----------------|---|---|
|                | Tatars  | 1 |
|                | Karakalpaks   | 1 |
| Luhansk region | Azerbaijanis  | 2 |
|                | Afghans   | 1 |
|                | Umbrella organizations (uniting two or more ethnic communities) | 2 |
|                | Belarusians   | 1 |
|                | Bulgarians  | 1 |
|                | Armenians   | 1 |
|                | Greeks  | 2 |
|                | Georgians   | 1 |
|                | Jews  | 9 |
|                | Indians   | 1 |
|                | Germans   | 5 |
|                | Ossetians   | 1 |
|                | Poles   | 5 |
|                | Romani  | 5 |
|                | Russians  | 7 |
| Lviv region    | Azerbaijanis  | 2 |
|                | Assyrians   | 1 |
|                | Umbrella organizations (uniting two or more ethnic communities) | 1 |
|                | Belarusians   | 1 |
|                | Bulgarians  | 2 |
|                | Armenians   | 2 |
|                | Greeks  | 3 |
|                | Georgians   | 1 |
|                | Jews  | 5 |
|                | Crimean Tatars  | 3 |
|                | Lithuanians   | 1 |
|                | Germans   | 3 |
|                | Poles   | 6 |
|                | Romani  | 1 |

|              |   |    |
|--------------|---|----|
|              | Russians  | 10 |
|              | Slovaks   | 1  |
|              | Tatars  | 1  |
|              | Hungarians  | 1  |
|              | Croatians   | 1  |
|              | Czechs  | 1  |
| Lviv region  | Azerbaijanis  | 5  |
|              | Umbrella organizations (uniting two or more ethnic communities) | 4  |
|              | Belarusians   | 1  |
|              | Bulgarians  | 4  |
|              | Buryats   | 1  |
|              | Armenians   | 4  |
|              | Greeks  | 2  |
|              | Georgians   | 3  |
|              | Jews  | 4  |
|              | Karaites  | 1  |
|              | Koreans   | 1  |
|              | Kurds   | 1  |
|              | Moldovans   | 1  |
|              | Germans   | 6  |
|              | Poles   | 5  |
|              | Romani  | 2  |
|              | Russians  | 6  |
|              | Tatars  | 1  |
|              | Meskhetian Turks  | 2  |
|              | Hungarians  | 1  |
|              | Czechs  | 2  |
| Odesa region | Azerbaijanis  | 3  |
|              | Albanians   | 2  |
|              | Arabs   | 2  |
|              | Afghans   | 4  |



|                |   |    |
|----------------|---|----|
|                | Umbrella organizations (uniting two or more ethnic communities) | 14 |
|                | Belarusians   | 2  |
|                | Bulgarians  | 34 |
|                | Armenians   | 1  |
|                | Vietnamese people   | 3  |
|                | Gagauz people   | 4  |
|                | Greeks  | 13 |
|                | Georgians   | 2  |
|                | Jews  | 10 |
|                | Indians   | 1  |
|                | Kyrgyz people   | 1  |
|                | Chinese   | 4  |
|                | Koreans   | 2  |
|                | Kurds   | 1  |
|                | Latvians  | 1  |
|                | Moldovans   | 7  |
|                | Nigerians   | 1  |
|                | Germans   | 16 |
|                | Ossetians   | 2  |
|                | Poles   | 6  |
|                | Romani  | 15 |
|                | Russians  | 11 |
|                | Romanians   | 8  |
|                | Tatars  | 1  |
|                | Turks   | 1  |
|                | Uzbeks  | 1  |
|                | Czechs  | 4  |
| Poltava region | Armenians   | 5  |
|                | Greeks  | 2  |
|                | Georgians   | 1  |
|                | Jews  | 11 |

|                 |   |   |
|-----------------|---|---|
|                 | Germans   | 5 |
|                 | Poles   | 3 |
|                 | Romani  | 5 |
|                 | Russians  | 5 |
|                 | Chechens  | 1 |
| Poltava region  | Armenians   |   |
|                 | Georgians   |   |
|                 | Jews  |   |
|                 | Germans   |   |
|                 | Poles   |   |
|                 | Czechs  |   |
| Sumy region     | Azerbaijanis  | 2 |
|                 | Umbrella organizations (uniting two or more ethnic communities) | 2 |
|                 | Armenians   | 1 |
|                 | Greeks  | 1 |
|                 | Georgians   | 1 |
|                 | Jews  | 2 |
|                 | Poles   | 1 |
|                 | Romani  | 4 |
|                 | Russians  | 1 |
| Ternopil region | Azerbaijanis  | 1 |
|                 | Bulgarians  | 1 |
|                 | Armenians   | 1 |
|                 | Jews  | 1 |
|                 | Germans   | 1 |
|                 | Poles   | 8 |
| Kharkiv region  | Azerbaijanis  | 3 |
|                 | Bashkirs  | 1 |
|                 | Belarusians   | 2 |
|                 | Bulgarians  | 1 |
|                 | Armenians   | 6 |

|                |                   |   |
|----------------|-------------------|---|
|                | Greeks            | 1 |
|                | Georgians         | 4 |
|                | Estonians         | 1 |
|                | Jews              | 5 |
|                | Yazidis           | 1 |
|                | Kazakhs           | 1 |
|                | Karaites          | 1 |
|                | Koreans           | 1 |
|                | Lezgins           | 1 |
|                | Germans           | 4 |
|                | Ossetians         | 2 |
|                | Poles             | 1 |
|                | Romani            | 4 |
|                | Russians          | 1 |
|                | Tajiks            | 1 |
|                | Tatars            | 1 |
|                | Meskhethian Turks | 1 |
|                | Turkmens          | 1 |
|                | Turkic people     | 1 |
|                | Uzbeks            | 1 |
|                | Chechens          | 1 |
| Kherson region | Azerbaijanis      | 1 |
|                | Assyrians         | 1 |
|                | Belarusians       | 2 |
|                | Bulgarians        | 2 |
|                | Armenians         | 5 |
|                | Vietnamese people | 1 |
|                | Greeks            | 1 |
|                | Georgians         | 1 |
|                | Jews              | 4 |
|                | Koreans           | 7 |
|                | Crimean Tatars    | 5 |

|                    |   |    |
|--------------------|---|----|
|                    | Kurds   | 1  |
|                    | Lithuanians   | 2  |
|                    | Germans   | 8  |
|                    | Poles   | 4  |
|                    | Romani  | 2  |
|                    | Russians  | 6  |
|                    | Meskhetian Turks  | 5  |
| Khmelnytsky region | Azerbaijanis  | 1  |
|                    | Umbrella organizations (uniting two or more ethnic communities) | 2  |
|                    | Armenians   | 3  |
|                    | Georgians   | 1  |
|                    | Jews  | 11 |
|                    | Germans   | 3  |
|                    | Poles   | 28 |
|                    | Russians  | 5  |
|                    | Hungarians  | 1  |
|                    | Chechens  | 1  |
| Cherkasy region    | Azerbaijanis  | 2  |
|                    | Umbrella organizations (uniting two or more ethnic communities) | 5  |
|                    | Belarusians   | 3  |
|                    | Bulgarians  | 1  |
|                    | Armenians   | 1  |
|                    | Greeks  | 1  |
|                    | Jews  | 14 |
|                    | Chinese   | 1  |
|                    | Germans   | 3  |
|                    | Poles   | 10 |
|                    | Romani  | 12 |
|                    | Russians  | 3  |
|                    | Hungarians  | 1  |
|                    | Croatians   | 1  |

|                   |   |    |
|-------------------|---|----|
|                   | Chechens  | 1  |
| Chernivtsi region | Belarusians   | 1  |
|                   | Armenians   | 1  |
|                   | Jews  | 2  |
|                   | Moldovans   | 1  |
|                   | Germans   | 1  |
|                   | Poles   | 2  |
|                   | Russians  | 1  |
|                   | Romanians   | 18 |
| Chernihiv region  | Azerbaijanis  | 1  |
|                   | Assyrians   | 2  |
|                   | Umbrella organizations (uniting two or more ethnic communities) | 3  |
|                   | Belarusians   | 1  |
|                   | Armenians   | 1  |
|                   | Greeks  | 3  |
|                   | Jews  | 8  |
|                   | Koreans   | 1  |
|                   | Germans   | 2  |
|                   | Poles   | 4  |
|                   | Romani  | 7  |
|                   | Russians  | 7  |

**81. Please describe institutional framework for designing and implementing anti-poverty and social inclusion policies at national, regional and local levels. Who is responsible for policy coordination among the relevant departments in the administration at national, regional and local levels? Is there regular monitoring and evaluation in place?**

To ensure the implementation of strategic directions and tasks set by the Human Development Strategy approved by the Decree of the President of Ukraine of 02.06.2021 No. 225, every two years the Government approves a plan of specific measures. The Ministry of Social Policy of Ukraine together with other central executive bodies and regional administrations annually informs the Office of the National Security and Defense Council of Ukraine and the Cabinet of Ministers of Ukraine about its implementation.

The Order of the Cabinet of Ministers of Ukraine of 09.12.2021 No. 1617-r approved the Action Plan for the implementation of the Human Development Strategy for 2021-2023. This Plan is implemented by:

at the central level - the Ministry of Social Policy of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Economy of Ukraine, the Ministry of Culture and Information Policy of Ukraine, the Ministry of Reintegration of the Temporarily Occupied Territories, the Ministry of Veterans Affairs of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Development of Communities and Territories of Ukraine, the National Social Service of Ukraine, the State Statistics Service of Ukraine, the Pension Fund of Ukraine, and the Social Insurance Fund through the formation of state policy aimed at improving the standard and quality of life, in particular in the field of health, education, labor and employment, pensions, social support for the most vulnerable, protection of children's rights;

at the regional level – regional and Kyiv city state administrations through the implementation of the state policy aimed at improving the level and quality of life, in particular in the field of health, education, labor and employment and social protection. It also provides for state control over compliance with the law during the provision of social support to citizens;

and at the local level - local governments (territorial communities of villages, settlements, cities, both directly and through village, settlement, city councils and their executive bodies, as well as district and regional councils representing the common interests of territorial communities of villages, settlements, cities by introducing effective management at all stages of the organization of social support of the population of territorial communities, ensuring the provision of basic social services directly at the place of residence.

Coordination and analytical work on overcoming poverty and monitoring poverty indicators is provided by the Ministry of Social Policy of Ukraine together with other central executive bodies and the Ptukha Institute of Demography and Social Research of the National Academy of Sciences of Ukraine.

Monitoring and evaluating the effectiveness of the implementation of tasks and measures aimed at overcoming poverty, as defined by the Human Development Strategy, are based on the results of the Action Plan for the implementation of this Strategy, and achieving performance indicators of its goals and objectives.

Central executive bodies, regional and Kyiv city state administrations ensure the implementation of the Action Plan for the implementation of the Human Development Strategy and input of relevant information into the electronic system of monitoring and control on a single web portal of e-government. Also, every year before 1 March, the Ministry of Social Policy of Ukraine is provided with information for the preparation of the annual report on the implementation of the Human Development Strategy. MSPU ensures that a report on the state of implementation of the Human Development Strategy is submitted by 15 April each year to the Office of the National Security and Defense Council of Ukraine and the Cabinet of Ministers of Ukraine.

In addition, to monitor the process of solving the problem of poverty, poverty indicators are monitored quarterly in accordance with the Methodology of Comprehensive Poverty Assessment (Order of MSPU, Ministry of Economic Development, Ministry of Finance, State Statistics Service and National Academy of Sciences of Ukraine of 18.05.2017 No. 827/403/507/113/232, registered with the Ministry of Justice on 12 June 2017 under No. 728/30596).

**82. Describe the organisational structure of institutions involved in these policies, the role of social service providers, NGOs, advocacy groups, the co-ordination among the institutions and the coverage of their activities. Which are the financing authorities and mechanisms?**

Fulfilment of strategic areas aimed at poverty alleviation, as defined by the Human Development Strategy approved by the Decree of the President of Ukraine No. 225 of 2 June 2021, is ensured through implementation of the action plans which are developed by MSPU with the participation of central executive authorities, including the Ministry of Finance of Ukraine, the Ministry of Economy of Ukraine, the Ministry of Culture and Information Policy of Ukraine, the Ministry of Reintegration of the Temporarily Occupied Territories, the Ministry of Veterans Affairs of Ukraine, the Ministry of Youth and Sports of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry for Communities and Territories Development of Ukraine, the National Social Service of Ukraine, the State Statistics Service of Ukraine, the Pension Fund of Ukraine, and the Social Insurance Fund. The regional and Kyiv city state administrations, local self-government bodies, civil and charity organisations contribute to implementation of the poverty alleviation policy.

MSPU ensures coordination and analysis efforts on poverty alleviation. Each central executive authority is responsible for implementing those measures where it is designated as the main executive.

Monitoring and assessment of the effectiveness of the Human Development Strategy implementation, as well as measures aimed at improving living standards and overcoming poverty, are based on the implementation results of the action plan targeting goals and objectives set by this Strategy and on the performance indicators for its goals and objectives.

Implementation of the activities targeting poverty alleviation is funded from the state and local budgets, the Pension Fund of Ukraine, and the State Social Insurance Funds, as well as through international technical assistance, loans from international financial organisations, and other legitimate sources.

The Law of Ukraine “On Social Services” defines basic organisational and legal principles on the social services provision.

Ukraine ensures ongoing work aimed at developing the system of social services provision, introducing innovative social services and standardizing social services to meet the service needs of citizens and to ensure their accessibility and quality.

In order to increase access to the social services in rural areas, "mobile social offices" have been established in the regional districts and towns, the representatives of which carry out field trips to raise awareness of the residents of remote settlements about housing subsidies and social protection for family members of anti-terrorist operation participants and persons entitled to benefits.

In all regions and in the city of Kyiv, multidisciplinary teams (brigades) for the provision of social services have been established and operating within the local centres of (provision of) social services aiming at accessibility of social services, expanding range of offerings, reaching more people, and meeting their needs, including those living in remote settlements.

MSPU provides communities with support in organisation of all processes of social protection and introduction of e-services in order to provide everyone with unhindered access to social support and social services of guaranteed volume and quality at their place of residence.

In Ukraine, through the efforts of public authorities and local self-government bodies, an extensive network of facilities and institutions that provide social services has been established: more than 2 thousand entities provide services for roughly 3 million people.

To ensure provision of the quality social services in the context of decentralization, a number of new developments has been regulated by law, in particular: arrangements for social services provision were clearly defined and deadlines for consideration of appeals and making decisions were set; criteria for recognizing persons/families in need of social services were established; and the list of basic social services provided by the Kyiv City State Administration, district and Kyiv city district state administrations, city councils executive bodies of the cities of regional significance, as well as by village, township, and city councils of amalgamated territorial communities, was developed. Overall, 16 Resolutions of the Cabinet of Ministers of Ukraine and 20 Orders of MSPU were adopted. The above-mentioned normative legal acts regulate, in particular, the organization of, decision-making on, and provision of social services, requirements for social service providers, payment for social services, social services commissioning from non-governmental organizations, and establish a list of social services.

In order to ensure the provision of quality social services, MSPU works on standardization of social services. In particular, the Classifier of Social Services approved by the Order of MSPU No. 429 of 23 June 2020 and registered with the Ministry of Justice of Ukraine under No. 643/34926 of 9 July 2020 includes 37 social services. To date, the Orders of MSPU have been issued approving 28 state standards on social services.

In Ukraine, there is a network of social service providers providing vulnerable categories of population with social services.

An open Register of Providers and Recipients of Social Services is being created for the purpose of registration of such service providers according to the Law. Currently, it is in the test mode process. It contains information of over 3,000 providers of social services both of municipal and non-public forms of ownership which provide services to almost 2 million persons.

These organisations provide various social services to different categories of population depending on the factors that cause difficult straits.

In Ukraine, there are:

369 territorial centres of (provision of) social services;

618 centres of provision of social services, including:

313 units for temporal/permanent residence for elderly people,

283 nursing homes for the elderly, persons with disabilities and children with disabilities, mental nursing homes, of which 89 are for the elderly and persons with disabilities and 157 mental nursing homes;

101 institutions for the homeless and persons released from places of confinement;

3 municipal and over 50 non-governmental centres for carrying social and psychological rehabilitation of people with addictions, etc.

Within the context of decentralization, performing of social work in territorial communities becomes a live issue. First and foremost, it is the work focused on early detection of those



vulnerabilities which may lead to difficult straits, prevention of experiencing difficult straits, and social and psychological support to individuals/families.

Thanks to the work carried out by territorial communities:

- in almost 850 communities (out of 1469 communities), providers of social services have been established, and they perform social work;
- there is a steady trend to increase the number of social service specialists (3,104 such specialists had worked in territorial communities as of beginning of the year, and today 4,000 specialists provide such work).

The Government of Ukraine has introduced the state support for local residents in order to establish efficient social work system and launch social services provided by a place of residence of recipients.

Private organisations are engaged into the social services provision. Engagement of such organisations and their financial support is done on a competitive and contractual basis (social services commissioning).

According to the regional operational data, last year the social services commissioning was carried out in 5 regions (the Vinnytsia, Ivano-Frankivsk, Poltava, Sumy, and Ternopil regions, and the city of Kyiv for a total of about UAH 2.0 million). During the first half of 2021, it was carried out in 6 regions (the Vinnytsia, Zhytomyr, Zaporizhzhia, Odesa, Poltava, and Ternopil regions) and the city of Kyiv for a total of UAH 1.0 million.

At the same time, local executive bodies use also other mechanisms of support to the non-public organisations in order to involve them in the provision of social services: support of social projects and allocation of funds from local budgets within framework of regional social and economic development programs (Donetsk, Zaporizhzhia, Kyiv, Lviv, Mykolaiv, Poltava, Sumy, Kharkiv, Kherson, Chernivtsi, and Chernihiv regions).

Within the context of decentralization, the Government pays special attention to issues of professional qualifications of the employees who carry out social work and provide social services, either in the fields of formal education, informal education, or informal learning.

For this purpose, 25 regional centres of social services in Ukraine have been transformed into training and methodological centers to introduce the continuous systematic improvement of competencies of social service providers, including social work specialists, and to provide methodological assistance to local self-government bodies in implementing social work and social services. Within the last year, almost 1,500 education events were held covering more than 15,000 people (social workers, social service providers, employees of the offices of children's services, foster parents, parents-child carers, guardians, custodians, adoptive parents, foster carers, mentors, etc.). Last year, for the first time funds were allocated from the state budget for the advanced trainings of social work specialists.

## **B. Evaluation of future challenges**

**83. Do you see any new/future challenges regarding poverty and social exclusion? How do you assess the impact of the COVID-19 pandemic and the green and digital transitions on the vulnerable groups?**

Implementation of the objectives set by the strategic documents in 2015–2020 had a significant impact on the role of poverty; some positive results as regards reduction of poverty rate were achieved.

However, in 2020, as a result of the deteriorating socio-economic situation caused by imposition of quarantine due to the spread of the COVID-19 pandemic, poverty indices deteriorated for the first time in four years.

However, over 9 months in 2021, there was a decrease in poverty, which, in absolute terms and in terms of expenditure below the actual subsistence minimum, decreased from 49.5 to 40.9% and reached the lowest value in six years, and in terms of income below the actual subsistence minimum — from 25.4 to 22.3 per cent.

The Russian Federation's military aggression against Ukraine has, by the present moment, had a significant impact on the people's living standards, which has, in particular, provoked a large wave of internally displaced persons who were forced to flee the war leaving behind all necessities and financial support, income and sources of subsistence. All mentioned above forces us to pay special attention to the protection and support of citizens who have suffered as a result of hostilities.

*As to the impact of the COVID-19 pandemic and the green transition on the vulnerable groups*

COVID-19 pandemic has, together with unprecedented quarantine measures, led to a slowdown in Ukraine's economic development, which resulted in a 4% drop in GDP. The situation in 2021 is mainly characterised by a gradual recovery of economic activity. Over 9 months, Ukraine's GDP growth amounted to 2.1%. Adaptation of businesses to operations under continuous quarantine restrictions, an expanding demand in the foreign markets and domestic consumer and investment demand were the main drivers of positive dynamics. In January–September 2021, the average nominal wages of full-time employees increased by 21.5%, and real wages increased by 11.3%. A conclusion can be made that vulnerable groups began to emerge from the effects of the pandemic only before February 2022.

Russia's full-scale military aggression has hit the Ukrainian economy hard. Due to the limitations imposed by the war on collection of statistics, there is almost no accurate data on economic activities, but forecasts give Ukraine a fall in GDP in 2022 from -10% (IMF) to -35-40% (preliminary forecast of the Ukrainian government) provided that Russia will not expand the occupied territory, and the active phase of the war will last no more than a few months. Economic activities during the first weeks of war were suspended and have been restoring very slow afterwards. According to the poll conducted by the Kyiv School of Economics and Gradus, about 39% of the companies have suspended their activities and another 20% are virtually non-operative. The data on inflation published by the State Statistics Service show an increase in consumer prices in March by 4.5% compared to February. In annual terms, price increase is likely to be about 15–20%. Electric power consumption has reduced by about 35%, and payments dropped by about 60%.

The current economic situation will have an adverse impact on households, especially those already struggling with “energy poverty”. While the key aspect of energy poverty in Ukraine was energy affordability, now, access to energy is also becoming an inevitable problem. By mid-April 2022, the Russian military has destroyed energy infrastructure, causing losses amounting to 101 million US dollars.

Natural gas dominates in final energy consumption by households in Ukraine and is 53%. A possible reduction in gas supplies will lead to higher prices and, accordingly, will create an additional burden on Ukrainian households. As on January, 2021, over 3.1 million households in Ukraine

obtained housing subsidies, and another 1.8 million households obtained benefits from 25 to 100% depending on the category of a benefit holder. These numbers are expected to increase.

The Ukrainian government planned to alleviate energy poverty through the *Energy Independence Building Reconstruction Programme*. In 2022, it was planned to repair 5,000 houses, and 700,000 Ukrainian families could have benefitted from improved housing conditions and reduced utility payments. Now, that programme needs to be modified with a view to restoration of buildings rather than carrying out repairs.

Coal-mining regions in eastern Ukraine had already been hit hard since the beginning of the Russian aggression in 2014. As a result of the military aggression, Donetsk oblast has lost 40% of industry, and Luhansk oblast has lost 70%. Along with the emergence of the line of contact and the loss of infrastructure, this has led to the ruining of a number of value chains that are almost unrecoverable. In September 2021, the government approved the Concept of the State Target Programme for Fair Transformation of Coal Regions of Ukraine until 2030, which is a comprehensive solution to the problems arising in connection with the reduction of coal production, including in economic, social, cultural, housing and utility, and environmental spheres. That programme should be strengthened to address significant damage done to these regions.

The “green transition” will lead to increased employment, better financial and economic returns and wider social benefits compared to business recovery as usual. Although conflicts cause horror and suffering, they also destabilise old ways of doing things and create new opportunities for the emergence of vulnerable groups. Reconstruction of ruined cities will create new jobs. The need to restore energy infrastructure and provide access to energy can create an impetus for greater use of renewable energy sources, and contribute to the creation of energy communities.

At the same time, taking into account previous negative experience of revisiting the scheme of preferential tariffs, the new “green policy” must be well balanced and weighted against social, fiscal and budgetary risks.

An issue of impact of the COVID-19 pandemic and “digital” transition as regards vulnerable groups is covered in Chapter 10 “Information Society and Media”.

### **C. People with disabilities**

**84. Has Ukraine adopted any policy document containing the main principles of disability policy? Has it ratified the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol? Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented)? Are those plans following a human rights approach to disability? Is there a specific coordination body overseeing the implementation of the disability policy? How is disability mainstreamed across ministries in order to cover all the rights covered by the UNCPRD? How are they coordinated?**

*Has Ukraine adopted any policy document containing the main principles of disability policy?*

During the period of 2012–2020, Ukraine implemented the State Target Programme [“The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2020”](#).

As on the present moment, for a purpose of the consistent policy aiming at ensuring the exercise by the persons with disabilities of their rights and satisfaction of their needs, the Cabinet of Ministers of Ukraine, by its ordinance of 07.04.2021 No. 285-p approved the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2025, with the objectives and activities laid down therein aiming at improving the lives of persons with disabilities and children with disabilities.

Moreover, the Cabinet of Ministers of Ukraine, by its Ordinance of 14.04.2021 No. 366-p, approved the National Strategy for Barrier-Free Environment in Ukraine until 2030. As a result of the implementation of the above Strategy, barrier-free environment should become a cross-cutting principle of public policy and will be included in all long-term decisions and programmes at the national and local levels.

The Cabinet of Ministers of Ukraine, by its ordinance No. 883-p of 04.08.2021, also approved the 2021 and 2022 action plans for the implementation of the National Strategy for Barrier-Free Environment in Ukraine until 2030.

*Has it ratified the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol?*

On 24 September 2008, Ukraine signed the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. On 16 December 2009, VRU ratified both above acts, and on 6 March 2010, the Convention entered into force. Since then, the Convention is one of the Government's priorities.

In line with Ukraine's commitments, one of the strategic goals of the public policy in the sphere of protection of the rights of persons with disabilities is creation of a social environment of equal opportunities for such persons and their integration into public life, ensuring social activity and independence of persons with disabilities.

In pursuance of the Convention, the Cabinet of Ministers of Ukraine, by its Resolution of 01.08.2012 No. 706, approved the State Target Programme "The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2020" aimed at promoting, protecting and ensuring full and equal exercise by the persons with disabilities of all human rights and fundamental freedoms in all spheres of social life, with an account taken of the provisions of the Convention, as well as taking measures to respect their inherent dignity.

In 2015, Ukraine submitted to the UN Committee on the Rights of Persons with Disabilities its First Periodic Report on the Implementation of the Convention on the Rights of Persons with Disabilities.

With a view to implementation of the Convention by Ukraine, the Committee provided its concluding observations on the initial report of Ukraine on the implementation of the UN Convention on the Rights of Persons with Disabilities.

In pursuance of the Committee's recommendations, the Cabinet of Ministers of Ukraine, by its Ordinance of 28.12.2016 No. 1073-p, approved the Action Plan for the Implementation of Recommendations set out in the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities as regards the First Periodic Report of Ukraine on the Implementation of the Convention on the Rights of Persons with Disabilities till 2020.

In September 2020, Ukraine submitted to the UN Committee on the Rights of Persons with Disabilities combined second and third periodic reports on the implementation by Ukraine of the Convention on the Rights of Persons with Disabilities.

In the light of completion of the State Target Programme [“The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2020”](#) in 2020, the results of the above programme were summed up. The follow-up analysis demonstrated the need to further improve national legislation in the sphere of support for people with disabilities.

Based on the follow-up activities, the Cabinet of Ministers of Ukraine, by its ordinance No. 285–p of 07.04.2021, approved the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities until 2025.

*Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented)?*

For a purpose of the consistent policy aiming at ensuring the exercise by the persons with disabilities of their rights and satisfaction of their needs, the Cabinet of Ministers of Ukraine, by its ordinance of 07.04.2021 No. 285–p approved the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2025, with the objectives and activities laid down therein aiming at improving the lives of persons with disabilities and children with disabilities.

The National Action Plan contains 48 objectives and 160 activities, and particularly, in the following areas: equality and non-discrimination; accessibility; the right to life; situations of risk and humanitarian emergencies; equal recognition before the law; access to justice; liberty and security of person; living independently and being included in the community; freedom of expression and opinion, and access to information; education; health; habilitation and rehabilitation; work and employment; adequate standard of living and social protection; participation in political and public life; participation in cultural life, recreation, leisure and sport.

In addition, the Cabinet of Ministers of Ukraine, by its ordinance No. 366–p of 14.04.2021, approved the National Strategy for Barrier-Free Environment in Ukraine until 2030 aiming at establishing barrier-free environment for all groups of the population, ensuring equal opportunities for every person to exercise his/her rights, receive services on an equal basis with other persons by integrating physical, informational, digital, social and civil, economic and educational barrier-free environment into every area of public policy.

The Cabinet of Ministers of Ukraine, by its ordinance No. 883-p of 04.08.2021, also approved the 2021 and 2022 action plans for the implementation pf the National Strategy for Barrier-Free Environment in Ukraine until 2030.

Implementation of the objectives and activities set out in the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2025 and the 2021 and 2022 Action Plans for the Implementation of the National Strategy for Barrier-Free Environment in Ukraine until 2030 is ensured by the ministries, other central executive authorities, local executive bodies, local self-government bodies, and civil society institutions.

*Are those plans following a human rights approach to disability?*

In pursuance of the objectives and activities laid down in the State Target Programme “The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities for the period till 2020” implemented in

2012–2020, among other things, the Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine” of 06.09.2012 No. 5207-VI was adopted; and the aforementioned Law prohibited discrimination on grounds of disability, and a non-discriminatory notion of a “disabled person” was introduced in legislation.

In addition, in order to guarantee access to justice for the disabled people, free secondary legal aid has been provided to such persons, among other things, by mobile counselling centres (defence; representation of interests in courts, other state bodies, local self-governments, in dealings with other persons; preparation of procedural documents addressed to entities under relevant law), and a mechanism has been put in place to engage sign language interpreters in provision of free legal aid to persons with hearing impairments.

*Is there a specific coordination body overseeing the implementation of the disability policy?*

In accordance with the Regulation on MSPU Ukraine as approved by the CMU Resolution of 17.06.2015 No. 423 (as amended), MSPU ensures development and implementation of the state policy in the sphere of mandatory state social and pension insurance, volunteering activities, pension support and keeping records of the persons subject to compulsory state social insurance in the sphere of public welfare, including people with a disability etc.;

coordinates the activities of central and local executive authorities and bodies, local self-governments, undertakings, institutions and organisations as regards implementation and enforcement of the UN Convention on the Rights of Persons with Disabilities.

The institutes of the Government Commissioner for the Rights of Persons with Disabilities and the Ukrainian Parliament Commissioner for Human Rights are in place in Ukraine.

As part of the implementation of human rights, the Government Commissioner for the Rights of Persons with Disabilities and the Ukrainian Parliament Commissioner for Human Rights ensure protection and exercise of the rights of the people with a disabilities.

In accordance with the Regulation on the Government Commissioner for the Rights of Persons with Disabilities as approved by the CMU Resolution of 27.02.2017 No. 125, the Government Commissioner for the Rights of Persons with Disabilities (hereinafter — the Government Commissioner) is an official authorised by the Ministers of Ukraine, who is empowered to make arrangements for the Cabinet of Ministers of Ukraine to exercise its powers to protect the rights and legitimate interests of persons with disabilities and to ensure Ukraine's implementation of international obligations in this area.

The Government Commissioner's main objectives are as follows:

assistance to Ukraine in fulfilling its international obligations to respect the rights and legitimate interests of persons with disabilities in Ukraine;

monitoring of the observance of the rights and legitimate interests of persons with disabilities and preparation, in the prescribed manner, of proposals with a view to ensuring the observance of the rights and legitimate interests of persons with disabilities;

taking measures, within his/her powers, to eliminate violations of the rights and legitimate interests of persons with disabilities, and the causes that led to their occurrence;

promoting public awareness on the rights of persons with disabilities etc.

In accordance with the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” of 23.12.1997 No. 776/97-BP, the Ukrainian Parliament Commissioner for Human Rights (hereinafter — the Commissioner) exercises, on a permanent basis, parliamentary control of the observance of the constitutionally-enshrined rights and freedoms of individuals and citizens and the protection of rights of every person in the territory of Ukraine and within its jurisdiction.

The purpose of parliamentary control exercised by the Commissioner is:

protection of human and civil rights and freedoms proclaimed by CU, laws of Ukraine and international treaties to which Ukraine is party;

prevention of violations of human and civil rights and freedoms or facilitation of recovery of rights;

facilitation of bringing Ukrainian legislation on human and civil rights and freedoms in line with CU and international standards in this field;

prevention of any forms of discrimination in the exercise by persons of their human rights and freedoms, etc.

*How is disability mainstreamed across ministries in order to cover all the rights covered by the UNCRPD?*

Public administration of the issues relating to ensuring the rights of persons with disabilities and their social protection is carried out by central and local executive authorities and bodies and local self-governments, within their competences.

Central and local executive authorities and bodies, local self-governments, with the participation of public associations of persons with disabilities, within their competences, develop and coordinate long-term and short-term programmes for the implementation of state policy as regards persons with disabilities and monitor their implementation, promote international cooperation in relation to persons with disabilities.

The Cabinet of Ministers of Ukraine, by its Ordinance of 28.12.2016 No. 1073 “On approval of the Action Plan for the Implementation of Recommendations set out in the concluding observations of the UN Committee on the Rights of Persons with Disabilities as regards the First Periodic Report of Ukraine on the Implementation of the Convention on the Rights of Persons with Disabilities till 2020”, defined central executive authorities responsible for implementation of the UN Convention on the Rights of Persons with Disabilities.

As the above Ordinance was repealed and the Cabinet of Ministers of Ukraine approved the National Action Plan for Implementation of the Convention on the Rights of Persons with Disabilities for the period until 2025, a decision to define central executive authorities responsible for the implementation of the UN Convention on the Rights of Persons with Disabilities was extended by the ordinance Cabinet of Ministers of Ukraine of 07.04.2021 No. 285–p.

*How are they coordinated?*

In accordance with the Regulation on MSPU as approved by the CMU Resolution of 17.06.2015 No. 423 (as amended), MSPU coordinates the activities of central and local executive authorities and bodies, local self-governments, undertakings, institutions and organisations as regards implementation and enforcement of the UN Convention on the Rights of Persons with Disabilities.

In order to address issues arising during the implementation of state policy as regards ensuring the rights of persons with disabilities and their social protection, preparing proposals for improvement of the legal and regulatory framework, ensuring coordination and improving efficiency of activities of central and local executive authorities and bodies in ensuring the rights of the persons with disabilities and their social protection, the Council for Persons with Disabilities (hereinafter — the Council) was established.

The Council is a provisional advisory body of the Cabinet of Ministers of Ukraine.

Vice Prime Minister of Ukraine is the Head of the above Council.

It is composed of the representatives of all-Ukrainian public associations that deal with the matters regarding people with a disabilities (subject to agreement) and the representatives of central executive authorities at the level of the First Deputy (Deputy) Minister who are responsible for the implementation of the UN Convention on the Rights of Persons with Disabilities.

**85. In most EU Member States, national disability councils (comprising NGOs, organisations representing the persons with disabilities, disability experts, civil servants and other stakeholders) have been established. Have similar bodies been established in Ukraine? If yes, are these bodies actively involved in the decision-making process related to persons with disabilities? If no, is there any plan to contribute to the creation of such bodies?**

Yes, they have been established.

On 14 September 2016, the Government adopted a Resolution No. 628 “On establishment of the Council for Persons with Disabilities (hereinafter — the Council).

The Council is a provisional advisory body of the Cabinet of Ministers of Ukraine.

Vice Prime Minister of Ukraine is the Head of the above Council.

It is composed of the representatives of all-Ukrainian public associations that deal with the matters regarding people with a disabilities (subject to agreement) and the representatives of central executive authorities at the level of the First Deputy (Deputy) Minister who are responsible for the implementation of the UN Convention on the Rights of Persons with Disabilities.

Pursuant to the Regulation, the main tasks of the Council are as follows:

1) contributing to ensuring the coordination of activities of executive authorities in ensuring, safeguarding and protecting the rights of persons with disabilities, taking into account the positions of non-governmental organisations;

2) preparation of proposals for formulation and implementation of state policy in ensuring, safeguarding and protecting the rights of persons with disabilities, taking into account the positions of non-governmental organisations;



3) identification of ways, mechanisms and methods to address problematic issues arising during the implementation of state policy in ensuring, safeguarding and protecting the rights of persons with disabilities;

4) preparation of proposals for improvement of normative and legal framework, and improvement of performance of central and local executive authorities and bodies, local self-governments in ensuring, safeguarding and protecting the rights of persons with disabilities.

Every year, the Council's Work Plan is formulated, the proposals for which are submitted both by central executive authorities and non-governmental organisations that deal with the problems of persons with disabilities.

The Plan includes acute and urgent issues that need to be addressed immediately, in particular, by amending legal and normative acts.

Therefore, the Council's meeting is a platform for discussions, a mechanism of public's influence on decision-making on the formation of state policy on the protection of the rights of persons with disabilities.

The meetings of the Council took place on 27 June 2019 and on 24 December 2020, and on 9 July 2021.

Also, in accordance with the CMU Resolution of 14.04.2021 No. 443, the Barrier-Free Council was established, which is a provisional advisory body of the Cabinet of Ministers of Ukraine, and which was established to monitor and control the implementation of the 2030 National Strategy of Barrier-Free Environment.

On 12 July and on 27 October 2021, the Barrier-Free Council held its meetings.

**86. Is the protection of persons with disabilities as a specific segment of vulnerable population provided for in the constitution or does a specific “disability law” exist in the legislation? Does the labour legislation explicitly prohibit discrimination in hiring and employment on the basis of disability? Is disability mainstreamed across all relevant fields of legislation, access to justice, employment, transport, internal market, consumer law, telecommunications, audio-visual, etc.**

Persons with disabilities in Ukraine enjoy all range of socio-economic, political, personal rights and freedoms enshrined in CU, laws of Ukraine and international treaties by which the Verkhovna Rada has agreed to be bound.

The Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine” of 21.03.1991 No. 875-XII is a Framework Law, which defines the foundations of social protection of persons with disabilities in Ukraine and guarantees them equal opportunities for participation in the economic, political and social life of society, creating the prerequisites empowering persons with disabilities to effectively exercise their human and civil rights and freedoms and live productive lives in concordance with their individual potentials, abilities and interests.

*Does the labour legislation explicitly prohibit discrimination in hiring and employment on the basis of disability?*

Current legislation explicitly prohibits discrimination on the grounds of disability, including in employment.

In accordance with Article 2 of the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine”, discrimination on the grounds of disability is prohibited.

In accordance with Article 17 of that Law, refusal to conclude an employment contract or rejected promotion, dismissal on the initiative of the administration, transfer of a person with a disability to another job without his/her consent on the grounds of disability is prohibited, except when based on medical and social expert assessment, his/her medical condition interferes with the performance of professional duties, endangers health and safety of other persons, or when the continuation of work or a change in its nature and scope poses a threat of deterioration of the medical condition of persons with disabilities.

Also, in accordance with Article 2-1 of the LCU, discrimination in the field of labour, including a violation of the principle of equality of rights and opportunities, direct or indirect restriction of employees’ rights on the grounds of race, colour, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnicity, social and foreign origin, age, health, disability, etc., is prohibited.

*Is disability mainstreamed across all relevant fields of legislation, access to justice, employment, transport, internal market, consumer law, telecommunications, audio-visual, etc.*

Implementation of the Convention on the Rights of Persons with Disabilities is one of the Government’s priorities.

In accordance with the commitments made by the present time, Ukraine ensures the implementation of the Convention, its articles/provisions:

“Equality and non-discrimination”; “Women with disabilities”; “Children with disabilities”; “Awareness-raising”; “Accessibility” (accessibility of the physical environment (housing, medical and educational institution, welfare), accessibility of transport and communications, accessibility of information and communication technologies and systems); “Right to life”; “Situations of risk and humanitarian emergencies”; “Equal recognition before the law”; “Access to justice”; “Liberty and security of person”; “Living independently and being included in the community”; “Personal mobility”; “Freedom of expression and opinion, and access to information” (Creation of the preconditions for accessibility of TV programs for people with sight and hearing impairments); “Respect for privacy”; “Respect for home and the family”; “Education”; „Health”; “Habilitation and rehabilitation”; „Work and employment”; “Participation in political and public life”; “Adequate standard of living and social protection”; “Participation in cultural life, recreation, leisure and sport” etc.

Public administration of the issues relating to ensuring the rights of persons with disabilities and their social protection is carried out by central and local executive authorities and bodies and local self-governments, within their competences.

Central and local executive authorities and bodies, local self-governments, with the participation of public associations of persons with disabilities, within their competences, develop and coordinate long-term and short-term programmes for the implementation of state policy as regards persons with disabilities and monitor their implementation, promote international cooperation in relation to persons with disabilities.

*As to the access of the people with disabilities to justice?*

Articles 7, 9 of the Law of Ukraine “On the Judicial System and the Status of Judges” stipulate that every person is guaranteed protection of his/her rights, freedoms and interests within reasonable time frames by an independent, impartial and fair court, established by law.

Access to justice for every person is ensured by CU in the manner prescribed by the laws of Ukraine.

Justice in Ukraine is administered on the basis of equality of all parties to the proceedings before the law and the court, regardless of race, colour, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, language and other characteristics.

Court creates such conditions, which guarantee equality to each party to the proceedings in the exercise of the procedural rights provided and in the performance of procedural duties as defined by procedural law.

It should be noted that according to Article 9(3) of the Law of Ukraine “On Court Fee” No. 3674-VI (hereinafter — the Law No. 3674-VI), court fees are used to support the administration of justice and the functioning of the judiciary bodies, and to ensure architectural accessibility of the court premises and accessibility of information displayed in courts for persons with disabilities and other people with reduced mobility.

Please, be also informed that in accordance with Article 5 of the Law No. 3674-VI, the privileged category of court fee payers who are exempt from paying court fees during the proceedings in courts of all instances includes World War II disabled veterans and members of the families of soldiers (partisans) who were killed or went missing in action, and persons equated to those under the prescribed procedure, and disabled persons of groups I and II, legal representatives of children with disabilities and incapacitated persons with disabilities.

In addition, in the case of a court hearing to which a person with hearing impairment is a party, the provisions of Article 75 of the CPCU, Article 72 of the Economic Procedure Code of Ukraine, Article 71 of the CAPU provide for the mandatory participation of a sign interpreter able to communicate with the deaf, mute or deaf-mute persons. Qualification of such interpreter is attested by an appropriate document issued under the procedure established by law.

The procedural codes provide that the court may allow the witness to participate in the court session via video conference, regardless of any objections from the parties in the case, if the witness is not able to appear before the court for the reason of disability, among other things.

**87. The lack of reliable statistical information is a serious obstacle to effective policymaking in the disability area. Has a centralised data collections system, containing the relevant data, been developed in Ukraine?**

In accordance with the Law of Ukraine of 17.09.1992 No. 2614-XII “On State Statistics”, public policy on statistics is aimed at creation of a unified recording and statistics system throughout Ukraine and its harmonisation with the international standards and methodology.

A central executive authority implementing state policy in the field of statistics, and the operating bodies of state statistics comprise a unified system of state statistics of Ukraine.

In accordance with the above Law, state statistics is a centralised system of collection, processing, analysis, dissemination, storage, protection and use of statistical information.

In accordance with the Regulation on the State Statistical Service of Ukraine as approved by the CMU Resolution dated 23.09.2013 No. 481 (as amended), the State Statistics Service is a designated central executive body in the sphere of statistics whose activities are guided and coordinated by the Cabinet of Ministers of Ukraine, and it is the authority ensuring formulation and implementation of state policy in statistics.

In the process of discharging its assigned duties, the State Statistics Service interacts, under the established procedure, in particular, with other public authorities.

In pursuance of objective 1, section XX “Statistics and data collection” of the National Action plan for implementation on the Convention on the Rights of Persons with Disabilities for the period till 2025 as approved by CMU Order of 07.04.2021 No. 285-r, and in accordance with the State Statistical Survey Plan, State Statistics Service publishes, on an annual basis, the statistic digest “Social protection of the population of Ukraine” containing all available information about people with a disabilities. The digest is made generally accessible on the State Statistics Service’s official website. Information on the number of persons with disabilities, by categories and causes of disability, is collected on the basis of administrative reports of MSPU, MoH and the Pension Fund.

More specifically, the statistics digest contains statistical data (as of the relevant reporting period) on:

the number of persons with disabilities, by region (with disability group indicated);

the number of children with disabilities under the age of 18, by category of disease and region;

distribution of persons freshly recognised as ones with disabilities, by category of disease, region and disability group;

distribution of persons freshly recognised as ones with disabilities, by the cause of disability in the respective age in urban area (in %), in rural area (in %);

provision of people with disabilities with motor vehicles;

the number of persons with disabilities; legal representatives of incapacitated persons with disabilities, children with disabilities who are entitled to payment of monetary compensation for petrol, repair and maintenance of cars and transport services at the end of the relevant year;

the number of technical and other means of rehabilitation (TMR) provided to persons with disabilities, children with disabilities and other certain categories of the population in the relevant year and others.

**88. Describe shortly the different means by which active participation and inclusion of people with disabilities in the labour market are promoted. To what extent is the quota system applied and which are the other incentives and measures aimed at encouraging disabled persons' entry into the labour market? How is vocational training available to persons with disabilities adjusted to the needs of the market?**

The system of social protection of persons with disabilities in terms of exercise of their rights to work is governed by the Law of Ukraine “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine” of 21.03.1991 No. 875-XII and provides for a employment norm, which is binding for enterprises, institutions and organisations, intended for the employment of persons with

disabilities (4% is for employers with more than 25 employees, one job is for employers with 8 to 25 employees).

In case of non-compliance with that norm, employers (other than institutions and publicly-funded institutions) must annually pay administrative and economic sanctions for each job intended for employment of persons with disabilities, which are not occupied by them (hereinafter — AES) to the Social Protection Fund for Persons with Disabilities (hereinafter — the Fund).

Funds received by the State Budget of Ukraine (special fund) as a result of payment of AESs are used for the needs of persons with disabilities, and specifically, for their employment and job creation.

The above system is borrowed from legislations of the Member States of the European Union, and in particular, from France, Germany and Poland, where it is known as the *quata-levy system*.

This system is in line with the international obligations as regards social protection of persons with disabilities that Ukraine has undertaken by ratifying the European Social Charter, the ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention No. 159, the UN Convention on the Rights of Persons with Disabilities.

Ukraine has in place a quota system for the employment of persons with disabilities, which includes measures (e.g. state support) both in sheltered employment (i.e. activities and development of sheltered workshops established by NGO associations of persons with disabilities) and in an open labour market.

At the same time, current legislation does not provide for the transition from sheltered employment to the open labour market, as both approaches are effective (as evidenced by the practices of EU Member States) in ensuring the implementation of state policy on employment of persons with disabilities.

Companies, institutions and organisations create, at the expense of the Fund of Social Protection of Disabled Persons or by the decision of a local council, at their own expense, where applicable, special jobs for people with disabilities by adapting basic and supplementary technical equipment and devices, etc., to meet the health limitations of the disabled persons.

Vocational rehabilitation of persons with disabilities plays one of the key roles in their integration into society, because acquisition of professional skills, obtaining a profession (specialty) and employment ensure the full-quality life of such persons on a par with others.

Such ideology is reflected in national legislation, including in ratified international instruments, and namely: The UN Convention on the Rights of Persons with Disabilities, European Social Charter, the ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention No. 159, on vocational rehabilitation of persons with disabilities.

MSPU has been identified as the main central executive authority providing formulation and implementation of public policy in the field of occupational rehabilitation and employment of the persons with a disabilities.

To that end, in recent years, MSPU has adopted a number of new legal and normative acts and improved some currently in place, on the basis of which relevant measures are taken at the national and local levels. In particular, in 8 centres of comprehensive rehabilitation in state and communal ownership, vocational rehabilitation is the dominant component during the rehabilitation process,

where vocational training is provided to almost 50 working professions in demand in the labour market.

The SESU provides persons with disabilities with a full range of social services, including information and counselling, career guidance and vocational training, to accelerate their adaptation to labour market requirements, lifelong vocational education and professional integration into society.

The dealings of the SESU with that category of the population is carried out in cooperation with the branches of the Social Protection Fund for Persons with Disabilities, departments of labour and social protection, healthcare, medical and social expertise, centres for vocational and social rehabilitation of the persons with disabilities, organisations of the disabled and other partners.

Before referring people with disabilities to vocational training, and specifically, to comprehensive rehabilitation centres, vocational guidance services are provided to choose a profession, and vocational testing is conducted.

An important area for professional and personal realisation of a person with a disability is the possibility of vocational training, which significantly affects the adaptation to the requirements of the labour market and professional integration into society. Where it is impossible to find a suitable job for a person with a disability due to lack of profession, loss of ability to perform work in the previous profession or lack of work that corresponds to his professional skills, the SESU offers vocational training and retraining. In order to consistently improve professional knowledge, skills and abilities, improvement of craftsmanship, advanced training is organised in the profession of a person with a disability, including apprenticeship.

#### *As to the guarantees of education*

In accordance with the Law of Ukraine “On Vocational Education and Training”, persons with special educational needs have the right to gain another qualification or profession (group of professions) and specialties at the vocational schools of the same level, free of charge and on the competitive basis, based on state (regional) orders of state and municipal vocational schools. This also works for vocational students with special learning conditions, if they have lost the opportunity to perform work due to their health condition according to the conclusion of the Medical and Social Expert Commission.

The state guarantees the first-time employment in the acquired profession in accordance with law to the graduates of vocational schools who studied based on the state and/or regional order.

Persons with disabilities in Ukraine have all the rights and freedoms enshrined in the Constitution and other laws. In accordance with the Law “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine”, in order to realise their creative and productive abilities and taking into account individual rehabilitation programmes, persons with disabilities have the right to work in enterprises, institutions and organisations, engage in business and other activities not prohibited by law.

**89. Which measures aimed at promoting de-institutionalisation and community-based alternatives have been carried out? Is there any form of training for independent living programmes?**

Ukraine is creating a system of early intervention aimed at the healthy development of a child in the family and its successful socialisation in the society.

To that end, the Concept of establishing and development of the System of Early Intervention was adopted (CMU Order of 26.05.2021 No. 517-r). The Action plan on implementation of the Concept of establishing and development of the System of Early Intervention till 2026 was approved (CMU Order of 15.09.2021 No. 1117-r).

New approaches are an important step towards the introduction of early intervention services at the level of an administrative territorial unit, healthcare, social protection and preschool education institutions.

As on 01.01.2022, there are 39 institutions of different departmental subordination, the number of recipients of early intervention services amounted to 5,251 families with children.

That service is primarily provided to children in their first years of life, as early detection of risks to a child's development makes it possible to start intensive care at an early age, when the child's development is particularly affected and it is possible to prevent disability and its institutionalisation in these young children.

To assist in the education of children with special educational needs, and particularly, children with disabilities, a social support service is introduced as part of inclusive education.

Social support service as part of inclusive education provides a set of measures aimed at ensuring full and effective participation of the recipient of social services in the educational process through provision of support and assistance in mobility, self-care, communication, nutrition, spatial orientation, and ensuring indoor safety, in the territory of a preschool educational institution, an educational institution that provides a complete general secondary education, in another territory during excursions, study trips, other activities provided for in the framework of the educational process.

With a view to the implementation of that service, MSPU, by its order of 23.12.2021 No. 718 approved the State standard of social support services as part inclusive education.

*Regarding the system of providing social services to children and persons with disabilities, in particular with persistent intellectual disabilities, mental and behavioural disorders*

Children and adults with intellectual and/or mental disorders are one of the most vulnerable categories, as they need constant long-term care, support and assistance due to their physical and mental health.

Previously, social services for such persons were provided in the form of inpatient care in orphanages, psychoneurological boarding schools and other institutions.

The development of the system of social services involves, in particular, the gradual de-institutionalization with the simultaneous improvement and development of family forms of education, including small group homes.

The concept of mental health development in Ukraine until 2030, approved by CMU Order No. 1018-r of 27.12.2017 stipulates that combating stigma, overcoming social isolation of persons with mental and intellectual disorders will be ensured by including such persons in social communities, providing them with supported living at the level of the territorial community, social support during employment, improving the system of rehabilitation and social services.

In order to improve the regulations governing the development of social services of supported living, an interdepartmental working group was created to improve legal and normative acts on the development of social services of supported living (hereinafter referred to as the interdepartmental working group). Currently, the interdepartmental working group is working on proposals to amend the State Standard for Social Services of Supported Living for Persons with Disabilities, approved by the order of MSPU No. 956 of 07.06.2017, registered with the Ministry of Justice on 30.06.2017 under No. 806/30674.

Article 13(8) of the Law of Ukraine “On Social Services” (hereinafter referred to as the Law) stipulates that social services are provided in accordance with state standards of social services.

Orders of MSPU approved 28 state standards of social services, including the State standard of social services of temporary rest for parents or persons acting in their stead caring for children with disabilities (order of MSPU No. 13 of 19.01.2021, registered in the Ministry of Justice on 20.04.2021 under No. 534/36156), State standard of social support services during inclusive education (order of MSPU No. 718 of 23.12.2021, registered in the Ministry of Justice on 21.01.2022 under No. 72/37408).

In addition, the order of MSPU No. 335 of 16.06.2021 the State standard of home care, approved by the order of MSPU No. 760 of 13.11.2013, registered in the Ministry of Justice on 22.11.2013 under No. 1990/24522, amended the provision of social care for children with disabilities aged 3 to 18, persons with severe forms of the disease (including before the disability is officially recognised), who are incapable (partially incapable) to care for themselves and need constant assistance.

At the same time, MSPU:

prepared amendments to the State Standard of Palliative Care, approved by the order of MSPU No. 58 of 29.01.2016, registered in the Ministry of Justice on 17.02.2016 under No. 247/28377, regarding the provision of social services of palliative care to new-borns, young children and children with disabilities under the age of 18 with life-impairing and life-threatening illnesses who are incapable (partially incapable) to care for themselves and need of constant assistance, and members of their families;

developed the State Standard of Social Day Care Services for Children with Disabilities, which provides, in particular, for the provision of social day care services to children aged 3 to 18 who have partially or completely lost the ability to care for themselves/were not able to care for themselves due to disability, including children with severe prenatal lesions of the nervous system, severe congenital malformations, rare orphan disease, cerebral palsy, severe mental disorder, etc.

At the same time, the CMU Resolution No. 68 of 30.01.2019 (as amended) introduced a service to care for children under the age of three called “municipal babysitter” from 01.01.2019. The service is provided to support parents, guardians in order to provide child care for one child under the age of three in need of additional care; two or more children under the age of three; a child under the age of three, if one of the parents or guardians is a person with a group I or II disability.

In accordance with point 7 of the Action Plan for 2021–2023 on the implementation of the Concept of mental health in Ukraine until 2030, approved by CMU Order No. 1215-r of 06.10.2021, oblast and Kyiv city state administrations are instructed to ensure the introduction and development of social services, in particular, at the place of residence/stay of a person in need of social services (supported living of the elderly and people with disabilities, including intellectual



and/or mental disorders; day care, social rehabilitation of people with intellectual and/or mental disorders, temporary leave for parents or guardians who care for children with disabilities, temporary leave for carers of persons with disabilities, persons with incurable diseases, diseases that need long-term treatment; social and labour adaptation, etc.) by the IV quarter of 2023.

The reform of boarding schools within the system of MSPU requires the development of educational, medical, social, cultural and other services in the local communities at the place of residence of a child with disabilities.

New social services are currently being introduced in local communities by providers of social services in both the communal and non-governmental sectors.

In particular, the social day care service for children with disabilities is provided by 65 social service providers; social support service during inclusive education and temporary leave for parents or guardians caring for children with disabilities is being implemented in Vinnytsia and Dnipropetrovsk oblasts; social service of supported living is implemented in 12 regions of Ukraine by boarding schools of the social protection system and non-governmental providers of social services.

In addition, during the transition from institutional care to the model of providing social services to people with disabilities in the community at the place of residence, without removing them from the usual environment, there is a need to develop alternative forms and methods of social services for people with disabilities, including houses (apartments) suitable for supported living, develop a network of small group homes for children with disabilities. Such forms ensure social support for a person's ability to solve household problems on their own, contribute to them taking responsibility for their lives, prevent isolation or segregation of persons with disabilities.

In order to provide social and other services for independent living as an alternative to institutional inpatient care to meet the needs and ensure the constitutional rights and freedoms of children with disabilities, persons with disabilities, including persons with intellectual and/or mental disorders who are in need of outside support and assistance due to health reasons, MSPU is developing draft regulations on houses (apartments) of supported living, amendments to the Model Regulations on small group houses, approved by CMU Regulation No. 926 of 31.10.2018, and the Model Regulations, in particular on:

introduction of new social services by orphanages (day-care, transit supported accommodation, social rehabilitation of persons with intellectual and mental disorders);

improving the activities of small group homes, the mechanism for organizing the provision of social services to children with disabilities, children with serious illnesses;

legal and normative regulation of the functioning of the houses (apartments) of supported living for people with disabilities.

#### *On support for the elderly*

In addition, the state social policy towards the older generation in Ukraine is focused on:

- strengthening the legal protection of the elderly;
- ensuring a decent standard of living for the elderly and providing the necessary support to citizens who are in difficult life circumstances;
- promoting the role of the family in caring for the elderly;

- organising effective social services for the elderly, providing psychological assistance;
- promoting due employment of the elderly, ensuring equal access of the elderly to programs and systems of vocational guidance, training and retraining;
- ensuring the availability of information resources for the elderly.

To this end, in 2018 the Government approved the Strategy of the State Policy on Healthy and Active Longevity until 2022 (by CMU Order No. 10-r of 11.01.2018) (hereinafter referred to as the Strategy).

The Strategy identifies priority areas for combating demographic change, provides comprehensive measures to support senior citizens, their integration into social development, improve the quality of life, protect the rights of elderly citizens.

In pursuance of the Strategy, CMU adopted an Order No. 688-r of 26.09.2018 that approved the Action Plan for the implementation of the Strategy of state policy on healthy and active longevity until 2022, which contains specific objectives in the following areas:

- improving the conditions for self-realization of the elderly and their participation in society development;
- maintaining the health and well-being of the elderly;
- creating an environment favourable to the elderly;
- creating a system of protection of the rights of elderly citizens.

In pursuance of the Action Plan and the Law of Ukraine “On Social Services” adopted in 2019, a number of legal and normative acts have been developed, in particular, state standards of social services (home care, day care, palliative care, supported housing, in-kind assistance, sign language translation, etc.), standard provisions on institutions (establishments) that provide social services, procedures for payment of compensation to individuals who provide social care services on a non-professional and professional basis.

In general, social policy towards the elderly and people with disabilities focuses on the development of services at their place of residence.

To this end, innovative social services are being implemented, in particular:

social adaptation “Third Age Universities” (exists in almost all territorial centres, there are the following faculties: “Introduction to Medicine, Healthy Lifestyle”, “Healthy Lifestyle”, “Socially Active Life Position”, “Psychology and Law”, “Culture and Art”, “Communication and Information Technologies”, “Culture and Literary”, “Philology”, etc. More than 36.0 thousand people use that service). Providing such a service ensures that diverse interests and needs of the elderly are identified and encouraged, they are reintegrated into the active life of society, helped with adapting to modern living conditions by acquiring new knowledge, improves quality of life through access to modern technologies and adaptation to technological innovations, they acquire practical skills, have the opportunity to expand the circle of communication and exchange of experiences, encourages the organization of meaningful leisure);

palliative home care for more than 100 terminally ill citizens (in Kyiv, Cherkasy and Kharkiv oblasts);

provision of social services by multidisciplinary teams (used by more than 150.0 thousand people);

home care for people with mental disorders (used by more than 1.0 thousand people in Kyiv, Cherkasy and Kharkiv oblasts).

If necessary, low-income elderly citizens are provided with free hot lunches, receive cash and in-kind assistance in the form of food, clothing, footwear, fuel, hairdressers, tailors and repairmen, footwear, building repairs, television and radio equipment, etc.

In addition to institutions and establishments created by local executive bodies, local self-government bodies, non-governmental organisations, social services (care) are provided by unemployed individuals who receive appropriate compensation.

As of 1 January 2022 more than 69.0 thousand individuals receive compensation for providing care, including for the elderly.

**90. Which are the measures in place or foreseen to ensure accessibility to goods and services (including public services) and to ensure that assistive devices for people with disabilities are available and affordable?**

In Ukraine, rehabilitation and assistive technologies are mostly services for persons with disabilities, although they still cover a number of categories of persons, and provision of such technologies is regulated mainly by legislation governing protection of the rights of persons with disabilities.

The right to auxiliary aids is protected by the Laws of Ukraine of 03.12.2020 No. 1053-IX “On Rehabilitation in Health Care”, “On Fundamentals of Social Protection of Persons with Disabilities in Ukraine” and of 06.10.2005 No. 2961-IV “On Rehabilitation of Persons with Disabilities in Ukraine”, in which auxiliary aids are referred to as “technical and other means of rehabilitation”. Legislation provides for a wide range of products that fall into the category of technical (auxiliary) means of rehabilitation: wheelchairs, prosthetic and orthopaedic products, including orthopaedic shoes; special tools for self-care and nursing; means of transportation; auxiliary aids for personal mobility, movement and lifting; furniture and equipment; special tools for orientation, communication and information exchange, etc.

Article 16 of the Law “On Rehabilitation of Persons with Disabilities in Ukraine” provides for the creation of a state programme that establishes a state-guaranteed list of rehabilitation services, which also includes technical and other means of rehabilitation. In pursuance of the above legislation, the Cabinet of Ministers of Ukraine, by its Resolution No. 1686 of 08.12.2006 approved the State Standard Programme of Rehabilitation of People with Disabilities.

The implementation of such programme is entrusted to various ministries, and specifically, to: MSPU, MoH, the Ministry of Education and Science, Ministry of Youth and Sports and the Ministry of Culture. Coordination and control of the implementation of the Programme are entrusted to MSPU.

The Programme provides a list of rehabilitation services and auxiliary aids to which the persons with disabilities are entitled. All services are provided in accordance with an individual rehabilitation programme prepared by the competent Medical and Social Expert Commission (for adults with disabilities) or by the Medical Advisory Commission of a healthcare institution (for children with

disabilities) based on the pathology or disease diagnosed. Auxiliary aids are also prescribed as part of an individual rehabilitation programme.

In 2010, the Government of Ukraine reaffirmed its commitment to step up the availability of assistive technologies by ratifying the Convention on the Rights of Persons with Disabilities, which, in its turn, addresses assistive technologies: signatory states must take effective measures to ensure accessibility of high-quality aids.

The issue of providing technical (auxiliary) aids of rehabilitation at the level of bylaws in the field of social protection is regulated by resolutions of CMU and orders of MSPU, and the most important of those are as follows:

CMU Resolution of 05.04.2012 No. 321, which establishes the procedure for providing technical and other means of rehabilitation;

CMU Resolution of 01.10.2014 No. 518, which establishes the procedure for prosthetics and orthotics by using high-functionality products based on the latest technologies and manufacturing technologies that are not available in Ukraine, and/or by using special products for sports, for the participants of the anti-terrorist operation;

Order of MSPU of 06.08.2019 No. 1208, which sets maximum prices for auxiliary aids; and other orders.

The Ukrainian Research Institute of Prosthetics, Prosthetic Construction and Rehabilitation (UkrNDIprotezuвання) has a great influence on formulating an agenda of the issues regarding assistive technologies. UkrNDIprotezuвання is located in Kharkiv, in North East of Ukraine. It is one of 12 state centres for prosthetics and orthotics, and it is also a research centre, an educational institution and a test centre. UkrNDIprotezuвання has an extensive technical experience and is very active in developing standards, guidelines, procedures and other acts on assistive technologies.

To be eligible for support from the state, a person must be registered as a person with a disability, although there are a few exceptions. Victims of hostilities in Donetsk and Luhansk oblasts have the right to receive auxiliary aids regardless of whether they have a disability status or not. Certain categories of the population, including children with muscle-skeleton disorders, veterans of military service, law enforcement agencies, the National Police, the State Fire Service, etc., women, girls who have undergone mastectomy, lumpectomy, quadrantectomy, and the elderly have the right to receive prostheses regardless of whether they have a disability status or not.

Primary care patients undergoing prosthetics and orthotics, as well as those who use a wheelchair for the first time, have the right to selection, adaptation and acquisition services. These rehabilitation services should be provided at enterprises, institutions and organisations managed by MSPU, and at other enterprises, institutions, organisations adequately suited to provide them, and by the specialists who have adequate training, under the procedure established by MSPU.

Information on persons with disabilities is entered into, and contained in, a centralised database on the matters of disability, which covers all the necessary range of information for high-quality and rapid provision of auxiliary aids.

In general, Ukraine has a well-developed sector of assistive technologies. There are many suppliers of auxiliary aids in the country, and their number is growing. People with disabilities have the opportunity to choose from a wide range of mobility and self-care aids. The budget allocated for aids in the country is relatively large. MSPU is actively seeking to develop this sector and is taking

concrete steps to strengthen the system. In particular, a new customer-oriented individual approach to the provision of assistive technologies was introduced, partial monetary compensation for self-purchased products was introduced, freedom of choice of supplier was provided in accordance with human functional needs, etc.

*As to accessibility of administrative services for persons with disabilities and other people with reduced mobility.*

The Law of Ukraine of 06.09.2012 No. 5203-VI “On Administrative Services” defines legal basis for exercise of rights, freedoms and legitimate interests of natural persons and legal entities in delivering administrative services.

As of 1 January 2022, there were 2,891 access points to administrative services in Ukraine: Ukrainians could obtain services at 1,027 Administrative Service Centres (hereinafter ASCs), 124 territorial units, 1,712 administrators’ remote workplaces or at 28 mobile Administrative Service Centres.

Requirements to ASC premises are determined by the ASC Model Regulations as approved by Resolution No. 588 of CMU of 01 August 2013.

Paragraphs 5, 9, 15, 52 of the ASC Model Regulations stipulate that an ASC is to be located in the central part of the city/settlement/village or in another convenient place with a developed transport infrastructure.

Tactile and contrast markings for the disabled persons with visual impairments are placed at the entrance to the premises. 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 with temporary storage spaces for baby carriages.

Premises of ASCs are equipped with barrier-free accessible sanitary facilities for persons with disabilities, including those who use wheelchairs, and for other persons with reduced mobility.

Free parking spaces for service users are arranged in the territories adjacent to ASCs, 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 are arranged with due account for the needs of persons with disabilities and reduced mobility, and meet the requirements of relevant state building standards and regulations.

Premises of ASCs are divided into open and closed areas. An open area occupies the ground or the first floor of a building, subject to ensuring proper conditions for the unimpeded access for persons with disabilities and those with reduced mobility to the building.

If applicable, a waiting area is equipped with an automated queue management system, and a voice announcement system for elderly and visually impaired people.

Persons with disabilities and those with reduced mobility are 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 should provide voice and video information or other convenient ways to inform persons with disabilities, including persons with hearing and visual impairments, and persons with reduced mobility.

A sign language interpreter may be involved in the operation of ASCs to ensure that administrative services are provided to the deaf, mute or deaf-mute.

Territorial units and administrators' remote workplaces are located on the ground or first floor of a building, provided that appropriate conditions are created for unimpeded access to the building for persons with disabilities and other persons with reduced mobility.

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 is used to provide administrative services and issue the results of provision thereof (including the decision to refuse to satisfy a user's application) to residents of settlements designated by the body that established the centre, taking into account territorial accessibility.

The *Mobile Administrator* service is used to provide administrative services and issue the results of provision thereof (including the decision to refuse to satisfy a user's application) to persons with reduced mobility.

## **91. How is accessibility required in public procurement?**

The Law of Ukraine "On Public Procurement" (hereinafter — the Law) establishes the legal and economic principles of procurement of goods, works and services to meet the needs of the state, local communities and related territorial communities.

The procedures provided by legislation on public procurement do not apply to the provision of persons with disabilities with rehabilitation aids, and other technical aids and services.

In order to simplify the public procurement procedure in terms of participation of sheltered workshops of NGO associations of persons with disabilities, as well as the incorporation of the provisions of Article 20 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 in Ukraine, MoE is working on implementation of activities as stipulated by subparagraphs 2 and 3, paragraph 3, section XVI of the National Action Plan for Implementation of the Convention on the Rights of Persons with Disabilities for the period until 2025 as approved by CMU on 07.04.2021 No. 285–p, and particularly, on:

defining ways of incorporation of the provisions of Article 20 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 as regards participation in public procurement procedures to sheltered workshops founded by the NGO associations of persons with disabilities;

addressing, under the established procedure, the issues of application of a simplified procurement procedure in accordance with the Law of Ukraine "On Public Procurement" for sheltered workshops of the NGO associations of persons with disabilities.

The Law of Ukraine "On Public Procurement" defines the technical specification of the procurement (paragraph 33 of Article 1) as a set of technical conditions established by the procuring entity that determines the characteristics of goods, services or necessary for performing works, which may, inter alia, include design features (including being suitable for people with disabilities).

In addition, Article 23(2) of the Law of Ukraine “On Public Procurement” stipulates that if the procurement will be used by individuals, technical specifications should be based on the needs of persons with disabilities or design requirements to meet the needs of all categories of users.

Procuring entities publish tender announcements in the electronic procurement system, and vendors submit their commercial proposals. This is implemented via the e-auction module, which is accessible to procuring entities and vendors via electronic platforms authorized by MoE.

All e-platforms in the Prozorro e-procurement system follow the general rules for developing web portals for easier human perception and greater accessibility.

Information on tenders is sent to the central database of the electronic procurement system and simultaneously published on the web portal [prozorro.gov.ua](http://prozorro.gov.ua) and on all authorized platforms.

Access to the main portal [prozorro.gov.ua](http://prozorro.gov.ua) and all authorized sites is free and available to everyone.

## **SOCIAL PROTECTION**

### **A. Main influencing factors for social protection**

**92. Please provide the following main economic and financial indicators (if available, according to Eurostat methodology and time span covered — 3 years):**

**93. GDP: absolute in EURO; growth rate; GDP per head in PPS;**

#### *GDP*

According to MoE’s estimates based on the State Statistics Service data on nominal GDP in UAH and the National Bank data on average annual UAH to EUR exchange rate, GDP amounted to EUR 137.4 billion in 2019, to EUR 137.1 billion in 2020, and to EUR 169 billion in 2021.

According to the State Statistics Service, GDP increased by 3.2% in 2019, decreased by 3.8% in 2020, and increased by 3.4%, as compared to the previous year, in 2021.

#### *Trends in GDP per capita in PPP (PPP, in % of the EU 27 average).*

According to the World Bank, GDP per capita in PPP (current international \$) increased from Int\$ 10,743.6 in 2014 to Int\$ 13,054.8 in 2020. Ukraine climbed from 141<sup>st</sup> place in 2014 to 123<sup>rd</sup> in 2020 in the world ranking by GDP per capita (based on purchasing power parity, PPP), and is ahead of Moldova among the neighbouring countries.

It should be noted that this indicator reflects total consumption per person and is closely correlated with welfare level in the country. As compared to the EU 27, it is 4.2 times lower (in the EU, GDP per capita amounted to Int\$ 44,763.2 in 2020, including Int\$ 54,792.1 in Germany, Int\$ 34,240.2 in Poland and Int\$ 31,464.5 in Latvia).

**94. Social protection expenditure as percentage of GDP;**

Social protection and social security expenditure:

2019 — 5.5% of GDP

2020 — 7.6% of GDP

2021— 6.2% of GDP

**95. Social protection expenditure as percentage of state budget.**

Social protection and social security expenditure:

2019 — 20.3% of state budget expenditures

2020 — 25.1% of state budget expenditures

2021— 22.8% of state budget expenditures

**96. Please provide the following main social indicators, if available:**

**97. Unemployment rate/long-term unemployment rate/inactivity rate (by gender); further information on vulnerable groups affected by unemployment/long-term unemployment/inactivity (young people under 25, persons with disabilities, migrants etc.) male/female;**

The above-mentioned information is collected by the State Statistical Service of Ukraine according to the state statistical observation plan, which is annually adopted by the relevant CMU Order.

The State Statistical Service of Ukraine does not collect information on persons with disabilities and migrants as part of that observation programme.

According to the labour force survey, in 2021, the unemployment rate (based on the IOM methodology) for persons aged 15–70 was 9.9% of the labour force of this age group.

Among persons aged 15–70, the rate was higher among women, as compared to men (10.2% and 9.6% respectively).

The highest unemployment rate (based on the IOM methodology) was observed among the youth aged 15–24 (19.1%). This figure was higher among women (20.3%), as compared to men (18.0%).

The lowest unemployment rate (based on the IOM methodology) was observed among persons aged 30–34 (8.4%) and persons aged 60+ (0.3%).

In terms of the duration of job search, the share of unemployed persons looking for a job for 12 months or longer increased in 2021 as compared to 2020 (by 3.9 percentage points).

The long-term unemployment rate among persons aged 15–70 was at 2.4% of the labour force of this age group in 2021, in particular 2.5% among women and 2.3% among men.

Average duration of unemployment (based on the IOM methodology) increased from 6 months in 2020 to 7 months in 2021.

In 2021, the number of persons outside the labour force aged 15–70 was 10.7 million, i.e. 38.2% of the total population of this age group (43.9% among women, 31.9% among men). In this population category, one in two persons was a pensioner, and one in of five persons was a student (a full-time pupil) or had domestic (family) responsibilities.

Tables 15-18 provide detailed information on the requested data.



**Table 15.** Employment and unemployment of the population by gender

|   | 2019     | 2020     | 2021     |
|---|----------|----------|----------|
| Employed population aged 15+, thousand persons                                  | 16,668.0 | 15,995.6 | 15,693.4 |
| Women   | 7,974.3  | 7,650.0  | 7,451.4  |
| Men   | 8,693.7  | 8,345.6  | 8,242.0  |
| Employed population aged 15+, %   | 51.7     | 49.9     | 49.3     |
| Women   | 45.4     | 43.8     | 42.9     |
| Men   | 59.3     | 57.2     | 56.9     |
| Unemployed population aged 15+ (based on the IOM methodology), thousand persons | 1,487.7  | 1,674.2  | 1,711.6  |
| Women   | 679.8    | 763.2    | 841.6    |
| Men   | 807.9    | 911.0    | 870.0    |
| Unemployment rate of population aged 15+ (based on the IOM methodology), %      | 8.2      | 9.5      | 9.8      |
| Women   | 7.9      | 9.1      | 10.1     |
| Men   | 8.5      | 9.8      | 9.5      |

*Note. The data are based on the labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.*

**Table 16.** Employment and unemployment of the population by age groups

|                  |      | Unemployment rate of population aged 15–70 | By age groups (years old) |       |       |       |       |       |       |       |       |       | Of working age (15–59) |
|------------------|------|--|---------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|------------------------|
|                  |      |  | 15–24                     | 25–29 | 30–34 | 35–39 | 40–49 | 50–59 | 60–70 | 15–34 | 15–64 | 20–64 |                        |
| Total population | 2019 | 8.2  | 15.4                      | 8.4   | 7.3   | 7.5   | 8.4   | 8.0   | 0.1   | 9.5   | 8.3   | 8.2   | 8.6                    |
|                  | 2020 | 9.5  | 19.3                      | 8.7   | 8.2   | 10.3  | 9.5   | 9.0   | 0.1   | 10.6  | 9.6   | 9.4   | 9.9                    |
|                  | 2021 | 9.9  | 19.1                      | 9.4   | 8.4   | 10.7  | 9.8   | 9.5   | 0.3   | 11.0  | 10.0  | 9.8   | 10.3                   |

|       |      |      |      |      |     |      |      |     |     |      |      |      |      |
|-------|------|------|------|------|-----|------|------|-----|-----|------|------|------|------|
| Women | 2019 | 7.9  | 15.3 | 7.8  | 6.3 | 8.0  | 8.6  | 7.2 | 0.1 | 8.8  | 8.0  | 7.9  | 8.2  |
|       | 2020 | 9.1  | 18.5 | 8.2  | 7.9 | 10.2 | 9.2  | 8.6 | 0.1 | 10.2 | 9.2  | 9.1  | 9.5  |
|       | 2021 | 10.2 | 20.3 | 8.2  | 9.3 | 12.1 | 10.1 | 9.6 | 0.2 | 11.3 | 10.3 | 10.2 | 10.6 |
| Men   | 2019 | 8.5  | 15.5 | 8.8  | 8.1 | 7.0  | 8.2  | 8.8 | 0.2 | 10.0 | 8.6  | 8.4  | 8.8  |
|       | 2020 | 9.9  | 19.9 | 9.1  | 8.4 | 10.4 | 9.8  | 9.4 | 0.1 | 11.0 | 10.0 | 9.7  | 10.2 |
|       | 2021 | 9.6  | 18.0 | 10.2 | 7.8 | 9.5  | 9.6  | 9.4 | 0.4 | 10.7 | 9.7  | 9.4  | 9.9  |

*Note: the data are based on the labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.*

**Table 17. Long-term unemployment rate of population aged 15–70 (based on the IOM methodology) by gender**

|  | 2019 | 2020 | 2021 |
|--|------|------|------|
| Long-term unemployment share (% of the total number of unemployed persons) | 12.6 | 20.6 | 24.4 |
| Long-term unemployment share of women, %                                   | 12.7 | 21.0 | 24.4 |
| Long-term unemployment share of men, %                                     | 12.6 | 20.3 | 24.5 |
| Long-term unemployment rate (% of the labour force)                        | 1.0  | 2.0  | 2.4  |
| Long-term unemployment rate of women (% of the labour force)               | 1.0  | 1.9  | 2.5  |
| Long-term unemployment rate of men (% of the labour force)                 | 1.1  | 2.0  | 2.3  |

*Note: the data are based on the labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.*

**Table 18. Persons outside the labour force by age groups and by gender (Inactivity rate)**

|  | as percentage of the population of the relevant age group) |            |                           |           |           |           |           |           |           |           |           |           |                                  |
|--|--|------------|---------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------------------------------|
|  | Total<br>persons<br>15–70                                  | of<br>aged | By age groups (years old) |           |           |           |           |           |           |           |           |           | Of<br>working<br>age (15–<br>59) |
|  |  |            | 15–<br>24                 | 25–<br>29 | 30–<br>34 | 35–<br>39 | 40–<br>49 | 50–<br>59 | 60–<br>70 | 15–<br>34 | 15–<br>64 | 20–<br>64 |                                  |

|                  |      |      |      |      |      |      |      |      |      |      |      |      |      |
|------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Total population | 2019 | 36.6 | 63.8 | 20.0 | 18.0 | 14.2 | 14.0 | 26.2 | 86.3 | 36.4 | 31.3 | 27.1 | 26.0 |
|                  | 2020 | 37.9 | 68.1 | 21.0 | 18.9 | 16.0 | 15.2 | 25.4 | 86.8 | 38.9 | 32.5 | 28.0 | 27.2 |
|                  | 2021 | 38.2 | 69.4 | 22.3 | 19.2 | 16.1 | 14.8 | 24.6 | 87.2 | 40.3 | 32.8 | 28.1 | 27.3 |
| Women            | 2019 | 42.5 | 68.3 | 32.7 | 27.8 | 19.8 | 16.0 | 29.2 | 88.2 | 44.9 | 36.8 | 33.1 | 31.1 |
|                  | 2020 | 43.7 | 72.1 | 32.8 | 29.4 | 22.3 | 17.6 | 27.7 | 88.8 | 47.0 | 37.8 | 34.0 | 32.1 |
|                  | 2021 | 43.9 | 71.9 | 34.9 | 29.6 | 23.6 | 17.4 | 26.4 | 89.0 | 48.0 | 38.1 | 34.0 | 32.1 |
| Men              | 2019 | 30.1 | 59.5 | 7.8  | 8.4  | 8.7  | 11.9 | 22.6 | 83.6 | 28.3 | 25.5 | 20.6 | 20.8 |
|                  | 2020 | 31.5 | 64.3 | 9.7  | 8.6  | 9.8  | 12.7 | 22.6 | 83.8 | 31.1 | 26.7 | 21.6 | 22.1 |
|                  | 2021 | 31.9 | 67.0 | 10.3 | 9.2  | 8.6  | 12.1 | 22.4 | 84.5 | 33.0 | 27.3 | 21.8 | 22.3 |

*Note. The data is based on the labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.*

#### **98. Employment and labour market developments: employment rate of women; employment rate of older workers (55-64); highlight regional and sectoral differences and significances;**

According to the labour force survey, in 2021, the employment rate of population aged 15–70 was 55.7% of the population of this age group. Among persons aged 15–70, the rate was higher among men, as compared to women (61.5% and 50.4% respectively).

As regards women aged 15–70, the highest level was observed among persons aged 40–49 (74.2%), and the lowest — among the youth aged 15–24 (22.4%) and persons aged 60–70 (11.0%).

In 2021, the employment rate of persons aged 55–64 equalled 41.1% of the population of this age group. This figure was higher among men (45.2%), as compared to women (38.0%).

According to the labour force survey, one in five employed people aged 15–70 was working in trade or industry sector,

one in seven — in agriculture, forestry and fishery. The most popular economic activities among women were trade (22.4%) and education (15.7%) and among men — industry (22.7%) and agriculture, forestry and fishery (16.2%).

In 2021, all country regions witnessed a decrease in the employment rate of population aged 15–70, as compared to 2020. The highest rate was recorded in the city of Kyiv (61.6%), and the lowest in Volyn oblast (48.5%).

In 2021, the employment rate of women aged 15–70 declined by 2.5 percentage points, as compared to 2019, and equalled 50.4% of the total female population of this age group. In terms of regions, in 2021, the lowest rate was recorded in Zakarpattia oblast (42.1%) and in Volyn oblast (43.2%), and the highest — in Kyiv (57.7%).

In 2019–2021, the lowest employment rate of population aged 55–64 was observed in 2021, amounting to 41.1% of the total population of this age group, while the highest rate was recorded in 2020, being equal to 42.1%. As regards women, the value reached 38.0% in 2021 and 39.1% in 2020. As regards men, it reached 45.2% in 2021 and 46.0% in 2020.

No indicators as regards the employment of older people (55–64) in terms of regions and sectors are formed by the State Statistical Service of Ukraine.

The tables below provide detailed information on employment rates by age groups, gender and regions.

**Table 19. Employment rate by age groups and by gender (as percentage of population of the relevant age group)**

|                  |      | Employment rate aged 15–70 | By age groups (years old) |       |       |       |       |       |       |       |       |       |       | Of working age (15–59) |
|------------------|------|----------------------------|---------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|------------------------|
|                  |      |                            | 15–24                     | 25–29 | 30–34 | 35–39 | 40–49 | 50–59 | 60–70 | 15–34 | 15–64 | 20–64 | 55–64 |                        |
| Total population | 2019 | 58.2                       | 30.6                      | 73.3  | 76.0  | 79.3  | 78.7  | 67.9  | 13.7  | 57.6  | 62.9  | 66.9  | 41.9  | 67.6                   |
|                  | 2020 | 56.2                       | 25.8                      | 72.1  | 74.5  | 75.3  | 76.7  | 67.9  | 13.2  | 54.6  | 61.0  | 65.2  | 42.1  | 65.6                   |
|                  | 2021 | 55.7                       | 24.8                      | 70.4  | 74.0  | 75.0  | 76.8  | 68.3  | 12.8  | 53.1  | 60.5  | 64.8  | 41.1  | 65.3                   |
| Women            | 2019 | 52.9                       | 26.8                      | 62.1  | 67.6  | 73.7  | 76.8  | 65.7  | 11.8  | 50.3  | 58.1  | 61.6  | 38.5  | 63.2                   |
|                  | 2020 | 51.2                       | 22.8                      | 61.7  | 65.0  | 69.8  | 74.8  | 66.0  | 11.2  | 47.6  | 56.4  | 60.0  | 39.1  | 61.5                   |
|                  | 2021 | 50.4                       | 22.4                      | 59.8  | 63.9  | 67.2  | 74.2  | 66.5  | 11.0  | 46.1  | 55.5  | 59.3  | 38.0  | 60.7                   |
| Men              | 2019 | 64.0                       | 34.3                      | 84.1  | 84.1  | 84.9  | 80.9  | 70.6  | 16.4  | 64.5  | 68.1  | 72.7  | 46.3  | 72.2                   |
|                  | 2020 | 61.8                       | 28.6                      | 82.1  | 83.7  | 80.9  | 78.7  | 70.1  | 16.2  | 61.3  | 66.0  | 70.8  | 46.0  | 69.9                   |
|                  | 2021 | 61.5                       | 27.1                      | 80.5  | 83.7  | 82.7  | 79.5  | 70.3  | 15.4  | 59.8  | 65.7  | 70.8  | 45.2  | 69.9                   |

*Note. The data is based on the labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.*

| Employment rates of population aged 15–70 by gender and by regions (as percentage of the total population aged 15–70) |                  |      |      |      |      |      |       |      |      |      |      |      |      |      |      |      |      |      |  |
|---|------------------|------|------|------|------|------|-------|------|------|------|------|------|------|------|------|------|------|------|--|
|   | Total population |      |      |      |      |      | Women |      |      |      |      |      | Men  |      |      |      |      |      |  |
| Year  | 2016             | 2017 | 2018 | 2019 | 2020 | 2021 | 2016  | 2017 | 2018 | 2019 | 2020 | 2021 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |  |
| Ukraine   | 56.3             | 56.1 | 57.1 | 58.2 | 56.2 | 55.7 | 51.6  | 51.4 | 52.5 | 52.9 | 51.2 | 50.4 | 61.6 | 61.4 | 62.1 | 64.0 | 61.8 | 61.5 |  |
| Vinnysia oblast   | 56.6             | 55.3 | 56.8 | 58.0 | 56.2 | 55.6 | 51.4  | 50.6 | 53.9 | 53.2 | 50.4 | 50.2 | 62.4 | 60.5 | 60.0 | 63.2 | 62.5 | 61.4 |  |
| Volyn oblast  | 51.0             | 48.8 | 49.5 | 50.9 | 48.9 | 48.5 | 47.0  | 45.2 | 47.8 | 46.7 | 44.2 | 43.2 | 55.3 | 52.7 | 51.5 | 55.4 | 53.9 | 54.1 |  |
| Dnipropetrovsk oblast   | 59.1             | 58.0 | 58.6 | 59.5 | 58.0 | 57.9 | 54.9  | 52.5 | 52.7 | 55.6 | 53.3 | 52.3 | 63.8 | 64.4 | 65.3 | 63.9 | 63.4 | 64.2 |  |
| Donetsk oblast  | 50.0             | 49.4 | 50.0 | 50.9 | 49.2 | 48.9 | 45.8  | 46.5 | 46.8 | 45.3 | 44.9 | 44.7 | 54.8 | 52.8 | 53.5 | 57.3 | 54.0 | 53.5 |  |
| Zhytomyr oblast   | 55.9             | 56.4 | 57.5 | 58.5 | 55.3 | 54.8 | 52.6  | 52.2 | 53.1 | 55.1 | 50.8 | 50.4 | 59.6 | 61.0 | 62.4 | 62.2 | 60.2 | 59.4 |  |

|                        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
|------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Zakarpattia oblast     | 54.8 | 53.8 | 54.5 | 55.4 | 53.7 | 52.8 | 47.1 | 45.9 | 47.8 | 45.7 | 43.5 | 42.1 | 62.9 | 62.2 | 61.7 | 65.5 | 64.4 | 64.1 |
| Zaporizhzhia oblast    | 56.0 | 55.2 | 56.7 | 58.1 | 56.0 | 55.8 | 50.7 | 48.5 | 50.2 | 52.7 | 50.3 | 51.0 | 62.0 | 62.8 | 64.2 | 64.1 | 62.3 | 61.2 |
| Ivano-Frankivsk oblast | 54.7 | 55.0 | 55.6 | 56.6 | 54.1 | 53.8 | 47.2 | 48.3 | 49.8 | 47.2 | 47.0 | 47.3 | 62.7 | 62.1 | 61.8 | 66.7 | 61.8 | 60.7 |
| Kyiv oblast            | 57.8 | 58.0 | 58.5 | 59.3 | 57.8 | 56.8 | 52.7 | 53.0 | 52.9 | 54.0 | 51.4 | 50.6 | 63.4 | 63.7 | 64.9 | 65.4 | 65.0 | 64.0 |
| Kirovohrad oblast      | 52.9 | 53.3 | 54.5 | 55.6 | 53.1 | 52.6 | 48.5 | 49.0 | 50.2 | 49.7 | 49.1 | 47.5 | 57.8 | 58.2 | 59.2 | 62.2 | 57.5 | 58.2 |
| Luhansk oblast         | 55.6 | 54.7 | 56.9 | 58.8 | 56.4 | 55.7 | 53.7 | 52.6 | 54.2 | 53.9 | 52.1 | 50.3 | 57.7 | 57.0 | 59.9 | 64.1 | 61.2 | 61.7 |
| Lviv oblast            | 55.9 | 56.2 | 56.8 | 57.8 | 56.0 | 55.8 | 50.5 | 52.1 | 53.9 | 53.8 | 52.4 | 51.4 | 61.7 | 60.5 | 60.0 | 62.1 | 59.9 | 60.4 |
| Mykolaiv oblast        | 57.5 | 56.8 | 58.1 | 59.1 | 57.3 | 56.4 | 51.9 | 50.7 | 52.2 | 51.6 | 51.5 | 50.0 | 63.7 | 63.7 | 64.7 | 67.3 | 63.7 | 63.6 |
| Odesa oblast           | 56.7 | 56.1 | 57.2 | 58.3 | 56.8 | 56.5 | 49.6 | 48.8 | 49.5 | 50.4 | 48.4 | 47.8 | 64.4 | 64.0 | 65.5 | 66.9 | 66.0 | 66.1 |
| Poltava oblast         | 53.3 | 54.0 | 55.1 | 56.6 | 54.8 | 54.0 | 48.8 | 50.3 | 50.1 | 50.4 | 49.2 | 49.7 | 58.3 | 58.2 | 60.6 | 63.5 | 61.0 | 58.8 |
| Rivne oblast           | 56.9 | 55.1 | 56.8 | 58.4 | 56.1 | 55.0 | 54.2 | 51.6 | 55.7 | 57.5 | 56.4 | 50.9 | 59.8 | 58.8 | 57.9 | 59.4 | 55.8 | 59.5 |
| Sumy oblast            | 56.8 | 57.4 | 58.4 | 59.8 | 56.8 | 55.8 | 53.1 | 54.8 | 54.9 | 56.2 | 52.8 | 51.4 | 61.0 | 60.3 | 62.3 | 63.7 | 61.2 | 60.6 |
| Ternopil oblast        | 52.0 | 51.0 | 52.7 | 53.8 | 51.6 | 50.8 | 51.8 | 48.1 | 50.0 | 50.2 | 47.2 | 45.6 | 52.2 | 54.2 | 55.6 | 57.8 | 56.4 | 56.4 |
| Kharkiv oblast         | 59.7 | 60.6 | 61.4 | 62.1 | 59.9 | 59.3 | 54.8 | 55.8 | 56.4 | 56.9 | 55.1 | 53.9 | 65.2 | 66.0 | 67.0 | 67.9 | 65.2 | 65.2 |
| Kherson oblast         | 55.8 | 56.2 | 57.5 | 58.9 | 56.8 | 56.3 | 49.8 | 48.2 | 51.0 | 53.3 | 49.0 | 50.5 | 62.4 | 65.0 | 64.7 | 65.2 | 65.4 | 62.6 |
| Khmelnyskyi oblast     | 53.9 | 54.7 | 55.9 | 57.0 | 54.8 | 54.0 | 48.3 | 50.9 | 53.1 | 52.6 | 50.1 | 49.7 | 60.0 | 59.0 | 58.8 | 61.8 | 60.0 | 58.7 |
| Cherkasy oblast        | 56.2 | 56.7 | 57.7 | 59.3 | 57.0 | 56.0 | 51.9 | 52.9 | 53.4 | 54.7 | 53.2 | 52.0 | 61.2 | 60.9 | 62.4 | 64.5 | 61.2 | 60.5 |
| Chernivtsi oblast      | 56.2 | 56.6 | 57.2 | 59.0 | 56.5 | 55.6 | 49.2 | 51.7 | 52.5 | 50.4 | 51.6 | 50.0 | 63.8 | 62.0 | 62.4 | 68.4 | 61.9 | 61.7 |
| Chernihiv oblast       | 55.6 | 56.1 | 57.3 | 58.9 | 56.4 | 55.5 | 52.8 | 53.3 | 54.5 | 56.6 | 53.5 | 52.8 | 58.7 | 59.3 | 60.4 | 61.5 | 59.6 | 58.6 |
| The city of Kyiv       | 62.3 | 61.8 | 62.6 | 63.1 | 61.7 | 61.6 | 58.6 | 58.1 | 58.5 | 58.3 | 58.2 | 57.7 | 66.5 | 66.1 | 67.4 | 68.8 | 65.9 | 66.1 |

*Note. The data are based on the labour force sample survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblast.*

## **99. Income distribution (income quintile share ration, GINI index; poverty: at risk of poverty rate and threshold, definitions, highlight vulnerable groups);**

According to the households living conditions survey data for 9 months in 2021 (last data available as of April 2022), the ratio of the gross income of the 10% richest to the 10% poorest (decile ratio of funds) equalled 5 (at the 2020 level). In urban areas, the respective ratio decreased to 5 as compared to 5.3 according to the data for 9 months in 2020, and, in rural areas, increased to 4.8 as compared to 4.4.

According to gross income distribution by decile (10%) groups of the population by average per capita equivalent total income, concentration ratio (GINI index) for 9 months in 2021 was 0.249 as compared to 0.251 for 9 months in 2020.

The methodology for comprehensive poverty assessment (established by the Order of the Ministry of Social Policy, the Ministry of Economic Development, Trade and Agriculture, the Ministry of Finance, the State Statistics Service and the National Academy of Sciences of Ukraine

No. 827/403/507/113/232 of 18.05.2017, registered in the Ministry of Justice on 12.06.2017 under No. 728/30596) defined monetary poverty line as the level of income (expenditure) below which basic needs of a person cannot be met. A monetary poverty line value is the basis for defining a person as poor.

According to data for 9 months in 2021:

absolute poverty criterion based on the income below the actual cost of living: poverty threshold (poverty line) — UAH 4,271, poverty rate in Ukraine — 22.3%;

poverty rates by socio-demographic and socio-economic population groups:

children aged 0–17 — 26.0%;

persons aged 16–19 — 27.4%;

persons aged 20–64 — 18.7%;

persons aged 75+ — 31.6%;

persons of retirement age (unemployed) — 34.0%;

employed persons — 12.4 %.

#### **100. Family structure: main trends, number of children per family; age of mother; divorce rate; percentage of one-parent families; percentage of single households.**

2021 witnessed an increase in marriages and a decrease in divorces. 249.5 thousand marriages were registered in 2017, 228.4 thousand in 2018, 237.9 thousand in 2019, almost 168 thousand in 2020, and more than 214 thousand in 2021.

33.2 thousand divorces were registered in 2017, 53.9 thousand in 2018, 38.5 thousand in 2019, almost 29 thousand in 2020 and 26.6 thousand in 2021. So, there is a continuous downward trend in divorces.

At the same time, the ratio of total divorces to marriages has been fluctuating: the ratio of total divorces to marriages was 13% in 2017, 23.6% in 2018, 16% in 2019, 17% in 2020 and 13% in 2021. This might be related to various factors, including the general decrease in marriages and the tendency to marry at a higher age.

Most families have one child. According to sample surveys data, as of 01.01.2020, 79.4% of households with children had one child, 18.1% had two children and only 2.5% had three or more children.

The majority of Ukrainian children (80%) are raised in two-parent families, where children have both mother and father. Almost one in five families is single-parent, where children are usually raised by their mother. According to the sample surveys conducted by the State Statistical Service of Ukraine, the share of individual households with children under the age of 18 who do not have one or both parents, in relation to the total number of households with children, was 18.9% in 2017, 20.5% in 2018, 20.3% in 2019, 16.8% in 2020. Accordingly, in 2020, 83.2% of family households with children were two-parent families, in 0.8% of households with children, children were raised without a mother, and in 15.6% — without a father, in 0.4%, children lived with their relatives and without parents.

According to the State Statistics Service data published in “Tables of birth and mortality rates and life expectancy as of 2020” statistical bulletin, in Ukraine, there is a tendency towards an increase in the average age of a mother at the birth of her first child, which corresponds to the global trends: the average age was 28.04 in 2020, 27.94 in 2019, 27.81 in 2018, 27.64 in 2017, 27.45 in 2016.

Analysis of the distribution of households by gender of the household head showed that more than half of Ukrainian households were headed by women in 2020 (53.9%); this applied to both households with children and households without children.

In Ukraine, the number of one-person households is gradually decreasing (2,805.2 thousand households in 2020 versus 3,061.9 thousand households in 2015). However, the majority of one-person households are represented by women who live alone (70.4%). The numerical dominance of women in one-person households is mainly due to the elderly population: 86.5% of all such households in the age group of 65 years and older are represented by single women.

Households of single elderly women who are no longer employed are a particularly vulnerable category in terms of poverty. The proportion of such households is significantly higher in rural areas (47.9% in 2020) than in cities and towns (35.8%). Accordingly, the proportion of poor households (with an average monthly per capita monetary income below the average monetary income of all households in Ukraine) composed of single women aged 65 years and older who are no longer employed is also higher in rural areas, 6.1% versus 3.2% in urban areas.

Proportion of one-parent households with children was 16.9% in 2020 (94.2% with a female parent, 5.8% with a male parent) as percentage of the total number of households with children. Average number of children in one-parent households was 1.17.

In 2020, there were 2,684 thousand households with children — 2,074 thousand with one child, 535.1 thousand with two children, 74.9 thousand with three and more children.

According to 2021 data, the total number of households in Ukraine amounted to 14,678.1 thousand (it was 15,033 thousand in 2016). 67.7% of households live in urban areas, one third — in rural areas.

The average size of a household in Ukraine is 2.58 persons. More populous households, as before, are typical of rural areas (2.67 persons versus 2.53 in urban areas).

In Ukraine, the most common households are those that consist of two persons. The share of households with children under the age of 18 is 37.8%. 79.5% of households with children have one child, 18.4% have two children and 2.1% have three or more children.

The average size of a household with children is 3.65 persons. A family with children has an average of 1.23 children.

Single-parent households with children amount to 993.3 thousand, or 17.9% of all households with children, or 6.8% of all households.

One-person households amount to 2,620.0 thousand, or 17.9% of all households.

The share of single women aged 60+ is 5%, the share of single men of the same age group is 1.4%.

## **101. Number of persons with disabilities disaggregated by age, gender, severity**

In accordance with the State Statistical Survey Plan, the State Statistics Service of Ukraine publishes, on an annual basis, the statistic digest “Social protection of the population of Ukraine” containing all available information about people with disabilities.

The digest contains information that characterizes the dynamics of the number of pensioners and people with disabilities, the size of their pensions, the provision of various types of assistance, etc. The digest uses data from state statistical surveys, administrative data from MSPU, MoH, the Ministry of Education and Science of Ukraine, the State Treasury Service of Ukraine and the Pension Fund of Ukraine. Information on the results of state statistical surveys and administrative reporting data for 2014-2020 is provided excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and some temporarily occupied territories in Donetsk and Luhansk oblasts.

According to the statistics provided by the State Statistics Service, as of 01.01.2021, the total number of persons with disabilities in Ukraine was 2,724.1 thousand, including:

215.0 thousand persons with a disability of the first group;

897.1 thousand persons with a disability of the second group;

1,449.1 thousand persons with a disability of the third group;

162.9 thousand children with disabilities.

The total number of children with disabilities under the age of 18 in 2020 was 162,923 children, including:

boys: 0–2 years old — 3,973; 3–6 years old — 16,488; 7–14 years old — 53,511; 15–17 years old — 19,900;

girls: 0–2 years old — 3,139; 3–6 years old — 12,077; 7–14 years old — 38,676; 15–17 years old — 15,159.

117,664 people were freshly recognized as ones with disabilities in 2020, including:

due to accidents at work and occupational diseases — 2,539 people; due to general illness — 99,411 people;

from among military personnel — 5,740 people;

since childhood — 9,974 persons

**Table 19. Number of persons freshly recognised in 2020 as ones with disabilities<sup>1</sup> by reasons (persons aged 18+)**

|  | Total          |                | Of which:                        |                              |
|--|----------------|----------------|----------------------------------|------------------------------|
|  | in urban areas | in rural areas | women aged 18–54, man aged 18–59 | women aged 55+, men aged 65+ |
|  |                |                |                                  |                              |

<sup>1</sup> According to the data presented by MoH.



|  |        |        | in urban<br>areas | in rural<br>areas | in urban<br>areas | in rural<br>areas |
|--|--------|--------|-------------------|-------------------|-------------------|-------------------|
| Recognized as persons with disabilities            | 74,516 | 43,148 | 58,571            | 37,020            | 15,945            | 6,128             |
| Due to accidents at work and occupational diseases | 1,906  | 633    | 1,679             | 576               | 227               | 57                |
| Due to general illness                             | 62,548 | 36,863 | 47,283            | 30,915            | 15,265            | 5,948             |
| From among military personnel                      | 4,190  | 1,550  | 3,760             | 1,438             | 430               | 112               |
| Since childhood                                    | 5,872  | 4,102  | 5,849             | 4,091             | 23                | 11                |

**Table 20. Number of persons freshly recognised in 2020 as ones with disabilities<sup>2</sup> by regions (women aged 18–54, men aged 18–59)**

|         | Total   | Of which living |                | Out of the total number — people of certain age groups <sup>2</sup> |                 | Out of the total number of freshly recognised — people with disabilities as a result of Chornobyl disaster |       |
|---------|---------|-----------------|----------------|---|-----------------|--|-------|
|         |         | in urban areas  | in rural areas | total   | of which living |  |       |
|         |         |                 |                |   | in urban areas  | in rural areas   |       |
| Ukraine | 117,664 | 74,516          | 43,148         | 95,591  | 58,571          | 37,020   | 2,014 |

<sup>2</sup> According to the data presented by MoH.

|                        |       |       |       |       |       |       |       |
|------------------------|-------|-------|-------|-------|-------|-------|-------|
| Vinnitsia oblast       | 5,259 | 2,744 | 2,515 | 4,366 | 2,187 | 2,179 | 8     |
| Volyn oblast           | 2,932 | 1,541 | 1,391 | 2,522 | 1,274 | 1,248 | 74    |
| Dnipropetrovsk oblast  | 8,783 | 7,350 | 1,433 | 7,179 | 5,903 | 1,276 | 24    |
| Donetsk oblast         | 6,108 | 4,750 | 1,358 | 4,845 | 3,787 | 1,058 | 6     |
| Zhytomyr oblast        | 4,272 | 2,471 | 1,801 | 3,585 | 2,005 | 1,580 | 229   |
| Zakarpattia oblast     | 3,288 | 983   | 2,305 | 2,562 | 730   | 1,832 | 31    |
| Zaporizhzhia oblast    | 6,385 | 5,081 | 1,304 | 4,591 | 3,567 | 1,024 | —     |
| Ivano-Frankivsk oblast | 4,554 | 1,767 | 2,787 | 4,172 | 1,597 | 2,575 | 10    |
| Kyiv oblast            | 5,481 | 3,308 | 2,173 | 4,086 | 2,378 | 1,708 | 1,087 |
| Kirovohrad oblast      | 2,797 | 1,541 | 1,256 | 2,165 | 1,200 | 965   | 5     |
| Luhansk oblast         | 1,578 | 1,161 | 417   | 1,328 | 937   | 391   | 9     |
| Lviv oblast            | 9,268 | 5,054 | 4,214 | 8,306 | 4,371 | 3,935 | 21    |
| Mykolaiv oblast        | 3,234 | 2,207 | 1,027 | 2,399 | 1,571 | 828   | 14    |
| Odesa oblast           | 7,294 | 3,862 | 3,432 | 5,998 | 2,940 | 3,058 | 2     |
| Poltava oblast         | 5,959 | 3,350 | 2,609 | 5,185 | 2,820 | 2,365 | 126   |
| Rivne oblast           | 3,032 | 1,280 | 1,752 | 2,551 | 1,029 | 1,522 | 89    |
| Sumy oblast            | 2,876 | 2,064 | 812   | 2,419 | 1,699 | 720   | 39    |

|                    |       |       |       |       |       |       |     |
|--------------------|-------|-------|-------|-------|-------|-------|-----|
| Ternopil oblast    | 3,349 | 1,294 | 2,055 | 2,708 | 1,057 | 1,651 | 12  |
| Kharkiv oblast     | 7,315 | 6,010 | 1,305 | 5,937 | 4,800 | 1,137 | 6   |
| Kherson oblast     | 2,518 | 1,672 | 846   | 2,206 | 1,428 | 778   | 6   |
| Khmelnyskyi oblast | 4,589 | 2,689 | 1,900 | 3,617 | 2,118 | 1,499 | 15  |
| Cherkasy oblast    | 3,704 | 2,109 | 1,595 | 2,958 | 1,627 | 1,331 | 14  |
| Chernivtsi oblast  | 2,686 | 1,016 | 1,670 | 2,081 | 732   | 1,349 | 13  |
| Chernihiv oblast   | 3,339 | 2,148 | 1,191 | 2,735 | 1,724 | 1,011 | 125 |
| The city of Kyiv   | 7,064 | 7,064 | x     | 5,090 | 5,090 | x     | 49  |

**Table 21. Number of women freshly recognised in 2020 as ones with disabilities<sup>3</sup> by regions (persons aged 18+)**

|                       | Total  | Of which living |                | Out of the total number — aged 18–54 |                 |                |
|-----------------------|--------|-----------------|----------------|--------------------------------------|-----------------|----------------|
|                       |        | in urban areas  | in rural areas | total                                | of which living |                |
|                       |        |                 |                |                                      | in urban areas  | in rural areas |
| Ukraine               | 52,067 | 34,060          | 18,007         | 41,118                               | 26,019          | 15,099         |
| Vinnitsia oblast      | 2,348  | 1,282           | 1,066          | 1,893                                | 987             | 906            |
| Volyn oblast          | 1,180  | 639             | 541            | 1,008                                | 522             | 486            |
| Dnipropetrovsk oblast | 3,663  | 3,105           | 558            | 2,886                                | 2,395           | 491            |

<sup>3</sup> According to the data presented by MoH.

|                        |       |       |       |       |       |       |
|------------------------|-------|-------|-------|-------|-------|-------|
| Donetsk oblast         | 2,883 | 2,302 | 581   | 2,306 | 1,831 | 475   |
| Zhytomyr oblast        | 1,891 | 1,182 | 709   | 1,443 | 876   | 567   |
| Zakarpattia oblast     | 1,327 | 419   | 908   | 942   | 275   | 667   |
| Zaporizhzhia oblast    | 2,922 | 2,348 | 574   | 1,957 | 1,521 | 436   |
| Ivano-Frankivsk oblast | 1,940 | 799   | 1,141 | 1,777 | 721   | 1,056 |
| Kyiv oblast            | 2,375 | 1,512 | 863   | 1,713 | 1,049 | 664   |
| Kirovohrad oblast      | 1,215 | 660   | 555   | 912   | 488   | 424   |
| Luhansk oblast         | 703   | 533   | 170   | 588   | 430   | 158   |
| Lviv oblast            | 3,984 | 2,244 | 1,740 | 3,550 | 1,919 | 1,631 |
| Mykolaiv oblast        | 1,330 | 912   | 418   | 814   | 528   | 286   |
| Odesa oblast           | 2,917 | 1,633 | 1,284 | 2,313 | 1,156 | 1,157 |
| Poltava oblast         | 2,695 | 1,555 | 1,140 | 2,328 | 1,285 | 1,043 |
| Rivne oblast           | 1,262 | 549   | 713   | 1,056 | 435   | 621   |
| Sumy oblast            | 1,312 | 963   | 349   | 1,127 | 805   | 322   |
| Ternopil oblast        | 1,706 | 662   | 1,044 | 1,299 | 518   | 781   |
| Kharkiv oblast         | 3,403 | 2,815 | 588   | 2,726 | 2,208 | 518   |
| Kherson oblast         | 1,040 | 715   | 325   | 916   | 616   | 300   |
| Khmelnyskyi oblast     | 2,215 | 1,309 | 906   | 1,679 | 1,040 | 639   |
| Cherkasy oblast        | 1,745 | 1,044 | 701   | 1,385 | 806   | 579   |

|                   |       |       |     |       |       |     |
|-------------------|-------|-------|-----|-------|-------|-----|
| Chernivtsi oblast | 1,079 | 414   | 665 | 761   | 264   | 497 |
| Chernihiv oblast  | 1,462 | 994   | 468 | 1,168 | 773   | 395 |
| The city of Kyiv  | 3,470 | 3,470 | x   | 2,571 | 2,571 | x   |

**Table 22. Number of persons freshly recognised in 2020 as ones with disabilities<sup>4</sup>, by category of disease (population aged 18+)**

| Freshly recognized as persons with disabilities, number of persons <sup>2</sup> |  |                        |                    | % of the total |                        |                    |       |
|---|--|------------------------|--------------------|----------------|------------------------|--------------------|-------|
| total   |  | of which persons aged  |                    | total          | of which persons aged  |                    |       |
|   |  | women 18–54, men 18–59 | women 55+, men 60+ |                | women 18–54, men 18–59 | women 55+, men 60+ |       |
| Total   |  | 117,664                | 95,591             | 22,073         | 100,0                  | 100,0              | 100,0 |
| Certain infectious and parasitic diseases                                       |  | 4,139                  | 4,023              | 116            | 3.5                    | 4.2                | 0.5   |
| of which  |  |                        |                    |                |                        |                    |       |
| pulmonary tuberculosis  |  | 2,769                  | 2,698              | 71             | 2.3                    | 2.8                | 0.3   |
| Neoplasms   |  | 28,142                 | 20,923             | 7,219          | 23.9                   | 21.9               | 32.7  |
| Diseases of the blood and blood-forming organs and certain disorders            |  | 193                    | 175                | 18             | 0.2                    | 0.2                | 0.1   |

<sup>4</sup> According to the data presented by MoH.

|   |        |        |       |      |      |      |
|---|--------|--------|-------|------|------|------|
| involving the immune mechanism  |        |        |       |      |      |      |
| Diseases of the endocrine system, eating disorders, metabolic disorders | 5,695  | 4,695  | 1,000 | 4.8  | 4.9  | 4.5  |
| of which  |        |        |       |      |      |      |
| diabetes  | 3,799  | 2,882  | 917   | 3.2  | 3.0  | 4.2  |
| Mental and behavioural disorders  | 5,821  | 5,161  | 660   | 4.9  | 5.4  | 3.0  |
| Central nervous system diseases   | 5,501  | 5,043  | 458   | 4.7  | 5.3  | 2.1  |
| Diseases of the eye and adnexa  | 3,234  | 2,650  | 584   | 2.7  | 2.8  | 2.7  |
| Diseases of the ear and mastoid   | 728    | 696    | 32    | 0.6  | 0.7  | 0.1  |
| Diseases of the circulatory system                                      | 27,711 | 20,259 | 7,452 | 23.6 | 21.2 | 33.8 |
| Diseases of the respiratory system                                      | 2,016  | 1,782  | 234   | 1.7  | 1.9  | 1.1  |
| Diseases of the digestive system  | 2,815  | 2,589  | 226   | 2.4  | 2.7  | 1.0  |
| Diseases of the muscles and skeletal system and connective tissue       | 16,652 | 13,950 | 2,702 | 14.2 | 14.6 | 12.2 |

|  |        |       |     |     |     |     |
|--|--------|-------|-----|-----|-----|-----|
| Diseases of the genitourinary system               | 1,549  | 1,300 | 249 | 1.3 | 1.3 | 1.1 |
| Injuries, poisoning and some other external causes | 10,225 | 9,276 | 949 | 8.7 | 9.7 | 4.3 |
| Other reasons                                      | 3,243  | 3,069 | 174 | 2.8 | 3.2 | 0.8 |

Out 2,539 persons recognized as persons with disabilities due to accidents at work and occupational diseases, 2,255 persons (88.8%) are of working age.

**Table 23. Total number of people with disabilities, children with disabilities and other special categories of the population who were registered to receive technical and other means of rehabilitation (TMR)<sup>5</sup> and had them at their disposal in 2020**

|  | Number of persons registered to receive TMR, including persons who already received TMR as of 01.01.2020 |                | Number of persons applying for the first time in the reporting period |                | Number of persons registered in the reporting period |                | Number of persons currently registered to receive TMR, including persons who already received TMR as of 01.01.2021 |                |
|--|--|----------------|---|----------------|--|----------------|--|----------------|
|  | Total  | of which women | Total   | of which women | Total  | of which women | Total  | of which women |
| Total  | 620,759  | 305,578        | 38,133  | 19,572         | 47,863   | 18,275         | 611,029  | 306,875        |
| Participants of ATO and/or JFO (Joint Force Operation – hereinafter JFO) | 1,393  | 188            | 245   | 9              | 126  | 54             | 1,512  | 143            |

<sup>5</sup> According to the data provided by MSPU

|  |         |         |        |        |        |       |         |         |
|--|---------|---------|--------|--------|--------|-------|---------|---------|
| People with disabilities as a result of war                                  | 16,362  | 1,797   | 638    | 157    | 1,702  | 252   | 15,298  | 1,702   |
| People with disabilities due to general illness                              | 308,510 | 156,558 | 21,905 | 10,656 | 24,287 | 9,017 | 306,128 | 158,197 |
| Persons with disabilities since childhood                                    | 74,184  | 35,251  | 3,355  | 1,597  | 3,416  | 1,270 | 74,123  | 35,578  |
| Children with disabilities   | 62,435  | 25,209  | 4,536  | 1,785  | 2,585  | 883   | 64,386  | 26,111  |
| People with disabilities as a result of Chernobyl disaster                   | 6,569   | 3,011   | 448    | 288    | 655    | 183   | 6,362   | 3,116   |
| Children aged under 18 years with hearing, vision, musculoskeletal disorders | 95,875  | 40,387  | 2,252  | 1,034  | 9,416  | 3,904 | 88,711  | 37,517  |
| Persons with disabilities due to occupational injuries outside work          | 1,580   | 393     | 63     | 27     | 172    | 40    | 1,471   | 380     |
| Elderly  | 36,389  | 29,699  | 3,411  | 2,971  | 4,139  | 1,892 | 35,661  | 30,778  |
| Other categories   | 17,462  | 13,085  | 1,280  | 1,048  | 1,365  | 780   | 17,377  | 13,353  |
| Out of the total number — internally   | 5,499   | 2,317   | 402    | 238    | 423    | 166   | 5,478   | 2,389   |



|                                |  |  |  |  |  |  |  |  |
|--------------------------------|--|--|--|--|--|--|--|--|
| displaced persons <sup>6</sup> |  |  |  |  |  |  |  |  |
|--------------------------------|--|--|--|--|--|--|--|--|

Also, the statistics digest contains statistical data (as of the relevant reporting period) on:

the number of persons with disabilities, by region (with disability group indicated);

the number of children with disabilities under the age of 18, by category of disease and region;

distribution of persons freshly recognised as ones with disabilities, by category of disease, region and disability group;

distribution of persons freshly recognised as ones with disabilities, by the cause of disability in the respective age in urban area (in %), in rural area (in %);

provision of people with disabilities with motor vehicles;

the number of persons with disabilities; legal representatives of incapacitated persons with disabilities, children with disabilities who are entitled to payment of monetary compensation for petrol, repair and maintenance of cars and transport services at the end of the relevant year;

the number of technical and other means of rehabilitation (TMR) provided to persons with disabilities, children with disabilities and other certain categories of the population in the relevant year and others.

## B. Overview of the social protection system

**102. Please provide information on the general philosophy and the main principles and mechanisms of the social protection system: is the system mostly insurance-based or universal, what are the main distributional effects of the system, who is included/excluded?**

The social protection system of the population of Ukraine is a set of legal, organisational, institutional and economic measures implemented by public authorities and local self-government bodies with the assistance of institutions, enterprises and organisations of various forms of ownership, which ensures that rights and freedoms of citizens' are observed and is aimed at ensuring the welfare of each member of society.

In accordance with Article 46 of CU, the right to social protection includes the right to provide citizens with support in case of complete, partial or temporary disability, being entitled to survivors' pension, unemployment due to circumstances out of their control, as well as in old age and other cases provided by law.

The basic components of the social protection system and public policy in the field of social protection are: social insurance, pensions and social assistance.

The right to compulsory state social insurance is guaranteed by insurance contributions of citizens, enterprises, institutions and organizations, as well as budget and other sources of social security; networking of state, municipal, private institutions involved in the care of the disabled.

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<sup>6</sup> All categories, except participants of ATO and/or JFO

If pensions, other social benefits and assistance are the main source of livelihood, they must ensure a standard of living not lower than the subsistence level established by law.

The social protection system is an integrity of social insurance, social assistance and guarantees, aimed at sustainable human development.

Compulsory state social insurance involves insured citizens, and in some cases members of their families and others, insured persons and insurers. A person is considered insured if he/she is a beneficiary of the compulsory state social insurance. Insurers within the framework of the compulsory state social insurance are employers and insured persons, unless otherwise provided by the laws of Ukraine.

The object of compulsory state social insurance is an insured event during which the insured person (a member of his/her family, another person) has the right to receive financial support and social services. An insurance risk is such circumstances when citizens and/or members of their families may temporarily or permanently lose their livelihoods and require financial support or social services within the framework of the compulsory state social insurance. An insured event is an event which gives rise to the right of the insured person to receive financial support or social services provided by the laws of Ukraine for certain types of compulsory state social insurance.

Compulsory state social insurance in Ukraine is regulated by the following laws:

Fundamentals of Ukrainian legislation on compulsory state social insurance No. 15/98 of 14.01.1998:

Law of Ukraine “On Compulsory State Pension Insurance” No. 1058 of 9 August 2003;

Law of Ukraine “On Compulsory State Social Insurance” No. 1105 of 23 September 1999;

Law of Ukraine “On Compulsory State Social Insurance in Case of Unemployment” No. 1533 of 2 March 2000.

In accordance with the above Fundamentals and Laws, compulsory state social insurance of citizens of Ukraine is provided in accordance with the following basic principles:

legislative definition of the conditions and procedure for compulsory state social insurance;

compulsory insurance of persons working under an employment agreement (contract) and other grounds provided by labour legislation, self-employed persons (members of creative unions, creative workers who are not members of creative unions), citizens–business entities;

granting the right to receive payments under the compulsory state social insurance to persons engaged in entrepreneurial, creative activities, etc.;

insurance funds must cover expenses related to the provision of financial support and social services in the amounts provided by the laws on compulsory state social insurance;

solidarity and subsidising;

state guarantees of the rights of insured citizens;

ensuring a standard of living not lower than the subsistence level established by law by providing pensions, other types of social benefits and assistance, which are the main source of livelihood;

targeted use of funds of the compulsory state social insurance;

parity of representatives of all beneficiaries of compulsory state social insurance in the management of compulsory state social insurance.

An important element of the social protection system is state social assistance. Social assistance is one of the main forms of public support for persons whose financial situation does not allow for the generally accepted level of life or is below the level set by law. Types of social assistance: state, charitable, humanitarian, monetary or in-kind. State social assistance is a level of financial support for citizens guaranteed by the state, i.e. cash benefits.

The legal basis for providing state social assistance to persons who are not entitled to a pension and disabled people, as well as providing state social assistance for care is provided by the Law of Ukraine “On State Social Assistance to Persons Not Entitled to Pension and Disabled People” No. 1727-IV of 18 May 2004.

State social assistance in Ukraine is regulated by a number of laws, such as “On State Assistance to Families with Children” No. 2811-XII of 21.11.1992; “On State Social Assistance to Persons Not Entitled to a Pension and Disabled People” No. 1727-IV of 18.05.2004; “On State Social Assistance to Low-Income Families” No. 1768-III of 01.06.2000; “On State Social Assistance to People Disabled Since Childhood and Disabled Children” No. 2109-III of 16.11.2000 , etc.

The Law “On Social Services” (recast No. 2671-VIII of 17 January 2019) defines the basic organisational and legal principles of providing social services aimed at preventing difficult life circumstances, overcoming or minimizing their negative consequences, to individuals/families in difficult life circumstances.

Basic social services are social services provided to recipients of social services in accordance with this Law by Kyiv and Sevastopol city state administrations, raion, raion in Kyiv and Sevastopol state administrations, executive bodies of city councils of cities of oblast significance, as well as executive bodies of village, town, city councils of the united territorial communities created in accordance with the law and the perspective plan of formation of community territories and recognized by CMU as functional under the procedure established by the law.

Providers of social services are legal entities and natural persons, individual entrepreneurs listed in the section “Providers of social services” of the Register of providers and recipients of social services.

Social services are divided into services aimed at:

- 1) social prevention — prevention of difficult life circumstances and/or a person/family getting into such circumstances;
- 2) social support — helping a person/family to overcome difficult life circumstances;
- 3) social servicing — minimizing negative consequences of difficult life circumstances for a person/family, supporting their livelihoods, social status and inclusion in the community.

The types of social services are:

- 1) simple social services that do not provide for a permanent or systematic comprehensive assistance (providing information, counselling, mediation, asylum, representation of interests);
- 2) comprehensive social services, which provide for coordinated actions of specialists in providing permanent or systematic comprehensive assistance (care, education, cohabitation, social

support, crisis intervention, supported housing, social adaptation, social integration and reintegration, etc.);

3) comprehensive specialised social services provided to a certain category of recipients of social services (HIV-infected persons, persons addicted to psychotropic substances, persons affected by trafficking in human beings, refugees, persons with mental disorders, etc.);

4) ancillary social services provided in the form of in-kind assistance (food, personal hygiene items and sanitary facilities, sanitary and hygienic cleaning products, care products, clothing, footwear and other essentials, catering, fuel supply, etc.) and technical services (transport services, sign language translation, etc.).

Depending on the place of provision, social services are divided into services provided:

1) at the place of residence/location of the recipient of social services (at home);

2) in the premises of the social service provider:

stationary — under the condition of round-the-clock stay (residence) of the recipient of social services who is provided with food and living amenities;

semi-stationary — during a certain time of day with conditions provided for staying during day as well as during night;

An important component of the social protection system is that the state provides social guarantees in order to ensure the constitutional right of citizens to a sufficient standard of living. The legal basis for the formation and application of state social standards and norms aimed at the implementation of basic social guarantees were defined in the Law “On State Social Standards and State Social Guarantees” (No. 2017-III of 5 October 2000).

State social standards are social norms and regulations or a complex thereof established by laws, other legal and normative acts based on which the levels of basic state social guarantees are determined.

State social guarantees are the minimum wages, incomes, pensions, social assistance, the amount of other types of social benefits established by laws and other legal and normative acts that ensure a standard of living not lower than the subsistence level.

Basic state social guarantees are established by laws in order to ensure the constitutional right of citizens to an adequate standard of living.

Among the main state social guarantees are: the minimum wage; the minimum amount of old-age pension; the amount of state social assistance and other social benefits.

The basic state social guarantees which are the main source of subsistence cannot be lower than the subsistence level established by law.

State social standards and norms are set in order to:

- determine the mechanism of implementation of social rights and state social guarantees of citizens established in CU;

- determine the priorities of state social policy related to satisfying human needs in material goods and services and financial resources for their satisfaction;

- determine and substantiate the amounts of expenditures of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets, social funds for social protection and provision of the population and maintenance of the social services.

The basic state social standard is the subsistence level, which is used to determine state social guarantees.

The legal basis for the definition and application of the subsistence minimum is established by the Law of Ukraine “On the Subsistence Minimum” (No. 966-XIV of 15 July 1999).

The subsistence level is defined as the amount sufficient to purchase a set of foods as well as the minimum set of non-food items to ensure the normal functioning of the human body, maintain its health, and the minimum set of services necessary to meet the basic social and cultural needs of the individual.

The amount of the subsistence minimum is set annually by VRU in the Law of Ukraine on the State Budget for the respective year.

The Law of Ukraine “On Compulsory State Pension Insurance” (hereinafter referred to as the Law) stipulates that the pension system comprises three levels.

First level (introduced in 2004) — the pay-as-you-go pension system of mandatory state pension insurance which is based on the principles of solidarity and subsidising. Pensions and social services are provided at the expense of the Pension Fund under the conditions and in the manner prescribed by law.

Second level (not introduced) is the accumulative system of compulsory state pension insurance, which will be based on the accumulation of funds of insured persons in the Accumulative Fund or in the relevant private pension funds which belong to the second level of the pension system and financing of payments under insurance contracts for lifelong pensions and lump sums on the terms and in the manner prescribed by law.

Third level (in force since 2004) is a system of private pensions based on the principles of voluntary participation of citizens, employers and their associations in the accumulation of pension savings in order to receive retirement benefits on the terms and in the manner prescribed by legislation on private pensions.

For certain categories of citizens, the laws of Ukraine may establish the conditions, norms and procedure for their pensions which are different from the compulsory state pension insurance and non-state pensions. Such conditions are established in particular by the Laws of Ukraine “On the Status and Social Protection of Citizens Affected by the Chernobyl Disaster”, “On Pensions of Persons Released from Military Service and Certain Other Persons”

### **103. Please provide information on financing of social protection:**

The structure of the budget for social protection includes expenditures provided for in state and local budgets.

Thus, in particular, social protection institutions include central executive bodies (Ministry of Social Policy, Ministry of Veterans, etc.), local executive bodies and local self-governing bodies. The principal body within the system of central executive bodies which ensures the development and

implementation of state budget policy, including in the field of local budgets, is the Ministry of Finance of Ukraine.

Financial resources in social budget programs of MSPU allocated from the general fund of the State Budget of Ukraine in 2022:

2501030 Payment of certain types of benefits, compensations, financial support and payment for services to certain categories of the population” in the amount of UAH 59,929 718.4 thousand;

2501070 “Specialized prosthetic and orthopaedic and medical rehabilitation assistance to disabled people in the clinic of the Research Institute of Prosthetics, Prosthetics building and Rehabilitation” in the amount of UAH 33,326.8 thousand;

2501130 “Measures for social protection of children, families, women and other most vulnerable groups” in the amount of UAH 59,417.8 thousand;

2501150 “Annual one-time financial assistance to war veterans and victims of Nazi persecution and social assistance to persons who have received special and special labour merits for their services to the Motherland” in the amount of UAH 1,244,286.5 thousand;

2501160 “Lifelong state scholarships” in the amount of UAH 6,724.1 thousand;

2501180 “Payment of social scholarships to students (cadets) of institutions of pre-tertiary vocational education” in the amount of UAH 886,551.0 thousand;

2501190 “Provision of one-time financial assistance to family members of persons whose deaths are related to participation in mass public protests that took place between 21 November 2013 and 21 February 2014 and persons who were injured, beaten during their participation in the mentioned protests” in the amount of UAH 3,172.1 thousand;

2501200 “Social protection of citizens affected by the Chernobyl disaster” in the amount of UAH 2,545,542.0 thousand;

2501230 “Payment of benefits and housing subsidies to citizens to pay for housing and utilities, purchase of solid and liquid household fuel and liquefied gas in cash” in the amount of UAH 34,540,510.5 thousand;

2501240 “Financial assistance to the Social Insurance Fund of Ukraine for insurance payments to medical workers of state and municipal health care institutions and their families who were ill with COVID-19 coronavirus disease caused by SARS-CoV-2 coronavirus and its consequences” in the amount of UAH 226,773.0 thousand;

2501350 “Rehabilitation and recreation activities for children in need of special attention and support in children’s health and recreation facilities of the highest category, located in mountainous areas (areas in which settlements are classified as mountainous)” in the amount of UA 135, 000.0 thousand;

2501450 “Rehabilitation and recreation activities for children in need of special attention and support in children’s health camps Artek international children’s centre, Young Guard children’s centre and in children’s health and recreation facilities of the highest category which belong to the following categories: located in mountainous areas (areas in which settlements are classified as mountainous), designed for year-round stay of children, have a training base, the available number of beds for children’s health and recreation is not less than the average number of such places in Artek

international children's centre and Young Guard children's centre" in the amount of UAH 267,121.3 thousand;

2501470 "Sanatorium treatment of war veterans, persons covered by the laws of Ukraine "On Status of War Veterans, Guarantees of Their Social Protection", "On Victims of Nazi Persecution" as well as people with a disability" in the amount of UAH 228,183.1 thousand;

2501480 "Provision of monthly targeted assistance to internally displaced persons to cover living expenses, including housing and utilities" in the amount of UAH 12,746,415.9 thousand;

2501570 "Payment of financial assistance to servicemen discharged from military service" in the amount of UAH 74,082.1 thousand;

2506080 "Financial guarantees for the payment of pensions, allowances and pension supplements under pension programs, and the deficit of the Pension Fund" in the amount of UAH 180,568,090.0 thousand;

2507020 "Financial support of public associations of people with a disability" in the amount of UAH 45,713.0 thousand;

2507030 "Measures for social, labour and professional rehabilitation of people with a disability" in the amount of UAH 1,680,926.6 thousand;

2507100 "Rehabilitation of children with disabilities" in the amount of UAH 139,520.3 thousand;

2511180 "Subvention from the state budget to local budgets to design, construct and repair, purchase housing and facilities to promote the development of family-style and other forms of upbringing close to family-style, as well as housing for orphans, children deprived of parental care, persons that belong to that group" in the amount of UAH 19,051.4 thousand.

The single contribution to the compulsory state social insurance is paid as a consolidated insurance contribution for pension insurance, insurance in connection with temporary disability and funeral expenses, medical insurance, insurance against accidents at work and occupational diseases, which caused disability, unemployment insurance, must be paid by the insured persons in order to ensure the rights of insured persons to receive insurance benefits (services) under social insurance.

The expenditures of the Social Insurance Fund of Ukraine in 2022 is UAH 37,522.9 million.

Pensions within the solidarity system of compulsory state pension insurance are paid from the funds of the Pension Fund of Ukraine and the State Budget of Ukraine.

In accordance with Article 113(3) of the Law of "On Compulsory State Pension Insurance" (Law No. 1058), if there is a deficit of the Pension Fund of Ukraine and it is unable to finance the payment of pensions in the solidarity system, such a deficit is covered by the funds from the State Budget of Ukraine.

If a pension is awarded in accordance with the laws of Ukraine "On Civil Service" No. 889-VIII of 10.12.2015," "On Service in Local Self-Government Bodies" No. 2493-III of 07.06.2001," "On the Prosecutor's Office" No. 1697-VII of 14.10.2014," "On Status of the Member of Parliament of Ukraine" No. 2790-XII of 17.11.1992," "On Scientific and Scientific and Technical Progress" No. 848-VIII of 26.11.2015, the difference between the amount of pension to which a person is entitled to in accordance with these legislative acts and the amount of the pension from the solidarity system in accordance with the Law No. 1058 is covered by the funds from the State Budget of Ukraine.

Payment of pension supplements are covered by the funds from the State Budget of Ukraine.

The social protection of the population is financed in accordance with the provisions of Articles 87-91 of the Budget Code of Ukraine (Code) from the state and local budgets and are aimed at:

- social protection in case of incapacity for work;
- social protection of pensioners;
- social protection of war and labour veterans;
- social protection of families, children and youth; social protection of the unemployed;
- assistance in resolving the housing issue;
- social protection of other categories of the population;
- basic and applied research and development in the field of social protection;
- other activities in the area of social protection.

The distribution of expenditure between budgets is based on the principle of subsidiarity, taking into account the criteria of completeness of service provision and the maximum possible approximation of the provision of guaranteed services to their direct consumer.

In accordance with the provisions of Article 20 of the Code the budget process at the state budget and local budgets levels uses the program and target method, the special components of which are budget programs, responsible executors of budget programs, passports of budget programs, performance indicators of budget programs.

Budget programs are created by the main managers of budget funds and contain a comprehensive list of measures aimed at achieving a common goal and objectives, which are proposed and implemented by the budget manager in accordance with the functions conferred to it.

The state budget expenditures for social protection of certain categories of citizens are allocated to the main spending entities — Ministry of Social Policy and Ministry of Veterans within the framework of budget programs, in particular:

- payment of social benefits, compensations, financial support and payment for services to certain categories of the population;
- payment of benefits and housing subsidies to citizens to pay for housing and utilities, purchase of solid and liquid household fuel and liquefied gas in cash;
- providing housing assistance to internally displaced persons;
- social protection of citizens affected by the Chernobyl disaster;
- financial aid to war veterans.

Social budgets are used to finance social protection:

- shelters for children, centres for social and psychological rehabilitation of children and social dormitories for orphans and children deprived of parental care;
- territorial centres of social services (provision of social services);
- centres for social rehabilitation of children with disabilities
- local programs for children, youth, women, families;



local social protection programs for certain categories of the population, etc.

**104. Main financing sources of the social protection (general taxation, social contributions, other taxes or state subsidies) and institutions involved (State, para-fiscal organisations, regional authorities, NGOs, private households etc.);**

Social protection of the population is financed from the state and local budgets of Ukraine.

Social protection institutions include central executive bodies (Ministry of Social Policy, Ministry of Veterans, etc.), local executive bodies and local self-governing bodies.

Social protection of the population also includes pensions.

The main sources of funding for compulsory state social insurance are contributions from employers and insured persons. Budget funds and other sources required for compulsory state social insurance are provided by the laws on compulsory state social insurance.

The main funding source of the Social Insurance Fund of Ukraine is the share of the single contribution to the compulsory state social insurance (hereinafter referred to as the single contribution), the amount of which is determined by Article 8 of the Law of Ukraine “On Collection and Accounting of the Single Contribution to the Compulsory State Social Insurance” No. 2464-VI of 08.07.2010. For the vast majority of payers this share is 22 percent of the single social tax base defined this Law.

9.5727 percent of the single contribution are allocated to compulsory state social insurance due to temporary disability and compulsory state social insurance from accidents at work and occupational diseases that caused disability.

The single contribution is not included in the taxation system.

The size of the single contribution to the compulsory state social insurance is set by VRU.

The proportion received by each type of compulsory state social insurance is approved by CMU.

The own-source income of the Pension Fund of Ukraine include the amount of the single contribution to the compulsory state social insurance, divided between the compulsory state pension insurance, and other own-source incomes (funds to cover the actual costs of payment and delivery of pensions for persons who worked in particularly harmful and difficult working conditions and on other jobs with harmful and difficult working conditions which makes them entitled to an old-age pension on preferential terms; funds paid by banks for the use of temporarily free funds of the Pension Fund of Ukraine, and other own-source income; funds for pensions to foreign pensioners living in Ukraine).

In accordance with Article 43 of the Budget Code of Ukraine, loans are taken to cover temporary cash gaps of the Pension Fund of Ukraine related to the payment of pensions from the single treasury account.

Pensions within the solidarity system of compulsory state pension insurance are paid from the funds of the Pension Fund of Ukraine and the State Budget of Ukraine.

Funds for paying pensions is allocated monthly and according to the approved schedules within the financial allocations provided by the budget of the Pension Fund of Ukraine for the respective year.

In accordance with Article 113(3) of Law "On Compulsory Social Insurance", if there is a deficit of the Pension Fund of Ukraine and it is unable to finance the payment of pensions in the solidarity system, such a deficit is covered by the funds from the State Budget of Ukraine.

If a pension is awarded in accordance with the laws of Ukraine "On Civil Service" No. 889-VIII of 10.12.2015,, "On Service in Local Self-Government Bodies" No. 2493-III of 07.06.2001, , "On the Prosecutor's Office" No. 1697-VII of 14.10.2014,, "On the Status of the Member of Parliament of Ukraine" No. 2790-XII of 17.11.1992,, "On Scientific and Scientific and Technical Progress" No. 848-VIII of 26.11.2015,, the difference between the amount of pension to which a person is entitled to in accordance with these legislative acts and the amount of the pension from the solidarity system in accordance with the Law No. 1058 is covered by the funds from the State Budget of Ukraine.

Payment of pension supplements are covered by the funds from the State Budget of Ukraine.

### **105. Main financing principles for the fields of social protection (pay-as-you-go, funded financing);**

Financial support and social services for all current types of social insurance (pension insurance; insurance due to temporary disability; insurance in case of occupational trauma and disease; insurance in case of unemployment) is provided via the system of payments from current income (pay-as-you-go) at the expense of the Pension Fund, the Social Insurance Fund of Ukraine, the Compulsory State Social Insurance Fund for Unemployment.

The provision of financial support via insurance due to temporary disability, insurance for occupational traumas and diseases that caused disability, and the provision of social services under these types of insurance are made based on the principle of compulsory funding by the Social Insurance Fund Ukraine after the insured person's insured event occurs (based on the "pay-as-you-go" principle).

The pay-as-you-go pension insurance system functions since 2004. The pay-as-you-go pension insurance system is complemented by a system of increases, allowances and surcharges. The retirement benefits depend on the period of time a person participated in the system and the amount of income from which insurance premiums were paid. If a person is not eligible to a pension (since the length of social insurance contribution period was less than required), after reaching the age of 65 such person shall receive state aid, taking into account the property status of the applicant.

Budget programs, the main manager of which is MSPU, allocate finances in accordance with regulations defining the mechanism of use of budget funds, in particular: the principle of financing according to the monthly schedule of state budget expenditures and/or spending requests from lower-level expenditure managers, and/or on the "pay-as-you-go" principle.

The pension is granted for life or for the period during which the pensioner is entitled to a pension in accordance with the law, and is paid monthly.

Pensions are delivered to the recipients via Ukrposhta JSC and deposited on card accounts opened in authorized banks in a centralised manner.

In accordance with Article 55 of the Budget Code of Ukraine, the expenditures of the general fund for almost all social protection and social security programs are protected expenditures (the amount of which cannot be changed if the approved budget allocations are reduced).

While executing the state budget, the budget funds are processed via treasury service. Expenditures are made on the basis of and within the approved schedule of the State Budget.

Money from the compulsory state social and pension insurance funds are processed by the bodies of the Treasury of Ukraine in accordance with the procedure established by CMU. At the same time, funding of social benefits for insured persons is a priority.

Periods when social benefits are paid are set by separate laws, in particular:

- retirement benefits in accordance with the Law of Ukraine “On Compulsory State Pension Insurance” No. 1058-IV of 09.07.2003 are paid month to month.

- various types of social assistance in accordance with the Laws of Ukraine “On State Assistance to Families with Children” No. 2811-XII of 21.11.1992,” “On State Social Assistance to Low-Income Families” No. 1768-III of 01.06.2000,” “On State Social Assistance to People Disabled from Childhood and Children with Disabilities” No. 2109-III of 16.11.2000 and “On Psychiatric Assistance” No. 1489-III of 22.02.2000 are also paid month to month.

MSPU transfers budget funds for the payment of certain types of benefits, compensations, financial support and payment for services to certain categories of the population, benefits and housing subsidies, taking into account the generalised applications regarding the need for budget funds from regional social protection authorities.

#### **106. Financial administration of social protection: contribution rates, contribution base and tax base; is there an upper (lower) ceiling?**

The procedure for accrual, calculation and payment of the single contribution to the compulsory state social insurance is determined by the Law of Ukraine “On Collection and Accounting of the Single Contribution to Compulsory State Social Insurance” No. 2464-VI of 08.07.2010,” and its management — by the Tax Code Ukraine and legal and normative acts adopted in accordance with them by the central executive authority, which ensures the development and implementation of public financial policy.

Single contribution for payers:

- employers — undertakings, institutions and organisations, irrespective of their form of ownership, activity category, or economic management category, who use the work of individuals under an employment agreement (contract) or other conditions provided by law or employed under civil law contracts; individual entrepreneurs; self-employed individuals, members of the farm is set at 22 percent of the single contribution base (the amount of wages accrued to each insured person by types of benefits, which include base and additional wages, other incentive and compensation payments, including payments in kind, incurred on cash benefits, the amount of income (profit) received from their activities, etc.);

- for undertakings, institutions and organisations, individual entrepreneurs which employ persons with disabilities, a single social security tax is set at 8.41 percent; for undertakings and organisations, civil society organisations of persons with disabilities, which meet the conditions set

by the law — 5.5 percent; for undertakings and organisations, all-Ukrainian civil society organisations of persons with disabilities, including Ukrainian Society of the Deaf and Ukrainian Society of the Blind — 5.3 percent.

The maximum value of the single contribution base is applied — the maximum income of the insured person per month, equal to fifteen times the minimum wage (*in 2022 the average maximum income is UAH 98,250*), established by law, which accrues a single contribution;

The lower limit does not apply, but the minimum insurance payment must be paid at the main place of work (activity). The minimum insurance payment is the amount of the single contribution, which is calculated as the minimum wage multiplied by the amount of the contribution established by law for the month in which wages (income) are received. If a monthly minimum insurance payment is made, that month is fully credited to the insurance period.

During the COVID-19 pandemic, martial law, certain categories of single social security tax payers are exempt from paying the single social security tax.

The basis for accrual of the single contribution to the compulsory state social insurance (hereinafter referred to as the single contribution), the amount of the single contribution is determined by the Law of Ukraine “On Collection and Accounting of the Single Contribution to the Compulsory State Social Insurance Fund” (hereinafter referred to as Law No. 2464).

Base of accrual of single contribution:

- for employers is the amount of wages accrued to each insured person by types of benefits, which include base and additional wages, other incentive and compensation payments, including payments in kind, determined in accordance with the Law of Ukraine “On Remuneration of Labour”, and the amounts of remuneration to individuals for the performance of works (provision of services) under civil law contracts;

- for individual entrepreneurs (except those who have chosen the simplified taxation system), persons who carry out independent professional activity and receive income from this activity, members of the farm, if they do not belong to the category of persons subject to insurance on other grounds, is the amount of income (profit) received from their activities, which is subject to personal income tax. In this case, the amount of the single contribution may not be less than the amount of the minimum insurance contribution for the month in which the income (profit) was received;

- for individual entrepreneurs who have chosen a simplified taxation system is the amounts determined by such taxpayers independently for themselves. In this case, the amount of the single contribution may not be less than the amount of the minimum insurance contribution.

The base for calculating the single contribution for undertakings, institutions, organizations, natural persons who use hired labour, military units and bodies that pay cash benefits, temporary disability benefits, pregnancy and childbirth benefits, benefits, allowances or compensation, in accordance with the legislation is the amounts of financial support of each insured person, payment of the first five days of temporary incapacity for work, which is paid at the expense of the employer, and benefits due to temporary incapacity for work, benefits due to pregnancy and childbirth; benefits, allowances or compensation in accordance with the law.

The accrual of the single contribution for all categories of payers is made within the maximum value of the single contribution accrual base.

The maximum value of the single contribution base — the maximum income of the insured person per month, equal to fifteen times the minimum wage established by law, which accrues a single contribution.

The minimum insurance payment is the amount of the single contribution, which is calculated as the minimum wage multiplied by the amount of the contribution established by law for the month in which wages (income) are received and is paid monthly.

The amount of the single contribution is 22 percent of the single contribution base.

Some insurers receive benefits for single (insurance) payment, namely reduced amounts of accrual:

for employers who employ persons with disabilities, the amount of the single contribution is set at 8.41 percent of the base for calculating the single contribution for employees with disabilities.

for undertakings and organizations of all-Ukrainian civil society organizations of persons with disabilities, including Ukrainian Society of the Deaf and Ukrainian Society of the Blind, in which the number of persons with disabilities is not less than 50 percent of the total number of employees, and provided that the salary fund of such persons with disabilities is not less than 25 percent of the amount of labour costs, the amount of the single contribution is set at 5.3 percent of the basis for accrual of the single contribution.

for undertakings and organizations of civil society organizations of persons with disabilities in which the number of persons with disabilities is not less than 50 percent of the total number of employees, and provided that the salary fund of such persons with disabilities is not less than 25 percent of the amount of labour costs, the amount of the single contribution is set at 5.5 percent of the basis for accrual of the single contribution for employed persons with disabilities.

The difference between the paid contributions at preferential rates and the base amounts of the accrued single contribution is covered by the State budget.

**107. Please provide an overview of allowances: benefits and services provided by social protection (coverage, qualifying conditions, level of benefits, length of provision, taxation of benefits):**

- a) healthcare;
- b) illness;
- c) motherhood;
- d) disability;
- e) old age;
- f) dependents;
- g) occupational injuries and illnesses;
- h) family benefits;
- i) unemployment;
- j) minimum resources/social assistance;

k) long-term care;

l) housing.

Guarantees of working citizens – insured persons with regard to their social protection due to with temporary disability, pregnancy and childbirth, accidents at work and occupational diseases, protection of life and health in Ukraine are defined by the Law of Ukraine “On Compulsory State Social Insurance” No. 1105-XIV of 23.09.1999.

#### **a) healthcare**

In accordance with the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine” No. 875-XII of 21.03.1991 persons with disabilities, which belong to I, II disability group, are entitled to the following benefits:

free medicinal products prescribed by medical professionals in the case of outpatient treatment, provided that they receive a pension not exceeding the minimum pension, or state social assistance granted in lieu of a pension;

free sanatorium and resort vouchers if there are relevant medical indications.

Persons with disabilities of I and II groups have the right to purchase prescription medicinal products for outpatient treatment with a 50 percent discount.

It is also planned to introduce a correction factor to the tariff for medical care for persons with disabilities.

The base for calculating the level of financial support for healthcare are scientifically grounded standards.

In accordance with Article 49 of CU, everyone has the right to healthcare, medical assistance and medical insurance. Healthcare is ensured by state funding of relevant socio-economic, health and prophylactic programs. The state creates conditions for effective and accessible medical care for all citizens. Medical care is provided free of charge in state and municipal healthcare facilities; the existing network of such institutions cannot be reduced. The state promotes the development of medical institutions of all forms of ownership.”

The funds of the State Budget of Ukraine and local budgets allocated for healthcare are used to finance medical care for the population, state targeted and local health programs, as well as fundamental research in this area. State and municipal health care institutions (budgetary institutions) are funded in accordance with budget legislation. Healthcare facilities and individual entrepreneurs (provided that they are registered and licensed to perform medical activities in the manner prescribed by law, which signed contracts for the provision of medical services to the public) provide medical care free of charge (the costs are covered by the budget).

It should also be noted that contracts for the provision of medical services are concluded for a certain budget period, based on the volume and cost of services procured by state and local governments. The cost of provided services is calculated according to the cost structure of the service and taking into account industry standards. CMU approves the procedure for concluding contracts, the standard form of the contract, the method of calculating the cost of the service and the list of paid medical services. Healthcare facilities can also use funds from legal entities and/or natural persons to improve the quality of care. Healthcare facilities set fees for healthcare services if they are not covered by the terms of healthcare contracts entered into with key budget managers.

With regard to state financial guarantees, the state guarantees the provision of medical services and medicinal products.

The main principles of the medical guarantee program are compliance with legal requirements, various state guarantees, quality of medical services, rational and targeted use of funds, use of medical services, predictability of medical services, transparency, openness, competition. Healthcare providers must adhere to terms and specifications set forth for service groups or specific services. A new term “package of medical services” has been introduced in healthcare. This package “consists of medical services to which a single description of the specification of services applies and for which uniform conditions for the provision of such services are established.” Payment for services is made in accordance with a single type of tariff, as well as requirements for services to be provided by the healthcare institution (if it concluded an agreement with the National Health Service of Ukraine, hereinafter NHSU). Requirements are formed in accordance with industry standards, medical protocols, legal and normative acts, recommendations, etc.

In April 2017 the Government launched the Affordable Medicines Programme. Patients with cardiovascular diseases, bronchial asthma or type II diabetes can receive medication free of charge or for a low price. Since 1 April 2019 the NHSU manages the Affordable Medicines Programme for reimbursement of medicinal products. And it directly reimburses pharmacies for the cost of e-prescription drugs. The Affordable Medicines Programme reduces the financial burden on patients and increases the availability of medicines.

The healthcare financing system provides an opportunity for local self-government bodies and local territorial communities to additionally finance healthcare at the local level, providing wider access to medical services.

#### **b) illness;**

The following types of financial support and social services are provided within the framework insurance due to temporary disability:

- 1) temporary disability benefits (including care for a sick child);
- 2) maternity benefits;
- 3) funeral allowance (except for the funerals of pensioners, the unemployed and persons who died in a work accident);
- 4) payment for treatment and/or rehabilitation in the departments of the sanatorium after the illness and injury.

Temporary incapacity benefit is provided to the insured person as financial support, which fully or partially compensates for the loss of wages (income), if one of the following insured events occurs:

- 1) temporary incapacity for work due to illness or injury not related to work accident, as well as temporary incapacity for work for the period of rehabilitation due to illness or injury not related to a work accident;
- 2) need to care for a sick child;
- 3) need to care for a sick family member;
- 4) care for a child under the age of three or a child with a disability under the age of 18 in the event of illness of the mother or other person caring for the child;

5) quarantine imposed by the bodies of the sanitary and epidemiological service;

5.1) during the stay in healthcare facilities, as well as in self-isolation under medical supervision in relation to measures aimed at preventing the occurrence and spread of coronavirus disease (COVID-19), as well as localization and elimination of its outbreaks and epidemics;

6) temporary transfer of the insured person to an easier, lower-paid work due to medical reasons;

7) prosthetics with placement in the hospital of the prosthetic and orthopaedic undertaking;

8) stay in the rehabilitation departments of the sanatorium after illness and injury.

Assistance in case of temporary incapacity for work due to illness or injury not related to a work accident and occupational disease, stay in healthcare facilities, as well as self-isolation under medical supervision in connection with measures to prevent the occurrence and the spread of coronavirus disease (COVID-19), as well as the localization and elimination of its outbreaks and epidemics, is given:

for the first 5 days of temporary incapacity for work due to illness or injury not related to a work accident — at the expense of the employer;

from the 6th day until the restoration of working capacity or until the disability is confirmed by the medical and social expert commission (hereinafter referred to as MSEC) — at the expense of the Social Insurance Fund of Ukraine (hereinafter referred to as the Fund).

Temporary incapacity benefit is paid:

for the care of a sick child under the age of 14 — no more than 14 calendar days (in the case of inpatient treatment — for the entire period of stay in the hospital);

for the care of a sick family member — no more than 3 calendar days (in exceptional cases — no more than 7 calendar days);

in other cases — for the entire period of quarantine, transfer to an easier job, but no more than two months, for the entire period of stay at the prosthetic and orthopaedic undertaking or in a sanatorium.

The amount of temporary disability benefits is determined depending on the length of social insurance contribution period:

50 percent of the average salary (income) for the contribution period of up to three years;

60 percent of the average salary (income) for the contribution period of three to five years;

70 percent of the average salary (income) for the contribution period of five to eight years;

100 percent of the average salary (income) for the contribution period of more than eight years.

Irrespective of the length of the contribution period, temporary disability benefits are paid in the amount of 100 percent of the average salary (income) to insured persons belonging to 1-3 categories of persons affected by the Chernobyl disaster; to one of the parents or a person acting on their behalf and caring for a sick child under the age of 14 who suffered from the Chernobyl disaster; to war veterans, affected participants of the Revolution of Dignity and family members of deceased war veterans, family members of deceased Defenders of Ukraine; persons classified as victims of Nazi persecution in accordance with the Law of Ukraine “On Victims of Nazi Persecution” No. 1584-III of 23 March 2000; to donors who are entitled to the benefit provided for in Article 20 of the Law of



Ukraine “On Safety and Quality of Donated Blood and Blood Components” No. 931-IX of 30.09.2020; persons rehabilitated in accordance with the Law of Ukraine “On Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991” No. 962-XII of 17.04.1991, those who were subjected to repressions in the form (forms) of imprisonment or restriction of liberty or forced unjustified placement of a healthy person in a psychiatric institution by decision of an extra-judicial or other repressive body.

The amount of temporary disability benefits:

should not be less than the amount of benefits calculated based on the minimum wage (the minimum amount is UAH 3,250);

should not exceed fifteen times the minimum wage (the maximum amount is UAH 97,500).

**c) motherhood;**

Maternity benefits are provided to the insured person regardless of the insurance period in the amount of 100 percent of the average salary (income) for the period of maternity leave, which lasts 70 calendar days before childbirth and 56 calendar days after birth (70 days after birth in case of complications during childbirth or birth of two or more children).

Maternity benefits for women belonging to the 1-3 categories of persons affected by the Chernobyl disaster are paid for 180 calendar days of this leave (90 days before childbirth and 90 days after childbirth).

The amount of maternity benefits is calculated in total and provided in full regardless of the number of days of leave actually used before childbirth.

In case of adoption of a child within two months from the date of birth, maternity benefits are paid for the period from the date of adoption until the end of 56 calendar days (70 calendar days in case of simultaneous adoption of two or more children, 90 calendar days for women belonging to 1-3 categories of persons affected by the Chernobyl disaster).

Amount of maternity benefits per month:

should not be less than the amount of benefits calculated based on twice the amount of the minimum wage (the minimum amount is UAH 13,000);

should not exceed fifteen times the minimum wage (the maximum amount is UAH 97,500).

Funeral allowance is provided in the event of death:

of the insured person to family members or the person who performed the burial;

of family members to the insured person, if they were dependent (wife/husband, children, brothers, sisters and grandchildren under the age of 18 or who are students and pupils of secondary vocational and higher education institutions with full-time education up to the age of 23, father (mother), grandfather and grandmother in the direct line of kinship.

Family members who had independent means of subsistence (received a salary, pension, etc.) are not considered to be dependent on the insured person.

The amount of funeral assistance is set by the Board of the Social Insurance Fund of Ukraine (hereinafter referred to as the Fund) (since 2017 it is UAH 4,100).

Insured persons receive treatment in the departments of sanatoriums to restore their health after suffering diseases and injuries at the expense of the Fund in the manner prescribed by the Board of the Fund.

Resolution of the Board of the Fund No. 3 of 29.01.2021 approved the maximum amount of reimbursement of the cost of one night stay in the rehabilitation department of the sanatorium for the insured person — UAH 679.00, including VAT; if the insured person is disabled — UAH 566.00, excluding VAT, for an accompanying person — UAH 475.00, including VAT.

**d) disability;**

In accordance with the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine” persons with disabilities which belong to I, II disability group are entitled to the following benefits:

priority services by undertakings, institutions and organisations of all forms of ownership and subordination, which provide any services to the population;

free or preferential (in case of the relevant medical opinion) provision of social and medical services, provision of technical and other means;

priority service at the ticket offices of urban and interurban transport;

free travel in public transport (except taxis) (this benefit also applies to a person accompanying a person with a group I disability, but not more than one such accompanying person);

50 percent discount on the cost of travel on domestic lines (routes) of air, rail, river and road transport from 1 October to 15 May (this benefit applies to a person accompanying a person with a group I disability, but not more than one such accompanying person).

Persons with disabilities which belong to I, II disability group are entitled to the following benefits:

free or preferential (in case of the relevant medical opinion) provision of social and medical services, provision of technical and other means;

50 percent discount on the cost of travel on domestic lines (routes) of air, rail, river and road transport from 1 October to 15 May.

Persons with disabilities and children with disabilities have the right to receive priority services at any ticket office, at all undertakings, institutions, organisations.

Public associations of persons with disabilities and their enterprises are provided with financial assistance in the form of tax benefits in accordance with the laws of Ukraine on taxation and non-refundable financial assistance at the expense of administrative and economic sanctions and fines to the state budget for non-compliance with the regulations on employment of persons with disabilities.

These funds are used for:

production needs (modernization of production, improvement of fixed assets, development of new products, replenishment of working capital);

social needs of persons with disabilities (maintenance of the social sphere, creation of additional jobs for this category, creation of appropriate sanitary and hygienic, production, technical conditions

in the workplace of a person with disabilities according to the individual rehabilitation program for persons with disabilities, providing financial, charitable assistance);

deductions to the founder for the statutory activities of the public association.

**e) old age;**

In accordance with the Law No. 1058, the following retirement benefits are assigned in the pay-as-you-go system: age retirement benefits; disability benefits; benefits in connection with the loss of breadwinner.

Persons (both women and men) are entitled to age retirement benefits depending on their available pensionable service after the age of 60, 63 or 65 years.

The amount of the pension of each pensioner, including persons with disabilities, is determined individually depending on the pensionable service and the salary from which the insurance contributions were paid.

Article 114 of the Law No. 1058 defines the categories of persons who are entitled to an old-age pension on preferential terms (persons who worked in jobs with particularly harmful and particularly difficult working conditions as listed in list No. 1 and other jobs with harmful and difficult and working conditions as listed in list No. 2 of productions, works, professions, positions and indicators, tractor drivers directly engaged in the production of agricultural products, women working as tractor drivers, drivers of construction, road and loading and unloading machines mounted on tractors and excavators; women working as milkmaids; textile workers; women working in agricultural production and raising five or more children; drivers of urban passenger transport).

In addition, the following categories have the right for an early retirement pension: persons with pituitary dwarfism; disabled people which have visual impairments of the I group; women who gave birth to five or more children and raised them until the age of six, mothers of persons with disabilities from childhood who raised them until the referred age; servicemen who took part in hostilities, etc. (Article 115 of Law No. 1058).

Mechanisms for assigning allowances and increases to pensions are regulated by a significant number of legislative and legal and normative acts, in particular:

pensions for special services to Ukraine (in the form of allowances) in accordance with the Law of Ukraine “On Pensions for Special Services to Ukraine”;

increase in pensions in accordance with the Law of Ukraine “On Status of War Veterans, Guarantees of Their Social Protection”;

allowances in accordance with the Law of Ukraine “On Donation of Blood and Components thereof”;

increase to the pension in accordance with the Law of Ukraine “On Victims of Nazi Persecution”;

allowances for persons who have suffered political repression and subsequently been rehabilitated, for disabled family members and for their care appointed in accordance with the Law of Ukraine “On Pensions”;

increase provided by the Law of Ukraine “On the Status of Mountain Settlements in Ukraine”;

increase to the pension in accordance with the Law of Ukraine “On Social Protection of Children of War”;

allowances to pensions in accordance with the Law of Ukraine “On Basic Principles of Social Protection of Labour Veterans and Other Elderly Citizens”;

one-time financial assistance to public sector employees in accordance with point 7<sup>1</sup> of Section XV “Final Provisions” of the Law No.1058.

**f) dependents;**

Monthly financial assistance to a person living with a person with a group I or II disability due to a mental disorder, who according to the medical commission of the medical institution needs constant third-party care, to care for them:

Care allowance is provided to an able-bodied person who is registered or permanently living in the same living space with a person with a group I or II disability due to a mental disorder who, according to the medical commission of the medical institution, needs constant third-party care and who provides care for such person.

The amount of care allowance is calculated as the difference between the three subsistence minimums per family member and the average monthly total family income for the previous six months, but cannot be more than the subsistence minimum per person per month (in 2022:

since January — UAH 2,393.0, since July — UAH 2,508.0, since December — UAH 2,589.0).

The right to receive the allowance is verified every 6 months.

**g) occupational injuries and illnesses;**

The insurance against accidents at work and occupational diseases that have caused disability includes:

1) assistance due to temporary incapacity for work caused by an accident or occupational disease in the amount of 100 percent of the average salary;

The amount of temporary disability benefits:

should not be less than the amount of benefits calculated based on the minimum wage (the minimum amount is UAH 6,500);

should not exceed fifteen times the minimum wage (the maximum amount is UAH 97,500).

2) one-time assistance to the victim in case of permanent loss of professional capacity for work.

The size of assistance is determined in accordance with the degree of disability, based on the 17 subsistence level for able-bodied persons (from 01.01.2022 that is UAH 42,177);

3) monthly insurance payment to the victim in case of partial or complete disability, which compensates the relevant part of the lost earnings of the victim.

The maximum amount of payment does not exceed 10 times the subsistence level for able-bodied persons (from 01.01.2022 that is UAH 24,810);

4) one-time assistance to the victim’s family in case of their death.

The size of assistance is equal to 100 subsistence minimums for able-bodied persons, established by law on the day when the person becomes entitled to insurance benefits (from 01.01.2022 that is UAH 248,100);

5) one-time assistance to each person who was dependent on the deceased victim, as well as to their child born within no more than ten months after the death of the victim.

The size of assistance is equal to 20 subsistence minimums for able-bodied persons, established by law on the day when the person becomes entitled to insurance benefits (from 01.01.2022 that is UAH 49,620);

6) monthly insurance payments to persons who were dependent on the deceased victim and/or are entitled to these payments.

The amount of monthly insurance benefits to persons entitled to them is calculated from the average monthly earnings of the victim minus the share that fell to the victim and able-bodied persons who were dependent on him/her, but were not entitled to these benefits (maximum size of the benefit from 01.01.2022 — UAH 24,810);

7) reimbursement of the cost of burial of the victim and related ritual services.

The Fund also provides medical and social assistance, including additional food, purchase of medicines, special medical, permanent outpatient care, household services, prosthetics, rehabilitation related to health care, sanatorium treatment, purchase special means of transportation, etc., if the need for those is determined by the conclusions of the medical and social expert commission and the individual rehabilitation program of a person with disabilities (if any).

The amount of expenses for the necessary care for the victim depends on the nature of this care, established by the medical and social expert commission, and may not be less than (per month):

1) the amount of the minimum wage set on the day of payment — for special medical care (massage, injections, etc.) (in 2022 it is UAH 6,500);

2) half of the minimum wage set on the day of payment — for permanent third-party care (in 2022 it is 3250 UAH);

3) a quarter of the minimum wage set on the day of payment — for household services (cleaning, laundry, etc.) (in 2022 it is UAH 1625).

The victim who became a person with a disability and persons with group I disabilities are provided with a voucher for sanatorium treatment free of charge and based on the medical recommendations. The former receive that voucher periodically (but at least once every three years) and the latter — annually. In case of independent purchase of a voucher, its cost is reimbursed in the amount established by the Board of the Fund.

Resolution of the Board of the Fund No. 4 of 29.01.2021 approved the maximum amount of reimbursement of the cost of one night stay in the sanatorium for the victim of a work accident or occupational disease which caused injuries, diseases of the spine and spinal cord — UAH 658.00, excluding VAT, for their accompanying person — UAH 503.00, including VAT, for other victims — UAH 634.00, excluding VAT, for the victim's accompanying person — UAH 532.00, including VAT.

#### **h) family benefits;**

In accordance with the Law of Ukraine “On State Support to Families with Children” No. 2811-XII of 21 November 1992, women (including minors) who are not insured in the system of compulsory state social insurance have the right to receive state support related to pregnancy and childbirth.

The size of the provided support is 100 percent of the average monthly income (scholarships, cash benefits, unemployment benefits, etc.) of a woman, but not less than 25 percent of the subsistence level for able-bodied persons per month established by law (in 2022: from January — UAH 620.25, from July — UAH 650, from December — UAH 671).

It is provided to women for the entire period of maternity leave, which lasts 70 calendar days before childbirth and 56 calendar days after birth (70 days after birth in case of complications during childbirth or birth of two or more children).

Under the Law of Ukraine “On State Support to Families with Children” No. 2811-XII of 21.11.1992 the support for the birth of a child is provided to one of the parents of the child (guardian), who permanently lives with the child.

The amount of the support for the birth of the first and each subsequent child is UAH 41,280. The part of it in the amount of UAH 10,320 is paid first, the rest of the support is paid in equal instalments over the next 36 months.

A person who is a citizen of Ukraine, permanently resides in its territory and has adopted an orphan child, a child deprived of parental care, or a child whose parents have consented to such child's adoption has the right to adoption support, except in the case when one of spouses adopts a child of another spouse (if the adoptive parents are spouses that right belongs to one of them at their discretion).

Adoption support equals the amount established for childbirth allowance — UAH 41,280.

The part of it in the amount of UAH 10,320 is paid first, the rest of the support is paid in equal instalments over the next 36 months.

Support for children under guardianship or custody is paid to persons appointed in the manner prescribed by law as guardians or custodians of children deprived of parental care. Such support is considered the property of the child.

Support for children under guardianship or custody is provided in the amount of 2.5 times the subsistence level for a child of the appropriate age, for children with disabilities under guardianship or custody — 3.5 times the subsistence level for a child of the appropriate age (in 2022 for children under 6 years: from January – UAH 5,205, from July — UAH 5,502.5, from December — UAH 5,608; for children aged 6 to 18: from January — UAH 6,545, from July — UAH 6,860, from December — UAH 7,082.5, for children with disabilities under the age of 6: from January — UAH 7,350, from July — UAH 7,703.5, from December — UAH 7,952, for children with a disability aged 6 to 18: from January — UAH 9,163, from July — UAH 9,604, from December — UAH 9,915.5).

Support for children under guardianship or custody is paid for twelve months.

Single mothers (unmarried), single adoptive parents have the right to child benefits for single mothers, if the child's birth certificate or birth certificate issued by the competent authorities of a foreign state, subject to its legalization in the manner prescribed by law (decision on adoption of a

child) contains no record of the father (mother) or a record of the father (mother) was made in the prescribed manner by the state registration of civil acts body upon the instructions of the mother (father, adoptive parent) of the child.

In case of death of one of the parents a mother (father) of a child have the right to child benefits for single mothers (fathers) if they do not receive a survivor's pension, social pension or state social assistance to the child of the deceased breadwinner under the Law of Ukraine "On State Social Assistance to Persons Not Entitled to a Pension and Persons With Disabilities".

Child benefits in the event of the death of one of the parents for single mothers, single adoptive parents, mothers (fathers) who have children under the age of 18 (if children study full-time in general secondary, vocational (technical), professional higher and higher educational institutions, until such children graduate, but not after those children reach 23 years of age), are paid in the amount equal to the difference between 100 percent of the subsistence level for a child of the appropriate age and the average monthly total family income per capita for the previous six months (in 2022 for children under the age of 6: from January — UAH 2,100.0, from July — UAH 2,201.0, from December — UAH 2,272.0; for children aged 6 to 18: from January — UAH 2,618.0, from July — UAH 2,744.0, from December — UAH 2,833.0, for children aged 18 to 23: from January — UAH 2,481, from July — UAH 2,600.0, from December — UAH 2,684.0).

Child benefits for children with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-dependent), acute or chronic kidney disease of the IV degree, for a child who has suffered a serious injury, needs an organ transplant, needs palliative care, who has not been diagnosed with a disability:

The right to receive child benefits for children with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-dependent), acute or chronic kidney disease of the IV degree, for a child who has suffered a serious injury, needs an organ transplant, needs palliative care, who has not been diagnosed with a disability have: one of the parents, adoptive parents, guardian, caretakers, one of the adoptive parents, foster parents, who permanently resides with and takes care of a child suffering from one or more types of such diseases, conditions. The list of serious diseases, disorders, traumas, conditions, etc., which gives the right for child benefits from the state in accordance with this section for a child whose disability was not established, is approved by CMU.

Child benefits for children with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-dependent), acute or chronic kidney disease of the IV degree, for a child who has suffered a serious injury, needs an organ transplant, needs palliative care, who has not been diagnosed with a disability is paid monthly in the amount of two subsistence minimums established for children of appropriate age (in 2022 for children under the age of 6: from January — UAH 4,200.0, from July — UAH 4,402.0, from December — UAH 4,544.0, for children aged 6 to 18: from January — UAH 5,236.0, from July — UAH 5,488.0, from December — UAH 5,666.0).

Child benefits for children raised in large families

Benefits are granted to the third and each subsequent child starting from the month in which the application was submitted with all the necessary documents.

If two or more children are born in the family at the same time, as a result of which the family has acquired the status of a large family, the benefit is paid for each such child.

The amount of benefits is UAH 2,100.

The benefit is paid up until and including the month the child reaches the age of 6.

State social assistance to persons with disabilities and children with disabilities is provided at a level not less than the subsistence level and depends on the severity of the disease and the need for constant third-party care. The amount of state social assistance to children with disabilities, including care allowance, depends on the age of the child and the disability group (subgroup) for persons with disabilities and ranges from UAH 1,934 to UAH 7,266.7.

Assistance is provided for the period of disability.

Monthly financial assistance to a person living with a person with a group I or II disability due to a mental disorder, who according to the medical commission of the medical institution needs constant third-party care, to care for them:

Care allowance is provided to an able-bodied person who is registered or permanently living in the same living space with a person with a group I or II disability due to a mental disorder who, according to the medical commission of the medical institution, needs constant third-party care and who provides care for such person.

The amount of care allowance is calculated as the difference between the three subsistence minimums per family member and the average monthly total family income for the previous six months, but cannot be more than the subsistence minimum per person per month (in 2022:

since January — UAH 2,393.0, since July — UAH 2,508.0, since December — UAH 2,589.0).

Temporary state assistance to children whose parents evade paying child support, do not have means to support a child or a place of residence.

Temporary assistance is granted if:

there is information about one of the parents (payer of alimony), which is entered in the Unified Register of Debtors in connection with non-payment of alimony;

there are criminal proceedings under way against one of the parents or he/she is undergoing compulsory treatment, is imprisoned, has been duly declared incapable, or serves in conscription military service;

the place of residence (stay) of one of the parents is not identified.

The amount of temporary assistance is calculated as the difference between 50 percent of the subsistence level for a child of the appropriate age and the average monthly total family income per person for the previous six months (in 2022 for children under the age of 6: from January — UAH 1,050.0, from July —

UAH 1,100.5, from December — UAH 1,136.0, for children aged 6 to 18: from January — UAH 1,309.0, from July — UAH 1,372.0, from December — UAH 1,416.5).

The benefit is paid for six months.

**i) unemployment;**



Legal, financial and organizational principles of compulsory state social insurance against unemployment are defined by the Law of Ukraine “On Compulsory State Social Insurance Against Unemployment”.

In accordance with Article 7 of this Law, the types of social security and types of social services are:

- assistance in case of unemployment including the one-off payment for the unemployed to start entrepreneurship;
- funeral allowance in the event of the death of an unemployed person or a dependent;
- professional training or retraining, advanced training in institutions of professional (vocational), professional higher and higher education, including educational institutions of the state employment service, enterprises, institutions, organisations;
- career guidance;
- search for suitable work and assistance in employment, including by organizing public service for the unemployed in the manner prescribed by CMU;
- providing employers who employ citizens referred to in Article 14(1) of the Law of Ukraine “On Employment of the Population” with compensation in accordance with Article 26 of the Law of Ukraine “On Employment of the Population”;
- providing compensation to employers – small businesses that employ the unemployed, in accordance with Article 27 of the Law of Ukraine “On Employment of the Population”;
- providing vouchers to maintain the competitiveness of certain categories of citizens through retraining, specialization, training in professions and specialties for priority economic activities in accordance with Article 30 of the Law of Ukraine “On Employment of the Population”;
- implementation of measures to promote the employment of internally displaced persons in accordance with Article 241 of the Law of Ukraine “On Employment of the Population”;
- providing information and counselling services related to employment.

In addition, Article 3 of the Law of Ukraine “On Compulsory State Unemployment Insurance” stipulates that if an international agreement of Ukraine, approved by VRU, establishes other provisions than those provided by the legislation of Ukraine on unemployment insurance, the provisions of the international agreement are applied.

In accordance with Article 22(1) of the Law, insured persons duly recognized as unemployed, whose length of the social insurance contribution period during the 12 months prior to registration as unemployed is at least six months according to the State Register of compulsory state social insurance have the right to unemployment benefits depending on their the length of the social insurance contribution period.

In accordance to Article 23(1) of the Law, the amount of unemployment benefits for insured persons specified in Article 22(1) of this Law is determined as a percentage of their average salary (income) determined in accordance with the procedure for calculating average salary (income) for the purpose of compulsory state social insurance approved by CMU, depending on the length of the social insurance contribution period, but cannot be less than the minimum amount of unemployment benefits

established by the Board of the Fund of Compulsory State Social Insurance of Ukraine in case of unemployment for this category of persons:

- up to 2 years — 50 percent;
- from 2 to 6 years — 55 percent;
- from 6 to 10 years — 60 percent;
- more than 10 years — 70 percent.

Unemployment benefits are paid depending on the duration of unemployment as a percentage of a certain amount:

- the first 90 calendar days — 100 percent;
- within the next 90 calendar days — 80 percent;
- afterwards — 70 percent.

The maximum amount of unemployment benefits is 4 subsistence minimums for able-bodied persons.

**j) minimum resources/social assistance;**

Social protection of low-income families consists of providing them with assistance, taking into account the total income and property status of the family. The amount of state social assistance is defined as the difference between the level of subsistence for the family and its average monthly total income.

The Laws on the State Budget of Ukraine annually establish the subsistence level (guaranteed minimum) for the purpose of state social assistance.

In 2022 the subsistence level (guaranteed minimum) for able-bodied persons is 45 percent (from January — UAH 1,116.54, from July — UAH 1,170.0, from December — UAH 1,207.8); for persons who have lost their ability to work and persons with disabilities — 100 percent (from January — UAH 1,934.0, from July — UAH 2,027.0, from December — UAH 2,093.0); for children — 130 percent of the corresponding subsistence level (for children under the age of 6: from January — UAH 2,730.0, from July — UAH 2,861.3, from December — UAH 2,953.6; for children aged 6 to 18: from January — UAH 3,403.4, from July — UAH 3,567.2, from December — UAH 3,682.9, for children aged 18 to 23: from January — UAH 3,225.3, from July — UAH 3,380.0, from December — UAH 3,489.2).

Assistance for low-income families to gain economic independence, which is interest-free repayable financial assistance, is paid once in non-cash form at the expense of the state budget to an unemployed able-bodied person from low-income family to start business and promote economic independence.

The amount of assistance may not exceed 15 minimum wages established by law as of 1 January of the calendar year in which the decision to provide such assistance is made (in 2022 — UAH 97,500).

**k) long-term care;**

Monthly financial assistance to a person living with a person with a group I or II disability due to a mental disorder, who according to the medical commission of the medical institution needs constant third-party care, to care for them:

Care allowance is provided to an able-bodied person who is registered or permanently living in the same living space with a person with a group I or II disability due to a mental disorder who, according to the medical commission of the medical institution, needs constant third-party care and who provides care for such person.

The amount of care allowance is calculated as the difference between the three subsistence minimums per family member and the average monthly total family income for the previous six months, but cannot be more than the subsistence minimum per person per month (in 2022:

since January — UAH 2,393.0, since July — UAH 2,508.0, since December — UAH 2,589.0).

### **1) housing**

*Social support for housing and utility services is provided to the population in the form of benefits and housing subsidies.*

In accordance with Regulation No. 848 the state reimburses households for the cost of housing and utility services through housing subsidies within the frameworks of social norm of housing, social norms for the use of housing and communal services (hereinafter referred to as social norms), which exceed the mandatory percentage of payment specified in accordance with the procedure established by CMU.

CMU Resolution “On establishing state housing and utility services social standards” No. 409 of 06.08.2014 (as amended) established the social norm of housing and social norms, guided by which the state provides citizens with housing and utility services subsidies.

In accordance with the CMU Resolution “On the new costs of housing and utility services, purchase of liquefied gas, solid and liquid household fuel using housing subsidies” No. 1156 of 27.07.1998 (as amended) the mandatory interest of payment for housing and communal services is determined for each household individually according to a common formula and depends solely on the size of the average monthly total household income per capita. This approach ensures compliance with the principle of social justice, namely that the lower the household income, the lower the mandatory percentage of payment for housing and utility services.

The right to receive a housing subsidy is determined depending on the property and financial situation of household members (are there several residential premises, vehicles, deposits, expensive purchases, etc.).

The subsidy for housing and utility services is granted from the month the application for it was filed until the end of the heating season and is calculated for the non-heating season (from 1 May to 30 September) and the heating season (from 1 October to 30 April).

After the expiration of the subsidy, the social protection bodies independently calculate the subsidy for the next period without the appeal from the citizens (except for certain categories of households).

Housing subsidy for the purchase of liquefied gas, solid and liquid household fuel is granted once a calendar year at the personal request of citizens.

In January 2022 approximately 2.7 million people used subsidies to pay for housing and utility services, the average amount of a subsidy in January 2022 was UAH 1,700.

A number of legislative acts also provide for a reduction in housing and utility services within the established social norms for certain categories of citizens: war veterans, children of war, victims

of the Chernobyl disaster, victims of Nazi persecution, large families, and others. For most of these categories, benefits also apply to members of the beneficiary's family.

They receive a 25% to 100% discount for services (depending on the category of the beneficiary) within the established social standards for the use of services.

At the same time, certain categories receive benefits depending on their income, provided that the average monthly total family income per person for the previous six months does not exceed the amount of income that entitles to social tax benefits (in 2022 — UAH 3,470), in the manner prescribed by CMU. Every year as of January 1 of the current year, the right to receive benefits is reviewed, as the amount of income that gives the right to social tax benefits changes.

In January 2022 approximately 1.5 million people used benefits to pay for housing and utility services, the average amount of a benefit in January 2022 was UAH 1,100.

### *Housing assistance*

Article 24 of the Fundamental Law stipulates that citizens have equal constitutional rights and freedoms and are equal before the law. No privileges or restrictions based on race, skin colour, political, religious, and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics are allowed.

At the same time, Article 47 of CU stipulates that citizens in need of social protection are provided with housing by the state and local self-government bodies free of charge or for a fee they are able to cover in accordance with the law.

The Law of Ukraine “On Social Housing Fund” (hereinafter referred to as the Law) defines the legal, organisational and social principles of state policy to ensure the constitutional right of socially vulnerable groups of Ukraine to receive housing.

In accordance with this Law, social housing is housing of all forms of ownership (except social dormitories) from the social housing fund, which is provided free of charge to citizens of Ukraine in need of social protection, on the basis of a fixed-term lease contract.

Citizens of Ukraine have the right to receive social housing (Article 10 of the Law):

a) if such housing is their only place of residence or they have the right to improve living conditions in accordance with the law;

b) if their average monthly total income for the previous year per person is less than the value of the indirect cost of housing rent in the settlement and the subsistence level established by law.

In accordance with the powers defined by Article 9 of the Law, local self-government bodies, among other things: keep records of citizens entitled to receive apartments, detached (one-apartment) houses from the social housing fund, make decisions to provide these citizens with social housing on the grounds and in the manner prescribed by law.

Article 22 of the Law stipulates that social housing is provided to citizens who are registered in the social housing register in the order of priority based on the time of registration of such citizens. Citizens defined by Articles 11 and 12 of this Law have the right for extraordinary and priority receipt of apartments or detached (one-apartment) residential houses from the social housing fund (social housing), namely:

“Article 11 The following have the right to receive social housing on an extraordinary basis:

1) persons with disabilities as a result of war and persons equated to them by law, persons rehabilitated in accordance with the Law of Ukraine “On Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991” who were subjected to repression in the form of deprivation freedom (imprisonment) or restriction of liberty or unjustified placement of a healthy person in a psychiatric institution by decision of an extrajudicial or other repressive body and whose disability has been established — within two years from the date of registration in the social housing register; and persons with group I disabilities who are the participants in hostilities on the territory of other states — within a year;

2) members of the families of deceased war veterans, members of the families of deceased Defenders of Ukraine — within two years from the date of registration in the social housing register;

3) former minor prisoners (under the age of 14 at the time of imprisonment) of concentration camps, ghettos and other places of detention, who are recognized as persons with disabilities from general illness, occupational injuries and other reasons;

4) the wives (husbands) who have not remarried of deceased victims of Nazi persecution, recognized during their life as persons with disabilities from general illness, occupational injuries and other reasons;

5) persons affected by the Chernobyl disaster, category 1, — within one year from the date of registration in the social housing register;

6) persons affected by the Chernobyl disaster, category 2;

7) orphans and children deprived of parental care, after their stay in appropriate institutions for such children, family-type orphanage, foster family or after the term of care for such children have finished, as well as persons belonging to that group if do not own housing owned — within a month. Orphans and children deprived of parental care after reaching the age of 23 do not lose the right to emergency social housing, provided they are registered in the social housing register at the age of 23 in the prescribed manner;

8) children with disabilities (including those registered as internally displaced persons) who are orphans or whose parents are deprived of parental rights and who live in social protection institutions after reaching the age of majority;

9) illegally convicted and subsequently rehabilitated citizens, in case of impossibility to return the living space occupied by them earlier;

10) citizens whose housing is duly recognized as unfit for habitation or is not subject to repair and reconstruction;

11) citizens with whom the local self-government body has terminated the contract of social housing rental on the basis specified in Article 20(6) of this Law, but have such a right again within the next three years from the date of termination of the contract;

12) families with five or more children, and in the case of one woman giving birth to three or more children at the same time.”

“Article 12 The following have the right to priority social housing:

1) participants in hostilities and persons equated to them by law, and among them participants in hostilities who got injured, concussed or mutilated during participation in hostilities or in the performance of military service — within two years from the date of registration for social housing;

- 2) participants in the war and persons equated to them by law;
- 3) persons with group I and II disabilities (including those registered as internally displaced persons);
- 4) persons who have special merits and special labour merits before the Motherland;
- 5) Heroes of Ukraine, Heroes of the Soviet Union, Heroes of Socialist Labour, as well as persons awarded the Order of Glory, Labour Glory, "For Service to the Motherland in the Armed Forces of the USSR" of all three degrees, four or more medals "For Courage";
- 6) former minor prisoners (under the age of 16 at the time of imprisonment) of concentration camps, ghettos, other places of detention established by Nazi Germany and its allies during the Second World War, as well as children born in these places where their parents were forcibly detained;
- 7) former prisoners of concentration camps, ghettos and other places of detention during the Second World War; persons who were forcibly deported to forced labour in Germany or its allies, who were at war with the former USSR, or in the territory of other states occupied by Germany; children of partisans, underground fighters and other participants in the struggle against the National Socialist regime behind enemy lines, who due to the patriotic activities of their parents were subjected to repression, physical violence, persecution;
- 8) persons rehabilitated in accordance with the Law of Ukraine "On Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991";
- 9) citizens suffering from severe forms of certain chronic diseases according to the list approved by the central executive body that ensures the development of state policy in the field of public health;
- 10) families and single mothers and fathers with three or four children, as well as in the case of one woman giving birth to two children at the same time;
- 11) families with a child with a disability under the age of 18 or a person with a disability from childhood of the I or II group;
- 12) dismissed or retired officers and servicemen of the Armed Forces of Ukraine and other military formations created by VRU who served under contract or were on military service;
- 13) families of persons who died in the course of official or public duties (including in the course of saving human life) or at work;
- 14) persons who have suffered an injury or occupational disease at work, due to which they cannot live in the same room with other persons;
- 15) young families in which the age of the husband and wife does not exceed 35 years, or single-parent families in which the mother (father) is under 35 years of age, single young citizens under 35 years of age and young scientists under 35 years of age;
- 16) families with minor children;
- 17) pregnant women;
- 18) persons who have lost their ability to work;
- 19) pensioners;

20) persons who have been granted the status of injured participants in the Revolution of Dignity in accordance with the Law of Ukraine “On Status of War Veterans, Guarantees of Their Social Protection”.”

**108. How are the various benefits and allowances delivered to the beneficiaries? How is the accessibility and efficiency of the system ensured? Is there an IT information system coordinating the provision of social protection and do citizens have access to it to get to know their rights (e.g., accrued pension contributions)? If so, could you please describe the system briefly?**

In accordance with the current legal and normative acts MSPU is the holder of the following information systems:

- Unified State Automated Register of Persons Eligible for Benefits (USARPEB);
- State Register of Children’s Health Improvement and Recreation Property;
- Unified State Register of Recipients of Housing Subsidies;
- Unified Information Database of Internally Displaced Persons of Ukraine (IDP UID);
- „Children” Unified information and analytical system;
- Centralized Disability Data Bank (CDDDB).

In addition, the state-owned enterprise “Information and Computing Centre of MSPU” develops, implements and maintains:

Automated system for processing documentation of recipients of pensions and benefits based on computer technology (ASPD/COMTECH-SOC). District-oriented software package;

The system of information services for the activities of the united territorial communities in the field of social protection of the population (Software complex “Integrated information system “Social Community / IIS “Social Community”). It is designated for the ATC specialists to automate the process of receiving applications and primary documents to receive social benefits and services and generate reports on the results of processing citizens’ applications;

- Central Data Warehouse of MSPU;
- Humanitarian aid accounting system;

Data exchange system at the central level with the Ministry of Finance of Ukraine to ensure verification of social benefits, privileges, subsidies, assistance and other types of benefits;

System of annual and operative data exchange with the Pension Fund of Ukraine at the central level for the purpose of subsidies;

System of operative data exchange with JSC “State Savings Bank of Ukraine” (Oschadbank) at the central level for depositing social benefits;

Centralised data exchange system with the Pension Fund of Ukraine (reverse migration of pension case data using access and information exchange Internet technologies for designating certain types of state aid and supervision of compliance with the law during designation (recalculation) and payment of pensions);

Registration of recipients of state aid to victims of mass public protests and students (cadets) of higher education institutions receiving social scholarships.

MSPU provides electronic services for citizens:

Electronic service for submitting an application for childbirth assistance;

Electronic service for submitting applications and declarations for housing subsidies;

Electronic social service for reimbursement of the cost of childcare services for children under three years of age “Municipal nanny”;

Electronic services within the competence of MSPU in the complex electronic service “E-baby”: “Integration of e-services “Childbirth benefits” and “Child benefits for children brought up in large families” into the Unified state web portal of e-services (for the implementation of E-baby service)”.

In 2021 in order to create a unified information environment, including a unified record of recipients of social support and their verification system, a unified system of social protection expenditures’ management, their distribution and control over their intended use, the need to automate the procedure for applying for social benefits, effectively monitor and control those processes, a decision was made to create the Unified Social Services Information System (hereinafter referred to as the USSIS) (CMU Resolution “On approval of the Regulation on the Unified Social Services Information System” No. 404 of 14.04.2021).

Currently, the following is implemented via USSIS software:

1) Applied functions of the general subsystem Unified Social Register:

creation of electronic certificates of salary, paid insurance contributions, the amount of pension;

display of electronic pension certificate with data from the Register of Insured Persons (RIP);

display of electronic certificate of social insurance with data from the RIP;

display of electronic pension case with data from the RIP;

display of information about the social status of the citizen in electronic form;

display of information about a person’s disability (group, subgroup, cause of disability and term for which it is assigned) in electronic form.

2) Administrative subsystem that performs user authentication, maintains and monitors USSIS users and their rights, as well as maintains and updates the necessary directories (within the application functions of the developed software).

3) Application software of the unified subsystem “Unified social processing” to automate the following functions:

- assignment, accrual and payment of state social assistance to persons with disabilities from childhood and children with disabilities;

- assignment, accrual and payment of child benefits for children under guardianship or custody; child benefits for single mothers; child adoption benefits;

- assignment, accrual and payment of child benefits for children with severe perinatal nervous system disorders, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, type I diabetes (insulin-



dependent), acute or chronic kidney disease of the IV degree, for a child who has suffered a serious injury, needs an organ transplant, needs palliative care, who has not been diagnosed with a disability.

For the period of war of the state with Russian Federation, the USSIS is being finalized taking into account the current needs of the citizens of Ukraine.

Currently the Unified Social Processing subsystem is being used to develop application functions that make it possible to send a request for a Certificate containing available information on persons with groups I and II disabilities from Central Data Depository of MSPU and informational resources of the Pension Fund of Ukraine on disability of a person in accordance with the data from Unified Social Register, verification of documents and information provided by the citizens of Ukraine during a personal meeting and electronic submission of the Certificate on Diia Portal (subject to the implementation of the relevant electronic service on Diia Portal).

Also, the exchange of data on internally displaced persons between Diia Portal, the USSIS, Social Community IIS and the Unified Information Database of Internally Displaced Persons (hereinafter referred to as IDP UID) is being modernized. In particular:

- uploading applications for registration of internally displaced persons registered on the Diia Portal and Social Community IIS to USSIS;

- transferring applications for registration of internally displaced persons uploaded on the USSIS from the Diia Portal to Social Community IIS for processing;

- uploading the results of processing applications for registration of internally displaced persons from Social Community IIS to the USSIS;

- sharing information between the USSIS and IDP UID on the registration of internally displaced persons (Diia Portal and Social Community IIS is where those applications are being registered);

- sharing information on the status of the application between USSIS and Diia Portal;

- uploading information from the IDP database to the Unified Social Register.

In pursuance of the Law of Ukraine “On Housing and Utility Services” No. 2189-VIII of 09.11.2017 from 2019 benefits and subsidies for housing and utility services will be paid to the consumer in cash.

In accordance with the Procedure for granting benefits for housing and utility services, purchase of solid fuel and liquefied gas in cash, approved by CMU No. 373 of 17.04.2019, benefits are provided in two forms of cash payment:

- 1) via bank transfer, when funds are transferred from MSPU to the account of MSPU opened in Oschadbank JSC (using personal accounts of recipients), and subsequently the amount of accrued payments for housing and utility services consumed by recipients is sent by the bank to the accounts of entities providing housing and utility services (legal entities);

- 2) in cash, when cash is transferred directly to the recipient (individual) to his/her account opened in a bank or through a branch of Ukrposhta JSC. In this case, payments to housing and utility services providers are made directly by the consumer (beneficiary/subsidy recipient).

In accordance with Regulation No. 848, starting from May 2021 housing subsidy is provided exclusively in cash.

Information on the allocation of subsidies can be found in the Unified State Register of Recipients of Housing Subsidies, which is publicly available at <https://subsidi.ioc.gov.ua>.

By entering the address of the household in the appropriate fields, you can find out the status of the subsidy, the total amount of the assigned subsidy outside the application periods, the amount of the accrued subsidy and payment results.

Information on beneficiaries is contained in the Unified State Automated Register of Persons Eligible for Benefits, the access to which is restricted.

At the same time, beneficiaries who receive benefits in non-cash forms have their personal account on the website of Oschadbank JSC, where they can monitor the status of monetary deposits to their account and payments to service providers.

To receive benefits the beneficiary must submit an application for the data to be entered in the Unified State Automated Register of Persons Eligible for Benefits and for benefits for housing and utility services to be provided (hereinafter referred to as the application for benefits) as well as a copy of the document confirming the status of the beneficiary to a social protection body at the registered or actual place of residence of the beneficiary.

In general, in order to receive a housing subsidy a beneficiary must submit only two documents — the application for benefits and the declaration for benefits. These documents are submitted to the authorized official of the executive body of the village, town, city council of the relevant territorial community or an official of the Administrative Service Centre.

The application for benefits and the declaration for benefits can also be sent to the social protection body by mail or electronically through the Unified State Web Portal of Electronic Services, which is especially relevant when martial law is in force in Ukraine.

The possibility of electronic application for benefits through the Unified State Web Portal of electronic services to ensure the possibility of social protection bodies to enter information in the Unified State Automated Register of Persons Eligible for Benefits, and provide benefits to beneficiaries to pay for housing and utility services, which is especially important when martial law is in force, is currently being looked in.

Applications for state aid accompanied by the required documents are accepted by authorized officials of the executive body of the village, town, city council of the relevant territorial community and officials of the Administrative Service Centre and referred to the relevant social protection body. Expenditures for the payment of state aid are covered by the funds from the state budget.

Increased pensions and allowances to pensions are granted at the request of the pensioner, who is entitled to these benefits.

The application for granting (recalculation) of the pension is made by submitting an application and other documents necessary for granting (recalculation) of the pension to the territorial body of the Pension Fund of Ukraine or to the authorized body or authorized person by the insured person personally or by a legal representative of an incapable person whose capability is limited, of a minor.

The application for granting (recalculation) of the pension may be submitted by the applicant together with clearly legible scanned copies of the original documents via the web portal of electronic services of the Pension Fund of Ukraine (hereinafter referred to as web portal) using a qualified electronic signature or electronic BankID system.

Electronic services can be provided through the mobile application which has access to the personal page of the user of services or in cooperation with the Unified state web portal of electronic services (Diia Portal).

Payments and services under the compulsory state social insurance (pension, due to temporary disability, accident and occupational disease) are provided by the Pension Fund of Ukraine and the Social Insurance Fund of Ukraine.

Financial support within the framework of insurance due to temporary disability, pregnancy and childbirth of insured (working) persons is provided through insurers (employers), while other insurance payments (pensions, insurance payments for accidents and occupational diseases) are provided by the relevant insurance funds directly to recipients.

The Register of Insured Persons of the State Register of Compulsory State Social Insurance, maintained by the Pension Fund of Ukraine, operates to maintain a unified register of individuals subject to compulsory state social insurance. The register contains personalized information on length of pensionable service, employment, insurance benefits, and other information necessary for the purposes of social insurance. The register includes an electronic register of sick leaves. Electronic access of insured persons and insurers to their own information from this register is provided through the portal of the Pension Fund of Ukraine.

**109. Which of the social protection branches listed above are available to the self-employed and people with non-standard employment contracts (e.g. temporary jobs, seasonal workers)? Under what conditions?**

In accordance with Article 1 of the Law of Ukraine “On Collection and Accounting of the Single Contribution for Compulsory State Social Insurance”, the insured person is a natural person who, in accordance with the legislation, is subject to compulsory state social insurance and pays (paid) a single contribution and/or on which behalf a single contribution is paid or has been paid in accordance with the procedure established by law.

The following persons are subject to compulsory state social insurance, in particular:

- citizens of Ukraine, foreigners and stateless persons who perform works (provide services) at undertakings, institutions, organisations, branches, representative offices and other separate subdivisions of undertakings and organisations, in public associations, for individual entrepreneurs, for persons exercising independent professional activities, and for other individuals under civil law contracts;

- persons carrying out independent professional activities, namely scientific, literary, acting, artistic, educational or teaching activity, as well as medical, law practice, including lawyers, notaries, or persons practicing religious (missionary) activities, other similar activities and whose income comes from that same activity.

Provided they pay a single social contribution in accordance with the procedure established by law, insured persons receive the right to insurance payments (services) under applicable types of compulsory state social insurance.

The following categories are entitled to voluntary participation in the system of compulsory state pension insurance:

- members of the private farms, if they do not belong to the category of persons subject to insurance;

- persons who have reached the age of 16, are not employed, and do not belong to the category of payers of single contribution, including foreigners and stateless persons who permanently reside or work in Ukraine, citizens of Ukraine who work or permanently reside outside Ukraine, unless otherwise provided by international agreements by which the Verkhovna Rada has agreed to be bound.

These persons participate in the system of compulsory state pension insurance on a voluntary basis for the period specified in the agreement on voluntary participation in the system of compulsory state social insurance, that cannot be less than one year (except for one-time payment agreements).

Therefore, all workers who work under fixed-term, seasonal employment contracts, under part-time contracts have the same rights and guarantees of social protection and insurance as other workers.

### C. Pensions

**110. What is the public-private mix in Ukraine? What role do public, statutory funded, occupational and personal pension schemes play for income security in old age (different pillars of the systems)? Is there a universal system for the whole population? Are there any statistics on the composition of income in old age (social transfers, family support, labour income, additional private income)?**

The 2004 Law of Ukraine “*On Compulsory State Pension Insurance*” stipulates a three-tier pension system. The first tier is the solidarity system of compulsory state pension insurance. The second tier is the saving system of compulsory state pension insurance (as of today it has not been implemented). The third tier is the system of private pension schemes (individual voluntary pension schemes).

Payments from the first tier of the pension system.

Citizens access their pension when they reach the retirement age (working pensioners receive both their pension and their salary).

The average pension as of 1 January, 2022 was UAH 3,992, which is UAH 484 — or 13.8% — more than on 1 January, 2021, and UAH 909 — or 29.5% — more than as of 1 January, 2020. It should be noted that the growth rate of the average pension exceeds the inflation rate over these periods.

Average amounts of assigned pensions, targeted cash benefits, in view of indexation, by types of pension benefits:

old age — UAH 3,945;

disability — UAH 3,270;

loss of a breadwinner — UAH 3,731;

service experience — UAH 6,443;

social pensions — UAH 1,956.

The third tier of the pension system (established for additional pension savings with voluntary contributions of individuals and employers).

The total number of participants in private pension funds as of 30.06.2021 was 888.3 thousand people, while in 2020 — 879.9 thousand. Pension payments have amounted to UAH 1,196.2 million, which is 16.2% more than in the same period of 2020. Payments have been made to 88.2 thousand participants, i.e. 9.9% of the total number of participants.

One of the key qualitative indicators that characterize the private pension system is pension contributions paid. The amount of pension contributions as of 30.06.2021 constituted UAH 2,496.7 million. This figure increased by 10.1% (UAH 228.7 million) vs. the same period in 2020.

The second tier of the pension system — the saving system of compulsory state pension insurance — has not yet been implemented.

In addition to pension benefits paid from the pension system, incapable citizens are eligible to receive bonuses, allowances, and increased amounts of these benefits, additional pension in the manner and at the expense of funds specified by law. If the totality of such benefits — together with pension benefits paid from the pension system and other receipts — do not reach the subsistence level established by law for incapable citizens, such citizens are entitled to state social assistance.

Pension payments from the non-state pension system are made regardless of receipt of payments under the compulsory state pension insurance or from other sources.

No information on the “income structure of elderly population” is collected in the framework of sample surveys of population (households) held by state statistic services.

At the same time, based on findings of a sample survey of living conditions of households, information is generated regarding the income structure of households comprising non-working age persons, as well as the structure of household income depending on the sex and age of household members.

In particular, in 2020, the largest share of resources of households comprising non-working age people was constituted by pensions — 56% among single member households and 64% among households consisting of two or more non-working age people. At the same time, the share of wages in the household’s resources was 12% and 15%, respectively. The share of social benefits (including cash and non-cash benefits and subsidies) was 6% and 4%. The share of income from personal subsistence farming and from self-procurement in these groups of households was 6% of their resources.

According to data of the State Statistics Service, in 2020 the structure of total household resources per non-working age person consisted of: pensions — 56.4%, wages — 12%, benefits, allowances, subsidies, and compensatory cash payments — 5.5%, property income (dividends from shares and other securities, interest on deposits, income from renting real estate, etc.) — 3%, income from sale of agricultural products — 1.4%, income from entrepreneurship and self-employment — 0.2%, cash assistance from relatives and other persons — 8.5%, other cash income — 3.8%, non-cash income — 7.8%.

The cash income structure for one non-working age person household comprises: pensions — 62.1%, wages — 13.2%, allowances, benefits, subsidies, and compensatory cash payments — 6.1%, property income (dividends from shares and other securities, interest on deposits, income from renting real estate, etc.) — 3.3%, income from sale of agricultural products — 1.6%, income from entrepreneurship and self-employment — 0.3%, cash assistance from relatives and other persons — 9.3%, other cash income — 4.1%.

In the total resource structure of households of two or more persons, all of them being of non-working age, pensions account for 63.8%, wages — 15.2%, allowances, benefits, subsidies, and compensatory cash payments — 2.9%, property income (dividends from shares and other securities, interest on deposits, income from renting real estate, etc.) — 2.1%, income from sale of agricultural products — 2.1%, income from entrepreneurship and self-employment — 0.9 %, cash assistance from relatives and others — 3.2%, other cash income — 2.3%.

The cash income structure for two or more non-working age person household comprises: pensions — 69 %, wages — 16.3 %, allowances, benefits, subsidies, and compensatory cash payments — 3.2 %, property income (dividends from shares and other securities, interest on deposits, income from renting real estate, etc.) — 2.3 %, income from sale of agricultural products — 2.3 %, income from entrepreneurship and self-employment — 0.9 %, cash assistance from relatives and other persons — 3.5 %, other cash income — 2.5 %.

*Note. Total resources of a household consist of cash and in-kind (in monetary terms) income obtained by household members in the form of wages (excluding income tax and mandatory deductions), income from entrepreneurship and self-employment, property income in the form of interest, dividends, sale of shares and other securities, proceeds from sale of individual farming products and products obtained through individual storing, pensions, scholarships, social benefits, cash assistance from relatives and others and other cash income); the value of consumed products obtained from individual farming, as a result of self-storing, the value of food, alcoholic beverages, and tobacco products donated by relatives and others, the amount of benefits, non-cash subsidies and non-cash benefits, savings used, growth in the period observed of loans, credit lines obtained by the household, as well as debts repaid to the household. This indicator reflects potential resources of the household received in the observation period, regardless of their sources.*

**111. Describe how are benefits calculated and indexed. What is the pensionable age and qualifying period (for men and women, if different)? Please mention if the pensionable age is being increased. Are there minimum pensions/minimum benefits for older people?**

The Law “On Compulsory State Pension Insurance” establishes the same eligibility criteria for old-age pension for both men and women. Thus, individuals are entitled to old-age pension after reaching the age of 60, or 63, or 65.

Since 1 January, 2022, persons with at least 29 years of contribution period have the right to retire at the age of 60 (the required length of contribution period increases annually and starting from January 1, 2028 will be constitute 35 years minimum).

If an individual has not reached the respective contribution period, he/she gets the right to pension at the age of 63 or 65, if his/her contribution period is shorter. Thus, in 2022 people with the contribution experience of 19 years will be able to retire at the age of 63. In 2022 people with the contribution period of 15 years will be able to retire upon reaching the age of 65.

Citizens who have not gained 15 years of the contribution period will have the opportunity to access social assistance.

The pension amount is calculated as the product of the contribution period (the period for which insurance premiums were paid) and the wages (income) of the individual for the entire contribution period starting on 1 July, 2000.

The minimum amount of old-age pension for men with at least 35 years of contribution period and for women with 30 years of contribution experience is set at the subsistence level for individuals who have lost their capacity to work, as defined by law.

Starting on 1 January, 2018, for individuals over the age of 65, the minimum old-age pension for men with at least 35 years of contribution period and for women with 30 years of contribution period is set at 40 percent of the minimum wages set by the Law of Ukraine “*On the State Budget*” for the relevant year, but no less than the subsistence level for individuals who lost their capacity to work, as stipulated by law.

To ensure indexation of pensions, previously awarded pensions are recalculated annually by increasing the average wages (income) in Ukraine from which insurance premiums are paid and which is taken into account for calculating the pension. The average wage (income) indicator in Ukraine, which is used to calculate pensions, is annually increased by a factor corresponding to 50 percent of the consumer price growth rate in the previous year and 50 percent of the average wage (income) growth rate in Ukraine from which insurance premiums are paid for the three calendar years preceding the year in which the increase is made vs. with the three calendar years preceding the year prior to the year in which the increase is made. If there is no deficit of the Pension Fund to finance payment of pensions within the solidarity system, the rate of the annual increase of this indicator may be increased.

The average pension as of 1 January, 2022 was UAH 3,992, which is UAH 484 — or 13.8% — more than on 1 January, 2021, and UAH 909 — or 29.5% — more than as of 1 January, 2020. It should be noted that the growth rate of the average pension exceeds the inflation rate over these periods.

Average amounts of assigned pensions, targeted cash benefits, in view of indexation, by types of pension benefits (UAH):

old age — 3,945;

disability — 3,270;

loss of a breadwinner — 3,731;

service experience — 6,443;

social pensions — 1,956.

It should be noted that in 2021, for the first time since 2016, the average pension exceeded the actual subsistence level for people who lost their capacity to work.

The total wage replacement ratio (the ratio of the average pension to the average wages) was 34%.

Given the negative dynamics of the demographic burden, where the share of elderly population increases and that of economically active one — decreases (declining birth rates and migration processes), and with a low prevalence of savings for old age, pension coverage of future retirees faces the risks of declining.

**112. What is the coverage of the main public pension scheme (% of population)? Are there certain groups excluded from the system (coverage)? Is there a possibility of ‘opting out’? If so, are there any problems caused by the exclusion of certain groups? Is the system equitable with**

### **regard to gender equality and other groups of the population?**

Compulsory state pension insurance is performed, in particular, based on the principles of:

compulsory insurance of persons working on terms of an employment (labour) contract and on other grounds as stipulated by law, as well as self-employed individuals, individual entrepreneurs;

the right to voluntary participation in the compulsory pension insurance system for those who, in accordance with this Law, are not subject to compulsory state pension insurance;

interest of each able-bodied person in their financial support after retirement;

equality of individuals insured when obtaining pension payments and fulfilling obligations regarding payment of insurance premiums within compulsory state pension insurance.

The current mechanism of accrual of pensions in accordance with the Law of Ukraine "*On Compulsory State Pension Insurance*" of 09.07.2003 No. 1058-IV stipulates that the pension amount of each pensioner is determined individually depending on his/her contribution period and the earnings from which insurance premiums were paid.

The Law establishes the same eligibility criteria for old-age pension for both men and women.

If a person has less than 15 years of contribution period before the age of 65, he or she will not be entitled to a pension. Instead, social assistance will be provided, the amount of which is determined based on the person's family income.

### **113. Assess the financial sustainability of the system (of each pillar) with regard to demographic, economic and social changes.**

Financial stability of the solidarity pension system depends on revenues to the Fund's budget.

The ratio of insured individuals (employees) to pensioners as on 01.01.2022 was 10 to 9.

The total number of insured persons according to the Register of Insured Persons (RIP) in December 2021 was 12.0 million people, including 9.8 million employees. The number of pensioners on 01.01.2022 was 10.84 million people.

The average salary from which contributions were paid in December 2021 was UAH 15,700.65.

The average amount of paid contributions (UAH 3,454.14) from the average salary for December, 2021 covers 86.5% of the average pension payment as of 01.01.2022 (UAH 3,991.53).

Demographic, economic, and social transformations require further adaptation and diversification of the pension system. Parametric changes in the solidarity pension system will not resolve the situation in the long run. The pension reform in Ukraine needs to be continued, especially in terms of balancing solidarity (distributive) pensions with saving ones (introduction of the second tier of the pension system).

### **114. Describe recent major reforms which have been implemented and their objectives.**

The goal of the latest pension reform, which was implemented in accordance with the Law of Ukraine of 03.10.2017 No. 2148 "*On Amendments to Certain Legislative Acts of Ukraine on Increasing Pensions*", was to ensure fairness in determining the amount of pension benefits currently



and in the future. If a person worked honestly all through their life, a decent pension must be guaranteed to them.

Implementation of the pension reform was aimed at:

improving living standards of retirees;

enhancing the link between the pension amount and the amount of wages on which insurance premiums are charged and the person's contribution period;

resolving the issue of gaps in the amount of "old" pensions;

ensuring financial stability of the pension system;

diversification of sources of pension financing due to contributions to the compulsory state pension insurance and compulsory and voluntary pension savings;

establishing an efficient system of administrative governance of the pension system.

In view of the key principles of compulsory state pension insurance focused on solidarity and subsidies within the solidarity system, the maximum pension limit was set, which may not exceed ten times the subsistence level established for persons who lost their capacity to work. This pension cap is set to achieve the optimal ratio between the maximum salary from which insurance premiums are paid, the estimated amount of the maximum pension, as well as to legalize the salaries received.

At the same time, the minimum amount of old-age pension for men with at least 35 years of contribution period and for women with 30 years of contribution experience is set at the subsistence level for individuals who have lost their capacity to work. For persons who have reached the age of 65, the minimum old-age pension for men having 35 years of the contribution period and for women with 30 years of the contribution period is set at 40 percent of the minimum wages.

Pensions, other types of social benefits and assistance that are main sources of livelihood must ensure living standards not lower than the subsistence level established by law.

Implementation of these guarantees made it possible to comply with recommendations of the 102nd Convention of the International Labour Organization regarding minimum social security standards for pensions of those with 30 years of the contribution period in the amount of 40 percent of earnings.

**115. Please explain how the delivery of health care is organised and financed. What is the structure of the healthcare system in Ukraine? What is the share of resources devoted to the primary and secondary care? Please indicate the respective parts of taxes and social contributions, the breakdown between compulsory coverage and voluntary complementary coverage and further information on out-of-pocket payments (if available). What is the level of total healthcare expenditure in % of GDP?**

In 2015, the Government of Ukraine launched health care reforms to improve public health and ensure financial protection against excessive out-of-pocket payments by increasing efficiency, modernizing the outdated service provision system, and improving access to better care. The overall strategy was to focus on health care financing reforms, primarily to catalyse transformations of service delivery, to drive results and outcomes, as well as use information solutions as accelerators. Following development and approval of the strategy by the government, VRU adopted a new health care

financing Law “*On State Financial Guarantees of Medical Services*”. At the end of 2017, the NHSU was established to start with health care providers strategic procurement for services comprised in the health benefits package — the so-called Health Guarantee Program (HGP). To ensure general coverage with health care services, the HGP source of funding was determined to be the general taxation system.

Ukraine decided to rely primarily on general tax revenues with a single pool to finance the package of benefits provided by the NHSU. Ukraine avoids pitfalls of wage tax funding, which increases labour costs and thus hinders formal employment. Separation of the buyer and supplier functions, establishment of the NHSU as a single buyer, as well as priority benefit and payment systems covered offer opportunities to increase efficiency and accountability to maximize the impact of public funds. By clearly defining what the state covers, this design also makes it possible to develop voluntary health insurance and increased private sector participation in provision of services.

The 2017 health care reform brought most of public health expenditures together within the HGP. HGP itself includes PHC services, specialized medical care, pre-hospital emergency care, intensive care, palliative care, and reimbursement of medicines. At the end of 2020, HGP accounted for 68 percent of consolidated governmental health care spendings. About 53% of total expenditures were pooled in the HGP and financed by the central government; 9% were paid by subnational governments (SNG) to cover specialized and emergency services for the first quarter of 2020, before these services were included in the HGP; 6% were spent by SNGs on capital investments, and 6% — on utility costs related to HGP.

HGP further consolidated public spendings on medical services: 75% of total public health care spendings in 2021. Lower governments were still responsible for covering most of operating costs, including utilities and capital investments. As of 2022, total health care expenditures amounted to UAH 196.8 billion, which is 3.67% of GDP, the HGP budget is UAH 157.3 billion.

16.8% of the total HGP budget is allocated for PHC services, while 72.4% — for specialized ones.

The priority role of PHC is declared in key regulations, but the specific PHC development goals, the role and interaction with other levels of care need to be clarified. MoH is currently developing a white paper on the long-term vision of service delivery required to move forward. The white paper suggests that PHC will play a more important role in prevention and treatment of NCDs (including mental health) and infectious diseases (such as tuberculosis). Further development of the vision and implementation mechanisms to improve the PHC organizational and clinical capacity is a pressing priority, and strategic procurement will need to be adjusted to support its implementation.

With the health care financing reform, new financing mechanisms have been introduced. They envisage pooling of resources at the national level and using them to contract health care facilities within the available budget by the single buyer, the NHSU. In order to sign agreements with the NHSU, transformation of providers into autonomous organizations is envisaged. Thus, health workers were transformed into non-profit institutions that gained managerial, operational, and financial autonomy. HGP itself is a clear set of services that cover PHC, specialized medical care, emergency, palliative care, intensive care, and reimbursement of medicines. The process of HGP development and approval is transparent. Key health stakeholders (other government agencies, professional and patient organizations, NGOs and others) are involved into the process. All health care facilities that apply for certain medical services and meet NHSU requirements are eligible for state budget funds.

**116. What is the accessibility of healthcare system? Please describe existing inequalities in access (geographical, financial, social)? Are certain groups excluded from the public system for legal reasons (coverage)?**

In accordance with the current legislative framework, all individuals regardless of their social status, sex, age, or religion have equal access to medical services provided under the HGP. There are no groups to be excluded from the public system for legal reasons (coverage). All residents are entitled to free health care services under the HGP. To access PHC services within the HGP, they have to choose a doctor regardless of their registered place of residence and confirm their choice with official registration by signing the “Declaration of choosing the primary care physician”. Patients who have not chosen a physician and are in an emergency situation are entitled to obtain the required medical care free of charge. To receive medical care at the specialized level, the patient must obtain a referral from their family doctor.

To improve access to PHC services for people living in remote mountain areas, a higher per capita rate is applied. At the same time, there are historical disparities among regions in terms of access to specific types of medical care. The NHSU is gradually reducing these imbalances and plans to continue this work using selective contracting tools.

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**117. Is the healthcare system sustainable from the financial point of view? Is it sustainable from the point of view of human resources?**

Public health care spendings in Ukraine are stable and dependent on general governmental revenues, and the share of international funding in total health spendings is relatively small. In 2020 and 2021, the state budget was increased to respond to COVID-19, and it did not decrease in 2022. There are still funding risks due to the overall GDP decline in the context of the war.

The health care system is sustainable in terms of human resources. As of the beginning of 2022, there were almost 150,000 doctors and more than 270,000 nurses and other health professionals in Ukraine. Ukraine is doing everything possible to ensure retention and development of health care human resources by planning training and advanced training of health professionals, including with funding from the state budget, creating mechanisms for social and financial support of health professionals. At the same time, due to economic problems and military threats, there are risks of outflow of health care professionals abroad.

## **ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES**

### **A. Anti-discrimination**

The EU acquired important new competences in 1999 to combat discrimination on grounds of racial and ethnic origin, religion or belief, age, disability and sexual orientation. These competences are set out in Article 19 of TFEU. On that basis, the Council adopted two Directives in 2000:

- Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. This Directive covers direct and indirect discrimination in the fields of employment, education, social protection (including social security and health care), social advantages, goods and services (including housing).

- Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. This Directive covers employment discrimination on the grounds of religion or belief, age, disability and sexual orientation. It includes specific requirements on reasonable accommodation for persons with disabilities.

The EU has also established an action programme to combat discrimination to support the transposition of the Directives and to promote a range of non-legislative activities (research, networking and awareness-raising).

**118. Which is (are) the department(s) responsible for measures to combat discrimination on the grounds outlined above?**

MSPU and MoE (the areas of employment and labour relations) are responsible institutions.

According to the Regulation on MoE approved by CMU Resolution of 20 August 2014 No. 459 “On competence of the Ministry of Economy”, MoE is the principal body within the system of central executive authorities, which ensures:

- formation and implementation of the national policy in the area of labour, employment, labour migration, labour relationship, and social dialogue;

- formation and implementation of the national policy in the area of industrial safety, occupational health and safety, handling of explosives, state mining supervision, and state supervision and control over compliance with labour and employment laws.

National labour and employment legislation also provides for the prevention of discrimination in the field of labour and employment.

In accordance with the Regulation on MSPU as approved by the CMU Resolution of 17.06.2015 No. 423 (as amended), MSPU coordinates the activities of central and local executive authorities and bodies, local self-governments, undertakings, institutions and organisations as regards implementation and enforcement of the UN Convention on the Rights of Persons with Disabilities.

The Expert Group on Rehabilitation of the Directorate for Social Protection of the Rights of Persons with Disabilities of MSPU is a responsible structural unit, whose tasks and functions include ensuring the development of state policy on employment of persons with disabilities.

**119. What kind of legislative and non-legislative measures exist in Ukraine to tackle discrimination? Are there specific legal provisions prohibiting discrimination and providing for remedies? Does such legislation define various types of discrimination (direct, indirect, harassment and instructions to discriminate)? Does the legislation protect individuals against victimisation?**

MSPU adopted the Guidelines for the inclusion in collective agreements of provisions aimed at ensuring equal rights and opportunities for women and men in the labour market (2020). It contains

typical examples of discrimination on the grounds of sex, in particular those related to: (1) discriminatory job advertisements, (1) discrimination on the grounds of marital status, family responsibilities; (1) discrimination on several grounds (sex, age, marital status, disability, etc.); (1) discrimination on the grounds of appearance and sexual harassment in the workplace; (5) sexism; (6) unequal pay for doing jobs of equal value. The document provides an indicative list of clauses recommended for inclusion in collective agreements.

To ensure methodological support to systematic delivery of trainings for law enforcement officers, members of armed forces, judges, the training kits for the training course “Gender Equality through the Prohibition of Discrimination in the Light of the Case-law of the European Court of Human Rights” were published and disseminated with the support from the OSCE Project Co-ordinator.

Since 2016, the training course on gender equality and non-discrimination for media members and advertisers has been implemented. With the support from the OSCE Project Co-ordinator, a relevant training manual was published and distributed among the Ukraine’s higher educational institutions of Ukraine that train relevant specialists.

A cycle of training sessions for journalists and journalism professors “Introducing the Gender Approach: New Opportunities for Ukrainian Journalism” was delivered.

The online training course “Gender Discrimination: Identification and Legal Aid Provision Mechanism” was developed for the experts of the legal aid provision centres and lawyers, which is posted at the official website of the Coordination Centre for Legal Aid Provision.

For the purpose of responding to citizen complaints and appeals concerning sex-based discrimination, the Expert Council on Prevention and Combating Discrimination Based on Gender, an advisory body, has been operating at MSPU since 2012. The Council is responsible for processing of sex discrimination appeals and correcting of the revealed violations as well as identifying the origins of the discrimination and bottlenecks in order to develop the methods to prevent and counteract the gender inequality.

157 appeals seeking an expert evaluation of discrimination cases were addressed within the period 2017–2020. As a result of their consideration, 69 advertisements were removed, the claims against 14 advertisements were filed with the courts.

Since the overwhelming number of appeals to the Expert Council concerned discriminatory advertising, the Law of Ukraine “On Amendments to the Law of Ukraine “On Advertising” on Combating Discrimination on the Ground of Sex” was drafted and adopted, which defines the concepts of “discriminatory advertising” and “sex-based discriminatory advertising”. It imposes a ban on showing any superiority of one gender over another, stereotypical roles of a man and a woman, gender-based violence, a human body exclusively as a sexual object in advertising. The advertising customer is responsible for discriminatory advertising. The law entered into force in January 2022.

In job advertisements (announcements of vacancies), the employers are forbidden by law to offer job to women or men only — except for specific work that could be done by persons of a particular sex only, — to set any requirements, giving preference to males or females (save for the cases defined by the law and the cases of specific work that could be done by persons of a particular sex only).

In 2021, the Expert Council on Prevention and Combating Discrimination Based on Gender was transferred to subordination of the National Social Service.

**120. What kind of judicial remedies exist in case of discrimination in the fields of employment, education, health care, social security, housing and access to goods and services? To what courts or other tribunals could victims of discrimination take their cases?**

*a) Does the reversal of the burden of proof apply in cases of discrimination, i.e. does the respondent have to prove that he did not discriminate if discrimination can be presumed?*

*b) What sanctions or other remedies can be applied in discrimination cases? If victims can claim compensation, does compensation cover the full extent of the loss suffered or are there any limits envisaged by the legislation?*

The Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine” (hereinafter referred to as the Law) covers the relations between legal entities of public and private law, which addresses are registered in Ukraine, as well as individuals who are on the territory of Ukraine.

The Law applies to the following spheres of social relations: socio-political activity; civil service and service with local self-government bodies; justice; labour relations, including the use of the reasonable accommodation principle by employers; health care; education; social protection; housing relations; access to goods and services; other areas of social relations.

Articles 14–16 of the Law set forth that the persons believing they have been discriminated are entitled to submit a complaint to public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or to the court following the procedure established by law.

A person is entitled to compensation for physical and moral damages caused to him/her by discrimination.

The persons guilty of having violated the legislation on prevention and combating discrimination are subject to civil, administrative and criminal liability.

*Regarding the sphere of employment:*

In accordance with the first paragraph of Article 3 of the LCU, the labour legislation regulates labour relations between employees and any employers — enterprises, institutions, organizations — regardless of their ownership form, nature of business and industry, as well as between individuals working under an employment contract for individuals.

According to Article 5(1) of LCU, the state guarantees to working-age permanent residents of Ukraine, in particular, legal remedies against unjustified denial of employment and unlawful dismissal, as well as facilitation in job retention.

The bodies responsible for labour dispute settlement are defined in Article 221 of LCU as follows: labour dispute commissions; district courts, district courts in a city, city courts or city and raion courts.

District, district in a city, city or city and raion courts try employment claims that are filed, in particular, by employees of enterprises, institutions, organizations, where labour dispute commissions are not elected (point 1 of the first paragraph of Article 232, LCU).

It should also be noted that Article 44(1)(4) of the Law of Ukraine “On Employment of the Population” defining the legal, economic and organizational principles for the implementation of state policy in employment area, the state guarantees on protection of residents’ rights to work and the exercise of their rights to social protection against unemployment, sets forth that registered unemployed are entitled to appeal, including to court, against action/failure to act of any state authorities, local self-government bodies, enterprise, institution or organization, their officials resulting in the breach of individual’s rights to employment.

In addition, in accordance with Article 39 of the Law of Ukraine “On Compulsory State Social Insurance against Unemployment” defining the legal, financial and organizational principles of compulsory state social insurance against unemployment, disputes arising from legal relations under this Law are to be presented before a court.

*Regarding the sphere of education:*

Articles 53(1) and 54(1) of the Law of Ukraine “On Education” establish that students are entitled to, in particular, protection, in the educational process, against humiliation of their honour and dignity, any form of violence and exploitation, bullying (harassment), discrimination on any grounds, propaganda and agitation damaging to student’s health, other necessary conditions for education, including for persons with special educational needs and those from socially disadvantaged population segments.

Teachers, lecturers, trainers and researchers are entitled to, in particular, protection, in the educational process, against any form of violence and exploitation, including bullying (harassment), discrimination on any grounds, propaganda and agitation harmful to their health.

*Regarding health care system*

According to point “и” of the first paragraph of Article 6 of the Fundamentals of the Legislation of Ukraine on Health Care (hereinafter referred to as the Fundamentals), every citizen of Ukraine has the right to health care including legal remedies against discrimination in any unlawful health-related form.

In the first and sixth paragraphs of Article 8 of the Fundamentals, the state recognizes the right of every citizen of Ukraine to health care and ensures its protection.

Judicial remedies of the right to health care are to be exercised in accordance with the procedure established by law.

According to the third paragraph of Article 9 of the Fundamentals, any decision to restrict citizen’s health-related rights may be appealed against in court.

*Regarding social security sector*

The Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine” defines the foundations of social protection of persons with disabilities in Ukraine and guarantees them equal opportunities for participation in the economic, political and social life of society, creating the prerequisites empowering persons with disabilities to exercise their human and

civil rights and freedoms and live productive lives in concordance with their individual potential, abilities and interests.

Articles 2, 6 of the Law prohibit discrimination on the grounds of disability.

The rights, freedoms and legitimate interests of persons with disabilities are protected in judicial or other procedures as established by law.

A citizen is entitled to appeal in court against any decision of a medical and social examination body recognizing or non-recognizing a person's disability status.

Moreover, Article 31 of the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine" provides that persons with disabilities, in the course of their rehabilitation, are entitled, in particular, to protection of their rights and legitimate interests, including in court.

***a) Regarding the burden of proof***

*Civil proceedings*

In accordance with part two of Article 81 of the CPCU, the plaintiff in a discrimination case is obliged to provide factual data confirming that the discrimination event took place. Where the same data is provided, the burden to prove their absence rests with the defendant.

*Administrative proceedings*

Article 2 of CAPU stipulates that in cases initiated by appeals against authorities' decisions, actions or omission, administrative courts examine whether they have been adopted (made), in particular, in compliance with the principle of equality before law, preventing discrimination in any form.

The second paragraph of Article 77 of CAPU provides that in administrative cases regarding allegedly unlawful authorities' decisions, actions or omission, the burden to prove the legitimacy of decision, action or omission rests with the defendant.

*Criminal proceedings*

The provisions of Article 17 of the Criminal Procedure Code of Ukraine stipulate that a person is deemed not guilty of a criminal offense and may not be subjected to criminal punishment until his/her guilt is proved in the manner prescribed by the Code and established by a court guilty verdict that has entered into legal force.

No one is obliged to prove his/her innocence of a criminal offence and everyone will be acquitted unless the prosecution proves his/her guilt beyond any reasonable doubt.

***b) Regarding sanctions and legal remedies***

*Civil proceedings*

Articles 22, 23 of the CCU stipulate that a person who has suffered losses as a result of a violation of his/her civil right is entitled to their compensation.

A person has the right to compensation for moral damages caused as a result of violation of his/her rights.

The amount of monetary compensation for moral damages is determined by court depending on the nature of offense, the depth of physical and mental suffering, the deterioration of victim's opportunities or deprivation of his/her ability to exercise the same, the degree of guilt of the person



who caused moral damage if the guilt is the ground for compensation, as well as with regard to other circumstances of significant importance. While determining the amount of compensation, the principles of reasonableness and fairness are taken into account.

The general provisions on compensation of damages are regulated by Chapter 82 of CCU.

For instance, the provisions of Article 1166 of CCU provide that pecuniary damages caused by unlawful decisions, actions or omissions to personal non-property rights of an individual or legal entity, as well as damages caused to the property of an individual or legal entity, are to be recovered in full by the person who has caused the same.

#### *Administrative proceedings*

Within the administrative proceedings, no special remedies are stipulated for discrimination-related cases.

Therefore, in this category of cases, the general remedies may apply as defined in Article 5(1) of the CAPU:

- 1) declaring unlawful and invalid of a legal and normative act or its separate provisions;
- 2) declaring unlawful and cancelling of an individual act or its separate provisions;
- 3) declaring unlawful of the authorities' actions and imposing the obligation on them to refrain from taking certain actions;
- 4) declaring unlawful of the authorities' omission and imposing the obligation to take certain actions;
- 5) establishment whether the authorities are competent (have powers) or lack the same;
- 6) adoption by the court of one of the decisions referred to in points 1–4 and recovery from the defendant — the authorities — of the funds to compensate for the damages caused by their unlawful decision, action or omission.

Moreover, according to Article 5(2) of the CAPU, the court may exercise protection of appellant's violated rights, freedoms or interests in any other way consistent with the law and ensuring efficient protection of the rights, freedoms, interests of a person and a citizen or other entities in public relations domain against violations by authorities.

#### *Criminal proceedings*

Article 161 of CrCU establishes criminal liability for wilful actions inciting national, regional, racial or religious enmity and hatred, humiliating national honour and dignity, or insulting citizens' feelings in respect of their religious beliefs, as well as any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens on the grounds of race, skin colour, political, religious and other beliefs, gender, disability, ethnic or social origin, financial situation, place of residence, language or other attributes that are punishable by a fine of 200 to 500 non-taxable minimum incomes of citizens, or restraint of liberty for a term of up to five years, or imprisonment for a term of up to three years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

Damages caused by a criminal offense or other socially dangerous deed may be recovered by a court decision based on the results of civil claim consideration in criminal proceedings.

**121. Does legislation prescribe exceptions to the principle of equal treatment and positive action? If yes, please describe those exceptions, as well as the circumstances when the positive actions can be taken.**

The Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine” defines organizational and legal principles of preventing and combating discrimination.

Discrimination, within the meaning in this Law, is a situation in which a person and/or a group of persons, on the grounds of their race, colour of skin, political, religious and other beliefs, gender, age, disability, ethnic and social origin, citizenship, family and property status, place of residence, linguistic or other grounds that have been, are or may exist or be assumed, are subject to restrictions with regard to recognition, exercise or enjoyment of their rights and freedoms in any form as established by this Law, unless such restriction has a legitimate, objectively justified purpose, the methods of achieving the latter are appropriate and necessary.

Therefore, exceptions to the principle of equal treatment are possible only in cases where such restriction on recognition, exercise or use of rights and freedoms has a legitimate, objectively justified goal, and the methods of achieving the latter are appropriate and necessary.

Positive actions, according to this Law, are special temporary measures seeking a legitimate, objectively justified goal focused on eliminating legal or actual inequality in opportunities for a person and/or a group of persons to exercise on equal grounds the rights and freedoms granted to them by the Constitution and laws of Ukraine.

The actions are not deemed discrimination where they do not restrict rights and freedoms of other individuals and do not impede exercise of the same, and do not provide unreasonable benefits to any persons and/or groups of persons based on their certain attributes, which are subject to positive actions, specifically:

- ad hoc protection by the state granted to certain categories of individuals that need such protection;
- implementation of measures aimed at preserving the identity of individual groups of individuals, where the same measures are necessary;
- granting benefits and compensations to certain categories of individuals in the cases provided for by law;
- establishing of state social guarantees for certain categories of citizens;
- special requirements provided by law for the exercise of individuals’ certain rights.

Law of Ukraine No. 2866-IV of 08.09.2005 “On Ensuring Equal Rights and Opportunities for Women and Men” also provides the definition of “positive actions”.

To raise awareness of employers about the application of positive actions, MSPU included provisions on taking positive actions at enterprises, institutions and organizations into the Guidelines for the inclusion in collective agreements of provisions aimed at ensuring equal rights and opportunities for women and men in the labour market (Order of MSPU of 29.01.2020 No.56). Primarily, it concerns the observance of the principle of gender parity in representation in order to ensure the actual equality of women and men, including in leadership positions, protection of motherhood and fatherhood, ensuring opportunities for combining professional and family

responsibilities through the introduction of flexible working conditions, the establishment of children's areas, kindergartens, children's rooms, breastfeeding rooms, transportation services for employees.

Thanks to the introduced quotas and the implemented measures under the State Social Program for Equal Rights and Opportunities for Women and Men until 2021 (CMU Resolution No. 273 of 11.04.2018), the representation of women in the Parliament and local councils has been boosted, and the gender component has been included in legal and normative acts.

**122. Which bodies (such as “equality bodies”) exist to promote the fight against racial and ethnic-based discrimination, and discrimination on other grounds? What are their powers? What are the guarantees for effective and independent performance of their powers?**

In accordance with the first paragraph of Article 9 of the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”, the entities empowered to prevent and combat discrimination are as follows: 1) VRU; 2) Ukrainian Parliament Commissioner for Human Rights; 3) Cabinet of Ministers of Ukraine; 4) other public authorities, public authorities of the Autonomous Republic of Crimea, local self-government bodies; 5) non-government organisations, individuals and legal entities.

The main holder of the powers to combat discrimination is the Ukrainian Parliament Commissioner for Human Rights. Articles 13 and 14 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” define in general the powers of the Ukrainian Parliament Commissioner for Human Rights. At the same time, the specific powers of the Ukrainian Parliament Commissioner for Human Rights to prevent and combat discrimination (those not specified in Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”) are defined in Article 10 of the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”.

In accordance with Article 10 of the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”, the Ukrainian Parliament Commissioner for Human Rights, while exercising parliamentary control over the observance of the constitutionally-enshrined rights and freedoms of individuals and citizens and the protection of rights of every person in the territory of Ukraine and within its jurisdiction, prevents any forms of discrimination and implements anti-discrimination measures, specifically:

- oversees observance of the non-discrimination principle in various spheres of social relations, in particular, in private sphere;

- files discrimination claims in courts in order to protect the public interest and participates in court proceedings in person or through his/her representative in the cases and according to the procedure established by law;

- monitors and summarizes the monitoring findings of compliance with the principle of non-discrimination in various areas of relations;

- considers discrimination-related appeals of persons and/or groups of persons;

- keeps records and summarizes the discrimination cases in various areas of relations;

makes proposals on how to improve the legislation on prevention and combating discrimination, its applications and cessation of positive actions;

provides his/her opinion in the discrimination cases upon court's request;

covers the issues of prevention and combating discrimination and compliance with the non-discrimination principle in his/her annual report;

cooperates with international organisations, relevant bodies of other countries on the matters of compliance with the international non-discrimination standards;

exercises other powers established by the Constitution and laws of Ukraine.

Therefore, the Ukrainian Parliament Commissioner for Human Rights, in fact, performs the function of the body responsible for equality-related issues in Ukraine.

Besides that, Article 7 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” defines the Ukrainian Parliament Commissioner for Human Rights as one of the authorities vested with powers to ensure equal rights and opportunities for women and men.

Specific powers of the Ukrainian Parliament Commissioner for Human Rights as concerns ensuring equal rights and opportunities for women and men are defined in Article 9 of the same Law, specifically, the Ukrainian Parliament Commissioner for Human Rights:

in the scope of control over the observance of human and civil rights and freedoms

controls observance of equal rights and opportunities for women and men;

considers petitions regarding gender-based discrimination and gender-based violence;

covers the issues of equal rights and opportunities for women and men and gender-based violence in his/her annual report.

Pursuant to Article 4 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, the Commissioner is an official whose status is defined by CU, this Law and other laws of Ukraine.

The Commissioner performs his/her responsibilities independently of other state bodies and officials. The Commissioner's activities supplement existing remedies for the protection of the constitutionally-enshrined rights and freedoms of individuals and citizens; they neither abrogate these remedies, nor do they review the competence of other public authorities that protect rights and freedoms or redress wrongs.

The mandate of the Commissioner may not be terminated or limited in the event of expiration of the mandate of VRU or its dissolution (self-dissolution), declaration of martial law or the state of emergency in Ukraine or certain areas thereof.

The Commissioner has a seal bearing an image of the smaller Coat of Arms of Ukraine and his/her name.

Article 20 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” establishes the general guarantees underlying the Commissioner's activity saying public authorities, local self-government bodies, civil associations, enterprises, institutions, organisations, regardless of their forms of ownership, as well as their officials and officers may not interfere with the Commissioner's activity.

The Commissioner is not obliged to give explanations on the merits of completed or pending cases handled by him/her.

The Commissioner enjoys the right of immunity for the entire duration of his/her powers. He/she may not be, without the consent of VRU, brought to criminal responsibility or subjected to administrative penalties imposed in court, detained, arrested, subjected to search, as well as a body search. Only the Prosecutor General may serve a notification of suspicion of having committed a criminal offense to the Commissioner. The guilty persons shall be brought to justice in accordance with applicable legislation in the event of violation of the legislation on the guarantees provided to the Commissioner, his/her representatives and employees of his/her Secretariat.

Pursuant to Article 12 of the same Law, the Commissioner's activities are funded from the State Budget of Ukraine and annually budgeted in it as a separate line.

The Commissioner draws up, submits to VRU for approval and executes his/her cost estimates.

VRU, relevant executive authorities and local self-governing bodies create conditions necessary for carrying out the functions of the Commissioner, his/her Secretariat and representatives.

The Ukrainian Parliament Commissioner's Secretariat operates to support the Commissioner's activities. It is a legal entity and has its own bank account and a seal of the standard form.

An advisory council (which may operate on a voluntary basis) may be established with the Commissioner's office out of the individuals with experience in advocating for human and civil rights and freedoms towards delivery of consulting support, conducting of scientific research, as well as study of the proposals for improving the protection of human and civil rights and freedoms.

The Commissioner is entitled to appoint his representatives within the allocated funds approved by VRU.

Organization of activities and scope of powers of the Commissioner's representatives are regulated by the Regulation on Representatives of the Ukrainian Parliament Commissioner for Human Rights, which is approved by the Commissioner.

The authorities responsible for facilitating the discrimination prevention and combating include the State Service of Ukraine for Ethnic Policy and Freedom of Conscience (SSUEP), which is a central executive body operating under control and coordination of CMU through the Minister of Culture and Information Policy. SSUEP, in its activities, focus on analytical, monitoring, mediation, coordination and educational functions in the matters concerning ethnic and religious communities of Ukraine, in particular, equality of rights and opportunities of the same communities; SSUEP also is vested approval and registration functions in some aspects related to operations of religious organizations. At the same time, SSUEP is not a law enforcement agency, and therefore does not have inspection powers, in particular, the right to unhindered access to premises, the right to investigate the facts and circumstances of legally significant actions, to set mandatory requirements to take certain measures, to issue binding acts of response seeking to halt violations and eliminate their causes.

Ministry of Internal Affairs of Ukraine plays a key role in combating discrimination. Order No. 437 of 03.06.2019 "On taking extra measures to prevent and respond to unlawful actions committed on the grounds of racial, national, religious enmity or discord or on the grounds of sex" was issued.

In order to ensure proper oversight over the investigations in criminal proceedings initiated on the grounds of intolerance, the National Police of Ukraine monitor the Unified Register of Pre-Trial

Investigations (hereinafter referred to as URPI) as concerns investigations in criminal proceedings of the said category, as well as analyse and verify the information on hate crimes covered in mass media.

During 2021, the investigative units of the main departments of the National Police in Kyiv, regions, the Autonomous Republic of Crimea and the city of Sevastopol initiated criminal proceedings on 129 criminal offenses of this category, which are ranked as follows:

as Article 161 (Violation of equality of citizens on the ground of race, nationality, religion, disability and other grounds) of CrCU – 123 criminal offenses;

as Article 178 (Damage to religious structures or buildings) of CrCU – 3 offenses;

as Article 180 (Interfering with religious ceremony) of CrCU – 3 offenses.

In criminal proceedings with regard to 3 criminal offenses, the indictments (motives — anti-Semitism) were sent to the court, and in 2 others — plea agreements (motives — national intolerance and anti-Semitism) were sent.

Information and Analytical Support Department of the National Police of Ukraine, supplemented the guide “Offense Description” of the information subsystem “Unified Accounting” of the information and telecommunication system “Information Portal of the National Police of Ukraine” with the information on the circumstances of a criminal offense proving discrimination against citizens in accordance with the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”.

In addition, the Order of the National Police No.338 of 04.05.2020 “Amending Order of the National Police of Ukraine No.589 of 19.06.2019 (as amended)”, the reporting form No.1-N “Report on offenses related to intolerance and discrimination” was approved; the form provides information on the number of registered criminal offenses as provided for in Article 115(2)(14), Article 161 of CrCU, as well as reports and notifications of committed criminal offenses and other events related to intolerance.

In response to all the facts of violent attacks on members of minorities in Ukraine, police take actions to identify the persons involved in their commission, to investigate the initiated criminal proceedings, and appropriate procedural resolutions are adopted based on the investigation findings.

## **B. Equal treatment of women and men**

### **Equal opportunities (Directives 79/7, 92/85, 2004/113, 2006/54, 2010/18 and 2010/41)**

#### **123. Are direct and indirect discrimination on the basis of sex forbidden by law in the field of access to employment, training, promotion and working conditions?**

CU, LCU, the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine”, the education and employment legislation provide opportunities for all persons on the basis of equality without any discrimination to develop and apply their abilities to work in their own interests and in accordance with their aspirations, based on the needs of society.

Pursuant to Articles 21 and 24 of CU, all people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable. No privileges or restrictions based on race, skin colour, political, religious, and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics are allowed.

Equal rights for women and men are ensured by: granting women equal opportunities with men in social, political and cultural activities, in education and vocational training, and in work and its remuneration; taking special measures to safeguard women's labour and health and establishing pension benefits; creating conditions that enable women to combine labour and motherhood; legal protection and financial and moral support for motherhood and childhood, including paid leaves and other benefits for pregnant women and mothers.

Article 43 of CU establishes that everyone has the right to work, which includes the opportunity to earn a livelihood by work freely chosen or freely accepted.

The State creates conditions for the citizens to fully exercise their right to work, guarantees equal opportunities in the choice of profession and types of labour activity, implements vocational training, staff training and retraining programs in accordance with social needs.

Article 2<sup>1</sup> of LCU prohibits any discrimination in the field of labour, including any violation of the principle of equality of rights and opportunities, direct or indirect restriction of workers' rights depending on race, colour, political, religious and other beliefs, sex, gender identity, sexual orientation, age, health, disability, suspicion or presence of HIV/AIDS, marital and property status, family duties, place of residence, membership in a trade union or other association of citizens, participation in strikes, resort or intention of resort to a court or other authorities for protecting their rights or supporting other workers in protecting their rights, notification of potential facts of corruption or corruption-related offences and other offences of the Law of Ukraine "On Prevention of Corruption" as well as assisting a person to notify thereof, language or other attributes which are not related to the nature of work or terms and conditions of work.

State policy in the sphere of professional development is based on the following principles:

- accessibility of professional development to employees;
- employer's free choice of the forms and methods of ensuring employees' professional development considering specifics of their work;
- safeguarding employer's and employee's interests;
- continuity of the process of employee professional development;

Pursuant to Article 11 of the Law of Ukraine "On Employment of the Population", the state guarantees that an individual shall be protected against any employment discrimination as may be on the grounds of race, skin colour, political, religious, and other beliefs, membership in trade unions or other associations, sex, age, ethnic and social origin, property status, place of residence, linguistic or other attributes.

Implementing of extra measures to facilitate employment of certain categories of citizens is not deemed discrimination.

Article 24(1) of the Law of Ukraine "On Advertising" sets the requirements to production and/or dissemination of vacancy (job) advertisements for advertising customers of the same. In particular, it prohibits, in job advertisements (announcements of vacancies), specifying candidate's age, offering job to women or men only — except for specific work that could be done by persons of a particular sex only, — setting any requirements which give preference to males or females, representatives of a certain race or skin colour (save for the cases defined by law and the cases of specific work that could be done by persons of a particular sex only), any requirements on political, religious and other beliefs,

membership in a trade union or other association of citizens, ethnic or social origin, property status, place of residence, language or other characteristics.

In the event of breach of this Article, the advertising customer will pay a penalty in the amount of 10 minimum salaries established by the laws as of the violation date to the State Budget of Ukraine according to the procedure established by the Government (UAH 65,000 or EUR 2,102 as of 01.01.2022 at the official exchange rate of the National Bank of Ukraine).

The Law of Ukraine “On Employment of the Population” provides for additional guarantees of employment for certain categories of citizens who need social security and are unable to compete on a level playing field in the labour market.

Article 22 of LCU prohibits refusing to hire unreasonably. Any direct or indirect restriction of rights, any provision of direct or indirect privileges when signing, amending or terminating an employment agreement based on the grounds of origin, social and property status, race and nationality, sex, language, political views, religious beliefs, membership in a trade union or other association of citizens, type and nature of occupation or place of residence are not allowed.

Requirements for age, level of education, state of health of employee may be established by the legislation of Ukraine.

The principle of equality of citizen rights is enshrined in the Law of Ukraine “On Compulsory State Unemployment Insurance”, which does not provide for any restrictions for persons with respect to unemployment insurance on the grounds of origin, social and property status, race and nationality, sex, etc.

The Law of Ukraine “On Professional Development of Employees” regulates the system of on-the-job vocational training of employees, incorporating the promising European experience in this area. State policy on professional development of employees is based on the principles of accessibility of professional development to employees, safeguarding of employer’s and employee’s interests, continuous process of professional development of employees.

Article 8 of the Law of Ukraine “On Employment of the Population” stipulates that every person has the right to vocational training, which is implemented through initial vocational training, retraining, specialization and advanced training, internship, professional (vocational), vocational pre-higher, higher education and postgraduate studies, direct on-the-job training at production sites or in the service sector in order to obtain appropriate qualifications or bring one’s level in line with the requirements of current production or service sectors.

Pursuant to Article 3 of the Law of Ukraine “On Education”, citizens of Ukraine have the right to high-quality and affordable education. The right to education includes the right to lifelong education, the right to accessibility of education, the right to free education in the cases and in the manner prescribed by the Constitution and laws of Ukraine.

Prerequisites for equal access to education are created in Ukraine. The right to education may not be restricted for any person. The right to education is guaranteed regardless of age, gender, race, health condition, disability, citizenship, nationality, political, religious or other beliefs, colour of skin, place of residence, language, origin, social and property status, criminal record, as well as other circumstances and attributes.

Article 4 of the Law of Ukraine “On Higher Education” stipulates that the right to higher education is guaranteed regardless of age, citizenship, place of residence, gender, colour of skin, social



and property status, nationality, language, origin, health condition, attitude to religion, criminal record, as well as any other circumstances.

It is not considered discrimination of the right to higher education to establish restrictions and privileges determined by the specific conditions for obtaining higher education, due to the specifics of obtaining qualifications.

Pursuant to Article 3 of the Law of Ukraine “On Professional Pre-Higher Education”, the right to professional pre-higher education is guaranteed regardless of age, gender, race, state of health, disability, citizenship, nationality, political, religious or other beliefs, colour of skin, place of residence, language, origin, social and property status, presence of a criminal record, as well as other circumstances and attributes.

Pursuant to Article 5 of the Law of Ukraine “On Vocational Education”, citizens of Ukraine have equal rights to vocational education according to their individual abilities and inclinations. Restrictions are allowed by medical and age indicators, as well as by indicators of professional suitability as determined by CMU.

In accordance with CMU Resolution of 28.11.2018 No. 997 “The matters of gender legal examination”, draft legal and normative acts in all areas of legislation have been subject to gender-sensitive legal scrutiny since 2018.

**124. Does the legislation or case law on sex discrimination cover — and provide a definition of — direct and indirect discrimination, harassment, sexual harassment and instruction to discriminate?**

The Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine” (hereinafter referred to as the Law) covers the relations between legal entities of public and private law which addresses are registered in Ukraine, as well as individuals who are on the territory of Ukraine.

The Law applies to the following spheres of social relations: socio-political activity; civil service and service with local self-government bodies; justice; labour relations, including the use of the reasonable accommodation principle by employers; health care; education; social protection; housing relations; access to goods and services; other areas of social relations.

Articles 14–16 of the Law set forth that persons believing that they have been discriminated have the right to file a complaint to public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or to the court following the procedure established by law.

A person is entitled to compensation for physical and moral damages caused to him/her by discrimination.

The persons guilty of having violated the legislation on prevention and combating discrimination are subject to civil, administrative and criminal liability.

***As concerns judicial practices in sex discrimination cases?***

The Law of Ukraine “On the Principles of Preventing and Combating Discrimination in Ukraine” establishes that persons guilty of having violated the legislation on prevention and combating discrimination are subject to civil, administrative and criminal liability.

At the same time, the Code of Ukraine on Administrative Offenses (CUAO) establishes administrative liability only by Article 166<sup>3</sup> “Discrimination of Entrepreneurs by Public Authorities”. No administrative cases under Article 166<sup>3</sup> were brought before courts in Ukraine in 2019–2021.

Applicable legislation establishes criminal liability in Article 161 of CrCU “Violation of citizens’ equality on the grounds of their race, nationality, religious affiliation, religious beliefs, disability and other characteristics”.

According to court statistics, 16 criminal proceedings were pending in the courts of Ukraine in 2021 under this article against 18 individuals. Inter alia, 7 proceedings were tried, with 3 verdicts delivered, 1 case returned to the prosecutor and 3 proceedings closed.

The court judgements that entered into force in 2021 included 1 convicted person — a citizen of Ukraine in the age group 30–50 who was imposed a penalty in the form of a fine, one person was acquitted, and the proceedings against 3 persons were closed.

14 criminal proceedings were pending in the courts of Ukraine in 2020 against 15 individuals, inter alia 7 proceedings were tried, including 5 verdicts delivered, 1 case was closed and 1 case resulted in application of medical measures.

The court judgements that entered into force in 2020 convicted 4 persons including one woman. All convicts were residents of Ukraine - 1 convict from the age group of 18–25, others were from 30 to 50 years old. 2 persons were sentenced to a fine, and 2 persons were released from punishment with a probationary period. 1 person was acquitted; the proceedings against 3 persons were closed.

9 criminal proceedings were pending in courts of Ukraine in 2019 against 10 individuals, 3 proceedings out of them were tried with verdicts delivered.

The court judgements that entered into force in 2019 convicted 4 persons-residents of Ukraine, 1 convict was from the age group of 18–25, 1 person — from the age group of 30–50, and 1 person was from the age group of 50-65 years old. 3 persons were sentenced to a fine, and 1 person was sentenced to public works.

Civil liability includes collecting property and moral damages, restoring the violated rights, but at present it is impossible to extract reliable data whether it was related to discrimination, since civil legislation does not contain relevant features, and judicial statistics contain generalized indicators of justice performance; full analysis of court cases in any category, in particular, discrimination, may not be performed by statistical data only. Categories of cases in courts are identified by classifiers broken down by type of proceedings (categories of cases under CCU, CUAO, CAPU, as well as by types of crimes in accordance with CrCU).

At the same time, it should be noted that, in accordance with paragraph two of Article 36 of the Law, the Supreme Court is responsible for analysing judicial statistics, summarizing of judicial practice; providing methodological information on law enforcement to appellate and local courts.

## **125. Which sanctions and remedies can be applied in sex discrimination cases?**

Having ratified the international instruments, Ukraine committed to implement a policy of eliminating sex discrimination and ensure the implementation of the principle of equality between women and men.

The right to appeal sex discrimination is established by Article 22 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”:

“A person believing he/she has experienced sex discrimination is entitled to file a complaint with public authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Ukrainian Parliament Commissioner for Human Rights and/or go to court following the procedure established by law.”

According to Articles 15 and 16 of the Law of Ukraine “On the Principles of Preventing and Combating Discrimination in Ukraine”, a person has the right to compensation for property damage and moral damage caused to him/her as a result of discrimination, and persons guilty of violating the legislation on prevention and combating discrimination shall be subject to civil, administrative and criminal liability.

In accordance with the Law of Ukraine “On Advertising” (as amended by the Law “On Amendments to the Law of Ukraine “On Advertising” on Combating Discrimination on the Grounds of Gender”), in job advertisements (announcements of vacancies), the employers are forbidden by law to offer job to women or men only — except for specific work that could be done by persons of a particular sex only, — to set any requirements, giving preference to males or females (save for the cases defined by law and the cases of specific work that could be done by persons of a particular sex only). In case of violation of these requirements, the advertising customer pays to the state budget a fine of ten times the minimum wage established by law at the time of the violation.

The Code of Ukraine on Administrative Offenses (Article 173<sup>2</sup> of the Code) provides for liability for intentional commission of deeds (actions or omissions) of a psychological or economic nature, which, although ranked as gender-based violence, also have signs of discrimination — the use of violence that did not cause bodily harm, threats, insults or persecution, deprivation of housing, food, clothing, other property or funds to which the victim has the right by law.

At the same time, the upper limit of sanctions under this Article of the Code provides for an administrative penalty in the form of administrative arrest for up to fifteen days, which is an exceptional and rather strict measure of administrative influence on the offender.

For the purpose of responding to citizen complaints and appeals concerning sex discrimination, the Expert Council on Prevention and Combating Discrimination Based on Gender, an advisory body, (hereinafter referred to as the Expert Council) is in operation at MSPU.

The overwhelming majority of appeals brought to the Expert Council concerns discriminatory advertising.

50 appeals seeking an expert evaluation of discrimination cases were submitted to the Expert Council for consideration in 2020–2021. As a result of their consideration, 30 advertisements were removed. Claims were brought to court with respect to 7 advertisements.

On 12 March 2019, the Coordination Centre for Legal Aid Provision of the Ministry of Justice of Ukraine issued order No. 33 approving the methodological recommendations on identifying cases of gender discrimination and the mechanism for providing legal assistance aimed at assisting, in

particular, legal aid providers to identify gender discrimination in the cases they receive and to provide high-quality legal aid.

In addition, the National Social Service of Ukraine, in accordance with the Regulation on the National Social Service of Ukraine, keeps records of sex discrimination cases, summarizes information about such cases, makes proposals for their elimination, and, together with other central executive authorities, takes measures to abolish discriminatory norms identified as a result of gender-sensitive legal expert assessment of legislation.

**126. Are there provisions on the burden of proof concerning judicial and other procedures in cases of sexual discrimination? If so, does the respondent have to prove that he did not discriminate if discrimination can be presumed?**

The provisions on the burden of proof in court and other proceedings in cases of sexual discrimination are not provided for in separate legislative norms, while the provisions of the CPCU apply to such cases.

In accordance with paragraph two of Article 81 of the CPCU, a plaintiff in a discrimination case is obliged to provide factual data confirming that the discrimination event took place. Where the same data is provided, the burden to prove their absence rests with the defendant.

Moreover, Article 2 of CAPU stipulates that in cases of appeals against public authorities' decisions, actions or omission, administrative courts examine whether they have been adopted (made), in particular, in compliance with the principle of equality, preventing discrimination in any form.

The second paragraph of Article 77 of CAPU provides that in administrative cases regarding allegedly unlawful public authorities' decisions, actions or failure to act, the burden to prove the legitimacy of decision, action or omission rests with the defendant.

**127. Does the legislation protect individuals against victimisation?**

Draft Law On Amendments to Certain Legislative Acts of Ukraine (on Harmonization of Legislation in the Field of Prevention and Counteraction of Discrimination with the Law of the European Union) No. 0931 of 29 August 2019 proposes to enshrine the concept of "victimisation" at the legislative level. Therefore, the Law of Ukraine "On Principles of Preventing and Combating Discrimination in Ukraine" proposes to establish that victimisation is a situation in which a person submitting a complaint about a violation of the legislation on preventing and combating discrimination, or other persons supporting him/her are subject to restrictions on the recognition, implementation or exercise of rights and freedoms due to the fact that they submitted such a complaint.

The draft law is designed to improve Ukrainian legislation in the field of preventing and combating discrimination, ensuring effective control over its enforcement and bring it in line with the EU acquis, the implementation of which is provided for in Annex XL to Chapter 21 "Cooperation on employment, social policy and equal opportunities" of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand.

The draft law proposes to supplement the provisions of national legislation with new definitions, namely "multiple discrimination", "victimisation", "discrimination by association", "reasonable

adjustments” and “refusal of reasonable adjustments”. These additions provide a clearer definition of all forms of discrimination, which will establish safeguards to protect against those forms of discrimination that actually exist but are currently outside the scope of legal regulation.

The draft law also proposes to give the Ukrainian Parliament Commissioner for Human Rights the authority to issue mandatory requirements (instructions) to eliminate violations of legislation in the field of preventing and combating discrimination as a result of consideration of appeals of persons and/or groups of persons on discrimination issues.

**128. Do institutional structures exist for the promotion of gender equality? If so, please indicate their administrative capacity and the guarantees for independent performance of their powers.**

Pursuant to the Law of Ukraine of 08.09.2005 No.2866-IV “On Ensuring Equal Rights and Opportunities for Women and Men”, the authorities, institutions and organisations vested with the powers to ensure equal rights and opportunities for women and men are:

(1) VRU; (2) Commissioner of VRU for Human Rights (Representative of the Commissioner for Equal Rights and Freedoms monitors compliance with the principles of non-discrimination and gender equality); (3) CMU (Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, responsible for ensuring gender equality, Government Commissioner for Gender Policy); (4) a specially authorized central executive body for ensuring equal rights and opportunities for women and men (Ministry of Social Policy); National Social Service, (5) executive authorities and local self-government bodies, their authorized officials responsible for ensuring equal rights and opportunities for women and men, as well as advisory bodies, advisers on equal rights and opportunities for women and men, prevention and counteraction to gender-based violence; (6) public associations.

Functions of the above-mentioned bodies are defined in the legal and normative acts of CMU:

On the Government Commissioner for Gender Policy (CMU Resolution of 07.06.2017 No. 390);

On approval of the Regulation on MSPU (CMU Resolution of 17.06.2015 No.423 (as amended));

Some issues of the National Social Service of Ukraine (CMU Resolution of 26.08.2020 No.783);

Certain issues of ensuring equal rights and opportunities for women and men (CMU Resolution of 09.10.2020) (the Model Regulation on the responsible unit for ensuring equal rights and opportunities for women and men; the Model Regulation on advisor on equal rights and opportunities for women and men, preventing and combating gender-based violence were approved).

**129. Is the principle of equal pay for equal work or work of equal value for men and women guaranteed by the Constitution, by Law, and/or by collective agreement?**

In accordance with the Law of Ukraine “On Remuneration of Labour” (Article 21), an employee has the right to remuneration for his/her work in accordance with legislative acts and a collective agreement on the basis of a labour contract.

The amount of wage may be lower than established by a labour contract or a minimum wage in the event of non-compliance with performance standards, manufacture of defective products, or for other reasons, as provided for in applicable legislation, due to the fault of an employee.

Any reduction in the amount of remuneration for labour on the grounds of origin, social and property status, race and nationality, sex, language, political views, religious beliefs, membership in a trade union or other association of citizens, type and nature of occupation or places of residence is forbidden.

Article 7 of the Law of Ukraine “On Collective Agreements and Contracts” provides that the collective agreement sets forth mutual obligations of the parties regulating industrial, labour, social and economic relations, specifically: ensuring equal rights and opportunities for women and men; a ban on discrimination.

Article 17 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” provides for ensuring equal rights and opportunities for women and men at work and receiving remuneration for it, in particular, the employer’s obligation to pay equal wages to males and females of the same qualification for the job in equivalent working conditions.

Article 18 of the same Law establishes that, where social and labour relations are governed by a collective agreement, a general agreement, sectoral (intersectoral) and territorial agreements, collective agreements must include provisions ensuring equal rights and opportunities for women and men.

At the same time, collective agreements, inter alia, should provide for the elimination of inequality, if any, in wages of women and men either in differing economic sectors and in the same industry on the basis of the general social wage standard for budget-funded and other sectors, as well as on the basis of professional training (retraining) of personnel.

In particular, an employer must pay equal wages for women and men for the work requiring similar skills and performed in the same working conditions.

In pursuance of national legislation and international obligations of Ukraine, the General Agreement regulating the basic principles and norms underlying the implementation of socio-economic policy and labour relations in Ukraine for 2019–2021 (currently in force) provides that the parties are guided by the principles of equality, mutual respect and non-discrimination in labour relations on any grounds. Moreover, the parties agreed to have a draft law elaborated launching gender-sensitive audits and gender equality plans, with incorporating the EU experience and relevant tools, at enterprises, institutions and organizations as well as they recommended to include provisions on gender-sensitive audits at enterprises in sectoral (cross-sectoral), territorial agreements and collective agreements.

Sectoral (cross-sectoral) and territorial agreements also include provisions on non-discrimination and ensuring equal rights and opportunities for women and men, social support for women and families with children, as well as recommendations to include provisions ensuring gender equality of workers in collective agreements.

In accordance with the Government's Action Plan and the Legislation Drafting Works Plan of VRU, it is planned to draft a bill in 2022 to add more regulation of equal pay for the work of equal value at the level of the law.

**130. Do pay gaps exist between women and men? How is the gender pay gap defined and measured?**

According to the State Statistics Committee of Ukraine, the ratio of the average monthly wage of females to the average monthly wage of males in 2021 was:

82.2% in the first quarter; 82.6% in the second quarter; 79.3% in the third quarter; 81.6% in the fourth quarter.

The gender pay gap in 2021 was, respectively:

17.8% in the first quarter, 17.4% in the second quarter, 20.7% in the third quarter, 18.4% in the fourth quarter.

The indicators are calculated on the basis of regular employers' reports by comparing the average wages between men and women (not the median ones). These indicators are published quarterly broken down by types of economic activity and regions.

**131. Is there a rule established either by law or jurisprudence that there is no justification whatsoever to ask a woman about pregnancy when applying for a job of whatever kind?**

In accordance with Article 24 of LCU, when concluding an employment contract, a citizen is obliged to submit a passport or other identity document, an employment record book (if any) or labour-related information from the register of insured persons of the State Register of Compulsory State Social Insurance, and in the cases provided for by law — also a certificate of education (specialty, qualification), a health certificate, relevant military registration certificate and other documents.

In accordance with Article 25 of LCU, when concluding a labour contract, it is forbidden to require from a job applicant any information about his/her party membership and nationality, origin, registered residence or stay address and any documents, which submission is not prescribed by law.

Furthermore, Article 184 of LCU forbids refusing to hire females for the reasons related to pregnancy or having a child under 3 years old, as well as refusing a single mother having a child under 14 years old or a disabled child.

Article 50(5) of the Law of Ukraine "On Employment of the Population" stipulates that employers, in particular, are prohibited from making any discriminatory requirements in job advertisements and during the selection of employees, as well as to require applicants seeking work to disclose information about their personal life.

Furthermore, Article 184 of LCU forbids refusing to hire females for the reasons related to pregnancy or having a child under 3 years old, as well as single mothers having a child under 14 years old or a disabled child.

**132. Does the legislation ensure equal treatment as regards self-employed activity? What is the legal position of spouses of self-employed workers in terms of status, social protection and rights?**

CU, LCU and the employment legislation provide opportunities for all persons, on equal basis, free of any discrimination, to develop and apply their abilities to work in their own interests and in accordance with their aspirations, based on the needs of society.

Pursuant to Articles 21 and 24 of CU, all people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable. No privileges or restrictions based on race, skin colour, political, religious, and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics are allowed.

Equal rights for women and men are ensured by: granting women equal opportunities with men in social, political and cultural activities, in education and vocational training, and in work and its remuneration; taking special measures to safeguard women's labour and health and establishing pension benefits; creating conditions that enable women to combine labour and motherhood; legal protection and financial and moral support for motherhood and childhood, including paid leaves and other benefits for pregnant women and mothers.

Article 42 of CU establishes that everyone has the right to entrepreneurial activity that is not prohibited by law. The entrepreneurial activity of deputies, officials and officers of bodies of state power and local self-government bodies is restricted by law.

Article 43 of CU establishes that everyone has the right to work, which includes the opportunity to earn a livelihood by work freely chosen or freely accepted.

The LCU does not regulate the activities of self-employed persons and the exercise of their right to work outside the labour relations with an employer under employment contracts.

Pursuant to Article 11 of the Law of Ukraine "On Employment of the Population", the state guarantees that an individual shall be protected against any employment discrimination as may be on the grounds of race, skin colour, political, religious, and other beliefs, membership in trade unions or other associations, sex, age, ethnic and social origin, property status, place of residence, linguistic or other attributes.

According to the legislation, the following persons are subject to compulsory state social insurance, in particular:

- citizens of Ukraine, foreigners and stateless persons who perform works (provide services) at enterprises, institutions, organizations, branches, representative offices and other separate subdivisions of enterprises and organizations, in public associations, for individual entrepreneurs, for persons exercising independent professional activities, and for other individuals under civil law contracts

- persons exercising independent professional activities, namely scientific, literary, acting, artistic, educational or teaching, as well as medical, law practice, including lawyers, notaries, or persons practicing religious (missionary) activities, other similar activities and gain their income from the same activity.



Provided they pay a single social contribution in accordance with the procedure established by law, insured persons enjoy the right to insurance payments (services) under applicable types of compulsory state social insurance, regardless of their status (a self-employed or an employee).

Thus, all types of compulsory state social insurance (pension insurance; temporary disability insurance; insurance against industrial accidents and occupational diseases that resulted in disability; unemployment insurance) are available for self-employed persons, since they are subject to insurance.

**133. Is there a general prohibition of night work for pregnant women, or measures ensuring they are not obliged to perform night work (subject to a medical certificate)?**

In accordance with Article 175 of LCU, engaging women to perform night work is not allowed, save for those sectors of the national economy where it is a special necessity and is allowed as a temporary measure.

The list of industries and types of work with indicating maximum periods for female night work is subject to approval by CMU.

The restrictions specified in the first paragraph of this Article do not apply to females working at enterprises where members of the same family are employed only.

Article 176 of LCU prohibits night, overtime, weekend work of pregnant women and women with children under three years old as well as sending them on business trips.

**134. Are pregnant workers protected against dismissal during the time of pregnancy and maternity leave?**

In accordance with Article 17 of the Law of Ukraine “On Vacations”, females are granted paid leave related to pregnancy and childbirth on the grounds of a relevant medical certificate.

Article 18 of the Law of Ukraine “On Vacations” provides that after the end of maternity leave at request of a mother or a father of a child, one parent is granted a leave to care for a child until he/she reaches the age of three.

According to Article 2 of the Law of Ukraine “On Vacations”, the right to a leave is guaranteed, in particular, by granting a leave of a defined period with retention of a workplace (position) and salary (benefits) in the cases stipulated by the Law.

In accordance with Article 40 of LCU, dismissal of an employee is not allowed at the initiative of an owner or its authorized body during employee’s temporary disability, as well as while employee is on a leave.

Also, in accordance with paragraph three of Article 184 of LCU, dismissal of pregnant women and women with children under three years old (under six years old — paragraph six of Article 179), single mothers with children under fourteen years old or disabled children on the initiative of the owner or its authorized body is not allowed, save for the cases of complete liquidation of an enterprise, institution, organization, in this case a dismissal is allowed subject to compulsory provision of new job. Where females of this category are dismissed after the end of a fixed-term employment contract, they are also subject to outplacement employment. For the period of outplacement, a female’s average

salary is retained, but no longer than for three months from the end date of a fixed-term employment contract.

**135. Do the law or collective agreements forbid the exposure of pregnant or breastfeeding women to agents and working conditions which would jeopardise their safety or health?**

The Law of Ukraine “On Labour Protection” (Article 10) defines requirements for the prohibition on the use of women’s labour in hard works and in works in harmful or dangerous working conditions, in underground works, except for some underground works (nonphysical works or works related to sanitary and household services), as well as engaging women in lifting and moving of things which weight exceeds the limits established for females, in accordance with the list of hard works and works with harmful and dangerous working conditions, threshold weights for lifting and moving of heavy things that are subject to approval by the central executive body responsible for state policymaking in health care sector.

The Law of Ukraine “On Labour Protection” (Article 20) stipulates that parties to a collective agreement may incorporate employee social guarantees in an agreement with regard to labour protection at a level not lower than the level provided for by law, their duties, as well as comprehensive measures to achieve the established standards of safety, occupational health and production environment, increase the existing level of labour protection, prevent industrial injuries, occupational diseases, accidents and fires, determine the volume and sources of funding for these measures.

**136. Does the employer have to assess the risks to the safety and health within the workplace and to ensure that exposure is avoided?**

The Law of Ukraine “On Labour Protection” (Article 13) provides that the employer is obliged to create the working conditions at each workplace, in each structural unit, consistent with the legal and normative act requirements, as well as to ensure compliance with the legislation on the rights of workers for labour protection.

To this end, an employer ensures that an occupational safety management system is in operation, in particular, an employer organises audits of labour protection, laboratory testing of the working conditions, assessment of the technical condition of production equipment and facilities, certification of workplaces for compliance with legal and normative acts on labour protection in the manner and within time frames prescribed by law, and, on the basis thereof, takes measures to eliminate production factors that are dangerous and harmful to health.

At the same time, MoE has developed a draft Law of Ukraine “On Occupational Safety and Health of Employees” (hereinafter referred to as the draft law).

The draft law was elaborated in order to shape a new national system for preventing occupational risks by introducing at the legislative level a risk-oriented approach to organizing of safety and health of employees and implementation of the Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.

**137. Does the legislation provide for a continuous period of maternity leave of at least 14 weeks allocated before and/or after confinement, and includes compulsory maternity leave of at**

**least two weeks allocated before and/or after confinement? Are the rights connected with the employment contract and a payment or adequate allowance ensured?**

The LCU (Article 179) and the Law of Ukraine “On Vacations” (Article 17) provide for the right of women to paid maternity leave related to pregnancy and birth.

Based on the medical opinion, a female is granted a paid leave related to pregnancy and childbirth that is 70 calendar days before childbirth and 56 calendar days after birth long (70 days after birth long where two or more children are born or in the event of complications at child delivery).

The duration of a maternity leave related to pregnancy and childbirth is calculated cumulatively and totals 126 calendar days (140 calendar days — where two or more children have been born and in the event of complications of child delivery). Women get them absolutely regardless of the number of days actually used before childbirth.

**138. Do the law or collective agreements give an individual right to parental leave of at least 4 months? Is at least one month of parental leave granted on an individual non-transferable basis to both parents? How is this treated/implemented in both public and private sector?**

In accordance with the Law of Ukraine “On Vacations”, once the maternity leave expires, a mother or a father of a child may file a request, and then the parent is granted a childcare leave until his/her child reaches the age of three. An enterprise, institution, organization may finance the leave from its own funds and provide one of the child’s parents with a partially-paid leave and an unpaid childcare leave of a longer duration.

Where a child requires home care, one of the child’s parents is necessarily granted an unpaid leave for the duration specified in the medical report, but not longer than until the child reaches the age of six.

A childcare leave until a child reaches the age of three and an unpaid leave may be granted at the request of a mother (father) or individuals specified in seventh paragraph of Article 179 of the LCU (a grandmother, grandfather or other relatives of a child who actually takes care of him/her, or an individual who adopted or took the child as a ward, one of the adoptive parents or foster parents), in whole or in part within the prescribed period.

That is, there are no guarantees of ensuring the non-transferable part of such leave by law, however both parents have equal rights to use such a leave in full or in parts, alternately or otherwise by agreement with each other, within three years from the date of birth of the child.

A childcare leave until a child reaches the age of three and an unpaid leave (the third and sixth paragraphs of Article 179 of the LCU) are included to both total and continuous employment history and length of employment in the specialty.

When a childcare leave is granted, job (position) retention for this period is guaranteed.

**139. What provisions on parental leave grant parents the right to return to the previous or equivalent job, protection against dismissal or any less favourable treatment, and the maintenance of acquired rights?**

The Law of Ukraine “On Vacations” provides that during the maternity leave related to pregnancy or delivery and a childcare leave, a job (position) is retained.

In accordance with Article 40 of the LCU, dismissal of an employee is not allowed at the initiative of an owner or its authorized body during employee’s temporary disability, as well as while the employee is on a leave.

**140. Please provide information on:**

**141. the activity rates of women and men;**

According to the State Statistics Service of Ukraine, the participation of 15–70 age group in the labour force in 2021 was 61.8 % of the total population of the corresponding age group; among women this figure was 56.1 %, men — 68.1 %.

**142. the employment rates of women and men;**

According to the State Statistics Service of Ukraine, the employment rate of 15–70 age group in 2021 was 55.7% of the population of the corresponding age group, among women this figure was 50.4%, men — 61.5%.

**143. the unemployment rates of women and men;**

According to the State Statistics Service of Ukraine, the unemployment rate of the population aged 15–70 (according to the ILO methodology) in 2021 was 9.9% of the labour force of the corresponding age group; among women this figure was 10.2%, men — 9.6%.

**144. educational attainment of women and men (upper secondary school, 20-24).**

**Table 25. Share of the population aged 20-24 having at least upper secondary school education (ISCED Levels 3-8)**

|  | The share in the total population, % |      |      |
|--|--------------------------------------|------|------|
|  | 2019                                 | 2020 | 2021 |
| Total population aged 20-24 having at least upper secondary school education | 97,1                                 | 97,1 | 97,3 |
| Men aged 20-24 having at least upper secondary school education              | 97,3                                 | 97,2 | 97,5 |
| Women aged 20-24 having at least upper secondary school education            | 96,9                                 | 96,9 | 97,1 |

*Note: the data are based on labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and temporarily occupied territories in Donetsk and Luhansk oblasts.*

**Table 26. Share of the population aged 20-24 with only upper secondary school education (ISCED Level 3)**

|  | The share in the total population, % |      |      |
|--|--------------------------------------|------|------|
|  | 2019                                 | 2020 | 2021 |
| Total population aged 20-24 having only upper secondary school education | 31,0                                 | 35,8 | 35,7 |
| Men aged 20-24 having only upper secondary school education              | 29,3                                 | 35,2 | 35,0 |
| Women aged 20-24 having only upper secondary school education            | 32,6                                 | 36,3 | 36,4 |

*Note: the data are based on labour force survey findings, excluding the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and temporarily occupied territories in Donetsk and Luhansk oblasts.*

**145. What other measures are put in place to encourage the reconciliation between professional and private/family life of both women and men?**

The LCU provides for the possibility to work flexible working hours (Article 60), remotely (Article 60(2)) and from home (Article 60(1)).

Article 77(3) of LCU provides for granting, at the child birth, a one-time paid leave of up to 14 calendar days (not inclusive of holidays and weekends) to:

- 1) a husband, whose wife has born a child;
- 2) a father of a child who is not in a registered marriage with the mother of the child, provided that they live together, are connected by common domestic partnership, have mutual rights and obligations;
- 3) a grandmother or a grandfather, or another adult relative of the child who actually cares for the child, whose mother or father is a single parent.

Article 56 of LCU provides that, at the request of a pregnant woman, a woman who has a child under the age of fourteen or a disabled child, including one under her care, or cares for a sick family member in accordance with a medical report, the owner or body authorized by it is obliged to establish her part-time working hours or a part-time working week.

Article 182(1) of LCU stipulates for the provision of annual additional social paid leave to one of the parents who has two or more children under the age of 15, or a child with a disability, or who has adopted a child, a mother (a father) of a person with disability from childhood of subgroup A of group I, a single mother, father of a child or a person with disability from childhood of subgroup A of group I, who raises the child without a mother (including in the case of the mother's long stay in a medical institution), as well as a person who has taken care of a child or a person with disability from

childhood of subgroup A of group I, for 10 calendar days exclusive of holidays and days off (Article 73 of the LCU). Where there are several grounds for granting this leave, its total duration increases to 17 calendar days.

Article 176 of LCU prohibits night, overtime, weekend work of pregnant women and women with children under three years old as well as sending them on business trips.

**146. Are there any legal provisions in place covering occupational social security schemes? If so, do such schemes already exist in Ukraine?**

Currently, there are no legal provisions in place in Ukraine that provide for the compulsory introduction by employers of social security schemes related to occupational risks.

**147. Is there a general social security scheme covering the working population in Ukraine? If so, does the legislation ensure equality of treatment in matters of social security? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women? If there is a general social security scheme, does it also apply to civil servants (including the police and armed forces) or is there any specific scheme/rules for civil servants?**

Yes, there is a general system of compulsory state social insurance in Ukraine, which is defined as a system of rights, obligations and guarantees, which provides social security, including financial aid to citizens in the event of illness, complete, partial or temporary disability, loss of breadwinner, unemployment due to circumstances beyond their control, as well as in old age and in other cases provided for by the law, from the monetary funds accumulated out of payments of insurance premiums by employers, citizens, as well as from budgetary and other sources provided for by law (Article 46 of CU, Fundamentals of the Legislation of Ukraine on Compulsory State Social Insurance).

The legislation on compulsory state social insurance apply to all persons who are in labour relations with employers, as well as to some other categories of working and self-employed individuals.

In accordance with the Law of Ukraine “On Compulsory State Pension Insurance” No. 1058), the following retirement benefits are assigned in the pay-as-you-go system: age retirement benefits; disability benefits; benefits in connection with the loss of breadwinner.

Persons (both women and men) are entitled to age retirement benefits depending on their available pensionable service after the age of 60, 63 or 65 years.

A disability benefit is payable in the event of disability, which caused complete or partial loss of workability, provided that an individual has pensionable service history as set forth in Article 32 of Law No.1058.

A survivor pension is awarded to disabled family members of the deceased breadwinner who were supported by him, if the breadwinner has a pensionable service as of the day of death that is long enough to assign a III group of disability pension for him/her, and in some cases, determined by law, regardless of the duration of the pensionable service duration.

Launching a unified approach to pension management is one of the pension reform lines.

The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Pensions” of 02.03.2015 No. 213-VIII abolished special pensions for certain categories of persons (civil servants, MPs, journalists, etc.) from 1 June 2015.

Provisions of the Law “On Compulsory State Pension Insurance” apply to civil servants in full. At the same time, civil servants are eligible to pensions if, as of effective day of the Law of Ukraine “On Civil Service” of 10.12.2015 No.889-VIII entry into force, they:

hold civil service offices and have at least 10 years’ length of service on positions that belong to respective categories of civil service positions, as provided for by Article 25 of the Law of Ukraine “On Civil Service” of 16.12.1993 No.3723-XII (hereinafter — Law No.3723);;

have at least 20 years of service in positions falling into relevant categories of civil service positions as defined by Article 25 of the Law No.3723, whether they work or not with the civil service as of 01.05.2016.

Besides Law No.1058 “On Compulsory State Pension Insurance”, pensions (lifelong monetary support) to certain categories of individuals are awarded in accordance with the laws of Ukraine “On Pensions to Persons Retired from Military Service and Some Other Persons” of 09.04.1992 No.2262-XII, “On the Judiciary and the Status of Judges” of 02.06.2016 No.1402-VIII, and “On the Prosecutor’s Office” of 14.10.2014 No.1697-VII.

## CHAPTER 20. ENTERPRISE AND INDUSTRIAL POLICY<sup>7</sup>

### ENTERPRISE AND INDUSTRIAL POLICY PRINCIPLES

#### A. Industrial Policies and Competitiveness - Benchmarking/Scoreboard

**1. Please provide an overview and analysis of the situation of the industry and the manufacturing sector.**

Industry plays an important role in Ukraine's economy. In 2021, its share in the structure of GDP was 20.7 (Table 1).

At the same time, a characteristic trend in recent years is that the share of the processing industry is decreasing (dropped to 10.3 in 2021, compared to 13.2 in 2010). The share of the extractive industry throughout this period increased from 5.9 to 6.7.

Thus, the general structure of industry has changed: the share of the primary sector is increasing.

**Table 1. Share of industries in Ukraine's GDP in 2017-2021 (in % )**

| Indicator   | 2017        | 2018        | 2019        | 2020        | 2021        | 2017/2021    |
|---|-------------|-------------|-------------|-------------|-------------|--------------|
| <i>Total industry</i>   | <i>21.1</i> | <i>21.0</i> | <i>19.9</i> | <i>18.0</i> | <i>20.7</i> | <i>97.9</i>  |
| <i>including:</i>   |             |             |             |             |             |              |
| <i>Mining and quarrying</i>                                   | <i>5.9</i>  | <i>6.0</i>  | <i>5.6</i>  | <i>4.6</i>  | <i>6.7</i>  | <i>112.5</i> |
| <i>Manufacturing industry</i>                                 | <i>12.0</i> | <i>11.5</i> | <i>10.8</i> | <i>10.1</i> | <i>10.3</i> | <i>86.0</i>  |
| <i>Supply of electricity, gas, steam and air conditioning</i> | <i>2.9</i>  | <i>3.1</i>  | <i>3.1</i>  | <i>2.9</i>  | <i>3.4</i>  | <i>116.3</i> |
| <i>Water supply; sewerage, waste management</i>               | <i>0.3</i>  | <i>0.3</i>  | <i>0.4</i>  | <i>0.4</i>  | <i>0.4</i>  | <i>106.3</i> |

*Source of information: State Statistics Service of Ukraine*

Industry growth rate during 2017-2021 changed annually. Periods of growth in some years alternated with periods of slight reduction (Table 2).

<sup>7</sup> Інформацію надано Командою підтримки реформ (RST - Reform Support Team)

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**Table 2. Ukraine's industry growth in 2017-2021 (% to the previous year)**

| Indicator  | 2017         | 2018         | 2019        | 2020        | 2021         | 2021/2017    |
|--|--------------|--------------|-------------|-------------|--------------|--------------|
| Mining and quarrying                                   | 96.5         | 103.4        | 98.4        | 97.0        | 101.4        | 96.6         |
| Manufacturing industry                                 | 105.2        | 102.9        | 100.9       | 94.1        | 102.4        | 105.2        |
| Supply of electricity, gas, steam and air conditioning | 94.0         | 103.0        | 95.6        | 99.1        | 100.8        | 92.5         |
| <b>Total industry</b>                                  | <b>101.1</b> | <b>103.0</b> | <b>99.5</b> | <b>95.5</b> | <b>101.9</b> | <b>100.8</b> |

Source of information: State Statistics Service of Ukraine

The total sales of industrial products produced in Ukraine during 2017-2021 increased by 37% to 3.6 trillion. UAH in the nominal dimension (Table 3).

In the sectors of processing industry, the largest volumes of sales are found in food industry (UAH 679.7 billion in 2021), metallurgy (UAH 640.2 billion) and mechanical engineering (UAH 204.9 billion).

**Table 3. Ukraine's industry sales and services in 2017-2021 (in UAH billions)**

| Indicator  | 2017         | 2018         | 2019         | 2020         | 2021 *       | 2021/2017    |           |
|--|--------------|--------------|--------------|--------------|--------------|--------------|-----------|
|  |              |              |              |              |              | billion UAH  |           |
| Mining and quarrying   | 323.5        | 391.5        | 402.2        | 361.7        | 576.5        | 253.0        | 78        |
| Manufacturing industry   | 1,627.5      | 1,885.4      | 1,828.3      | 1,879.4      | 2,200.4      | 572.9        | 35        |
| <b>production of food, beverages and tobacco products</b>  | <b>548.4</b> | <b>589.9</b> | <b>616.2</b> | <b>678.8</b> | <b>679.7</b> | <b>131.3</b> | <b>24</b> |
| <i>textile production, production of clothing, leather, leather products and other materials</i> | <i>25.7</i>  | <i>31.1</i>  | <i>31.3</i>  | <i>33.0</i>  | <i>28.3</i>  | <i>2.6</i>   | <i>10</i> |
| <i>manufacture of wood, paper and printing</i>   | <i>84.2</i>  | <i>104.1</i> | <i>99.5</i>  | <i>101.8</i> | <i>117.8</i> | <i>33.6</i>  | <i>40</i> |
| <i>production of coke and refined petroleum products</i>   | <i>103.2</i> | <i>117.3</i> | <i>85.4</i>  | <i>70.9</i>  | <i>103.7</i> | <i>0.5</i>   | <i>0</i>  |
| <i>production of chemicals and chemical products</i>   | <i>65.8</i>  | <i>78.3</i>  | <i>79.8</i>  | <i>81.1</i>  | <i>105.1</i> | <i>39.4</i>  | <i>60</i> |
| <i>production of basic pharmaceutical products and pharmaceuticals</i>                           | <i>30.2</i>  | <i>34.6</i>  | <i>37.4</i>  | <i>42.4</i>  | <i>49.0</i>  | <i>18.8</i>  | <i>62</i> |

|   |                       |                       |                       |                       |                       |                     |                  |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------|------------------|
| <i>production of rubber and plastic products, other non-metallic mineral products</i>   | <i>134.1</i>          | <i>161.1</i>          | <i>163.9</i>          | <i>198.3</i>          | <i>205.0</i>          | <i>70.9</i>         | <i>53</i>        |
| <b><i>metallurgical production, production of finished metal products, except for manufacturing machinery and equipment</i></b> | <b><i>411.4</i></b>   | <b><i>492.7</i></b>   | <b><i>423.5</i></b>   | <b><i>397.5</i></b>   | <b><i>640.2</i></b>   | <b><i>228.8</i></b> | <b><i>56</i></b> |
| <b><i>engineering</i></b>   | <b><i>168.3</i></b>   | <b><i>208.7</i></b>   | <b><i>212.0</i></b>   | <b><i>197.3</i></b>   | <b><i>204.9</i></b>   | <b><i>36.6</i></b>  | <b><i>22</i></b> |
| <i>manufacture of computers, electronic and optical products</i>  | <i>13.8</i>           | <i>17.0</i>           | <i>16.8</i>           | <i>15.7</i>           | <i>14.9</i>           | <i>1.1</i>          | <i>8</i>         |
| <i>production of electrical equipment</i>   | <i>33.0</i>           | <i>43.1</i>           | <i>40.9</i>           | <i>35.9</i>           | <i>40.7</i>           | <i>7.7</i>          | <i>23</i>        |
| <i>manufacture of machinery and equipment</i>   | <i>59.8</i>           | <i>70.2</i>           | <i>71.1</i>           | <i>72.5</i>           | <i>71.7</i>           | <i>11.9</i>         | <i>20</i>        |
| <i>manufacture of motor vehicles, trailers and semi-trailers and other vehicles</i>   | <i>61.7</i>           | <i>78.4</i>           | <i>83.3</i>           | <i>73.3</i>           | <i>77.6</i>           | <i>15.9</i>         | <i>26</i>        |
| <i>production of furniture and other products; repair and installation of machines and equipment</i>                            | <i>56.4</i>           | <i>67.7</i>           | <i>79.4</i>           | <i>78.2</i>           | <i>66.8</i>           | <i>10.4</i>         | <i>18</i>        |
| Supply of electricity, gas, steam and air conditioning  | 646.6                 | 736.1                 | 749.8                 | 953.6                 | 772.0                 | 125.5               | 19               |
| Water supply; sewerage, waste management  | 28.3                  | 32.2                  | 39.0                  | 41.7                  | 40.4                  | 12.2                | 43               |
| <b><i>Total industry</i></b>  | <b><i>2,625.9</i></b> | <b><i>3,045.2</i></b> | <b><i>3,019.4</i></b> | <b><i>3,236.4</i></b> | <b><i>3,589.4</i></b> | <b><i>963.5</i></b> | <b><i>37</i></b> |

Source of information: State Statistics Service of Ukraine

\* - preliminary data

Region-wise, Ukraine's industry is unevenly distributed. Region-wise, the most developed industries are: Kyiv - mechanical engineering, military-industrial complex, Dnipropetrovsk - mechanical engineering, mining, metallurgy, Donetsk - metallurgy, mechanical engineering, Zaporizhia - metallurgy, mechanical engineering, Kyiv region – mechanical engineering, military-industrial complex, industrial processing, metalworking, Kharkiv and Poltava – mechanical engineering, oil refining (Table 4).

**Table 4. Ukraine's industry regional structure in 2017-2020**

| Regions          | Production volumes, UAH billion |      |      |      | Share in total volume |      |      |      | Gain, v.p. |
|------------------|---------------------------------|------|------|------|-----------------------|------|------|------|------------|
|                  | 2017                            | 2018 | 2019 | 2020 | 2017                  | 2018 | 2019 | 2020 |            |
| Vinnytsia region | 59.9                            | 67.6 | 82.6 | 83.4 | 2.4                   | 2.4  | 2.8  | 2.9  | 0.4        |

|                              |                |                |                |                |              |              |              |              |             |
|------------------------------|----------------|----------------|----------------|----------------|--------------|--------------|--------------|--------------|-------------|
| Volyn region                 | 29.8           | 34.3           | 35.7           | 34.8           | 1.2          | 1.2          | 1.2          | 1.2          | 0.0         |
| <b>Dnipropetrovsk region</b> | <b>419.1</b>   | <b>497.6</b>   | <b>501.3</b>   | <b>455.7</b>   | <b>17.0</b>  | <b>17.8</b>  | <b>17.1</b>  | <b>15.7</b>  | <b>-1.3</b> |
| <b>Donetsk region</b>        | <b>272.2</b>   | <b>300.9</b>   | <b>294.3</b>   | <b>252.8</b>   | <b>11.1</b>  | <b>10.8</b>  | <b>10.0</b>  | <b>8.7</b>   | <b>-2.3</b> |
| Zhytomyr region              | 35.0           | 42.0           | 46.2           | 47.2           | 1.4          | 1.5          | 1.6          | 1.6          | 0.2         |
| Zakarpatska region           | 22.1           | 26.5           | 27.0           | 26.6           | 0.9          | 0.9          | 0.9          | 0.9          | 0.0         |
| <b>Zaporizhzhia region</b>   | <b>180.0</b>   | <b>202.2</b>   | <b>187.7</b>   | <b>176.6</b>   | <b>7.3</b>   | <b>7.2</b>   | <b>6.4</b>   | <b>6.1</b>   | <b>-1.2</b> |
| Ivano-Frankivsk region       | 34.4           | 43.1           | 46.8           | 48.4           | 1.4          | 1.5          | 1.6          | 1.7          | 0.3         |
| <b>Kyiv</b>                  | <b>118.2</b>   | <b>131.6</b>   | <b>133.3</b>   | <b>179.9</b>   | <b>4.8</b>   | <b>4.7</b>   | <b>4.5</b>   | <b>6.2</b>   | <b>1.4</b>  |
| Kirovohrad region            | 23.8           | 28.5           | 32.6           | 37.3           | 1.0          | 1.0          | 1.1          | 1.3          | 0.3         |
| Luhansk region               | 17.5           | 18.6           | 20.4           | 17.0           | 0.7          | 0.7          | 0.7          | 0.6          | -0.1        |
| Lviv region                  | 104.0          | 125.4          | 138.7          | 143.6          | 4.2          | 4.5          | 4.7          | 4.9          | 0.7         |
| Mykolaiv region              | 40.7           | 43.9           | 50.3           | 51.2           | 1.7          | 1.6          | 1.7          | 1.8          | 0.1         |
| Odesa region                 | 62.7           | 70.1           | 64.7           | 80.8           | 2.5          | 2.5          | 2.2          | 2.8          | 0.2         |
| <b>Poltava region</b>        | <b>140.7</b>   | <b>163.0</b>   | <b>147.7</b>   | <b>155.0</b>   | <b>5.7</b>   | <b>5.8</b>   | <b>5.0</b>   | <b>5.3</b>   | <b>-0.4</b> |
| Rivne region                 | 24.6           | 28.7           | 31.7           | 33.4           | 1.0          | 1.0          | 1.1          | 1.1          | 0.2         |
| Sumy region                  | 30.2           | 37.2           | 38.5           | 40.9           | 1.2          | 1.3          | 1.3          | 1.4          | 0.2         |
| Ternopil region              | 16.7           | 20.3           | 20.6           | 24.8           | 0.7          | 0.7          | 0.7          | 0.9          | 0.2         |
| <b>Kharkiv region</b>        | <b>130.6</b>   | <b>149.6</b>   | <b>160.6</b>   | <b>158.1</b>   | <b>5.3</b>   | <b>5.3</b>   | <b>5.5</b>   | <b>5.4</b>   | <b>0.1</b>  |
| Kherson region               | 19.4           | 22.5           | 26.2           | 28.3           | 0.8          | 0.8          | 0.9          | 1.0          | 0.2         |
| Khmelnysky region            | 29.0           | 33.1           | 38.6           | 42.5           | 1.2          | 1.2          | 1.3          | 1.5          | 0.3         |
| Cherkasy region              | 58.5           | 68.8           | 74.3           | 74.2           | 2.4          | 2.5          | 2.5          | 2.6          | 0.2         |
| Chernivtsi region            | 8.1            | 8.4            | 11.3           | 12.4           | 0.3          | 0.3          | 0.4          | 0.4          | 0.1         |
| Chernihiv region             | 39.8           | 34.6           | 33.2           | 33.4           | 1.6          | 1.2          | 1.1          | 1.2          | -0.5        |
| <b>Kyiv (city)</b>           | <b>544.9</b>   | <b>598.5</b>   | <b>689.7</b>   | <b>664.0</b>   | <b>22.1</b>  | <b>21.4</b>  | <b>23.5</b>  | <b>22.9</b>  | <b>0.7</b>  |
| <b>TOTAL</b>                 | <b>2,461.9</b> | <b>2,797.3</b> | <b>2,934.0</b> | <b>2,902.3</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>0.0</b>  |

Source of information: State Statistics Service of Ukraine

There were 126.3 thousand industrial enterprises totally in 2020, the majority being small businesses (Table 5).

Small producers are mainly found in the food and light industry, woodworking, production of building materials, finished and plastic products, etc. Large enterprises are primarily engaged in mining, by product coke plants, metallurgy and pipe plants. The segment of medium-sized enterprises is represented mainly by machine-building, metal-working and cement plants.

Table 5. Ukraine **industry enterprises in Numbers in 2017-2020.**

| Indicator | 2017 | 2018 | 2019 | 2020 | 2021 | 2020/2017 |
|-----------|------|------|------|------|------|-----------|
|-----------|------|------|------|------|------|-----------|

|                                  |                |                |                |                |              | <b>units</b> | <b>%</b> |
|----------------------------------|----------------|----------------|----------------|----------------|--------------|--------------|----------|
| Large business                   | 215            | 237            | 258            | 243            | n / a        | 28           | 13       |
| Medium business                  | 4 824          | 4 966          | 5 110          | 4 986          | n / a        | 162          | 3        |
| Small business                   | 118 837        | 120 656        | 124 956        | 121 108        | n / a        | 2271         | 2        |
| <i>including microenterprise</i> | <i>108 685</i> | <i>109 676</i> | <i>113 882</i> | <i>110 470</i> | <i>n / a</i> | <i>1785</i>  | <i>2</i> |

Source of information: State Statistics Service of Ukraine

Total employment in industry in 2020 was 2.2 million people, i.e. 6% less than in 2017 (Table 6). This is 24% of the total number of employees in Ukraine. The majority of people work in the processing industry (1.54 million people), primarily in the food industry, mechanical engineering and metallurgy.

**Table 6. Ukraine's industry employment in 2017-2021 ('000)**

| <b>Indicator</b>  | <b>2017</b> | <b>2018</b> | <b>2019</b> | <b>2020</b> | <b>2021</b> | <b>2021/2017</b> |          |
|---|-------------|-------------|-------------|-------------|-------------|------------------|----------|
|   |             |             |             |             |             | <b>'000</b>      | <b>%</b> |
| Mining and quarrying  | 265         | 234         | 230         | 221         | n / a       | -44              | -17      |
| Manufacturing industry  | 1 623       | 1 652       | 1 606       | 1 541       | n / a       | -82              | -5       |
| production of food, beverages and tobacco products  | 360         | 366         | 365         | 366         | n / a       | 6                | 2        |
| textile production, production of clothing, leather, leather products and other materials | 122         | 134         | 124         | 111         | n / a       | -11              | -9       |
| metallurgical production, production of finished metal products                           | 237         | 232         | 220         | 209         | n / a       | -28              | -12      |
| engineering   | 363         | 356         | 348         | 318         | n / a       | -45              | -12      |
| other sectors of the processing industry  | 540         | 564         | 548         | 537         | n / a       | -4               | -1       |

|  |              |              |              |              |              |             |           |
|--|--------------|--------------|--------------|--------------|--------------|-------------|-----------|
| Supply of electricity, gas, steam and air conditioning | 314          | 303          | 298          | 300          | n / a        | -14         | -4        |
| Water supply; sewerage, waste management               | 132          | 128          | 120          | 123          | n / a        | -9          | -7        |
| <b>Total industry</b>                                  | <b>2 334</b> | <b>2 318</b> | <b>2 254</b> | <b>2 185</b> | <b>n / a</b> | <b>-149</b> | <b>-6</b> |
| <b>Total employees</b>                                 | <b>8 271</b> | <b>8 661</b> | <b>9 146</b> | <b>9 057</b> | <b>n / a</b> | <b>786</b>  | <b>10</b> |
| Share of people employed in industry,                  | 28           | 27           | 25           | 24           | n / a        | -4          | -15       |

Source of information: State Statistics Service of Ukraine

Annual labor productivity in the industry during 2017-2020 increased by 32% to UAH 1.48 million/person (Table 7).

Low value and insignificant growth in the processing industry may be noted.

**Table 7. Ukraine's industry labor productivity (annual) in 2017-2021 (UAH million/person)**

| Indicator  | 2017        | 2018        | 2019        | 2020        | 2021         | 2020/2017            |           |
|--|-------------|-------------|-------------|-------------|--------------|----------------------|-----------|
|  |             |             |             |             |              | UAH million / person | %         |
| Mining and quarrying                                   | 1.22        | 1.67        | 1.75        | 1.64        | n / a        | 0.42                 | 34        |
| Manufacturing industry                                 | 1.00        | 1.14        | 1.14        | 1.22        | n / a        | 0.22                 | 22        |
| Supply of electricity, gas, steam and air conditioning | 2.06        | 2.43        | 2.52        | 3.18        | n / a        | 1.12                 | 54        |
| Water supply; sewerage, waste management               | 0.21        | 0.25        | 0.33        | 0.34        | n / a        | 0.12                 | 58        |
| <b>Total industry</b>                                  | <b>1.13</b> | <b>1.31</b> | <b>1.34</b> | <b>1.48</b> | <b>n / a</b> | <b>0.36</b>          | <b>32</b> |

*Source of information: State Statistics Service of Ukraine*

Total volumes of Ukraine's exports of industrial products during 2017-2021 increased by 56% (to 51.4 billion US dollars), which is 75% of the total Ukrainian exports of goods (Table 8).

Most exports constitute food, metallurgical and machine-building products, and metal ores. In total, these groups of goods account for about 80% of industrial exports.

**Table 8. Ukraine's exports of industrial goods in 2017-2021**

| Indicator                               | 2017          | 2018          | 2019          | 2020          | 2021          | 2021/2017         |            |
|---|---------------|---------------|---------------|---------------|---------------|-------------------|------------|
|   |               |               |               |               |               | In million \$ USA | %          |
| <i>Metal ores</i>                       | <i>3 137</i>  | <i>3 446</i>  | <i>3 970</i>  | <i>4 735</i>  | <i>7 576</i>  | <i>4 439</i>      | <i>142</i> |
| <i>Food products</i>                    | <i>8 712</i>  | <i>8 939</i>  | <i>9 437</i>  | <i>10 444</i> | <i>12 498</i> | <i>3 785</i>      | <i>43</i>  |
| Light industry products                 | 1 027         | 1 130         | 1 086         | 1 013         | 1 134         | 107               | 10         |
| Wood products, paper; printing products | 1 686         | 2 027         | 1 866         | 1 853         | 2 570         | 884               | 52         |
| Coke and refined petroleum products     | 313           | 388           | 385           | 197           | 352           | 39                | 12         |
| Chemical products                       | 1 064         | 1,300         | 1 412         | 1 468         | 2 394         | 1 329             | 125        |
| Pharmaceutical products                 | 213           | 235           | 264           | 286           | 343           | 129               | 61         |
| Rubber and plastic products             | 425           | 456           | 467           | 483           | 644           | 219               | 52         |
| Other non-metallic mineral products     | 440           | 510           | 519           | 540           | 689           | 249               | 57         |
| <i>Metallurgical products</i>           | <i>10 006</i> | <i>11 505</i> | <i>10 253</i> | <i>8,954</i>  | <i>15 606</i> | <i>5,600</i>      | <i>56</i>  |
| Finished metal products                 | 514           | 582           | 558           | 591           | 818           | 305               | 59         |
| <i>Machine-building products</i>        | <i>4 636</i>  | <i>5 057</i>  | <i>5 075</i>  | <i>4 890</i>  | <i>5 572</i>  | <i>936</i>        | <i>20</i>  |
| Furniture                               | 472           | 538           | 583           | 634           | 907           | 436               | 92         |
| Other industrial products               | 282           | 181           | 186           | 193           | 262           | -19               | -7         |

|   |               |               |               |               |               |               |           |
|---|---------------|---------------|---------------|---------------|---------------|---------------|-----------|
| <b>TOTAL exports of industrial products</b>                   | <b>32 926</b> | <b>36 293</b> | <b>36 060</b> | <b>36 279</b> | <b>51 364</b> | <b>18 437</b> | <b>56</b> |
| <i>Export of goods from Ukraine</i>                           | <i>43 346</i> | <i>47 432</i> | <i>50 178</i> | <i>49 325</i> | <i>68 238</i> | <i>24 892</i> | <i>57</i> |
| <i>The share of industrial products in Ukrainian exports,</i> | <i>76</i>     | <i>77</i>     | <i>72</i>     | <i>74</i>     | <i>75</i>     |               | <i>-1</i> |

Source of information: State Customs Service of Ukraine

**2. If an industrial/competitiveness policy is in place, please describe its main features and priorities. What is the main thrust of structural modernisation of industry? How are these priorities made consistent with the overall economic policy on one side and policies for innovation, education and workforce training, trade and FDI, innovative start-ups, economic zones and sector-specific policies on the other?**

#### **Industrial/competitiveness policy framework**

On March 3, 2021, the Cabinet of Ministers of Ukraine by Resolution No. No. 179 approved the National Economic Strategy for the period up to 2030. The strategy defines a long-term economic vision, principles and values, "red lines" (unacceptable directions), key directions (vectors) of economic development in 20 areas, including industry and it is a document that interconnects industrial and competitiveness policy with overall economic policy.

The main vectors of industrial and competitiveness policy according to strategy are:  
- creating stable domestic demand for domestic industrial products;

- ensuring that the Ukrainian industrial sector is integrated into the global value chains, creating conditions for expanding exports of industrial products;

- strengthening the competitiveness of industrial products produced in Ukraine, introducing resource- and energy-efficient technologies;

- creating new production capacities by stimulating innovative activity of enterprises in all the regions of the country through using the competitive advantages of each of them.

#### **Main thrust of structural modernization**

The structural modernization in Ukraine is based on the perception that the industrial production complex must become a leading force for intensive economic development. The general concept of industrial development is based on the idea that Ukrainian industrial sector must produce science-intensive goods with high added value. The specific areas for structural modernization of industry are identified in the Resolution of the Cabinet of Ministers dated September 12, 2011, No. No. 1130, "On Approving the State Program of Domestic Production":



- renewing proportional development of the national economy, ensuring that industry is playing a leading role in it, full-scale development of the domestic market through the use of domestic equipment, technology, raw materials, intermediate and final products;
- increasing the export potential, giving priority to developing domestic enterprises exporting higher-value products and manufacturing import-substituting goods;
- implementing radical modernization of production and developing science-intensive industries, preserving and developing intellectual and scientific-technical potential;
- creating closed cycles of production of the innovative products in the basic branches of the national economy;
- increasing the efficiency and competitiveness of industry, in particular of its public sector;
- participation of domestic enterprises and organizations in the projects of international cooperation;
- creating innovative products in science-intensive industries in order to make the international image of Ukraine;
- diversifying industries, expanding the range of high quality end-products;
- ensuring software management, development of the information sector to service industrial enterprises;
- introducing constant monitoring of the domestic market of consumer and investment goods and developing action plans for expanding the supply of goods of the domestic manufacturers in such markets;
- improving the system of state support of industrial development, in particular on the basis of public-private partnership aimed at improving the technical level of technological processes.

### **Latest developments in industrial/competitiveness policy framework**

The Law of Ukraine "On State Industrial Policy" is currently being drafted. The main aim of the document is to identify certain tools for designing and implementing the state industrial policy, measures to stimulate activities in industry, and governing legal, organizational and financial relations among the entities of various forms of ownership operating in industry.

### **Sectoral industrial/competitiveness policy strategies**

Features and priorities of the state military-industrial policy, state policy in the field of state defense procurement and in the field of defense-industrial complex are defined by the Strategy of Development of Defense-Industrial Complex of Ukraine approved by the Presidential Decree dated August 20, 2021 No. 372/2021.

Thus, according to the Strategy, the state military-industrial policy will be implemented in the following main areas:

- creating a strategic planning system in the field of defense of Ukraine and a long-term scientific and logistical needs planning system for the Armed Forces of Ukraine, other military units dealing with the military and civilian products and dual-use goods;
- providing continuous scientific, information-analytical and normative-legal support of measures on reforming and developing the defense industry;

- optimizing public administration system in the field of defense industry of Ukraine, avoiding conflicts of interest between the powers when shaping state military-industrial policy and the management functions in respect of economic entities;

- implementing corporate governance principles in accordance with the international standards;

- increasing coordination of the activities of executive bodies implementing the state policy in the field of security, defense and developing the defense sector of the economy;

- introducing an effective system of arranging state research institutions and industrial enterprises in defense industries by setting up, with their participation, business associations of enterprises or holding companies focusing on specific goals and priorities in each production segment (aerospace, production of special equipment (including air defense units, radars, electronic warfare and communications, technical intelligence), armored vehicles (including the production of automotive equipment, engineering and special weapons for defense), shipbuilding, as well as the segment of production of high-precision weapons and ammunition);

- creating and implementing single information and analytical system of the central executive body ensuring shaping and implementing the state military-industrial policy as a modern means of advisory support in the field of military-industrial policy;

- carrying out rational diversification of defense industries;

- corporatizing defense industry enterprises, institutions and organizations, implementing corporate governance principles in accordance with the principles of the Organization for Economic Cooperation and Development (OECD), combining centralized public administration with modern market mechanisms;

- introducing economic mechanisms to stimulate innovation, increase profitability, ensure sustainable financial environment for the defense enterprises, restoring solvency;

- improving the standardization, unification and quality management system in accordance with the NATO standards;

- import substitution of critical materials, completing items, components, critical technologies and minimizing dependence on foreign suppliers, including complete elimination of dependence on components supplies from the Russian Federation, investment in the development of basic and critical technologies, implementation of long-term innovation plans;

- removing regulatory and legal restrictions on setting up joint ventures with foreign companies and joint activities, attracting foreign capital to develop the production capacities at the Ukrainian enterprises while ensuring state control to neutralize potential threats to national security;

- ensuring access of economic entities of all forms of ownership to participate in projects for creating and manufacturing defense products, implementing public-private partnership, assisting in attracting investments in domestic and foreign markets;

- simplifying procedures for undertakings obtaining the powers to carry out export-import operations in the defense sphere;

- expanding the presence of the defense industrial goods and services in the international markets, strengthening organizational and institutional measures to promote their export;

- institutional support for implementing innovative projects and developing critical technologies in accordance with the best world practices, in particular, using the mechanisms of public-private partnership;

- promoting the development of small and medium-sized enterprises of all forms of ownership aimed at developing and creating innovative technologies and manufacturing high-tech products of military, special, dual-use items and civilian products;

- introducing mechanisms of state protectionism and state support of export potential within the framework of military-technical cooperation with foreign states, taking into account Ukraine's obligations under relevant international agreements;

- implementing measures to encourage enterprises to increase the volume of civilian products;

- involving defense industry enterprises in the programs of scientific, technical and socio-economic development of the state;

- economic incentives for the use of new technologies, in particular related to energy saving and energy supply;

- creating a continuous training system to meet the needs of the defense industry, increase motivation and ensure legal and social protection of employees;

- introducing effective interaction mechanisms between the state customers and contractors in defense procurements;

- introducing CALS-technologies and "lean production" system;

- reviewing the needs and restoring mobilization stocks at defense enterprises.

In the field of defense-industrial complex, the Strategy identifies priority areas for enterprises modernization, including:

- creating automated control systems;

- creating rocket and space technology;

- creating precision-guided munition, ammunition and special chemistry products;

- creating electronic warfare items;

- creating technical reconnaissance equipment;

- creating air defense systems;

- creating unmanned platforms and shock robotics, equipping the "soldier of the future", etc.;

- military shipbuilding;

- helicopter construction;

- arranging the production of assault, fighter, bomber, training aircraft not currently manufactured in Ukraine, with a gradual transition from its assembly and localization of production of components to full-scale batch production under license agreements;

- arranging joint batch production in accordance with the needs of armaments, military and special equipment not manufactured in Ukraine under license agreements;

- introducing CALS-technologies and "lean production" system;

- developing research and testing base;

- introducing low-cost and waste-free technologies ensuring rational consumption and use of the natural resources, reducing the energy component of the production cost, bringing its energy intensity closer to the level of the developed countries and the European Union standards.

In order to introduce a model of corporate governance of state property in the defense industry of Ukraine and in accordance with the recommendations on corporate governance of economic entities of the Organization for Economic Cooperation and Development, as well as to create conditions for improving the competitiveness of the state-owned Defense and Industrial Complex the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Peculiarities of Reforming Enterprises of the State-Owned Defense and Industrial Complex” (entered into force on October 6, 2021). The Law defines the legal, economic and organizational specifics for transforming the State Concern "Ukroboronprom" into a joint stock company, state unitary enterprises, including state-owned enterprises that are part of the State Concern "Ukroboronprom" into companies, management their property aimed at ensuring defense capability, economic security and protection of the state interests.

In the field of space activities, the adoption of the National Targeted Scientific and Technical Space Program of Ukraine for 2021-2025 is being ensured. The Concept of this program was approved by the Decree of the Cabinet of Ministers of Ukraine dated January 13, 2021 No. 15-r. On September 29, 2021, the Government of Ukraine approved draft Law of Ukraine "On Approving National Targeted Scientific and Technical Space Program of Ukraine for 2021-2025" and submitted it to the Verkhovna Rada of Ukraine (Draft Law No. 6129, dated 04.10.2021). On December 1, 2021, the Verkhovna Rada Committee on Economic Development approved submitting the Bill to the Verkhovna Rada of Ukraine and recommended to include it in the Verkhovna Rada of Ukraine agenda, as well as to adopt it as a basis.

In the aircraft industry, the State Targeted Scientific and Technical Program for the Development of the Aviation Industry for 2021-2030 has been adopted. The concept of the program was approved by the Decree of the Cabinet of Ministers of Ukraine dated November 11, 2020 No. 1412-r. The program was approved on September 1, 2021 by the Resolution of the Cabinet of Ministers of Ukraine No. 951. To implement the program, amendments were introduced to the Strategy for reviving the domestic aircraft industry for 2030 and the Action Plan pursuant to the Strategy for reviving domestic aircraft industry for 2030 approved by the Cabinet of Ministers dated May 10, 2018 No. 429 "Some Issues of Domestic Aircraft Construction".

**3. Is there an industrial/competitiveness framework policy paper/strategy/action plan that defines the approach to industrial development and restructuring (including privatisation aspects) and improving competitiveness (if it is not the case, which documents can be considered reference documents)? Specify the status of this (these) document(s).**

As of the end of 2021, Ukraine was developing conceptual and strategic documents on industrial development, including Strategies for the development of the industrial complex of Ukraine until 2030 and the Law of Ukraine "On State Industrial Policy". The hierarchy of other reference strategic documents is given in the answer to Question 2 of the current Chapter and includes:

- Strategy of Economic Security of Ukraine for the period up to 2025 (in force, approved by Decree of the President of Ukraine of 11.08.2021 No. 347/2021);
- National Economic Strategy until 2030 (in force);
- Strategy for the developing the defense-industrial complex of Ukraine (current);
- the Law of Ukraine "On The Peculiarities Of Reforming The Enterprises Of The Defense-Industrial Complex Of State Ownership" (in force).
- the Concept of the National Targeted Scientific and Technical Space Program of Ukraine for 2021-2025 (approved), the draft Law of Ukraine "On Approving the National Targeted Scientific and Technical Space Program of Ukraine for 2021-2025" was sent to the Verkhovna Rada of Ukraine;
- the State Target Scientific And Technical Program For Developing The Aviation Industry For 2021-2030 (adopted, "Amendments to the Strategy For The Revival Of Domestic Aircraft Construction Until 2030" and the "Action Plan For The Implementation Of The Strategy For The Revival Of The Domestic Aircraft Industry Until 2030" are being drafted).

**4. Specifically, are there measures to support enterprises with advisory or technology extension services on resource efficiency (energy, material, water) and digitalisation? Does a programme to invest in the modernisation of business processes exist in terms of machinery, equipment, and related training? Please specify whether it is linked to co-operation with an FDI or a supplier development programme.**

#### **Strategic vision for resource efficiency in industrial parks**

The Ministry of Economy has drafted a Strategy for developing industrial parks for the period up to 2030 and Operational Plan for the Strategy for developing individual entrepreneurs until 2030 to be implemented in 2022-2024. In February 2022, these documents were presented online (on the websites of the Ministry and the partnership project) for public discussion. The strategy is designed to identify areas and ways to ensure the development of industrial parks in Ukraine, thus contributing to the shaping of a decent investment environment and the growth of the national economy and its decarbonization. It was drafted in collaboration with a government working group (comprising representatives of various ministries) and with the UNIDO-funded Global Program for Eco-Industrial Parks (GEIPP-Ukraine: Country Intervention) (GEIPP-Ukraine) Government of Switzerland through the State Secretariat for Economic Affairs (SECO).

The draft Strategy for Developing Industrial Parks until 2030 aims to increase industrial parks' institutional capacity of as to overall development of production, scientific and technological potential, digitalization of the national economy, low-carbon and resource-efficient development as a basis to achieve the maximum level of economic efficiency, balance and sustainability of social and economic development of Ukraine, its regions and individual territories. The draft operational plan of the Industrial Parks Development Strategy until 2030 which is planned to be implemented in 2022-2024, contains, inter alia, the following measures of Strategic Goal 9 "Promoting development (transformation) of industrial parks based on the eco-industrial park model":

- Drafting proposals for instruments to stimulate and support eco-industrial parks, industrial symbiosis, including through budget funds, support instruments with low impact on budgets, programs to support environmental, energy efficient and resource efficient projects;

- Developing tools (incentives) to support eco-industrial parks, industrial symbiosis at state, regional and local levels, as well as with the involvement of the banking and financial sector;
- Promoting the implementation of environmental and/or energy management systems in industrial and eco-industrial parks;
- Promoting the creation and operation of platforms to exchange of resources, secondary raw materials and waste for the development of industrial symbiosis in industrial and eco-industrial parks;
- Promoting the development of market mechanisms and tools for investing in resource-efficient and cleaner production.

Resolution of the Cabinet of Ministers of Ukraine of July 21, 2021 No. 750 "On promoting the implementation of the technological approach" Industry 4.0 "in Ukraine" approved the REGULATION on the implementation of the technological approach "Industry 4.0"

Industry 4.0 provides comprehensive digitalization and automation of production processes and management in the real sector of the economy. The main tasks of the innovation hub are:

- coordinating and implementing measures to provide state support for the use of innovations in the real sector of the economy;
- providing consulting services on using innovations in the real sector of the economy;
- conducting competitions to select projects to introduce innovations in the real sector of the economy to provide state support.

Measures to support enterprises with advisory or technology extension services on resource efficiency and digitalisation and investments in the modernisation of business processes are in place in terms of machinery, equipment, and related training

#### *I Project "Consulting companies on energy efficiency"*

Since March 2017, the Ministry of Economy of Ukraine together with technical cooperation project "Consulting companies on energy efficiency" managed by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, have been implementing project which contributes to the strategic goal of the Ministry of Economy to improve the efficiency of resource consumption by manufacturing industries in Ukraine.

GIZ and the Ministry of Economy have jointly pledged to raise energy efficiency awareness (EE) and the energy saving potential of Ukrainian enterprises. The aim of the Project is to demonstrate the economic and technical feasibility of energy efficiency measures in companies. Accordingly, the Project works in four areas:

- developing the market for energy efficiency services for industrial enterprises,
- improving training opportunities in the relevant field;
- developing government mechanisms to promote energy efficiency in industry;
- supporting pilot projects in selected companies.

To this end, 65 energy audits were conducted for small and medium-sized enterprises in four sectors of the economy: bakery, dairy, engineering and non-metallic building materials.

The Ministry of Economy supported a number of events organized by the project. In particular, it supported the initiative to publish a manual on energy audit, which is published on the official

website of the Ministry of Economy (covers the details of implementing ISO 50002 international standard, aims to explain in more detail the process of implementing this standard). 3 interagency dialogue platforms were created and supported for developing mechanisms to encourage industrial enterprises to be energy efficient.

To support the companies participating in the Project, the concept of development and implementation of energy monitoring in the industry was drafted when carrying out energy efficiency measures. 65 companies participating in the energy audit were invited to apply for participation in the energy monitoring pilot program. 23 companies expressed interest, including 22 companies that received feasibility studies for EE activities during Phase 2; they received initial advice on developing an adapted monitoring concept. Nine of these companies were selected to support the development and implementation of their own monitoring concepts.

Based on energy audit findings under the Project, 8 enterprises were selected to put in place energy monitoring systems. The project supported the enterprises by equipment procurement, providing software, necessary consultations and training on installation and use of hardware and software of the energy monitoring system. The companies, in turn, undertook to install equipment at their own expense, to procure additional equipment and to send their staff to respective trainings.

## II *Project "Implementation of the standard of energy management systems in the industry of Ukraine"*

The United Nations Industrial Development Organization (UNIDO) together with JSB UKRGASBANK and with the cross-guarantee of CITIBANK Europe Plc. launched an innovative financial mechanism - CREDIT GUARANTEE FUND (FGC).

This financial mechanism was implemented in the framework of the UNIDO / GEF UKR IEE Technical Assistance Project "Implementation of the standard of energy management systems in the industry of Ukraine".

Guarantees are provided to assist industrial enterprises in financing energy efficiency measures and, above all, in implementing Energy Management System (EMS) in accordance with state standard ISO 50001.

### *III Resource Efficient and Cleaner Production (RECP)*

The Ministry of Economy together with the United Nations Industrial Development Organization (UNIDO) implemented the Project (the project was finished) to Promote Resource Efficient and Cleaner Production (RECP) through setting up and making operational of the Cleaner Production Center in Ukraine. Cleaner Production Center has implemented the following:

- Organized and conducted more than 50 awareness-raising activities aimed at promoting RECP activities among various target groups in Ukraine;

- The Center experts took part in more than 150 international and national events related to RECP, chemical leasing, sound management of chemicals, circular economy, waste management, etc;

- An online course "Resource efficient and clean production" including 14 training videos and test tasks was created; the course is available online on the Center's website;

- Assessed resource efficiency of 16 businesses
- Drafted and proposed about 200 technological options for more than 150 objects surveyed;
- Prepared more than 150 feasibility studies for RECP-options proposed, etc.

**5. Who is involved in the design, implementation and coordination of industrial/competitiveness policy (ministries, agencies, private sector, social partners, other stakeholders) and how (including what consultation mechanisms)? Is there a formal mechanism for inter-ministerial cooperation on industry policy? How is coordination between the various institutions arranged? Is there an entity for the analysis of competitiveness, that is independent of the ministry in charge of such a policy (see Council Recommendation 2016/C 349/01, notably recitals 4 to 7)?**

**Design, implementation and coordination of industrial/competitiveness policy and formal mechanism for inter-ministerial cooperation on industry policy**

The following authorities are responsible for implementing industrial and competition policy:

- Ministry of Strategic Industries of Ukraine;
- Ministry of Agrarian Policy and Food of Ukraine;
- Ministry of Economy of Ukraine.

Interdepartmental cooperation on sectoral policies is carried out through interdepartmental working groups and coordination councils in order to address strategic issues of sectoral policies.

An initiative to implement industrial and / or competition policy rules can be based on:

1. Independent work of central authorities;
2. Appeals from businesses, citizens as to the problem at hand and possible ways to solve it.

Procedure:

1. After ordinary or extraordinary work on the draft is commenced, respective central executive body organizes a discussion of the draft; other interested authorities concerned and members of the public participate in it. In order to clearly see the position of members of the public, relevant information is obtained from respective associations, individual business representatives and advisors, publishing questionnaires on social networks and other platforms, as well as by involving the public in working groups to develop a draft regulation.

2. After preliminary draft is drawn up, it is sent via electronic document management system to all authorities concerned which may submit their comments and suggestions in the form provided for in the Minutes.

3. Based on the interdepartmental working group contributions, an agreed draft is drawn up; if the parties have not agreed on some of its provisions, the draft is also accompanied by a discrepancy report indicating items not agreed upon and the relevant arguments;

4. The decisions of the Cabinet of Ministers are taken by a majority vote of the staff of the Cabinet of Ministers. If the draft gets the support of half of the Cabinet staff and the Prime Minister has voted in favour of the draft, the decision is adopted (The Decree of the Cabinet of Ministers of Ukraine No. 950 of July 18, 2007).

**Independent body analysing competitiveness**



Competitiveness in the relevant sectors of the economy and in the relevant commodity markets may, if necessary, be analysed by the bodies of the Antimonopoly Committee of Ukraine (AMCU) which do not depend on ministries and departments.

Based on the findings of the competitiveness analysis of the relevant sectors of the economy and commodity markets, the AMCU drafts relevant reports on the research conducted with recommendations on increasing competition and / or removing barriers to access to relevant markets, which are further considered by ministries and agencies.

## **6. How are enterprises consulted on industry policy and informed about implementing measures in a timely manner?**

### **Regulatory framework:**

Law of Ukraine “On Access to Public Information” of January 13, 2011, No. 2939-VI

Law of Ukraine “On Citizens' Appeals” of October 2, 1996, No. 393/96-BP

Decree of the President of Ukraine "Issues of providing executive authorities with access to public information" of May 5, 2011, №547

Decree of the Cabinet of Ministers "Issues of the public information accounting system" of November 21, 2011, №1277.

Decree of the President of Ukraine "On priority measures to ensure the exercise and guarantee of the constitutional right to appeal to public authorities and local governments" of 07.02.2008, №109/2008.

Order of the President of Ukraine "On the procedure for official promulgation of normative legal acts and their entry into force" of June 10, 1997, №503/97.

The Law “On Access to Public Information” defines the procedure for exercising and ensuring everyone’s right to access information held by authorities, other managers of public information and information of public interest.

According to Art. 13 of the Law, the subjects of power are public authorities, other state bodies, local governments, authorities of the Autonomous Republic of Crimea, other entities performing government management functions under the law and whose decisions are binding.

According to Article 5 of the Law, access to information is provided by:

1) systematic and prompt disclosure of information:

- in official printed publications;
- on official websites on the Internet;
- on the single state open data web portal;
- on information stands;
- in any other way.

2) providing information upon requests.

### **Official printed publications**

Official printed publications are the following: publications of the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Constitutional Court of Ukraine, the Supreme Court of Ukraine, higher specialized courts, central executive bodies, other authorities with special status issued for publishing regulations, decisions of these bodies and information that is mandatory to be published according to law. Creative work of journalists is not used when preparing such information.

Decree of the President of Ukraine of June 10, 1997, No. 503/97 stipulates that Laws of Ukraine, other acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, of the Cabinet of Ministers of Ukraine are to be published no later than fifteen days after their adoption in the state language in official publications. The Order lists all official publications.

Acts of the Verkhovna Rada of Ukraine, the President of Ukraine, and the Cabinet of Ministers of Ukraine may, in some cases, be officially promulgated on television and radio.

Regulations are also published on the state website [rada.gov.ua](http://rada.gov.ua), which is not an official source of law, but greatly simplifies searching for the relevant legal act; it enables a person to see the history of its adoption (draft, explanatory note, comments, alternative projects and stages of the document before it was adopted).

### **Official websites on the Internet**

Authorities have official websites on the Internet. They post news relevant to a particular economic sector, publish draft regulations for public discussion, have feedback forms and provide contact information for communication.

### **The single state open data web portal**

In 2015, the Open Data Portal [data.gov.ua](http://data.gov.ua) was created (as of 24.02.2022, access to the portal, as well as to many other state registers, was temporarily closed). A person can search for the relevant industry on the portal. It also contains data sets by the following categories:

- State (everything related to public administration and national issues);
- Government revenues and expenditures (public procurement, expenditures, budget indicators);
- Economics and business (all about companies, issues related to doing business);
- Energy (tariffs, extraction, consumption, import/export of energy, etc.);
- Infrastructure and transport (vehicles, routes, transportation, repair and construction of roads);
- Environment (ecology, fauna, flora, wells, water resources, air/water quality, climate, etc.);
- Education, culture, sports (educational institutions, educational programs, cultural/historical monuments, publicity materials (production/distribution), film, audio industry, leisure, sports activities);
- Health care (diseases, medicines, hospitals, forms, etc.);
- Regional development (territorial communities, municipal property, local development).

### **Information stands**

Information Stands are used mainly on authorities' premises when the enterprise applies offline. Usually, it contains examples of filling out certain documents, application templates, information about the working hours, the procedure for submitting documents, etc.

### **Other ways**

In the era of digitalization, to provide full access to information and disseminate it rapidly, the authorities and other managers of public information have official pages on social networks and channels in messengers. This is a powerful means of communication between businesses and the state (including posts and comments).

### **Providing information upon request**

If the company does not get the necessary information through any of the above communication channels, it can contact the relevant state/local authority. The request can be submitted online (at the official e-mail address) or offline (by official letter sent at the address of the relevant authority).

The requesting party has the right to request information regardless of whether this information concerns him/her personally or not, without explaining the reason.

The response to the request for information must be given no later than five working days from the date of receipt of the request.

If the request for information concerns information necessary to protect the life or liberty of the individual, the environment, the quality of food and household items, accidents, catastrophes, dangerous natural phenomena and other emergencies that have occurred or may occur and threaten the safety of citizens, the answer must be given no later than 48 hours from the date of receipt of the request; such request must be duly substantiated.

Information on request is provided free of charge. However, if the request for information involves making copies of documents more than 10 pages, the requesting party is obliged to reimburse copying and printing costs.

### **Personal reception**

To improve exercise of the citizens' constitutional right to personal appeals, improve the consideration of issues raised in such requests, make heads of executive bodies more responsible, other authorities and local governments ensure personal reception of citizens for proper response to reasonable proposals, statements, complaints in full compliance with the Constitution and the laws of Ukraine, the solving problems caused by citizens' appeals,.

Personal reception of citizens should be held in all authorities and institutions and at the place of work and residence of the population by the heads and officials of authorities and institutions who have the right to make decisions on issues within their purview.

The heads approve schedules of personal reception of citizens of authorities and local governments. They indicate the names of officials who must receive visitors, time and place of reception is posted on the premises of authorities and local governments in a place where they can be easily seen.

A separate channel of business communication with the state are business associations. Business associations in Ukraine are governed by national law and their statutes, contracts, and internal regulations. If a business association has territorial divisions in at least 14 regions, it can

receive the status of an all-Ukrainian organization. This provides an opportunity to receive state support and participate in the work of advisory bodies at the state level.

According to the latest data, there were more than 4,000 such associations at the beginning of 2019. There can be general business associations (such as the European Business Association (<https://eba.com.ua>), the American Chamber of Commerce (<https://chamber.ua>), the Union of Ukrainian Entrepreneurs (<http://sup.org.ua>) or industry-specific business associations, for example, "Ukrainian Association of Lessors" (<http://uul.com.ua>), "Ukrainian Association Furniture makers" (<https://uafm.com.ua>), etc.

Business association communicate with members via web pages and emails. Business associations usually arrange offline and online events attended by business and government officials to improve dialogue between them.

**7. Are annual reports published about implemented programmes that inform about number of beneficiaries in terms of received benefits and their main characteristics like size, region of location, industry? Are impact evaluations for policies and programmes planned and budgeted as part of strategies and programmes?**

According to the Law of Ukraine “On State Aid to Business Entities” No. 1555-VII of July 1, 2014, setting up and maintaining the State Aid Register and reporting mechanisms for monitoring state aid are enshrined.

State aid grantors are obliged to submit information on exiting state aid, its purpose, forms, sources, beneficiaries and their shares in the total amount of state aid provided during the last financial year within the relevant financial year.

Every year, by September 1 of the following year, the authorized state body prepares an annual report on granting state aid in Ukraine for the previous financial year and submits it to the Cabinet of Ministers of Ukraine. Such a report is published in the newspaper and is posted on the government website.

According to the Decree of the Antimonopoly Committee of Ukraine of 28.12.2015 No. 43-rp “Some issues of implementation of the Law of Ukraine “On State Aid to Undertakings ”” the purpose of monitoring state aid in addition to monitoring and ensuring transparency is to ensure the effectiveness of the state aid system in Ukraine, protection and development of competition.

For example, here you can find [link to annual report for 2020](#)

In addition to the above, in accordance with the Law of Ukraine on the Accounting Chamber, the Accounting Chamber is responsible for financial audit and audit of the effectiveness of state target programs, investment projects, public procurement, state aid to undertakings.

After the Accounting Chamber has exercised these powers, it publishes reports on each audit conducted and annual report of its activity.

For example, here you can find [link to audit reports for year 2021](#)

**8. What is the strategy to attract foreign direct investment (FDI)? Are measures of after-care and a grievance mechanism in place? Which organisations are in charge of FDI attraction, after-care and grievance services? Is an impact evaluation of the FDI measures planned?**

In Ukraine, there is no strategy for attracting FDI at the legislative level. At the same time, Ukraine has an open and transparent legal regime for foreign investment that is broadly consistent with international norms and we have the institutions which provide the measures of after-care and the grievance mechanism for foreign investors. In order to implement an effective mechanism for attracting foreign investment and supporting the investment development of Ukraine, there is a State Institution "Office for Attracting and Supporting Investments" (hereinafter referred to as the Office). The Regulation on the Office were approved by the Decree of the State Secretary of the Cabinet of Ministers of Ukraine dated 23.04.2018 No. 76, as amended, dated 20.05.2021 No. 63. The Regulation on the State Institution "Office for Investment Attraction and Support" provides the following: carrying out measures to attract investment; cooperation between executive authorities and local governments aimed at creating a favorable investment climate in Ukraine; information support of foreign investors in preparing and implementing investment projects, as well as during their operations in Ukraine; drafting proposals for shaping and utilizing Ukraine's investment potential, etc.

The Business Ombudsman Council established in 2014 (the order of the Cabinet of Ministers of Ukraine dated 26.11.2014 No. 691 "On establishment the Business Ombudsman Council") for cooperation between the Government of Ukraine and international institutions, including the EBRD and the OECD, and Ukrainian business associations is an institute whose activities are aimed at considering complaints and resolving undertakings' challenges, including foreign investors. BOC provides a platform for the business community in Ukraine to file complaints about unfair treatment by the state or municipal authorities, state-owned or controlled companies, or their officials. It allows businesses to report corruption and unfair practices against companies such as repetitive tax audits or investigations, excessive inspection fees, threats, retaliation or other business-related abuse by Ukrainian public authorities. The Ombudsman's role is to look into whether an administrative decision has been taken in accordance with the regulations in force. It is not a judicial body; instead, it offers a simplified, faster way to settle issues, while still recognizing the right of companies to take their complaints to courts or use other procedures. The Ombudsman can initiate a dialogue with public authority leadership about which the complaint is made to obtain a speedy response to resolve issues. The mechanism also encompasses advisory role for the government. The Ombudsman has the power to report publicly on the systematic causes of the unfair treatment of business. S/he is also empowered to make proposals to the government on how to improve the business climate in Ukraine, including proposals to amend legislation and regulations

**9. Have the authorities supported the creation of economic zones? If so, please shortly describe their nature and how their operation will be evaluated.**

The definition of Special Economic Zones (hereinafter – SEZ) is set forth in the Commercial Code, the Laws of Ukraine "On General Principles of Establishing and Functioning of Special (Free) Economic Zones" and "On Foreign Economic Activity". The Customs Code of Ukraine stipulates that the customs regime of a free customs zone of industrial type may be introduced only within the SEZ. The Law of Ukraine "On General Principles of Establishing and Functioning of Special (Free) Economic Zones" defines the procedure for the establishment, liquidation and the mechanism of

functioning of SEZs in Ukraine. Thus, in accordance with Article 5(1) of this Law, SEZs are established by the Verkhovna Rada of Ukraine on the initiative of the President of Ukraine, the Cabinet of Ministers of Ukraine or local Councils of Ukraine and local state administration. The list of documents on the establishment of a SEZ and the requirements for the feasibility study as to its creation and operation are defined in Articles 6 and 7 of the above-mentioned Law. In Ukraine, 9 SEZs were created by special laws during 1998-2000: “Donetsk” (in the south of the city of Donetsk with an area of 466 hectares); “Azov” (in the south of Mariupol with an area of 314.6 hectares); “Zakarpattia” (in the Zakarpattia region with an area of 739.9 hectares); “Yavoriv” (within the Yavoriv district, Lviv region); “Slavutych” (in the city of Slavutych, Kyiv region); “Kurortopolis Truskavets” (in the city of Truskavets, Lviv region); “Mykolaiv” (in the territory of the city of Mykolaiv, the area of 860 hectares); “Porto-Franco” (in the city of Odesa with an area of 32.5 hectares); “Reni” (in the city of Reni, Odesa region with an area of 94.36 hectares); “Port Crimea” (in the city of Kerch with an area of 27 hectares). A standard package of benefits for SEZ entities were defined by the laws, in particular, exemption from VAT, import duties on imports, land lease fees, and partial exemption from income tax. The legislation on SEZ provided for a significant amount of additional administrative and permitting regulation of economic activity at the local, regional and state levels. In 2005, all benefits and customs regime for SEZs were abolished. In accordance with the adopted laws, SEZ “Yavoriv” functioned until 2019, SEZ “Slavutych” - until 2018, SEZ “Kurortopolis Truskavets” - until 2020. The Law of Ukraine “On Special Economic Zone “Port Crimea” ceased to be in force in 2014 on the basis of the Law of Ukraine “On Creating the Free Economic Zone “Crimea” and the Peculiarities of Economic Activity in the Temporarily Occupied Territory of Ukraine” which expired in 2021. The Decree of the Cabinet of Ministers of Ukraine dated 12.05.2021 No. 497-r approved the action plan for 2021-2023 pursuant to the State Strategy for Regional Development for 2021-2027, which provides, in particular, creating conditions for reintegrating temporarily occupied territory of the Autonomous Republic of Crimea and Sevastopol, temporarily occupied territories in Donetsk and Luhansk regions into Ukraine. The National Economic Strategy for the period up to 2030 approved by the Decree of the Cabinet of Ministers of Ukraine dated 03.03.2021 No. 179, provides, in particular, the task of introducing a pilot regime to stimulate investment and innovation in Donetsk and Luhansk regions where public authorities fully exercise their powers. The Decree of the Cabinet of Ministers of Ukraine dated 18.08.2021 No. 1078-r approved the Strategy of economic development of Donetsk and Luhansk regions for the period up to 2030 (hereinafter - the Strategy) and the operational plan (hereinafter - the Plan) of its implementation. The Strategy provides for the introduction of a pilot regime to stimulate investment and innovation in the Donetsk and Luhansk regions where public authorities fully exercise their powers. On December 7, 2021, the Verkhovna Rada of Ukraine registered a draft Law (reg. No. 6403) which proposes to set out the basic principles of establishment, operation and termination of the special economic activity regime in the priority territory for development (part of Ukraine within two administrative-territorial units of Ukraine - Donetsk and Luhansk regions except for the temporarily occupied territories in Donetsk and Luhansk regions), the system of authorities to manage and develop the priority territory for development and their powers, registration procedure, rights and responsibilities of residents of the priority territory for development, as well as establish a list of benefits, incentives and others mechanisms aimed at developing and restoring the priority territory for development. At the same time, the Verkhovna Rada of Ukraine registered draft Law of Ukraine “On Peculiarities of Stimulating Regional Development” (dated 10.06.2021 reg. No. 5649, hereinafter - draft Law No. 5649) which defines the peculiarities of state regional policy to stimulate regional development and certain types territories that need special attention from the state, and

implementing special measures to stimulate their development. According to draft Law No. 5649, an area with limited opportunities for development is a territory the level of socio-economic development of which, under the indicators determined by the Cabinet of Ministers of Ukraine, is low or there are in such territory natural, demographic, international, legal or other objective restrictions as to using the territory's potential for development. Article 7 of draft Law No. 5649 stipulates that the territory with limited opportunities for development includes, in particular, border area with unfavorable conditions - micro-regions, territorial communities located near the border with states relations with which require additional security measures at the state border, restrictions on movement of goods and people hindering the development of the local economy and attracting investment (Russian Federation, Prydnistrovian Moldavian Republic) within 30 kilometers from the border. This type of territory also includes territories that are on the line of contact in accordance with the Law of Ukraine "On Temporary Measures for the Period of Anti-Terrorist Operation" according to the list determined by the Cabinet of Ministers of Ukraine. In Articles 9 and 10 of the draft Law No. 5649 defined are state and regional stimulation measures for developing territories with limited opportunities for development, in particular, the following measures can be carried out: - state support for developing small and medium-sized enterprises, compensation of interest on loans to small and medium-sized enterprises that create jobs in such territories on the terms and in the manner determined by the Cabinet of Ministers of Ukraine; - applying the features of taxation defined by the Tax Code of Ukraine and the Customs Code of Ukraine to the newly created business entities the fixed assets of which are fully located in these territories; - promoting the development of infrastructure to support small and medium-sized enterprises; - directing international technical assistance at pressing socio-economic and environmental issues; - developing production, communication, transport, logistics and social infrastructure; introducing a mechanism of financial support, including on a grant basis, for newly created small and medium-sized enterprises

## **B. Privatisation and Restructuring**

### **10. What policy plan has been formulated for privatisation and restructuring in industry, including mining?**

In 2017 the Government adopted a "Strategic view on state-owned enterprises management" (so-called SOEs triage, <https://me.gov.ua/Documents/Detail?lang=uk-UA&id=f9b47f2c-50ae-41b3-abea-117ff9c4fab8&title=PrezentatsiiniMateriali>).

The document determines which state-owned enterprises in the long run should remain in state ownership, be transferred to concession, privatized or liquidated. Currently the Government is working on the new version of "SOEs triage". The list of objects of small-scale privatisation for year 2022 are approved by the order of the State Property Fund of Ukraine No. 316 dd. 22.02.2022 ([https://www.spfu.gov.ua/userfiles/files/nakaz\\_316.pdf](https://www.spfu.gov.ua/userfiles/files/nakaz_316.pdf)) The list of objects of large-scale privatisation are approved by the Resolution of the Cabinet of Ministers of Ukraine No. 36-p dd. 16.01.2019 <https://zakon.rada.gov.ua/laws/show/36-2019-%D1%80#Text>

The bill "Draft Law on the List of State Property Objects Not Subject to Privatization" (draft No. 4020 dd. 02.09.2020) is to be voted in the Parliament.

In pursuance of the Decree of the President of Ukraine dated 08.11.2019 No. 837/2019 "On urgent measures to reform and strengthen the state" the Ministry of Energy developed a draft Decree of the Cabinet of Ministers of Ukraine "On approving the Coal Industry Reform Concept and

Approving the Action Plan for its Implementation" and submitted it for consideration by the Cabinet of Ministers of Ukraine.

The draft Decree envisaged creating a vertically integrated association with the participation of state-owned coal mining companies and PJSC Centerenergo. Subsequently, the draft Decree was withdrawn for further revision.

The Ministry of Energy also drew up a draft Order of the Cabinet of Ministers of Ukraine "On approving the Concept of the State Target Program for Reforming the Coal Industry."

At the initiative of the Ministry of Energy, the Resolution of the Cabinet of Ministers of Ukraine "On termination of liquidation of the National Joint-Stock Company "Energy Company of Ukraine" dated 10.10.2021 No. 1174 was adopted. The main purpose of terminating the liquidation procedure of the National Joint Stock Company "Energy Company of Ukraine" (hereinafter - the Company) and resuming its activities is to transfer to the Company state-owned enterprises on the basis of which it is planned to establish subsidiaries.

The list of coal mining enterprises (mines) whose property is planned to transfer to the authorized capital of the Company was supposed to be approved by a separate Resolution of the Cabinet of Ministers of Ukraine, the draft of which the Ministry of Energy submitted for stakeholders' consideration in October 2021.

It was planned to transfer a block of PJSC Centerenergo shares from the state to the Company; after that the authorized capital of the Company is to be increased, and the additional share issue is to be paid with the property (single property complexes of subsidiaries and PJSC Centerenergo shares). Subsequently, 100% of the Company's shares are subject to large-scale privatization.

Also, the draft Law "On Reforming the Coal Industry" was registered in the Verkhovna Rada of Ukraine (Reg. No. 6232 dated 28.10.2021). This draft law is aimed at solving the main socio-economic problems of employees of state-owned coal mining enterprises and creating conditions for attracting private investment in the development of these enterprises with their subsequent privatization.

#### **11. Is the environment for developing the ownership and corporate governance system adequate?**

The current environment for developing the ownership and corporate governance system is adequate. The corporate governance system for SOEs is being developed based on OECD Guidelines on Corporate Governance of State-Owned Enterprises.

#### **12. Are bankruptcy and social protection legislation applied to the liquidation of non-viable enterprises? If not systematically, please explain. Do the same bankruptcy rules apply to both private and state-owned enterprise without differences ?**

The same legislation on bankruptcy and social protection applies to the liquidation of private and state-owned enterprises.

### **C. Enterprise and SMEs**



## Policies

**13. Which law(s) set the legal framework for the management and corporate governance of state-owned enterprises (SoE), i.e., non-financial enterprises with commercial business activities that are controlled by a public body? /**

Law “On the management of objects of state property” (<https://zakon.rada.gov.ua/laws/show/185-16#Text>) and Commercial Code of Ukraine (<https://zakon.rada.gov.ua/laws/show/436-15#Text>).

**14. Please provide us with the official definition(s) for SMEs and the relevant legislation which regulates this issue. Indicate if it differs from the EU definition in accordance with Commission Recommendation 2003/361/EC.**

The Commercial Code of Ukraine defines categories of small, medium, and large enterprises in Ukraine. In 2012, these criteria determining the size of economic entities (according to Article 55 of the Commercial Code of Ukraine) were aligned with the European Commission Recommendations 2003/361 / EC of 20 May 2003.

| <i>SME Definition in Ukraine</i> |                      |                       |   |                       |
|----------------------------------|----------------------|-----------------------|---|-----------------------|
|                                  | <i>Micro</i>         | <i>Small</i>          | <i>Medium</i>   | <i>Large</i>          |
|                                  | $\leq 10$ employees  | $\leq 50$ employees   | <i>All enterprises that do not fall into the category of small or large enterprises</i> | $\geq 250$ employees  |
|                                  | $\leq$ EUR 2 million | $\leq$ EUR 10 million |   | $\geq$ EUR 50 million |

**15. What is the share of micro (up to 10 employees), small (up to 50) and medium-sized companies (up to 250 employees) in the economy in terms of GDP, employment, and export? Please indicate which data sources are used. Are methodologies harmonized with EU methodology?**

The Methodology for Checking the Quality of Interrelated Structural Statistics Indicators contains descriptions of the comparability of indicators provided for in Regulation (EC) No. 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics.

When compiling statistics on SMEs, the State Statistics Service of Ukraine uses both the existing legal definition of SMEs and the definition based only on the number of employed persons to ensure comparability with EU countries. At the same time, the range in the number of employees used for compiling statistical indicators fully meet the requirements set by the EU Regulations in the field of enterprise statistics.

|        | Share of total employment, % | Value-added at factor costs, % | Exports of goods by economic entities by the number of hired workers by types of economic activity, % |
|--------|------------------------------|--------------------------------|---|
| Micro  | 19,8                         | 18,7                           | 5,6   |
| Small  | 15,5                         | 15                             | 8,5   |
| Medium | 43                           | 36,5                           | 16,7  |
| Large  | 21,7                         | 29,8                           | 65,2  |

Data from the State Statistics Service of Ukraine as of 2020

**16. Is there a framework policy development paper that defines/includes the approach and policy towards enterprises/SMEs?**

The main principles of SME policy are outlined in the Law of Ukraine “On Development and State Support of Small and Medium-Sized Enterprises in Ukraine” (<https://zakon.rada.gov.ua/laws/show/4618-17#Text>).

**17. Have the authorities developed a specific SME development strategy/action plan? Please describe its status, period, and main points of action. Please provide an overview of basic SME policy documents (policy analysis, strategies, action plans, and regulations). Please briefly explain to what extent policy design and implementation is based on reliable SME statistics, including enterprise level surveys.**

Currently, the key document defining the main objectives of SME policy is the National Economic Strategy for 2030 approved by the Decree of the Cabinet of Ministers of Ukraine No. 179 from March 3, 2021. The main strategic goals in terms of entrepreneurship in general and small and medium-sized enterprises, in particular, are:

- ensuring an effective state business development policy;
- stimulating the development of entrepreneurial culture and competencies;
- creating conditions to make financing of enterprises more accessible;
- creating conditions that make markets more accessible for enterprises;
- stimulating the development of innovations.

Other key documents on SME development policy are:

- Commercial Code of Ukraine (<https://zakon.rada.gov.ua/laws/show/436-15#Text>)
- Law of Ukraine “On Development and State Support of Small and Medium Enterprises in Ukraine” (<https://zakon.rada.gov.ua/laws/show/4618-17#Text>);
- Law of Ukraine “On Principles of State Regulatory Policy in the Sphere of Economic Activity” (<https://zakon.rada.gov.ua/laws/show/1160-15#Text>)

The key strategic goals for SME development are based on key indicators of structural business statistics, namely, the number of SMEs employed, their contribution to value added by production costs, etc. At the same time, a specially created agency aimed at implementing the SME policy,

“Office for Entrepreneurship and Export Development,” conducts regular surveys of small and medium-sized enterprises in the framework of carrying out in the policy for entrepreneurship development in Ukraine.

**18. Who is involved in the design and implementation of SME Policy (ministries, agencies, private sector, stakeholders) and how (including what consultation mechanisms)?**

Currently, Ukrainian institutional framework for supporting SME consists of the following key elements (this list is not exhaustive):

1. Ministry of Economy of Ukraine is responsible for shaping and implementing state policy in the field of business development to ensure that Ukrainian entrepreneurs have access to capital, work in a predictable regulatory environment and have the opportunity to create and develop legal business in Ukraine’s markets.

2. State Regulatory Service of Ukraine is responsible for implementing state regulatory policy, policy on supervision (control) in the field of economic activity, licensing and permitting system; coordination of actions by executive bodies, civil society organizations and entrepreneurship on deregulation of economic activity to prevent the adoption of economically impractical and ineffective regulatory acts.

3. State Institution “Office for Entrepreneurship Development and Export” promotes and supports the development of small and medium-sized enterprises; it also supports and promotes the export of goods, works, and services by Ukrainian producers.

Support for the development of small and medium enterprises is also provided by the Entrepreneurship Development Fund and the Ukrainian Startup Fund. Both function under the auspices of the Ministry of Finance of Ukraine. Business associations such as the *Union of Ukrainian Entrepreneurs* (ukr. *Спілка Українських Підприємців - СУП*) and the *Association of Ukrainian Business Councils* (ukr. *Українська Рада Бізнесу - УРБ*) are also actively involved in SME policy-making.

Additionally, to facilitate constructive cooperation between public authorities and SMEs, the following bodies operate:

1. The Advisory body under the President of Ukraine, Council for the Promotion of Small Business (Decree of the President of Ukraine of 22.12.2020 No. 582/2020), the purpose of which is to promote constructive cooperation between the public authorities and small businesses, their public associations.

Council's activity cover sectoral working groups on specific challenges in entrepreneurship, in particular, working groups on "Dealing with challenges related to state supervision and control of non-food products", "Dealing with challenges as to using registrars of settlement operations and/or software registrars of settlement operations", "Liberalization in the field of labour relations", "Expanding tools to simplify the administration and use of IT technologies in business and in cooperation with authorities", as well as regional working groups to address issues of small and microbusinesses by regional state administrations.

2. Temporary advisory body of the Cabinet of Ministers of Ukraine Commission on Protecting Business and Improving Investment Climate (Resolution of the Cabinet of Ministers of Ukraine of

16.10.2019 No. 902), the main tasks of which is to consider undertakings' appeals on regulations that hinder their activities or violate of their rights.

3. Permanent Advisory Body of the Cabinet of Ministers of Ukraine Business Ombudsman Council (Resolution of the Cabinet of Ministers of Ukraine of 26.11.2014 No. 691) ensures transparency of public authorities, promotes anticorruption measures and prevents unfair (dishonest) behavior in relation to business entities.

4. Temporary advisory body of the Cabinet of Ministers of Ukraine Interdepartmental Working Group on Deregulation of Economic Activity (Decree of the Cabinet of Ministers of Ukraine of 01.09.2021 No. 925) which aims to analyze the situation and causes behind challenges in implementing state regulatory policy aimed at reducing government regulation and simplifying business procedures.

When designing key SME policies, public authorities often conduct a series of meetings with SMEs representatives or conduct online surveys on policy issues. At the same time, individual enterprises or/and business organizations are able to give their comments on the drafts of legal documents during public consultations (this mechanism will be discussed in detail in question 6 and of this Chapter, while the relationships between public authorities and business are discussed in question 37 of this chapter).

**19. Which are the main tools/instruments, programmes, finance for SME Policy? Please estimate the amount of funding made available for SMEs through public authorities and other donors (EU, international/bilateral donors).**

#### **Main tools/instruments, programmes, finance for SME Policy**

In May 2021, the Entrepreneurship and Export Development Office was established under the auspices of the Export Promotion Office of Ukraine. For the first time in Ukraine, an institution responsible for developing and supporting Ukrainian entrepreneurship in domestic and foreign markets has appeared.

In February 2021, the Ministry of Digital Transformation of Ukraine launched a national project on business development, the newly created Entrepreneurship and Export Development Office joined Diia.Business.

The Diia.Business project includes an online and offline component. Online component - website for entrepreneurs Diia.Business - <https://business.diia.gov.ua/>. Offline component - support centers for entrepreneurs Diia.Business in the regions. Before the war broke out in Ukraine, there were 11 centers to support entrepreneurs in the regions.

State programs providing small and medium-sized businesses access to state aid are implemented under the Law "On State Aid to Undertakings". The main programme aimed at enhancing SMEs capabilities as to obtaining finance is state program "Affordable loans at 5-7-9%" managed by the Fund for Entrepreneurship Development. The state program of portfolio guarantees for SMEs is implemented by JSC Ukreximbank. These programs are aimed at facilitating access to finance for SMEs (for more details, see questions 50 and 51).

The state budget for 2021 provided for financing interest compensation on loans through the Program "Affordable loans at 5-7-9%" amounted to 2 UAH billion, in 2022 - 3 UAH billion; the budget of the state guarantee program in 2022 was 10 UAH billion.

According to the 2022 state budget, the overall amount of loans from international financial organizations (IFIs) for developing small and medium-sized businesses was 1.3 billion UAH; at the same time, UAH 50 million is allocated to the startup fund.

**20. Has an evaluation of SME Policy taken place? If so, please provide the main findings and information on discussions and the authorities' feedback/reactions. If not, are any evaluations planned?**

The last SME policy assessment was conducted in 2020 as part of the SME Policy Index: Eastern Partnership 2020 report as a result of joint work by the Organization for Economic Co-operation and Development (OECD), the European Bank for Reconstruction and Development (EBRD) and the European Education Fund (ETF) with financial support from the European Union under the EU4Business initiative. The assessment was performed based on 5 components and considered the Priority reforms outlined in the previous version of the report that was completed in 2016.

The main findings of the study on SME policy in Ukraine were taken from the report and are presented here (the full report can be found at <https://www.oecd-ilibrary.org/sites/d5c2705e-en/index.html?itemId=/content/component/d5c2705e-en>):

| Implementation progress on SME Policy Index 2016 priority reforms – Ukraine  |   |
|--|---|
| Priority reforms outlined in SME Policy Index 2016   | Key reforms implemented so far  |
| <u>Pillar A – Responsive government</u>  |   |
| Prepare and adopt an SME strategy and action plan adapted to Ukraine's context.<br><br>Implement a revamped RIA mechanism, including an SME test<br><br>Deepen and broaden the deregulation agenda with an SME focus | SME strategy was adopted in 2018, and SME Development Office was established in 2018 to support its implementation<br><br>Revision of RIA methodology with the integration of the SME-test; mandatory RIA application<br><br>Rolling review of the regulatory acts in key economic sectors introduced in 2016 |
| <u>Pillar B – Entrepreneurial human capital</u>  |   |

|   |  |
|---|--|
| <p>Ministry of Education to assume a more significant leadership role for entrepreneurial learning; appoint an entrepreneurial learning “ambassador.”</p> <p>Conduct an independent evaluation of the key activities of the School Academy for Entrepreneurship</p> <p>Improve data collection and intelligence on high-potential women entrepreneurs</p> <p>Collect SME skills intelligence through regular surveys and sectoral working groups.</p> | <p>Education reform led by the Ministry of Education included the New Ukrainian School concept based on 10 key competencies, including a “sense of entrepreneurship”</p> <p>The School Academy for Entrepreneurship project has been finalized and evaluated, with the evaluation report serving as the basis for developing the New Ukrainian School concept</p> <p>No systematic data collection system on women entrepreneurs is in place</p> |
| <u>Pillar C – Access to finance</u>   |  |
| <p>Strengthen creditors' rights by allowing them to seize the collateral</p> <p>Set up an online platform for the collateral registry</p> <p>Improve the legal framework for venture capital</p> <p>Introduce an SME guarantee scheme</p>   | <p>Major clean-up and consolidation in the banking sector carried out</p> <p>Registry for security interests over movable assets became more accessible through the integration of online registration and searchability functions</p>   |
| <u>Pillar D – Access to markets</u>   |  |
| <p>Continue to develop systematic market surveillance; adopt the ‘Strategy of Technical Regulation System Development’</p> <p>Consider a new institutional framework and the introduction of export finance and targeted promotion initiatives</p> <p>Promote SME participation in public procurement</p>   | <p>Continued harmonisation with EU standards and transposition of EU technical regulations into national legislation</p> <p>Export Promotion Office and Export Credit Agency established</p> <p>Public procurement mechanism enhanced through the introduction of ProZorro</p>   |
| <u>Pillar E – Innovation and Business Support</u>   |  |
| <p>Support the development of the private BDS market and consider potential public support schemes</p> <p>Introduce regulatory and financial incentives for SME “greening”</p>  | <p>Strategy on development of innovation activity until 2030 approved</p> <p>SME strategy 2020 included actions aimed at increasing SME greening and developing green technologies</p>   |

It is important to note that since the publication of the report, the National Economic Strategy until 2030 has become main strategic document in SME policy-making (replacing the SME Strategy mentioned in the report). At the same time, pending and important measures of the Strategy for Small

and Medium Business Development in Ukraine as well as other current strategic goals of business development policy were incorporated in Section 17 of the National Economic Strategy. Offices for promoting export and development of SMEs were merged into one organization, resulting in the establishment of the state institution ‘Office for the Development of Entrepreneurship and Export’.

**21. Please provide information about what is foreseen for the future regarding SME Policy and what is in the pipeline (plans, blueprints, timetables).**

As it was outlined in questions 17 and 20 of this chapter, the main strategic document in SME policy in Ukraine is the National Economic Strategy for 2030. Because of the war with Russia, the implementation of the strategy is temporarily suspended. Nevertheless, the Ministry of Economy of Ukraine together with the State Regulatory Service and the Office for Entrepreneurship and Export Development initiated drafting of a roadmap for solving critical challenges small and medium-sized enterprises face. Other public authorities as well as business associations are involved in designing measures that can make business activities of SMEs in Ukraine easier during the war and ensure their development afterwards.

**22. Is there a specific legal framework for cooperatives, mutualities and foundations? Please explain**

Yes, in Ukraine there is specific legislation for cooperatives, societies, and foundations - the Law of Ukraine "On Cooperation" and the Law of Ukraine "On Joint Investment Institutions".

The Law of Ukraine “On Cooperation” creates a legislative framework that regulates the economic, social, and other needs of members of cooperative organizations by combining their personal and collective interests, sharing risks, costs and revenues, developing their self-organization, and self-government and self-control.

<https://zakon.rada.gov.ua/laws/show/1087-15#Text>

The Law of Ukraine “On Joint Investment Institutions” (<https://zakon.rada.gov.ua/laws/show/5080-17#Text>) applies to any public relations arising in the field of collective investment. It covers rules on setting up and activity of collective investment entities and guarantees the ownership of securities by collective investment institutions and protection of the rights of participants in collective investment institutions.

**Creating an environment in which entrepreneurs and SMEs can thrive, and entrepreneurship is rewarded:**

**23. Is the European Entrepreneurship Competence Framework known and applied in Ukraine?**

Since 2016, Ukraine has included entrepreneurship as a key competence in the main policy documents governing national education policy at all levels of education.

After 2016, the Government prioritized and supported the concept of the New Ukrainian School (NUS) by adopting the Law of Ukraine “On Education” in September 2017. The Law supports the principles of lifelong learning and key competencies. New educational standards have been developed

to support the implementation of the New Ukrainian School concept, which includes 11 key competencies that are fully in line with the European Framework Program for Key Competences for Lifelong Learning. The EU's Framework Programs for Entrepreneurship and Key Digital Competences EntreComp were used when drafting the new state education standard, the framework curriculum and teacher training programs.

Promoting the culture of entrepreneurship and developing entrepreneurial skills were also part of the Action Plan aimed at supporting the SME Development Strategy 2020.

Currently, stimulating the development of entrepreneurial culture and competencies is one of the strategic goals of entrepreneurship development policy as per Section 17 of the National Economic Strategy until 2030.

**24. Is entrepreneurship in any way taught as a skill or competence in the formal (primary, secondary, university) education or vocational training system? Where appropriate, please indicate whether these are compulsory or optional subjects in the curriculum.**

Entrepreneurship and financial literacy are formed in *general secondary education* institutions in course of developing competencies in entrepreneurship and financial literacy.

Entrepreneurship and financial literacy are key competencies enshrined in the Law of Ukraine "On Education" (Article 12) and can be found in all current curricula for general secondary education. The cross-cutting content line "Entrepreneurship and Financial Literacy" can be implemented within any subject detailed in the curriculum for grades 5-9. The curricula also provide open electronic resources that can be used by teachers to develop entrepreneurship skills, initiative, and financial literacy.

The variable component of the educational process at the level of secondary education is represented by a voluntary course in entrepreneurship and financial literacy for students in 1-11 grades of secondary education which aims to develop competencies required for improving financial and entrepreneurial competencies.

Shaping cross-cutting skills related to the competence of initiative and entrepreneurship is one of the steps towards implementing the provisions of the New Ukrainian School concept and new state standards of general secondary education.

The study of the compulsory subject "Entrepreneurship and Financial Literacy" is provided by the Standard Educational Program for 5-9 grades of general secondary education approved by the order of the Ministry of Education and Science of Ukraine from 19.02.2021 No. 235.

This subject will be studied by 8<sup>th</sup>-grade students of general secondary education institutions from 2025/2026 academic year, and by 9<sup>th</sup>-grade students - from the 2026/2027 academic year.

According to the Law "On Education" at all levels of formal education, including *vocational education and training*, it is mandatory to shape one of the key competencies - "entrepreneurship and financial literacy". State educational standards for specific professions provide for the development of entrepreneurship and financial literacy in certain basic subjects such as "Fundamentals of Entrepreneurship" or in other subjects ("Fundamentals of Law", "Finance and Credit" and others).

As part of the UNDP Project "EU Support to Eastern Ukraine - Rebuilding, Strengthening Peace and Governance" a textbook for the course "Fundamentals of Entrepreneurship" was drawn up and



recommended to be used in vocational education institutions. Also, training firms are established in the vocational education and training (VET) institutions in order to prepare specialists for entrepreneurship.

Career centers are being set up in VET institutions, there are up to 140 of them up to now. The main functions of such a center are arranging support and counseling potential entrants, graduates of educational institutions as to developing professional careers; assistance in building a professional career plan based on the comparison of personal characteristics of the students with the requirements of professional standards, etc.

At the *higher education level*, according to the Law of Ukraine "On Higher Education", 25 % of credits of the educational program are voluntary to be chosen by students at each higher education level. Within this part of credits, HEIs offer such disciplines as "Own business", "Entrepreneurship", "Finance Literacy", "Project management", "Self-management", "Time management" and similar. Most such proposals are implemented at the bachelor's level where students have access to a larger number of entrepreneurial courses. Many higher education institutions also implement additional entrepreneurship education programs for students in a wide range of education fields, including agricultural, computer, engineering, etc.

According to the National Qualifications Framework, which requires the following: level 5 – mastering skills to find creative solutions, level 6 - mastering innovation skills at the level required to solve complex specialized problems and practical problems, for level 7 - problem-solving skills required for research and/or innovation. Accordingly, the higher education standards for almost all professions at the bachelor's level require that general skills of teamwork be mastered, at the master's level – mastering the ability to generate new ideas (creativity) and for many technical, economic and managerial subspecialties, mastering the ability to develop and manage projects based on disciplines and teaching methods that allow acquiring certain entrepreneurial skills in the relevant profession.

To ensure shaping of an innovative culture of entrepreneurship among students, the Ministry of Education and Science of Ukraine together with the NGO "Innovation Partnership Platform" created business clubs in 25 universities. The Ministry of Education and Science of Ukraine holds regular consultations for SMEs, for example, the Information Day for SMEs "Opportunities and challenges of project activities for developing small and medium-sized businesses in the region" in 2018 (EUREKA Information Day) to increase the number of partnerships between higher education institutions and SMEs and the Center for Corporate Social Responsibility organized the annual national forum "Business and Universities".

The network of academic startup incubators "YEP" with the Ministry of Education and Science of Ukraine, the Ministry of Culture of Ukraine, Diia.Business portal, the Ukrainian Startup Fund, Genesis, and the USAID Competitive Economy of Ukraine Program has been implementing the multi-level Entrepreneurship University project since 2020. The initiative aims to create universities with a strong business culture and startup infrastructure in Ukraine. As part of the project, they launched the course "Innovative Entrepreneurship and Startup Project Management" in 76 universities in 29 cities of Ukraine and more than 2,000 students are students of the course.

**25. Regarding university-level education on entrepreneurship in Ukraine: are there any specific courses and academic titles on entrepreneurship, i.e., can an entrepreneurship degree be obtained as the ultimate objective of the course in question? Is Ukraine participating in any**

**wider network in Europe which promotes capacity building of educational institutions in the field of entrepreneurial competitiveness such as EntreComp Europe68, EntreComp 36069 and the European Foundation for Entrepreneurships Research?**

There is a specific academic title on entrepreneurship in Ukraine. Specifically, profession 076 "Entrepreneurship, Trade and Exchange" can be obtained at four levels of higher education – Junior Bachelor's, Bachelor's, Master's, and PhD programs. The main skill that could be obtained via these programs is the ability to solve complex specialized tasks and problems in the areas of business, trade, and exchange activities or in the learning process that involves applying theories and methods of arranging and operations of business, trade, exchange structures characterized by complexity and uncertainty. According to the standard of higher education for this profession, among compulsory hard skills are the ability to apply innovative approaches in the operations of business, trade and exchange structures, the ability to plan business, assess market conditions and performance, ability to arrange foreign economic activity, ability to engage in market participants' interaction etc.

For 2021-2022 academic year, 70 HEIs in Ukraine offer respective educational programs for bachelor's degree, 56 HEIs do the same for master's degree, and 4 HEIs do the same for junior bachelor's degree.

On September 13, 2021, a new wave of startup activity was launched in the HEIs "Entrepreneurship University". This academic year in 85 HEIs the discipline "Innovative Entrepreneurship and Startup Project Management" is taught.

The National Qualifications Framework fully complies with Qualifications Framework of the European Higher Education Area criteria and procedures. Nevertheless, Ukraine has no evidence of formal participation in EntreComp Europe or EntreComp 360 yet. At the same time, Ukraine takes part in EU program "Competitiveness of Small and Medium Enterprises" (COSME), the Ministry of Economy and the Ministry of Education and Science of Ukraine participate in implementing the EU Horizon 2020 program, which includes the "Small and Medium-sized Enterprises" direction.

**26. Outside of the remit of formal education and training, are there any other initiatives to stimulate entrepreneurship (using media, events, local partners, significant initiatives of companies themselves etc.) including women's entrepreneurship, support to immigrants who wish to become entrepreneurs and support for business transfers?**

Within the Diia.Business project — national project for the entrepreneurship and exports development implemented by the state institution 'Entrepreneurship and Export Promotion Office' (EEPO) together with the Ministry of Digital Transformation of Ukraine, the following are available:

- For beginners, on Diia.Business portal there are 100+ business ideas available to start own business in various areas: beauty and health, agriculture, tourism, education, medicine, retail, workshops, gastronomy, IT and telecom, sports, photo and video services, architecture and construction, energy. The section provides an online test for the prospective entrepreneur; after testing such a person receives step-by-step instructions with detailed information about the permits required to register a business in a particular region of Ukraine. In addition, each business idea has a list of useful templates of documents for starting a business, such as: business plan, marketing and sales strategy, financial plan, etc.

- On Diia.Business portal operates the National online school for entrepreneurs and business beginners since 2020 — till now. 13 free online courses within the National online school are available for entrepreneurs:

- 1) 10 steps to start own business
- 2) Financial literacy for entrepreneurs
- 3) Start a business. Food Industry
- 4) Start a business. Sphere of technologies
- 5) Start a business. Pottery Manufacturing
- 6) Start a business. Textile Manufacturing
- 7) Start a business. Creative industry
- 8) Business in the agricultural sector Grow up: Agro
- 9) Boost with Facebook Bootcamp social media promotion course
- 10) Moving business processes online
- 11) Electronic document flow for entrepreneurs
- 12) Business: Sustainable development
- 13) Marathon for entrepreneurs on finance, marketing, online promotion and other topics

- The total number of users who started studying in the free online school — 13,600+ people.

- Since 2020, Diia.Business project provides free consultations by experienced experts for entrepreneurs, business beginners and start-ups. Throughout the two years (2020 — end of 2021) of providing consultations, there were available 70+ topics of consultations on taxation, legal support, search for financing, accounting, marketing, sales, certification, electronic auctions, psychological support, etc. Since the war broke out in Ukraine, entrepreneurs and business beginners have access to 25+ topics of consultations on business planning, business processes systematization, taxation, financial issues, legal support and marketing, etc. Topics are constantly expanding. The total number of 6,500+ free consultations was provided.

- More than 220+ free opportunities and online services for both beginners and experienced entrepreneurs are available in a single online catalog on Diia.Business.

- Marketplace of financial opportunities is a separate section on Diia.Business with interactive search for financial opportunities for SMEs at the local, regional, national levels for business support and development.

- On Diia.Business entrepreneurs can assess their business online using a self-test tool. Self-testing is available for entrepreneurs to assess personal data protection. Depending on the answers, the system will be able to assess how well the business is doing and provide specific recommendations by experts. The self-test is done anonymously or it is possible to save the results in the user's personal account after authorization.

- Free initiatives, support programs, breaking news and innovations for all types of business, start-ups, business beginners (including IDPs, women, veterans and other vulnerable groups seeking

to start their own business or develop an existing business) are published in case and news section on Diia.Business on a daily basis.

- Also, on the portal there is a section for starting and developing women's business where prospective female entrepreneurs and female entrepreneurs of today can find the necessary information on extra funding, women's business support programs, initiatives from all over Ukraine, training programs, authorities, public organizations, national and international funds to support women's entrepreneurship, etc.

The Diia.Business project provides free specialized online webinars on various topics. These webinars are broadcast on Diia.Business Facebook or Instagram pages. The recordings of webinars are available on record in a speedy fashion, helping entrepreneurs continue to develop their business. Webinars on the following topics are available:

- a) Effective entrepreneurs. A series of practical webinars from the Edinburgh Business School and the House of Knowledge (over 10,000 views)
- b) Sports industry: from amateur sportsman to business owner (over 6,700 views)
- c) Basics of using Facebook and Instagram for online business development (over 8,000 views)
- d) Effective managers. A series of broadcasts of the Academy DTEK (over 14,000 views)
- e) Internet marketing for entrepreneurs. Practical webinars of Diia.Business and Netpeak (over 17,300 views)
- f) Internet breakthrough: how to make your business profitable (over 15,300 views)
- g) Checking business partners. YouControl Webinars (over 7,400 views)
- h) Why register a trademark (over 1,200 views)
- i) Time management. Webinars of Diia.Business and BogushTime (over 3,600 views)
- j) Customer research. Webinar of Diia.Business, EEPO and YouControl (over 2,100 views)
- k) Educational Program: Business Says. Where and how to communicate during the war. Program will be launched on 18th of April 2022.

Totally, webinars have over 85,600 views. All webinars can be viewed on Diia.Business Facebook.

During 2020 — end of 2021 on the basis of 11 offline business support centers Diia.Business provided educational activities for entrepreneurs: lectures, workshops, long-term training programs and practical intensives in various businesses. These activities were created for:

- a) preschoolers, schoolchildren in order to develop entrepreneurship;
- b) students and young professionals in order to introduce entrepreneurship and provide support at the first steps of starting one's own business;
- c) entrepreneurs of micro, small and medium-sized companies in order to improve operations;
- d) professionals in the fields of financial management, marketing, sales, fundraising, exports, investments;
- e) veteran entrepreneurs;
- f) women entrepreneurs.

In total, 2,200+ online and offline educational events were held for entrepreneurs and business beginners and startups in offline business support centers Diia.Business. More than 24,300+ visitors attended these events.

EEPO has implemented a number of key long-term programmes for SMEs in 2021:

1. Export Academy. Trainers - program that supports Ukrainian business advisors to set up a training program in the field of export for SME (lasting 3 months) + implementation of created training program Export Academy for SME (lasting 6 months). The program for SME is dedicated to finding a suitable export market, creating an export strategy, adapting the product, price, and service for the export market, managing logistics and legal aspects of export, building an export brand, selling and digital marketing, information on how to find partners in the export market and create long-lasting beneficial relationships, managing risks and finances in export.

2. Service Export Ukraine (two formats: with mentor and self-education) - educational program for service companies. Program provides a comprehensive and systematic understanding of what constitutes export activities of the enterprise in the field of services, how to start exporting or intensifying their export activities, helps to develop effective business process management skills, international marketing, quality, and finance (lasting 8 months).

3. EXPORT EVOLUTION IT (two formats: with mentor and self-education) - an educational program for IT companies in Ukraine which allows to improve the development of SME exports, improve international sales and management of international projects skills or export the company's services and products if it only in the initial stage (lasting 8 months).

4. Train the Trainers 2.0 - intensive training program that helps participants among consultants to create their own consulting company or start individual consulting activities in the field of export (lasting 8 months).

## **27. Please describe the business incubators strategy and progress achieved so far**

Creating a national network of innovation business incubators (IBI) according to European Network of Business and Innovation Centers (EBN) standards as an instrument for developing SMEs is outlined in Section 17 of the National Economic Strategy 2030. As a result, it is expected that small and medium-sized enterprises will be able to receive services to support their business through a network of innovative business incubators. The following is planned to be accomplished after policy implementation:

- Increase the competitiveness of Ukrainian companies in the EU and Ukraine markets by participating in the European network of innovative business centers;

- Establish support programs for starting their own business by vulnerable groups in the labor market through a network of state business incubators, business accelerators and employment centers.

- During the initial implementation the following steps are to be accomplished:

- Opening pilot barrier-free business incubator in Bakhmut, Donetsk region;

- 10 inclusive entrepreneurs received investment support for their projects;

- The business plan of developing a network of barrier-free business incubators in 9 cities of Ukraine is developed;

- Events and presentations dedicated to the network of barrier-free business incubators were held in 9 cities of Ukraine.

**28. Are there any advisory/mentoring services for companies in financial difficulties to help them identify problems and implement the rectifying measures to prevent insolvency?**

In Ukraine, there are no programs aimed at consulting businesses experiencing financial difficulties funded by the state. However, businesses can turn to private companies that provide financial consulting services in the Ukrainian market.

**29. Are there any measures that discriminate against entrepreneurs who have undergone bankruptcy in a previous venture? If so, in which areas (access to public procurement, access to bank loans, access to public funds, access to public support programmes)?**

Those measures are stipulated in respect of individuals who are declared bankrupt (art. 135 Code of Ukraine on Bankruptcy Procedures):

1. Insolvency proceedings may not be opened via submitting an application within five years after an individual has been declared a bankrupt unless a debtor has not repaid all debts in full in the manner prescribed hereby.
2. Within five years after an individual has been declared a bankrupt, before concluding loan, credit, surety or pledge agreements, such a person shall be obliged to notify the other parties to such agreements in writing of the fact of his/her insolvency.
3. An individual cannot be considered to have an impeccable business reputation for three years after being declared a bankrupt.

Measures against legal entities are not stipulated as the legal entity is liquidated as a result of the bankruptcy procedure.

No discriminatory measures are applied against officials of enterprises that have been declared bankrupt.

**30. Do prohibitions or limitations apply to bankrupt entrepreneurs after the bankruptcy procedure has been finalized? If so, which ones and for how long?**

No such measures exist. See question 29 on this topic.

**31. Are there any policies and programmes in place to promote a fresh start for non-fraudulent entrepreneurs who have gone bankrupt?**

Currently there are no specifically designed policies and programs in Ukraine that support bankrupt entrepreneurs seeking to start a new business. However, such entrepreneurs can apply to the State Employment Service to receive a one-time payment for starting a business. To receive such assistance, an unemployed entrepreneur must undergo a state-paid training course and defend a business plan. If the business plan is approved by the Commission, the applicant will receive the aid.

**32. Is there any target time to complete all legal procedures to wind up the business in the case of a non-fraudulent bankruptcy? What is the average time of discharge from debts? Is it a complete or a partial discharge?**

According to Art. 58 of the Bankruptcy Code of Ukraine, after taking a decision on bankruptcy of the debtor, the court determines the period during which the liquidator must carry out liquidation, which must not exceed 12 months.

According to the Doing Business 2020 country report, on average, the full duration of bankruptcy proceedings (in full, up to full completion) lasts 3 years in Ukraine.

**Designing rules according to the think small first principle and simplifying the regulatory environment:**

**33. Have the effects of the legislation on the business environment, in particular for small enterprises, been evaluated? If not, is there any plan to launch such an evaluation?**

In 2016, the Government introduced a systematic review of regulatory legal acts (hereinafter - Rolling Review) in 5 sectors of the economy, namely: agriculture and food safety, construction, energy, transport and infrastructure, information technology and telecommunications.

Rolling Review is a review of market regulation aimed at improving their efficiency. Rolling Review was carried out according to the following principles:

- "cleaning up" the regulatory framework from regulation that does not comply with the principles of regulatory policy (in particular, expediency, adequacy, efficiency, balance, legality);
- assessing the quality of market regulation with due regard to the experience of previous decision-making for drafting new regulations;
- preparing recommendations for systematic improvement of regulation;
- practical implementation of the interaction of the state (regulators), business and society, which will make business more involved in regulating its activities.

The analysis of the impact of legislation on SMEs activities was not a mandatory element of the systematic revision of regulatory legal acts. However, where necessary, it included a review of the impact of regulations on small and medium-sized enterprises. At present, the Government has no plans to conduct a separate study of the legislation to identify its impact on the activities of SMEs. The main findings of the Rolling Review can be found on the website of Better Regulation Delivery Office (BRDO), an agency responsible for the review.

**34. What procedures are in place to assess the impact of new legislation on business? Please elaborate on the assessment of the informal economy amongst micro SMEs and are any measures envisaged to tackle this issue, if significant?**

In course of drafting each regulatory act and before introducing any regulation as to business, a regulatory impact assessment (hereinafter - RIA) is prepared.

When drawing up RIA, the quantity and size of enterprises that will be impacted by new regulation is estimated. If the regulation applies to the small or micro-business sector in the total

amount exceeding 10 percent, there must be calculated the costs of implementing state regulation for small businesses in accordance with the Methodology of Regulatory Impact Analysis (Small Business Test, hereinafter - S-Test).

S-Test was designed and implemented in Ukraine to meet the requirements of the Association Agreement between Ukraine and the European Union (Article 378) and the Association Agenda between Ukraine and the EU to prepare and facilitate the implementation of the Association Agreement (paragraph 7.7). European legislation on SMEs, in particular the Small Business Act Think Small First.

S-Test was introduced in Ukraine by the Decree of the Cabinet of Ministers of Ukraine of No. 1151 from 16.12.2015 " (<https://zakon.rada.gov.ua/laws/show/308-2004-%D0%BF#Text>)

At the first stage of the S-Test, the public body drafting the regulatory act consults with business associations - representatives of small businesses that are covered by respective regulation to:

- a) clearly assess the regulation from the point of view of the small business;
- b) clarify the procedures to be undertaken by small businesses to comply with new regulation;
- c) gather preliminary information and data on costs that business will incur while complying with regulation;

Conducted consultations must be verified through gathering written statements from business associations representing SME that are covered by the regulation.

At the next stage of the S-Test, the public body estimates the quantity of the small and micro enterprises that will be impacted by new regulation, their share in GDP and employment.

At the third stage of the S-Test, the public body drafting the regulation estimates:

- a) the direct and administrative costs that small business will incur while complying with the regulation;
- b) costs that the regulatory authority bears while supervising compliance with the regulation.

The calculation is made for the first year of regulation and the corresponding calculations for a period of five years.

According to the findings of the calculation of components a), b) and c), the total cost of regulation is determined. Based on the analysis of the amount of the total cost of regulation, the public body decides to design mitigating (corrective) regulatory measures for small businesses.

### **Assessment of the informal economy amongst micro SMEs**

The assessment of the informal economy in Ukraine is carried out on a regular basis (<https://me.gov.ua/Documents/List?lang=uk-UA&id=e384c5a7-6533-4ab6-b56f-50e5243eb15a&tag=TendentsiiTinovoiEkonomiki>). At the same time, this assessment is not specifically targeted at micro businesses and estimates informal activities in the institutional sectors of the economy. Nevertheless, we can draw certain conclusions from the data knowing that 43% of micro businesses in Ukraine are working in “wholesale and retail trade; repair of motor vehicles and motorcycles” according to 2020 data by State Statistical Service of Ukraine. The latest estimates of Ministry of Economy of Ukraine as to informal economy show that there has been a decline in informal economy in the wholesale and retail trade (by 7 percentage points to 19%, respectively), which was an consequence of a significant reduction in losses of foreign trade enterprises (by 68.0%



to 12.5 billion UAH in January-September 2021) given active development of the retail market segment in terms of stimulating consumer demand, ensured, inter alia, by raising social standards and transfers from abroad, as well as growth in consumer lending. The latest policy development in combating informal economy of Ukraine was introducing the requirement to have fiscal cash register installed for private-person entrepreneurs (this legal form of enterprise is most preferable among micro businesses). This norm (introduced by the Law of Ukraine "On Amending the Tax Code of Ukraine as to de-shadowing payments in the field of trade and services") enables the State Tax Service of Ukraine to effectively track and thus reduce the level of informal economy amongst micro SMEs.

### **35. What measures has Ukraine taken to adopt user-friendly administrative documents?**

#### **General provisions**

Legal principles of exercise of rights, freedoms and legitimate interests of individuals and legal entities in the field of administrative services are determined by the Law of Ukraine "On Administrative Services" (<https://zakon.rada.gov.ua/laws/show/5203-17#Text>).

Principles of providing electronic public services, public services, complex electronic public services, automatic mode of providing electronic public services are determined by the Law of Ukraine "On Peculiarities of Providing Public (Electronic Public) Services" <https://zakon.rada.gov.ua/laws/show/1689-20#Text>.

Recently, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Administrative Procedure" ([http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=68834](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68834)).

The Law "On Administrative Procedure" stipulates that administrative services are provided by the entities providing administrative services directly or through administrative services centers.

Electronic administrative services can be received through the Unified State Web Portal of electronic services. The procedure and requirements for integrating information systems of state authorities and local self-government bodies into the Unified State Web Portal of Electronic Services (Diia Portal) are approved by the central executive body which ensures shaping state policy in the field of administrative services.

Administrative service centers and entities providing administrative services in cases provided by Law as well as at the request of the applicants ensure drafting application electronically, its printing and providing the applicant with its verification and signing. It is prohibited to require the applicant to provide documents or information not provided by Law.

The Law of Ukraine "On the List of Permitting Documents in the Sphere of Economic Activity" <https://zakon.rada.gov.ua/laws/show/3392-17#Text> approved the list of permissive documents in the field of economic activity which contains 83 documents which must be obtained according to law. The law also prohibits undertakings from requiring documents of a permissive nature not included in the List approved by this Law.

According to regulators, as of today:

- it is possible to receive 9 types documents in electronically;

- for 23 types of documents, the arrangements are being made to have them made electronically;
- for 14 types of documents, there are now no legal grounds for applicants to get them electronically.

### **Digitalization of administrative services**

Development and support of accessible and transparent, secure, least expensive, fast electronic services is one of the priorities of the Government of Ukraine. Digitization of administrative services makes it possible to improve the quality of public services to individuals and legal entities, increase their mobility and competitiveness, and reduce corruption risks. For this purpose, a number of normative legal acts were adopted, including, in particular, the Law of Ukraine of July 15, 2021 No. 1689-IX "On the peculiarities of the provision of public (electronic public) services". The Law defines the principles of providing electronic public services, public services, integrated electronic public services, automatic provision of electronic public services. The document also defines the features for providing such services, the procedure for obtaining and specifics of recording the outcomes of providing such services.

Along with adopting the necessary legislative acts, the decision of creating a unique e-platform – Diia has been made. Diia is an ecosystem bringing together most of the services provided by the government and making them easily accessible online in one place via Diia mobile app and a web portal. Diia ecosystem also includes theme blocks on small and medium-sized business support (Diia Business), administrative services (Diia website and Diia application). The Unified State Web Portal of Electronic Services (hereinafter - Diia Portal) has introduced several electronic services for entrepreneurs, including services for individual private entrepreneurs and limited liability companies. Construction services have also been simplified. The display of documents in the mobile application of the Diia Portal (hereinafter - Diia app) should be also mentioned: e-passport, international e-passport, digital taxpayer code. Diia app provides a service for private entrepreneurs allowing them to monitor, create and submit their tax declarations as well as pay their taxes right in the Diia app.

### **36. Are there any rules in place, which allow for SMEs to be exempted from certain regulatory obligations? Is Ukraine considering any measures to allow for such exemption?**

In Ukraine, regulatory rules apply equally to all businesses. There are no exceptions to the regulatory rules for small and medium-sized enterprises and the Government does not consider such instruments. At the same time, there are simplified procedures for small businesses, including registration and termination, as well as a simplified taxation system.

### **37. How many organizations representing SMEs exist at the national level? List the main organizations and provide information on their coverage. Is their participation in the policymaking process established? Is it formalized by law or any other means? Please mention a practice in this area (e.g. quote a consultative body/advisory council, etc.)**

There are at least 400 active business organizations (while overall there are more than 4000 registered business organizations) in Ukraine, with more than 75% of these organizations being sectoral (according to an UNDP analysis in 2021 supported by the Ministry of Economy of Ukraine). Due to that fact, business organizations are mostly involved in policy making on the basis of their economic activity. Business organizations are involved in policy-making while drafting key

regulations (for example, strategic documents for industries) or regulations covering small enterprises (see question 34 of this Chapter). They are involved in policy making usually at two initial stages of the policy cycle: defining challenges and shaping policies.

The most vocal SME business organizations in Ukraine are the *Union of Ukrainian Entrepreneurs* (ukr. *Спілка Українських Підприємців - СУП*) and the *Association of Ukrainian Business Councils* (ukr. *Українська Рада Бізнесу - УРБ*)

The mechanism is legally stipulated by Decree of the Cabinet of Ministers of Ukraine No. 996 of November 3, 2010 ([https://zakon.rada.gov.ua/laws/show/996-2010 -% D0% BF # Text](https://zakon.rada.gov.ua/laws/show/996-2010-%D0%BF%20%23%20Text)) which determines the mechanism of public consultations on the policy shaping and policy making by the Government of Ukraine. According to this procedure, the executive authorities are obliged to hold public consultations on draft regulations, if the latter:

- relate to regulatory activities in a particular area;
- determine strategic goals, priorities and tasks in the relevant field of public administration (including projects of state and regional programs of economic, social and cultural development, decisions on their implementation);

While the Law of Ukraine No. 1160-IV "On the Principles of State Regulatory Policy in the Sphere of Economic Activity" of September 11, 2003 outlines particular activities in which members of the general public may exercise the right. The Law (Article 6) gives rights to citizens, business entities, their associations, scientific institutions, and advisory bodies to:

- in cases provided by law, participate in drafting regulatory acts;
- submit proposals to regulatory bodies on the need to draft regulatory acts and review them;
- 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 drafting regulatory impact analysis, expert evaluations of the regulatory impact and implementation of measures that allows monitoring of the effectiveness of regulatory acts;
- independently prepare the regulatory impact analysis (see question 34) of draft regulatory acts drafted by authorities, monitor the effectiveness of regulatory acts, submit comments and suggestions on the findings of this activity to the authorities or bodies that decide on the need to modify specific regulatory acts.
- to receive the information on their regulatory activities from regulatory bodies in response to appeals submitted in the manner prescribed by law

Under the requirements of Article 9 of Law No. 1160, each draft regulatory act is published with a view to obtaining comments and suggestions from individuals and legal entities, their associations. All comments and suggestions on the draft regulatory act and the relevant regulatory impact analysis received within the prescribed period (not more than three and not less than one month) are subject to mandatory consideration by the public body that drafted this project. As a result of this review, the public body fully or partially considers the comments and suggestions received or reasonably rejects them.

As a result, business organizations, as members of the public, are involved in the discussion of key regulations related to decisions affecting the economic activities. At the same time, the

Government regularly involves representatives of business associations in shaping and implementing public policy. The practice of business associations submitting appeals to executive bodies is also widespread. In addition, public authorities involved in policy making often sign memorandum of cooperation with individual business organizations. For example, *the Association of Ukrainian Business Councils* (ukr. *Українська Рада Бізнесу - УРБ*), the union 98 individual business association that represents interests of SMEs, signed a Memorandum of Understanding and Cooperation with the Ministry of Economy of Ukraine in 2019.

**Making public administrations responsive to SME needs, notably by promoting e-Government and one-stop-shop solutions:**

**38. Please provide the total number of procedures and minimum time and costs (in euro) required to effectively register a new company and fulfill all formal requirements to effectively start a business. Please distinguish between registration in the narrow sense and other formal procedures and licensing/permits. Describe which administrations are responsible for the different steps, both at central and local level.**

The speed of registering the enterprise and the number of steps required for this will differ depending on the type of registration of the enterprise - a legal entity or a private entrepreneur. Registration of a private entrepreneur consists of two steps and takes 2 working days:

- State registration of a private entrepreneur is carried out by the state registrar which may be the Ministry of Justice of Ukraine, a notary and a state, private enforcement officer, for example, in the administrative services center; the legislative deadline for state registrar response 24 hours after submission of documents to the state registration, except weekends and holidays; this service is available online and can be obtained online at the web portal of state services Diia in few hours. The service is free of charge.

- Second step is opening a bank account that takes one day. Several banks now offer online registration of bank accounts. The service is free of charge.

Registration of a limited liability company, the most popular form of registration of a legal entity in Ukraine, consists of the following stages:

- State registration of a legal entity, the procedure is identical to the registration of a private entrepreneur, the legal deadline for response by the state registrar is also 24 hours. The service can be obtained online and is free of charge.

- Second step is opening a bank account that takes one day. Online service is being tested. The service is free of charge.

- Register VAT at the State Tax Authority and obtain a VAT number if necessary; may be carried out simultaneously with the state registration of a legal entity or separately, if necessary, later on online through the online system of State Tax Service of Ukraine or in the regional offices of the state tax service.

- Registration of employees in the regional offices of the state tax service, the procedure is carried out exclusively online and takes no more than a few hours.

It is worth noting that the list of steps provided in this questionnaire differs from the data presented by the Doing Business 2020 report, since the World Bank did not have time to reflect the

latest regulatory changes in the process of business registration in Ukraine. Namely, obligation to notarize a specimen signature card in order to open a bank account was eliminated, while the registration as VAT taxpayer became available while registering the company.

**39. Can all or part of the process be undertaken through a single one stop shop? Please specify which steps have been unified and can be made through a single one stop shop.**

Currently, state registration in and obtaining the status of a VAT payer in Ukraine can be done simultaneously when submitting documents to the state registrar both offline and online. However, it is not yet possible to complete all the necessary procedures for starting a business through a single one stop shop.

**40. Can all or part of the process be undertaken through online procedures? Please specify which steps, if any, can be made through direct online procedures.**

State registration of a limited liability company and a private entrepreneur may be carried out online as well as registration as a VAT payer. Registration of employees in regional offices of the state tax service is carried out exclusively online. Online opening of a bank account is still being tested by banks.

**41. Is there obligatory membership of Chambers of Commerce in Ukraine? If yes, what is the membership fee?**

No, membership in the Chamber of Commerce and Industry of Ukraine is not mandatory for enterprises.

**42. Are there any policies in place to reduce the obligation of micro-businesses to participate in statistical surveys? Is there an option for online reporting of enterprise statistics? Are there linkages between the public administration databases (e.g., company registration office/business register), tax administration, social security, labor administration) to avoid/reduce SMEs repetitive submission of (the same) information?**

**Are there any policies in place to reduce the obligation of micro-businesses to participate in statistical surveys? Is there an option for online reporting of enterprise statistics?**

In 2019, the Decree of the Cabinet of Ministers approved the Development of State Statistics Program until 2023. This program is a key document in policy aimed at reducing the reporting burden on respondents. The latter is accomplished by using administrative data and registers in order to compile statistical surveys, as well as selective methods of statistical observations, introduction of integrated reporting forms, application of modeling methods in processing statistical data and modern data collection technologies. Statistical reporting is provided exclusively online.

**Are there linkages between the public administration databases (e.g., company registration office/business register), tax administration, social security, labor administration) to avoid/reduce SMEs repetitive submission of (the same) information?**

Yes, there is interaction between the databases of the State Tax Service and other social funds (Pension Fund, Social Insurance Fund, etc.).

When registering a company, documents are submitted to the "single stop-shop" (at the choice of the company - state registrar, notary, online on the portal Diia) after entering information about the company in the Unified State Register of Legal Entities and Individual Entrepreneurs, data is transferred to the state tax service and all social funds, the State Statistics Service automatically, without the need for the company to undergo additional registration procedures in other bodies.

In further reporting, the State Tax Service is, in fact, the "single stop-shop" for reporting to the social insurance fund, pension fund, and partly as to statistical reporting. Some forms of statistical reporting of the company must be submitted separately to the State Statistics Service. Since 2020, the State Statistics Service has begun an active transition to administrative data, cooperating with other government bodies and experts. In total, enterprises (regardless of size) had to submit about 110 statistical reporting forms in different areas. As a result of work on the State Statistics Service, receiving information from other authorities 12 forms of statistical reporting were abolished, while 10 forms were simplified or frequency of their submission was changed.

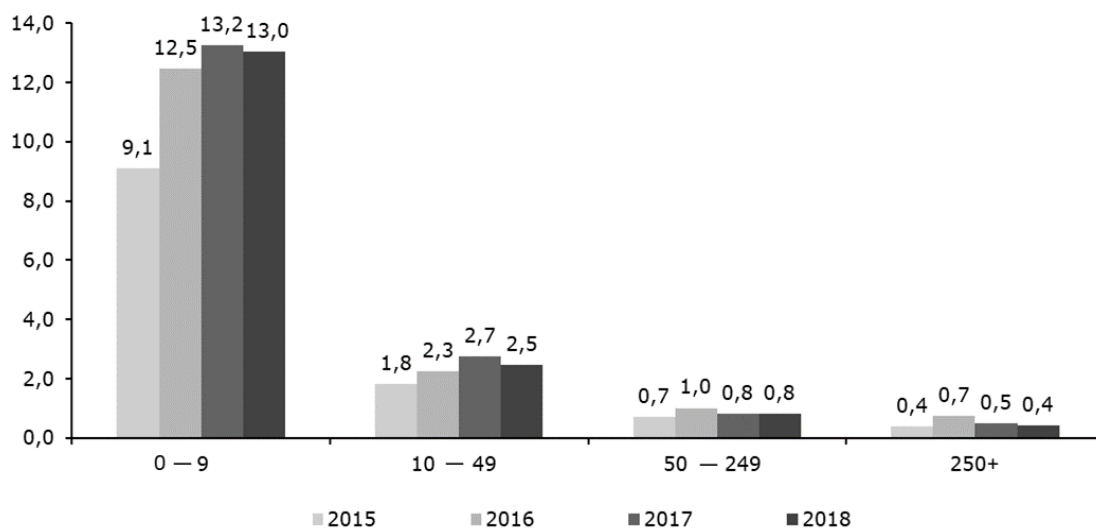
| Participation of micro-enterprises (with an average number of employees from 0 to 9 people) in state statistical surveys in 2020-2021, thousand units |       |       |
|---|-------|-------|
|   | 2020  | 2021  |
| Number of micro-enterprises that submit statistical reports (separately from financial)   | 186,8 | 140,3 |
| The average number of forms to be submitted by micro-enterprises  | 2,0   | 1,8   |
| Change in the number of micro-enterprises that submit statistical reports (separately from financial)<br>(in% to the previous year)                   | -8,1  | -24,9 |

**43. Please provide information on net SMEs creation rate and SMEs survival trend over the past 3 years. Please describe very briefly which (if any) measures Ukraine has introduced to ensure the effective survival of newly established companies/start-ups. Have these measures had measurable results, please provide data**

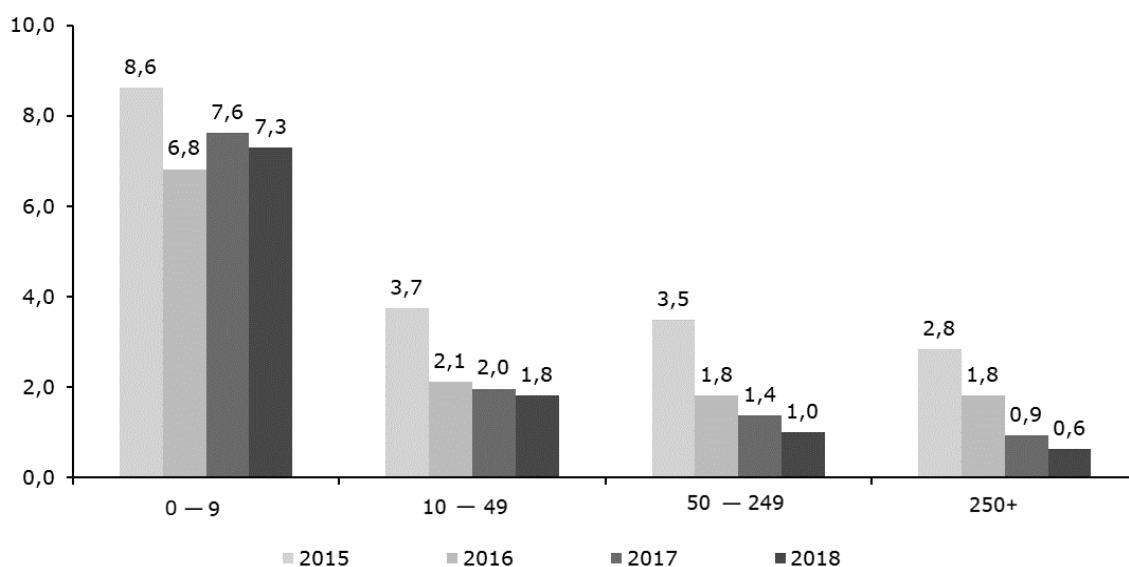
**Information on net SMEs creation rate and SMEs survival trend over the past 3 years**

According to the current statistical methodology, drawing up and publication of indicators of enterprise demographic statistics is done 30 months after the reporting year. Therefore, the last reporting year for which the indicators were calculated is 2018.

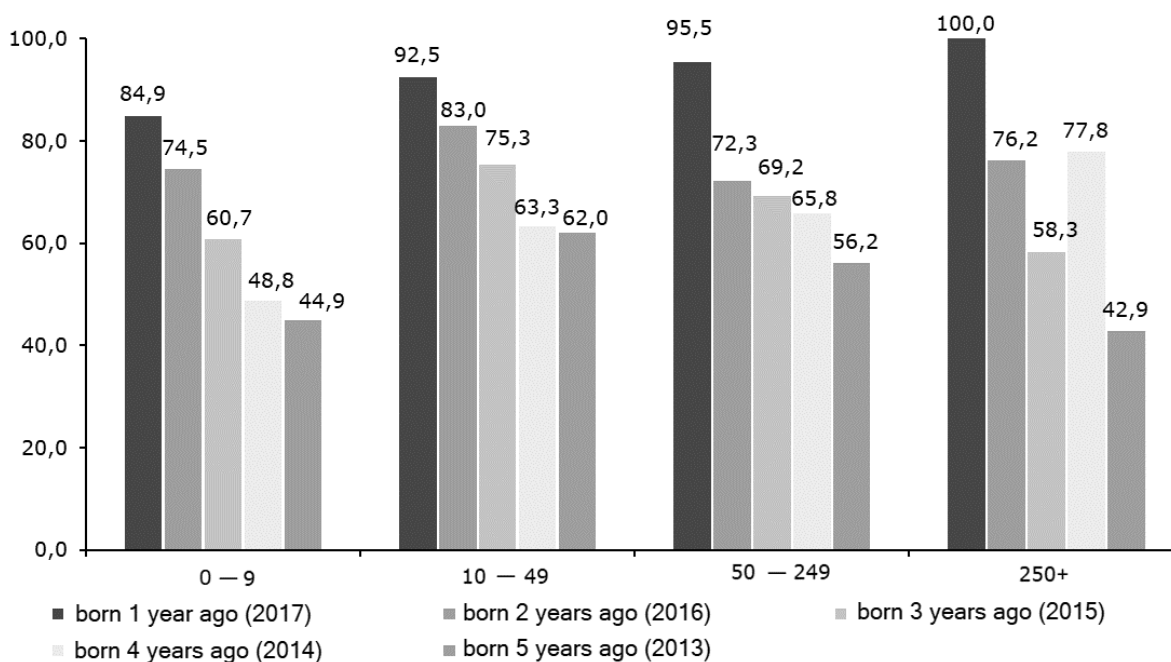
**Share of enterprises born by number of employees in the total number of active enterprises of the corresponding group in 2015–2018 (as a percentage)**



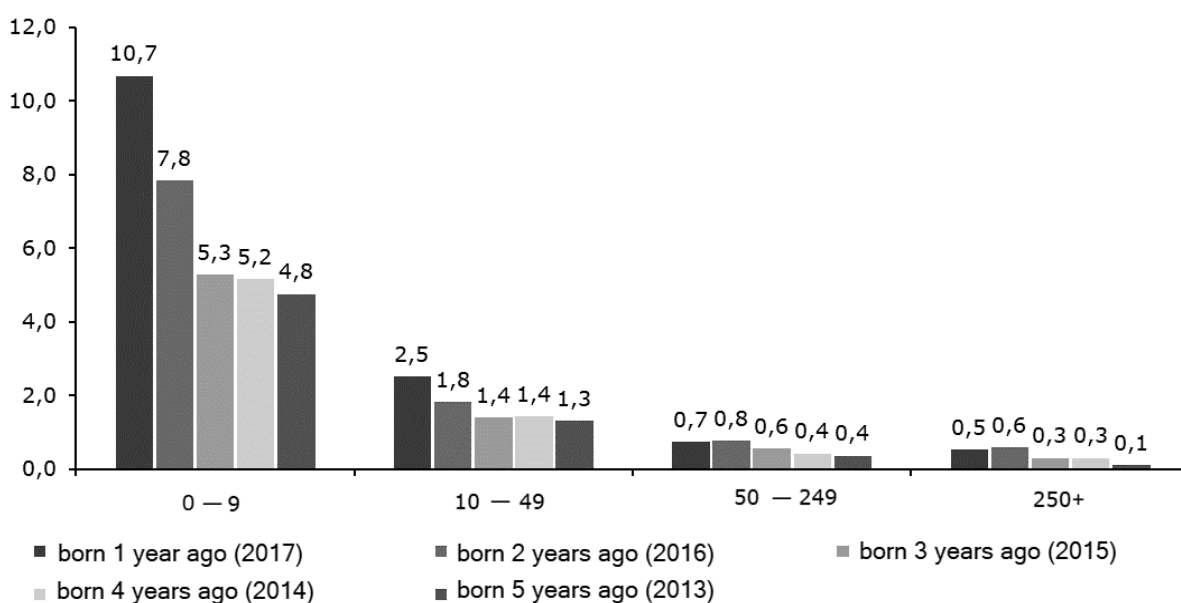
**Share of dead enterprises by number of employees in the total number of active enterprises of the corresponding group in 2015–2018 (as a percentage)**



**Survival rate of enterprises born 1–5 years ago in 2018 by the number of employees (as a percentage of the total number of enterprises born in the corresponding group)**



**The share of enterprises born 1–5 years ago that survived in 2018 by the number of employees in the total number of active enterprises of the corresponding group in 2018 (as a percentage)**



### **Measures Ukraine has introduced to ensure effective survival of newly established companies/start-ups**

The State Employment Service is a centralized system of state institutions the activities of which are directed and coordinated by the Ministry of Economy of Ukraine. The institution was established in 1990. Involving the unemployed in arranging entrepreneurial activity is one of the forms of support for the unemployed carried out by this institution if there is no suitable employment in the labor market. Employment of the unemployed (who are registered at the State Employment Service) by engaging in entrepreneurial activity involves a one-time payment of unemployment benefits after the state registration of a legal entity or individual entrepreneur. In addition, the institution provides:



- information seminars on entrepreneur activities;
- individual specialized consultations by specialists of the employment center;
- involvement of the unemployed in seminars on the basics of entrepreneurship;
- drawing up a business plan, both as a part of professional training and independently.

Since 2018, the Ukrainian Startup Found (USF) has been operating in Ukraine. It is the state fund initiated by the Cabinet of Ministers of Ukraine. The fund's mission is to promote the creation and development of technology startups in the early stages (pre-seed and seed) in order to increase their global competitiveness. Startups are provided with assistance in the form of grants; grant competitions are held on a regular basis. The process of selecting startups for grants is competitive: companies are evaluated and selected by a board of independent investment experts.

The fund provides financial support from the state budget in the form of grants for startups in the early stages of their development (pre-seed and seed) totaling \$25,000 at the pre-seed stage and \$50,000 at the seed stage. Thus, one startup that grows can get a total of up to \$75,000. It also provides opportunities for promising startups to receive grants of up to \$10,000 for training programs of well-known Ukrainian and international accelerators. The grant acceleration program aims to increase the number of successful startups, improve their skills and improve skills related to business development and more. Target sectors are: agritechology, artificial intelligence (AI), augmented reality (AR/VR), big data, blockchain, educational technology (EdTech), lifestyle, energy and ecology, financial technology (Fintech/legaltech), e-government, healthcare, media and advertising, retail, industry, security.

During 2020-2021, the USF held 24 Pitch Days, with a total of 251 startups. 110 of them have already received grants totalling \$4 million. In addition, 65 teams were selected for the first Grant Acceleration Program.

Since 2020 Diia.Business project has been operating. It is a national project for the entrepreneurship and exports development initiated by the Ministry of Digital Transformation of Ukraine. Project has two components — online portal Diia.Business in one stop-shop format which can find all the necessary information for the setting up and developing one's own business and the network of offline business support centers Diia.Business that were operating in 11 regions and cities of Ukraine before the war broke out. The Diia.Business project is implemented by the State institution Entrepreneurship and Export Promotion Office (EEPO) together with the Ministry of Digital Transformation of Ukraine. During 2020 — end of 2021 the online portal was visited by 1.9 million users. The offline support centers for entrepreneurs before the war were visited by 40+ thousand entrepreneurs and business beginners.

- For beginners, on Diia.Business portal are available 100+ business ideas to start own business in various areas of activities: beauty and health, agriculture, tourism, education, medicine, retail, workshops, gastronomy, IT and telecom, sports, photo-video services, architecture and construction, energy. The section provides an online test for the future entrepreneur, who after testing receives step-by-step instructions with detailed information about the permits required to register a business in a particular region of Ukraine. In addition, each business idea has a list of useful templates of documents for starting a business, such as: business plan, marketing and sales strategy, financial plan, etc. During 2020 — end of 2021 this section has 80+ thousand views, more than 21 thousand business beginners use the section.

- Diia.Business project since 2020 till now provides free education for business beginners in the format of free online courses on: how to start own business, starting a business in creative sphere, textile manufacturing, pottery manufacturing, technology sphere, food industry, financial literacy for beginners, marketing issues, etc. The total number of 13,600+ people started studying in the free online school.

- In addition, since 2020, Diia.Business project has been providing free consultations from experienced experts for entrepreneurs, business beginners and start-ups. During the two years (2020 — end of 2021) of providing consultations, there were 70+ topics of consultations on taxation, legal support, search for financing, accounting, marketing, sales, certification, electronic auctions, psychological support, etc. available. After the war broke out in Ukraine, entrepreneurs and business beginners have access to 25+ topics of consultations on business planning, business processes, taxation systematization, financial issues, legal support and marketing, etc. Topics are constantly expanding. There were 6,500+ free consultations provided in total.

In 2020, the Ministry of Digital Transformation of Ukraine together with the Ministry of Education and Science of Ukraine, the Ukrainian Startup Fund and YEP Startup Incubator with the support of the USAID Competitive Economy Program in Ukraine launched the Entrepreneurship University initiative. The initiative develops the culture of entrepreneurship in universities and supports youth startup entrepreneurship. It aims to bring university innovative entrepreneurship to a qualitatively new and systemic level. The discipline "Innovative Entrepreneurship and Startup Project Management" is integrated into the bachelor's or master's degree program and launched in 76 universities of Ukraine. The initiative currently covers: 29 cities, 76 universities, 154 teachers, 3900+ students.

#### **44. Adapting public policy tools to suit SME needs, including through facilitating SMEs participation in public procurement and by ensuring that SMEs can make better use of state aids:**

To expand the opportunity for small and medium-sized enterprises to participate in public procurement, including through access to low-value procurement, the Law of Ukraine "On Public Procurement" (<https://zakon.rada.gov.ua/laws/show/922-19#Text>), Article 3, paragraph 3 stipulates that starting from UAH 50,000 (threshold), applicants are obliged to apply the competitive simplified procurement procedure. Access to procurement is open for SME.

The electronic catalog Prozorro.Market has been introduced in the electronic procurement system, the procedure for its use was approved by the Cabinet of Ministers Resolution №822 of 14.09.2020 (<https://zakon.rada.gov.ua/laws/show/822-2020-%D0%BF#Text>). Participation in this catalog is open for SME.

The Cabinet of Ministers Resolution No. 504-r of 24.05.2017 "On approval of the Strategy for the development of small and medium enterprises in Ukraine until 2020" (<https://zakon.rada.gov.ua/laws/show/504-2017-%D1%80#Text>) enables analysis of business participation in public procurement by categories (large, medium, small) in Prozorro electronic public procurement system; in the report on procurement results there is a separate electronic field "*classification of the entity*" introduced for the Contract Award procedures.

**45. Are there any initiatives in place to promote the access of SMEs to public procurement procedures? Is there any legal act providing for such access? If so, please refer to relevant legislative provisions governing this issue**

**Initiatives to promote SME access to public procurement:**

- to motivate the businesses, primarily small and medium, to participate in public procurement, the State-Owned Enterprise “Prozorro” administering Prozorro electronic procurement system regularly conducts trainings in the format of "Business Breakfasts";

- the details of participation in public procurement for SME are presented on the platform Diia.Business (<https://business.diia.gov.ua/>);

- in order to support the participation of SMEs in foreign tenders under the WTO Agreement on Government Procurement (GPA), the GPAinUA project office was launched in 2016 (<https://www.facebook.com/gpainua/>);

- to expand the financial instruments needed primarily for small and medium-sized businesses, the online platform “Factoring Hub” (<https://ufactoring.com/>) was launched; it allows businesses to receive offers of recourse-free factoring from banks under public procurement that are connected to the platform.

**46. Are there any provisions in the state aid policy targeted at SMEs? Please refer to relevant legislative provisions governing this issue**

State programs of access of small and medium-sized businesses to state aid are implemented in accordance with the Laws of Ukraine "On State Aid to Undertakings" and "On Development and State Support of Small and Medium-Sized Enterprises".

**State aid policy targeted at SMEs in agricultural sector**

State aid to support agro-industrial enterprises (which are often SME) is carried out on the basis of the annual decisions of the Government on providing state aid to agro-industrial enterprises within the budget for the current year.

Thus, for 2022 the government provides the following types of state aid to farmers:

1. Partial compensation for the cost of agricultural machinery;
2. Financial support for measures in the agro-industrial complex (reducing of loans cost);
3. Financial support for developing horticulture, viticulture and hop growing;
4. Financial support for developing farms for 2022 (subsidy per unit of arable land, subsidy for keeping cows);
5. Financial support for developing farms (partial reimbursement of costs for advisory services, financial support for farms on a revolving basis, financial support for newly established farms to receive agricultural advisory services);
6. State support for developing animal husbandry and processing agricultural products (reimbursement of purchased breeding animals, bees, sperm and embryos);

7. State support for developing animal husbandry and processing agricultural products (reimbursement of livestock facilities - up to 50% of the cost, special budget subsidy for existing bee colonies);

8. State support for developing animal husbandry and processing agricultural products (special budget subsidy for the maintenance of goats, goats, yaks, ewes, special budget subsidy for the growth of cows of own reproduction);

9. State support of niche crops;

10. State support for developing potato cultivation;

11. State support for insuring agricultural products (insurance of winter wheat crops with state support against agricultural risks);

12. State support for using reclaimed lands;

13. Development of livestock;

14. State support for horticulture (labor-intensive industries);

15. State program to support horticulture (support for small and medium-sized producers up to 20 hectares, compensation of up to 50% of the cost of investment per hectare);

16. State support of organic production.

#### **State aid policy targeted at SMEs in the economy**

The following government programs are aimed at improving SMEs' access to finance (see question 19, 50 and 51 for details):

1. The state program "Available loans at 5-7-9%", which operates under Resolution of the Cabinet of Ministers №28 of 24.01.2020 "On providing financial state support".

2. State program of portfolio guarantees, operating under Resolution of the Cabinet of Ministers of Ukraine of July 14, 2021 No. 723 "Some Issues Pertinent to Providing State Guarantees on a Portfolio Basis"

#### **D. Facilitating SMEs access to finance**

**47. How would you assess the situation in Ukraine in relation to SMEs' access to finance through banks and other financial institutions such as venture capital funds? Is there a legal and regulatory framework in place facilitating SMEs access to finance? If so, please refer to the relevant legislative provisions.**

The financial sector in Ukraine is represented by banks and non-bank financial institutions, which has come under the supervision and regulation of the National Bank of Ukraine starting from 2020. Financial stability in Ukraine is ensured by the regulator through efforts aimed at strengthening protection of creditors' and investors' rights, implementation of the BEPS action plan, greater corporate governance in financial institutions, strengthening internal control requirements, improving deposit guarantee system, and removing insolvent financial institutions, risk-oriented supervision of non-bank financial institutions, regulatory requirements in the field of regulation and supervision of banks and non-bank financial institutions provided for in the Association Agreement between Ukraine and the EU, etc.

The Ukrainian financial sector remains bank-centric: the non-bank financial institutions' share of assets in the financial sector is still moderate, and in 2020, it even went down due to slightly lower growth rates compared to bank assets.

According to NBU's survey on conditions of bank lending in the second quarter of 2021, the positive sentiment of banks regarding the dynamics of lending in the IV quarter of 2020 remained untouched until the end of the I trimester of 2021: despite the expected new quarantine restrictions, the demand for loans from business and households increased, in particular the demand for mortgages. Banks noted a moderate easing of both corporate and retail lending standards, forecast further growth in retail and corporate funding, and expect higher risks in the II trimester.

In January and March 2021, the demand for business loans increased, mostly for the SME loans, loans in UAH, and long-term loans. The main factors which contributed to the demand's recovery are lower interest rates, the enterprises' need in capital investment and working capital, as well as debt restructuring. Banks explain the easing of credit standards to business by high levels of liquidity, increased competition with other banks, and improved expectations regarding overall economic activity and the development of certain industries, especially with SMEs. Lower interest rates are the main reason for easing lending conditions. Almost a quarter of respondents noted an increase in the level of approval of business loan applications and a relaxation of loan requirements. More than 80% of financial institutions rated the debt burden of corporate borrowers as average, while for large enterprises the rating is higher compared to SMEs.

The 2020 trends for non-bank financial services were largely determined by the corona crisis, which affected market participants unevenly. In particular, the growth of assets slowed down significantly, for some financial institutions it did not resume until the end of the year. Different dynamics of assets of non-bank financial institutions determine the structure and trends of the sector. Currently, financial institutions have the largest assets among non-bank financial institutions. Together, they account for 72% of the assets of non-bank financial institutions regulated by the National Bank of Ukraine. The second largest segment is insurance. Other non-bank financial institutions have only 2.4% of assets.

As of November 30, 2020, the number of non-bank market participants decreased from 2079 to 2071. Currently, the non-bank market consists of 191 risky (non-life) and 20 life (life insurance) insurers, 302 pawnshops, 322 credit unions, 146 leasing companies, 1025 financial companies, and 65 insurance brokers.

The Ukrainian investment market is growing steadily, and in 2019 the total volume of venture capital deals has reached USD 509.9 million. The number of venture capital deals has also increased. In 2019, 111 deals were made, whereas by the end of 2018 they totaled 115. In 2020, the Ukrainian investment market continued growing, in particular, the total funding amounted to USD 533.5 million, with 188 deals. At the same time, the legislative regulation of these processes is subject to improvement.

### **Regulatory framework in place facilitating SMEs' access to finance**

1. Law of Ukraine "On Mutual Investment Institutions" <https://zakon.rada.gov.ua/laws/show/5080-17#Text>

2. Law of Ukraine "On Banks and Banking" <https://zakon.rada.gov.ua/laws/show/2121-14#Text>

3. The state programme “Affordable Loans at 5-7-9%”, which operates on the basis of the Decree of the Cabinet of Ministers №28 of 24.01.2020. "On Providing Financial State Support" (see question 50 for details): <https://zakon.rada.gov.ua/laws/show/28-2020-%D0%BF#Text>

4. State program of portfolio guarantees, operating on the basis of the Decree of the Cabinet of Ministers of Ukraine of July 14, 2021, No. 723 “Certain Issues of Providing State Guarantees on a Portfolio Basis” (see question 51 for details): <https://zakon.rada.gov.ua/laws/show/723-2021-%D0%BF#Text>

**48. Is the financial sector seen as open and responsive to the needs of SMEs in Ukraine? Are banks ready to respond to the needs of small employers without excessive collateral or guarantees? Which kinds of collateral do domestic banks accept to extend a loan to an SME and to what extent can intellectual property be used? What is the usual amount of data requested by banks to extend a loan to an SME? What are the average costs and how long does it take to prepare the requested documentation?**

#### **Overall situation in financial sector**

The financial sector in Ukraine is represented by banks and non-bank financial institutions, which has come under the supervision and regulation of the National Bank of Ukraine starting from 2020. Financial stability in Ukraine is ensured by the regulator through efforts aimed at strengthening protection of creditors' and investors' rights, implementation of the BEPS action plan, greater corporate governance in financial institutions, strengthening internal control requirements, improving deposit guarantee system, and removing insolvent financial institutions, risk-oriented supervision of non-bank financial institutions, regulatory requirements in the field of regulation and supervision of banks and non-bank financial institutions provided for in the Association Agreement between Ukraine and the EU.

Greater macroeconomic development in Ukraine is due to intensified lending to small and medium enterprises, including agricultural companies that can be secured by land, removal of obstacles to the resumption of mortgage lending, and export financing. Other important tasks of the state in this area include prudent fiscal policy, development of the non-bank lending market, enhanced coordination between the Ministry of Finance of Ukraine and the National Bank, the introduction of the second level and improvement of the third level of the pension system, and development of the domestic government securities market.

The anti-crisis measures which followed the COVID-19 pandemic and were implemented by the NBU, aimed at easing monetary policy, and supporting the financial system and the whole economy. Reducing the key policy rate was an incentive to reduce interest rates on loans in the banking system. In addition, banks have the opportunity for long-term refinancing for up to five years. This allowed maintaining the liquidity of the banking system at a high level and developing lending into a real sector of economy.

Ukraine's economy is characterized, among others, by low creditworthiness of business (i.e. how a business uses credits). According to the Enterprise Survey conducted by the World Bank in cooperation with the International Finance Corporation, in 2019, corporate investments financed by banks amounted to 7.5%, while in Europe – 14.1%; working capital loans financed by banks in Ukraine amounted to 5.7%, in Europe – 10%, and internationally - - 11.7%.

According to experts, the government lending support programmes help businesses expand their funding sources and make lending more attractive to businesses.

**Are banks ready to respond to the needs of small employers without excessive collateral or guarantees?**

Banks have lending products for small businesses without excessive collateral or guarantees, as well as unsecured lending programs for loans in small amounts. Due to the latest changes in the Programme “Affordable Loans at 5-7-9%” such loans have become more accessible to entrepreneurs by reducing the % rate through compensation from the state.

Additionally, in 2020 the state provided banks with portfolio guarantees for lending to SMEs, under which the bank has the opportunity to provide loans to SMEs with collateral of 50% of the loan amount, which expanded the banks’ ability to lend to borrowers with limited collateral.

**Which kinds of collateral do domestic banks accept to extend a loan to an SME and to what extent can intellectual property be used?**

Ukrainian banks have certain restrictions from the NBU as to what types of collateral may be accepted as collateral for loans. Thus, under the NBU Resolution No. 351, it is possible to consider, with certain coefficients, the value of the accepted collateral when forming credit risk reserves, for the following types of collateral:

- Cash coverage placed with the creditor bank for a period not less than the loan tenor.
- Unconditional and irrevocable guarantees / irrevocable standby letters of credit which serve as a financial guarantee:
- The Cabinet of Ministers of Ukraine,
- Governments of countries that have an investment level of credit rating on an international scale,
- Banks and other institutions with an investment grade credit rating on an international scale,
- International development banks;
- Property rights to funds placed on the deposit account in the bank;
- Bank metals deposited with the creditor bank for a period not less than the loan tenor, and property rights on it;
- Real Estate;
- Objects in the form of an integral property complex;
- Transport;
- Equipment;
- Land section;
- Goods accepted for storage under a double warehouse certificate;
- Securities (except for securities of collective investment institutions) issued by residents, which fall within the first level of listing;
- Securities issued by local governments;

- Goods in circulation or processing;
- Biological assets.

Intellectual property is not listed by the NBU as an eligible collateral.

### **What is the usual amount of data requested by banks in order to extend a loan to an SME?**

Requirements to providing information for decision-making as on whether to grant or extend a loan are defined by the bank's internal credit policy and the general requirements of the regulator - the NBU.

Usually, there are several blocks of information requested:

#### *1. Assessment of business reputation, including information for assessing the following criteria:*

- Credit history of the company / its founders / managers
- Criminal / court cases, facts of unfair participation in tenders, facts of fraud, criminal liability
- Fraudulent activities of the main counterparties of the potential borrower (this is the risk of potential default)
- Falsification of financial documents (discrepancies in financial statements, discrepancies in interpretations with official reporting data, which the client cannot clearly explain)

#### *2. Assessment of financial capabilities*

- The calculation of the company's financial creditworthiness is carried out on the basis of the company's official financial statements, which are submitted to the statistical authorities
- The amount and tenor of loan extension requested must correspond to the projected amount of revenue and activity

- Credit indebtedness of the company
- Diversification of suppliers and buyers
- Sufficient capitalization of the business

#### *3. Evaluation of the proposed collateral*

- Verification of title documents for collateral
- Estimation of the market value of collateral

Additionally, banks can verify and obtain some information from open registers of information.

### **What are the average costs and how long does it take to prepare the requested documentation?**

The time and cost of preparing the necessary documentation depends on the type of loan selected, the company's experience in lending and the type of loan security.

It also depends on whether the company receives a standard loan product or a one with individual terms and conditions.

For example, the decision to give a standard overdraft to a company can be provided in 1 day with minimal costs, because overdraft is usually an unsecured type of credit. However, deciding on an investment loan to start a new business with a combined collateral can take more than a month and



cost an independent collateral assessment and possibly consulting support in preparing a business plan and financial forecast.

**49. How easily available are small loans (microcredits) for businesses and people wanting to set up a business? Are (non-bank) microfinance providers active in Ukraine?**

**Are (non-bank) microfinance providers active in Ukraine?**

Regulations (aside from customer protection rules) do not distinguish between loans provided to individual persons, entrepreneurs, and small businesses. According to the Law on Financial Services, non-bank financial companies can disburse loans to businesses and entrepreneurs after obtaining a license from the National bank of Ukraine. However, there is no necessary data to determine the percentage of such loans.

Credit Unions are also allowed to provide loans to small businesses owned by their members. Credit Unions are active in providing loans to small farm enterprises in rural areas where banks have little or no presence. In the structure of the total Credit Unions' portfolio, the share of such loans is about 13% (UAH 253.2 million), and the average loan amount is UAH 90K (farm enterprises - UAH 110.5K, other businesses - UAH 87.5K).

The availability of microcredit for business depends on the company's financial condition, credit history and other risk factors. Financially stable businesses with transparent reporting and management and with owners having a good reputation could obtain microloans from banks at reduced rates under the Programme "Affordable loans at 5-7-9%" or other types of microloans. The cost of a microcredit from non-bank financial institutions is higher than that of banks, so it is used by companies that have failed to obtain loans from banks, or companies with low financial literacy, as the package is smaller and business evaluation criteria for non-bank financial institutions are usually lower.

Additionally, the state program "Affordable loans at 5-7-9%" provides an opportunity to obtain microloans at reduced interest rates without collateral for private person-entrepreneurs totalling up to UAH 1 million for up to 5 years, depending on the purpose of the loan. Also, under this Programme, newly created enterprises can obtain loans for investment purposes. The authorized bank makes decisions on the use according to the business plan provided by the business.

**50. Are there publicly financed SME funding programmes? If yes, please mention the most relevant programmes, the size of the financing involved, and the results obtained.**

Yes, there are several government funding programmes for SMEs:

The state programme "Affordable Loans at 5-7-9%", which operates on the basis of the Decree of the Cabinet of Ministers №28 of 24.01.2020. "On Providing State Financial Support" is aimed at improving access to finance for SMEs. Under the Programme, the authorized banks provide loans according to the criteria and for the purposes provided by the Programme, and the state reimburses part of the % of borrowers' rates, reducing the loan rate to 0%, 3%, 5%, 7% and 9% depending on the type of loan and conditions. Also, the Programme enables leasing agreements with partial compensation for leasing payments and affordable mortgages for the population at 7% per annum. From the beginning of the Programme, as of April 11, 2022, SME representatives received 36,213

loans from the authorized banks for a total of UAH 93.6 billion; there are 42 authorized banks under the Programme.

The state budget of the Programme “Affordable Loans at 5-7-9%” is UAH 3 billion; for the implementation of the program, the state portfolio guarantees budget in 2022 is UAH 10 billion.

In addition, the government has implemented several government programs to support agribusiness (see question 46 for more details), including the government’s programme to support agribusiness undertakings by reducing the cost of credits. The programme provides an opportunity for agribusiness, regardless of the legal structure and form of ownership, to receive compensation of interest rate on loans to replenish working capital, purchase fixed assets, and other purposes for their core business. Compensation is provided to borrowers for interest rate – accrued and paid in the current year – on loans totalling 1.5 of the key interest rate of the National Bank, which is effective on the date of accrual of interest.

By 2022, the Ministry of Agrarian Policy and Food of Ukraine plans to assist 4,500 recipients, with overall portfolio worth UAH 250 billion and a projected discount of UAH 40 billion.

**51. If such a programme does exist, are there plans for a loan guarantee programme for SMEs?**

The Decree of the Cabinet of Ministers of Ukraine of February 6, 2022 No. 133 “On Providing State Guarantees on a Portfolio Basis in 2022” was adopted, and defines the scope and list of creditor banks to provide state guarantees in 2022 to ensure partial fulfillment of portfolio debt loans of creditor banks provided to micro-enterprises, small and / or medium-sized enterprises that are residents of Ukraine.

Since December 2020, as part of the support of micro, small and medium-sized businesses in Ukraine, 5163 loans worth UAH 10.18 billion have been issued in the framework of the state guarantees Programme.

As of March 1, 2022, twelve banks serviced 5,083 loans worth UAH 9.876 billion. Liabilities for principal, partially secured by government guarantees on a portfolio basis, amounted to UAH 4.271 billion. This is about 36% of the total limit of guarantees (UAH 12.014 billion).

At the same time, in February this year, 383 loan agreements worth UAH 0.931 billion were concluded with a share of liabilities guaranteed by the state on the principal debt totalling UAH 429 million.

In terms of the number of loans currently serviced on a portfolio basis, JSC CB Privatbank leads with 3359 loans totalling UAH 2.18 billion, which is 38% of the limit of such guarantees provided to this bank. Oschadbank JSC is the second largest issuer of such loans is -with 1,075 loans totalling UAH 2.829 billion (thus 37% of the limit).

**52. To what extent are other sources of finance (equity investment by venture capital funds or business angels, etc.) being used and publicly promoted in Ukraine? Please mention any good practice in this area, including the most relevant results obtained**

There are venture funds, business angels, and startup funds in Ukraine.

As of year-end 2020, Ukrainian technology companies and their investors concluded 188 deals worth \$533.5 million. During 2020-2021 \$5.3 million were invested in Ukrainian projects.

The best practices consist in five Ukrainian startups – Gitlab, Grammarly, Bitfury, People.ai and Ring – having received \$1.3 billion in funding and dominated the world market.

The main venture funds that are operating in Ukraine and the outstanding success stories (Ukrainian startups) are Aventures Capital (Viseven, Petcube), Digital Future (Preply, Attendify), Almaz Capital (3D LOOK, Market), Flyer One Ventures (Allset, All Right, Liki24, Mate Academy), ICU Ventures (Competera, Petcube, 3DLOOK), N1 investment company (Sportbank), Pracuj Ventures (robota.ua), Q Digital (Metrics, ABM Cloud), SMRK VC Fund (Ajax, Carbominer, Seadora, Competera, Esper Bionics), TA Ventures (RetargetApp, Party.Space). Totally, 17 venture funds invest in Ukrainian businesses.

Private Equity Funds – 9 funds cooperate with Ukraine, including Horizon Capital, Dragon Capital, 4i Capital Partners UMGI, and Q Partners, with the following famous cases: Ciklum, Unex Bank, Kasta, Truskavetska (water), EVO, Ajax, Jooble.

There are some 17 Family Offices, Business Angels and Clubs, and nine Accelerators, Incubators, Venture Studios (best cases including Innovation Kitchen, Legal Nodes, Finmap etc.)

There are five Investment Companies, notably, Concorde Capital, InvestStore.Club, and Smart-Holding.

It is also worth mentioning the Ukrainian Startup Fund, which belongs to the State; its governing body being the Ministry of Finance of Ukraine. The fund's mission is to accept the creation and development of technological start-ups at the early stages (pre-seed and seed) and to promote their global competitiveness. The selection process of start-ups for grants is competition-based: companies are evaluated and selected by several independent investment experts. The fund finances start-ups at the early stages (pre-seed and seed) with \$25,000 at the pre-seed stage and \$50,000 at the seed stage. Thus, one start-up can grow up to \$75,000 in total. This year, the UFC has received more than 3,700 applications, for about UAH 160 million in grants, with 230 startups being funded at the end of it. More details in answer to question 43.

## **Market access for SMEs**

### **53. Are there any measures in place to promote SMEs use of and involvement in development of standards?**

Mechanism of SMEs involvement in policy design and policy implementation is discussed in detail in questions 34 and 37 of this chapter. In question 37, it is stated that all the draft regulatory acts must go through the stage of public consultations as envisaged in Ukrainian legislation. The question describes instruments that are available to individuals, business entities, associations thereof, scientific institutions, and advisory bodies when drafting regulations. Additionally, it should be noted that the Government actively involves SMEs in the development of standards through the national scientific institution that are responsible for conducting studies which lay basis for drafting of regulations.

### **54. Are there any advisory services to support SMEs against unfair commercial practices?**

The Diia.Business project — national project for the entrepreneurship and exports development, which is implemented by the State institution “Entrepreneurship and Export Promotion Office” (EEPO) together with the Ministry of Digital Transformation of Ukraine, offers the following:

- On Diia.Business portal, the National online school for entrepreneurs and business beginners has been operating since 2020. There are 13 free online courses within the National online school that are available to entrepreneurs:

- 1) 10 steps to start own business
- 2) Financial literacy for entrepreneurs
- 3) Start a business. Food Industry
- 4) Start a business. Sphere of technologies
- 5) Start a business. Pottery Manufacturing
- 6) Start a business. Textile Manufacturing
- 7) Start a business. Creative industry
- 8) Business in the agricultural sector Grow up: Agro
- 9) Boost with Facebook Bootcamp social media promotion course
- 10) Moving business processes online
- 11) Electronic document flow for entrepreneurs
- 12) Business: Sustainable development
- 13) Marathon for entrepreneurs on finance, marketing, online promotion and other topics

All of the above courses cover the topic of unfair commercial practices and are directly related to the courses “Financial literacy for entrepreneurs”, “Business: Sustainable development” and “Marathon for entrepreneurs on finance, marketing, online promotion and other topics”.

### **Promotion of upgrading of skills and of innovation**

#### **55. Are there any programmes aiming at the promotion of technology dissemination towards small enterprises? How would you assess the impact of these programmes?**

The measures aimed at the promotion of technology dissemination towards small enterprises are in place. They include, in particular, promotion events and partnerships involving governmental authorities, private companies, representatives of the research and innovation sector.

In 2021, the Ministry of Education and Science of Ukraine, in partnership with the Innovation Ukrainian Startup Fund, has introduced a quarterly event named— Science & Business StartupBootcamp and Science & Business Demo Day to combine scientific and innovative potential of scientists, startups, companies, experts, investors, and media while also finding innovative solutions, raising awareness on business, marketing, sales, investment, and innovation.

In 2021, the first intensive offline Science & Business StartupBootcamp took place, bringing together scientists, startups and S&T entrepreneurs as well as, leading experts and mentors in business, marketing, sales, investment and innovation.

Science & Business Demo Day also took place and was attended by 11 startup teams which had been selected by a competition committee of more than 30 applicants. Based on the pitching results, the three best startup teams were chosen: S.Lab, Rocketry Agency, SANI.

The Science 2 Business Platform is an online platform for communication and effective interaction between businesses and the scientific community, enabling businesses to find scientific findings and scientific research and enabling scientists to realize their potential and commercialize the results of scientific research.

The All-Ukrainian Innovation Festival is a platform where scientists, innovators, and startups can show their best projects, compete for financial support, and meet potential investors. As part of a series of events, Ukrainian innovators presented their latest developments in IT, education, healthcare, agriculture, energy efficiency, ecology, assistance to people with special needs, and medicine.

The Sikorsky Challenge, the Festival of Innovative Projects, has been held annually since 2012 and has become very popular among students and entrepreneurs. Within the framework of the Festival, there is a competition of startups and thematic forums dedicated to the development of innovative economy at the regional, national and international level.

Ukrainian Startup Fund regularly holds events with the most vital stakeholders in the ecosystem to strengthen the skills, networking and communication of startups. More than 30 events (Bootcamps, Hackathons, Workshops, Crash tests, etc.) were conducted by USF in cooperation with different government agencies and leaders of the innovation ecosystem.

To assess the impact of these programmes on technology dissemination towards small enterprises, the Ministry of Education and Science of Ukraine together with the Ministry of Economy of Ukraine and the Ministry of Digital Transformation of Ukraine conducted surveys on the activity of Ukrainian business in innovation, requests for research and development, cooperation of entrepreneurs with higher education institutions and scientific institutions. The largest share of respondents were representatives of micro-enterprises (up to 10 employees) – 36%. 72.5% of respondents answered in the affirmative to the question about the experience of cooperation with higher education and scientific institutions.

The survey findings show that the companies need technologies in the following areas: chemical industry, food industry, biotechnology, transport, medicine, pharmaceuticals, armaments and military equipment, IT services, energy, aviation and space, agriculture, and others. The survey findings are published on the official website of the Ministry of Education and Science of Ukraine.

## **56. What initiatives have been taken to promote technology transfer from research institutes to SMEs?**

The main purpose of government regulation of activities in the field of technology transfer, according to the Law of Ukraine “On State Regulation of Activity in the Sphere of Transfer of Technologies” is to ensure the development of national industrial and scientific and technical capacity, its effective use to fulfill tasks of social and economic development of the state and ensure the manufacturability of domestic products taking into account international experience; possible social and economic, technological and environmental consequences of the use of technologies and

their components; to promote the development of manufacturing using the latest domestic technologies and their components.

Draft Law of Ukraine "On Amendments to Certain Laws of Ukraine on Stimulating Activities in the Sphere of Technology Transfer" has been developed. The purpose of the draft law is to increase the level of implementation (commercialization) of research findings. It is expected that this legislative act will respond to the need to intensify the process of transforming the rights to the output of intellectual activity into a profitable commodity, by putting it into civil circulation and making profit from its use, as well as through the introduction of economic and legal means and mechanisms.

Few tools have been created to support and stimulate cooperation between higher education and research institutions and enterprises in order to intensify the process of technology transfer. Competitive selection of scientific, scientific-technical works and projects for the implementation of Ukraine's commitments within the framework programme "Horizon 2020" is one of them.

A prerequisite for the submission of an application for a scientific and technical project by a higher education institution or a scientific institution is the involvement of representatives of SMEs in the implementation thereof or the implementation of certain stages of the scientific and technical project using the innovation infrastructure of a business entity and vice versa.

In this way, this tool encourages cooperation between higher education/research institutions with SMEs, and promotes technology transfer from research institutions to SMEs.

On February 1, 2022, the Ministry of Education and Science of Ukraine launched the Science and Business Platform, which is an online platform for communication and effective interaction between businesses and the scientific community, enabling businesses to access to scientific findings or technology, scientific research, while enabling scientists to realize their potential and commercialize the scientific findings.

At the same time, a lot of there are a lot of outreach activities at national level, such as Science & Business StartupBootcamp and Science & Business Demo Day, All-Ukrainian Innovation Festival, Festival of Innovative Projects, the Sikorsky Challenge, Conference "Results of the year in the ecosystem of startups" and many others that are designed to promote technology transfer from research institutions to SMEs.

**57. How would you assess progress in enhancing inter-firm co-operation and clustering? Which significant initiatives have been or will be introduced in this field?**

The National Economic Strategy for the period until 2030 (approved by the Decree of the Cabinet of Ministers of Ukraine dated 03.03.2021 No. 179) defines the following tasks in the field of smart specialization within the framework of Strategic Goal 4 "Creation of new production capacity by stimulating innovation in all regions of the country to use their competitive advantages":

- ensure the application and implementation of region specific smart specialization approach in accordance with the EU methodology;
- create pilot projects for the development of mutual support among regions;
- create preconditions for competition among local communities for attracting investors;
- facilitate accession of Ukraine to the European Smart Specialization Platform (S3 Platform).

The State Strategy for Regional Development for 2021-2027 (Decree of the Cabinet of Ministers of Ukraine dated 05.08.2020 No. 695) envisages within Operational goal 5 “Sustainable Industrial Development”, inter alia, the following tasks:

- develop and implement the mechanism of state financial support for regional development projects aimed at the development of priority economic activities which have been identified on the basis of smart specialization (including those identified by regional and Kyiv city state administrations in accordance with the EU smart specialization methodology) and defined in regional development strategies (hereinafter referred to as “smart specialization projects”);
- ensure the accession of all regions of Ukraine to the European Smart Specialization Platform (S3 Platform) to open access to the platform’s tools to Ukrainian.

The smart specialization approach to the strategic planning of regional development was introduced by the Decree of the Cabinet of Ministers of Ukraine dated 11.11.2015 No. 932. The approach is aimed at the identification, within the framework of regional development strategies, of particular strategic goals and tasks for the development of economic activities that have innovative potential, taking into account the competitive advantages of the region, and contributing to the transformation of economic sectors into more efficient ones.

Achieving such goals is expected through the preparation and implementation of regional development projects – documents prepared in accordance with the template defined by the law, which determines joint actions of the project participants, as well as resources needed to achieve these goals within the prescribed deadlines.

As of today, all regions have already approved regional strategies for the period until 2027, which take into account the smart specialization approach and contain goals and tasks for development of priority economic activities with innovative potential. Programmes and projects to support smart specialization are being developed at the regional level.

The Government’s key tasks in the field of smart specialization support go as follows:

Implement the Methodology of the European Commission for defining smart specialization. Implementing this requires EU technical assistance in the development of the methodology for determining the priorities of smart specialization of regions in accordance with the EC Methodology;

Continue integrating Ukraine into the European Smart Specialization platform and open access for the regions to EU resources to support smart projects. This requires appropriate technical assistance to Ukrainian regions;

Promote the implementation of smart specialization projects by attracting investors, as well as EU financial support.

The Ministry of Economy together with the Ministry of Regional Development and the Ministry of Education and Science with the support of the Joint Research Center of the European Commission (JRC) prepared a draft joint resolution “On Approval of Guidelines for Determining Priorities for Smart Specialization of Regions”.

The draft Guidelines have taken into account the Smart Specialization Framework for EU Enlargement and Neighborhood Countries approved by the European Commission.

The draft Guidelines have been developed to provide methodological assistance to the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations and other stakeholders in the preparation of draft regional development strategies and action plans on the basis of smart specialization, i.e. for identification of strategic goals and tasks for the development of economic activities that have innovative potential, taking into account the competitive advantages of the region, and contribute to increased efficiency of economic sectors.

In order to coordinate the actions of central and local authorities on the implementation of smart specialization, preparation of proposals and recommendations to improve the formation and implementation of state regional policy priorities, including strategic goals of regional development defined on the basis of smart specialization, the draft Guidelines envisage the setup of the Smart Specialization Coordination Center.

The process of accession of the regions to the European Smart Specialization Platform (S3 Platform) is also in progress. As of today, 12 regions have joined the platform (Cherkasy, Chernihiv, Donetsk, Ivano-Frankivsk, Kharkiv, Khmelnytsky, Kyiv, Kirovohrad, Luhansk, Lviv, Ternopil and Zakarpattia regions).

**58. Please describe measures, if any, to ensure the availability of education/training systems or initiatives to supply skills specifically in demand with SMEs.**

**Dual education is used as a mechanism to supply skills that are in demand with SMEs.**

Dual education is a form of education where theoretical material is mastered in an institution with a teacher, while practical training takes place in the workplace. This approach is significantly different from “practice” because it is based not only on putting theory in practice, but also learning in the production environment.

After graduation, such students are able to work with technology, understand all technological processes and have experience of working with experienced professionals. They are often then offered open vacancies at the same company, so their employment rate is over 90%.

The differences between the dual form and standard training include:

- ratio of study time. More attention is paid to practical training in the production environment – up to 70%, and the rest of the time is devoted to mastering the theory – up to 30%
- structure of the educational process. It is divided into a theoretical module in an institution (1-2 weeks) and a practical module (4-8 weeks) on the basis of a company
- different approach to teaching. Two mentors are assigned to a student at the same time: a mentor from the company and a master of industrial training from the institution. The first mentor takes care of student’s adaptation and safety and shares his experience, while the second mentor monitors compliance with curricula and learning success.
- evaluation of learning outcomes. Real indicators of professional training obtained in the production environment are taken into account.

For businesses, training vocational schools students under a dual form is an opportunity to solve the problem of labor shortages by starting the training of future employees in their company. While being trained, students already learn about the work schedule, production processes and their peculiarities; they also learn to work with equipment and technologies of a particular company. After



graduation, they do not need any explanation of the internal production processes, or of how expensive equipment works. In addition, they are already part of the team.

In the 2021-2022 academic year, 240 institutions of professional (vocational) training have been implementing a dual form of training for 335 professions.

The highest percentage of educational institutions that have been implementing a dual form of training in the mentioned period is located in Khmelnytskyi region (78.6% of the total number of professional (vocational) institutions), Kyiv (75%), Lviv (63.6%), Kirovohrad and Chernihiv (50%) regions. The lowest percentage of institutions interested in the dual form of training is situated in Ivano-Frankivsk (4%), Mykolaiv (6%), Ternopil (9%) and Poltava (11%) regions.

1376 enterprises, institutions, organizations were involved in the introduction of the dual form of training in the professional (vocational) training institutions. The highest level of employers' involvement is in Kyiv (175), Zhytomyr (160), Lviv (134), Vinnytsia, Khmelnytsky (125), and Rivne (111) regions. The least active participation of employers can be observed in Ternopil (2), Cherkasy and Kyiv (3) regions.

In the 2021-2022 academic year, the total number of students pursuing dual education amounts to 14,030, of which 6,657 students were admitted in 2021.

The largest number of such students study in educational institutions of Khmelnytsky (2,292 students), Vinnytsia (1,462), Lviv (1,046), Donetsk (1,068), Zaporizhia (1,037), Dnipropetrovsk (1,104), and Zhytomyr (818) regions.

The least of such students study in educational institutions of Volyn (54 students), Kyiv (75), Poltava (80), Ternopil (102), Odesa (126), Chernivtsi (118), Kherson (133), Mykolaiv (144), Ivano-Frankivsk (161) regions.

### **Professional development of teachers and masters**

In the 2021-2022 academic year, 7,944 teachers from 642 educational institutions underwent advanced training, of which 2,984 people are teachers of special disciplines, 4,833 people are masters of industrial training, 127 people are senior masters.

Most teachers improved their skills through short-term training (seminars, workshops, practical events, webinars, etc.).

### **59. Are there any initiatives to develop SMEs' competences in research and development such as simplified access to public research infrastructure, use of R&D services, recruitment of skilled employees and training?**

The Ministry of Education and Science of Ukraine in partnership with the Ukrainian Startup Fund has introduced a quarterly event - Bootcamp Science & Business StartupBootcamp. On October 30-31, 2021, the first intensive offline Science & Business StartupBootcamp was held for scientists, startups, and entrepreneurs at the early stages of science-intensive innovation and technology, with leading experts and mentors in business, marketing, sales, investment and innovation. Science & Business StartupBootcamp consisted of 5 thematic sessions: marketing; investments; sales; legal regulation; finances.

On November 11, 2021, the Ministry of Education and Science of Ukraine announced a competitive selection of academic, scientific and technical works and projects to meet Ukraine's commitments under the Horizon 2020 framework programme.

A prerequisite for the submission of an application for a scientific and technical project by a higher education institution or a scientific institution is the involvement of representatives of SMEs in the implementation thereof or the implementation of certain stages of the scientific and technical project using the innovation infrastructure of a business entity and vice versa

.In this way, this tool encourages cooperation between higher education/research institutions with small and medium-sized businesses.

On February 1, 2022, the Ministry of Education and Science of Ukraine launched the Science and Business Platform, which is an online platform for communication and effective interaction between businesses and the scientific community, enabling businesses to access to scientific findings or technology, scientific research, while enabling scientists to realize their potential and commercialize the scientific finding.

In 2018, Ukrainian Startup Fund was established as a state-owned legal entity founded by the Cabinet of Ministers of Ukraine that focuses on supporting Ukrainian startups offering non-refundable and non-equity grants to all programmes up to \$95k per startup. Now, USF is the main entry point into the Ukrainian startup ecosystem and the main governmental implementing agency aiming at startup grants and technical assistance.

The Fund regularly holds events with the most vital stakeholders in the ecosystem to strengthen the skills, networking, and communication of startups. More than 30 events (Bootcamps, Hackathons, Workshops, Crash tests, etc.) were conducted by USF in cooperation with different government agencies and the leaders of the innovation ecosystem.

### **Turning environmental challenges into opportunities**

#### **60. Please describe measures, if any, to provide incentives for eco-efficient business and products for SMEs.**

Currently, there are no direct measures that provide incentives for eco-efficient business and products for SMEs. Nevertheless, there is a number of institutional arrangements that are being tested:

- Strategy for the Development of Industrial Parks lays basis for the development of eco-industrial parks in Ukraine (for more details see question 4 of this Chapter);

- Project aimed at analyzing the mechanism for implementation of circular economy principles in Ukraine had been discussed between Ministry of Economy and Climate Action for Sustainable Economy (CASE) Programme, which is implemented under the Delegation of the European Union to Ukraine;

- Basic principles and requirements for organic production, circulation and labeling of organic products were introduced in Ukraine by the Law “On Basic Principles and Requirements for Organic Production, Circulation and Labeling of Organic Products” (<https://zakon.rada.gov.ua/laws/show/2496-19/ed20210805>) from 10.07.2018. The Law sets up an institutional framework for the development of organic production in Ukraine.

## **Supporting SMEs to access foreign markets**

**61. Please describe which measures, if any, and institutions or bodies are in place/to be introduced, to enhance SMEs opportunities and their access to foreign markets, particularly the EU Internal Market.**

Entrepreneurship and Export Promotion Office (EEPO) is the state institution in Ukraine that is responsible for the development and support of Ukrainian entrepreneurship in the domestic and foreign markets. EEPO was established on the basis of the state institution “Export Promotion Office of Ukraine”, which has been operating successfully since 2015 and has demonstrated its effectiveness, which was noted both domestically and by international partners.

Since May 2021, EEPO together with the Ministry of Digital Transformation of Ukraine has been implementing a national project for the entrepreneurship and exports development Diia.Business. The project has two components — the online portal and the network of business support centers.

As part of the Diia.Business project, EEPO provides assistance to Ukrainian SMEs in establishing cooperation with foreign business representatives (including EU countries), promoting Ukrainian goods and services abroad, and developing export competencies.

All the necessary information for the development and support of Ukrainian SMEs to enter international markets has been collected in the Export focus area of Diia.Business. Here you can find materials on the analysis of world markets, industry reviews, trade missions and international exhibitions, educational programmes, tools for finding partners and more. All information and services on the resource are free.

The Export focus area of Diia.Business is also available in English; the English version is focused on foreign businesses that are interested in partnering with Ukrainian SMEs. Here you can find all the necessary information on the import of goods and services from Ukraine:

- analytical materials on the export sectors of Ukraine;
- calendar of business events that are planned in Ukraine: list and descriptions of all exhibitions, trade missions, forums, etc;
- current news on foreign economic activity and development of the Ukrainian business environment;
- cases – success stories of entrepreneurs who have successfully entered international markets;
- access to the Catalog of Ukrainian exporters – an online service for finding Ukrainian exporters among the database of verified companies.

All information and services on the English version of the Export focus area of Diia.Business are free.

In total, 6240 export-oriented companies and 25+ business associations are EEPO’s export clients, 85% of EEPO’s clients are small and medium-sized businesses. During 2021, the total amount of contracts signed by EEPO clients totaled \$ 50,000,000+.

Other EEPO’s achievements can be found in the annual report for 2021.

## **E. Innovation Policy**

**62. Regarding measures other than those exclusively targeting SME, as they are covered under point D: Do incentive programmes for enterprises to increase their research and innovation activities, notably by engaging staff for such activities exist? Are there measures to support advisory and training services aimed at raising the innovation capacity of enterprises? Please describe them briefly and mention whether their evaluations are planned.**

The draft Law of Ukraine “On Amendments to Certain Laws of Ukraine on Stimulating Activities in the Sphere of Technology Transfer” is intended to facilitate the provision of financial support for the creation of high-tech industries with the participation of higher education institutions and research institutions. It is expected that the introduction of such an initiative would promote the development of the national innovation ecosystem, research infrastructure, which would allow implementing internationally competitive scientific and technical projects; intensifying technology transfer and commercialization of scientific findings; and producing innovative products.

**63. May research organizations co-operate in projects with enterprises, i.e., are there no legal obstacles to such co-operations?**

The Ukrainian higher educational institutions and scientific organizations cooperate closely with enterprises within the support programmes in the field of science and innovations, and for the implementation of state orders. Every year, the work of enterprises is informed by the scientific findings of various institutes of the National Academy of Sciences of Ukraine and national sector-specific academies of sciences of Ukraine.

There are no legal obstacles to such cooperation.

72.5% of respondents of national surveys on Ukrainian business’ activity in the field of innovation, R&D requests; cooperation of entrepreneurs with higher education institutions and scientific institutions, would answer in the affirmative when asked about the experience of cooperation with higher education institutions and scientific institutions.

**64 Please give available information on existing technology infrastructures that are accessible to enterprises or on plans to invest in such infrastructures. (See <https://data.europa.eu/doi/10.2777/316112>).**

Ukrainian Tech Ecosystem Overview – is an online platform for business information about IT-companies, people, investors, and the whole tech ecosystem of Ukraine in general. The collected information includes data on current IT-companies development, founders, officers and managers, companies’ classification by industries, investment and funding, mergers and acquisitions, breaking news and industry’s trends.

The Science 2 Business Platform is an online platform for communication and effective interaction between businesses and the scientific community, enabling businesses to find scientific findings and scientific research and enabling scientists to realize their potential and commercialize the results of scientific research.

A science park, according to Law of Ukraine “On science parks”, is created to develop research, technological, and innovation activity in higher educational institutions and/or scientific organizations; efficient and reasonable use of available scientific capacity, facilities, and resources for commercialization of the scientific findings and their introduction both in domestic and international markets. 37 science parks currently operate in Ukraine.

A system of technology parks has been created and operates in Ukraine aiming at comprehensive organization of science-based production via maximal promotion of the creation and introduction of new technologies and stimulating the development of the specialists’ creative potential. While concentrating scientific, industrial, and financial resources, the technology parks ensure the renewal of the complete life cycle of innovations: study –elaboration –introduction – large-scale production release of science-based high-technology products, that are competitive in international markets.

A pilot project on creating technology transfer centers has been launched to see how their projects can be implemented in real life, while for businesses to find new ideas. It is expected that the Inter-regional office for technology transfer will be established in Kyiv with the regional networks – in Odesa and Kharkiv.

A network of business incubators and business accelerators operates in Ukraine to support start-ups.

Pursuant to the Decree of the Cabinet of Ministers of Ukraine “On Promoting the Implementation of the Technological Approach “Industry 4.0” in Ukraine” No. 750 of July 21, 2021, the implementation of Industry 4.0 in Ukraine is ensured by the Industry 4.0 implementation centers.

**65. Is there any policy, legal or regulatory framework to turning research output into new goods, services, and business models, which is reported neither under point D nor in your answers to chapter 25, which you consider noteworthy for industry policy?**

No, there is no additional information regarding the issue. All available data is listed under point D or in Chapter 25.

## **II. ENTERPRISE AND INDUSTRIAL POLICY INSTRUMENTS**

### **A. Participation in EU programmes**

**66. Brief description if relevant of participation in the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) and the Enterprise Europe Network (EEN): participants, experiences/results (as applicable).**

According to the Law of Ukraine “On Ratification of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand”, which entered into force on March 21, 2017, Ukraine joined in 2017 to the EU programme “Competitiveness of Small and Medium Enterprises” (COSME 2014-2020) and became a member of this Programme.

Ukraine’s status as a member of COSME provided Ukrainian SMEs with access to the Programme’s non-financial instruments, such as the European Enterprise Network (EEN), Erasmus

for Young Entrepreneurs (EYE), the European Cluster Cooperation Platform (ECCP), and other instruments.

The Ministry of Economy has requested the FORBIZ Project to assist in conducting a survey among COSME participants for the period from 2017 to 2020 as part of an independent and confidential impact assessment (IA) to determine the direct and indirect impact of the Programme.

The analysis used materials from the European Commission – COSME impact assessment reports, reports upon the results of the Ukrainian EEN consortium, statistics and analytical reports of the State Statistics Service of Ukraine and the Ministry of Economy of Ukraine, data from EEN Intranet, and other open sources.

Data were also collected through an online survey of COSME participants and monitored by the FORBIZ Project (questionnaires were distributed to all (100%) participants of each programme).

The results of the survey on the three instruments of the Programme are as follows:

1. European Enterprise Network (2017-2020).

The total economic effect of participation in the EEN for Ukrainian SMEs and the economy of Ukraine as a whole for 2017-2020 reaches 14,668,402 euros (compared to 3.3 million euros paid by Ukraine to the COSME programme as membership fees);

2. Erasmus for Young Entrepreneurs Program (2018-2020).

The total economic effect of participation in the EYE program for Ukrainian SMEs and the economy of Ukraine constituted 119,595 euros for 2018-2020;

3. European platform for cluster cooperation (2017-2020).

The total economic effect of participation in the ECCP for Ukrainian SMEs and the economy of Ukraine constituted 34,539 euros for 2017-2020.

In general, the following conclusions can be drawn from the impact assessment findings:

- Each euro spent from the state budget of Ukraine on the payment of membership fees to the COSME programme generated revenues / benefits of 5.28 euros for Ukrainian economy.

## **B. Directive 2011/7/EU to combat late payments in commercial transactions**

**67. Please explain the domestic legislation on the issue of late payment in commercial transactions between businesses (B2B) and between public authorities and businesses (PA2B) (when public authorities are debtors)**

This issue is regulated by the Civil Code of Ukraine (Chapter 51) and the Commercial Code of Ukraine (Articles 220-221, 231-232) and relate to the fulfillment by the parties of obligations under their contracts.

**68. Please provide the state of play of alignment with the Directive and plans for further alignment. In particular indicate:**

a) the maximum payment terms laid down in the national law for payments B2B and PA2B:

The requirements of the Law of Ukraine No. 2346-III On Payment Systems and Fund Transfer

in Ukraine dated 5 April 2002 define the term “value date” as the date specified in a settlement document or funds transfer document by a payer, from which the funds transferred by a payer shall be considered as being in ownership of the recipient. Until the value date, the transfer amount is accounted in the bank or a payment system of the participant (institution) providing services to the recipient. The Law also sets the deadlines for such transfers (Article 8).

The procedure of value date application for banks is established in the regulations of the National Bank of Ukraine.

The settlement deadlines set for export and import transactions are currently stipulated in the Regulation “On Remedial Measures and Procedures for Certain Transactions in Foreign Currency”, approved by the NBU Board Resolution No.5 dated 2 January 2019.

The procedure for applying the value date in the payment system is established by the rules of the respective payment system in compliance with the requirements of this Law.

In addition, in accordance with the requirements of the Law of Ukraine “On Payment Systems and Funds Transfer in Ukraine”, the value date is defined and specified by the payer in the settlement document or cash transfer document as the date from which funds transferred by the payer to the recipient come into ownership of the recipient. Prior to the value date, the transfer amount is accounted for by the payee's servicing bank or the institution participating in the payment system. This Law also determines the terms of transfer (Article 8).

The regulations of the National Bank of Ukraine establish the procedure for applying the value date for banks.

The deadlines for settlements on export and import transactions of goods are currently governed by the Regulation “On Measures to Protect and Determine the Procedure for Certain Transactions in Foreign Currency”, approved by the NBU Board on 02.01.2019 №5.

The procedure for applying the value date in the payment system is determined by the rules of the payment system in compliance with the requirements of this Law.

b) whether e-invoicing is present:

The transfer document can be electronic in line with Article 17 of the Law of Ukraine No. 2346-III “On Payment Systems and Money Transfer in Ukraine” dated 5 April 2022. The NBU determines the requirements to the means for generating and processing transfer documents.

The Instruction “On the Cashless Payments in Domestic Currency in Ukraine”, approved by NBU Board Resolution No. 22 dated 22 January 2004, stipulates the right to generate electronic settlement documents – a document in which the information is presented in the electronic form, including the respective payment details of the settlement document that can be formed, submitted, saved, and reproduced in the visual form by the electronic means (Chapter 1 paragraph 1.14 of the Instruction “On cashless payments”).

c) the statutory rate for interests in case of late payments:

Under Article 625 of the Civil Code of Ukraine, the debtor who is overdue, at the request of the creditor, shall pay the amount of debt, considering the inflation index for the entire period of delay, as well as three percent per annum of the overdue amount, unless otherwise established by contract or law). In addition, under Article 3 of the Law of Ukraine “On Liability for Late Fulfillment of Monetary Obligations”, the amount of the penalty (payers of funds pay in favour of recipients of these

funds for late payment) shall be calculated on the basis of the overdue payment amount, but cannot exceed the NBU double discount rate, which operated during the period for which the penalty is accrued.

d) whether compensations are automatically paid in case of late payments (and the amount):

The Civil Code of Ukraine regulates this issue. The procedure for applying penalties for non-fulfillment of obligations, namely the accrual and automatic transfer of this penalty, may be determined by the contract. At the same time, if the parties fail to reach an agreement, the issue shall be resolved in court under the procedural rules. Also, Article 534 of the Civil Code of Ukraine establishes the procedure for repayment of claims under monetary obligations.

In addition, the provisions of Article 1071 of the Civil Code of Ukraine stipulate that funds can be debited from the clients' account without any order upon presenting a court decision, or in cases established by law, an agreement between the bank and the clients; or encumbrance conditions, the subject of which is property rights to funds held on a bank account.

e) provisions on expedited judicial procedures to obtain executive orders in case of delayed payment

The Civil Procedural Code of Ukraine (hereinafter – the CPC of Ukraine) and the Commercial Procedural Code of Ukraine (hereinafter – the ComPC of Ukraine) offer two forms of an expedited court procedure:

1. Withdraw funds from the account under the writ proceedings, governed by Section II of the CPC of Ukraine (Art. 160-173) and Section II of the ComPC of Ukraine (Art. 147-160). But such a procedure provides for restrictions on the maximum amount of withdrawal. It cannot exceed 100 existence minimums for employable citizens, which is UAH 2481. It means that the maximum amount of withdrawal is UAH 248,100.00. The deadline for court review is 5 days from the day of taking action before the court.

2. Withdraw funds under the simplified procedure which is governed by Chapter 10 of the CPC of Ukraine (Art. 274-279). Such a procedure provides for restrictions on the maximum amount of withdrawal. It cannot exceed 250 existence minimums for employable citizens. It means that the maximum amount of withdrawal is UAH 620,250.00. The deadline for court review is 60 days from the day of taking action before the court.

The ComCP of Ukraine (Chapter 10, Art. 247-252) stipulates that the court can independently recognize the case for withdraw funds as insignificant and, as a result, review it in a simplified procedure. In such a situation, the maximum amount of contraction cannot exceed 500 existence minimums for employable citizens. It means that the maximum amount of withdrawal is UAH 1,240,500.00. The deadline for court review is 60 days from the day of taking action before the court.

There are no restrictions as to the amount of delayed payment. In this way, if the amount of the delayed payment exceeds the specified above limits, then the court review will take place in a general manner, without simplified procedures.

f) whether systems are in place to collect statistics on average payment periods in both – payments Pa2b and B2B.

Under the Rules of Statistical Reporting to Be Submitted to the National Bank of Ukraine (approved by the NBU Board Resolution No. 120 dated 13 November 2018), the statistical reporting



files on the overseen entities shall not include any information about the term/period of payment between businesses (B2B) and between public authorities and businesses (PA2B).

Moreover, a project of statistical reporting developed the Law of Ukraine No. 1591-IX “On Payment Services” dated 30 June 2021 (effective as of 1 August 2022) does not include such information.

### **III. SECTOR POLICIES**

**69. Are the authorities implementing sector specific strategies or support programmes? Please list them and outline the types of measures they encompass.**

**Program "Partial compensation for the cost of agricultural machinery and equipment of domestic production."**

**“Financial Support for Agricultural Producers.”**

The amount of funds is provided annually at the expense of the State Budget of Ukraine under the specified budget programme.

The procedure for using the funds provided in the state budget for partial compensation of the cost of agricultural machinery and equipment for domestic production was approved by the Cabinet of Ministers of Ukraine dated March 1, 2017, No. 130 (hereinafter – the Procedure).

According to the Procedure:

- The Ministry of Agrarian Policy acts as the main administrator of funds and reviews, within its scope of competence, applications of agricultural producers for compensation (up to 25% of the cost of machinery and equipment on the basis of acceptance certificates and other documents confirming payment through an authorized bank) and payment of such compensation;

The Ministry of Economic Development approves the list of machinery and equipment, the cost of which is partially reimbursed from the budget (which is posted on the Ministry’s official website).

This programme provides state support to agricultural producers, encouraging them to upgrade machinery and equipment. At the same time, it is a support programme for machine-building enterprises that produce machinery and equipment for the agro-industrial complex.

The state budget for 2021 under the programme “Financial Support for Agricultural Producers” provides UAH 4.6 billion, including, according to the Ministry of Agrarian Policy, allocation for “Partial Compensation for the Cost of Agricultural Machinery and Equipment of Domestic Production” – UAH 991.35 million .

For the period from December 2020 to September 2021, UAH 991.35 million was disbursed. in particular:

December-March – UAH 189.4 million (through the Ministry of Economy)

Through the Ministry of Agrarian Policy:

April-July - UAH 356.6 million;

August – UAH 146.4 million;

September – UAH 298.95 million.

Almost 7,000 agricultural producers benefited from the programme having purchased some 30,000 units of machinery and equipment for the amount of nearly UAH 4 billion (excluding VAT).

Implementation of the programme allowed:

- increase the number of machine-building enterprises that produce products for agricultural sector from 40 to 212 - 5.3 times more (2016-2021);
- expand the range of domestic machinery and equipment from 792 to 17,368 units. - almost 21 times more (2016-2021);
- create additional jobs in agricultural engineering, more than 5.3 thousand.

### **Light industry support**

To stimulate efficient and innovative development of the light industry in Ukraine, attract investment, increase production for the domestic market and export high value-added products, create new jobs, and increase budget revenues, the Cabinet of Ministers of Ukraine issued the Decree of 16.02.2022 No. 169-r “On Approval of the Action Plan to Support the Light Industry in Ukraine for 2022-2024”.

The plan of measures to support the light industry plans to develop a programme of state support for the light industry, in particular:

- increasing the level of competitiveness of Ukrainian producers through capital investments in the modernization of fixed assets through the respective mechanism (Programme “Available Loans 5-7-9%”)

5-7-9). The procedure for providing financial state support to small and medium enterprises;

- expansion of existing and creation of new productions due to the import of high-quality modern equipment with low production costs and high quality of finished products to increase the competitiveness of the textile industry of Ukraine;

- increase in exports of Ukrainian textile and light industry products (NACE 13-15) due to access to export financing;

- introduction of a pilot program to support the purchasing power of Ukrainian households in terms of purchasing products of domestic textile and light industry enterprises;

- increase in exports of finished products of the textile industry.

### **Aircraft support programme (main executor is the Ministry of Strategic Industry)**

The Laws of Ukraine “On the Development of the Aircraft Industry” (hereinafter – the Law) and “On Priority Areas of Innovation in Ukraine” define aircraft construction as a priority sector of Ukraine’s economy.

On January 1, 2017, the Laws of Ukraine of December 20, 2016, No. 1795-VIII “On Amendments to Section XX “Transitional Provisions” of the Tax Code of Ukraine on Support of the Aircraft Industry” and No. 1796-VIII “On Amendments to the Customs Code of Ukraine and the Law Of Ukraine “On the Development of the Aircraft Industry” to support the aircraft industry.

In this regard, 45 aircraft companies received tax benefits till by January 1, 2025, namely exemption from:

- taxation of enterprise profits;

- payment of value-added tax (hereinafter – VAT) on import transactions if entering the territory of Ukraine under the customs regime of import of goods (except excisable) used for the needs of the aircraft industry if such goods are exempt from import duties in accordance with the Customs Code of Ukraine and supplied in the customs territory of Ukraine design work performed for the needs of the aircraft industry. During the established period, transactions for the sale of products (services) produced by these enterprises at the expense of the State Budget of Ukraine are subject to VAT at zero rates;

- payment of land tax;

- payment of import duty when importing into the customs territory of Ukraine of goods for the production, repair, re-equipment, modification, and maintenance of aircraft and aircraft engines.

To implement these laws during 2017 - 2020, the Ministry of Economy prepared nine draft decisions of the Cabinet of Ministers of Ukraine, which concerned:

- revision of the list of aircraft construction entities in respect of which temporary measures of state support have been introduced, approved by the Decree of the Cabinet of Ministers of Ukraine dated 09.06.2010 No. 405.

- approval or amendment of the Procedure and Volume of Import of Goods into the customs territory of Ukraine by aircraft manufacturers with exemption from import duties and value-added tax, approved by the Cabinet of Ministers of Ukraine from 09.08.2017 No. 635;

- approval or amendment of the Procedure for control over the use of released funds of aircraft manufacturing enterprises that fall under Article 2 of the Law of Ukraine "On Development of the Aircraft Industry", approved by the Resolution of Cabinet of Ministers of Ukraine from 07.06.2017 No. 476.

According to the results of the work carried out in the period 2017 - 2019, aircraft companies received tax benefits amounting to over UAH 3.4 billion, of which in 2019 – over UAH 1.1 billion.

The implementation of this programme was entrusted, under the Government's decision, to the Ministry of Strategic Industries, as the main body in the system of central executive bodies, which ensures the formation and implementation of, among others, state industrial policy, state military-industrial policy, state policy in the field of state defence procurement and the aircraft industry.

At the same time, to realize the priority areas of development in the aircraft industry, the Cabinet of Ministers of Ukraine approved the Decree, dated 10.05.2018 No. 429 "Some issues of Domestic Aircraft Construction" introducing the Strategy for the Revival of Domestic Aircraft Construction until 2030 (hereinafter – the Strategy) and approved the Action Plan to the Strategy until 2030 (hereinafter – the Action Plan).

The Action Plan contains measures (including R&D, testing, certification) to replace components from Russia; optimize and modernize the production of aircrafts; increase their serial production for Ukrainian and foreign customers; as well as the organize in-depth modernization and production of helicopters "Mi" at domestic enterprises for the needs of the Ministry of Defense, the Ministry of Internal Affairs, the Ministry of Health, the State Border Guard Service, and for exports to Asia and Africa.

It is also planned to develop and establish the production of new models of multi-purpose helicopters, introduce incentives for purchasing domestic aircrafts through leasing companies by

offering preferential terms of activities from the State, and promoting the aerospace industry to foreign markets.

#### **Programme “Available Loans 5-7-9%”**

See the answer to question 50 of this chapter for more details.

#### **70. How are specific industrial branches (i.e., foodstuffs, wood processing, pharmaceuticals etc.) involved in the policy making process, both in terms of ministries competent for the branches as well as enterprises and other stakeholders?**

The close cooperation of the Ministry of Economy with representatives of the real economy is based on the principles of open dialogue with industry associations, business associations, research organizations, NGOs and helps to solve joint development problems and implement relevant reforms.

Cooperation and communication with representatives of the real economy sector are carried out in various formats, including holding meetings and round tables, public discussion of draft government decisions, and publication of draft regulations on the Ministry's official website.

Representatives of associations and unions may also submit proposals to the Ministry of Economy to develop or amend regulations.

Cooperation with associations and mechanisms for open discussion of programme documents for the development of economic sectors allows determining the content of the main reform areas to ensure the comprehensive approach.

In turn, one of the practices of cooperation is the participation of representatives of the Ministry of Economy in meetings with relevant associations and public organizations to collect public opinion and follow the substantive discussion of problems in various economic sectors.

Thus, the Ministry of Economy together with associations and public organizations develops possible areas and mechanisms for providing state support, which is relevant and aimed at stimulating production, renewal of fixed assets, development of industries, product markets, cheaper agricultural machinery and equipment; removing barriers to Ukrainian products entering EU markets through the implementation of EU Directives.

#### **Involvement of industry in policy making process: light industry case**

Based on the results of work with the Association of Ukrainian Paint Manufacturers to implement paragraph 1753 of the Action Plan to 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, approved by the Cabinet of Ministers of Ukraine on 25.10.2017 No. 1106. It provides for the implementation of the provisions of Directive 2004/42 / EC of the European Parliament and of the Council of 21 April 2000 on the limitation of emissions of volatile organic compounds through the use of organic solvents in certain paints and varnishes and recycling products. Amendments to Directive 1999/13 / EC, Order of the Ministry of Economy of 02.10.2018 No. 1394 (registered with the Ministry of Justice on 30 October 2018 under No. 1228/32680) approved the Technical Regulation on limiting emissions of volatile organic compounds due to the use of organic solvents in paints and varnishes materials for buildings and wheel repairs of their vehicles. Decree of the Ministry of Economy of 19.08.2021 No. 444 sets the deadline for placing on the market the products introduced before the adoption of the Technical Regulation by the terms used in Directive

2004/42 / EU and marking of subcategories of paints and varnishes under Directive 2004/42 / EC.

In pursuance of paragraph 1779-2 of the Action Plan implementing the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, on the other part, supported by the OSCE, leading chemical experts and the Union of Chemists of Ukraine, the general analysis of the state of chemical safety in Ukraine was conducted. The project “Improvement of the National Regulatory System for Chemical Safety and Protection” was identified as one of the priority areas.

Technical Regulation on the Safety and Security of Chemicals – based on Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals and Preparations (REACH Technical Regulation). Technical Regulation on the classification, precautionary labelling, and packaging of chemicals – based on Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures of these national technical regulations). The main purpose of drafting technical regulations is the implementation of the Globally Harmonized System of Classification and Labeling of Chemical Products (GHS) and the harmonization of national chemical legislation with European standards. At the initiative of the Ukrainian Association of Light Industry Enterprises, the Action Plan to support the light industry of Ukraine for 2022-2024 by the Ministry of Economy was developed (approved by the Decree of the Cabinet of Ministers of Ukraine dated 16.02.2022 No. 169).

**71. Are annual reports published about implemented programmes that inform anonymously about beneficiaries and their main characteristics like size, region of location, or specific subsector? Are impact evaluations for strategies or measures planned and budgeted?**

Ukrainian legislation provides frameworks for publication and impact evaluations for strategies and measures planned and budgeted. The published reports contain anonymous information about beneficiaries and their main characteristics like size, region of location, or specific subsector.

The Law of Ukraine “On State Aid to Business Entities” No. 1555-VII of July 1, 2014, describes creation and maintenance of the State Aid Register and reporting mechanisms for monitoring state aid.

State aid providers are obliged to submit information on current state aid, its purpose, forms, sources, beneficiaries, and their shares in the total amount of state aid provided within the last financial year during the current financial year.

By September 1 of the following year, the authorized state body shall prepare an annual report on the provision of state aid in Ukraine covering the period of the previous financial year, and submit it to the Cabinet of Ministers of Ukraine. Such a report is published in the newspaper and posted on the Government website.

Under the Decree of the Antimonopoly Committee of Ukraine of 28.12.2015 No. 43-rp “Some Issues of Implementation of the Law of Ukraine “On State Aid to Business Entities” the purpose of monitoring of state aid, alongside overseeing and ensuring transparency is to promote the effectiveness of the state aid system in Ukraine, protect, and stimulate competition. For example, here you can find a link to the annual report for 2020 (<https://amcu.gov.ua/npas/annual-report-granting-state-aid-undertakings-ukraine-2020?v=6181804166607>).

In addition to the above, in accordance with the Law of Ukraine on the Accounting Chamber, financial audit, and audit of the effectiveness of state target programs, investment projects, public procurement, state aid to economic entities at the expense of the state budget ithe responsibility of the Accounting Chamber.

Following the exercise of these powers, the Accounting Chamber publishes reports on each audit conducted, and reports annually on its activity.

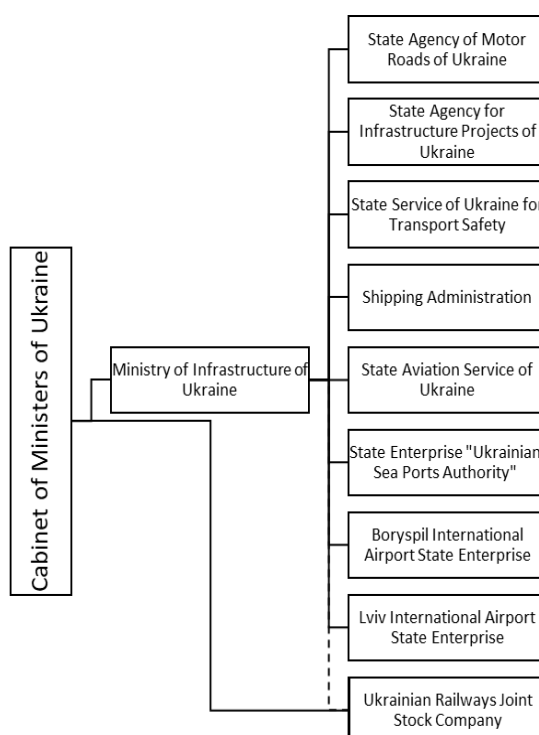
For example, here you can find a link to the audit reports for 2021(<https://rp.gov.ua/PressCenter/News/?id=1041>).

# CHAPTER 21. TRANS-EUROPEAN NETWORKS

## I. TRANSPORT NETWORKS

### A. Transport infrastructure

#### 1. How is the distribution of competences defined between the authorities across this policy area?



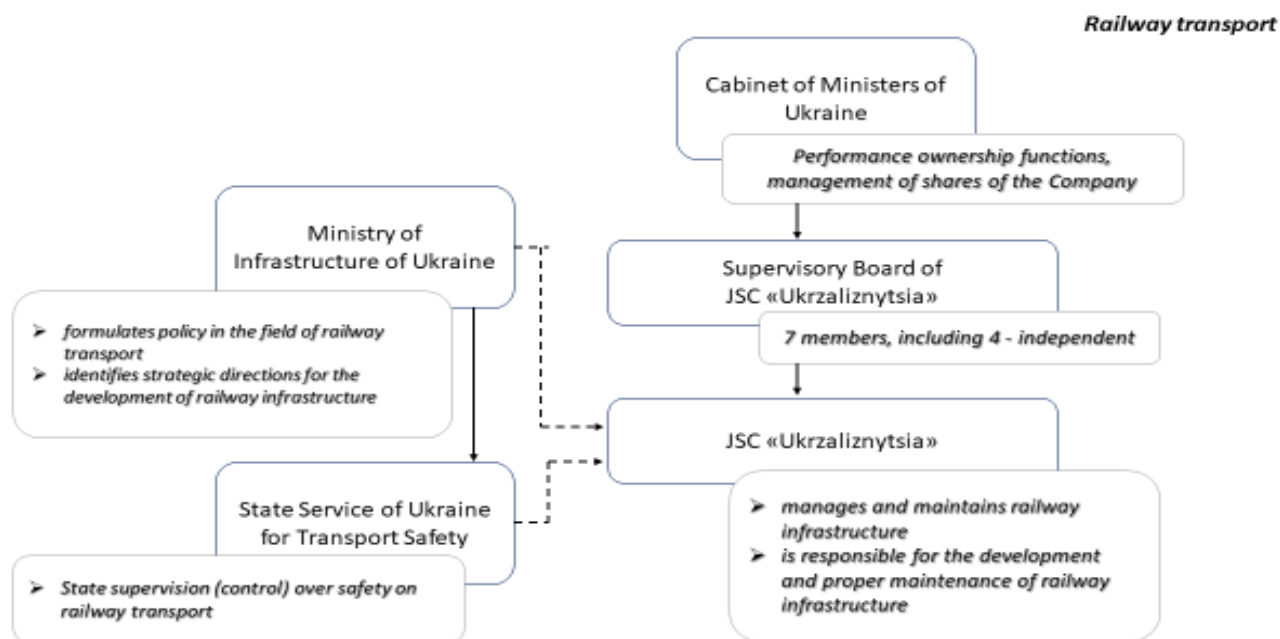
In the field of transport infrastructure and development of transport networks, the distribution of competences between authorities is determined in accordance with the Constitution and laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine, acts of the Cabinet of Ministers and other legislative acts.

Transport infrastructure includes an extensive railway network, a well-developed road network, sea, and river ports (terminals), airports and a wide network of air connections, freight, and customs terminals.

*The Ministry of Infrastructure of Ukraine is the main body in the system of the central executive bodies that ensures the formation and implementation of the state policy in the field of railway transport, development, construction, reconstruction and modernization of air, sea and river transport infrastructure and road sector.*

The distribution of competences in the areas of transport infrastructure development is carried out as follows:

*Regarding the development of railway transport.*



In order to ensure state and public interests, free development of entrepreneurship and market formation of transport services, transport safety, environmental protection, the Cabinet of Ministers of Ukraine determines the conditions and the procedure for organizing the public railway transport activities, promotes its priority development, provides support in meeting the needs of railway transport in rolling stock, material and technical resources and fuel and energy resources.

In accordance with the Law of Ukraine "On the Peculiarities of Establishment of Joint Stock Company of Rail Transport of General use", the Cabinet of Ministers of Ukraine is engaged in performing ownership functions for JSC "Ukrzaliznytsia".

At the same time, according to Article 53 of the Law of Ukraine "On Joint Stock Companies" and paragraph 62 of the Statute of the JSC "Ukrainian Railway", approved by the Resolution of the Cabinet of Ministers of Ukraine dtd. 02.09.2015 No. 735, the supervisory board shall include independent members of the supervisory board (independent directors), the number of which should be the majority of the supervisory board members, and members of the supervisory board - representatives of the state. This is in compliance with the OERS guidelines on corporate governance at state-owned enterprises and ensures the independence of JSC "Ukrzaliznytsia" in relations with the state.

The Ministry of Infrastructure of Ukraine, as a state body that formulates policy in the field of railway transport, determines the priority areas for the development of railway infrastructure.

Public main railway lines and technological structures located on them, transmitting devices directly used to ensure the transport process, namely: railway stations and public tracks, traction substations, catenary and other devices of technological power supply, alarm systems, systems for centralization, blocking and train traffic management, facilities and property intended directly for emergency recovery works are the state property and are assigned to JSC "Ukrzaliznytsia" on the right of economic management and are not subject to privatization.



JSC "Ukrzaliznytsia" carries out construction, proper maintenance, and operation of railway infrastructure.

Currently, the functions of the infrastructure manager within JSC "Ukrzaliznytsia" are performed by several branches, including regional branches-railways. At the level of the central office of JSC "Ukrzaliznytsia", information consolidation and decision-making are provided by several departments, in particular, the Department of Tracks and Structures, the Department of Traffic Management, the Department of Automation and Telecommunications, the Department of Electrification and Electricity, etc.

In order to implement the acts of EU legislation in the field of railway transport, the draft Law of Ukraine "On Railway Transport of Ukraine" was developed and registered in the Verkhovna Rada of Ukraine on September 6, 2019, under № 1196-1. The draft law presents a new model of the rail transport market, similar to European railway systems.

The final provisions of the draft law "On Railway Transport of Ukraine" set the task of the Cabinet of Ministers of Ukraine within a year from the adoption of the Law to ensure financial and organizational separation of the activity of the JSC "Ukrzaliznytsia" as a carrier and infrastructure operator to ensure equal access to strategic infrastructure and fair competition in the rail transport market.

Currently, JSC "Ukrzaliznytsia" is undergoing a structural reform of the company, which provides transformation of the company by types of activity and, in particular, organizational and financial separation of the infrastructure operator and the carrier within the Company. According to the Action Plan for the implementation of the Association Agreement and the Action Plan for the reform of railway transport, approved by the order of the Cabinet of Ministers of Ukraine of December 27, 2019.

*Regarding the development, construction, reconstruction and modernization of air, sea and river transport infrastructure, as well as financial support of road safety measures in accordance with state programs.*

The State Agency for Infrastructure Projects of Ukraine (Ukrinfraproekt) is a central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Infrastructure of Ukraine and which implements the state policy in the field of development, construction, reconstruction and modernization of air, sea and river transport infrastructure, as well as financial support of road safety measures in accordance with state programs.

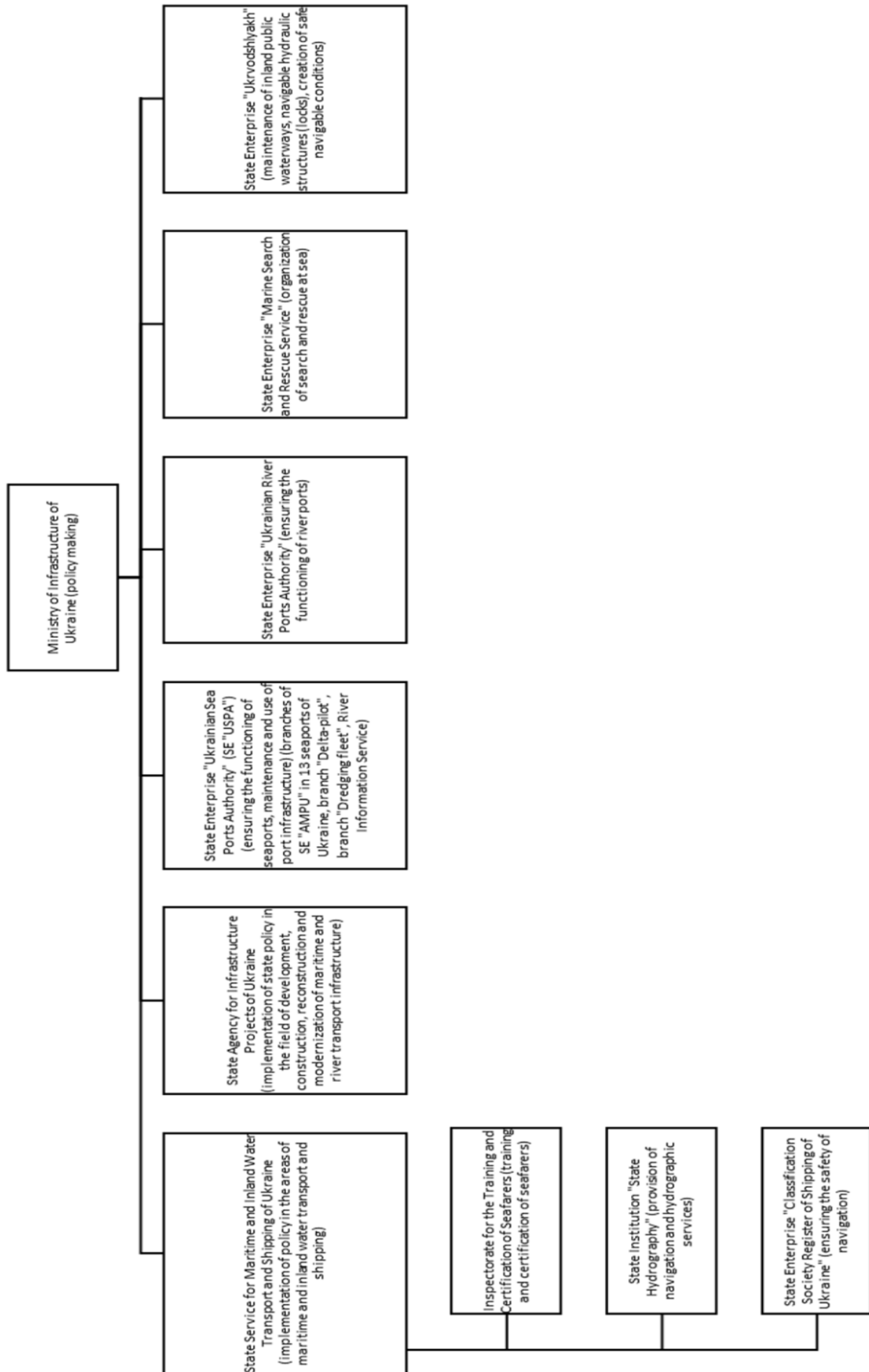
The main tasks of Ukrinfraproekt are:

implementation of the state policy in the field of development, construction, reconstruction and modernization of air, sea and river transport infrastructure, as well as financial support of road safety measures in accordance with state programs;

submission of proposals to the Minister of Infrastructure of Ukraine to ensure the formation of the state policy in the field of development, construction, reconstruction and modernization of air, sea and river transport infrastructure, as well as financial support of road safety measures in accordance with state programs;

management of the state property objects.

*Regarding the development of the maritime and inland water transport infrastructure.*



Ukrainian seaports in accordance with the law are an established limited area and water area, which employs both private and public stevedoring companies. There are seaports that have been transferred to concession along with berth lines. Details about the berth lines are given in the table in paragraph 4.

The Ukrainian Sea Ports Authority is the state enterprise established in accordance with the part one of Article 1 of the Law of Ukraine “On Seaports” (<https://zakon.rada.gov.ua/laws/show/4709-17#Text>), that ensures the functioning of seaports, maintenance and use of port infrastructure objects of the state property, performance of other tasks assigned to it directly and through its branches established in each seaport (Sea Ports Authority).

The State Enterprise "Ukrainian Sea Ports Authority" is under the management of the Ministry of Infrastructure of Ukraine.

The main tasks of the Ukrainian Sea Ports Authority are:

1) maintenance and ensuring the effective use of the state property transferred to it for economic management, including modernization, repair, reconstruction and construction of hydraulic structures, other port infrastructure objects located within the territory and waters of the seaport;

2) organization and ensuring safe operation of the state property port infrastructure objects, including hydraulic structures, maritime safety systems located within the territory and waters of the seaport.

Specialists of Ukrainian Sea Ports Authority authorities carry out all measures to maintain hydraulic structures in technically sound condition through capital and current repairs, timely inspections and surveys, development, maintenance, and storage of all necessary documentation, which is confirmed by the following data on the technical condition of berths:

- satisfactory condition - 84.4%;
- satisfactory with limitations - 15.6%.

The Administration of Sea Ports of Ukraine also performs dredging works in the waters of seaports and on inland waterways.

The company includes a branch of Delta Pilot, which regulates traffic on sea routes, and also includes the River Information Service.

The State Enterprise "Marine Search and Rescue Service" (MSRS) was established to ensure the fulfillment of Ukraine's international obligations as a flag state and a coastal state. The enterprise is under the control of the Ministry of Infrastructure of Ukraine

The purpose of the creation of the MSRS: the implementation of measures to organize search and rescue at sea, the protection of human life on the high seas in accordance with international treaties to which Ukraine is a party, namely:

- International Convention on Search and Rescue at Sea, 1979 (SAR);
- International Convention for the Safety of Life at Sea 1974 (SOLAS);
- United Nations Convention on the Law of the Sea 1982 (UNCLOS);

– Agreement on cooperation between the Black Sea countries on search and rescue in the Black Sea of 1998 (Ankara agreement);

– International Aviation and Maritime Search and Rescue (IAMSAR) Manual.

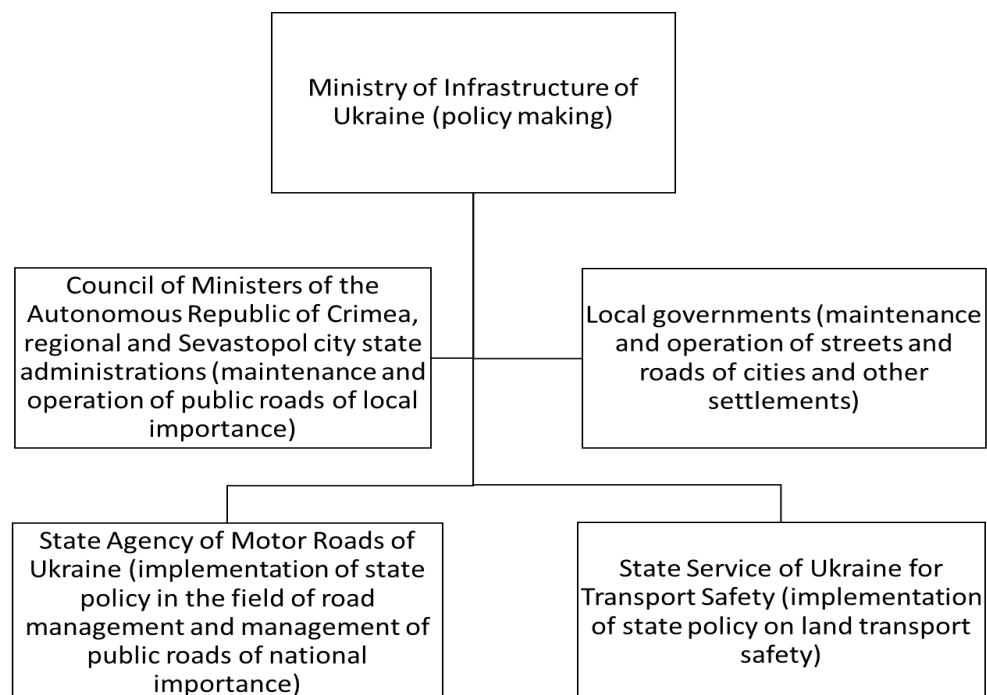
In the field of inland water transport there are a number of state enterprises that belong to the sphere of management of the Ministry of Infrastructure:

- State Enterprise of Waterways "Ukrvodshlyakh", on the balance of which are 6 navigable locks of the Dnieper Cascade, which are strategic infrastructure facilities. The company also includes a river pilot service;
- State Enterprise "Administration of river ports", on the balance of which are the state river hydraulic structures (berths). The company is also the main passenger carrier on the Dnieper.

There are also enterprises in the sphere of management of the Shipping Administration, which are involved in both sea and river transport:

- State Institution "State Hydrography" - is responsible for navigation and hydrographic issues, is engaged in cartography;
- State Enterprise "Classification Society" Register of Shipping of Ukraine" - conducts technical inspections of the fleet, hydraulic structures and issues the relevant conclusions and documents.

*Regarding the development of the road industry.*



The State Agency of Automobile Roads of Ukraine (Ukravtodor) is a central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Infrastructure of Ukraine, and which implements the state policy in the field of road sector and management of the state public roads.

The main tasks of Ukravtodor are:

- implementation of the state policy in the field of road sector and implementation of the state management of the state public roads (hereinafter – automobile roads);
- implementation of the state management in the field of road safety within the powers provided by the law;
- submission of proposals to the Minister of Infrastructure of Ukraine to ensure the formation of the state policy (strategy) in the field of road sector and management of the state public roads, the programs for road sector development;
- management of the state property objects.

According to the second part of Article 11 of the Law of Ukraine “On Motor Roads”, the powers of the central executive authority, implementing the state policy in the field of road industry and management of public roads of national importance, include:

1) development of proposals for the shaping and implementing of the state policy (strategy) in the field of road industry and management of public roads of national importance, road industry development programmes;

2) organization of construction, reconstruction, repair and maintenance of public automobile roads of national importance in compliance with state construction norms and standards, as well as lists of facilities and budget funds for construction, reconstruction and capital repair of public automobile roads approved by the Cabinet of Ministers of Ukraine;

3) ensuring proper route orientation of users of public automobile roads of national importance;

4) ensuring the sustainable functioning of public automobile roads of national importance;

5) greening of the right-of-way of public automobile roads of national importance;

6) statistical accounting and certification of public automobile roads of national importance and artificial facilities on them;

7) controlling the condition of public automobile roads of national importance, detection of dangerous places (areas) and places of concentration of road accidents, and implementation of measures for their elimination;

8) ensuring financing and development of the network of public automobile roads of national importance;

9) making proposals for the shaping and implementing of the state policy on road safety;

10) development and participation in the implementation of road safety measures;

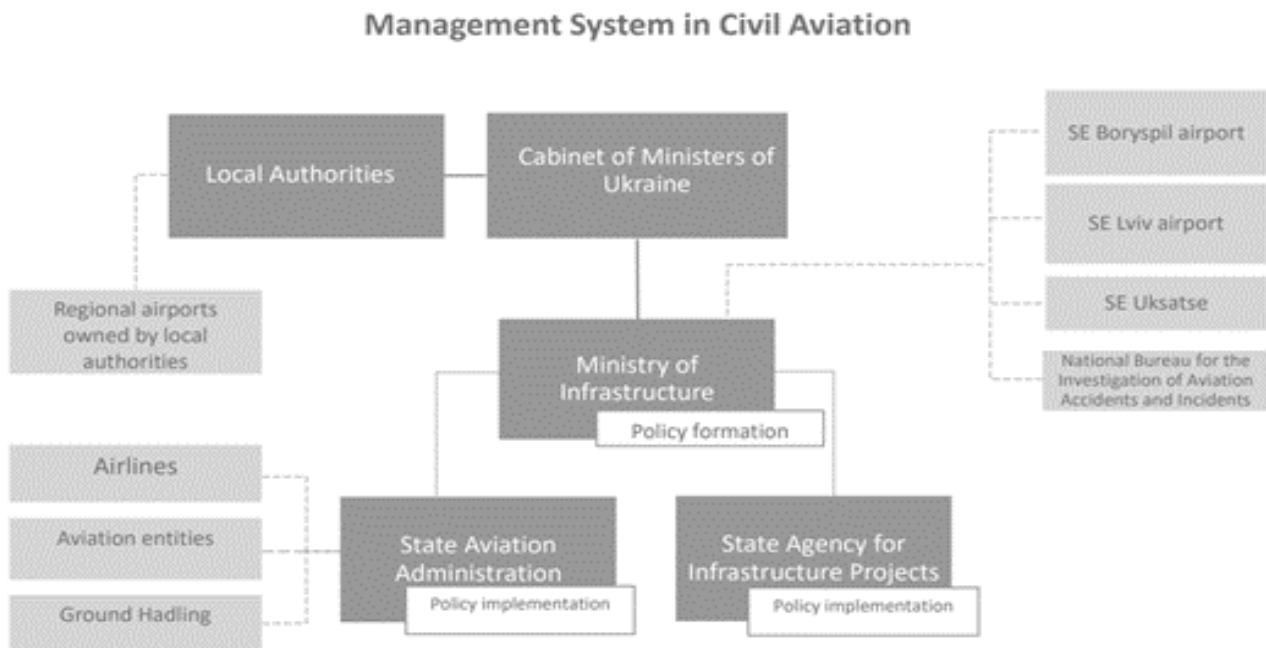
11) ensuring the conduct of mandatory safety audit and inspection of automobile roads, belonging to the sphere of its management.

Management of the local public roads belongs to the powers of the Council of Ministers of the Autonomous Republic of Crimea, Regional State Administrations and Sevastopol City State Administration.

The State Service of Ukraine for Transport Safety belongs to the sphere of management of the Ministry of Infrastructure. They, as a body responsible for road safety, have a key role in the formation of the state safety program, which mainly consists of the construction of appropriate road infrastructure, as well as developing requirements and standards for transport infrastructure in the

context of its safety. Also, this authority is responsible for the dimensional and weight control of vehicles in the areas of dimensional and weight control.

### *Regarding the Civil Aviation*



The Ministry of Infrastructure of Ukraine is the central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine. The Ministry of Infrastructure ensures the formation and implementation of state policy in the field of transport, including aviation, and the use of Ukrainian airspace, development, construction, reconstruction and modernization of transport infrastructure, including aviation.

The State Aviation Administration is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Infrastructure, which implements state policy in the field of civil aviation and airspace of Ukraine and is the authorized body for civil aviation.

The main tasks are:

1. Implementation of state policy in the field of civil aviation and the use of airspace of Ukraine;
2. Making proposals to the Minister of Infrastructure to ensure the formation of state policy in the field of civil aviation and the use of airspace of Ukraine;
3. Organization of the use of the airspace of Ukraine;
4. Implementation of state control and supervision over the safety of civil aviation, supervision over the provision of air navigation services.

The National Bureau for the Investigation of Aviation Accidents and Incidents with Civil Aircraft is a state specialized expert institution under the management of the Ministry of Infrastructure of Ukraine.

The main tasks are:

1. Carrying out technical investigation of aviation events;

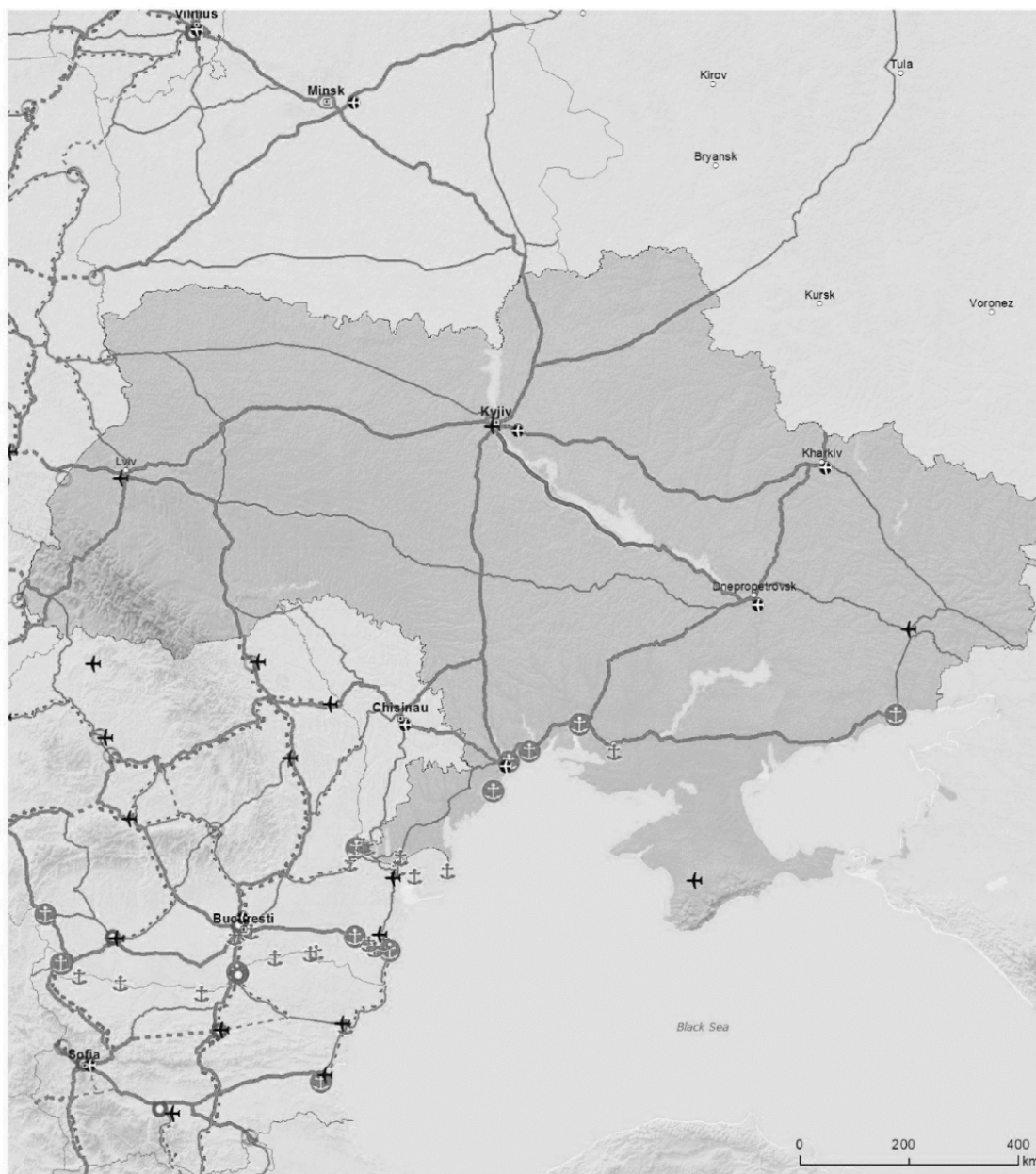
2. Ensuring participation in the technical investigation in foreign countries;
3. Preparation of conclusions and recommendations based on the results of collection, analysis, research and summarizing of data related to flight safety

**2. Please present the state of the transport road, railway, and inland navigation networks.**

On October 9, 2013, in Luxembourg a joint declaration "Future cooperation in the field of transport within the Eastern Partnership" was adopted, which approved the maps of the transport regional network of the "Eastern Partnership" (hereinafter - EaP), which show the connection of the Eastern countries with each other and with the EU member states.

In 2013, Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network was adopted.

The Regional Transport Network EaP is included in Annex III to Regulation (EU) 1315/2013 in accordance with Regulation (EU) 473/2014. Ukraine, as the country of the EaP, was also added to this network.

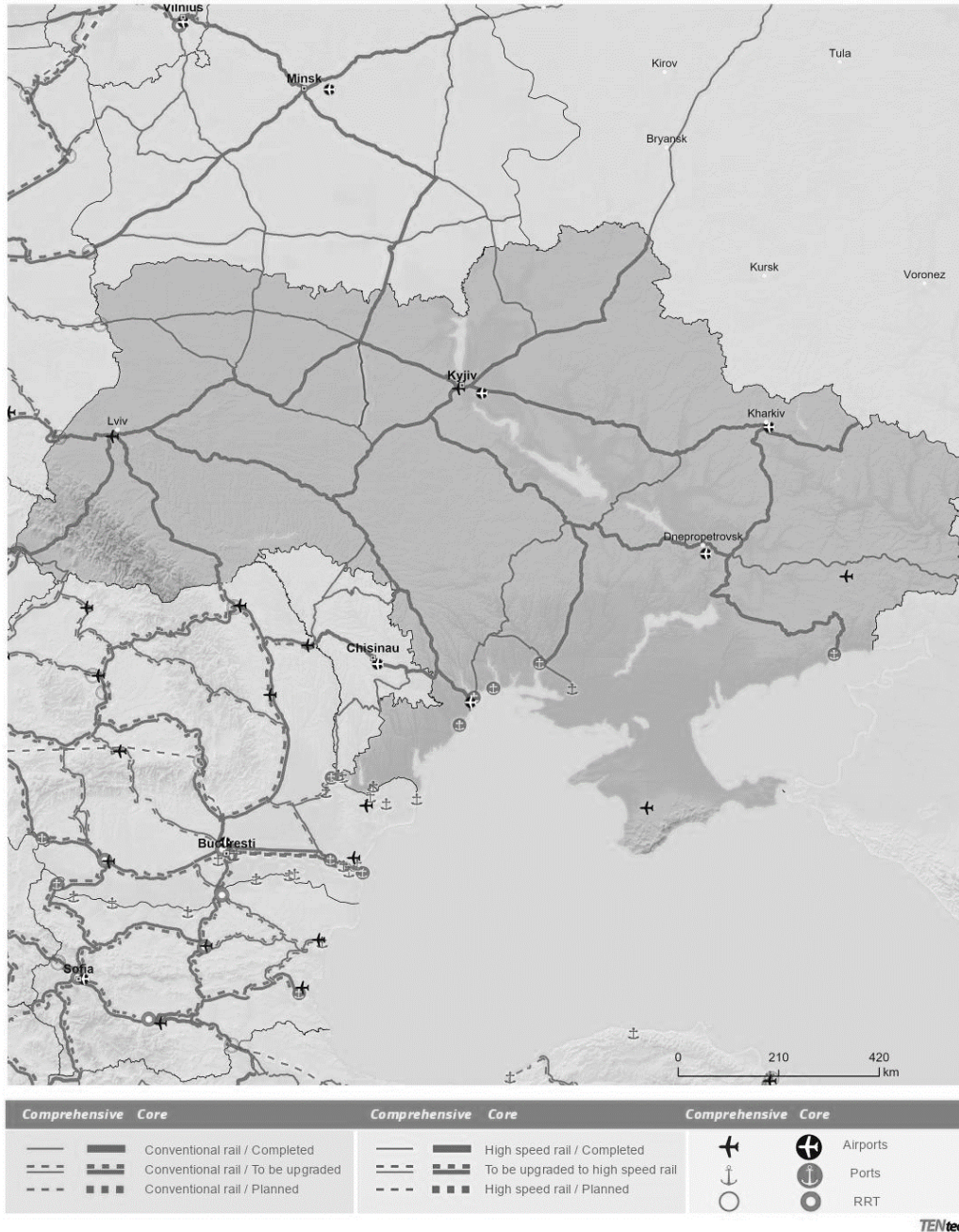


| Comprehensive         | Core                  | Comprehensive | Core  | Comprehensive | Core     |
|-----------------------|-----------------------|---------------|-------|---------------|----------|
|                       |                       |               |       |               |          |
|                       |                       |               |       |               |          |
|                       |                       |               |       |               |          |
| Road / Completed      | Road / Completed      | Ports         | Ports | Airports      | Airports |
| Road / To be upgraded | Road / To be upgraded | RRT           | RRT   |               |          |
| Road / Planned        | Road / Planned        |               |       |               |          |





**Indicative maps of the core network in Ukraine, railways**  
 Comprehensive Network: Railways, ports, rail-road-terminals and airports  
 Core Network: Railways, ports, rail-road-terminals and airports  
**Eastern Partnership Transport Network: Ukraine**



An agreement currently has been reached between the Ministry of Infrastructure and the European Commission to expand TEN-T indicative maps in Ukraine, to which the following routes will be added:

- public highway of national importance H-01 Kyiv – Znamyanka;
- railway section Korosten – Zhytomyr – Berdychiv;

- rivers Dnipro and Southern Buh.

A high-level Agreement between Ukraine and the European Union on the expansion of the Trans-European Transport Network indicative maps in Ukraine is planned to be signed in the nearest future.

New routes are highlighted on maps.

#### Road networks

According to the Article 5, 8 and 16 of the Law of Ukraine “On Motor Roads”, the **National Network of Automobile Roads is divided into the following types:**

- public roads:
  - of national importance
    - ✓ international roads
    - ✓ regional roads
    - ✓ territorial roads
    - ✓ national roads
  - of local importance
    - ✓ regional roads
    - ✓ district roads
- streets and roads of cities and other settlements;
  - highways (continuous and regulated traffic);
  - main streets of citywide importance (continuous traffic and regulated traffic);
  - main streets of district significance;
  - streets and roads of local importance.
- departmental (technological) roads;
- roads in private areas.

According to the resolution of the Cabinet of Ministers of Ukraine № 1242 of November 17, 2021 "On approval of the list of public roads of national importance", the **length of public roads of national importance** on the territory of Ukraine is 46.7 thousand km.

According to the third part of Article 8 of the Law of Ukraine “On Motor Roads”, **international roads** include roads that are connected to international transport corridors and / or are part of the European network of main, intermediate, connecting roads and branches, have corresponding international indexing and provide international road transport.

| The name of the highway | Index | Length, kilometers<br>(including approach<br>and bypass roads) |
|-------------------------|-------|--|
|                         |       |  |

|  |      |        |
|--|------|--------|
| Kyiv - Chernihiv - Novi Yarylovychi (to the Homel city)                                      | M-01 | 259.7  |
| Kipti - Hlukhiv - Bachivsk (to the Bryansk city)   | M-02 | 254.5  |
| Kyiv - Kharkiv - Dovzhanskyi (to the Rostov-on-Don city)                                     | M-03 | 947.5  |
| Kyiv - Odesa   | M-05 | 565.3  |
| Kyiv - Chop (to the city of Budapest via Lviv, Mukachevo and Uzhhorod)                       | M-06 | 926.7  |
| Kyiv - Kovel - Yahodyn (to the Lublin city)  | M-07 | 496.7  |
| Uzhhorod Bypass - "Uzhhorod" Checkpoint  | M-08 | 18.2   |
| Ternopil - Lviv - Rava-Ruska (to the city of Lublin)   | M-09 | 174.9  |
| Lviv - Krakovets (to the city of Krakow)   | M-10 | 85.4   |
| Lviv - Shehyni (to the city of Krakow)   | M-11 | 71.6   |
| Kropyvnytskyi - Platonove (to the city of Chisinau)  | M-13 | 258.5  |
| Odesa - Melitopol - Novoazovsk (to the city of Taganrog)                                     | M-14 | 714.2  |
| Odesa - Reni (to the Bucharest city)   | M-15 | 299.5  |
| Odesa - Kuchurhan (to the Chisinau city)   | M-16 | 58.9   |
| Kherson - Dzhankoi - Feodosia - Kerch  | M-17 | 403.3  |
| Kharkiv - Simferopol - Alushta - Yalta   | M-18 | 723.9  |
| Domanove (to the city of Brest) - Kovel - Chernivtsi - Terebleche (to the city of Bucharest) | M-19 | 544.5  |
| Kharkiv - Shcherbakivka (to the city of Belgorod)  | M-20 | 28.4   |
| Vystupovychi - Zhytomyr - Mohyliv-Podilskyi (via Vinnytsia city)                             | M-21 | 420.1  |
| Poltava - Alexandria   | M-22 | 150.6  |
| Berehove - Vynohradiv - Velyka Kopanya   | M-23 | 50     |
| Velyka Dobron - Mukachevo - Berehove - "Luzhanka" checkpoint                                 | M-24 | 62.1   |
| "Solomonovo" checkpoint - Velyka Dobron - Yanoshi  | M-25 | 58.9   |
| Vylok - Nevetlenfalu - "Dyakove" checkpoint  | M-26 | 32     |
| Odesa - Chornomorsk  | M-27 | 14.1   |
| Odesa - Yuzhne - / M-14 /  | M-28 | 74.1   |
| Kharkiv - Krasnohrad - Pereshchepyne - Dnipro  | M-29 | 201.3  |
| Stryi - Uman - Dnipro - Izvaryne (via Vinnytsia, Kropyvnytskyi cities)                       | M-30 | 1436,2 |
| The total length of international roads  |      | 9331.1 |

According to the fourth part of Article 8 of the Law of Ukraine “On Motor Roads”, **national roads** include highways that are combined with national transport corridors and do not belong to international highways, and highways that connect the capital of Ukraine - Kyiv city, administrative center of the Autonomous Republic of Crimea, the administrative centers of the oblasts, and the city of Sevastopol among themselves, as well as large industrial and cultural centers with international roads.

| The name of the highway   | Index | Length, kilometers<br>(including approach<br>and bypass roads) |
|---|-------|--|
| Kyiv - Znamyanka  | N-01  | 278.7  |
| / M-06 / - Kremenets - Bila Tserkva - Rzhyschiv - Kaniv - Sofiyivka           | N-02  | 521.5  |
| Zhytomyr - Chernivtsi   | N-03  | 355.1  |
| Krasnoperekopsk - Simferopol  | N-05  | 115  |
| Simferopol - Bakhchisarai - Sevastopol  | N-06  | 69.3   |
| Kyiv - Sumy - Yunakivka (to the city of Kursk)                                | N-07  | 334.6  |
| Boryspil - Dnipro - Zaporizhzhia (via Kremenchuk) - Mariupol                  | N-08  | 674  |
| Mukachevo - Rakhiv - Bohorodchany - Ivano-Frankivsk - Rohatyn - Bibrka - Lviv | N-09  | 441.2  |
| Stryi - Ivano-Frankivsk - Chernivtsi - Mamalyha (to the city of Chisinau)     | N-10  | 280  |
| Dnipro - Mykolayiv (via Kryvyi Rih)   | N-11  | 240.7  |
| Sumy - Poltava with a bypass of Sumy city                                     | N-12  | 169.3  |
| Lviv - Sambir - Uzhhorod  | N-13  | 231.8  |
| Oleksandrivka - Kropyvnytskyi - Mykolayiv                                     | N-14  | 244  |
| Zaporizhzhia - Donetsk  | N-15  | 210.4  |
| Zolotonosha - Cherkasy - Smila - Uman   | N-16  | 208.1  |
| Lviv - Radekhiv - Lutsk   | N-17  | 129.8  |
| Ivano-Frankivsk - Buchach - Ternopil  | N-18  | 106.8  |
| Yalta - Sevastopol  | N-19  | 80.7   |
| Slovyansk - Donetsk - Mariupol  | N-20  | 219.6  |
| Starobilsk - Luhansk - Khrustalnyi - Makiyivka - Donetsk                      | N-21  | 221.1  |
| Ustyluh - Lutsk - Rivne   | N-22  | 148.7  |

|   |      |        |
|---|------|--------|
| Kropyvnytskyi - Kryvyi Rih - Zaporizhzhia   | N-23 | 264.7  |
| Blahovishchenske - Mykolayiv (via Voznesensk city)  | N-24 | 230    |
| Horodyshe - Rivne - Starokostiantyniv   | N-25 | 298,2й |
| Chuhuiv - Milove (via Starobilsk city)  | N-26 | 297.4  |
| Chernihiv - Mena - Sosnytsia - Hremyach   | N-27 | 205    |
| / H-27 / - Horodnya - “Senkivka” checkpoint   | N-28 | 75.6   |
| Vasylivka - Berdyansk   | N-30 | 136.3  |
| Dnipro - Tsarychanka - Kobeliaky - Reshetylivka   | N-31 | 159.7  |
| Pokrovsk - Bakhmut - Mykhailivka  | N-32 | 131.5  |
| Odesa - Bilhorod-Dnistrovskyi - Monashi - / M-15 / with approach to the port of Chornomorsk | N-33 | 97.2   |
| The total length of national roads  |      | 7177   |

According to the fifth part of Article 8 of the Law of Ukraine “On Motor Roads”, **regional roads** include highways connecting two or more oblasts, highways connecting the main international road crossing points across the state border, sea and air ports of international importance, the most important objects of national cultural heritage, resort areas with international and national highways.

The length of regional highways is 9046.9 km.

According to the sixth part of Article 8 of the Law of Ukraine “On Motor Roads”, **territorial roads** include highways connecting the administrative centers of the Autonomous Republic of Crimea and oblasts with administrative centers of districts, cities of regional significance, cities of regional significance, administrative centers of districts among themselves, as well as highways connecting with roads of national importance major airports, sea and river ports, railway junctions, objects of national and cultural heritage and resort and nature reserves, road checkpoints of international and interstate importance through state border.

The length of territorial roads is 21178.4 km.

The length of **local roads** is 119.1 thousand km.

At the same time, due to limited funding for the road sector before the creation of a State Road Fund (formed as part of a special fund of the State budget in accordance with the Law of Ukraine № 1763-VII of November 17, 2016 "On Amendments to the Budget Code of Ukraine to improve mechanism of financial support of the road industry"), about 90 percent of public roads have not been repaired for over 30 years. As a result, a significant part of public roads do not meet modern requirements in terms for both strength (39.2%) and flatness (51.1%).

### Railway transport

As of January 1, 2022, the operational network of Ukrainian railways was almost 19.8 thousand km (excluding the occupied territories in eastern Ukraine and the Autonomous Republic of Crimea), of which more than 47.2% were electrified.

Ukrainian railways directly border and interact with the railways of Russia, Belarus, Moldova, Poland, Romania, Slovakia, Hungary and provide the operation of forty international railway crossings, as well as serve 18 Ukrainian seaports of the Black Sea-Azov basin.

Also, 3 railway transport corridors are passing through the territory of Ukraine - № 3, 5, 9. Through the Ukrainian ports of Izmail and Reni interaction with the pan-European corridor № 7, which runs along the Danube river, is carried out. The length of the national network of railway transit corridors in Ukraine is 3162 km (as of February 23, 2022). These are mainly two-track electrified, self-locking railways, characterized by a high level of use of technical means. Transportation along the international transport corridor TRACECA (Europe - Caucasus - Asia) is also developing.

The table below presents a brief description of the main directions of the railway routes included in the indicative map of the TEN-T network.

| № p / p | The name of the section                               | Number of main tracks | Electrification of the section (permanent, variable, not electrified)    | Length, km | Means of signaling and communication |
|---------|---|-----------------------|--|------------|--------------------------------------|
| 1       | Chop - Stryi - Lviv                                   | 2                     | constant current <sup>3</sup>  | 270        | AL1 , SAL2                           |
| 2       | Mostyska-II - Lviv                                    | 2                     | constant current   | 80         | AL, SAL                              |
| 3       | Chop - Batyovo - Dyakovo                              | 1, 2                  | Batyovo - Chop - constant current,<br>Dyakovo - Batovo - not electrified | 107        | SAL                                  |
| 4       | Lviv - Khodoriv - Ivano-Frankivsk                     | 1                     | not electrified  | 145        | AL                                   |
| 5       | Ivano-Frankivsk - Kolomyia - Chernivtsi - Vedul-Syret | 1                     | not electrified  | 166        | AL, SAL                              |
| 6       | Lviv - Krasne - Zdolbuniv                             | 2                     | alternating current <sup>4</sup>   | 195        | AL                                   |
| 7       | Zdolbuniv - Shepetivka                                | 2                     | alternating current  | 73         | AL                                   |
| 8       | Shepetivka - Novohrad - Volynskyi - Korosten          | 1                     | alternating current  | 151        | AL                                   |
| 9       | Korosten - Berezhest                                  | 1, 2                  | not electrified  | 63         | AL                                   |
| 10      | Korosten - Olevska - Sarny                            | 1                     | not electrified  | 155        | AL                                   |

|    |  |      |   |     |         |
|----|--|------|---|-----|---------|
| 11 | Zdolbuniv - Rivne - Sarny - Udrytsk                      | 1, 2 | Zdolbuniv - Rivne - alternating current;<br>Rivne - Udrytsk - not electrified           | 149 | AL      |
| 12 | Rivne - Kivertsy - Kovel                                 | 1.2  | alternating current   | 136 | SAL     |
| 13 | Sarny - Kovel  | 1    | not electrified   | 142 | SAL     |
| 14 | Kovel - Yagodyn  | 2    | not electrified   | 59  | SAL     |
| 15 | Krasne - Ternopil - Hrechany - Zhmerynka                 | 2    | alternating current   | 308 | AL      |
| 16 | Shepetivka - Berdychiv - Kozyatyn                        | 2    | alternating current   | 149 | AL      |
| 17 | Zhmerynka - Mohyliv - Podilskyi                          | 1    | not electrified   | 114 | AL, SAL |
| 18 | Korosten - Darnytsia (Kyiv railway junction)             | 2    | alternating current   | 171 | AL      |
| 19 | Zhmerynka - Kozyatyn - Darnytsia (Kyiv railway junction) | 2    | alternating current   | 290 | AL      |
| 20 | Darnytsia (Kyiv railway junction) - Nizhyn               | 2    | alternating current   | 112 | AL      |
| 21 | Nizhyn - Konotop   | 2    | alternating current   | 95  | AL      |
| 22 | Kontop - Zernove   | 2    | alternating current   | 134 | AL      |
| 23 | Nizhyn - Chernihiv - Hornostaivka                        | 1    | Nizhyn - Chernihiv - alternating current;<br>Chernihiv - Hornostaivka - not electrified | 149 | AL      |
| 24 | Darnytsia (Kyiv railway junction) - Hrebinka - Romodan   | 1.2  | alternating current   | 220 | AL      |
| 25 | Romodan - Poltava - Pivdenna - Osnova                    | 1.2  | Romodan - Lyubotyn - alternating current;<br>Lyubotyn - Osnova - constant current       | 272 | AL      |
| 26 | Osnova - Kupyansk - Sortuvalnyi - Topoli                 | 2    | Osnova - Hrakove - constant current;<br>Hrakove - Topoli - alternating current          | 163 | AL      |

|    |  |     |   |     |    |
|----|--|-----|---|-----|----|
| 27 | Fastiv - Myronivka -<br>imeni T. Shevchenka -<br>Znamyanka   | 2   | alternating current   | 302 | AL |
| 28 | Znamyanka -<br>Pyatyhatky - Lower<br>Dnipro railway junction | 2   | Znamyanka - Pyatyhatky -<br>alternating current;<br>Pyatyhatky - Lower Dnipro<br>railway junction - constant<br>current | 237 | AL |
| 29 | Lower Dnipro railway<br>junction<br>- Synelnykove 2          | 2   | constant current  | 38  | AL |
| 30 | Zhmerynka -<br>Vapnyarka - Slobidka -<br>Podilsk             | 2   | alternating current   | 199 | AL |
| 31 | Podilsk - Rozdilna -<br>Sortuvalna - Odesa -<br>Tovarna      | 2   | alternating current   | 183 | AL |
| 32 | Rozdil<br>na - Sortuvalna -<br>Kuchurhan                     | 2   | alternating current   | 16  | AL |
| 33 | Znamyanka - Dolynska<br>- Mykolayiv                          | 1.2 | Znamyanka - Dolynska -<br>alternating current;<br>Dolynska-Mykolayiv - not<br>electrified                               | 238 | AL |
| 34 | Chornoliska - Pomichna<br>- Kolosivka                        | 1.2 | alternating current   | 294 | AL |
| 35 | Kolosivka -<br>Chornomorska - Odesa<br>- Tovarna             | 2   | alternating current   | 128 | AL |
| 36 | Kolosivka - Mykolayiv  | 1   | not electrified   | 105 | AL |
| 37 | Mykolayiv - Kherson  | 1   | not electrified   | 55  | AL |
| 38 | Osnova - Lozova -<br>Synelnykove 2                           | 2   | constant current  | 268 | AL |
| 39 | Synelnykove 2 -<br>Zaporizhzhya -<br>Vantazhne               | 2   | constant current  | 127 | AL |
| 40 | Zaporizhzhya -<br>Vantazhne - Polohy                         | 1   | not electrified   | 149 | AL |



|    |  |     |                  |     |         |
|----|--|-----|------------------|-----|---------|
| 41 | Polohy - Kamysh - Zorya - Volnovakha   | 1.2 | not electrified  | 135 | AL, SAL |
| 42 | Volnovakha - Mariupol-Port             | 2   | constant current | 78  | AL      |
| 43 | Synelnnykove 2 - Chaplyne - Pokrovsk   | 2   | constant current | 155 | AL      |
| 44 | Pokrovsk - Debaltseve - Krasna- Mohyla | 2   | constant current | 238 | AL, SAL |
| 45 | Korosten - Zhytomyr - Berdychiv        | 1   | not electrified  | 132 | AL      |

<sup>1</sup> AL - automatic locking

<sup>2</sup> SAL - semi-automatic locking

<sup>3</sup> Constant current with a voltage of 3 kW

<sup>4</sup> Alternating current with a voltage of 25 kW and a frequency of 50 Hz

All mentioned routes are used for both freight and passenger traffic.

The main track width is 1520 mm. At the same time, in some border areas there is an extension of the track 1435 mm wide. Information on border crossings (according to the Tariff Policy for 2022) is presented in the table below:

| Border crossing          | The length of the track 1520 mm wide deep into the EU member states, km   | The length of the track 1435 mm wide deep into Ukraine, km |
|--------------------------|---|--|
| Romania                  |   |  |
| Dyakovo / Halmeu         | 6 (to Porumpesti station)   | 112 ( Dyakovo - Chop section)                              |
| Vadul-Siret / Dornesti   | 12.2 (to Dornesti station)  | 6.6 (to Vadul Siret station)                               |
| Slovakia                 |   |  |
| Uzhhorod / Matevtse      | 2.4 (to Matevtse station)<br>12.4 (Voyany station)<br>21 (to Budkovtse station)<br>38.4 (to Trebishov station)<br>89.4 (to Haniska station near Košice) | -  |
| Chop / Chierna-nad-Tysou | 9 (to the station Dobra TKD)  | 46 (to Mukachevo station)<br>112 (Chop - Dyakovo section)  |

| Hungary                    |   |   |
|----------------------------|---|---|
| Chop / Záhony              | -   | 44 (to Mukachevo station)<br>112 (Chop - Dyakovo section) |
| Batyovo /<br>Epereshke     | 4.9 (to Epereshke station)<br>14.4 (to Tornioshpaltse station)<br>15.6 (to Comoros station)<br>17 ( Záhony station) | -   |
| Poland                     |   |   |
| Izov /<br>Khrubeshuv       | 394.6 (to the station Slavkuv -Poludnyovy)  | -   |
| Yahodyn /<br>Dorokhusk     | 20 (to Helm station)  | 16 (to Lyuboml station)<br>65 (to Kovel station)          |
| Mostyska-II /<br>Medyca    | 20 (Zhuravitsa station)   | 13 (to the station Mostyska-I)                            |
| Rava-Ruska /<br>Verkh rata | 3 (to Verkh rata station)   | -   |

It should be noted that, in accordance with the legislation of Ukraine, the information on the capacity of sections of railway lines in Ukraine is not subject to disclosure.

Regarding bottlenecks - the main bottlenecks of railway infrastructure are in the direction of:

seaports - related to the need to continue electrification of railway lines (in particular, in the direction of the ports of Mykolaiv and Kherson), the need to increase the capacity of port railway stations;

border railway crossings - related to the need to increase the capacity and modernisation of complexes for rearranging wagons from the 1520 mm track to 1435 mm and reloading complexes.

The TEN-T network includes sections passing through the East of Ukraine (Luhansk and Donetsk oblasts), namely: Synelnykove 2 - Chaplyne - Pokrovsk - Debaltseve - Krasna-Mohyla.

The main railway direction to the Autonomous Republic of Crimea is provided by sections:

- Zaporizhzhya - Vantazhnyi - Melitopol;
- Melitopol - Dzhankoy;
- Dzhankoy - Simferopol - Vantazhnyi.

These sections are electrified (constant current), two-track, equipped with auto-locking.

#### Maritime and inland waterway transport

Ukraine has a fairly high navigable potential of rivers, the length of waterways suitable for operation is about 6.2 thousand km.

The list of inland sea waters and inland waterways classified as navigable is approved by the Decree of the Cabinet of Ministers of Ukraine № 136 on 09.02.2022.

Main navigable inland waterways:

Dnipro River: from the mouth of the Pripyat to the city of Kherson, including the branch Rvach, depth 2.65 - 3.65 m; width of the section 80 m (to mouth - up to 100 m); and a small upper section of the Dnipro River to the border with the Republic of Belarus; total length is 1 046 km;

The Pripyat River: from the village of Usov to the mouth of the Pripyat; section length 62.5 km; depth 1.6-2.65 m; section width 35-60 m.

Desna River: from the city of Chernyhyv to the mouth of the Desna River, section length 194.5 km; depth 1.4 m.

Pivdennyi Buh River: from the city of Voznesensk to mouth of the Pivdennyi Buh River, 159 km length; depth 1.9-4.5 m; section width 35-40 m (mouth - up to 200 m).

The Danube River: the junction of the borders of Ukraine, Moldova and Romania to the mouth of the Danube River, 172 km long; depth 3.5 - 4 m; section width 60-120 m.

Dniester River: separate sections from the state border of Ukraine and Moldova to the Bilgorod-Dnistrovskiy city and from the village of Novodnistrovsk to the village of Zatoka; the total length of sections is 317 km; depth 2.4 m; section width 60 m;

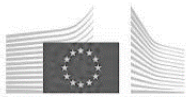
section of the Dnipro-Buh estuary; length is 65 km; depth is 4-4.5 m; width is 200 m;

other small in depth navigable rivers and individual reservoirs.

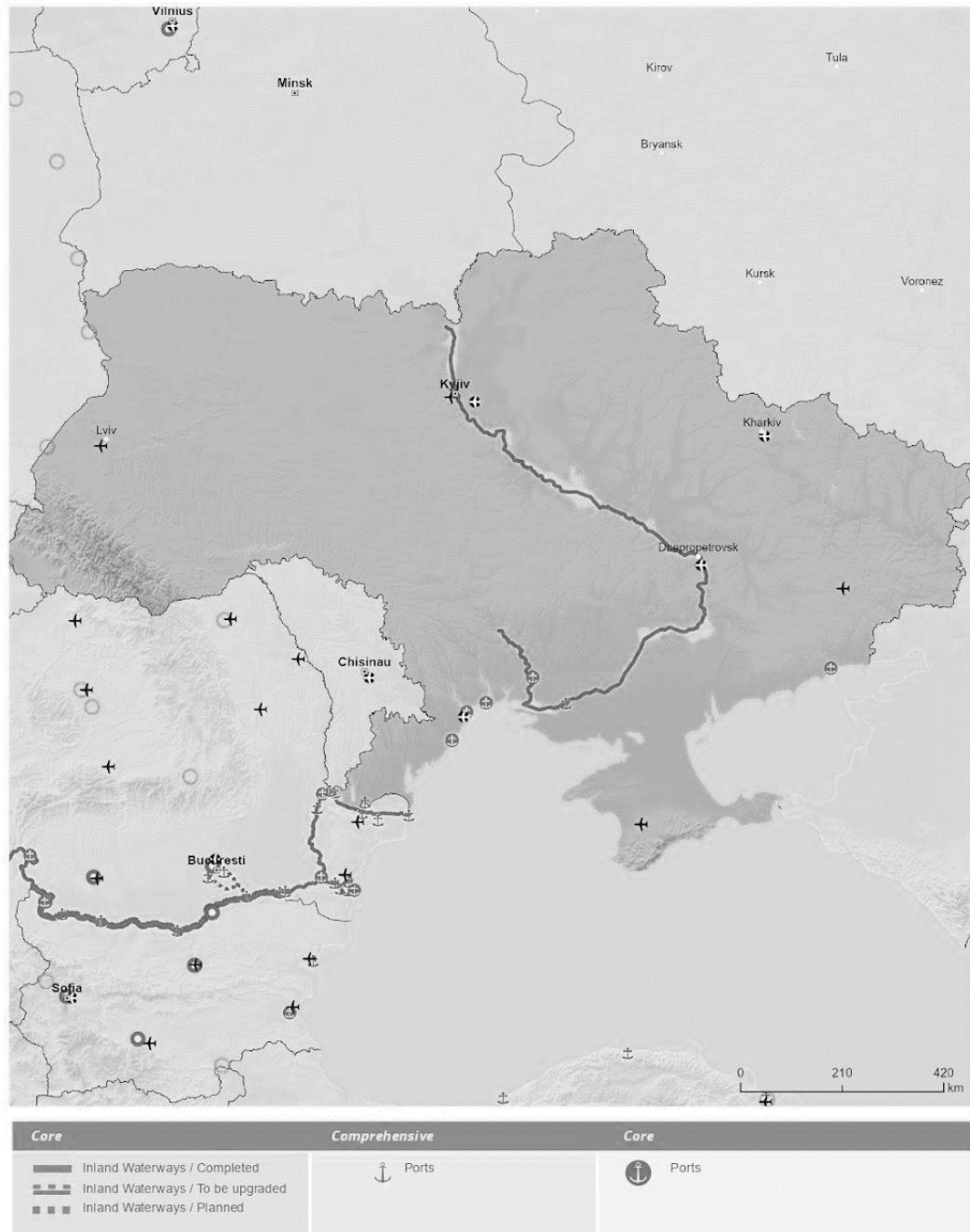
Ukrainian inland waterways includes rivers identified by the European Agreement on the Main Inland Waterways of International Importance, in particular the Danube (E-80), Dnipro (E-40), Pivdennyi Buh (E-40-02), and they correspond of class IV and above.

At the Government level, the list of river navigable areas with their main characteristics was approved by the Resolution of the Cabinet of Ministers of Ukraine of 09.02.2022 № 136 "On approval of the list of inland sea waters and inland waterways classified as navigable" (<https://zakon.rada.gov.ua/laws/show/136-2022-%D0%BF#Text>).

According to the High-Level Agreement between Ukraine and the European Union on the extension in Ukraine of indicative maps of the Trans-European Transport Network, which is planned to be signed in the nearest future, the Dnipro River and the Southern Buh River will be added to the TEN-T maps.



# **Indicative maps of the core network in Ukraine, Inland Waterways** Comprehensive & Core Networks: Inland waterways and ports Eastern Partnership Transport Network: Ukraine



TENtec

Along the Dnipro river, Ukraine has six gateways (Kyiv, Kaniv, Kremenchuk, Kamyansk, Zaporizhzhia, Kakhovka). Gateway is a hydraulic structure on inland waterways that is there to ensure the transition of vessels from one water basin (bief) to another with different water levels in them.

There are 11 river ports and piers on the banks of the Dnipro river and the Southern Buh river (Kamensk, Dnipro, Zaporizhzhya, Kyiv, Kremenchuk, Mykolayiv, Nikopol, Novokakhovsk, Kherson, Cherkasy, Chernihiv river ports). On the Dniester river – 1 (Mohyliv-Podilskyi port), on the Danube river – 3 (Izmail, Reni and Ust-Dunaisk ports) which combine river and sea activities, and Orlivka-Isakcha ferry crossing. River ports (terminals) are private property.

Depths on inland waterways and canals are subject to seasonal changes and require periodic depth measurements and dredging.

Navigation equipment (buoys, beacons, milestones, etc.) is provided to the full extent.

The most important types of carriage of goods in the field of inland waterway transport is transport of goods and merchandise transported by vessels intended for dry and bulk freight transport. The Dnipro transports about 14 million tons of cargo per year, but capacity is much higher - 60 million tons per year.

Inland waterway and maritime passenger transport are developed on a secondary level and are currently in the reform stage.

Ukraine has the longest sea coast (2759.2 km) among the states of the Azov - Black Sea basin and more than 72 thousand square kilometers of exclusive maritime economic zone.

The Black and Azov Seas are Ukraine's sea ways that have appropriate navigation maritime traffic separation systems.

Ukrainian seaports are one of the most important connecting links of national transport and industrial infrastructure with Europe and the world. Ukraine has the most powerful port potential of all the Black Sea states. There are 18 seaports (including 5 seaports located in the Autonomous Republic of Crimea) on the Black and Azov Seas. The berth front of seaports has a total length of about 40 kilometers.

Majority of all ports (inland waterways and seaways) are connected with major railway lines and roads, which determines their strategic and logistical significance. Ports are generally specialized for all cargoes (general, bulk, oil and container). Enterprises that are registered for the provision of port services and implementation of port activities are national and privatized.

Ukraine is a maritime country and has about 140,000 certified seafarers who work on ships, going under Ukrainian flag and under flags of foreign countries.

### **3. Present the state of international airports in Ukraine in terms of their physical condition and their compliance to safety and capacity requirements.**

As of 23.02.2022:

Passenger traffic through the airports of Ukraine, thousand people

|                 | 2020   | 2021    | %     |
|-----------------|--------|---------|-------|
| Total           | 8664,5 | 16221,0 | 187,2 |
| Kyiv (Boryspil) | 5156,3 | 9430,9  | 182,9 |

|                 |       |        |        |
|-----------------|-------|--------|--------|
| Vinnitsia       | 1,1   | 1,0    | 90,9   |
| Dnipro          | 136,7 | 267,8  | 195,9  |
| Zaporizhzhia    | 326,2 | 617,5  | 189,3  |
| Ivano-Frankivsk | 23,6  | 31,6   | 133,9  |
| Kyiv (Zhulyany) | 704,6 | 1418,9 | 201,4  |
| Kirovohrad      | 0,2   |        |        |
| Kyiv (Zhulyany) | 0,3   | 2,3    | 766,7  |
| Lviv            | 878,4 | 1834,1 | 208,8  |
| Mykolayiv       | 10,5  | 30,0   | 285,7  |
| Odesa           | 698,7 | 1328,2 | 190,1  |
| Poltava         | 0,2   |        |        |
| Rivne           |       | 0,6    |        |
| Uzhhorod        | 0,7   | 7,5    | 1071,4 |
| Kharkiv         | 659,2 | 1160,0 | 176,0  |
| Kherson         | 60,5  | 83,1   | 137,4  |
| Chernivtsi      | 7,3   | 7,5    | 102,7  |

In 2021, passenger traffic through Ukraine's airports increased by 87,2 percent compared to the previous year and reached 16 221 000 people.

The share of leading airports in the total volume of passenger traffic through the airports of Ukraine in 2021 was: Boryspil - 58,1%, Lviv - 11,3%, Kyiv (Zhulyany) - 8,8%, Odesa - 8,2% and Kharkiv - 7,2%.

| Aerodrome   | Aerodrome reference code | Runway strength | Type of runway |
|---|--------------------------|-----------------|----------------|
| Aerodromes certified in accordance with the Aviation Regulations approved by Order 849: |                          |                 |                |

|                     |    |  |   |
|---------------------|----|--|---|
| Kyiv (Boryspil)     | 4E | RWY 18L/<br>36R –<br>113/R/C/W/T<br>RWY 18R /<br>36L –<br>39/R/C/X/T | RWY 18L – precision approach<br>runway, category I<br>RWY 36R- precision approach<br>runway, category III A<br>RWY 18R / 36L – precision<br>approach runway, category |
| Dnipro              | 4C | 35/R/C/X/U   | RWY 08/26 – precision approach<br>runway, category I  |
| Kyiv<br>(Zhulyany)  | 4C | 46/R/C/X/T   | RWY 08/26 – ‘precision<br>approach runway, category I   |
| Lviv                | 4D | 93/R/C/X/T   | RWY 13/31 – precision approach<br>runway, category II   |
| Odesa               | 4D | 75/R/B/W/T   | RWY 16 – precision approach<br>runway, category I<br>RWY 34 – precision approach<br>runway, category II   |
| Kharkiv             | 4C | 56/R/C/X/T   | RWY 07/25 - precision approach<br>runway, category II   |
| Other aerodromes    |    |  |   |
| Zaporizhzhia        | 4C | 48/R/B/W/T   | RWY 20 – precision approach<br>runway, category I RWY 02 -<br>non-precision approach  |
| Kherson             | 4C | 28/R/C/X/T   | RWY 03 – precision approach<br>runway with LIL<br>RWY 21– non-precision<br>approach   |
| Ivano-<br>Frankivsk | 4C | 30/R/A/X/T   | RWY 10/28 - non-precision<br>approach   |
| Mykolaiv            | 4C | 35/R/A/X/T   | RWY 04/22 – non-precision<br>approach   |
| Uzhhorod            | 3C | 29/F/D/X/T   | RWY 10 - non-precision<br>approach<br>RWY 28 - visual approach  |
| Chernivtsi          | 4C | 31/F/D/X/U   | RWY 15/33 - precision approach<br>runway, category I  |
| Rivne               | 4C | 45/R/B/X/U   | RWY 11/29 - non-precision<br>approach   |

|                |    |            |   |
|----------------|----|------------|---|
| Sumy           |    | 16/F/D/X/T | RWY 07/25 - non-precision approach                |
| Kyiv/Antonov-2 | 4E | 60/R/C/X/T | RWY 15/33 - precision approach runway, category I |

**4. Present the state of ports in Ukraine in terms of their physical condition and their capacity and their connections to the rail and road network.**

There are 18 seaports on the Black and Azov Seas (including 5 ports on the territory of the Autonomous Republic of Crimea, temporarily decommissioned). Total length of berthing front of sea ports is about 60 km, average age of which is 30, 40, 50 and more years.

The vast majority of berthing facilities were built in 1960-1980.

Since 2013, the SE "USPA" has taken measures for the design and construction of 31 berths of seaport authorities (except those located in Crimea), of which:

- construction (reconstruction) on 4 hydraulic structures (HS) (Odesa (3) and Mariupol (1)) was completed;
- The following works have been completed for 5 HS (Mykolayiv (2), Mariupol (1) Chornomorsk (1) and Bilhorod-Dnistrovskiy (1));
- Construction work on 2 HS (Odesa, Mariupol) is in progress;
- Work is planned for 18 HS (Chornomorsk (7), Odesa (4), Pivdennyi (3), Mariupol (1), Kherson (2) and Skadovsk (1));
- Work was temporarily suspended at 3 HS (Mykolayiv (1), Chornomorsk (2)).

In seaports of Ukraine (except those located in the Autonomous Republic of Crimea) there are 280 HS (quay, shore protection, protective structures) with a total length of 45 km (information in terms of branches and HS specialization is attached in tabular form).

In seaports, 17 berths were decommissioned, which is mainly due to their non-demand for port operations.

| Branches of the USPA | Cargo berths |                  | Passenger berths |                  | Auxiliary berths |                  | Total |                  | Protective and fencing structures (shore protection, moles, dams, breakwaters) |                  |
|----------------------|--------------|------------------|------------------|------------------|------------------|------------------|-------|------------------|--|------------------|
|                      | units        | actual length, m | units            | actual length, m | units            | actual length, m | units | actual length, m | units  | actual length, m |



|   |    |            |   |       |   |       |    |         |    |         |
|---|----|------------|---|-------|---|-------|----|---------|----|---------|
| Mykolayiv branch  | 20 | 3<br>814,6 | 2 | 339,0 | 3 | 202,0 | 25 | 4 355,6 | 4  | 651,8   |
| Pivdennyi branch  | 10 | 3<br>278,7 |   |       | 7 | 422,2 | 17 | 3 700,9 | 4  | 1 460,6 |
| “Delta-pilot” branch  |    |            |   |       |   |       |    |         | 3  | 3 276,8 |
| Izmail branch   | 20 | 2<br>282,7 | 1 | 510,7 | 7 | 448,9 | 28 | 3 242,3 | 13 | 985,1   |
| “Olviia” branch   | 1  | 180,0      |   |       |   |       | 1  | 180,0   | 3  | 589,3   |
| HS located in the water areas and on the territory of the specialized seaport "Olviia" and transferred to concession* | 5  | 1<br>102,5 |   |       | 1 | 250,0 | 6  | 1 352,5 |    |         |
| Bilhorod-Dniestrovskyi branch   | 8  | 1<br>099,2 |   |       | 2 | 176,3 | 10 | 1 275,5 | 1  | 289,7   |
| Chornomorsk branch  | 24 | 4<br>994,6 |   |       | 3 | 318,2 | 27 | 5 312,8 | 4  | 1 346,1 |
| Kherson branch  | 11 | 1<br>331,7 | 2 | 22,7  | 5 | 684,9 | 18 | 2 039,2 | 1  | 176,7   |
| HS located in the water areas and on the territory of Kherson seaport and transferred to concession*                  | 5  | 801,6      | 1 | 6,4   | 1 | 123,4 | 7  | 931,4   |    |         |
| Mariupol branch   | 18 | 3<br>971,6 |   |       | 7 | 448,3 | 25 | 4 419,9 | 5  | 5 025,9 |
| Skadovsk branch   | 6  | 910,4      | 1 | 81,7  |   |       | 7  | 992,1   | 4  | 819,2   |

|                      |     |             |    |         |    |         |     |             |    |             |
|----------------------|-----|-------------|----|---------|----|---------|-----|-------------|----|-------------|
| Berdiansk branch     | 11  | 1<br>841,7  |    |         | 2  | 105,6   | 13  | 1 947,3     | 3  | 852,9       |
| “Ust-Dunaïsk” branch | 1   | 150,0       | 1  | 123,0   | 1  | 65,0    | 3   | 338,0       | -  | -           |
| Odesa branch         | 32  | 6<br>901,5  | 6  | 1 107,5 | 18 | 2 484,5 | 56  | 10<br>493,5 | 9  | 6 285,7     |
| Reni branch          | 31  | 3<br>841,8  |    |         | 6  | 579,4   | 37  | 4 421,1     | 4  | 779,7       |
| Total                | 203 | 36<br>502,5 | 14 | 2 191,0 | 63 | 6 308,6 | 280 | 45<br>002,0 | 58 | 22<br>539,3 |

\* - As noted in paragraph 1 of this questionnaire in relation to the state enterprise "Ukrainian Sea Ports Authority", there are seaports that have been concessioned along with mooring lines.

In this table, the seaports "Olviia" and Kherson are in use by private entities (through the mechanism of public-private partnership - concession), however, the property provided to them for use is state-owned and is subject to return at the end of the concession.

The majority of seaports are connected with big railway and automobile highways, which leads to their strategic and logistical importance.

Complexes of railway infrastructure are on the balance of eight branches of SE "USPA": Odesa, Mykolayiv, Izmail, Reni, Chornomorsk, Kherson, Berdiansk, Pivdennyi, with a total length of 85.8 thousand km, in a generally satisfactory technical condition.

In five branches, namely: Bilhorod-Dniestrovsky, Mariupol, Skadovsk, Ust-Dunaïsk and Olviia branches, there is no railway infrastructure on the balance.

Automobile roads, overpasses and roadway are accounted on the balance of all branches of the SE "USPA", except for Bilhorod-Dniestrovsky, Mariupol branches and "Olviia" branch.

The total area of the roadway is:

General information about the length of railways and roads of seaports of Ukraine

| Branches of the USPA | Rail connection | Road connection | Railway tracks   | Roadways                     |
|----------------------|-----------------|-----------------|------------------|------------------------------|
|                      | Yes/no          | Yes/no          | actual length, m | roadway area, m <sup>2</sup> |
| Mykolayiv branch     | Yes             | Yes             | 16 471           | 6 829                        |
| Pivdennyi branch     | Yes             | Yes             | 511              | 85 388                       |
| “Delta-Pilot” branch |                 |                 | 0                | 0                            |
| Izmail branch        | Yes             | Yes             | 2 391            | 4 702                        |

|                               |     |      |        |         |
|-------------------------------|-----|------|--------|---------|
| “Olviia” branch*              | Yes | Yes  | 0      | 0       |
| Bilhorod-Dnistrovsky branch** | Yes | Yes  | 0      | 0       |
| Chornomorsk branch            | Yes | Yes  | 30 451 | 101 739 |
| Kherson branch                | Yes | Yes  | 713    | 131     |
| Mariupol branch***            | Yes | Yes  | 0      | 0       |
| Skadovsk branch               | No  | Yes  | 0      | 18 115  |
| Berdiansk branch              | Yes | Yes  | 2 338  | 3 399   |
| “Ust-Dunaisk” branch          | No  | Yes  | 0      | 300     |
| Odesa branch                  | Yes | Yes  | 22 661 | 94 653  |
| Reni branch                   | Yes | Yes  | 10 156 | 42 354  |
| Total                         | 85% | 100% | 85 794 | 357 611 |

The information is provided without taking into account the facilities located in the seaports of the temporarily occupied Crimea.

\* - The specialized seaport "Olviia" is served by the port railway station "Zhovtneva" and has a developed infrastructure of access railway tracks (length of tracks - 16.5 km) and has a network of asphalt and concrete roads (length of roads - 8.4 km) are on the balance of the state enterprise "Specialized seaport "Olviia" (state stevedoring company).

\*\* - The seaport of Bilhorod-Dnistrovskiy is located on the railway line laid to Izmail; distance to Odesa is 117 km. The railway section between Odesa and Bilhorod is electrified, further transportation to Izmail is provided by diesel locomotives.

The railway track within the port is on the balance sheet of the state enterprise "Bilhorod-Dnistrovskiy Commercial Sea Port".

The port has two access roads, one of which is the Odesa-Reni international highway. Despite the large capacity, the Odesa-Reni road passes through the Moldovan border, which requires additional time and documents to cross.

\*\*\* - The Mariupol seaport is served by the Mariupol-Port railway station (length of tracks - 27.1 km) and has a developed network of roads (length of roads - 4.8 km) available on the balance sheet of the state enterprise "Mariupol Commercial Sea Port" (state stevedoring company).

Volumes of cargo processing by port operators by directions for 2021 and passenger traffic for 2021

|  | Handled cargo | Passenger traffic |
|--|---------------|-------------------|
|--|---------------|-------------------|

| The name of the seaport       | 2020,<br>thousands of<br>tons | 2021,<br>thousands<br>of tons | %           | 2021, passengers |
|-------------------------------|-------------------------------|-------------------------------|-------------|------------------|
| <b>Total seaports</b>         | <b>159 125,1</b>              | <b>153 311,7</b>              | <b>96,3</b> | <b>464 717,0</b> |
| Berdiansk seaport             | 2 150,3                       | 1 620,8                       | 75,4        | -                |
| Bilhorod-Dnistrovskiy seaport | 75,4                          | 2,4                           | 3,1         | -                |
| Izmail seaport                | 3 244,6                       | 4 070,6                       | 125,5       | -                |
| Mariupol seaport              | 7 025,4                       | 6 866,9                       | 97,7        | -                |
| Mykolaiv seaport              | 30 135,2                      | 29 869,2                      | 99,1        | -                |
| Odesa seaport                 | 23 370,2                      | 22 565,5                      | 96,6        | 463 582,0        |
| Pivdennyi Seaport             | 61 664,8                      | 53 470,4                      | 86,7        | -                |
| Reni seaport                  | 786,0                         | 1 370,2                       | 174,3       | -                |
| Skadovsk seaport              | 3,8                           | 1,9                           | 51,1        | -                |
| Specialized seaport of Olvia  | 3 910,4                       | 5 146,4                       | 131,6       | -                |
| Ust-Dunaisk Seaport           | 24,4                          | 64,3                          | 263,5       | 1 135,0          |
| Kherson seaport               | 2 847,1                       | 2 624,5                       | 92,2        | -                |
| Chornomorsk port              | 23 887,6                      | 25 638,7                      | 107,3       | -                |

## 5. Present the number and state of major multimodal/intermodal terminals in Ukraine in terms of their physical condition and their capacity.

There are currently 15 inland container terminals operated by the Center of Transport Service “Lisky” (6 terminals) and by the private operators TIS, United Global Logistics, Imtrex and Ukrrihport. The analysis of the dynamics of supply and demand allows to make a conclusion about the sufficiency of the capacity of container terminals to handle cargo flows, even if they grow until 2025.

According to the data received from the JSC “Ukrzaliznytsia” on the terminals of the Center of Transport Service “Lisky” and private operators, the current capacity of intermodal terminals is about 594 thousand TEU per year, of which about 55% are terminals operated by CTS “Lisky”, and 45 % are terminals operated by private operators.

According to the plans developed by February 24, 2022, private operators plan to build additional infrastructure facilities for container terminals with a total capacity of 430 thousand TEU by 2025, which will increase the total transshipment capacity to about one million TEU.

List of inland container terminals with access to railway and road transport infrastructure:

| #            | Name of terminal            | Capacity (TEU) |
|--------------|-----------------------------|----------------|
| 1            | CT Kyiv-Lisky               | 58 400         |
| 2            | CT Odesa Lisky              | 91 250         |
| 3            | CT Dnipro Lisky             | 67 160         |
| 4            | CT Kharkiv Lisky            | 43 800         |
| 5            | CT Chop Lisky               | 40 150         |
| 6            | CT Sknyliv Lisky (Lviv)     | 29 200         |
| 7            | CT Vyshneve (Kyiv)          | 30 000         |
| 8            | CT Brovary (Kyiv)           | 50 000         |
| 9            | CT Kharkiv                  | 30 000         |
| 10           | CT Dnipro<br>(Novomoskovsk) | 30 000         |
| 11           | CT Zaporizhzhya             | 15 000         |
| 12           | CT Ternopil                 | 50 000         |
| 13           | CT Imtrex (Rivne)           | 30 000         |
| 14           | CT Dnipro                   | 15 000         |
| 15           | CT Chernihiv                | 15 000         |
| <b>Total</b> |                             | <b>594 960</b> |

List of container capacities in seaports with access to railway, road, and sea transport infrastructure:

| #            | Name of seaport | Capacity (TEU)   |
|--------------|-----------------|------------------|
| 1            | Izmail          | 44 500           |
| 2            | Mariupol        | 50 000           |
| 3            | Mykolayiv       | 20 000           |
| 4            | Odesa           | 930 000          |
| 5            | Pivdennyi       | 750 000          |
| 6            | Kherson         | 12 800           |
| 7            | Chornomorsk     | 1 150 000        |
| <b>Total</b> |                 | <b>2 957 300</b> |

**6. Are there any deficiencies of the Core Network, or capital bottlenecks or cut-offs affecting functionality and efficiency of the Core Network, or severely reducing its performance?**

As of the end of 2021, the existing transport infrastructure has met the existing demand for transportation.

The main unresolved problem is the uncoordinated interaction of different modes of transport with each other. It should also be noted that special attention needs to be paid to such transport combinations as: "railway - port" and "port - railway".

Furthermore, Bilhorod-Dnistrovskyi Commercial Sea Port has two access roads, one of which is the Odesa-Reni international highway. Despite the large capacity, the Odesa-Reni road passes through the Moldovan border, which requires additional time and documents to cross.

Besides 75 per cent of airports cannot handle new types of aircraft and that with the exception of Boryspil, no high-speed trains connect cities with their airports.

8 domestic ports joined the TEN-T network in the Eastern Partnership countries on the territory of Ukraine: Yuzhnyi, Mykolaiv, Odesa, Mariupol, Chornomorsk - the core network, as well as Izmail, Reni and Kherson - the comprehensive network.

As mentioned in paragraph 4 of this questionnaire, each of these seaports has a sufficient level of capacity of suitable railways and highways.

Regarding checkpoints, the following should be noted:

Car checkpoints. The main problem: long queues at checkpoints.

Railway checkpoints: The main problem: the need for modernization and upgrading the relevant equipment.

With regard to air transport, it should be noted that the share of air cargo is very small. The National Transport Strategy for the period up to 2030 and the Action Plan to it provide the creation of a transport connection "railway - airport".

So, summarizing all the above, one might conclude that it is necessary to create a single transport space by eliminating residual barriers between modes of transport, providing conditions for reliable operation of multimodal transport network and effective organization of work of the entire transport and road complex of the country to obtain a synergistic effect from the use of potential opportunities of all types of transport.

It is also important to ensure the planning of the construction of transport and logistics terminals along the state border in order to transship cargo.

In particular, with the support of experts from the European Union, the Ministry of Infrastructure has begun work on the Concept and Plan for the Development of Multimodal Transport, which provides for:

ensuring the development of multimodal transport technologies and infrastructure complexes to ensure the interaction of different modes of transport;

creation of a network of routes of regular container/multimodal freight trains, synchronized with the routes of trains of EU member states;

creation of a network of multimodal transport and logistics clusters and basic logistics centers, “dry ports”, terminals, specialized transshipment complexes, etc.

The adopted National Transport Strategy of Ukraine for the period up to 2030 identifies the main directions of development of the transport sector and focuses on improving the efficiency of internal logistics operations of freight transport by removing existing barriers and improving infrastructure, as well as its connection with the international network and Trans-European transport network (TEN-T).

**7. What is the country's strategic framework for the development of transport infrastructure including terminal infrastructure? Is it further translated in the list of concrete activities to be undertaken to implement the strategy? Are those actions prioritised?**

National Transport Strategy of Ukraine until 2030 was approved by the Instruction of the Cabinet of Ministers of Ukraine No 430 dd. May 30, 2018. Strategy implementation promotes increase of transparency of transport services provision and assurance for establishment of equal conditions for provision of transport services.

On April 07, 2021 the Cabinet of Ministers of Ukraine adopted the decree № 321-p “On approval of action plan for the realization of the National Transport Strategy of Ukraine for the period up to 2030” which includes certain measures and actions to implement above mentioned tasks. The priority areas identified in accordance with the Action Plan are:

- competitive and effective transport system;
- innovation development of transport industry and global investment projects;
- safe for society, environmentally friendly and energy efficient transport;
- unhindered mobility and cross-regional integration.

Strategy defines main direction for transport sector development until 2030, including infrastructure of terminals, namely:

- improvement of the efficiency of internal logistics operations of freight transport by eliminating existing obstacles and improving relevant infrastructure, as well as its connection to international and Trans-European transport network (TEN-T);

- creation of a network of multimodal transport and logistic clusters and basic logistics centers, "dry ports", terminals, specialized transshipment complexes, etc.;

- harmonization of the port infrastructure development (railway approaches, highways) and port capacity;

- assurance of unified technological compatibility on the main transport routes and connections between transport modes;

ensuring the development of a priority road network, by:

- provision of short, medium and long-term planning of road development;
- identification of key indicators of efficiency of road economy management and monitoring system of their implementation;

- introduction of European standards for the design, development and maintenance of highways, improvement of road surface quality and justification for the choice of its type, in particular by gradually restoring the performance characteristics of the road network;

- quality and service life improvement of roads based on design and cost estimate documentation and conclusions of feasibility study;

- Increase in the number of public roads with a hard surface;

- development of a network of road service points to ensure compliance with the requirements to work and rest periods for drivers in accordance with the European Agreement on the Work of Crews of Vehicles Performing International Road Transport (EUTRA) (Law of Ukraine dd. September 7, 2005, No. 2819-IV), and regulations;

- implementation of long-term contracts for the maintenance of roads based on their performance and end results;

- increase the number of mobile weight and dimension control complexes and ensuring effective control over the exceedance of vehicles size and weight parameters;

- creation of a competitive environment and a favorable business climate in the market of transport services, in particular extension of the list of services provided by transport industry enterprises;

- development of passenger and cargo terminal complexes with multimodal technologies using owners' own funds and public-private partnerships ensuring international standards of passenger service quality, including persons with limited mobility and persons with disabilities, as well as cargo and post;

- increasing competitiveness of Boryspil International Airport as the leading aviation hub in Eastern Europe, in particular by expanding the network of air services, attracting more air carriers;

- reconstruction of runways and complex modernization of equipment at regional airports to allow service of medium-range aircraft, and, when required, wide-body aircraft in accordance with EU legislation;

- Introduction of long-term financial planning for implementation of infrastructure projects in the transport sector in accordance with strategic priorities, timeline and lifecycle of transport objects, with prioritization of projects related to the TEN-T network;

- Ensuring integrated innovative development of transport, in particular by implementing a state strategy (targeted approach) for innovation and development and investment projects in the transport sector, with possible establishment of Innovation Fund for transport, and interconnection of objectives and resources through relevant plans and programs of activities and development of:

- highways;

- Road transport;

- multimodal transport;

- high-speed railway transport;

- Inland waterway transport;

- general aviation airports;



- digital transport corridors and e-logistics;
- renewal of the rolling stock of rail, road, aviation, sea and inland waterway transport;
- modernization of urban transport with a predominant transition to electric transport;
- electric transport;
- rail and road, flights and navigation safety.

Also, in the field of transport, the following strategic documents are in force, which consider the tasks of implementing the Action Plan for the implementation of the National Transport Strategy of Ukraine for the period up to 2030:

- Strategy for improving road safety until 2024;
- State program to improve road safety until 2023;
- State target program for the development of airports until 2023
- State target economic program for the development of public roads of national importance for 2018-2022;
- Maritime Doctrine for the period up to 2035;
- Strategy for the development of seaports of Ukraine until 2038, the annex of which contains a list of projects for each seaport in the short- and medium-term perspective.

**8. Concerning road network, what is the country's main development priority? What are the foreseen dynamics of potential financing and the cost of activities to address such priority intervention?**

According to Part 4, Article 6 of the Law of Ukraine " On Automobile Roads", the preservation and development of the network of public roads are a priority for the state.

To restore and develop public roads of the state importance for their integration into the European transport system and increase the level of traffic safety, speed, comfort and efficiency of transportation, the Cabinet of Ministers of Ukraine dated March 21, 2018, № 382 approved the State Economic Programme for the Development of Public Roads of National Importance for 2018-2022 (further - the Program).

The Program is aimed to provide:

- completion of unfinished construction projects with high indicators of readiness and socio-economic efficiency;
- implementation of projects under the “Design and Build” scheme;
- introduction of long-term contracts (for five to seven years) for the maintenance of public roads of national importance (primarily international) using a new system of evaluation of the contractor's performance based on quantitative indicators of transport and operational status, correlated with safety and consumer qualities highways;
- activation of cooperation with international financial organisations to optimise previously obtained credit funds for road development;

- introduction of the independent quality control system by ensuring transparency and accountability of construction control according to standards by disclosing information and publishing relevant data sets according to the Cabinet of Ministers of Ukraine Act dated October 21, 2015 № 835 “On approval of the Regulation on data sets to be disclosed in the open data form” and a gradual transition to the organisation of road construction works with the involvement of an engineer – consultant based on internationally recognised standard forms of contracts, including contracts "FIDIC ", according to the Article 6 of the Law of Ukraine “On Automobile Roads” and the Cabinet of Ministers December Act dated of 2016 № 1065 “On approval of requirements for carrying out quality control works on new construction, reconstruction and capital repairs of public roads”;
- activation of innovative and scientific-technical activities in the road sector, the introduction of modern efficient, energy and resource-saving materials and technologies that ensure high quality and durability of road and bridge structures, prevention of harmful effects of road construction on the environment (installation of anti-noise road structures, preservation of animal migration routes, the regime of protection of territories and objects of the nature reserve fund and other nature protection purpose);
- introduction of a geoinformation system for the management of public roads of national importance and the development of existing essential informational-analytical complexes (coverage condition management system, analytical and expert bridge management system, database of accidents);
- environmental safety and elaboration of alternatives for the location of road facilities to preserve the territories and objects of the nature reserve fund, lands reserved for bequests, forests, protective plantations and other components of the national ecological network;
- unimpeded access of persons with disabilities and other low-mobility groups to the road infrastructure facilities (in particular by taking measures to reduce the side stone on highways (the edge of the carriageway, fortified sidewalk) at the intersection of sidewalks (sidewalks), installation of side stone at stops at the floor level of public vehicles and traffic lights.

The Program also provides (at the expense of funds used to finance road safety measures or investors funds):

- development of digital infrastructure by laying cable telecommunication sewerage and relevant telecommunication networks along roads, construction of automated systems and services based on digital infrastructure;
- introduction of traffic safety audit as a systemic, detailed, technical, independent process of evaluation of engineering solutions for road components to determine their impact on road safety;
- introduction of automatic dimensional and weight control to reduce freight carriers' frequency and degree of overload.

Estimated volumes and sources of financing for the Program:

| <i><b>Funding sources</b></i> |  | <i><b>Including by years</b></i> |
|-------------------------------|--|----------------------------------|
|-------------------------------|--|----------------------------------|

|  | <i><b>The<br/>volume of<br/>financing,<br/>UAH mln.</b></i> | <i><b>2018</b></i>      | <i><b>2019</b></i>      | <i><b>2020</b></i>           | <i><b>2021</b></i>           | <i><b>2022</b></i>           |
|--|---|-------------------------|-------------------------|------------------------------|------------------------------|------------------------------|
| <i><b>The state budget<br/>including:</b></i>                                      | <i>367<br/>252,27</i>                                       | <i>26 327,77</i>        | <i>35 983,81</i>        | <i>96 034,98</i>             | <i>130<br/>928,36</i>        | <i>77 977,35</i>             |
| <i>means of the<br/>special fund of the<br/>state budget (state<br/>road fund)</i> | <i>292<br/>175,95</i>                                       | <i>20 025,46</i>        | <i>35 217,33</i>        | <i>68 395,43</i>             | <i>90 560,38</i>             | <i>77 977,35</i>             |
| <i>means of the<br/>general fund of<br/>the state budget</i>                       | <i>75 076,32</i>  | <i>6 302,31</i>         | <i>766,48</i>           | <i>27 639,55</i>             | <i>40 367,98</i>             |                              |
| <i>means of the<br/>international<br/>financial<br/>organizations</i>              | <i>25 544,53</i>  | <i>3 722,27</i>         | <i>4 463,64</i>         | <i>6 774,99</i>              | <i>5 240,12</i>              | <i>5 343,51</i>              |
| <i>Other sources,<br/>including<br/>investors' funds</i>                           | <i>53 193,55</i>  |                         | <i>514,10</i>           | <i>12 925,02</i>             | <i>795,76</i>                | <i>38 958,67</i>             |
| <i><b>Total</b></i>  | <i><b>445<br/>990,35</b></i>                                | <i><b>30 050,04</b></i> | <i><b>40 961,55</b></i> | <i><b>115<br/>734,99</b></i> | <i><b>136<br/>964,24</b></i> | <i><b>122<br/>279,53</b></i> |

## EXPECTED RESULTS

of implementation of the State target economic program for the development of public roads of  
national importance  
for 2018-2022

| Name of the activity                                       | Name of the activity performance indicator                      | Unit of measurement | Value indicator |                    |        |        |         |         |
|--|---|---------------------|-----------------|--------------------|--------|--------|---------|---------|
|  |   |                     | total           | including by years |        |        |         |         |
|  |   |                     |                 | 2018               | 2019   | 2020   | 2021    | 2022    |
| 1. New construction of public roads of national importance | the length of constructed public roads of national importance   | kilometers          | 286,357         | 6,446              | 12,602 | 30,945 | 26,652  | 209,712 |
| 2. Reconstitution of public roads of national importance   | the length of reconstructed public roads of national importance | - ”-                | 432,927         | 1,048              | 22,434 | 49,295 | 133,438 | 226,712 |

|  |  |            |              |             |         |        |              |              |
|--|--|------------|--------------|-------------|---------|--------|--------------|--------------|
| 3.<br>Overhaul of public roads of national importance  | the length of public roads of national importance, on which overhaul were done               | - ”-       | 1785,69<br>2 | 33,94<br>6  | 79,371  | 434,73 | 372,251      | 865,394      |
| 4.<br>Current average repair of public roads of national importance  | the length of public roads of national importance, on which current average repair were done | kilometers | 9297,76<br>2 | 953,4<br>99 | 739,762 | 3035   | 3434,36<br>1 | 1135,14      |
| 5.<br>Ensuring the warranty period of construction, reconstruction and overhaul of public roads of national importance for at least 10 years | the length of built, reconstructed and overhauled of public roads of national importance     | - ”-       | 2504,97<br>6 | 41.44       | 114,407 | 514,97 | 532,341      | 1301,81<br>8 |

|       |  |      |               |             |         |         |              |              |
|-------|--|------|---------------|-------------|---------|---------|--------------|--------------|
| Total |  | - ”- | 11802,7<br>38 | 994,9<br>39 | 854,169 | 3549,97 | 3966,70<br>2 | 2436,95<br>8 |
|-------|--|------|---------------|-------------|---------|---------|--------------|--------------|

The State Road Fund has been created within the state budget (Article 24-2 of the Budget Code of Ukraine).

Funds of the State Road Fund are directed to:

1) **60%** - financial support for construction, reconstruction, repair and maintenance of public roads of national importance and other measures specified in paragraph 1 of the fourth part of Article 3 of the Law of Ukraine "On Sources of Financing of Road Industry of Ukraine" (of which not less than 5 percent - for construction, reconstruction, repair and maintenance of artificial structures);

2) **35%** - financial support for the construction, reconstruction, repair and maintenance of public roads of local importance, streets and roads of communal property in settlements (as a subvention from the state budget to local budgets) (of which at least 5 percent of funds - for construction , reconstruction, repair and maintenance of artificial structures);

3) fulfillment of debt obligations on borrowings received by the State or under state guarantees for the development of the network and maintenance of public roads;

4) **5%** - financial support of road safety measures in accordance with state programs.

Resolution of the Cabinet of Ministers of Ukraine dated December 21, 2020 № 1287 approved the State Program for Improving Road Safety in Ukraine for the period up to 2023.

The purpose of the Program is to reduce the level of accidents in Ukraine and the severity of the consequences of road accidents, primarily socio-economic, in accordance with the objectives set by the Strategy for Improving Road Safety in Ukraine until 2024, approved by the Cabinet of Ministers of October 21, 2020 № 1360, including a 30 per cent reduction in road deaths and socio-economic losses from road traffic injuries, as well as the introduction of an effective road safety management system to protect the lives and health of the population, and also creation of safe and comfortable conditions of movement of vehicles, pedestrians and other participants of road traffic on a street and road network.

## **9. Concerning railway network, what is the country's main development priority? What are the foreseen dynamics of potential financing and the cost of activities to address such priority intervention?**

In recent years, Ukraine has begun an active process of modernization and electrification of railway infrastructure, including at the expense of the state budget, funds of JSC "Ukrzaliznytsia" and funds of international financial organizations attracted under state guarantees. For example, 2 infrastructure projects were implemented, and 4 large infrastructure projects were launched in 2021. A total of UAH 4.6 billion (EUR 153 million) was invested in the construction, modernization, reconstruction and electrification of railway infrastructure during 2021, including UAH 0.7 billion at the expense of the State Budget of Ukraine, UAH 3.9 billion - at the own expense of JSC "Ukrzaliznytsia". Of these, UAH 3.3 billion was used for reconstruction, UAH 0.6 billion for electrification, UAH 0.5 billion for construction and UAH 0.2 billion for modernization of railway infrastructure.

The Medium-term program of activities of the Government of Ukraine provides for the electrification of 271 km of railways, reconstruction and modernization of 2696 km of railways. In total, more than 500 million euros were expected to be spent for these purposes.

The construction of European-style railway tracks 1435 on the territory of Ukraine, including high-speed lines, is considered as a long-term solution for the integration of freight and passenger traffic in Ukraine and the EU. The next project in this regard is the construction of a 1435 mm track on the Mostyska-Sknyliv section. This project is included in the Medium-term program of activities of the Government of Ukraine.

#### **10. Concerning maritime transport, what is the country's main development priority, in particular regarding motorways of sea?**

The Strategy of the development of seaports of Ukraine for the period up to 2038 was approved by the order of the Cabinet of Ministers of Ukraine of July 11, 2013 № 548-r.

Resolution of the Cabinet of Ministers of Ukraine of October 7, 2009 № 1307 (as amended in 2020) approved the Maritime Doctrine of Ukraine for the period up to 2035.

These documents define the strategy of our country in the development of the maritime complex.

The main priority for the development of the country, in particular, in relation to the sea routes is.

##### *1. Development of merchant shipping:*

- formation and implementation of a consistent state maritime policy aimed at establishing Ukraine as a maritime state;

- improvement of the legal framework for maritime transport through the introduction and full implementation of international conventions in the field of navigation, to which Ukraine is a party, accession to new international agreements in the relevant field, as well as bringing the Merchant Shipping Code of Ukraine, the Water Code of Ukraine, the Land Code of Ukraine, Laws of Ukraine "On Transport", "On Sea Ports of Ukraine", "On Fisheries, Industrial Fisheries and Protection of Aquatic Biological Resources", "On the Basic Principles of State Supervision (Control) in the Sphere of Economic Activities" and other legislative acts in accordance with international - the legal regime of navigation; comprehensive legislative regulation of the functioning of inland water and maritime transport through the implementation of the Law of Ukraine "On Inland Water Transport";

- development of promising technologies for multimodal transportation and transshipment of goods involving various modes of transport (sea, river, road and rail);

- significant intensification of participation in the International Maritime Organization, the International Labor Organization, and other international organizations in the field of merchant shipping;

- development of mechanisms for the full and timely implementation of international treaties and Ukraine's accession to new international treaties in the field of merchant shipping, determined by 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 ;

- participation in the implementation of projects of the TRACECA program related to transport infrastructure in the Black Sea region;

- creation of a European-style marine vessel traffic system and its further integration into SafeSeaNet;

- development and implementation of a comprehensive plan for updating the personnel potential of maritime transport in accordance with an innovative model for the development of the maritime industry, restoring the system of postgraduate training of specialists; ensuring high social standards for seafarers;

## *2. Development of port activities:*

- attracting additional cargo to seaports as a result of an increase in the level of service and economic and technological attractiveness, as well as an analysis of forecast cargo flows by countries of origin, volumes and commodity structure, ensuring the development of domestic industry, agriculture, capital construction and the European direction of development of the state;

- improvement of the seaport management system;

- development and implementation of the port fleet renewal program;

- renewal of the auxiliary fleet and construction of port infrastructure facilities;

- introduction of modern procedures and technologies for the performance of cargo operations, as well as the handling of ship's waste, the provision of services to ships in accordance with international standards;

- increasing the capacity of seaports;

- development and technological re-equipment of the main production facilities of maritime transport, in particular, such facilities: hydraulic structures, water areas of ports and sea channels, navigation aids, electro-radio navigation equipment, communications, information systems;

- development and modernization of container terminals in seaports, taking into account global transport trends, expansion of transport links with the states of Europe and Asia,

## *3. Revival of shipbuilding:*

- development and implementation of a comprehensive program for the development of shipbuilding and ship repair for the period up to 2035;

- adoption of a new version of the Law of Ukraine "On the special economic zone "Nikolaev" in order to effectively use the synergy of maritime clusters in the region with the highest concentration of shipbuilding entities;

- creation of a shipbuilding technopark in the Nikolaev region;

- application of a stimulating taxation regime for shipbuilding enterprises with maximum consideration of the experience of the world leaders in shipbuilding;

- development and implementation of an effective financial and credit mechanism for financing expanded reproduction in shipbuilding by:

- strengthening international cooperation and establishing partnerships in priority areas of shipbuilding with enterprises - leaders in the field of shipbuilding;



- creation of shipbuilding engineering centers for the development of new samples of shipbuilding products, the introduction of innovations.

#### **11. Concerning inland navigation, what is the country's main development priority?**

The Law of Ukraine "On Inland Water Transport" came into force on January 1, 2022. This law is aimed at the development of inland water transport and the settlement of issues related to its operation. Thus, Article 5 of this Law provides for the relevant powers to approve the Strategy for the Development of Inland Water Transport of Ukraine.

Currently, work is underway to create a draft of this document.

Main development priority:

- reorientation of part of freight flows from road transport to transportation by inland water transport (achieving the carriage of goods by water at a level of not less than 20% of the total transport by road and rail);
- increase in the volume of cargo transportation (at least 50%);
- harmonization of national legislation with EU legislation in the framework of the implementation of the Association Agreement, fulfillment of obligations under international agreements to which Ukraine is a party;
- raising safety standards in inland waterway transport;
- transition to cleaner technologies in order to preserve the environment (inland water transport consumes 1.5 times less energy than rail and as much as 3.5 times less than road transport of the same volume of cargo);
- deepening of inland waterways;
- providing efficient services to seafarers, shippers and passengers;
- highly qualified ship personnel.

#### **12. In the area of civil aviation, specifically concerning international airports, what is the country's main development priority?**

The main priority of Ukraine's development in the field of civil aviation is the fulfillment of international obligations arising from the Convention on International Civil Aviation, as well as creating security conditions for society, protection of interests in civil aviation and use of Ukrainian airspace.

In addition, an important priority is to ensure the implementation of the Agreement between Ukraine, on the one hand, and the European Union and its Member States, on the other hand, on a common aviation area based on reciprocal access to the Parties' air transport markets to the same rules, in particular in the field of flight safety, aviation security, air traffic management, harmonization of the social sphere and environmental protection.

To achieve these priorities it is necessary to ensure further development, adoption and implementation of aviation rules of Ukraine in accordance with standards and recommended practices of the International Civil Aviation Organization, regulations of the International Air Transport

Association, European Air Navigation Safety Association (Eurocontrol), European Aviation Safety Agency and other international aviation organizations and taking into account the legislation of the European Union in the field of civil aviation.

One of the main state priorities is to ensure compliance of aerodromes and heliports with international standards and recommendations in this area, which will further promote the resumption of air services and attract airlines to air passenger and cargo transportation through Ukrainian airports.

Confirmation of compliance of aerodromes and heliports with international standards is carried out in the process of certification of aerodromes in accordance with current regulations of Ukraine.

Currently, in accordance with the Aviation Rules of Ukraine "Technical requirements and administrative procedures for aerodromes certification", approved by the Order of the State Aviation Administration of Ukraine dated 06 November, 2017 No. 849 and registered by the Ministry of Justice of Ukraine on 28 December, 2017 under No. 1574/31442 (adapted version of the Commission Regulation (EU) No. 139/2014 of 12 February 2014) **6 aerodromes were certified** - Kyiv (Boryspil), Kharkiv, Dnipro, Odesa, Kyiv (Zhulyany), Lviv.

#### **Key Problems:**

- aerodrome infrastructure (at least in 75% of airports) is not capable to accept new types of aircraft (eg A320 / NEO and B737NG / MAX families);
- lack of master plans for long-term development of airports;
- lack of ground access planning to airports, nevertheless there is railway connection of regions with the cities in which large airports are located. Moreover, there is a separate high-speed train from the central railway station to Boryspil airport;
- inconsistency of Ukrainian legislation on economic aspects of airport operation with EU legislation and best regulatory practice;
- limited financial resources and lack of reliable solutions for the modernization of aerodromes;
- unsatisfactory conditions for lending, obtaining international loans and export credits, which will be competitive with the conditions provided to airports-competitors in neighboring EU member states;
- lack of a mechanism and decisions on budget financing for the implementation of obligations to perform public services at remote airports in accordance with best practices and EU laws.

#### **Objectives:**

- Ensuring compliance of airport infrastructure with the modern ICAO standards and EASA certification requirements;
- Integration of Ukraine into the common aviation area, full implementation of EU legislation (over 100 EU regulations in the field of air transport), liberalization of the air services market;
- Implementation of procedures and management structures for long-term planning for airports in accordance with recommended ICAO, IATA and industry best practices;
- Improving road transport services between regions and major airports and improving public transport links to major airports with the city;

- Implementation of EU standards, namely the package of economic regulation of airports, which covers, inter alia, the following issues: airport fees; ground handling; service and fees for passengers with reduced mobility; compliance with noise standards and fines for exceeding the established noise level; guidelines on state aid to airports and airlines (operating costs, capital investment and marketing support);

- Identify effective ways of financing (including those that will enable Ukrainian airports to meet international standards, develop aviation services and compete with regional airports in Central and Eastern Europe and the EU, which have already received large grants through the European Regional Development Fund ERDF and CF Cohesion Fund in 2000-2014, which allowed them to significantly increase passenger traffic and attractiveness for airlines).

### **13. Is there a database on infrastructure standards of the network for road, rail and inland waterways?**

The standardization of the infrastructure of the network for road, rail and inland waterways is ensured by the development and approval of the national standards-state standards of Ukraine (DSTU).

DSTU are standards elaborated in accordance with the current legislation of Ukraine that establish, for general and multiple application of the rules, general principles or characteristics concerning the activity or its results, with the purpose of achieving the optimum degree of order, developed on the basis of consensus and approved by the authorized body-the Ministry of Economy. For example: DSTU 3587-97. Traffic safety. Roads, streets and railway crossings. Requirements to operational condition. DSTU EN 13674-1:2015 Railway transport. Gauge. Railway. DSTU B.V. 2.3-1-95 (GOST 26775-97) Dimensions of clearance under bridges the on internal waterways. Regulations and technical requirements. If necessary, the lists of standards in the areas are approved. For example: The Order by the Ministry of Infrastructure of Ukraine dated 03.02.2022 No. 69 "On approval of the list of national standards for the purposes of application of the technical regulations for the safety of railway infrastructure". DSTU are being constantly improved, updated and developed for infrastructure of the network for road, rail and inland waterways. The Official Catalogue of national standards and codes of established practice (hereinafter – the "Catalogue") is placed on the official web-site of the National Standardization Authority of the Ministry of Economy. The catalogue is in a free access and is constantly updated (every month). This is the link-<http://katalog.uas.org.ua/>.

The Law of Ukraine "On Building Rules" (hereinafter - the Law) governs relations in the field of norming in construction and sets forth the legal and organizational principles of development, agreement, approval, registration and application of building norms.

The second part of Article 5 of the Law defines the objects subjected to norming in construction:

- 1) planning and development of the territory;
- 2) object of construction, urban planning and architecture and its constituent parts;
- 3) composition and content of documentation of objects of construction, urban planning and architecture.

Article 72 of the Law defines the basic requirements for buildings and structures. At the same time, in accordance with the second part of this article, the basic requirements for buildings and structures are specified in building norms, regulations for structural and engineering systems.

According to Article 11 of the Law, the application of building norms or their individual provisions is mandatory for all urban planning entities. Building norms and rules of foreign states are applied in Ukraine in accordance with the international treaties of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine.

Technical requirements for the design (Part I. Design) of new construction and reconstruction of public roads (hereinafter - roads), construction (Part II. Construction) of roads; the crossing of engineering networks and communications and the location of service facilities in the reservation area of public roads established by DBN B.2.3-4: 2015 "Roads. Part I. Design. Part II. Construction", approved by the order of the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine of 21 September 2015 No. 234.

At the same time, in accordance with the first part of Article 8 of the Law, the central executive body that ensures the formation of state policy in the field of construction creates a central repository of building norms, containing reference copies of the state and industry building norms.

#### **14. What are the procedures to be followed by project promoters for large scale infrastructure projects (permit granting procedures)?**

There are different procedures to be followed by project promoters when implementing the transport infrastructure projects depending on the sources of financing: state budget funds, loan funds of international financial institutions (IFI), investors' funds, etc.

##### **1) Infrastructure projects to be implemented for state budget funds.**

The resolution of the Cabinet of Ministers of Ukraine №571 dated July 22, 2015 "Some issues of state investments management" regulates the procedure of implementation of the state investment project. The main stages of this procedure are the following: draft of the conceptual note, agreement of the conceptual note by the chief administrator of state budget funds (entitled to form a committee for taking the decision on the feasibility of development of new state investment project as a result of conceptual note's consideration), development of the investment project, its expertise, submission of all investment projects by the chief administrator of state budget funds to Ministry of Economy for the selection, selection of the investment projects which are granted the state funding by the Inter-ministerial committee, after selection procedure the projects finally are granted the budget funding. Besides, there is a separate procedure for realization of large scale infrastructure projects in road construction for the State Road Fund's account (further – SRF) (organised within the State budget of Ukraine): funds from SRF are being allocated for road projects according to the resolution of the Cabinet of Ministers of Ukraine №1085 dated December 20, 2017 "On approval of the Procedure for the allocation of funds from the State Road Fund", in this case the objects' selection and prioritisation for the allocated funds from the SRF are to be fulfilled according to the state special-purpose development programs and as per "Methodology for determining the amount of financing for road construction, reconstruction, repair and maintenance" (approved by the joint order of Ministry of Infrastructure of Ukraine and Ministry of Finance on September 21, 2012 №573/1019). The final list

of the road infrastructure objects for allocation of funds from the SRF is being approved by the Cabinet of Ministers of Ukraine.

2) Infrastructure projects to be implemented for funds of IFI.

Procedures as per implementation of large scale infrastructure projects for account of IFI funds are stipulated by the resolution of the Cabinet of Ministers of Ukraine №70 dated January 27, 2016 “On the procedure of drafting, realisation, monitoring and complete implementation of projects of economic and social development of Ukraine with support of international financial institutions”. This resolution regulates the procedure of project initiation, preparing of the project proposal, its expertise, request to IFI for investment project funding and other issues of drafting and implementation of such projects.

3) Infrastructure projects to be implemented for investors funds.

Procedure issues as per investors funds involvement for infrastructure projects carried out on the terms of public-private partnership (PPP), including concession projects, are established by the Law of Ukraine “On Public-Private Partnership” and by the Law of Ukraine “On Concession”. The established procedure includes development of feasibility study, tender (bidding) documentation, involvement of advisers and competitive selection of applicants.

As per legislation in the field of technical control of transport infrastructure objects construction it is worth to state that it's the same in Ukraine for all construction sectors, including the implementation of large scale infrastructure projects. There are only differences in building codes and standards in every construction sector.

The procedure of environmental impact assessment (hereinafter - EIA) in the construction of transport infrastructure is regulated by the Law of Ukraine "On Environmental Impact Assessment". In particular, the procedure requires public hearings. After the public discussion, the relevant body prepares an Opinion on the EIA, which is binding, is taken into account when deciding on the planned activities and may be grounds for refusing to issue a decision on the planned activities. The following applies to the scope of this Law:

- airports and airfields with a main runway length of 2100 meters and more;
- highways;
- public roads of state and local importance with four or more lanes, or reconstruction and / or expansion of existing lanes to four or more, provided that they are continuous for 10 kilometers or more;
- highways of the first category;
- main railway lines of general use;
- hydraulic structures of sea and river ports, which can accept vessels with a tonnage of more than 1350 tons;
- deep-sea shipping lanes, including in natural riverbeds, special canals on land and in shallow sea waters, suitable for the passage of vessels with a tonnage of over 1350 tons.

With regard to spatial planning, procedural issues are regulated by a number of legislative acts, including laws of Ukraine "On the General Scheme of Spatial Planning of Ukraine", "On Fundamentals of Urban Development", "On Architectural Activities", "On Complex Reconstruction

of Outdated Housing", "On land management", other regulations. However, the main legislative act on this issue is the Law of Ukraine "On Regulation of Urban Development", which establishes the legal and organizational framework for urban development and aims to ensure sustainable development of territories, taking into account state, public and private interests. The law provides for procedural issues related to territorial planning at the local level by developing and approving comprehensive spatial development plans of territorial communities, master plans of settlements and detailed plans of the territory, their updating and amending them.

The Land Code of Ukraine (LCU) is the main normative legal act of land legislation of Ukraine, which specifies the provisions of the Constitution of Ukraine on the regulation of land relations, determines the main content of almost all institutions of land law. However, legal, organizational and financial principles of regulation of public relations arising in the process of alienation of land, other immovable property located on them, owned by individuals or legal entities, for public needs or for reasons of public necessity (including for the construction of large-scale transport infrastructure projects) are regulated by a separate Law of Ukraine "On Expropriation of Land Plots and Other Real Estate Objects Located on Them that Are Privately Owned for Public Needs or for Public Needs". This legal act regulates the purchase of land for public needs, including the construction of transport infrastructure and the issue of forced alienation of such land.

There is no separate legal act on settling procedural issues for the implementation of large-scale infrastructure projects, but in 2020 the Resolution of the Cabinet of Ministers of Ukraine "On approval of the list of priority investment projects until 2023" which provides a list of large-scale infrastructure projects for the implementation of which the state provides maximum assistance in procedural matters.

Deadlines for large-scale infrastructure projects usually do not require a long period of time for preparation for their implementation. Exceptions may be projects that require the allotment of land with a change of its purpose or with its forced alienation. Usually, some procedural issues listed above are not sequential, but in parallel, which saves a lot of time.

## ***B. Public expenditure and investments***

### **15. Please provide data on public expenditure and investments.**

Comprehensive public data on state expenditures and investments is published on the website of Verkhovna Rada.

In 2021, total public expenditures on transport infrastructure amounted to UAH 113.8 B. 83% of all funds were investments for the development fund. Expenditures on transport infrastructure constituted 7.9% of total budget of Ukraine in 2021.

According to the Draft Budget of Ukraine for 2022, Ukraine's spending on transport infrastructure was projected to increase to UAH 141.8 B in 2022 (24.6% growth compared to 2021), including increase in funding for railway infrastructure development (UAH 5.2 B), reconstruction of airports (UAH 3.5 B) and river transport (UAH 0.8 B).

**Table 1. Public data on expenditures and investments on Transport Infrastructure in Ukraine in 2021, UAH million.**

|                          | Development Fund | Cost of Management | Cost of Financing | Total   | Share  |
|--------------------------|------------------|--------------------|-------------------|---------|--------|
| Road Infrastructure      | 86,122           | 3,602              | 14,760            | 104,485 | 91.8%  |
| Railway Infrastructure*  | 4,531            | -                  | -                 | 4,531   | 4.0%   |
| Airport Infrastructure   | 3,307            | 429                | -                 | 3,736   | 3.3%   |
| Sea and River Transport* | 140              | 85                 | -                 | 225     | 0.2%   |
| Transport Safety         | 20               | 245                | -                 | 265     | 0.2%   |
| Tourism Development      | 85               | 79                 | -                 | 164     | 0.1%   |
| Other                    | 160              | 228                | -                 | 389     | 0.3%   |
| Total                    | 94,366           | 4,669              | 14,760            | 113,795 | 100.0% |
| Share                    | 82.9%            | 4.1%               | 13.0%             |         |        |

\* - This data does not include the capital expenditures of state-owned entities or state-owned joint-stock companies, such as Ukrainian railroad company (Ukrzaliznytsia) and Ukrainian Sea Ports Authority (USPA) and others. They are separate corporate entities and their expenditures are not the part of public expenditure. The actual capital expenditures of Ukrzaliznytsia in 2020 was 9.2 UAH billion and planned CAPEX was 27 UAH billions for 2021, plans for 2022 are 8.2 UAH billions. The USPA's CAPEX in 2021 was 1.2 UAH billions and planned CAPEX for 2022 is 1.9 UAH billions.

**16. Please provide information about the relevant national infrastructure planning and investment procedures (especially spatial planning, master plan, investment and implementation planning for the short, medium and long-term).**

The master documents related to planning of the infrastructure development may be broadly split into two categories: (i) general strategic documents which apply to several transport sectors and (ii) sector-specific programs and plans.

**Key general strategic documents related to infrastructure development:**

Ukraine Sustainable Development Goals until 2020 approved by the Decree of the President No. 722/2019 dated 30 September 2019 provides for creation of sustainable infrastructure, promoting inclusive and sustainable industrialization and innovation in Ukraine.

The National Security Strategy of Ukraine approved by the Decree of the President No. 392/2020 dated 14 September 2020 mentions the need to modernize transport infrastructure - roads, railways, pipelines, airports, sea and river ports, in particular via the public-private partnership mechanisms, and conduct transparent privatization in order to attract national and foreign investments.

The National Transport Strategy of Ukraine until 2030 approved by the Resolution of the CMU No. 430-p dated 30 May 2018 contains basic rules relevant for planning of the infrastructure development. In particular, it provides an overview of the recent problems, sets out main directions for transport sector development, specifies the tasks required to solve the relevant problems and outlines the expected results of its implementation.

The Transport Strategy implements key priorities set by the EU-Ukraine Association Agreement to ensure sustainable development, covering all transport industries and multimodal transport, focused on efficiency, safety and integration of transport policies with the national standards.

According to the Transport Strategy, it is expected that the infrastructure improvement will be mostly funded from the external sources, e.g., using costs attracted from international financial institutions, private investors and via the public-private partnership projects. It is expected that implementation of this Strategy will lead to increase of investments in the transport industry in the amount sufficient for renewal of at least 90 percent of fixed assets of transport until 2030.

The Government also approved the Action Plan on Implementation of the National Transport Strategy of Ukraine until 2030. This document sets out the relevant detailed tasks and actions to implement the Strategy, indicates the state authorities responsible for their implementation, as well as terms, expected results and sources of funding.

The State Strategy on the Regional Development for 2021-2027 approved by the Resolution of the CMU No. 695 dated 5 August 2020 includes certain strategic goals and tasks related to transport sector development at the regional level. It mentions the need for improving transport accessibility between the cities and regional centers and rural settlements and calls for necessity to attract state investments in development of transport infrastructure in the problem areas (e.g., villages, small monotowns) and implement co-financing of publicly important transportations by road and rail.

The "Great Construction" Program initiated by the President of Ukraine in 2020 aims to ensure sustainable development of transport and social infrastructure in Ukraine (e.g., public roads, airports, schools). More than 800 infrastructure development projects were completed under the Program in 2021. The total expenditures/funding under the Program in 2020-2021 were USD 10 billion.

### ***Key sector-specific programs and plans***

#### ***– Road infrastructure***

The State Target Economic Program for Development of Public Roads of State Significance for 2018-2022 approved by the Resolution of the CMU No. 382 dated 21 March 2018 sets out the main priorities and goals of state policy in respect of the road infrastructure. This strategic document provides for recovery and development of public roadways of state significance to carry out their integration into European transport systems and increase traffic security level, speed, comfort and profitability of transportations.

The Program contains information on the projects planned for development over a 5-year period, and identifies the planned costs for separate roads, types of works, sources and periods of funding, as well as determines the total cost and implementation period for construction projects.

The need for improvement of road infrastructure is also highlighted in the Strategy of Increase of the Road Safety in Ukraine until 2024 approved by the Resolution of the CMU No. 1360-p dated 21 October 2020.

#### ***– Airport infrastructure***

The State Target Program of Airport Development until 2023 approved by the Resolution of the CMU No. 126 dated 24 February 2016 is focused on stable development of the aviation industry,



ensuring compliance of the air transport infrastructure with the international standards, development of Ukraine as the transit country and improvement of the state property management.

The Program includes the overview of key projects targeted to be implemented until 2023, including the responsible state authorities and sources of funding for the projects. In particular, this Program is aimed at ensuring construction, reconstruction and upgrading of the airfields and airfield objects, airport infrastructure objects, ground infrastructure facilities, as well as attraction of private investment in airport development.

– *Railway infrastructure*

The dedicated state program for the railway infrastructure development was approved only for period of 2010-2019 (the State Target Program on Reforming the Railway Transport for 2010-2019 approved by the Resolution of the CMU No. 1390 dated 16 December 2009)..

At this moment, the key strategic document for implementing the railway sector development projects is the National Transport Strategy of Ukraine until 2030.

Also, there is an Action Plan for Railway Transport Reform, approved by the Resolution of the CMU No. 1411 dated 27 December 2019.

– *Seaport infrastructure*

The Strategy for Development of Ukrainian Seaports until 2038 approved by Resolution of the CMU No. 548 dated 11 July 2013 sets out tasks and main directions for development of seaports and port industry in general (in particular, attracting private investment for upgrading and creation of port infrastructure facilities based on concession agreements, joint venture agreements and other investment agreements).

The Strategy is implemented within the plans for development of seaports in Ukraine in the short-term (5 years), medium-term (10 years) and long-term (25 years) perspectives. The priority measures for implementation of the Strategy for each Ukrainian seaport are provided in annex to the Strategy.

The development plan for each seaport is drafted by the State Enterprise "Ukrainian Sea Ports Authority" and approved by the Ministry of Infrastructure of Ukraine.

– *Inland waterways infrastructure*

According to the Law of Ukraine "On the Inland Waterways Transport" No. 1054-IX dated 3 December 2020, the Strategy for Development of Inland Water Transport is a key document governing development of the inland waterways network. This strategy should include short-term, medium-term and long-term development plans, as well as priority areas for investment.

As of now, the Strategy for the Development of Inland Water Transport has not been approved by the Government.

For details regarding construction and real estate planning matters in transport infrastructure projects, please see answers to question 17.

**17. What are the procedures applicable to the development of a transport infrastructure project? Are there differences according to the mode of transport concerned? Provide a list relevant legislation and regulations.**

Ukrainian law defines objects of transport infrastructure as railway and motor roads, bridges, enterprises and fleet of vehicles, car service facilities, inter-settlement transport routes, auto and railroad stations, auto / railroad / river / maritime stations, objects of air transport. The Law of Ukraine "On The Regulation Of Urban Planning Activities" No. 3038-VI dated 17 February 2011 (the "Construction Law") says that construction of railway stations, stations, ports, piers, airports, footbridges, tunnels, passenger platforms, subways, purchase of passenger rolling stock, maintenance and arrangement of roads and other facilities related to passenger service and shipping are carried out using funds of state and municipal budgets and transport enterprises in accordance with Ukrainian law, as well as with the involvement of voluntary contributions of legal entities of all forms of ownership and individuals. In general, development of a transport infrastructure project may be carried out through direct execution of EPC contracts and/or under the PPP procedures (including concession).

The functions of the construction owner can be performed by the executive body of the municipal authority, Kyiv and Sevastopol city state administrations perform directly or may be delegated on a competitive basis to the EPC contractor.

The Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine as well as the Cabinet of Ministers of Ukraine are the main authorities which produce the standard form contracts for use in the construction and engineering sectors. The Standard Contractor's Agreement in Capital Construction approved by the Order of the Ministry of Construction, Architecture and Housing of Ukraine No. 3, dated 27 October 2005, is the main standard form of construction contract recommended for use in construction matters. Generally, the parties are free to choose any other form of contract provided it contains all the mandatory provisions envisaged by the law.

According to the Commercial Code of Ukraine and Decree of the CMU No. 668, a general construction agreement must be executed in a simple written form and contain the essential terms (such as, names and details of its parties, its subject matter (the description of facilities to be constructed thereunder and the list and types of works to be performed in accordance with the design documentation), terms of the beginning and completion of works under the contract, price, payment terms for completed works, procedure for the acceptance of the facility/construction/works, guarantee terms for completed works, and the procedure to address shortcomings, responsibilities of its parties (compensation for damages), etc.). In addition, the legislation provides for a mandatory annex to a construction agreement, namely "Calendar Schedule of Works". Finally, a general construction agreement can be notarized, if the parties choose to do so.

International contracts, such as FIDIC contracts, may be used in Ukraine subject to adaptation to mandatory Ukrainian legislative requirements. Due to this fact, FIDIC contracts are rarely used in Ukraine (except for public infrastructure projects financed by international financial institutions). The Cabinet of Ministers of Ukraine adopted Decree No. 1065 determining the status of the engineer in course of construction of public roads, which simplified adaptation of FIDIC contracts to Ukrainian law. According to this Decree, the engineer performs its functions with regard to terms and conditions of the relevant FIDIC contract.

In particular, construction of structures, road service facilities, gas fuel stations, construction of utility networks, and performance of other works within the boundaries of right-of-way, should be carried out according to license issued by Ukravtodor upon prior approval with the respective divisions of the National Police (Law of Ukraine "On Automobile Roads" (Article 37), List of Authorization Documents in the Economic Sphere (para. 64) approved by the Law of Ukraine "On List of Authorization Documents in the Sphere of Economic Activity"). The State Service of Ukraine for Transport Safety on the basis of Resolution of the Cabinet of Ministers No. 929 dated 09/06/2011 issues license for the construction of utility networks and other works within the boundaries of right-of-way, placement, construction, reconstruction and operation of buildings, road service facilities, including gas stations. According to this Resolution, the issuance of such licenses is a paid administrative service

Road safety shall be provided through:

- setting of standards and regulations of road traffic and introduction of unified construction rules
- quality control of works on new construction, reconstruction and major repair of works
- road safety audit and inspections of road safety.

Setting of standards and regulations of road traffic are needed to establish mandatory regulations, rules, requirements for organization and safety of road traffic and are implemented as follows:

1. The state road traffic standards National Standard of Ukraine (DSTU) 3587-97 "Automobile roads, streets and railway crossings, requirements to operation condition", DSTU 2587:2010 "Road markings", DSTU 8747:2017 "Automobile roads. Types and lists of repairs and operational maintenance", which will become effective on 01/01/2022, DSTU 4036-2001 "Road Safety. Marking Road Inserts. General Technical Requirements" etc.).

2. Regulations of road traffic, including state and industrial building standards.

According to DBN B.2.3-4-2015, technical classification of roads to 5 categories was determined. Road category depends on the estimated average annual daily traffic density. Assignment of roads to a particular category influences the process of setting speed limits (from 30 to 130 km / h, respectively). In addition, for each category of road there are individual regulatory requirements for technical characteristics, geometric parameters and engineering structures on it. In this regards the specific needs of people with disabilities are taken into account.

3. Unified requirements to construction, reconstruction, repair, maintenance and security of roads, streets and railway crossings, approval of programs for their construction.

The Unified rules for repair and maintenance of roads, streets, railway crossings, rules for their use and protection were approved by the Resolution of the CMU No. 8198 dated 30/03/1994 (the "Unified Rules for Repair"). These rules currently provide that repair and maintenance of the state-owned road facilities is performed by the road and maintenance organizations reporting to Ukravtodor.

Designing, construction, reconstruction and repair works in respect of roads shall be made in accordance with the requirements of the mentioned rules, regulations and standards. It is prohibited to reduce capital expenditures by cutting measures ensuring road safety. According to Road

Development Program for 2018-2022, the life cycle for public roads of national importance in the event of new construction, reconstruction and major repair must be at least 10 years. These requirements must be taken into account when formulating the conditions of competitions. The mentioned requirements shall be considered in the process of formation of tender conditions.

However, it should be noted that the program documents in respect of road safety provide for the development of a significant number of draft regulations in respect of road designing. In addition, it is expected to amend state building codes (in particular, DBN B.2.3-4:2015, DBN 360-92, DBN B.2.3-5-2001), revise existing and development of new national standards with the purpose of the compliance thereof with European safety standards, elimination of 180-degree turns on the roads, establishment of new requirements for placing outdoor advertising, automation of railway crossings gates etc. Ministry of Infrastructure of Ukraine, Ukravtodor and other governmental bodies are responsible for making amendments. Making these amendments to law shall influence the procedure of designing and construction of roads, cost of works and, respectively, tender conditions.

Below we provide the summary of the key stages for carrying out the construction works.

- Obtaining the town planning conditions and restrictions, technical conditions representing initial data for planning in the municipal authorities. This stage is necessary in order for the construction project to comply with the General Plan of Settlement, the Detailed Plan of Territories and the Plan for Zoning of Territories.
- Execution an agreement with the design organization for development of the design project documentation for the construction in accordance with initial data for planning obtained earlier. Also, such organization determines the class of consequences (responsibility) of the construction object which is necessary for the further stages).
- Examination of the design project for the construction by the independent experts which are certified for such works. The expert organizations are entitled to involve the state land resource, environmental, sanitary and other competent authorities in the conduct of an expert review of the documentation.
- Execution of a general construction agreement (which includes a subcontractor as a party to the agreement). Also, the construction activity is subject to author supervision which is performed by the designer/author of the design project documentation based on a separate agreement with the construction owner and technical supervision which is performed by the relevant representative of the construction owner or based on a separately executed agreement. Both author supervision and technical supervision must be performed during the whole construction procedure.
- Submission of a notice about the beginning of construction works on objects with a low consequence (responsibilities) (CC1) / Obtaining a permit to perform construction works on objects with a medium (CC2) and significant (CC3) consequences (responsibilities).
- Carrying out of the technical commissioning ("test works") of the construction object.
- Commissioning of the construction object. Objects with a low consequence (responsibilities) (CC1) may be commissioned based on a declaration of readiness for operation which is submitted to the State Architectural and Construction Inspectorate (SACI). In order to commission CC2 and CC3 complexity category objects, the construction owner must prepare

and submit to the SACI act of readiness based on which the SACI issues the commissioning certificate.

- After completion of the commissioning, the construction owner is able to obtain the ownership title to the construction object.

The Construction Law is aimed at the implementation of complex reform in the area of town planning and construction, the main purpose of which is to simplify construction and planning procedures. Following Ukraine's ratification of the EU Association Agreement on 16 September 2014, legislative initiatives are aimed at the further deregulation and simplification of the construction permit system in line with European legislation and practice. State Construction Norms contain technical requirements applicable to the planning and construction stages of development.

The local urban planning documentation (the General Plan of Settlement, the Detailed Plan of Territories and the Plan for Zoning of Territories) are the main documents which contain legal regulations applicable to local planning/zoning. From 19 April 2014 town-planning documentation (specifically, general and detailed plans) is made publicly available in full (although in practice this still has not been implemented in the majority of settlements), i.e. that documentation cannot be classified or contain other restricted data. Local authorities in Ukraine are entitled to decide on zoning issues, control development at the local level as well as to develop local regulations based on the national legislation.

Article 34 of Construction Law sets out that the construction project owner is able to carry out construction works on an object after the submission of a notice about the beginning of construction works on objects with a low consequence (responsibilities) (CC1) or after obtaining a permit to perform construction works on objects with a medium (CC2) and significant (CC3) consequences (responsibilities) (notice about the beginning of construction works and permit to perform construction works – the "Construction Permits").

The urban planning laws of Ukraine set out that the definition "construction" and "construction works" includes several types of works, such as: new construction, reconstruction and capital repair. Thus, carrying out new construction, restoration, reconstruction or capital repair on the existing real estate object is prohibited without obtaining the Construction Permits.

Reconstruction, restoration or overhaul of construction objects without changing the external geometric dimensions of their foundations in the plan, reconstruction or overhaul of roads, railways, power lines, communications, pipelines, other linear communications within the lands of their location, as well as comprehensive reconstruction of quarters (neighborhoods) of obsolete housing and new construction of engineering and transport infrastructure in accordance with urban planning documents at the request of state authorities or local authorities on the relevant state or municipal land plots may be carried out in the absence of a document certifying ownership or land use.

Since 2017, all construction objects in Ukraine are divided, depending on the level of potential threat of a construction object to the health and life of individuals staying in or outside it and financial damage or social losses related to its failure or loss of its integrity (the "Consequences") into:

- (CC1) - objects capable of causing minor Consequences;
- (CC2) - objects capable of causing medium Consequences; and
- (CC3) - objects capable of causing significant Consequences.

"CC1 complexity category" according to Article 32 of the Construction Law, means minor consequence class which applies:

- to buildings where the level of potential threat to the life and health of individuals staying permanently there concerns no more than 50 individuals;
- to buildings where the level of potential threat to the life and health of individuals staying regularly there concerns no more than 100 individuals;
- where the amount of financial losses in the event of failure of the relevant building does not exceed 2,500 minimum wages;
- where the relevant building is not a cultural heritage site and is not being constructed within the limits of its protected zone;
- where the relevant building is not a highly dangerous object;
- where the relevant building is not a residential building exceeding four storeys; hereinafter - "CC1".

"CC3 complexity category" applies

- to cultural heritage sites;
- to highly dangerous objects;
- to residential, public and multifunctional buildings higher than 1,000 meters and/or if potential threat to the life and health of individuals staying permanently there concerns more than 400 individuals.

"CC2 complexity category" (medium consequences class) includes objects which are not included in CC1 or CC3, as listed above, hereinafter - "CC2".

According to the Construction Law, the design organization determines the class of consequences (responsibility) of the construction object, and the correctness of determining this class is checked during the examination of the design project for the construction.

The procedure for development of the design documentation is regulated by Order No. 45, according to which the design documentation may be developed by individuals possessing relevant certificates confirming their qualifications. The stages and complexity of the design documentation depend on the complexity category of construction (CC1, CC2, CC3), as described above.

Pursuant to Order No. 45, the design documentation must contain the following stages:

- feasibility study;
- stage "P" – project; and
- stage "WD" – working documentation.

The prepared design documentation must be accepted and approved by the customer. According to Decree No. 560, for the complexity categories CC2 and CC3, the design documentation must be approved by independent licensed expert organizations. These organizations are entitled to involve the state land resource, environmental, sanitary and other competent authorities in the examination of the above documentation.

The examination may be performed by the state or private expert institutions. The experts examine: mechanical resistance and stability (strength, reliability, durability) of buildings and structures; fire and technogenic security; human life and safety; environmental protection; sanitary-epidemiological welfare of the population; operation safety and compliance with occupational safety requirements; noise protection; and energy efficiency.

As a result, the expert institution issues an expert report describing all technical characteristics of the project and confirming whether the project is prepared in compliance with the state building standards or not.

There are two official registers which contain information regarding all of the documents for beginning the construction activity and commissioning newly constructed buildings/facilities/structures.

According to the Legislation and current practice, there are two options to carry out the construction activity in Ukraine: (i) execution of a general construction agreement (which includes a subcontractor as a party to the agreement); and (ii) execution of a (1) general construction agreement; and (2) a subcontract (as two separate contracts).

As of 19 March 2020 the Legislation required that an individual/legal entity, to perform the construction activity, obtain a license (the "Construction License") in accordance with Decree of the CMU No.256. However, from 20 March 2020 the construction activity may be performed based on the required certification. To date, there is no detailed regulation in this respect. Therefore, currently, only legal entities which obtained licenses prior to 20 March 2020 may legally perform the construction activity in Ukraine.

According to the Construction Law, the construction activity is subject to author supervision and technical supervision. Author supervision must be performed by the designer/author of the project based on a separate agreement with the customer. Technical supervision must be performed by the relevant representative of the customer or based on a separately executed agreement. Both author supervision and technical supervision must be performed during the whole construction procedure.

According to the Construction Law, once the construction is completed, its commissioning shall begin. "Commissioning", in fact, has the following two meanings:

1. Technical commissioning (or so-called "test works")
2. Legal commissioning

According to Decree of the CMU No. 461, there are two different procedures for commissioning of the CC1 and CC2 complexity category objects. CC1 complexity category objects may be commissioned based on a declaration of readiness for operation.

In order to commission CC2 and CC3 complexity category objects, the customer must prepare and submit to the State Architectural and Construction Inspectorate (SACI) act of readiness based on which SACI issues the commissioning certificate.

After completion of the technical and legal commissioning, the construction owner has right to perform registration of the ownership right to the construction object. Commissioning is the necessary pre-condition for obtaining the ownership right to the construction object.

The list of the general legislation acts and regulations for the development of a transport infrastructure:

- Law of Ukraine "On the Regulation Of Urban Planning Activities" No. 3038-VI dated 17 February 2011
- Order of preliminary and construction works approved by the Resolution of the Cabinet of Ministers of Ukraine № 466 dated 13 April 2011
- Law of Ukraine "On the Building rules" No. 1704-VI dated 5 November 2009
- Law of Ukraine "On Environmental Impact Assessment" No. 2059-VIII dated 23 May 2017
- Law of Ukraine "On responsibility for violations in the field of urban planning activity" No. 208/94-BP dated 14 October 1994
- The Law of Ukraine "On Basics of Town Planning" No. 2780-XII dated 16 November 1992
- The Law of Ukraine "On Architectural Activity" No. 687-XIV, dated 20 May 1999
- Law of Ukraine "On Automobile Roads" № 2862-IV dated 8 September 2005
- Law of Ukraine "On Road Traffic" № 3353-XII dated 30 June 1993
- Civil Code of Ukraine No. 435-IV dated 16 January 2003
- Commercial Code of Ukraine No. 436-IV dated 16 January 2003
- Resolution of the Cabinet of Ministers No. 929 dated 9 June 2011
- Resolution of the CMU No. 8198 dated 30 March 1994
- Order of the Ministry of Construction, Architecture and Housing of Ukraine No. 3 dated 27 October 2005
- General Conditions for Conclusion and Execution of Contractor's Agreements in Capital Construction approved by the Resolution of the Cabinet of Ministers of Ukraine No. 668 dated 1 August 2005
- State Building Rules of Ukraine DBN B.2.3-4-2015 approved by the Resolution of the Ministry of Regional Development, Construction, Housing and Communal Services No. 234 dated 21 September 2015
- State Building Rules of Ukraine DBN A.2.2-3:2014 approved by the Resolution of the Ministry of Regional Development, Construction, Housing and Communal Services No. 163 dated 4 June 2014.

**Table 1. Selected projects related to the airport infrastructure development (until 2023)**

| Project | Description                         | Sources of financing | Planned amount of financing (millions , UAH) |
|---------|-------------------------------------|----------------------|--|
|         | Reconstruction of aircraft platform | Own funds            | 502  |



|   |   |  |                       |
|---|---|--|-----------------------|
| Development of Boryspil International Airport               | Construction of pumping and filtration station  | Own funds  | 200                   |
|   | Construction of parking places  | Investor funds   | 182                   |
|   | Reconstruction of the fence   | Own funds<br>Investor funds  | 200, 902<br>1084, 182 |
| Development of Danylo Halytsky International Airport "Lviv" | Final airfield reconstruction   | Not Specified  |                       |
|   | Completion of the new air terminal  |  |                       |
| Development of Dnipropetrovsk International Airport         | Design and construction of the airfield   | State budget   | 6000                  |
|   |   | Investor funds   | 6000                  |
| Development of Kyiv International Airport (Zhulyany)        | Reconstruction of the aircraft platform and aircraft parking places                           | Local budget (Kyiv City State Administration)  | 133,4                 |
|   | Construction of a fire station  | Own funds  | 0,9                   |
| Development of Chernivtsi International Airport             | Reconstruction of the airfield complex  | State budget<br>Investor funds   | 535,4<br>535,4        |
|   | Reconstruction of the airport building  | Local budget<br>Investor funds   | 10<br>169,03          |
| Development of Bila Tserkva International Airport           | Development of terminal passenger and cargo complexes with the use of multimodal technologies | City, regional and state budgets, concessional loans and/or grants from the international financial institutions | 1782                  |

*Source: the State Target Program of Airport Development until 2023 approved by the Resolution of the CMU No. 126 dated 24 February 2016, the National Transport Strategy of Ukraine until 2030 approved by the Resolution of the CMU No. 430-p dated 30 May 2018.*

**Table 2. Selected projects related to the road infrastructure development (during 2018-2022)**

| Task | Description | Sources of financing | Planned amount of financing (millions, UAH) |
|------|-------------|----------------------|---|
|      |             |                      |   |

|  |  |  |                               |
|--|--|--|-------------------------------|
| New construction of the public roads of state significance | M-03 Kyiv – Kharkiv – Dovzhanskyi                  | State budget<br>Funds of the international financial institutions<br>Investor funds  | 180,56<br>2721,69<br>1334     |
|  | M-03-01 North detour of Boryspil city              | Investor funds   | 1200                          |
|  | M-05 Kyiv - Odesa                                  | State budget<br>Funds of the international financial institutions                    | 2,1<br>597,02                 |
|  | M-06 Kyiv – Chop (Kyiv, Lviv and Rivne regions)    | State budget<br>Funds of the international financial institutions                    | 13,2<br>591,79                |
|  | M-06-01 Kyiv – Chop (Lviv region)                  | Investor funds   | 3600                          |
|  | M-09-01 North detour of Ternopil city              | Funds of the international financial institutions                                    | 144,72                        |
|  | M-15 Odesa – Reni                                  | State budget   | 0,1                           |
|  | M-15 Odesa – Reni, bridge construction upon Danube | Investor funds   | 2300                          |
|  | M-22 Poltava – Oleksandria                         | State budget   | 4                             |
|  | M-28 Odesa – Yuzhnyi - / M-14/ with the drives     | State budget   | 774,12                        |
|  | Highway upon Dnipro river in Zaporizhzhia city     | State budget   | 6932,15                       |
| Reconstruction of the public roads of state significance   | M-03 Kyiv – Kharkiv – Dovzhanskyi                  | State budget<br>Funds of the international financial institutions<br>Investors funds | 1110,97<br>4472,57<br>1123,09 |
|  | M-07 Kyiv – Kovel – Yahodun                        | State budget   | 487,41                        |

|   |   |   |         |
|---|---|---|---------|
|   | M-10 Lviv – Krakovets   | State budget                                      | 90,6    |
|   | H-03 Zhytomyr – Chernivtsi                                      | State budget                                      | 799,06  |
|   | H-11 Dnipro – Mykolayiv   | State budget                                      | 0,4     |
| Capital reconstruction of the public roads of state significance  | M-05 Kyiv - Odesa   | State budget                                      | 1187,32 |
|   |   | Funds of the international financial institutions | 3213,01 |
|   |   | Investor funds                                    | 3299,82 |
|   | M-08 Detour of Uzhorod city – checkpoint "Uzhorod"              | State budget                                      | 0,15    |
|   |   | Investor funds                                    | 504,57  |
|   | H-01 Kyiv – Znamianka   | State budget                                      | 1698,99 |
|   |   | Funds of the international financial institutions | 843,29  |
|   |   | Investor funds                                    | 1902,6  |
| Current repair of the public roads of state importance  | M-01 Kyiv – Chernihiv – Novi Yarylovychi                        | State budget                                      | 546,3   |
|   | M-08 Detour of Uzhorod city – checkpoint "Uzhorod"              | State budget                                      | 100,5   |
| Development of project documentation in respect of new construction, reconstruction, repair of the public roads of state importance | Development of the relevant project documentation               | State budget                                      | 2098,36 |
|   |   | Funds of the international financial institutions | 285,7   |
|   |   | Investor funds                                    | 39,94   |
| Monitoring of the road conditions and quality of the road works   | Monitoring of the road conditions and quality of the road works | State budget                                      | 243,53  |

*Source: the State Target Economic Program for Development of Public Roads of State Significance for 2018-2022*

**Table 3. Selected projects related to the seaport infrastructure development (until 2038)**

| Seaport | Short-term and medium-term perspectives | Long-term perspective |
|---------|---|-----------------------|
|---------|---|-----------------------|

|                       |   |   |
|-----------------------|---|---|
| Pivdennyi             | <ul style="list-style-type: none"> <li>- Renewal of fixed assets of the state stevedoring company at the expense of investment funds, in particular attracted by PPP</li> <li>- Reconstruction and new construction of berths with a total length of 1,900 meters</li> </ul>  | <ul style="list-style-type: none"> <li>- Achievement of depths of the approach channel, inland water approaches, etc.</li> <li>- Development of the seaport areas with establishment of the berth line</li> </ul> |
| Odesa                 | <ul style="list-style-type: none"> <li>- Final construction of the container terminal</li> <li>- Reconstruction / new construction of berths with a total length of approx. 650 m</li> <li>- Reconstruction of the highway overpass</li> <li>- Reconstruction of the passenger complex via PPP mechanism</li> <li>- Optimization and development of the shipyard "Ukraine"</li> </ul> | <ul style="list-style-type: none"> <li>- Development of overland access roads</li> </ul>  |
| Chornomorsk           | <ul style="list-style-type: none"> <li>- Dredging of the operational port area</li> <li>- Reconstruction / new construction of berths with a total length of approx. 1,220 m</li> <li>- Concession of the railway and ferry complex (construction of a new passenger terminal)</li> </ul>   | <ul style="list-style-type: none"> <li>- PPP for renewal of fixed assets of the state stevedoring company</li> <li>- Reconstruction of berths No. 11-17</li> </ul>  |
| Bilgorod-Dnistrovskiy | <ul style="list-style-type: none"> <li>- Development of passenger transport infrastructure</li> <li>- PPP / privatization for renewal of fixed assets</li> </ul>  | <ul style="list-style-type: none"> <li>- Development of seaport areas</li> </ul>  |
| Berdyansk             | <ul style="list-style-type: none"> <li>- PPP for renewal of fixed assets</li> <li>- The depths work in the seaport</li> </ul>   | <ul style="list-style-type: none"> <li>- Development of seaport areas</li> </ul>  |
| Izmail                | <ul style="list-style-type: none"> <li>- Maintaining the level of depth in the seaport</li> <li>- Efficient use of the existing reloading capacities</li> </ul>   | <ul style="list-style-type: none"> <li>- PPP for renewal of fixed assets</li> <li>- Development of seaport areas</li> </ul>   |
| Olvia                 | <ul style="list-style-type: none"> <li>- PPP for renewal of fixed assets</li> </ul>   | <ul style="list-style-type: none"> <li>- Development of seaport areas</li> </ul>  |
| Kherson               | <ul style="list-style-type: none"> <li>- PPP for renewal of fixed assets</li> <li>- Integration of the seaport into the International Transport (Water) Corridor E-40.</li> </ul>   | <ul style="list-style-type: none"> <li>- Development of seaport areas on the left bank of the Dnipro.</li> </ul>  |

Source: *the Strategy for Development of Ukrainian Seaports until 2038 approved by Order of the CMU No. 548-p dated 11 July 2013*

# **18. What is the project cycle? How are authorities and the non-governmental sector associated with transport infrastructure projects?**

Article 34 of the Law of Ukraine “On the Regulation of Urban Planning Activity” No. 3038-VI dated 17 February 2011 sets out that the construction project owner is able to carry out construction

works on an object after the submission of a notice about the beginning of construction works on objects with a low consequence (responsibilities) (CC1) or after obtaining a permit to perform construction works on objects with a medium (CC2) and significant (CC3) consequences (responsibilities) (notice about the beginning of construction works and permit to perform construction works – the "Construction Permits").

The urban planning laws of Ukraine set out that the definition "construction" and "construction works" includes several types of works, such as: new construction, reconstruction and capital repair. Thus, carrying out new construction, restoration, reconstruction or capital repair on the existing real estate object is prohibited without obtaining the Construction Permits.

Reconstruction, restoration or overhaul of construction objects without changing the external geometric dimensions of their foundations in the plan, reconstruction or overhaul of roads, railways, power lines, communications, pipelines, other linear communications within the lands of their location, as well as comprehensive reconstruction of quarters (neighborhoods) of obsolete housing and new construction of engineering and transport infrastructure in accordance with urban planning documents at the request of state authorities or local authorities on the relevant state or municipal land plots may be carried out in the absence of a document certifying ownership or land use.

According to the Urban planning law, the design organization determines the class of consequences (responsibility) of the construction object, and the correctness of determining this class is checked during the examination of the design project for the construction.

The procedure for development of the design documentation is regulated by Order No. 45, according to which the design documentation may be developed by individuals possessing relevant certificates confirming their qualifications. The stages and complexity of the design documentation depend on the complexity category of construction (CC1, CC2, CC3), as described above.

Pursuant to Order No. 45, the design documentation must contain the following stages:

- feasibility study;
- stage "P" – project; and
- stage "WD" – working documentation.

The prepared design documentation must be accepted and approved by the customer. According to Decree No. 560, for the complexity categories CC2 and CC3, the design documentation must be approved by independent licensed expert organizations. These organizations are entitled to involve the state land resource, environmental, sanitary and other competent authorities in the examination of the above documentation.

The examination may be performed by the state or private expert institutions. The experts examine: mechanical resistance and stability (strength, reliability, durability) of buildings and structures; fire and technogenic security; human life and safety; environmental protection; sanitary-epidemiological welfare of the population; operation safety and compliance with occupational safety requirements; noise protection; and energy efficiency.

As a result, the expert institution issues an expert report describing all technical characteristics of the project and confirming whether the project is prepared in compliance with the state building standards or not.

There are two official registers which contain information regarding all of the documents for beginning the construction activity and commissioning newly constructed buildings/facilities/structures.

According to the Legislation and current practice, there are two options to carry out the construction activity in Ukraine: (i) execution of a general construction agreement (which includes a subcontractor as a party to the agreement); and (ii) execution of a (1) general construction agreement; and (2) a subcontract (as two separate contracts).

As of 19 March 2020 the Legislation required that an individual/legal entity, to perform the construction activity, obtain a license (the "Construction License") in accordance with Decree No.256. However, from 20 March 2020 the construction activity may be performed based on the required certification. To date, there is no detailed regulation in this respect. Therefore, currently, only legal entities which obtained licenses prior to 20 March 2020 may legally perform the construction activity in Ukraine.

According to the Construction Law, the construction activity is subject to author supervision and technical supervision. Author supervision must be performed by the designer/author of the project based on a separate agreement with the customer. Technical supervision must be performed by the relevant representative of the customer or based on a separately executed agreement. Both author supervision and technical supervision must be performed during the whole construction procedure.

According to the Construction Law, once the construction is completed, its commissioning shall begin. "Commissioning", in fact, has the following two meanings:

1. Technical commissioning (or so-called "test works")
2. Legal commissioning

According to Decree of the CMUNo. 461, there are two different procedures for commissioning of the CC1 and CC2 complexity category objects. CC1 complexity category objects may be commissioned based on a declaration of readiness for operation.

In order to commission CC2 and CC3 complexity category objects, the customer must prepare and submit to the State Architectural and Construction Inspectorate (SACI) act of readiness based on which SACI issues the commissioning certificate.

After completion of the technical and legal commissioning, the construction owner has right to perform registration of the ownership right to the construction object. Commissioning is the necessary pre-condition for obtaining the ownership right to the construction object.

### ***C. Transport research***

#### **19. Are there any public research programmes on transport technologies, infrastructures or operations, and if yes, what are their funding levels and priorities?**

At present, there is no sufficient systematic financing of the road transport research from the state budget. Under the road safety program, the limited financing of research in the field of road construction technologies is performed. But in recent years, there has been no budget funding for research in the field of road transport and transport technologies.

In the field of road economy, the state research programs are implemented through the Thematic R&D plan of the State Road Agency of Ukraine. It consists of 13 (thirteen) directions, the priority of which is development and improvement of the framework, designing, new materials and technologies, improvement of approaches to quality control of works, information support of the branch. The planned funding amounted to 53,0 million UAH for 2022.

The research on road safety, in particular with the development of new and revised national regulatory documents (DSTU), is carried out within the framework of the State Program of Road Safety Improvement in Ukraine for the period up to 2023, approved by the resolution of the Cabinet of Ministers of Ukraine dated December 21, 2020 No. 1287. The financing amounted to 2,0 million UAH for 2022.

In the meantime, State Enterprise "State Motor Transport Research and Design Institute" (SE "State Motor Transport Research Institute") in the field of management of the Ministry of Infrastructure of Ukraine, as the leading research company in the area of road transport, as well as in related spheres, referring to energy and ecology of transport, carries out research and development works financed from its own budget. The budget sources are mainly supplemented by providing various services on scientific and technical work and other activities for entities working in transport area and many other branches of economy of Ukraine. However, the capacities of the Institute to finance the scientific research at the expense of its own budget are very limited.

According to the Strategy, approved by the Ministry of Infrastructure of Ukraine, State Motor Transport Research and Development, in particular, has defined the following priorities of R&D works in the field of road transport:

- range of works on the research of statistical observation systems, as well as administrative data in the transport sector of technologically developed countries of the world and EU member states, development of proposals on introduction in Ukraine of the best world experience in this sphere with simultaneous implementation of the requirements of the statistical office of the European Union (Eurostat) in the context of European integration;
- range of works on search of ways and development of proposals on reduction of harmful influence of road transport on environment, reduction of greenhouse gas emissions, and increase of efficiency of energy use, reduction of energy dependence of transport;
- range of works on establishment of "Scientific-Research Testing Center of Perspective Technologies of safe, environmentally friendly and energy-efficient motorized transport in accordance with international technical regulations and EU directives" based on the facilities of State Enterprise "State Motor Transport Research Institute";
- range of R&D and engineering works on development of equipment and measuring facilities for testing and research of vehicles;
- research on the development of technologies and equipment for obligatory and roadside check of suitability of vehicles for operation;
- research aimed at studying international legislation and development of recommendations to the drafts of the Ukrainian rules and regulations with the requirements for obligatory and roadside check of operational suitability of vehicles;
- range of works on harmonization with the standards and legislation of the EU, in particular, on the directions of safety of construction and safety of operation of transport, development of

intellectual transport systems, system of digital tachograph, system of certification of suitability for operation of transport means, development of electric transport, quality of transport services and in many other spheres.

In general, SE "State Motor Transport Research Institute" under the direction of the Ministry of Infrastructure carries out a multilateral activity aimed at satisfaction of the road transport needs in institutional and system-forming, scientific, expert-analytical, information, technological, innovation and legal provision (within the scope of competence), improvement of its safety, ecological, efficiency, competitiveness and its sustainable development, in accordance with the strategic directions defined by the National Transport Strategy of Ukraine for the period of up to 2030, approved by the Cabinet of Ministers of Ukraine Resolution No. 430 dtd. 30.05.2018.

The examples include the scientific research, performed at the international level, that have been funded by the European Union, and carried out by the experts of SE "State Motor Transport Research Institute" in recent years, in particular in cooperation with European research institutions, namely:

1) the international project "Development of potential in the elaboration of National policy on regulation of CO<sub>2</sub> emissions and energy consumption by road transport", which was conducted together with the Ricardo Energy & Environmental (UK) upon the request of the Ministry of Infrastructure of Ukraine;

2) the international project "Capacity building of the national GHG inventory system in terms of the development of methodological recommendations for determining national GHG emission factors from the use of motor fuels in the transport sector", which was conducted together with the Ricardo Energy & Environmental (UK) upon the request of the Ministry of Ecology and Natural Resources of Ukraine;

3) the Ukrainian part of the international project "The Air Quality Governance in the ENPI East Countries";

4) the international project "Assistance in the process of implementation of the requirements of Directive 94/63/EC in Ukraine". It is related to VOC control. It was conducted as part of project "Assistance to Ukraine in the process of implementation of energy sector reform in line with Ukraine's international commitments";

5) the international project "Verification of motor fuels consumption volumes by transport sector within the context of annual preparation of Ukraine's GHG Inventory";

6) the first in Ukraine project on Estimation of GHG Emissions by Road Transport for 1990-2010 period with the application of Methods of Higher Level following the IPCC Guidelines, EMEP/EEA air pollutant emission inventory guidebook 2009, based on the COPERT IV software, and the developed sophisticated methods of input data reconstruction. It was done at the request of the Ministry of Ecology and Natural Resources of Ukraine. The results were included in the National GHG Inventory of Ukraine for 1990-2010 (2012 submission);

7) the project on Improving Green House Gas Inventory on Vehicles Emissions for Ukraine. The main results are: 1) GHG and toxic pollutants inventory for the 1990-2020 period; 2) forecast for the period up to 2050 under various scenarios of economic development and regulation of energy consumption, GHG and toxic pollutants emission, based on mathematical simulation. The results were used for Ukraine's Nationally Determined Contribution (NDC) to the Paris Agreement.



There are other sectoral research institutes which are engaged in scientific research in separate sectors of transport. In particular, SE DerzhdorNDI is the main research institution of Ukraine for the construction, repair and maintenance of roads and transport facilities and the main organization for pricing in the road sector, as well as SE CHORNOMORNDIPROEKT - deals with issues of construction, reconstruction, repair and technical re-equipment of sea and river ports, hydraulic structures, ship repair enterprises, sea terminals, port infrastructure facilities.

In addition, research in the fields of transport is carried out by universities that train specialists for various fields of transport. The largest such universities in Ukraine that are engaged in research are:

1. National Transport University - has a separate unit in its structure, called the Research Institute of "Problems of Transport and Construction Technologies".

2. State University of Infrastructure and Technology

3. Kharkiv National Automobile and Road Institute

4. Kharkiv Aviation Institute;

5. National Aviation University

6. National University of Water Management and Nature Management

7. Ukrainian State University of Railway Transport

8. Dnipro National University of Railway Transport

9. Odesa National Maritime Academy

The main areas of research of these universities, in addition to research on transport modes, include basic research on the most important issues of scientific and technical, socio-economic, socio-political, human potential to ensure Ukraine's competitiveness in the world and sustainable development of society and state, introduction of new materials and technologies, energy efficiency, etc.

The following researches are financed at the expense of: programs of the Ministry of Education and Science of Ukraine, orders of other Ministries and public authorities (for example, Ukravtodor), private funds, grant programs, etc.

## **20. Is there private funding available for transport research, and if yes, what are funding levels and priorities?**

Scientific research in Ukraine including transport research is regulated by the Law of Ukraine "On Scientific and Scientific-Technical Activities". The Law stipulates other funding sources except budget funding, including private one. According to the Law the state provides budget funding for scientific and scientific-technical activities in the amount of not less than 1.7 percent of the gross domestic product of Ukraine. In reality the private funding within total income of transport research enterprises and entities can reach up the 40 percent of the total amount of state budget funding. The main transport research directions with private funding are the following:

- scientific-technical support in engineering and construction of transport infrastructure objects;

- tests, certification and experimental implementation of new building material;
- certification and testing of new samples of equipment and machinery;
- development of state investment projects for transport infrastructure objects;
- training in new technologies, specialists' professional development and personnel certification;
- development and support of software and information-analytical systems for transport infrastructure objects.

#### **D. Pipeline transportation**

##### **21. Please provide a description of the network, length and type of pipelines, quantities transported, capacities of existing installations, development policy, regional connections.**

###### **Oli transportation system**

The system of main oil pipelines of Ukraine, operated by JSC "Ukrtransnafta", passes through 19 regions of Ukraine and includes 4,767 km of oil pipelines with a diameter of 1,220 mm inclusive, 28 oil pumping stations with 176 pumping units with a unit capacity of 12,500 m<sup>3</sup>/year and electric drive with a total capacity of 357 thousand kW, 11 tank farms with 79 tanks with a total nominal capacity of 1,083 thousand m<sup>3</sup>, power supply systems, corrosion protection, automation, telemechanics, technological communication, fire and erosion protection facilities.

At present, 18 oil pumping stations with 98 pumping units, 10 substations with 75 tanks with a total nominal capacity of 883 thousand m<sup>3</sup> are involved in oil transportation. 10 oil pumping stations are set in safe stand-by operating mode.

Technical characteristics of the "Pivdenniy" Marine Oil Terminal: 14.5 MTA - capacity of the 1<sup>st</sup> stage (45 MTA - full design capacity); 200 thousand m<sup>3</sup> - nominal capacity of the tank farm; 35 000-150 000 t - deadweight of tankers with a max draught of up to 14.6 m; 7,500 cubic meters m/h - the maximum working capacity of loading tankers, which allows to load a tanker with a deadweight of 80 000 t for 12-14 hours. The total nominal capacity of the oil pipeline system of JSC "Ukrtransnafta" is 114 MTA inlet, 56.3 MTA outlet, actual capacity of Ukrtransnafta's main oil pipeline system is currently 62.1 MTA inlet and 41.2 MTA outlet.

The existing capacities of JSC "Ukrtransnafta" oil pipeline system allow to supply of both domestically produced and imported crude oil to Ukrainian refineries, including supplies from the Black Sea basin through connections with the ports of Pivdenniy and Odesa to Slovak Republic, Czech Republic, Hungary, Belarus and in the future – to /from Republic of Poland.

|                     | 2019 | 2020 | 2021 |
|---------------------|------|------|------|
| Total, including:   | 15.5 | 15.7 | 15.7 |
| Transit             | 13.1 | 13.1 | 12.7 |
| Domestic refineries | 2.4  | 2.6  | 3.0  |

### *Gas transportation system*

Ukraine's gas transportation system provides transportation of natural gas to consumers in Ukraine and the European Union. In terms of its scale, the Ukrainian GTS is one of the largest and most extensive gas transmission systems in Europe, which provides operational manoeuvring of natural gas flows. It has connection points with Russian, Belarusian, Polish, Slovak, Hungarian, Romanian and Moldovan gas transmission systems, which indicates a high level of its integration into the European gas network.

Regarding the main parameters of the Ukrainian GTS:

- Main gas pipelines - 33,079 km;
- Gas distribution stations - 1,389;
- Compressor stations - 57;
- Gas measuring stations - 33;
- Cross-border connections with operators of six neighbouring countries;
- Capacity at the entrance to the GTS - 281 billion cubic meters. m.
- Power at the exit from the GTS - 146 billion cubic meters. m.

The system of main gas pipelines of Ukraine is the only technological complex that simultaneously provides transportation of natural gas to consumers of Ukraine and transit. It can be divided into:

- Western Transit Corridor (Soyuz, the Urengoy-Pomary-Uzhhorod (UPU), Progress gas pipelines);
- Southern Transit Corridor (Yelets-Kremenchuk-Kryvyi Rih gas pipelines, Shebelinka-Dykanka-Kryvyi Rih-Izmail gas pipelines, Anan'iv-Tiraspol-Izmail gas pipeline, Kremenchuk-Anan'iv (AB), Rozdilna-Izmail gas pipelines) .

The Union, UPU and Progress gas pipelines are the main transit pipelines. Other pipelines supply natural gas to Ukrainian consumers and domestic production.

## **22. Is there a specific legal framework for pipeline transportation?**

There is the specific legislation for oil pipeline transportation: the Law of Ukraine "On Oil and Gas", "On Pipeline Transport", "On the National Commission for State Regulation of Energy and Utilities", "On Environmental Impact Assessment", "On Land Lease", "On alienation of land plots and other immovable property located on them, which are in private ownership, for public needs or for reasons of public necessity", and other regulations governing relations in this area, as well as international agreements being implemented by the decisions of the Parliament of Ukraine.

Legislation for pipeline transport in the natural gas market:

- Law of Ukraine of 12.07.2001 № 2665-III "On Oil and Gas";
- Law of Ukraine of 09.04.2015 № 329-VIII "On the natural gas market";
- Law of Ukraine of 15.05.1996 № 192/96-VR "On Pipeline Transport";

- Code of the gas transmission system, approved by the resolution of the National Commission for State Regulation of Energy and Utilities, dated 30.09.2015 № 2493, registered with the Ministry of Justice of Ukraine on 06.11.2015 on № 1378/27823;

- Code of Gas Distribution Systems, approved by the resolution of the National Commission for State Regulation of Energy and Utilities, dated 30.09.2015 № 2494, registered with the Ministry of Justice of Ukraine on 06.11.2015 on № 1379/27824;

- Law of Ukraine of October 6, 1998 № 161-XIV "On Land Lease";

- Law of Ukraine of 17.11.2009 № 1559-VI "On the alienation of land, other immovable property located on them, which are in private ownership, for public needs or for reasons of public necessity", and other regulations acts regulating relations in this area, as well as international agreements, the binding nature of which was approved by the Verkhovna Rada of Ukraine.

Detailed information on legislation with links covered in Chapter 15.

### **23. What environmental rules are applied?**

Main regulations: Water Code of Ukraine, Land Code of Ukraine, the Code of Subsoil of Ukraine, the Law of Ukraine "On Environmental Impact Assessment", the Law of Ukraine "On Environmental Protection", the Law of Ukraine "On protection of atmospheric air", the Law of Ukraine "On regulation of economic activity with ozone-depleting substances and fluorinated greenhouse gases", the Law of Ukraine "On waste " etc. Also guided by the principle of the European Union Directives in this sphere: the Water Framework Directive, the Waste Management Directive, the Industrial Pollution Directive as well as the Aarhus Convention and the Espoo Convention, which are implemented in the Law "On Environmental Impact Assessment".

- Paris Climate Agreement (ratified by the Verkhovna Rada of Ukraine on July 14, 2016), which provides for a significant reduction in greenhouse gas emissions by 2050 and combating the threat of climate change. According to this agreement, the level of greenhouse gas emissions in Ukraine should be reduced by 40% by 2030 and by 70% by 2050 compared to the level of emissions in 1990;

- Law of Ukraine "On Principles of Monitoring, Reporting and Verification of Greenhouse Gas Emissions", which establishes the principles of emission monitoring and promotes the coordination of energy strategies of Ukraine and the EU on the development of green energy and green technologies. In order to comprehensively study the impact on the environment during the transportation of natural gas, the GTS Operator of Ukraine must implement the main provisions of this law;

The GTS operator of Ukraine pays considerable attention to the formation and implementation of a single comprehensive policy on environmental protection and minimisation of negative environmental impact during production activities, as well as planning and accounting for fuel and energy resources and energy efficiency.

As part of the implementation of tasks to reduce environmental impact and increase energy efficiency, the Company sets the following priorities:

- approbation of environmental reporting according to European standards and requirements, reports according to OGMP 2.0 standards (Marcogaz, GERG);

- Mandatory environmental impact assessment in the implementation of projects for the reconstruction of old and design of new GTS facilities, as well as the introduction of approaches to environmental and social monitoring on the model of international financial organisations;
- carrying out a set of measures aimed at reducing methane leaks, such as: purchase of the necessary amount of equipment to eliminate leaks, development of appropriate instructions and regulations for work, training of operating personnel;
- equipping laboratories with modern search devices (such as FLIR GFX 320) to expand the internal function of mobile laboratories for diagnosing leaks;
- implementation of environmental and energy management systems - ISO 14001: 2015 and ISO 50001: 2018 with the passage of the relevant certification in 2021 with the approval of the relevant environmental and energy goals;
- creation of a power supply system for individual GTS infrastructure facilities at the expense of alternative energy sources;
- implementation of measures / projects for the development of the gas transmission system with the use of energy efficiency criteria and taking into account the principles of energy saving.

## **II. ENERGY NETWORKS**

### **24. What is the country's strategic framework for the development of energy infrastructure?**

The Ministerial Council Decision EnC 2015/09/MC-ECS: On the implementation of Regulation (EU) No 347/2013 of the European Parliament and of the Council dated 17.04.2013 on guidelines for trans-European energy infrastructure is adapted for the Energy Community and included in the list of mandatory for implementation by the Contracting Parties to the Energy Community. Mandatory implementation of Regulation (EU) 347/2013 is also enshrined in Annex 27 to the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part, and a number of others action plans for the implementation of strategic documents of Ukraine in the energy field.

In order to implement Regulation (EU) 347/2013 and given the fact that its provisions provide the construction, modernization, reconstruction, etc. of energy infrastructure, as well as obtaining all necessary permits and approvals, the Ministry of Energy of Ukraine together with the Energy Community Secretariat, prepared the Legal analysis and recommendations on compliance of national legislation of Ukraine with the provisions of Regulation (EU) 347/2013, as well as recommendations on the preparation of the draft Law of Ukraine and other necessary regulations for its implementation in Ukraine.

In this analysis, among other things, was made a proposal to determine the coordinating body for issuing permits on the principle of "single window" (one-stop-shop) for PECI / PMI projects. Given the fact that a large number of authorities and organizations involved in the process of obtaining permits for the construction and actual construction of infrastructure objects in the energy sector, it is recommended to implement a Coordinated Permitting Scheme and the establishment of an interagency commission on PECI / PMI projects, which includes all involved authorities and

organizations. Such a commission will be a permanent body will make a decision on the organization of implementation PEGI / PMI projects.

As for today, the Ministry of Energy together with EU4Energy experts have prepared a draft Law of Ukraine "On projects of national interest in the energy sector", which is currently agreed with the Secretariat of the Energy Community and under the procedure of the internal approval and adoption in Ukraine. The main provisions of this law are:

- Defining PEGI / PMI projects, which should receive the status of priority projects at the national level and which should be considered by competent authorities as those, that meet the public (national) interests in the energy sector;
- Determination of the competent authority responsible for the implementation of such projects. It is proposed to determine the Ministry of Energy as such a body;
- Determination of the coordinating body for issuing permits on the principle of "single window" (one-stop-shop).
- Establishment of the procedure for preparation and adoption of a comprehensive decision, namely the preliminary (2 years) and official stages (1.5 years) providing of all necessary permits and decisions for infrastructure projects (comprehensive decision) and regulation of their duration. The draft Law does not create new rules in the field of construction. It integrates the provisions of Regulation (EU) 347/2013 with existing regulations in the field of construction, reconstruction, modernization, etc. of CC2 and CC3 facilities. In addition, there are changes in current regulations, which in case of approval will simplify the process of obtaining the necessary permits and approvals for the organizer. According to the mentioned above Legal analysis conclusion, the existing regulatory framework for permitting procedures meets the requirements of the Regulation and does not exceed 3.5 years established by Article 10 of EU Regulation 347/2013, and the main delay is in obtaining land permits. Based on this, special attention was paid to resolve land issues, including alienating such land plots;

In addition to the above, the draft Law of Ukraine provides settlement of next issues: development of a manual of procedures (which will describe the procedures for obtaining permits and approvals for energy infrastructure), public involvement, incentives, and the procedure for submitting an investment request.

At the same time, it should be noted that the draft Law does not need to indicate the new list of categories of energy infrastructure, but designates that after the adoption of the Law, the Cabinet of Ministers of Ukraine should develop a procedure for approving the list of projects of national interest in the energy sector (which, after selection within the Energy Community, will automatically include PEGI / PMI), amendments to it, as well as criteria for energy infrastructure projects inclusion to the list of projects of national interest in the energy sector.

#### *Expected results:*

1. written and enshrined in the manual of procedures clear rules will give investors a signal about the transparency of procedures, which will increase investor interest in the construction and modernization of infrastructure facilities in the energy sector

2. will allow to modernize the gas transmission system, electricity transmission system, as well as the prospect of developing the possibility of transporting alternative fuels

3. The revision of Regulation 347/2013 in the EU and the priorities in Ukraine, will allow to take advantage of some of the existing oil and gas infrastructure, as well as Ukraine's experience to move towards a cleaner energy future

In addition, projects of national interest in the energy sector, including PESI / PMI, should be an integral part of the relevant national 10-year network development plans and other documents providing the development of energy infrastructure. At this time, TSOs and DSOs operators in the gas and electricity sectors annually review plans for the development of networks and gas pipelines, based on the needs of the energy system and financing. [https://tsoua.com/wp-content/uploads/2021/05/Skankopiya-TYNDP-2021-2030\\_compressed.pdf](https://tsoua.com/wp-content/uploads/2021/05/Skankopiya-TYNDP-2021-2030_compressed.pdf),

NPC Ukrenergo - <https://ua.energy/zagalni-novyny/nkrekp-shvalyla-plan-rozvytku-systemy-peredachi-na-2022-2031-roky/>

<https://zakon.rada.gov.ua/rada/show/v0057874-21#Text>.

### **Regarding Hydrogen Strategy in Ukraine.**

Today, Ukraine is on the way to the changes provided for in Annex I of Regulation 347/2013, hence today the Hydrogen Strategy in Ukraine is on stage in development. Currently, a working group under the Ministry of Energy of Ukraine is finalizing the development of the Hydrogen Strategy of Ukraine. This document will be the basis for the implementation of an effective state policy on hydrogen management based on EU strategic documents. The strategy will envisage the prospects of creating and operating the infrastructure of main hydrogen transportation, creating a hub for hydrogen storage and transportation by water, rail and freight. Moreover, in this regard, there is also a need to build infrastructure for hydrogen.

Status of developing Hydrogen Strategy - almost prepared.

According to the requirements of the new international climate agreement - the Paris Agreement - ratified by the Verkhovna Rada of Ukraine on July 14, 2016 and the introduction of the European Green Deal in the EU, the issue of reducing greenhouse gas emissions and transition to a carbon-free economy is of particular importance. Ensuring the transition will require significant transformation of energy systems in Ukraine and Europe.

As a result of the transformation of the energy system, the issue of transportation of renewable gases (biomethane, synthetic methane, and hydrogen) becomes especially important.

Prior to the war in Ukraine, the option of transporting renewable gases was considered, it would increase the load on the Ukrainian gas transportation system, which will positively affect the size of tariffs (entry-exit) and the final cost of energy for the consumer.

Projects and plans for the development of renewable gas production will guarantee Ukraine not only energy independence and the transformation into a clean energy exporter but also create tens of thousands of new highly qualified and highly paid jobs.

Thus, Ukraine is ready to implement environmental standards together with the EU, including through the legislative development and development of the necessary infrastructure for environmentally friendly fuels (hydrogen, biogas, etc.).

**25. Please, provide information, also in the form of maps, on the current status and on the major needs for energy infrastructures in Ukraine. What are the major gaps/concerns in terms of infrastructures to fulfil with the obligations of security of supply in the internal market?**

### *Oil sector*

The Oil Transportation System of Ukraine (OTSU) has the second longest oil transportation network in pipeline Europe, modern extensive infrastructure that operates in accordance with high technological, safety and environmental standards, advanced international standards and practices of corporate governance, and is integrated into European and Black Sea - Caspian oil infrastructure context (see map below).



The main challenge to the sustainable development of OTSU and the expansion of oil transportation to the domestic market is the need for vital for national security and the economy steps to revive the national oil refining sector through long-term and comprehensive incentives to attract national and international investments to the sector, as well as further improving the regulatory framework for the functioning of the OTSU.

### *Gas sector*

Ukraine's gas transportation system has a significant excess of capacity that is not currently used. Map –scheme (ENSOG –CAP 2021) attached. According to the current contract with PJSC Gazprom, the volume of natural gas transportation through Ukraine from the Russian Federation to European countries is 40 billion cubic meters, while the capacity of the Ukrainian GTS is 146 billion cubic meters. At the same time, the contract for natural gas transportation with PJSC Gazprom ends in 2024. In the case of the implementation of the scenario of termination of transit through the territory of Ukraine after 2024, significant amounts of capacity of main gas pipelines will be released. If there is no transit, the main activity will be domestic gas transportation (production / consumption), as well as gas transportation to / from Ukrainian underground storage facilities from / to EU countries.

In this regard, Gas TSO of Ukraine has compiled a list of infrastructure facilities that will not be involved in the transportation of natural gas by main gas pipelines, as well as a list of compressor stations that will be transferred to the reserve to maintain reliable operation of GTS at peak loads. To



assess the effective use of infrastructure, modelling of possible modes of gas transportation was carried out, taking into account the need to ensure maneuverability when changing the modes of operation of technological equipment in accordance with the current cooperation agreement with PJSC "Gazprom".

In order to minimise the production costs of maintaining the GPU (Gas pumping unit) on reserve CS (compressor stations), these GPU will be transferred to the "cold reserve" which implies no planning of work on their technical re-equipment or modernisation without urgent need, except for work to keep them in working order. However, the exact number of to be decommissioned and compressor stations will be determined after the feasibility study for each of the facilities that are planned to be decommissioned or transferred to the reserve. Also, during the feasibility study, the Gas TSO operator plans to consider the possibility of using GPU which is planned to be decommissioned to generate electricity in order to meet the needs of the Integrated energy system of Ukraine in 2 GW of balancing capacity.

#### *Electricity sector*

#### *The status of the Integrated Power System of Ukraine at the beginning of 2022, the main factors of network development*

Integrated Power System of Ukraine (IPS of Ukraine) is a set of substations, electricity and thermal networks, other objects of electric power industry, integrated by the common mode of generation, transmission, and distribution of electric and thermal power under centralised management of this mode.

The IPS of Ukraine is the basis of the country's power industry, which provides centralised electricity supply to domestic consumers, interacts with power systems of neighbouring countries and provides electricity export and import. It combines power-generating capacities, distribution networks of the regions of Ukraine, connected by system-forming 220-750 kV power transmission lines (power transmission system).

Today, the IPS of Ukraine is one of the largest power pools in Europe. The IPS of Ukraine has 6 regional power systems and 33 distribution system operators. Ukraine's IPS is currently working in parallel with the European power system ENTSO-E.

As of the beginning of 2022, 141 substations (SS) with a voltage of 110–750 kV with a transformer capacity of 83,178.1 MVA are on balance of Ukrenergo. Among them, SS 220 kV – 33 units, SS 330 kV – 88 units, SS 400 kV – 2 units, SS 500 kV – 3 units, SS 750 kV – 9 units and SS 110 kV – 6 units (station nodes of solar power plants).

The power transmission system has more than 1 million km of overhead and cable transmission lines with a voltage of 0.4 - 150 kV and about 200 thousand transformer substations with a voltage of 6 150 kV.

21861,602 km of overhead lines on the route and 23559,102 km of overhead lines on circuits are in operation of the transmission system. The main equipment of the transmission system is characterised by a significant operating time, which requires large amounts of investment for its technical re-equipment or replacement. Thus, 17.3% of substations equipment and 66.7% of transmission lines have been in operation for over 40 years.

As a consequence of long-term operation of the transmission system elements we can observe an increase in electricity losses, limited ability to prevent technological disturbances, some

disruptions of the normal and reliable operation of transmission system equipment and IPS of Ukraine as a whole.

The map-scheme (attached) of the Integrated Power System of Ukraine with the main links with neighbouring countries is given below. Due to martial law link is currently unavailable.



For now, the main problem for the transmission system is the damage of the elements of the transmission system (lines, substations, etc.) of Ukraine due to military actions related to the armed aggression of the Russian Federation, which cannot be determined until the end of hostilities.

Before the war, the typical bottlenecks were the following:

- insufficient reserves of reactive capacity (Western, Southern, Southwestern and Central regions);
- grid restrictions of power output of TPPs (Kurakhivska, Luhanska, Vuhleghirska);
- insufficient transmission capacity of power grid (power nodes: IPS of Ukraine – Dnipro, Odesa, southern Ukraine; connections between the southern and northern parts of the eastern region;
- missing/ unsatisfactory technical state of means of regulating the voltage angle 750/330 kV (Dnipro region);
- insufficient transformer capacity (Dnipro and Western regions);
- insufficient transmission capacity of power nodes (Central region, Kyiv, Izmail and Melitopol);
- Damage of OHL in the Eastern region (Donbas region) zone because of carrying out of Joint Forces Operation.

Due to significant changes in the structure of generating capacities of unified energy system of Ukraine in a short period of time (provided by a number of national documents, including the National Economic Strategy until 2030, the draft National Action Plan for Renewable Energy until 2030, Ukraine's second national contribution to the Paris Climate Agreement and many others), which is related to the commissioning of a large number of RES (it is expected to increase the share of RES in total electricity production from 11.4% in 2020 to 25% in 2030), including distributed generation, traditional methods of updating and updating the scheme of perspective development of the transmission system are inertial and do not correspond to the speed of these changes.

Considering all the above-mentioned as well as large-scale trends in the implementation of renewable energy sources 2022-2031 Transmission System Ten Years Development Plan was developed considering main factors of network development, such as:

- integration of the IPS of Ukraine into the pan-European power system ENTSO-E. Currently, the power systems are synchronized in the emergency synchronization mode, only technical flows are possible between them. In order to move to full synchronous operation, which includes the commercial exchange of electricity, Ukraine needs to implement a number of technical measures identified by the Additional Studies and approved by the decision of the RGCE from 15.02.2022. These measures include retuning of power system stabilizers at TPPs, HPPs, and PSPPs, excitation systems (AVR) at NPP units, and installation of STATCOM devices. Also, on April 26, 2022, the Agreement on granting observer status to Ukrenergo in ENTSO-E was signed.

- Also, it is necessary to fulfill the requirements of the Catalog of Measures provided by the Agreement on the conditions of the future interconnection of the power system of Ukraine with the power system of Continental Europe;

- output of full capacity of NPP units to the IPS of Ukraine;

- construction of new and reconstruction of existing hydro units at HPPs and PSPs. Construction of new and reconstruction of existing hydro units at HPPs and PSPs (increase of installed capacity of HPPs in the period from 2020 to 2032 from 4112.4 MW to 4952 MW and increase of installed capacity of PSPs for the same period from 1487.8 MW to 2287 MW according to the Development Program hydropower for the period up to 2026);

- restoration of reliable electricity supply and output of full capacity of thermal power plants of the eastern part of Ukraine;

- implementation of projects of construction of power generating capacities from renewable energy sources, taking into account the needs of optimising the power flow in the IPS of Ukraine;

- increasing the demand for electricity and increasing the reliability of power supply to powerful power nodes and distribution system operators networks;

- bringing schemes of linking energy objects to the IPS of Ukraine to the requirements of regulatory documents;

- change of the installed capacity of thermal power plants, which changes power flows in the IPS of Ukraine. Change of the installed capacity of thermal power plants (from 21,842 MW in 2020 to 8,747 MW in 2032, of which 1,817 MW are thermal power plants running on biofuels and 1,450 MW with new flexible shunting), which changes the fl;

- modernisation of transmission system equipment that is physically worn out and outdated;

- modernisation of the telecommunication network and ensuring the transmission of information between the energy objects of the IPS of Ukraine by high-speed flows;
- highly maneuverable generation power output and operation of energy storages.

With resolution № 2477 of December 10, 2021, NEURC has approved the 2022-2031 Transmission System Ten Years Development Plan (<https://ua.energy/zagalni-novyny/nkrekp-shvalyla-plan-rozvytku-systemy-peredachi-na-2022-2031-roky/>).

It should be noted that before the beginning of the armed aggression of the Russian Federation against Ukraine on February 24, 2022, the development and solving of problematic issues in the Ukrainian power system was carried out systematically and in its entirety. International financial institutions loan funds with strict selection procedure in accordance with the conditions of IFIs based on feasibility studies financed about 85% of all transmission system development projects in Ukraine.

Power system of Ukraine was operating in isolated mode for more than three weeks under conditions of large-scale hostilities with a stable frequency and without system accidents or failures, which reflects a large margin of "strength" of the power system, and transmission system of Ukraine as well.

Due to significant changes in the structure of generating capacities of IPS of Ukraine for a short period of time, which is associated with the commissioning of a large number of RES, including distributed generation, traditional methods of updating and actualising the scheme of perspective development of the transmission system are inertial and do not correspond to the rate of these changes.

According to the NERC information, in 2021, 731 MW of industrial RES capacities were put into operation in Ukraine on a "green" tariff. Of these, 359 MW accounted for wind farms, 305 MW for SES, 43 MW for biomass power plants, 20 MW for biogas plants and 4 MW for small hydropower plants

To timely update the circuit solutions and parameters of the transmission system network equipment the transition to a new modern concept of circuit planning, adopted in ENTSO-E, which is based on specialised computer models of the power system of Ukraine and allows to perform the necessary mode calculations for the decisions made concerning transmission system development plan, is being implemented.

**26. Indicate what is the status of implementation and planning of the axes for priority projects relevant to the Eastern Europe region in Ukraine. In particular, indicate what is the level of development of the energy projects which are considered priority under the Energy Community process.**

In accordance with the Decision of the Ministerial Council № 2015/09/MC-EnC of 16.10.2015 on the implementation of EU Regulation 347/2013 on guidelines for trans-European energy infrastructure, the selection of priority PESI/PMI projects is carried out within the Energy Community. PESI/PMI has been selected three times since this decision was made. The latest lists of such projects were approved by the following decisions of the Council of Ministers: Decision No. 2020/04/MC-EnC and Recommendation 2020/01/MC-EnC.

Under the realized the decision, the Council of Ministers shall ensure that this list is approved every two years.

However, the Council of Ministers Decision 21 2021/11/MC-EnC of 30.11.2021 established that the said lists will be revised after the European Union updates the Infrastructure Regulation, which repeals and replaces Regulation (EU) № 347/2013, and until at that time, the lists approved by Decision No. 2020/04 / MC-EnC and Recommendation 2020/01/MC-EnC will be valid

The next list will be adopted in the year following the year of the accession to the Energy Community of the EU legal act amending EU Regulation 347/2013.

It is noted that until then, the currently approved lists of priority projects will be in force. The following list will reflect the revision of Regulation (EU) 347/2013 in the European Union, as well as developments in the Energy Community, in particular the adoption of relevant guidelines, objectives and new acquis communautaire.

As an Energy Community Contracting Party, Ukraine is already taking steps towards launching infrastructure projects of interest of the Energy Community (PECI and PMI). The projects will allow Ukraine to obtain larger amount of power exchange with EU countries after the synchronisation with the Continental Europe Synchronous Area, operated by the transmission system operators of the European Network of Transmission System Operators for Electricity (ENTSO-E).

*At the 56th Ministers Council of the Energy Community meeting (decision 2020/04 / MC-EnC), the following projects in the field of electricity were re-included in the list of PESI / PMI projects as PMI projects:*

*1) the project of modernization of the 400 kV overhead line Mukacheve-Velke Kapusany (Slovakia) with increasing the interconnector capacity from the available 800 MW to 1000 MW;*

*2) project for the construction of the 750/400 kV substation "Primorska" with a two-wheeled 400 kV transmission line Primorska-Isacca (Romania),*

*in the oil sector:*

*1) transportation of various types of oil via "Southern Druzhba" pipeline (jointly with Georgia, as a Contracting Party to the Treaty establishing the Energy Community, and Azerbaijan)*

*Oil supply*

Ukraine and s determined to take immediate steps to free themselves from dependence on Russia on hydrocarbon supplies. For decades, Russia has used its monopoly position in oil supply via the Southern Druzhba pipeline to the Czech Republic, Slovakian Republic and Hungary to block access to the pipeline of oil other than Russian oil grades.

Regarding oil transportation system of Ukraine, strategic vectors and key cross-border projects (project of transportation of different grades of oil by the oil "Southern Druzhba" pipeline and the project of construction of oil pipeline Brody (Ukraine) - Adamowo (Poland) for the development of Ukraine oil transportation infrastructure and its further integration into the EU oil transportation networks have been also reflected in intergovernmental and intergovernmental agreements of Ukraine, including Agreement between the Cabinet of Ministers of Ukraine and the Government of Republic of Azerbaijan on measures related to the development of cooperation in the field of oil transportation through the territory of Ukraine dated 21.12.2011 and Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Poland on the use of capacities of the hydrocarbon transportation system "Odesa - Brody" and its integration with Polish facilities dated

November 26, 2003 as well as in a number of bi- and multilateral documents of interested market operators.

These projects were mentioned in the Action Plans for the Implementation of the Memorandum of Understanding on

the Strategic Energy Partnership between Ukraine and the European Union together with the European Atomic Energy Community, a number of protocols of bilateral intergovernmental commissions on economic cooperation between Ukraine and Central and Eastern Europe countries

The key project in this respect is the project of transporting different grades of oil (instead of Russian oil only being transported now) to the EU markets using oil pipeline systems "Odesa - Brody" and "Southern Druzhba" ("Southern Druzhba» project) enjoying the status of the Project of Mutual Interest (PMI) of the Energy Community. There are feasible economics indicators and readiness of operators to use the route, fully operational facilities with necessary free transit capacities along the whole route.

Another project is the construction of an oil pipeline "Brody (Ukraine) – Adamowo (Poland)" within the framework of international company "Sarmatia" (JSC "Ukrtransnafta" (Ukraine), "PERN" S.A. (Poland), SOCAR (Azerbaijan), GOGC (Georgia) and AB "Klaipėdos Nafta" (Lithuania). The Brody-Adamowo project envisages the construction of a 700 mm and 396.3 km pipeline. The initial capacity is 10 MTA with the possibility of increasing to 20 MTA.

The "Brody – Adamowo" project became especially relevant in view of the unprecedented security challenges of energy supplies to Ukraine and the region, given Russia's ongoing military aggression against Ukraine and blocking of oil supplies from the Black Sea basin.

The Project will create a new reliable and safe pipeline route for oil supply from the Baltic Sea through the port of Gdansk to Ukraine.

The mentioned route will also allow organising the supply of hydrocarbons to the refineries of Slovakia and the Czech Republic, which will be left without sufficient access to crude oil in the event of the cessation of transportation of Russian oil via the Druzhba pipeline.

Given the availability of all the necessary infrastructure, existing spare capacity along the whole route and market interest on the Southern Druzhba Project, it is vital to facilitate an agreement between Ukraine and the Slovak Republic on the adoption/initialing of the project decisions, which could be implemented immediately after the end of the war and after unblocking of Ukrainian ports. Relevant preliminary strategic decisions with the assistance of the EC and international partners should be also taken as soon as possible regarding the Brody-Adamowo project.

Taking into account Ukraine international obligations regarding the system of minimum reserves of oil and oil products provided by Directive 2009/119/EU, JSC "Ukrtransnafta" plans to implement the project of a construction of 720 000 cub. m tank farm at MOT "Pivdenniy" to store major part the oil segment of the mentioned reserves.

#### *Electricity sector*

Implementation of the "Action Plan for Synchronisation of the Integrated Energy System of Ukraine with the Integration of Energy Systems of the Member States of the European Union" is an important component of the ability of effectively ensuring the balance of the domestic energy system in the future.

In 2018, an Operational Agreement was developed and signed between NPC Ukrenergo and Moldelectrica on the establishment of a control unit in the power systems of Ukraine and Moldova.

On August 5, 2019, NPC Ukrenergo and the Transmission System Operator (TSO) Polskie Sieci Elektroenergetyczne (PSE) signed an agreement on the supply of electricity in the framework of emergency mutual assistance. This is the first such document signed by Ukrenergo with TSO, which is a member of ENTSO-E. The conclusion of emergency assistance agreements with border countries is provided by the general rules of ENTSO-E on the establishment of backup mechanisms to ensure the reliability of energy systems. The agreement between Ukrenergo and PSE regulates energy exchange between TSO to prevent or eliminate emergencies in power systems, defines its mechanisms and procedures, conditions for providing services, etc. it provides electricity in emergency situations on the interstate 220 kV OHL "Dobrotvir-Zamost".

On September 4, 2019, NPC Ukrenergo and the Hungarian transmission system operator MAVIR signed a new Operational Agreement on system and network management. The document establishes the rules and requirements for interaction between TSOs during the parallel operation of power systems. The signing of the new agreement was due to the need to reflect these annual changes in the topology of the Hungarian network, as well as new requirements of EU legislation that emerged after the ENTSO-E network code came into force and the ENTSO-E Framework Agreement. These documents have new standards and requirements for the regulation of synchronous operation of areas and processes of interaction between transmission system operators. From November 2019, under an agreement between Ukrenergo and the Slovak operator SEPS, the available capacity of the Net Transfer Capacity (NTC) between Ukraine and Slovakia was increased from 400 MW to 600 MW.

Given the above, the TSO is already working towards the development of interstate lines.

In December 2017, at the meeting of the Energy Community Group on Projects of Common Interest (PECI/PMI projects) in the field of electricity, NPC Ukrenergo presented projects for the status of Project of Mutual Interest. The projects are aimed at increasing the capacity of interstate airlines with European neighbors - Slovakia and Romania.

The status of PMI projects of Ukraine and EU countries has been acquired by:

#### **1. 400 kV overhead line project Mukachevo - Velke Kapushany (Slovakia).**

This project has already been identified as a Project of Common Interest (PMI) for the development of European transmission infrastructure in 2016, but in 2017 NPC Ukrenergo re-submitted it at the request of the Energy Community. The project also received support from the Slovak system operator - SEPS. On June 21, 2017, a Memorandum of Understanding between SEPS and NPC Ukrenergo "On the intention to increase the capacity between the power systems of Slovakia and Ukraine" was signed in Kyiv.

After that, SEPS carried out a bilateral study on the renewal of the transboundary 400 kV Mukachevo - Velke Kapusany transmission line, presented on July 27, 2018.

In particular, the study consists of the following calculations:

- summary of the main assumptions of the study;
- analysis of possible approaches to calculations according to the defined methodology;
- analysis of calculation results.

Calculations were performed for 2022 (winter maximum, summer maximum, summer minimum). The conclusions of technical and economic studies show that the best option to increase the bandwidth of the interconnector is to build a new cross-border line in this direction, rather than upgrading the existing one.

On October 2, 2018 in Kyiv, NPC Ukrenergo during a working meeting with SEPS representatives agreed on a technical solution to increase the capacity of the Ukraine-Slovakia interstate interconnector. According to the agreements, taking into account the current state of the existing Mukachevo-Velke Kapushany 400 kV OHL (commissioned in 1963), the parties concluded that for the successful and efficient implementation of the project, taking into account the interests of European partners, it would be appropriate to build a new 400 kV OHL. This line will connect the existing 400 kV Substations "Mukacheve" and "Velke Kapushany" in a single-circuit version with the possibility of further modernisation to a two-circuit in case of increasing interstate flows.

Reconstruction of AIS 400 kV at Mukacheve substation is also planned in order to replace physically and morally worn-out main equipment and provide the possibility of connecting an additional 400 kV OHL in the direction of Velke Kapushany 400 kV OHL. In particular, in 2022 a new autotransformer (AT-3) is planned to be put into operation at the 400 kV Mukacheve substation, which was installed to replace the 400/220 kV AT of 1964 year, as well as to install a 400 kV complex switchgear with SF6 insulation. The operation of the existing 400 kV OHL Mukachevo-Velke Kapushany will be continued until the commissioning of the new 400 kV OHL.

The project envisages increasing the capacity of the Ukraine-Slovakia interconnector to 1,000 MW. Today, only 400 MW of line capacity is used. The implementation of the project will ensure the development of electricity markets, both in Ukraine and between Ukraine and European countries, which in turn will promote competition in the electricity market of Ukraine with a corresponding reduction in electricity prices for the final consumer.

The project was named "Reconstruction of the 400 kV Mukacheve-Velke Kapushany OHL section from the 400 kV Mukachevo Substation to the state border in the Transcarpathian region" with the following main characteristics: construction period 2018-2022, 400 kV OHL - 51 km.

Necessary measures in the transmission system for the proper implementation of the project reconstruction of 400/220/110 kV Substation "Mukachevo":

- installation of a group of single-phase autotransformers 400/220/35 kV AT-4 with the introduction of advanced technological solutions. The construction period is 2016-2022.
- introduction of APCS and replacement of AT-3. Terms of implementation: 2020-2023;

The relevant internal project to ensure reliable electricity supply to consumers in the Zakarpattia region envisages the construction of a 400/110 kV Uzhhorod substation with two 250 MVA ATs and a 400 kV Mukachevo-Kapushany OHL.

Construction volumes: 400/110 kV (2x250) MBA, 400 kV OHL - 2x2 km, which will provide an opportunity for economic development of the region with great potential and access to EU markets. Implementation of the project Reconstruction of the 400 kV Mukacheve-Velke Kapushany section of the 400 kV Mukacheve Substation will provide a reliable "connection" of the new 400/110 kV Uzhhorod Substation to the 400 kV Mukacheve-Kapushany Substation.



## **2. Project construction of “wings” 400 kV on substation 750/400 kV Prymorska with two-circuit line with voltage class 400 kV Prymorska – Isaccea (Romania) and installation of AT 750/400 kV**

Implementation of the project will increase the capacity of the interconnector with Romania to 1000-1200 MW after 2026. The project is also supported by the Romanian system operator Transelectrica. In addition to increasing the capacity of cross-border networks in this direction, the project will also increase the reliability of electricity supply to consumers in the southern regions of Ukraine and Moldova and remove restrictions on the generation of RES capacity in southern Ukraine and eastern Romania. In addition, the implementation of the project will ensure the further development of the main networks, first of all, the construction of the 750 kV OHL Prymorska - Kakhovska to ensure mutual reservation between the 750 kV SS "Prymorska" and "Kakhovska". The process of approving the start of the project is currently underway.

Beginning in March 2022, negotiations are underway between Ukrenergo and PSE to resume the operation of the OHL 750 kV Khmelnytska NPP – Rzeszow. The most probable scenario is the resumption of the transmission line operation on the 400 kV voltage. The commissioning of the OHL will increase the reliability of synchronous operation with ENTSO-E countries and will increase the capacity of cross-border grid.

Implementation of all projects will allow obtaining the maximum capacity of electricity exchange with ENTSO-E operators. According to Ukrenergo's estimates (report on suitability (adequacy) of generating capacities), with favourable, for domestic electricity producers, price conditions on foreign markets, Ukraine's electricity exports may reach 14 billion kWh.

At the same time, the integration of the IPS of Ukraine into the ENTSO-E electricity system and the unification of electricity markets creates new opportunities for electricity exports to Europe, including by increasing the production of cheaper and cleaner energy from Ukrainian NPPs, in particular, during the high water season, when the "excess" of hydropower capacity now requires the implementation of certain regime restrictions on their operation during this period. The European electricity market can be quite attractive for other electricity producers in Ukraine, in particular, coal-fired power units. Along with this, as noted, the import of electricity is quite probable.

Implementation of the "Action Plan for Synchronisation of the Integrated Energy System of Ukraine with the Integration of Energy Systems of the Member States of the European Union" allowed emergency synchronization of IPS of Ukraine with power system of Continental Europe. Completion of all the measures provided in the document will significantly improve cooperation between TSOs, which will promote reliability of power system and security of supply.

During 2020-2021, Additional Studies on the possibility of the synchronous interconnection of the IPS of Ukraine with ENTSO-E were conducted.

Based on the results of the study, conclusions were formed, which are the basis for the implementation of measures to increase the sustainability of synchronous operation of the IPS of Ukraine with ENTSO-E.

On March 11, 2022, ENTSO-E decided on the urgent synchronization of the IPS of Ukraine with ENTSO-E power system. Physically, the power systems were synchronized on March 16, 2022.

On April 26, 2022, the Agreement on granting the status of ENTSO-E observer member to Ukrenergo (Ukrainian TSO) was signed.

Currently, the power systems are synchronized in the emergency synchronization mode, only technical flows are possible between them. In order to move to full synchronous operation, which includes the commercial exchange of electricity, Ukraine needs to implement a number of technical measures identified by the Additional Studies and approved by the decision of the RGCE from 15.02.2022. These measures include retuning of power system stabilizers at TPPs, HPPs, and PSPPs, excitation systems (AVR) at NPP units, and installation of STATCOM devices.

Also, it is necessary to fulfill the requirements of the Catalog of Measures provided by the Agreement on the conditions of the future interconnection of the power system of Ukraine with the power system of Continental Europe.

The resumption of commercial exports of Ukrainian electricity to Europe is the basis for maintaining market liquidity and electricity generation. At present, Ukraine has a surplus in electricity production, and the potential volume of cross-border transmission of electricity can reach up to 2000 MW. This creates great potential for electricity exports to EU countries and will have a positive impact on the EU's goals of decarbonization, increasing the resilience and stability of the European energy system, enhancing EU energy security, and opening Ukraine's large electricity market to EU suppliers.

It should be noted that the implementation of the project "Construction of 750/400 kV substation" Primorskaya "with a two-wheeled 400 kV transmission line Primorskaya-Isakcha" is planned for 2021-2026.

## **27. What are the planning and authorisation procedures applicable to the development of an energy infrastructure project**

General legal framework, in terms of obtaining permits during the implementation of infrastructure projects in the energy sector

The following legislation is applied during the implementation of projects of national interest in the field of energy: , Land Code of Ukraine, Forest Code of Ukraine, Water Code of Ukraine, Laws of Ukraine "On Regulation of Urban Development", "On Public Procurement", "On the Natural Gas Market", "On the Electricity Market", "On Oil and Gas", "On Oil and Gas", " "On Pipeline Transport", "On the National Commission for State Regulation of Energy and Utilities", "On Environmental Impact Assessment", "On Land Lease", "On the Alienation of Land and Other Real Estate Objects" on them are placed, which are in private ownership, for public needs or for reasons of public necessity ", " On the nature reserve fund of Ukraine ", " On energy lands and the legal regime of special zones of energy facilities ", " On the legal regime of protected lands zones of objects of main pipelines ", " About the state land cadastre ", " About investment activity "and other regulatory legal acts regulating relations in the specified sphere, and also the international agreements approved by the Verkhovna Rada of Ukraine.

Basic permitting laws / acts: on building permit - Resolution of the Cabinet of Ministers of Ukraine (CMU) of 13.04.2011 № 466 "On certain issues of preparatory and construction works"; on the license - Resolution of the Cabinet of Ministers of 30.03.2016 № 256 "On certain issues of licensing the construction of facilities that by class of consequences (liability) belong to the facilities with medium and significant consequences"; on commissioning - Resolution of the Cabinet of Ministers of 13.04. .2011 № 461 "On the commissioning of completed facilities"; on land acts - the

Land Code of Ukraine, the Law of Ukraine "On Land Lease", the Law of Ukraine "On State Registration of Real Rights to Immovable Property and their Encumbrances".

In general, the issues of planning, zoning and construction in Ukraine are regulated by a number of national laws and regulations, as well as regional and local regulations, including the above.

Thus, currently obtaining building permits and permits is as follows:

*a) Obtaining initial data for construction*

The main components of the initial data are urban planning conditions and restrictions provided by the relevant authorized bodies of urban planning and architecture on the basis of a document certifying the right of ownership or use of land.

*b) Development of design documentation and state expertise*

In accordance with the legislation of Ukraine, the development of design and estimate documentation is performed by an expert organization.

*c) Approval of project documentation*

*d) Execution of preparatory and construction works*

According to the Law on Urban Planning, the project manager is allowed to start preparatory work only after acquiring the right to land. Also before the start of construction of energy infrastructure facilities must be made subject to environmental impact assessment in accordance with the Law of Ukraine "On Environmental Impact Assessment" and the customer must obtain a permit to perform construction work.

*e) Commissioning of completed facilities by obtaining a certificate.*

During the implementation of infrastructure projects in the field of energy, permits for their construction of infrastructure facilities, their projects are subject to public hearings.

Thus, according to the Law of Ukraine "On Environmental Impact Assessment" in the preparation of the conclusion on the environmental impact assessment is expected only after the public discussion.

In general, we can conclude that in Ukraine has necessary legislation for the implementation of infrastructure energy projects. And after the adoption of the law "On projects of national interest in the field of energy" in Ukrainian legislation will be successfully implemented projects of common interest under Regulation 347/2013 EU, which will allow in coordination with neighboring countries, EU and Energy Community to implement priority projects

*Gas sector*

During the development of the gas transmission system, the gas transmission system operator (ISO separation model) is responsible for investment planning (including obtaining the necessary permitting documents), construction and commissioning of new gas infrastructure facilities or their components (paragraph 2 of Article 28 of the Law).

In order to ensure the development of the gas transmission system Gas TSO of Ukraine develops and submits for approval to the Regulator on 31 October each year and is obliged to implement the development plan approved by the Regulator in full according to planned stages,

volumes of work and financing in value terms (Article 30 of the Law of Ukraine “On Natural Gas Market”)

The plan of development of the gas transmission system of Ukraine of the GTS Operator for 2021-2030 (Amendments to the Plan) was approved by the resolution of National Commission for State Regulation of Energy and Public Utilities from 06.08.2021 № 1274. The Order of the GTS Operator from 28.05.2021 № 446 approved the Procedure for developing the plan of gas transmission system development for the next 10 years Procedure for developing the GTS development plan). The procedure was developed in accordance with the requirements of the Law of Ukraine “On the Natural Gas Market” and Section V of the GTS Code.

The plan for the development of the gas transmission system was published for open discussion on the official website (<https://tsoua.com/gts-infrastruktura/rozvytok-gts/10-richnyi-plan-rozvytku/>). An open discussion of the draft Plan for the development of the gas transmission system operator of the gas transmission system operator LLC "GTS Operator of Ukraine" for 2022-2031 took place on 31.12.2021.

Reporting on the implementation of the GTS Development Plan is posted and updated on the website at: <https://tsoua.com/prozorst/vykonannya-planu-rozvytku-gts/> .

Due to the martial law, the registers are closed. The National Commission for State Regulation of Energy and Public Utilities postponed this plan for approval.

In accordance with the Procedure for Development of the GTS Development Plan, the Gas TSO's preparation of the Development Plan includes the following stages:

- assessment of current and future demand for transportation services;
- assessment of promising modes of operation of the GTS based on future demand for transportation services;
- assessment of the technical condition of GTS facilities;
- formation of a list of measures for the development of the gas transmission system of Ukraine (taking into account the assessments), aimed at ensuring the reliable operation of the GTS for the next 10 years, in compliance with security of supply, flexibility and economic efficiency.

#### *Electricity sector*

In Ukraine, according to the current Laws and Codes of electric networks, the transmission system operator and distribution system operators carry out long-term planning of electric network development based on annual development plans developed by them. The transmission system development plan is being developed for the next 10 years. Development plans for distribution system operators for each operator are developed separately for five perspective years.

The ten-year transmission system development plan is developed in accordance with the requirements of the Law of Ukraine "On Electricity Market" № 2019-VIII of 13.04.2017, in particular Article 37, and Section II of the Transmission System Code, approved by the National Energy and Utilities Regulatory Commission of Ukraine (NEURC, Regulator) №309 dated March 14, 2018.

The ten-year transmission system development plan is a document of medium- and long-term planning, long-term transmission system development and meets the needs of the national economy, society, electricity industry entities and electricity consumers. The development plan is a comprehensive updated fundamental document for the development of the transmission system.

The implementation of the Development Plan helps to solve several important tasks - first of all, ensuring and improving the security of supply, ensuring suitability of the transmission system with the needs of the electricity market, as well as integrating RES into IPS of Ukraine. The integration of RES ensures decrease of dependency on the import of fossil fuels, and reduction of greenhouse gas emissions, stimulates economic growth, creates new jobs, and attracts investment in the country's electricity sector.

The main requirements for the development and reliable operation of the transmission system set out in the Development Plan. The development plan, in turn, is developing on basis the target scenario for the future development of the country's electricity sector, which is presented in Report on suitability (adequacy) of generating capacities, developed in accordance with Methodology for the European recourse adequacy assessment . The development of such a Report is provided for in Article 19 of the Law of Ukraine “On the Electricity Market” and the Transmission System Code, which in turn implement a number of European norms, regulations and directives. Thus, such a Report, among other things, takes into account the implementation of all national strategies (including the development of RES, decarbonization in energy, etc.). Approval / approval of the Report on Conformity Assessment (Sufficiency) of Generating Capacities and the Development Plan, in accordance with European standards, is within the competence of the National Commission for State Regulation of Energy and Utilities (NCREP or Regulator). The latest Transmission System Development Plan for 2022-2031 (approved by the NCRECP Resolution 77 2477 of December 10, 2021) was implemented on the basis of the Report on Conformity Assessment (Sufficiency) of Generating Capacities for 2020 (approved by the NCRECP on June 16, 2021 by Resolution № 975). On April 20, 2022, the NCREC approved Resolution 2021 on the Conformity Assessment (Sufficiency) of Generating Capacities for 2021, which will serve as a basis for the preparation of the next Development Plan, which, given the successful synchronization of Ukrainian and European energy networks, will dedicated to the simultaneous work with ENTSO-E and the development of networks in the appropriate direction.

NPC Ukrenergo, as the transmission system operator (TSO), uses the target development scenario as a basis for planning investments in the development of the transmission system in order to connect generating capacities to the IPS of Ukraine and forecast electricity demand. The Development Plan compares the requirements for the transmission system, which are defined, in particular in Transmission System Code, National Electrical Code (NEC) and Standards of technological design of power systems and electrical networks of 35 kV and above, for a ten-year perspective with the current system capabilities, in order to identify "bottlenecks" and directions for further development and increase the reliability of the IPS of Ukraine as a whole. It is conducted so that all the stakeholders have the opportunity to see network development trends and the direction of future investments needed for further development of the IPS of Ukraine.

According to Article 37 of the Electricity Market Law and the Transmission System Code, Transmission System Ten Years Development Plan must contain, in particular:

1. Description of the methodology used for the Plan development indicating the methods and tools that were used while conducting the relevant research and modelling.
2. Analysis of the IPS of Ukraine operation during the last 3-5 years and current situation description.
3. Analysis of the implementation of the previous Plan.

4. Analysis of the obtained research and modelling results, including discovered «bottlenecks» and transmission system insufficient transmission capacity and setting new requirements for transmission system performance targets.

5. The list of necessary measures for the development of the transmission system for the next 10 years, aimed at ensuring the effective operation of the transmission system with justification of the need and/or feasibility of their implementation and determining the priority of their implementation.

6. Risk analysis in case of incomplete implementation of planned decisions on the development of the transmission system, possible force major, etc.

7. A list of the main transmission system objects, which construction or reconstruction is appropriate for the next 10 years.

8. Information about the objects of transmission system to be built and / or reconstructed within the next 10 years, terms of their construction and / or reconstruction, sources of financing.

9. Information on investments in the objects of transmission system that have already been agreed and which are under implementation, indicating the forecast investments to be made over the next 3 years.

2022-2031 Transmission System Ten Years Development Plan is developed considering the Energy Strategy of Ukraine for the period up to 2035, related transmission systems development plans, power distribution systems.

You can find annexes to this chapter under the link: <https://bit.ly/3PexNDF>